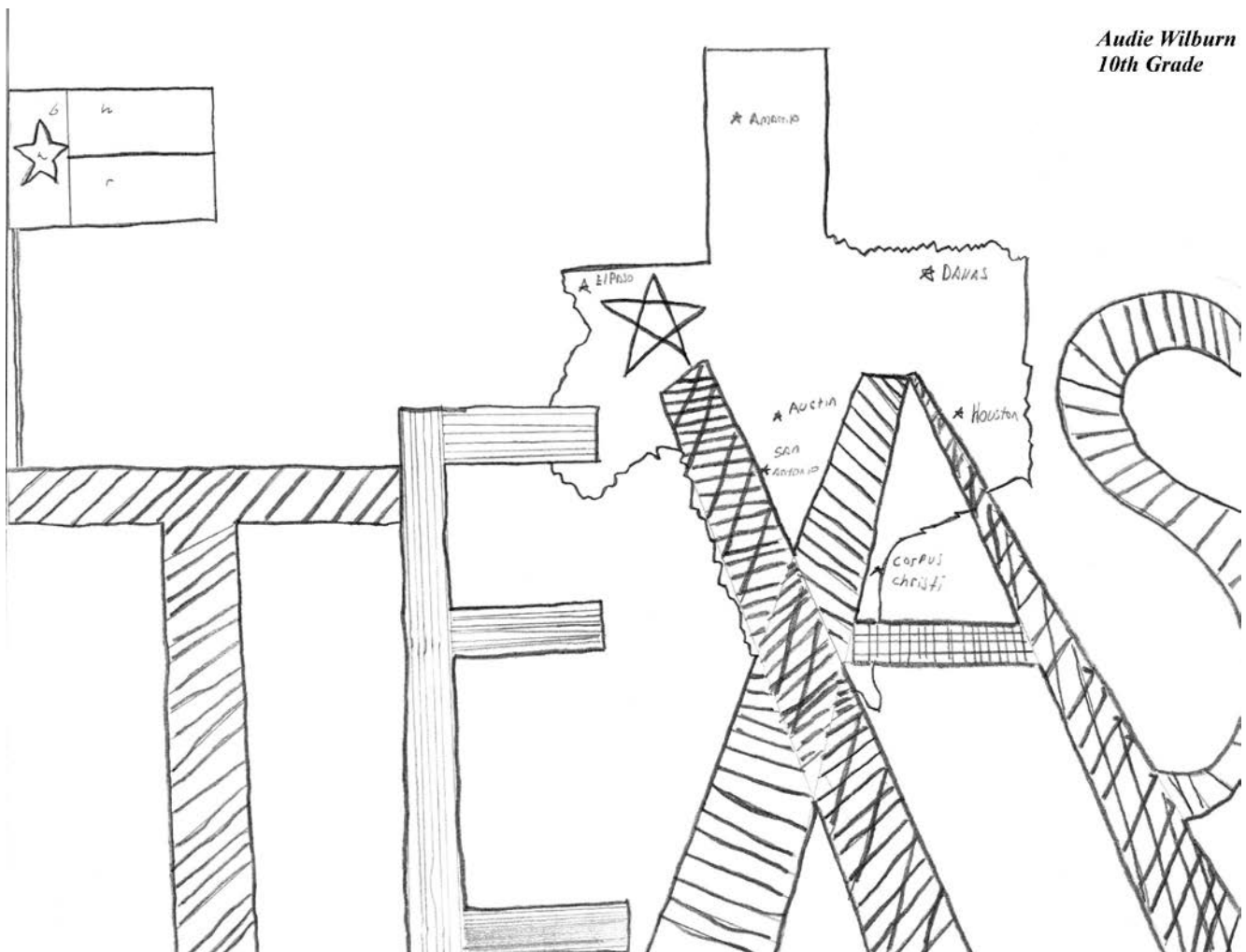

TEXAS REGISTER

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Audie Wilburn
10th Grade

School children's artwork is used to decorate the front cover and blank filler pages of the *Texas Register*. Teachers throughout the state submit the drawings for students in grades K-12. The drawings dress up the otherwise gray pages of the *Texas Register* and introduce students to this obscure but important facet of state government.

The artwork featured on the front cover is chosen at random. Inside each issue, the artwork is published on what would otherwise be blank pages in the *Texas Register*. These blank pages are caused by the production process used to print the *Texas Register*.

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THE ATTORNEY GENERAL

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Requests for Opinions, Opinions, Open Records Decisions.

An index to the full text of these documents is available from
the Attorney General's Internet site <http://www.oag.state.tx.us>.

Telephone: 512-936-1730. 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: <http://www.oag.state.tx.us/opinopen/opinhome.shtml>.)

Requests for Opinions

RQ-0050-KP

Requestor:

The Honorable Natalie Cobb Koehler

Bosque County Attorney

Post Office Box 215

Meridian, Texas 76665

Re: County responsibilities regarding interstate extradition (RQ-0050-KP)

Briefs requested by October 12, 2015

RQ-0051-KP

Requestor:

The Honorable Wes Mau

Hays County Criminal District Attorney

712 South Stagecoach, Suite 2057

San Marcos, Texas 78666

Re: Questions regarding a notice prohibiting entry with a handgun onto certain premises under section 30.06 of the Penal Code and section 411.209 of the Government Code (RQ-0051-KP)

Briefs requested by October 12, 2015

RQ-0052-KP

Requestor:

The Honorable Patrick M. Wilson

Ellis County and District Attorney

109 South Jackson

Waxahachie, Texas 75165

Re: Disposition of revenue collected pursuant to section 502.402 of the Transportation Code, authorizing an optional county fee for child safety (RQ-0052-KP)

Briefs requested by October 13, 2015

RQ-0053-KP

Requestor:

The Honorable Joseph C. Pickett

Chair, Transportation

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Whether a school district board of trustees may post the personal financial statements of board members submitted pursuant to section 11.0641 of the Education Code (RQ-0053-KP)

Briefs requested by October 15, 2015

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

TRD-201503814

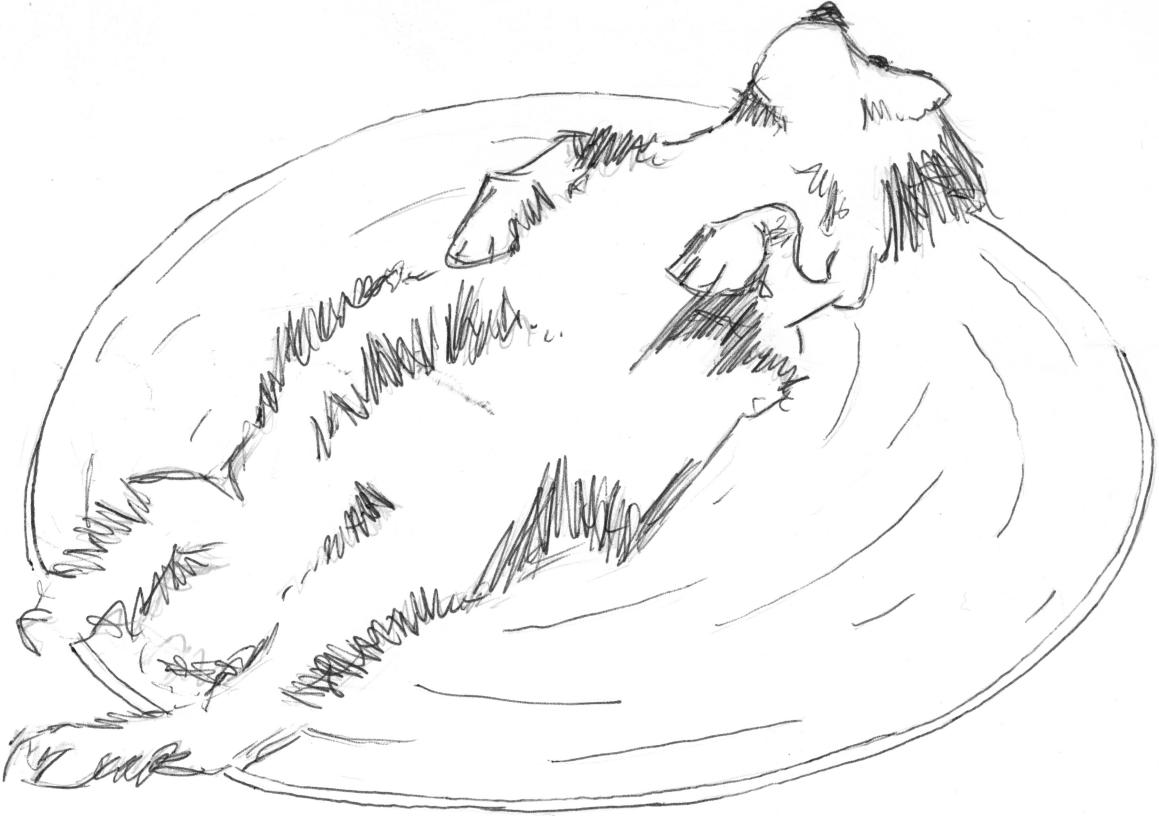
Amanda Crawford

General Counsel

Office of the Attorney General

Filed: September 16, 2015





TEXAS ETHICS COMMISSION

The Texas Ethics Commission is authorized by the Government Code, §571.091, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39. Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Advisory Opinion Request

The Texas Ethics Commission has been asked to consider whether a city officeholder may distribute political advertising on certain letterhead that contains a logo and a slogan that were designed in part with the city's public funds. **(AOR-602)**

The Texas Ethics Commission is authorized by §571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) §2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800.

TRD-201503772
Natalia Luna Ashley
Executive Director
Texas Ethics Commission
Filed: September 15, 2015



Advisory Opinion Request

The Texas Ethics Commission has been asked to consider whether a judicial candidate or officeholder may receive free legal services from an attorney to defend a defamation lawsuit arising from the candidate's or officeholder's activities as a candidate, and whether a judicial candidate may be represented by an attorney on a contingent fee basis to prosecute and pursue a defamation lawsuit arising from the candidate's activities as a candidate. **(AOR-603)**

The Texas Ethics Commission is authorized by §571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15,

Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) §2152.064, Government Code; and (11) §2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800.

TRD-201503794
Natalia Luna Ashley
Executive Director
Texas Ethics Commission
Filed: September 16, 2015



Advisory Opinion Request

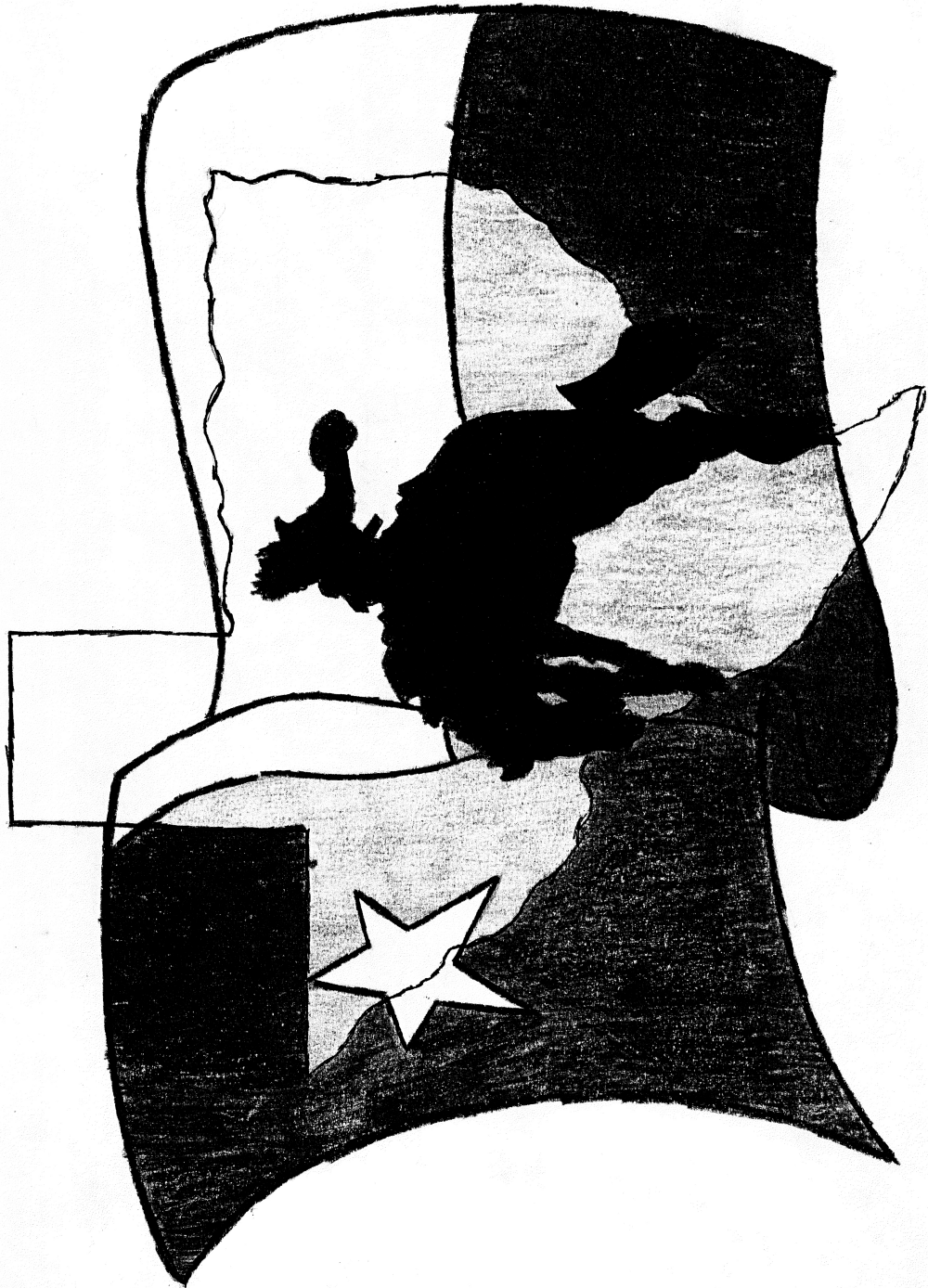
The Texas Ethics Commission has been asked to consider whether a communication relating to a measure election complies with §255.003 of the Election Code. **(AOR-604)**

The Texas Ethics Commission is authorized by §571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) §2152.064, Government Code; and (11) §2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800.

TRD-201503806
Natalia Luna Ashley
Executive Director
Texas Ethics Commission
Filed: September 16, 2015





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 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 10. UNIFORM MULTIFAMILY RULES

SUBCHAPTER A. GENERAL INFORMATION AND DEFINITIONS

10 TAC §§10.1 - 10.4

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter A, §§10.1 - 10.4, concerning General Information and Definitions. The purpose of the repeal is to allow for the replacement of the existing sections with a new Subchapter A that encompasses requirements for all applications applying for multifamily funding through the Department.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repeal will involve the replacement of existing Subchapter A with a new Subchapter A that encompasses requirements for all applications applying for multifamily funding through the Department. There is no change in economic cost to any individuals required to comply with the repeal.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no new economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held September 25, 2015, to October 15, 2015, to receive input on the repeal. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Teresa Morales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by fax to (512) 475-0764. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. OCTOBER 15, 2015.

STATUTORY AUTHORITY. The repeal is proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules. Additionally, the repeal is proposed pursuant to Texas Government Code §2306.67022, which specifically authorizes the Department to adopt a qualified allocation plan.

The proposed repeal affects Texas Government Code Chapter 2306, including Subchapter DD, concerning the Low Income Housing Tax Credit Program. The repeal affects no other statutes, articles or codes.

§10.1. Purpose.

§10.2. General.

§10.3. Definitions.

§10.4. Program Dates.

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

Filed with the Office of the Secretary of State on September 14, 2015.

TRD-201503730

Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 475-3344



10 TAC §§10.1 - 10.4

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC Chapter 10, Subchapter A, §§10.1 - 10.4, concerning the Uniform Multifamily Rules. The purpose of the proposed new sections is to explain the purpose of the uniform multifamily rules, define terms that are used throughout the various subchapters and applicable to multifamily funding from the Department, and provide guidance on critical program dates associated with the multifamily funding the Department administers. The proposed repeal of existing Subchapter A is published concurrently with this rulemaking.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new sections are

in effect, the public benefit anticipated as a result of the new sections will be to explain the purpose of the uniform multifamily rules, define terms and provide guidance on program dates. The average cost of filing an application is between \$40,000 and \$50,000, which may vary depending on the specific type of application, location of the development site, and other non-state of Texas funding sources utilized. The proposed rules do not, on average, result in an increased cost of filing an application as compared to the existing program rules.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no new or additional economic effect on small or micro-businesses. The average cost of filing an application is between \$40,000 and \$50,000, which may vary depending on the specific type of application, location of the development site, and other non-state of Texas funding sources utilized. The proposed rules do not, on average, result in an increased cost of filing an application as compared to the existing program rules.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held September 25, 2015 to October 15, 2015, to receive input on the new sections. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Teresa Morales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by fax to (512) 475-0764, attn: Teresa Morales. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. OCTOBER 15, 2015.

STATUTORY AUTHORITY. The new sections are proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules. Additionally, the new sections are proposed pursuant to Texas Government Code §2306.67022, which specifically authorizes the Department to adopt a qualified allocation plan.

The proposed new sections affect Chapter 2306 of the Texas Government Code, including Subchapter DD, concerning the Low Income Housing Tax Credit Program. The new sections affect no other statutes, articles or codes.

§10.1. Purpose.

This chapter applies to an award of multifamily development funding or other assistance including the award of Housing Tax Credits by the Texas Department of Housing and Community Affairs (the "Department") and establishes the general requirements associated in making such awards. Applicants pursuing such assistance from the Department are required to certify, among other things, that they have familiarized themselves with the rules that govern that specific program including, but not limited to, Chapter 1 Subchapter C of this title (relating to Previous Participation), Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan), Chapter 12 of this title (relating to Multifamily Housing Revenue Bond Rules) and other Department rules. This chapter does not apply to any project-based rental assistance or operating assistance programs or funds unless incorporated by reference in whole or in part in a Notice of Funding Availability ("NOFA") or rules for such a program except to the extent that Developments receiving such assistance and otherwise subject to this chapter remain subject to this chapter.

§10.2. General.

(a) Direct Loan funds and other non-Housing Tax Credit or tax exempt bond resources may be made available through a NOFA or other similar governing document that includes the basic Application and funding requirements:

(1) deadlines for filing Applications and other documents;

(2) any additional submission requirements that may not be explicitly provided for in this chapter;

(3) any applicable Application set-asides and requirements related thereto;

(4) award limits per Application or Applicant;

(5) any federal or state laws or regulations that may supersede the requirements of this chapter; and

(6) other reasonable parameters or requirements necessary to implement a program or administer funding effectively.

(b) Due Diligence and Applicant Responsibility. Department staff may, from time to time, make available for use by Applicants information and informal guidance in the form of reports, frequently asked questions, rent and income limits, and responses to specific questions. The Department encourages communication with staff in order to clarify any issues that may not be fully addressed in the multifamily rules or may be unclear when applied to specific facts. However, while these resources are offered to help Applicants prepare and submit accurate information, Applicants should also appreciate that this type of guidance is limited by its nature and that staff will apply the multifamily rules to each specific situation as it is presented in the submitted Application. In addition, although the Department may compile data from outside sources in order to assist Applicants in the Application process, it remains the sole responsibility of the Applicant to independently perform the necessary due diligence to research, confirm, and verify any data, opinions, interpretations or other information upon which Applicant bases an Application.

(c) Board Standards for Review. Some issues may require or benefit from board review. The Board is not constrained to a particular standard, and while its actions on one matter are not binding as to how it will address another matter, the Board does seek to promote consistency with its policies, including the policies set forth in this chapter.

(d) Census Data. Where this chapter requires the use of census or American Community Survey data, the Department shall use the most current data available as of October 1, 2015, unless specifically otherwise provided in federal or state law or in the rules. The availability of more current data shall generally be disregarded. For Rural Area and Urban Area designations, the Department shall use in establishing the designations, the U.S. Census Bureau's Topographically Integrated Geographic Encoding and Referencing ("TIGER") shape files applicable for the population dataset used in making such designations.

(e) Public Information Requests. Pursuant to Texas Government Code, §2306.6717, any pre-application and any full Application, including all supporting documents and exhibits, must be made available to the public, in their entirety, on the Department's website. The filing of a pre-application or Application with the Department shall be deemed as consent to the release of any and all information contained therein, including supporting documents and exhibits, and as a waiver of any of the applicable provisions of Texas Government Code, Chapter 552, with the exception of any such provisions that are considered by law as not subject to a waiver.

(f) Responsibilities of Municipalities and Counties. In providing resolutions regarding housing de-concentration issues, threshold requirements, or scoring criteria, municipalities and counties should consult their own staff and legal counsel as to whether such resolution will be consistent with Fair Housing laws as they may apply, including, as applicable, consistency with any Fair Housing Activity Statement-Texas ("FHAST") form on file, any current Analysis of Impediments to Fair Housing Choice, or any current plans such as one year action plans or five year consolidated plans for HUD block grant funds, such as HOME or CDBG funds.

(g) Deadlines. Where a specific date or deadline is identified in this chapter, the information or documentation subject to the deadline must be submitted on or before 5:00 p.m. Austin local time on the day of the deadline. If the deadline falls on a weekend or holiday, the deadline is 5:00 p.m. Austin local time on the next day which is not a weekend or holiday and on which the Department is open for general operation.

§10.3. Definitions.

(a) Terms defined in this chapter apply to the Housing Tax Credit Program, Multifamily Housing Revenue Bond Program, HOME Program and any other programs for the development of affordable rental property administered by the Department and as may be defined in this title. Any capitalized terms not specifically mentioned in this section or any section referenced in this document shall have the meaning as defined in Texas Government Code Chapter 2306, Internal Revenue Code (the "Code") §42, the HOME Final Rule, and other Department rules, as applicable.

(1) Adaptive Reuse--The change-in-use of an existing building not, at the time of Application, being used, in whole or in part, for residential purposes (e.g., school, warehouse, office, hospital, hotel, etc.), into a building which will be used, in whole or in part, for residential purposes. Adaptive reuse requires that the exterior walls of the existing building remain in place. All units must be contained within the original exterior walls of the existing building. Porches and patios may protrude beyond the exterior walls. Ancillary non-residential buildings, such as a clubhouse, leasing office and/or amenity center may be newly constructed outside the walls of the existing building or as detached buildings on the Development Site.

(2) Administrative Deficiencies--Information requested by Department staff that is required to clarify or correct one or more inconsistencies or to provide non-material missing information in the original Application or to assist staff in evaluating the Application that, in the Department staff's reasonable judgment, may be cured by supplemental information or explanation which will not necessitate a substantial reassessment or re-evaluation of the Application. Administrative Deficiencies may be issued at any time while the Application or Contract is under consideration by the Department, including at any time while reviewing performance under a Contract, processing documentation for a Commitment of Funds, closing of a loan, processing of a disbursement request, close-out of a Contract, or resolution of any issues related to compliance.

(3) Affiliate--An individual, corporation, partnership, joint venture, limited liability company, trust, estate, association, cooperative or other organization or entity of any nature whatsoever that directly, or indirectly through one or more intermediaries, has Control of, is Controlled by, or is under common Control with any other Person. All entities that share a Principal are Affiliates.

(4) Affordability Period--The Affordability Period commences as specified in the Land Use Restriction Agreement (LURA) or federal regulation, or commences on the first day of the Compliance Period as defined by the Code §42(i)(1), and continues through the appropriate program's affordability requirements or termination of the LURA, whichever is earlier. The term of the Affordability Period shall be imposed by the LURA or other deed restriction and may be terminated upon foreclosure or deed in lieu of foreclosure. The Department reserves the right to extend the Affordability Period for HOME or NSP Developments that fail to meet program requirements. During the Affordability Period, the Department shall monitor to ensure compliance with programmatic rules as applicable, regulations, and Application representations.

(5) Applicable Percentage--The percentage used to determine the amount of the Housing Tax Credit for any Development, as defined more fully in the Code §42(b).

(A) For purposes of the Application, the Applicable Percentage will be projected at:

(i) nine percent if such timing is deemed appropriate by the Department or if the ability to claim the full 9 percent credit is extended by the U.S. Congress prior to March 1, 2016;

(ii) forty basis points over the current applicable percentage for 70 percent present value credits, pursuant to §42(b) of the Code for the month in which the Application is submitted to the Department; or

(iii) fifteen basis points over the current applicable percentage for 30 percent present value credits, unless fixed by Congress, pursuant to §42(b) of the Code for the month in which the Application is submitted to the Department.

(B) For purposes of making a credit recommendation at any other time, the Applicable Percentage will be based in order of priority on:

(i) the percentage indicated in the Agreement and Election Statement, if executed; or

(ii) the actual applicable percentage as determined by the Code §42(b), if all or part of the Development has been placed in service and for any buildings not placed in service the percentage will be the actual percentage as determined by the Code §42(b) for the most current month; or

(iii) the percentage as calculated in subparagraph (A) of this paragraph if the Agreement and Election Statement has not been executed and no buildings have been placed in service.

(6) Applicant--Means any individual or a group of individuals and any Affiliates who file an Application for funding or tax credits subject to the requirements of this chapter or 10 TAC Chapters 11 or 12 and who may contemplate the later formation of one or more business entities, such as a limited partnership, that is to be engaged in the ownership of a Development. In administering the application process the Department staff will assume that the applicant will be able to form any such entities and that all necessary rights, powers, and privileges including, but not limited to, site control will be transferable to that entity. The formation of the ownership entity, qualification to do business (if needed), and transfer of such rights, powers, and privileges must be accomplished as required in this Chapter and 10 TAC Chapters 11 and 12, as applicable.

(7) Application Acceptance Period--That period of time during which Applications may be submitted to the Department. For Tax-Exempt Bond Developments it is the date the Application is submitted to the Department.

(8) Award Letter and Loan Term Sheet--A document that may be issued to an awardee of a Direct Loan before the issuance of a Commitment and/or Contract which preliminarily sets forth the terms and conditions under which the Direct Loan will be made available. An Award Letter and Loan Term Sheet will typically be contingent on the awardee satisfying certain requirements prior to executing a Commitment and/or Contract.

(9) Bank Trustee--A federally insured bank with the ability to exercise trust powers in the State of Texas.

(10) Bedroom--A portion of a Unit which is no less than 100 square feet; has no width or length less than 8 feet; is self contained with a door (or the Unit contains a second level sleeping area of 100

square feet or more); has at least one window that provides exterior access; and has at least one closet that is not less than 2 feet deep and 3 feet wide and high enough to accommodate 5 feet of hanging space. A den, study or other similar space that could reasonably function as a bedroom and meets this definition is considered a bedroom.

(11) Breakeven Occupancy--The occupancy level at which rental income plus secondary income is equal to all operating expenses, including replacement reserves and taxes, and mandatory debt service requirements for a Development.

(12) Building Costs--Cost of the materials and labor for the vertical construction or rehabilitation of buildings and amenity structures.

(13) Carryover Allocation--An allocation of current year tax credit authority by the Department pursuant to the provisions of §42(h)(1)(C) of the Code and U.S. Treasury Regulations, §1.42-6.

(14) Carryover Allocation Agreement--A document issued by the Department, and executed by the Development Owner, pursuant to §10.402(f) of this chapter (relating to Housing Tax Credit and Tax Exempt Bond Developments).

(15) Cash Flow--The funds available from operations after all expenses and debt service required to be paid have been considered.

(16) Certificate of Reservation--The notice given by the Texas Bond Review Board ("TBRB") to an issuer reserving a specific amount of the state ceiling for a specific issue of bonds.

(17) Code--The Internal Revenue Code of 1986, as amended from time to time, together with any applicable regulations, rules, rulings, revenue procedures, information statements or other official pronouncements issued thereunder by the U.S. Department of the Treasury or the Internal Revenue Service ("IRS").

(18) Code of Federal Regulations ("CFR")--The codification of the general and permanent rules and regulations of the federal government as adopted and published in the *Federal Register*.

(19) Commitment (also referred to as Contract)--A legally binding written contract, setting forth the terms and conditions under which housing tax credits, loans, grants or other sources of funds or financial assistance from the Department will be made available.

(20) Commitment of Funds--Occurs after the Development is approved by the Board and once a Commitment or Award Letter and Loan Term Sheet is executed between the Department and Development Owner. For Direct Loan Programs, this process is distinct from "Committing to a specific local project" as defined in 24 CFR Part 92, which may occur when the activity is set up in the disbursement and information system established by HUD; known as the Integrated Disbursement and Information System (IDIS). The Department's commitment of funds may not align with commitments made by other financing parties.

(21) Committee--See *Executive Award and Review Advisory Committee*.

(22) Comparable Unit--A Unit, when compared to the subject Unit, is similar in net rentable square footage, number of bedrooms, number of bathrooms, overall condition, location (with respect to the subject Property based on proximity to employment centers, amenities, services and travel patterns), age, unit amenities, utility structure, and common amenities.

(23) Competitive Housing Tax Credits ("HTC")--Tax credits available from the State Housing Credit Ceiling.

(24) Compliance Period--With respect to a building financed by Housing Tax Credits, the period of fifteen (15) taxable years, beginning with the first taxable year of the credit period pursuant to §42(i)(1) of the Code.

(25) Continuously Occupied--The same household has resided in the Unit for at least twelve (12) months.

(26) Contract--See *Commitment*.

(27) Contract Rent--Net rent based upon current and executed rental assistance contract(s), typically with a federal, state or local governmental agency.

(28) Contractor--See *General Contractor*.

(29) Control (including the terms "Controlling," "Controlled by," and/or "under common Control with")--The power, ability, or authority, acting alone or in concert with others, directly or indirectly, to manage, direct, superintend, restrict, regulate, govern, administer, or oversee. Controlling entities of a partnership include the general partners, special limited partners when applicable, but not investor limited partners who do not possess other factors or attributes that give them Control. Controlling entities of a limited liability company include but are not limited to the managers, managing members, any members with 10 percent or more ownership of the limited liability company, and any members with authority similar to that of a general partner in a limited partnership, but not investor members who do not possess other factors or attributes that give them Control. Controlling individuals or entities of a corporation, including non-profit corporations, include voting members of the corporation's board, whether or not any one member did not participate in a particular decision due to recusal or absence. Multiple Persons may be deemed to have Control simultaneously.

(30) Credit Underwriting Analysis Report--Sometimes referred to as the "Report." A decision making tool used by the Department and Board containing a synopsis and reconciliation of the Application information submitted by the Applicant.

(31) Debt Coverage Ratio ("DCR")--Sometimes referred to as the "Debt Coverage" or "Debt Service Coverage." Calculated as Net Operating Income for any period divided by scheduled debt service required to be paid during the same period.

(32) Deferred Developer Fee--The portion of the Developer Fee used as a source of funds to finance the development and construction of the Property.

(33) Deobligated Funds--The funds released by the Development Owner or recovered by the Department canceling a Contract or award involving some or all of a contractual financial obligation between the Department and a Development Owner or Applicant.

(34) Determination Notice--A notice issued by the Department to the Development Owner of a Tax-Exempt Bond Development which specifies the Department's determination as to the amount of tax credits that the Development may be eligible to claim pursuant to §42(m)(1)(D) of the Code.

(35) Developer--Any Person entering into a contractual relationship with the Owner to provide Developer Services with respect to the Development and receiving a fee for such services and any other Person receiving any portion of a developer fee, whether by subcontract or otherwise, except if the Person is acting as a consultant with no Control and receiving less than 10 percent of the total Developer fee. The Developer may or may not be a Related Party or Principal of the Owner.

(36) Developer Fee--Compensation in amounts defined in §10.302(e)(7) of this chapter (relating to Underwriting Rules and Guidelines) paid by the Owner to the Developer for Developer Services inclusive of compensation to a Development Consultant(s), Development Team member or any subcontractor that performs Developer Services or provides guaranties on behalf of the Owner will be characterized as Developer Fee.

(37) Developer Services--A scope of work relating to the duties, activities and responsibilities for pre-development, development, design coordination, and construction oversight of the Property generally including but not limited to:

(A) site selection and purchase or lease contract negotiation;

(B) identifying and negotiating sources of construction and permanent financing, including financing provided by the Department;

(C) coordination and administration of activities, including the filing of applications to secure such financing;

(D) coordination and administration of governmental permits, and approvals required for construction and operation;

(E) selection and coordination of development consultants including architect(s), engineer(s), third-party report providers, attorneys, and other design or feasibility consultants;

(F) selection and coordination of the General Contractor and construction contract(s);

(G) construction oversight;

(H) other consultative services to and for the Owner;

(I) guaranties, financial or credit support if a Related Party; and

(J) any other customary and similar activities determined by the Department to be Developer Services.

(38) Development--A residential rental housing project that consists of one or more buildings under common ownership and financed under a common plan which has applied for Department funds. This includes a project consisting of multiple buildings that are located on scattered sites and contain only rent restricted units. (§2306.6702)

(39) Development Consultant or Consultant--Any Person (with or without ownership interest in the Development) who provides professional or consulting services relating to the filing of an Application, or post award documents as required by the program.

(40) Development Owner (also referred to as "Owner")--Any Person, General Partner, or Affiliate of a Person who owns or proposes a Development or expects to acquire Control of a Development under a purchase contract or ground lease approved by the Department and is responsible for performing under the allocation and/or Commitment with the Department. (§2306.6702)

(41) Development Site--The area, or if scattered site, areas on which the Development is proposed and to be encumbered by a LURA.

(42) Development Team--All Persons and Affiliates thereof that play a role in the development, construction, rehabilitation, management and/or continuing operation of the subject Development, including any Development Consultant and Guarantor.

(43) Direct Loan--Funds provided through the HOME Program, Neighborhood Stabilization Program, or Housing Trust Fund or

other program available through the Department for multifamily development. Direct Loans may also include deferred forgivable loans or other similar direct funding by the Department, regardless if it is required to be repaid. The tax-exempt bond program is specifically excluded.

(44) Economically Distressed Area--An area that is in a census tract that has a median household income that is 75 percent or less of the statewide median household income and in a municipality or, if not within a municipality, in a county that has been awarded funds under the Economically Distressed Areas Program administered by the Texas Water Development Board within the five (5) years ending at the beginning of the Application Acceptance Period. Notwithstanding all other requirements, for funds awarded to another type of political subdivision (e.g., a water district), the Development Site must be within the jurisdiction of the political subdivision.

(45) Effective Gross Income ("EGI")--The sum total of all sources of anticipated or actual income for a rental Development, less vacancy and collection loss, leasing concessions, and rental income from employee-occupied units that is not anticipated to be charged or collected.

(46) Efficiency Unit--A Unit without a separately enclosed Bedroom designed principally for use by a single person.

(47) Elderly Development--A Development that is subject to an Elderly Limitation or a Development that is subject to an Elderly Preference.

(A) Elderly Limitation Development--A Development subject to an "elderly limitation" is a Development that meets the requirements of the Housing for Older Persons Act ("HOPA") under the Fair Housing Act and receives no funding that requires leasing to persons other than the elderly (unless the funding is from a federal program for which the Secretary of HUD has confirmed that it may operate as a Development that meets the requirements of HOPA); or

(B) Elderly Preference Development--A property receiving HUD funding and certain other types of federal assistance is a Development subject to an "elderly preference." A Development subject to an Elderly Preference must lease to other populations, including in many cases elderly households with children. A property that is deemed to be a Development subject to an Elderly Preference must be developed and operated in a manner which will enable it to serve reasonable foreseeable demand for households with children, including, but not limited to, making provision for such in developing its unit mix and amenities.

(48) Eligible Hard Costs--Hard Costs includable in Eligible Basis for the purposes of determining a Housing Credit Allocation.

(49) Environmental Site Assessment ("ESA")--An environmental report that conforms to the Standard Practice for Environmental Site Assessments: Phase I Assessment Process (ASTM Standard Designation: E 1527) and conducted in accordance with §10.305 of this chapter (relating to Environmental Site Assessment Rules and Guidelines) as it relates to a specific Development.

(50) Executive Award and Review Advisory Committee ("EARAC" also referred to as the "Committee")--The Department committee created under Texas Government Code §2306.1112.

(51) Existing Residential Development--Any Development Site which contains existing residential units at any time after the beginning of the Application Acceptance Period.

(52) Extended Use Period--With respect to an HTC building, the period beginning on the first day of the Compliance Period and ending the later of:

(A) the date specified in the Land Use Restriction Agreement; or

(B) the date which is fifteen (15) years after the close of the Compliance Period.

(53) First Lien Lender--A lender whose lien has first priority as a matter of law or by operation of a subordination agreement or other intercreditor agreement.

(54) General Contractor (including "Contractor")--One who contracts for the construction or rehabilitation of an entire Development, rather than a portion of the work. The General Contractor hires subcontractors, such as plumbing contractors, electrical contractors, etc., coordinates all work, and is responsible for payment to the subcontractors. A prime subcontractor will also be treated as a General Contractor, and any fees payable to the prime subcontractor will be treated as fees to the General Contractor, in the scenarios described in subparagraphs (A) and (B) of this paragraph:

(A) any subcontractor, material supplier, or equipment lessor receiving more than 50 percent of the contract sum in the construction contract will be deemed a prime subcontractor; or

(B) if more than 75 percent of the contract sum in the construction contract is subcontracted to three or fewer subcontractors, material suppliers, and equipment lessors, such parties will be deemed prime subcontractors.

(55) General Partner--Any person or entity identified as a general partner in a certificate of formation for the partnership that is the Development Owner and that Controls the partnership. Where a limited liability corporation is the legal structure employed rather than a limited partnership, the manager or managing member of that limited liability corporation is deemed, for the purposes of these rules, to be the functional equivalent of a general partner.

(56) Governing Body--The elected or appointed body of public or tribal officials, responsible for the enactment, implementation, and enforcement of local rules and the implementation and enforcement of applicable laws for its respective jurisdiction.

(57) Governmental Entity--Includes federal, state or local agencies, departments, boards, bureaus, commissions, authorities, and political subdivisions, special districts, tribal governments and other similar entities.

(58) Gross Capture Rate--Calculated as the Relevant Supply divided by the Gross Demand.

(59) Gross Demand--The sum of Potential Demand from the Primary Market Area ("PMA"), demand from other sources, and Potential Demand from a Secondary Market Area ("SMA") to the extent that SMA demand does not exceed 25 percent of Gross Demand.

(60) Gross Program Rent--Maximum rent limits based upon the tables promulgated by the Department's division responsible for compliance, which are developed by program and by county or Metropolitan Statistical Area ("MSA") or Primary Metropolitan Statistical Area ("PMSA") or national non-metro area.

(61) Guarantor--Any Person that provides, or is anticipated to provide, a guaranty for all or a portion of the equity or debt financing for the Development.

(62) HTC Development (also referred to as "HTC Property")--A Development subject to an active LURA for Housing Tax Credits allocated by the Department.

(63) HTC Property--See *HTC Development*.

(64) Hard Costs--The sum total of Building Costs, Site Work costs, Off-Site Construction costs and contingency.

(65) Historically Underutilized Businesses ("HUB")--An entity that is certified as such under Texas Government Code, Chapter 2161 by the State of Texas.

(66) Housing Contract System ("HCS")--The electronic information system established by the Department for tracking, funding, and reporting Department Contracts and Developments. The HCS is primarily used for Direct Loan Programs administered by the Department.

(67) Housing Credit Allocation--An allocation of Housing Tax Credits by the Department to a Development Owner for a specific Application in accordance with the provisions of this chapter and Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan).

(68) Housing Credit Allocation Amount--With respect to a Development or a building within a Development, the amount of Housing Tax Credits the Department determines to be necessary for the financial feasibility of the Development and its viability as a Development throughout the Affordability Period and which the Board allocates to the Development.

(69) Housing Quality Standards ("HQS")--The property condition standards described in 24 CFR §982.401.

(70) Initial Affordability Period--The Compliance Period or such longer period as shall have been elected by the Owner as the minimum period for which Units in the Development shall be retained for low-income tenants and rent restricted, as set forth in the LURA.

(71) Integrated Disbursement and Information System ("IDIS")--The electronic grants management information system established by HUD to be used for tracking and reporting HOME funding and progress and which may be used for other sources of funds as established by HUD.

(72) Land Use Restriction Agreement ("LURA")--An agreement, regardless of its title, between the Department and the Development Owner which is a binding covenant upon the Development Owner and successors in interest, that, when recorded, encumbers the Development with respect to the requirements of the programs for which it receives funds. (§2306.6702)

(73) Low-Income Unit--A Unit that is intended to be restricted for occupancy by an income eligible household, as defined by the Department utilizing its published income limits.

(74) Managing General Partner--A general partner of a partnership (or, as provided for in paragraph (55) of this subsection, its functional equivalent) that is vested with the authority to take actions that are binding on behalf of the partnership and the other partners. The term Managing General Partner can also refer to a manager or managing member of a limited liability company where so designated to bind the limited liability company and its members under its Agreement or any other person that has such powers in fact, regardless of their organizational title.

(75) Market Analysis--Sometimes referred to as "Market Study." An evaluation of the economic conditions of supply, demand and rental rates conducted in accordance with §10.303 of this chapter (relating to Market Analysis Rules and Guidelines) as it relates to a specific Development.

(76) Market Analyst--A real estate appraiser or other professional familiar with the subject property's market area who prepares a Market Analysis.

(77) Market Rent--The achievable rent at the subject Property for a unit without rent and income restrictions determined by the Market Analyst or Underwriter after adjustments are made to actual rents on Comparable Units to account for differences in net rentable square footage, functionality, overall condition, location (with respect to the subject Property based on proximity to primary employment centers, amenities, services and travel patterns), age, unit amenities, utility structure, and common area amenities. The achievable rent conclusion must also consider the proportion of market units to total units proposed in the subject Property.

(78) Market Study--See *Market Analysis*.

(79) Material Deficiency--Any deficiency in an Application or other documentation that exceeds the scope of an Administrative Deficiency. May include a group of Administrative Deficiencies that, taken together, create the need for a substantial re-assessment or reevaluation of the Application.

(80) Multifamily Programs Procedures Manual--The manual produced and amended from time to time by the Department which reiterates and implements the rules and provides guidance for the filing of multifamily related documents.

(81) Net Operating Income ("NOI")--The income remaining after all operating expenses, including replacement reserves and taxes that have been paid.

(82) Net Program Rent--Calculated as Gross Program Rent less Utility Allowance.

(83) Net Rentable Area ("NRA")--The unit space that is available exclusively to the tenant and is typically heated and cooled by a mechanical HVAC system. NRA is measured to the outside of the studs of a unit or to the middle of walls in common with other units. NRA does not include common hallways, stairwells, elevator shafts, janitor closets, electrical closets, balconies, porches, patios, or other areas not actually available to the tenants for their furnishings, nor does NRA include the enclosing walls of such areas.

(84) Non-HTC Development--Sometimes referred to as Non-HTC Property. Any Development not utilizing Housing Tax Credits or Exchange funds.

(85) Notice of Funding Availability ("NOFA")--A notice issued by the Department that announces funding availability, usually on a competitive basis, for multifamily rental programs requiring Application submission from potential Applicants.

(86) Off-Site Construction--Improvements up to the Development Site such as the cost of roads, water, sewer, and other utilities to provide access to and service the Site.

(87) Office of Rural Affairs--An office established within the Texas Department of Agriculture; formerly the Texas Department of Rural Affairs.

(88) One Year Period ("1YP")--The period commencing on the date on which the Department and the Owner agree to the Qualified Contract price in writing and continuing for twelve (12) calendar months.

(89) Owner--See *Development Owner*.

(90) Person--Without limitation, any natural person, corporation, partnership, limited partnership, joint venture, limited liability company, trust, estate, association, cooperative, government, political subdivision, agency or instrumentality or other organization or entity of any nature whatsoever, and shall include any group of Persons acting in concert toward a common goal, including the individual members of the group.

(91) Persons with Disabilities--With respect to an individual, means that such person has:

(A) a physical or mental impairment that substantially limits one or more major life activities of such individual;

(B) a record of such an impairment; or

(C) is regarded as having such an impairment, to include persons with severe mental illness and persons with substance abuse disorders.

(92) Physical Needs Assessment--See *Property Condition Assessment*.

(93) Place--An area defined as such by the United States Census Bureau, which, in general, includes an incorporated city, town, or village, as well as unincorporated areas know as census designated places. The Department may provide a list of Places for reference.

(94) Post Carryover Activities Manual--The manual produced and amended from time to time by the Department which explains the requirements and provides guidance for the filing of post-carryover activities, or for Tax Exempt Bond Developments, the requirements and guidance for post Determination Notice activities.

(95) Potential Demand--The number of income-eligible, age-, size-, and tenure-appropriate target households in the designated market area at the proposed placement in service date.

(96) Primary Market--Sometimes referred to as "Primary Market Area." The area defined by the Market Analyst as described in §10.303 of this chapter from which a proposed or existing Development is most likely to draw the majority of its prospective tenants or homebuyers.

(97) Primary Market Area ("PMA")--See *Primary Market*.

(98) Principal--Persons that will exercise Control (which includes voting board members pursuant to §10.3(a)(29) of this chapter) over a partnership, corporation, limited liability company, trust, or any other private entity. In the case of:

(A) partnerships, Principals include all General Partners, special limited partners, and Principals with ownership interest;

(B) corporations, Principals include any officer authorized by the board of directors, regardless of title, to act on behalf of the corporation, including but not limited to the president, vice president, secretary, treasurer, and all other executive officers, and each stock holder having a 10 percent or more interest in the corporation, and any individual who has Control with respect to such stock holder; and

(C) limited liability companies, Principals include all managers, managing members, members having a 10 percent or more interest in the limited liability company, any individual Controlling such members, or any officer authorized to act on behalf of the limited liability company.

(99) Pro Forma Rent--For a restricted Unit, the lesser of the Net Program Rent or the Market Rent. For an unrestricted unit, the Market Rent. Contract Rents, if applicable, will be used as the Pro Forma Rent.

(100) Property--The real estate and all improvements thereon which are the subject of the Application (including all items of personal property affixed or related thereto), whether currently existing or proposed to be built thereon in connection with the Application.

(101) Property Condition Assessment ("PCA")--Sometimes referred to as "Physical Needs Assessment," "Project Capital

Needs Assessment," or "Property Condition Report." The PCA provides an evaluation of the physical condition of an existing Property to evaluate the immediate cost to rehabilitate and to determine costs of future capital improvements to maintain the Property. The PCA must be prepared in accordance with §10.306 of this chapter (relating to Property Condition Assessment Guidelines) as it relates to a specific Development.

(102) Qualified Contract ("QC")--A bona fide contract to acquire the non-low-income portion of the building for fair market value and the low-income portion of the building for an amount not less than the Applicable Fraction (specified in the LURA) of the calculation as defined within §42(h)(6)(F) of the Code.

(103) Qualified Contract Price ("QC Price")--Calculated purchase price of the Development as defined within §42(h)(6)(F) of the Code and as further delineated in §10.408 of this chapter (relating to Qualified Contract Requirements).

(104) Qualified Contract Request ("Request")--A request containing all information and items required by the Department relating to a Qualified Contract.

(105) Qualified Nonprofit Development--A Development which meets the requirements of §42(h)(5) of the Code, includes the required involvement of a Qualified Nonprofit Organization, and is seeking Competitive Housing Tax Credits.

(106) Qualified Nonprofit Organization--An organization that meets the requirements of §42(h)(5)(C) of the Code for all purposes, and for an allocation in the nonprofit set-aside or subsequent transfer of the property, meets the requirements of Texas Government Code §2306.6706, and §2306.6729, and §42(h)(5) of the Code.

(107) Qualified Purchaser--Proposed purchaser of the Development who meets all eligibility and qualification standards stated in the Qualified Allocation Plan of the year the Request is received, including attending, or assigning another individual to attend, the Department's Property Compliance Training.

(108) Reconstruction--The demolition of one or more residential buildings in an Existing Residential Development and the construction of an equal number of units or less on the Development Site. At least one unit must be reconstructed in order to qualify as Reconstruction.

(109) Rehabilitation--The improvement or modification of an Existing Residential Development through alteration, incidental addition or enhancement. The term includes the demolition of an Existing Residential Development and the Reconstruction of a Development on the Development Site, but does not include Adaptive Reuse. (§2306.004(26-a)) More specifically, Rehabilitation is the repair, refurbishment and/or replacement of existing mechanical and structural components, fixtures and finishes. Rehabilitation will correct deferred maintenance, reduce functional obsolescence to the extent possible and may include the addition of: energy efficient components and appliances, life and safety systems; site and resident amenities; and other quality of life improvements typical of new residential Developments.

(110) Related Party--As defined in Texas Government Code, §2306.6702.

(111) Relevant Supply--The supply of Comparable Units in proposed and Unstabilized Developments targeting the same population including:

(A) the proposed subject Units;

(B) Comparable Units in another proposed development within the PMA with a priority Application over the subject,

based on the Department's evaluation process described in §10.201(6) of this chapter (relating to Procedural Requirements for Application Submission) that may not yet have been presented to the Board for consideration of approval;

(C) Comparable Units in previously approved but Unstabilized Developments in the PMA; and

(D) Comparable Units in previously approved but Unstabilized Developments in the Secondary Market Area (SMA), in the same proportion as the proportion of Potential Demand from the SMA that is included in Gross Demand.

(112) Report--See *Credit Underwriting Analysis Report*.

(113) Request--See *Qualified Contract Request*.

(114) Reserve Account--An individual account:

(A) created to fund any necessary repairs for a multi-family rental housing Development; and

(B) maintained by a First Lien Lender or Bank Trustee.

(115) Right of First Refusal ("ROFR")--An Agreement to provide a right to purchase the Property to a Qualified Nonprofit Organization or tenant organization with priority to that of any other buyer at a price whose formula is prescribed in the LURA.

(116) Rural Area--

(A) A Place that is located:

(i) outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area; or

(ii) within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 25,000 or less and does not share a boundary with an urban area

(B) For areas not meeting the definition of a Place, the designation as a Rural Area or Urban Area is assigned in accordance with §10.204(5)(A) of this chapter (relating to Required Documentation for Application Submission) or as requested in accordance with §10.204(5)(B).

(117) Secondary Market--Sometimes referred to as "Secondary Market Area." The area defined by the Qualified Market Analyst as described in §10.303 of this chapter.

(118) Secondary Market Area ("SMA")--See *Secondary Market*.

(119) Single Room Occupancy ("SRO")--An Efficiency Unit that meets all the requirements of a Unit except that it may, but is not required, to be rented on a month to month basis to facilitate Transitional Housing. Buildings with SRO Units have extensive living areas in common and are required to be Supportive Housing and include the provision for substantial supports from the Development Owner or its agent on site.

(120) Site Control--Ownership or a current contract or series of contracts, that meets the requirements of §10.204(10) of this chapter, that is legally enforceable giving the Applicant the ability, not subject to any legal defense by the owner, to develop a Property and subject it to a LURA reflecting the requirements of any awards of assistance it may receive from the Department.

(121) Site Work--Materials and labor for the horizontal construction generally including excavation, grading, paving, underground utilities, and site amenities.

(122) State Housing Credit Ceiling--The aggregate amount of Housing Credit Allocations that may be made by the Department during any calendar year, as determined from time to time by the Department in accordance with applicable federal law, including §42(h)(3)(C) of the Code, and Treasury Regulation §1.42-14.

(123) Sub-Market--An area defined by the Underwriter based on general overall market segmentation promulgated by market data tracking and reporting services from which a proposed or existing Development is most likely to draw the majority of its prospective tenants or homebuyers.

(124) Supportive Housing--Residential rental developments intended for occupancy by individuals or households in need of specialized and specific non-medical services in order to maintain independent living. Supportive housing developments generally include established funding sources outside of project cash flow that require certain populations be served and/or certain services provided. The developments are expected to be debt free or have no permanent fore-closable or noncash flow debt. A Supportive Housing Development financed with tax-exempt bonds with a project based rental assistance contract for a majority of the Units may be treated as Supportive Housing under all subchapters of this chapter, except Subchapter D of this chapter (relating to Underwriting and Loan Policy). If the bonds are expected to be redeemed upon construction completion, placement in service or stabilization and no other permanent debt will remain, the Supportive Housing Development may be treated as Supportive Housing under Subchapter D of this chapter. The services offered generally include case management and address special attributes of such populations as Transitional Housing for homeless and at risk of homelessness, persons who have experienced domestic violence or single parents or guardians with minor children.

(125) TDHCA Operating Database--Sometimes referred to as "TDHCA Database." A consolidation of recent actual income and operating expense information collected through the Department's Annual Owner Financial Certification process, as required and described in Subchapter F of this chapter (relating to Compliance Monitoring), and published on the Department's web site (www.tdhca.state.tx.us).

(126) Target Population--The designation of types of housing populations shall include Elderly Developments, and those that are entirely Supportive Housing. All others will be considered to serve general populations without regard to any subpopulations. An existing Development that has been designated as a Development serving the general population may not change to become an Elderly Development without Board approval.

(127) Tax-Exempt Bond Development--A Development requesting or having been awarded Housing Tax Credits and which receives a portion of its financing from the proceeds of tax-exempt bonds which are subject to the state volume cap as described in §42(h)(4) of the Code, such that the Development does not receive an allocation of tax credit authority from the State Housing Credit Ceiling.

(128) Tax-Exempt Bond Process Manual--The manual produced and amended from time to time by the Department which explains the process and provides guidance for the filing of a Housing Tax Credit Application utilizing Tax-Exempt Bonds.

(129) Third Party--A Person who is not:

(A) an Applicant, General Partner, Developer, or General Contractor; or

(B) an Affiliate to the Applicant, General Partner, Developer or General Contractor; or

(C) anyone receiving any portion of the administration, contractor or Developer fees from the Development; or

(D) any individual that is an executive officer or member of the governing board or has greater than 10 percent ownership interest in any of the entities are identified in subparagraphs (A) - (C) of this paragraph.

(130) Total Housing Development Cost--The sum total of the acquisition cost, Hard Costs, soft costs, Developer fee and General Contractor fee incurred or to be incurred through lease-up by the Development Owner in the acquisition, construction, rehabilitation, and financing of the Development.

(131) Transitional Housing--A Supportive Housing development that includes living Units with more limited individual kitchen facilities and is:

(A) used exclusively to facilitate the transition of homeless individuals and those at-risk of becoming homeless, to independent living within twenty-four (24) months; and

(B) is owned by a Development Owner that includes a governmental entity or a qualified non-profit which provides temporary housing and supportive services to assist such individuals in, among other things, locating and retaining permanent housing. The limited kitchen facilities in individual Units must be appropriately augmented by suitable, accessible shared or common kitchen facilities.

(132) U.S. Department of Agriculture ("USDA")--Texas Rural Development Office ("TRDO") serving the State of Texas.

(133) U.S. Department of Housing and Urban Development ("HUD")-regulated Building--A building for which the rents and utility allowances of the building are reviewed by HUD.

(134) Underwriter--The author(s) of the Credit Underwriting Analysis Report.

(135) Uniform Multifamily Application Templates--The collection of sample resolutions and form letters, produced by the Department, as may be required under this chapter, Chapter 11 and Chapter 12 of this title that may be used, (but are not required to be used), to satisfy the requirements of the applicable rule.

(136) Uniform Physical Condition Standards ("UPCS")--As developed by the Real Estate Assessment Center of HUD.

(137) Unit--Any residential rental unit in a Development consisting of an accommodation, including a single room used as an accommodation on a non-transient basis, that contains complete physical facilities and fixtures for living, sleeping, eating, cooking and sanitation.

(138) Unit Type--Units will be considered different Unit Types if there is any variation in the number of bedroom, bathrooms or a square footage difference equal to or more than 120 square feet. For example: A two Bedroom/one bath Unit is considered a different Unit Type than a two Bedroom/two bath Unit. A three Bedroom/two bath Unit with 1,000 square feet is considered a different Unit Type than a three Bedroom/two bath Unit with 1,200 square feet. A one Bedroom/one bath Unit with 700 square feet will be considered an equivalent Unit Type to a one Bedroom/one bath Unit with 800 square feet.

(139) Unstabilized Development--A development with Comparable Units that has been approved for funding by the Department's Board of Directors or is currently under construction or has not maintained a 90 percent occupancy level for at least twelve (12) consecutive months following construction completion. A development may be deemed stabilized by the Underwriter based on factors relating to a development's lease-up velocity, Sub-Market rents, Sub-Market

occupancy trends and other information available to the Underwriter. The Market Analyst may not consider such development stabilized in the Market Study.

(140) Urban Area--A Place that is located within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area other than a Place described by paragraph (116)(A)(ii) of this subsection. For areas not meeting the definition of a Place, the designation as a Rural Area or Urban Area is assigned in accordance with §10.204(5) of this chapter.

(141) Utility Allowance--The estimate of tenant-paid utilities made in accordance with Treasury Regulation, §1.42-10 and §10.614 of this chapter (relating to Utility Allowances).

(142) Work Out Development--A financially distressed Development for which the Owner and/or a primary financing participant is seeking a change in the terms of Department funding or program restrictions.

(b) Request for Staff Determinations. Where the definitions of Development, Development Site, New Construction, Rehabilitation, Reconstruction, Adaptive Reuse, and Target Population fail to account fully for the activities proposed in an Application, an Applicant may request and Department staff may provide a determination to an Applicant explaining how staff will review an Application in relation to these specific terms and their usage within the applicable rules. Such request must be received by the Department prior to submission of the pre-application (if applicable to the program) or Application (if no pre-application was submitted). Staff's determination may take into account the purpose of or policies addressed by a particular rule or requirement, materiality of elements, substantive elements of the development plan that relate to the term or definition, the common usage of the particular term, or other issues relevant to the rule or requirement. All such determinations will be conveyed in writing. If the determination is finalized after submission of the pre-application or Application, the Department may allow corrections to the pre-application or the Application that are directly related to the issues in the determination. It is an Applicant's sole responsibility to request a determination and an Applicant may not rely on any determination for another Application regardless of similarities in a particular fact pattern. For any Application that does not request and subsequently receive a determination, the definitions and applicable rules will be applied as used and defined herein. Such a determination is intended to provide clarity with regard to Applications proposing activities such as: scattered site development or combinations of construction activities (e.g., Rehabilitation with some New Construction). An Applicant may appeal a determination for their Application if the determination provides for a treatment that relies on factors other than the explicit definition. A Board determination or a staff determination not timely appealed cannot be further appealed or challenged.

§10.4. Program Dates.

This section reflects key dates for all multifamily development programs except for the Competitive Housing Tax Credit Program. A program calendar for the Competitive Housing Tax Credit Program is provided in Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan). Applicants are strongly encouraged to submit the required items well in advance of established deadlines. Non-statutory deadlines specifically listed in this section may be extended by the Executive Director for a period of not more than five (5) business days provided, however, that the Applicant requests an extension prior to the date of the original deadline and has established to the reasonable satisfaction of the Executive Director that there is good cause for the extension. Except as provided for under 10 TAC §1.1 relating to Reasonable Accommodation Requests, extensions relating to Administrative Deficiency deadlines may only be extended if docu-

mentation needed to resolve the item is needed from a Third Party or the documentation involves signatures needed on certification forms in the Application.

(1) Full Application Delivery Date. The deadline by which the Application must be submitted to the Department. For Direct Loan Applications, such deadline will generally be defined in the applicable NOFA and for Tax-Exempt Bond Developments, such deadlines are more fully explained in §10.201(2) of this chapter (relating to Procedural Requirements for Application Submission).

(2) Notice to Submit Lottery Application Delivery Date. No later than December 11, 2015, Applicants that receive an advance notice regarding a Certificate of Reservation must submit a notice to the Department, in the form prescribed by the Department.

(3) Applications Associated with Lottery Delivery Date. No later than December 18, 2015, Applicants that participated in the Texas Bond Review Board Lottery must submit the complete tax credit Application to the Department.

(4) Administrative Deficiency Response Deadline. Such deadline shall be five (5) business days after the date on the deficiency notice without incurring a penalty fee pursuant to §10.901 of this chapter (relating to Fee Schedule).

(5) Third Party Report Delivery Date (Environmental Site Assessment (ESA), Property Condition Assessment (PCA), Appraisal (if applicable), Market Analysis and the Site Design and Development Feasibility Report). For Direct Loan Applications, the Third Party reports must be submitted with the Application in order for it to be considered a complete Application. For Tax-Exempt Bond Developments, the Third Party Reports must be submitted no later than seventy-five (75) calendar days prior to the Board meeting at which the tax credits will be considered. The seventy-five (75) calendar day deadlines are available on the Department's website.

(6) Resolutions Delivery Date. Resolutions required for Tax-Exempt Bond Developments or Direct Loan Applications must be submitted no later than fourteen (14) calendar days before the Board meeting at which consideration of the award will occur.

(7) Challenges to Neighborhood Organization Opposition Delivery Date. No later than forty-five (45) calendar days prior to the Board meeting at which consideration of the award will occur.

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

Filed with the Office of the Secretary of State on September 14, 2015.

TRD-201503743

Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 475-3344



SUBCHAPTER B. SITE AND DEVELOPMENT REQUIREMENTS AND RESTRICTIONS

10 TAC §10.101

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of

the Texas Department of Housing and Community Affairs or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter B, §10.101, concerning Site and Development Requirements and Restrictions. The purpose of the repeal is to allow for the replacement of the section with a new section that encompasses restrictions and requirements for all development sites for which applications are submitted in applying for multifamily funding through the Department. Proposed new §10.101 is published concurrently with this proposed repeal.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repeal will be the replacement of the existing section with a new section that encompasses requirements for all applications applying for multifamily funding through the Department. There is no change in economic cost to any individuals required to comply with the repeal.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held September 25, 2015, to October 15, 2015, to receive input on the repeal. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Teresa Morales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by fax to (512) 475-0764. **ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. OCTOBER 15, 2015.**

STATUTORY AUTHORITY. The repeal is proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules. Additionally, the repeal is proposed pursuant to Texas Government Code §2306.67022, which specifically authorizes the Department to adopt a qualified allocation plan.

The proposed repeal affects Texas Government Code Chapter 2306, including Subchapter DD, concerning the Low Income Housing Tax Credit Program. The repeal affects no other statutes, articles or codes.

§10.101. Site and Development Requirements and Restrictions.

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

Filed with the Office of the Secretary of State on September 14, 2015.

TRD-201503732

Timothy K. Irvine
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: October 25, 2015
For further information, please call: (512) 475-3344



10 TAC §10.101

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC Chapter 10, Subchapter B, §10.101, concerning Site and Development Requirements and Restrictions. The purpose of the new section is to provide guidance relating to site and development requirements and restrictions for all development sites for which applications are submitted in applying for multifamily funding through the Department. The proposed repeal of existing §10.101 is published concurrently with this rulemaking.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to new costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be to provide guidance relating to site and development requirements and restrictions relating to applications applying for multifamily funding through the Department. The average cost of filing an application is between \$40,000 and \$50,000, which may vary depending on the specific type of application, location of the development site, and other non-state of Texas funding sources utilized. The proposed rule does not, on average, result in an increased cost of filing an application as compared to the existing program rule.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no new or additional economic effect on small or micro-businesses. The average cost of filing an application is between \$40,000 and \$50,000, which may vary depending on the specific type of application, location of the development site, and other non-state of Texas funding sources utilized. The proposed rule does not, on average, result in an increased cost of filing an application as compared to the existing program rule.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held September 25, 2015 to October 15, 2015, to receive input on the new section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Teresa Morales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by fax to (512) 475-0764, attn: Teresa Morales. **ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. OCTOBER 15, 2015.**

STATUTORY AUTHORITY. The new section is proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules. Additionally, the new section is proposed pursuant to Texas Government Code §2306.67022, which specifically authorizes the Department to adopt a qualified allocation plan.

The proposed new section affects Chapter 2306 of the Texas Government Code, including Subchapter DD, concerning the

Low Income Housing Tax Credit Program. The new section affects no other statutes, articles or codes.

§10.101. Site and Development Requirements and Restrictions.

(a) Site Requirements and Restrictions. The purpose of this section is to identify specific requirements and restrictions related to a Development Site seeking multifamily funding or assistance from the Department.

(1) Floodplain. New Construction or Reconstruction Developments located within a one-hundred (100) year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps must develop the site in full compliance with the National Flood Protection Act and all applicable federal and state statutory and regulatory requirements. The Applicant will have to use floodplain maps and comply with regulation as they exist at the time of commencement of construction. Even if not required by such provisions, the Site must be developed so that all finished ground floor elevations are at least one foot above the floodplain and parking and drive areas are no lower than six inches below the floodplain. If there are more stringent local requirements they must also be met. If no FEMA Flood Insurance Rate Maps are available for the proposed Development Site, flood zone documentation must be provided from the local government with jurisdiction identifying the one-hundred (100) year floodplain. Rehabilitation (excluding Reconstruction) Developments with existing and ongoing federal funding assistance from the U.S. Department of Housing and Urban Development (HUD) or U.S. Department of Agriculture (USDA) are exempt from this requirement. However, where existing and ongoing federal assistance is not applicable such Rehabilitation (excluding Reconstruction) Developments will be allowed in the one-hundred (100) year floodplain provided the local government has undertaken and can substantiate sufficient mitigation efforts and such documentation is submitted in the Application or the existing structures meet the requirements that are applicable for New Construction or Reconstruction Developments, as certified to by a Third Party engineer.

(2) Mandatory Community Assets. Development Sites must be located within a one mile radius (two-mile radius for Developments located in a Rural Area), unless otherwise required by the specific asset as noted below, of at least six (6) community assets listed in subparagraphs (A) - (S) of this paragraph. Supportive Housing Developments located in an Urban Area must meet the requirement in subparagraph (S) of this paragraph. Only one community asset of each type listed will count towards the number of assets required. These do not need to be in separate facilities to be considered for points. A map must be included identifying the Development Site and the location of each of the community assets by name. All assets must exist or be under active construction, post pad (*e.g.* framing the structure) by the date the Application is submitted:

- (A) full service grocery store;
- (B) pharmacy;
- (C) convenience store/mini-market;
- (D) department or retail merchandise store (retail merchandise must be available to unaccompanied minors);
- (E) federally insured depository institution;
- (F) restaurant (including fast food, but not including establishments that are primarily bars and serve food as an incidental item);
- (G) indoor public recreation facilities accessible to the general public, such as, community centers, libraries, fitness club/gym, and senior centers;

(H) outdoor public recreation facilities accessible to the general public, such as parks, golf courses, and swimming pools;

(I) medical office of a general practitioner, urgent care facility or hospital;

(J) public schools (only eligible for Developments that are not Elderly Limitation Developments);

(K) campus of an accredited higher education institution;

(L) community, civic or service organizations, such as Kiwanis or Rotary Club;

(M) child care center (must be licensed - only eligible for Developments that are not Elderly Limitation Developments);

(N) post office;

(O) city hall;

(P) county courthouse;

(Q) fire station;

(R) police station;

(S) Development Site is located within 1/2 mile, connected by an accessible route, of a designated public transportation stop at which public transportation (not including "on demand" transportation) stops on a regular, scheduled basis; a site's eligibility for on demand transportation does not meet this requirement.

(3) Undesirable Site Features. Development Sites within the applicable distance of any of the undesirable features identified in subparagraphs (A) - (J) of this paragraph will be considered ineligible. Rehabilitation (excluding Reconstruction) Developments with ongoing and existing federal assistance from HUD, USDA, or Veterans Affairs ("VA") may be granted an exemption by the Board. Such an exemption must be requested at the time of or prior to the filing of an Application and must include a letter stating the Rehabilitation of the existing units is consistent with achieving at least one or more of the stated goals as outlined in the State of Texas Analysis of Impediments to Fair Housing Choice or, if within the boundaries of a participating jurisdiction or entitlement community, as outlined in the local analysis of impediments to fair housing choice. The distances are to be measured from the nearest boundary of the Development Site to the undesirable feature. If Department staff identifies what it believes would constitute an undesirable site feature not listed in this paragraph or covered under subparagraph (J) of this paragraph, staff may request a determination from the Board as to whether such feature is acceptable or not. If the Board determines such feature is not acceptable and that, accordingly, the Site is ineligible, the Application shall be terminated and such determination of Site ineligibility and termination of the Application cannot be appealed.

(A) Development Sites located within 300 feet of junkyards. For purposes of this paragraph, a junkyard shall be defined as stated in Transportation Code, §396.001;

(B) Development Sites located within 100 feet of active railroad tracks, unless the Applicant provides evidence that the city/community has adopted a Railroad Quiet Zone or the railroad in question is commuter or light rail;

(C) Development Sites located within 500 feet of heavy industrial or dangerous uses such as manufacturing plants, fuel storage facilities (excluding gas stations), refinery blast zones, etc.;

(D) Development Sites located within 2 miles of potentially hazardous uses such as nuclear plants or refineries capable of refining more than 100,000 barrels of oil daily;

(E) Development Sites located within 300 feet of a solid waste or sanitary landfills;

(F) Development Sites in which the buildings are located within the easement of any overhead high voltage transmission line, support structures for high voltage transmission lines, radio antennae, satellite towers, or other similar structures. This does not apply to local service electric lines and poles;

(G) Development Sites in which the buildings are located within the accident zones or clear zones for commercial or military airports;

(H) Development Sites located within 300 feet of a sexually-oriented business. For purposes of this paragraph, a sexually-oriented business shall be defined as stated in Local Government Code, §243.002;

(I) Development Sites that contain one or more pipelines, situated underground or aboveground, which carry highly volatile liquids; or

(J) Any other Site deemed unacceptable, which would include, without limitation, those with exposure to an environmental factor that may adversely affect the health and safety of the residents and which cannot be adequately mitigated.

(4) Undesirable Neighborhood Characteristics.

(A) If the Development Site has any of the characteristics described in subparagraph (B) of this paragraph, the Applicant must disclose the presence of such characteristics to the Department. Disclosure of undesirable characteristics must be made at the time the Application is submitted to the Department. Alternatively, an Applicant may choose to disclose the presence of such characteristics at the time the pre-application (if applicable) is submitted to the Department or after inducement (for Tax-Exempt Bond Developments). Should staff determine that the Development Site has any of the characteristics described in subparagraph (B) of this paragraph and such characteristics were not disclosed, the Application may be subject to termination. Termination due to non-disclosure may be appealed pursuant to §10.902 of this chapter (relating to Appeals Process (§2306.0321; §2306.6715)). The presence of any characteristics listed in subparagraph (B) of this paragraph will prompt staff to perform an assessment of the Development Site and neighborhood, which may include a site visit, and which will include, where applicable, a review as described in subparagraph (C) of this paragraph. The assessment of the Development Site and neighborhood will be presented to the Board with a recommendation with respect to the eligibility of the Development Site. Factors to be considered by the Board, despite the existence of the undesirable neighborhood characteristics are identified in subparagraph (E) of this paragraph. Should the Board uphold staff's recommendation or make a determination that a Development Site is ineligible, the termination of the Application resulting from such Board action is not subject to appeal.

(B) The existence of any one of the five undesirable neighborhood characteristics in clauses (i) - (v) of this subparagraph must be disclosed by the Applicant and will prompt further review as outlined in subparagraph (C) of this paragraph:

(i) The Development Site is located within a census tract that has a poverty rate above 40 percent for individuals (or 55 percent for Developments in regions 11 and 13).

(ii) The Development Site is located in a census tract or within 1,000 feet of any census tract in an Urban Area and the rate of Part I violent crime is greater than 18 per 1,000 persons (annually) as reported on neighborhoodscout.com.

(iii) The Development Site is located within 1,000 feet of multiple vacant structures visible from the street, which have fallen into such significant disrepair, overgrowth, and/or vandalism that they would commonly be regarded as blighted or abandoned.

(iv) The Development Site is located within the attendance zones of an elementary school, a middle school and a high school that does not have a Met Standard rating by the Texas Education Agency. In districts with district-wide enrollment or choice districts an Applicant shall use the rating of the closest elementary, middle and high school, respectively, which may possibly be attended by the tenants in determining whether or not disclosure is required. The applicable school rating will be the 2015 accountability rating assigned by the Texas Education Agency. School ratings will be determined by the school number, so that in the case where a new school is formed or named or consolidated with another school but is considered to have the same number that rating will be used. A school that has never been rated by the Texas Education Agency will use the district rating. If a school is configured to serve grades that do not align with the Texas Education Agency's conventions for defining elementary schools (typically grades K-5 or K-6), middle schools (typically grades 6-8 or 7-8) and high schools (typically grades 9-12), the school will be considered to have the lower of the ratings of the schools that would be combined to meet those conventions. In determining the ratings for all three levels of schools, ratings for all grades K-12 must be included, meaning that two or more schools' ratings may be combined. For example, in the case of an elementary school which serves grades K-4 and an intermediate school that serves grades 5-6, the elementary school rating will be the lower of those two schools' ratings. Also, in the case of a 9th grade center and a high school that serves grades 10-12, the high school rating will be considered the lower of those two schools' ratings. Sixth grade centers will be considered as part of the middle school rating. Development Sites subject to an Elderly Limitation is considered exempt and does not have to disclose the presence of this characteristic.

(v) The Environmental Site Assessment for the Development Site indicates any facilities listings within the ASTM-required search distances from the approximate site boundaries on any one of the following databases:

(I) U.S. Environmental Protection Agency ("USEPA") National Priority List ("NPL"); Comprehensive Environmental Response, Compensation, and Liability Information System ("CERCLIS");

(II) Federal Engineering and/or Institutional Controls Registries ("EC"); Resource Conservation and Recovery Act ("RCRA") facilities associated with treatment, storage, and disposal of hazardous materials that are undergoing corrective action ("RCRA CORRACTS");

(III) RCRA Generators/Handlers of hazardous waste; or

(IV) State voluntary cleanup program.

(C) Should any one of the undesirable neighborhood characteristics described in subparagraph (B) of this paragraph exist, staff will conduct a further Development Site and neighborhood review which will include assessments of those items identified in clauses (i) - (vi) of this paragraph.

(i) A determination regarding neighborhood boundaries, which will be based on the review of a combination of natural and

manmade physical features (rivers, highways, etc.), apparent changes in land use, the Primary Market Area as defined in the Market Analysis, census tract or municipal boundaries, and information obtained from any Site visits;

(ii) An assessment of general land use in the neighborhood, including comment on the prevalence of residential uses;

(iii) An assessment concerning any of the features reflected in paragraph (3) of this subsection if they are present in the neighborhood, regardless of whether they are within the specified distances referenced in paragraph (3);

(iv) An assessment of the number of existing affordable rental units (generally includes rental properties subject to TD-HCA, HUD, or USDA restrictions) in the neighborhood, including comment on concentration based on neighborhood size;

(v) An assessment of the percentage of households residing in the census tract that have household incomes equal to or greater than the median household income for the MSA or county where the Development Site is located; and

(vi) An assessment of the number of market rate multifamily units in the neighborhood and their current rents and levels of occupancy.

(D) Information regarding mitigation of undesirable neighborhood characteristics should be relevant to the undesirable characteristics that are present in the neighborhood. For example, a plan to clean up an environmental hazard is an appropriate response to disclosure of a facility listed in the Environmental Site Assessment. With respect to crime, such information may include, but is not limited to, crime statistics evidencing trends that crime rates are materially and consistently decreasing, violent crime data based on the police beat within which the Development Site is located for the city's police department, or violent crimes within a one half mile radius of the Development Site. The data used must include incidents recorded during the entire 2014 and 2015 calendar year. A written statement from the local police department, information identifying efforts by the local police department addressing issues of crime, or documentation indicating that the high level of criminal activity is concentrated at the Development Site, which presumably would be remediated by the planned Development, may also be used to document compliance with this provision. Other mitigation efforts to address undesirable characteristics may include new construction in the area already underway that evidences public and/or private investment, and to the extent blight or abandonment is present, acceptable mitigation would go beyond the securement or razing and require the completion of a desirable permanent use of the site(s) on which the blight or abandonment is present such as new or rehabilitated housing, new business, development and completion of dedicated municipal or county-owned park space. Mitigation of undesirable characteristics must also include timelines that evidence that efforts are already underway and a reasonable expectation that the issue(s) being addressed will be resolved or significantly improved by the time the proposed Development is placed in service.

(E) In order for the Development Site to be found eligible by the Board, despite the existence of undesirable neighborhood characteristics, the use of Department funds at the Development Site must be consistent with achieving at least one of the goals in clauses (i) - (iii) of this subparagraph.

(i) Preservation of existing occupied affordable housing units that are subject to existing federal rent or income restrictions;

(ii) Factual determination that the undesirable characteristic that has been disclosed are not of such a nature or severity that they should render the Development Site ineligible based on mitigation efforts as established under subparagraph (D) of this paragraph; or

(iii) The Development is necessary to enable the state, a participating jurisdiction, or an entitlement community to comply with its obligation to affirmatively further fair housing, a HUD approved Conciliation Agreement, or a final and non-appealable court order.

(b) Development Requirements and Restrictions. The purpose of this section is to identify specific restrictions on a proposed Development submitted for multifamily funding by the Department.

(1) Ineligible Developments. A Development shall be ineligible if any of the criteria in subparagraphs (A) and (B) of this paragraph are deemed to apply.

(A) General Ineligibility Criteria.

(i) Developments comprised of hospitals, nursing homes, trailer parks, dormitories (or other buildings that will be predominantly occupied by students) or other facilities which are usually classified as transient housing (as provided in the §42(i)(3)(B)(iii) and (iv) of the Code);

(ii) Any Development with any building(s) with four or more stories that does not include an elevator;

(iii) A Housing Tax Credit Development that provides on-site continual or frequent nursing, medical, or psychiatric services. Refer to IRS Revenue Ruling 98-47 for clarification of assisted living;

(iv) A Development that violates §1.15 of this title (relating to Integrated Housing Rule);

(v) A Development seeking Housing Tax Credits that will not meet the general public use requirement under Treasury Regulation, §1.42-9 or a documented exception thereto; or

(vi) A Development utilizing a Direct Loan that is subject to the Housing and Community Development Act, §104(d) requirements and proposing Rehabilitation or Reconstruction, if the Applicant is not proposing the one-for-one replacement of the existing unit mix. Adding additional units would not violate this provision.

(B) Ineligibility of Elderly Developments.

(i) Any Elderly Development of two stories or more that does not include elevator service for any Units or living space above the first floor;

(ii) Any Elderly Development with any Units having more than two bedrooms with the exception of up to three employee Units reserved for the use of the manager, maintenance, and/or security officer. These employee Units must be specifically designated as such; or

(iii) Any Elderly Development (including Elderly in a Rural Area) proposing more than 70 percent two-bedroom Units.

(2) Development Size Limitations. The minimum Development size is 16 Units. New Construction or Adaptive Reuse Developments in Rural Areas are limited to a maximum of 80 Units. Other Developments do not have a limitation as to the maximum number of Units.

(3) Rehabilitation Costs. Developments involving Rehabilitation must establish a scope of work that will substantially improve

the interiors of all units and exterior deferred maintenance. The following minimum Rehabilitation amounts must be maintained through the issuance of IRS Forms 8609 or at the time of the close-out documentation, as applicable:

(A) For Housing Tax Credit Developments under the USDA Set-Aside the minimum Rehabilitation will involve at least \$19,000 per Unit in Building Costs and Site Work;

(B) For Tax-Exempt Bond Developments, less than twenty (20) years old, based on the placed in service date, the minimum Rehabilitation will involve at least \$15,000 per Unit in Building Costs and Site Work. If such Developments are greater than twenty (20) years old, based on the placed in service date, the minimum Rehabilitation will involve at least \$25,000 per Unit in Building Costs and Site Work;

(C) For all other Developments, the minimum Rehabilitation will involve at least \$25,000 per Unit in Building Costs and Site Work; or

(D) Rehabilitation Developments financed with Direct Loans provided through the HOME program (or any other program subject to 24 CFR 92) that triggers the rehabilitation requirements of 24 CFR 92 will be required to meet all applicable state and local codes, ordinances, and standards; the 2012 International Existing Building Code ("IEBC"); and the requirements in clauses (i) - (iv) of this subparagraph.

(i) recommendations made in the Environmental Assessment and Physical Conditions Assessment with respect to health and safety issues, major systems (structural support; roofing; cladding and weatherproofing; plumbing; electrical; and heating, ventilation, and air conditioning), and lead based paint must be implemented;

(ii) all accessibility requirements pursuant to 10 TAC §1.206 (relating to Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973) and §1.209 (relating to Substantial Alteration of Multifamily Developments) must be met;

(iii) properties located in the designated catastrophe areas specified in 28 TAC §5.4008 must comply with 28 TAC §5.4011 (relating to Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After January 1, 2008); and

(iv) should IEBC be more restrictive than local codes, or should local codes not exist, then the Development must meet the requirements imposed by IEBC.

(4) Mandatory Development Amenities. (§2306.187) New Construction, Reconstruction or Adaptive Reuse Units must include all of the amenities in subparagraphs (A) - (M) of this paragraph. Rehabilitation (excluding Reconstruction) Developments must provide the amenities in subparagraphs (D) - (M) of this paragraph unless stated otherwise. Supportive Housing Developments are not required to provide the amenities in subparagraph (B), (E), (F), (G), (I), or (M) of this paragraph; however, access must be provided to a comparable amenity in a common area. All amenities listed below must be at no charge to the tenants. Tenants must be provided written notice of the applicable required amenities for the Development.

(A) All Units must be wired with RG-6/U COAX or better and CAT3 phone cable or better, wired to each bedroom, dining room and living room;

(B) Laundry Connections;

(C) Exhaust/vent fans (vented to the outside) in the bathrooms;

(D) Screens on all operable windows;

(E) Disposal and Energy-Star rated dishwasher (not required for USDA; Rehabilitation Developments exempt from dishwasher if one was not originally in the Unit);

(F) Energy-Star rated refrigerator;

(G) Oven/Range;

(H) Blinds or window coverings for all windows;

(I) At least one Energy-Star rated ceiling fan per Unit;

(J) Energy-Star rated lighting in all Units which may include compact fluorescent or LED light bulbs;

(K) Plumbing fixtures must meet performance standards of Texas Health and Safety Code, Chapter 372;

(L) All Units must have central heating and air-conditioning (Packaged Terminal Air Conditioners meet this requirement for SRO or Efficiency Units only); and

(M) Adequate parking spaces consistent with local code, unless there is no local code, in which case the requirement would be one and a half (1.5) spaces per Unit for non-Elderly Developments and one (1) space per Unit for Elderly Developments. The minimum number of required spaces must be available to the tenants at no cost.

(5) Common Amenities.

(A) All Developments must include sufficient common amenities as described in subparagraph (C) of this paragraph to qualify for at least the minimum number of points required in accordance with clauses (i) - (vi) of this subparagraph. For Developments with 41 Units or more, at least two (2) of the required threshold points must come from subparagraph (C)(xxxi) of this paragraph.

(i) Developments with 16 to 40 Units must qualify for four (4) points;

(ii) Developments with 41 to 76 Units must qualify for seven (7) points;

(iii) Developments with 77 to 99 Units must qualify for ten (10) points;

(iv) Developments with 100 to 149 Units must qualify for fourteen (14) points;

(v) Developments with 150 to 199 Units must qualify for eighteen (18) points; or

(vi) Developments with 200 or more Units must qualify for twenty-two (22) points.

(B) These points are not associated with any selection criteria points. The amenities must be for the benefit of all tenants and made available throughout normal business hours and maintained throughout the Extended Use Period. Tenants must be provided written notice of the elections made by the Development Owner. If fees in addition to rent are charged for amenities, then the amenity may not be included among those provided to satisfy the requirement. All amenities must meet accessibility standards and spaces for activities must be sized appropriately to serve the proposed Target Population. Applications for non-contiguous scattered site housing, excluding non-contiguous single family sites, will have the test applied based on the number of Units per individual site, which includes those amenities required under subparagraph (C)(xxxi) of this paragraph. If scattered site with fewer

than 41 Units per site, at a minimum at least some of the amenities required under subparagraph (C)(xxxi) of this paragraph must be distributed proportionately across all sites. In the case of additional phases of a Development any amenities that are anticipated to be shared with the first phase development cannot be claimed for purposes of meeting this requirement for the second phase. The second phase must include enough points to meet this requirement that are provided on the Development Site. For example, if a swimming pool exists on the phase one property and it is anticipated that the second phase tenants will be allowed to use it, the swimming pool cannot be claimed for points for purposes of this requirement for the second phase Development. All amenities must be accessible and must be available to all units via an accessible route.

(C) The common amenities and respective point values are set out in clauses (i) - (xxxi) of this subparagraph. Some amenities may be restricted for Applicants proposing a specific Target Population. An Applicant can only count an amenity once; therefore combined functions (a library which is part of a community room) will only qualify for points under one category:

- (i) Full perimeter fencing (2 points);
- (ii) Controlled gate access (2 points);
- (iii) Gazebo w/sitting area (1 point);
- (iv) Accessible walking/jogging path separate from a sidewalk and in addition to required accessible routes to Units or other amenities (1 point);
- (v) Community laundry room with at least one washer and dryer for every 40 Units (3 points);
- (vi) Barbecue grill and picnic table with at least one of each for every 50 Units (1 point);
- (vii) Covered pavilion that includes barbecue grills and tables with at least one grill and table for every 50 Units (2 points);
- (viii) Swimming pool (3 points);
- (ix) Splash pad/water feature play area (1 point);
- (x) Furnished fitness center. Equipped with fitness equipment options with at least one option per every 40 Units or partial increment of 40 Units: stationary bicycle, elliptical trainer, treadmill, rowing machine, universal gym, multi-functional weight bench, sauna, stair-climber, or other similar equipment. Equipment shall be commercial use grade or quality. All Developments must have at least two equipment options but are not required to have more than five equipment options regardless of number of Units (2 points);
- (xi) Equipped and functioning business center or equipped computer learning center. Must be equipped with 1 computer for every 40 Units loaded with basic programs (maximum of 5 computers needed), 1 laser printer for every 3 computers (minimum of one printer) and at least one scanner which may be integrated with printer (2 points);
- (xii) Furnished Community room (2 points);
- (xiii) Library with an accessible sitting area (separate from the community room) (1 point);
- (xiv) Enclosed community sun porch or covered community porch/patio (1 point);
- (xv) Service coordinator office in addition to leasing offices (1 point);
- (xvi) Senior Activity Room stocked with supplies (Arts and Crafts, etc.) (2 points);

(xvii) Health Screening Room (1 point);

(xviii) Secured Entry (applicable only if all Unit entries are within the building's interior) (1 point);

(xix) Horseshoe pit; putting green; shuffleboard court; or video game console(s) with a variety of games and a dedicated location accessible to all tenants to play such games (1 point);

(xx) Community Dining Room with full or warming kitchen furnished with adequate tables and seating (3 points);

(xxi) One Children's Playscape Equipped for 5 to 12 year olds, or one Tot Lot (1 point). Can only select this item if clause (xxii) of this subparagraph is not selected; or

(xxii) Two Children's Playscapes Equipped for 5 to 12 year olds, two Tot Lots, or one of each (2 points). Can only select this item if clause (xxi) of this subparagraph is not selected;

(xxiii) Sport Court (Tennis, Basketball or Volleyball) (2 points);

(xxiv) Furnished and staffed Children's Activity Center that must have age appropriate furnishings and equipment. Appropriate levels of staffing must be provided during after-school hours and during school vacations (3 points);

(xxv) Community Theater Room equipped with a 52 inch or larger screen with surround sound equipment; DVD player; and theater seating (3 points);

(xxvi) Dog Park area that is fully enclosed and intended for tenant owned dogs to run off leash or a dog wash station with plumbing for hot and cold water connections and tub drainage (requires that the Development allow dogs) (1 point);

(xxvii) Common area Wi-Fi (1 point);

(xxviii) Twenty-four hour, seven days a week monitored camera/security system in each building (3 points);

(xxix) Bicycle parking within reasonable proximity to each residential building that allows for bicycles to be secured with lock (lock not required to be provided to tenant) (1 point);

(xxx) Rooftop viewing deck (2 points); or

(xxxi) Green Building Features. Points under this item are intended to promote energy and water conservation, operational savings and sustainable building practices. Points may be selected from only one of four categories: Limited Green Amenities, Enterprise Green Communities, Leadership in Energy and Environmental Design (LEED), and ICC 700 National Green Building Standard. A Development may qualify for no more than four (4) points total under this clause.

(I) Limited Green Amenities (2 points). The items listed in subclauses (I) - (IV) of this clause constitute the minimum requirements for demonstrating green building of multifamily Developments. Six (6) of the twenty-two (22) items listed under items (-a-) - (-v-) of this subclause must be met in order to qualify for the maximum number of two (2) points under this subclause;

(-a-) a rain water harvesting/collection system and/or locally approved greywater collection system;

(-b-) native trees and plants installed that reduce irrigation requirements and are appropriate to the Development Site's soil and microclimate to allow for shading in the summer and heat gain in the winter. For Rehabilitation Developments this would be applicable to new landscaping planned as part of the scope of work;

(-c-) water-conserving fixtures that meet the EPA's WaterSense Label. Such fixtures must include low-flow or high

efficiency toilets, bathroom lavatory faucets, showerheads, and kitchen faucets. Rehabilitation Developments may install compliant faucet aerators instead of replacing the entire faucets;

(-d-) all of the HVAC condenser units located so they are fully shaded 75 percent of the time during summer months (i.e. May through August) as certified by the design team at cost certification;

(-e-) Energy-Star qualified hot water heaters or install those that are part of an overall Energy-Star efficient system;

(-f-) install individual or sub-metered utility meters for electric and water. Rehabilitation Developments may claim sub-meter only if not already sub-metered at the time of Application;

(-g-) healthy finish materials including the use of paints, stains, adhesives, and sealants consistent with the Green Seal 11 standard or other applicable Green Seal standard;

(-h-) install daylight sensor, motion sensors or timers on all exterior lighting and install fixtures that include automatic switching on timers or photocell controls for all lighting not intended for 24-hour operation or required for security;

(-i-) recycling service provided throughout the Compliance Period;

(-j-) for Rehabilitation Developments or Developments with 41 units or less, construction waste management system provided by contractor that meets LEEDs minimum standards;

(-k-) for Rehabilitation Developments or Developments with 41 units or less, clothes dryers vented to the outside;

(-l-) for Developments with 41 units or less, at least 25% by cost FSC certified salvaged wood products;

(-m-) locate water fixtures within 20 feet of hot water heater;

(-n-) drip irrigate at non-turf areas;

(-o-) radiant barrier decking for New Construction Developments or "cool" roofing materials;

(-p-) permanent shading devices for windows with solar orientation;

(-q-) Energy-Star certified insulation products;

(-r-) full cavity spray foam insulation in walls;

(-s-) Energy-Star rated windows;

(-t-) FloorScore certified flooring;

(-u-) sprinkler system with rain sensors;

(-v-) NAUF (No Added Urea Formaldehyde)

cabinets.

(II) Enterprise Green Communities (4 points).

The Development must incorporate all mandatory and optional items applicable to the construction type (i.e. New Construction, Rehabilitation, etc.) as provided in the most recent version of the Enterprise Green Communities Criteria found at <http://www.greencommunitiesonline.org>.

(III) LEED (4 points).

The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a LEED Certification, regardless of the rating level achieved (i.e., Certified, Silver, Gold or Platinum).

(IV) ICC 700 National Green Building Standard

(4 points). The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a NAHB Green Certification, regardless of the rating level achieved (i.e. Bronze, Silver, Gold, or Emerald).

(6) Unit Requirements.

(A) Unit Sizes. Developments proposing New Construction or Reconstruction will be required to meet the minimum sizes

of Units as provided in clauses (i) - (v) of this subparagraph. These minimum requirements are not associated with any selection criteria. Developments proposing Rehabilitation (excluding Reconstruction) or Supportive Housing Developments will not be subject to the requirements of this subparagraph.

(i) five hundred (500) square feet for an Efficiency

Unit;

(ii) six hundred (600) square feet for a one Bedroom

Unit;

(iii) eight hundred (800) square feet for a two Bed-

room Unit;

(iv) one thousand (1,000) square feet for a three Bed-

room Unit; and

(v) one thousand, two-hundred (1,200) square feet

for a four Bedroom Unit.

(B) Unit and Development Features. Housing Tax Credit Applicants may select amenities for the score of an Application under this section, but must maintain the points associated with those amenities by maintaining the amenity selected or providing substitute amenities with equal or higher point values. Tax-Exempt Bond Developments must include enough amenities to meet a minimum of seven (7) points. Applications not funded with Housing Tax Credits (e.g. Direct Loan Applications) must include enough amenities to meet a minimum of four (4) points. The amenity shall be for every Unit at no extra charge to the tenant. The points selected at Application and corresponding list of amenities will be required to be identified in the LURA, and the points selected at Application must be maintained throughout the Extended Use Period. Applications involving scattered site Developments must have a specific amenity located within each Unit to count for points. Rehabilitation Developments will start with a base score of three (3) points and Supportive Housing Developments will start with a base score of five (5) points.

(i) Covered entries (0.5 point);

(ii) Nine foot ceilings in living room and all bedrooms (at minimum) (0.5 point);

(iii) Microwave ovens (0.5 point);

(iv) Self-cleaning or continuous cleaning ovens (0.5 point);

(v) Refrigerator with icemaker (0.5 point);

(vi) Storage room or closet, of approximately 9 square feet or greater, separate from and in addition to bedroom, entryway or linen closets and which does not need to be in the Unit but must be on the property site (0.5 point);

(vii) Energy-Star qualified laundry equipment (washers and dryers) for each individual Unit; must be front loading washer and dryer in required accessible Units (1.5 points);

(viii) Covered patios or covered balconies (0.5 point);

(ix) Covered parking (including garages) of at least one covered space per Unit (1.5 points);

(x) R-15 Walls / R-30 Ceilings (rating of wall/ceiling system) (1.5 points);

(xi) 14 SEER HVAC (or greater) for New Construction, Adaptive Reuse, and Reconstruction or radiant barrier in the attic for Rehabilitation (excluding Reconstruction) (1.5 points);

(xii) High Speed Internet service to all Units (can be wired or wireless; required equipment for either must be provided) (1 point);

(xiii) Desk or computer nook (0.5 point);

(xiv) Thirty (30) year shingle or metal roofing (0.5 point); and

(xv) Greater than 30 percent stucco or masonry (includes stone, cultured stone, and brick but excludes cementitious siding) on all building exteriors; the percentage calculation may exclude exterior glass entirely (2 points).

(7) Tenant Supportive Services. The supportive services include those listed in subparagraphs (A) - (Z) of this paragraph. Tax Exempt Bond Developments must select a minimum of eight (8) points; Applications not funded with Housing Tax Credits (e.g. HOME Program or other Direct Loans) must include enough services to meet a minimum of four (4) points. The points selected and complete list of supportive services will be included in the LURA and the timeframe by which services are offered must be in accordance with §10.619 of this chapter (relating to Monitoring for Social Services) and maintained throughout the Extended Use Period. The Owner may change, from time to time, the services offered; however, the overall points as selected at Application must remain the same. The services provided should be those that will directly benefit the Target Population of the Development. Tenants must be provided written notice of the elections made by the Development Owner. No fees may be charged to the tenants for any of the services, there must be adequate space for the intended services and services offered should be accessible to all (e.g. exercise classes must be offered in a manner that would enable a person with a disability to participate.). Services must be provided on-site or transportation to those off-site services identified on the list must be provided. The same service may not be used for more than one scoring item. All of these services must be provided by a person on the premises.

(A) joint use library center, as evidenced by a written agreement with the local school district (2 points);

(B) weekday character building program (shall include at least on a monthly basis a curriculum based character building presentation on relevant topics, for example teen dating violence, drug prevention, bullying, teambuilding, internet dangers, stranger danger, etc.) (2 points);

(C) daily transportation such as bus passes, cab vouchers, specialized van on-site (4 points);

(D) Food pantry/common household items accessible to residents at least on a monthly basis (1 point);

(E) GED preparation classes (shall include an instructor providing on-site coursework and exam) (2 points);

(F) English as a second language classes (shall include an instructor providing on-site coursework and exam) (1 point);

(G) quarterly financial planning courses (i.e. home-buyer education, credit counseling, investing advice, retirement plans, etc.). Courses must be offered through an on-site instructor; a CD-ROM or online course is not acceptable (1 point);

(H) annual health fair provided by a health care professional(1 point);

(I) quarterly health and nutritional courses (1 point);

(J) organized youth programs or other recreational activities such as games, movies or crafts offered by the Development (1 point);

(K) scholastic tutoring (shall include weekday homework help or other focus on academics) (3 points);

(L) Notary Services during regular business hours (§2306.6710(b)(3)) (1 point);

(M) weekly exercise classes (offered at times when most residents would be likely to attend) (2 points);

(N) twice monthly arts, crafts, and other recreational activities (e.g. Book Clubs and creative writing classes) (2 points);

(O) annual income tax preparation (offered by an income tax prep service) (1 point);

(P) monthly transportation to community/social events such as mall trips, community theatre, bowling, organized tours, etc. (1 point);

(Q) twice monthly on-site social events (i.e. potluck dinners, game night, sing-a-longs, movie nights, birthday parties, etc.) (1 point);

(R) specific case management services offered by a qualified Owner or Developer or through external, contracted parties for seniors, Persons with Disabilities or Supportive Housing (1 point);

(S) weekly home chore services (such as valet trash removal, assistance with recycling, furniture movement, etc., and quarterly preventative maintenance including light bulb replacement) for Elderly Developments or Developments where the service is provided for Persons with Disabilities and documentation to that effect can be provided for monitoring purposes (2 points);

(T) any of the programs described under Title IV-A of the Social Security Act (42 U.S.C. §§601, et seq.) which enables children to be cared for in their homes or the homes of relatives; ends the dependence of needy families on government benefits by promoting job preparation, work and marriage; prevents and reduces the incidence of unplanned pregnancies; and encourages the formation and maintenance of two-parent families (1 point);

(U) contracted career training and placement partnerships with local worksource offices, culinary programs, or vocational counseling services; also resident training programs that train and hire residents for job opportunities inside the development in areas like leasing, tenant services, maintenance, landscaping, or food and beverage operation (2 points);

(V) external partnerships for provision of weekly substance abuse meetings at the Development Site (2 points);

(W) contracted onsite occupational or physical therapy services for Elderly Developments or Developments where the service is provided for Persons with Disabilities and documentation to that effect can be provided for monitoring purposes (2 points);

(X) a full-time resident services coordinator with a dedicated office space at the Development (2 points);

(Y) a resident-run community garden with annual soil preparation and mulch provided by the Owner and access to water (1 point); and

(Z) Development Sites located within a one mile radius of one of the following can also qualify for one (1) point:

(i) Facility for treatment of alcohol and/or drug dependency;

(ii) Facility for treatment of PTSD and other significant psychiatric or psychological conditions;

(iii) Facility providing therapeutic and/or rehabilitative services relating to mobility, sight, speech, cognitive, or hearing impairments; or

(iv) Facility providing medical and/or psychological and/or psychiatric assistance for persons of limited financial means.

(8) Development Accessibility Requirements. All Developments must meet all specifications and accessibility requirements as identified in subparagraphs (A) - (C) of this paragraph and any other applicable state or federal rules and requirements. The accessibility requirements are further identified in the Certification of Development Owner as provided in the Application.

(A) The Development shall comply with the accessibility requirements under §504, Rehabilitation Act of 1973 (29 U.S.C. §794), as specified under 24 C.F.R. Part 8, Subpart C, and as further defined in Chapter 1, Subchapter B of this title (relating to Accessibility Requirements). (§§2306.6722; 2306.6730)

(B) New Construction (excluding New Construction of non-residential buildings) Developments where some Units are normally exempt from Fair Housing accessibility requirements, a minimum of 20% of each unit type of otherwise exempt units (i.e., one bedroom one bath, two bedroom one bath, two bedroom two bath, three bedroom two bath) must provide an accessible entry level and all common-use facilities in compliance with the Fair Housing Guidelines, and include a minimum of one bedroom and one bathroom or powder room at the entry level.

(C) The Development Owner is and will remain in compliance with state and federal laws, including but not limited to, fair housing laws, including Chapter 301, Property Code, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), the Fair Housing Amendments Act of 1988 (42 U.S.C. §§3601 et seq.); the Civil Rights Act of 1964 (42 U.S.C. §§2000a et seq.); the Americans with Disabilities Act of 1990 (42 U.S.C. §§12101 et seq.); the Rehabilitation Act of 1973 (29 U.S.C. §§701 et seq.); Fair Housing Accessibility; the Texas Fair Housing Act; and that the Development is designed consistent with the Fair Housing Act Design Manual produced by HUD, and the Texas Accessibility Standards. (§2306.257; §2306.6705(7))

(D) All Applications proposing Rehabilitation (including Reconstruction) will be treated as Substantial Alteration, in accordance with §1.205 of this title.

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

Filed with the Office of the Secretary of State on September 14, 2015.

TRD-201503745

Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 475-3344



SUBCHAPTER C. APPLICATION SUBMISSION REQUIREMENTS, INELIGIBILITY

CRITERIA, BOARD DECISIONS AND WAIVER OF RULES OR PRE-CLEARANCE FOR APPLICATIONS

10 TAC §§10.201 - 10.207

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter C, §§10.201 - 10.207, concerning Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules. The purpose of the repeal is to allow for the replacement of the existing sections with new sections that encompass requirements for all applications applying for multifamily funding through the Department. Proposed new §§10.201 - 10.207 are being published concurrently with this rulemaking.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repeal will be the replacement of the sections with new sections that encompass requirements for all applications applying for multifamily funding through the Department. There is no new or additional economic cost to any persons required to comply with the repeal.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no new economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held September 25, 2015, to October 15, 2015, to receive input on the repeal. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Teresa Morales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by fax to (512) 475-0764. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. OCTOBER 15, 2015.

STATUTORY AUTHORITY. The repeal is proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules. Additionally, the repeal is proposed pursuant to Texas Government Code §2306.67022, which specifically authorizes the Department to adopt a qualified allocation plan.

The proposed repeal affects Texas Government Code Chapter 2306, including Subchapter DD, concerning the Low Income Housing Tax Credit Program. The repeal affects no other statutes, articles or codes.

§10.201. *Procedural Requirements for Application Submission.*

§10.202. *Ineligible Applicants and Applications.*

§10.203. *Public Notifications (§2306.6705(a)).*

§10.204. *Required Documentation for Application Submission.*

§10.205. *Required Third Party Reports.*

§10.206. *Board Decisions (§§2306.6725(c); 2306.6731; and 42(m)(1(A)(iv)).*

§10.207. *Waiver of Rules for Applications.*

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

Filed with the Office of the Secretary of State on September 14, 2015.

TRD-201503738

Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 475-3344



10 TAC §§10.201 - 10.207

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC Chapter 10, Subchapter C, §§10.201 - 10.207, concerning the Uniform Multifamily Rules. The purpose of the proposed new sections is to provide guidance for application submission, define what would cause an applicant and application to be ineligible for consideration of multifamily funding, and explain processes regarding Board decisions. The proposed repeal of existing Subchapter C is published concurrently with this rulemaking.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to new costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new sections will be to provide additional clarity regarding requirements for application submission, define ineligible applicants and applications, and explain processes regarding Board decisions. The average cost of filing an application is between \$40,000 and \$50,000, which may vary depending on the specific type of application, location of the development site, and other non-state of Texas funding sources utilized. The proposed rules do not, on average, result in an increased cost of filing an application as compared to the existing program rules.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no new or additional economic effect on small or micro-businesses. The average cost of filing an application is between \$40,000 and \$50,000, which may vary depending on the specific type of application, location of the development site, and other non-state of Texas funding sources utilized. The proposed rules do not, on average, result in an increased cost of filing an application as compared to the existing program rules.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held September 25, 2015 to October 15, 2015, to receive input on the new sections. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Teresa Morales, Rule Comments, P.O. Box 13941, Austin,

Texas 78711-3941 or by fax to (512) 475-0764, attn: Teresa Morales. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. OCTOBER 15, 2015.

STATUTORY AUTHORITY. The new sections are proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules. Additionally, the new sections are proposed pursuant to Texas Government Code §2306.67022, which specifically authorizes the Department to adopt a qualified allocation plan.

The proposed new sections affect Chapter 2306 of the Texas Government Code, including Subchapter DD, concerning the Low Income Housing Tax Credit Program. The new sections affect no other statutes, articles or codes.

§10.201. *Procedural Requirements for Application Submission.*

The purpose of this section is to identify the procedural requirements for Application submission. Only one Application may be submitted for a Development Site in an Application Round. While the Application Acceptance Period is open or prior to the Application deadline, an Applicant may withdraw an Application and subsequently file a new Application utilizing the original pre-application fee (as applicable) that was paid as long as no substantive evaluation was performed by the Department. Applicants are subject to the schedule of fees as set forth in §10.901 of this chapter (relating to Fee Schedule). When providing a pre-application, Application or other materials to a state representative, local governmental body, Neighborhood Organization, or anyone else to secure support or approval that may affect the Applicant's competitive posture, an Applicant must disclose that in accordance with the Department's rules aspects of the Development may be subject to change, including, but not limited to, changes in the amenities ultimately selected and provided.

(1) General Requirements.

(A) An Applicant requesting funding from the Department must submit an Application in order to be considered for an award. An Application must be complete (including all required exhibits and supporting materials) and submitted by the required program deadline. If an Application, including the corresponding Application fee as described in §10.901 of this chapter, is not submitted to the Department on or before the applicable deadline, the Applicant will be deemed not to have made an Application.

(B) Applying for multifamily funds from the Department is a technical process that must be followed completely. As a result of the competitive nature of some funding sources, an Applicant should proceed on the assumption that deadlines are fixed and firm with respect to both date and time, and cannot be waived except where authorized, and for truly extraordinary circumstances, such as the occurrence of a significant natural disaster that makes timely adherence impossible. If an Applicant chooses to submit by delivering an item physically to the Department, it is the Applicant's responsibility to be within the Department's doors by the appointed deadline. Applicants are strongly encouraged to submit the required items well in advance of established deadlines. Applicants should ensure that all documents are legible, properly organized and tabbed, and that digital media is fully readable by the Department. Department staff receiving an application may perform a cursory review to see if there are any glaring problems. This is a cursory review and may not be relied upon as confirmation that the Application was complete or in proper form.

(C) The Applicant must upload a PDF copy and Excel copy of the complete Application to the Department's secure web transfer server. Each copy must be in a single file and individually bookmarked in the order required by the Multifamily Programs Procedures Manual. Additional files required for Application submission

(e.g., Third Party Reports) outside the Uniform Application must also be uploaded to the secure web transfer server. It is the responsibility of the Applicant to confirm the upload to the Department's secure web transfer server was successful and to do so in advance of the deadline. Where there are instances of computer, mystery glitches, etc. that prevents the Application from being received by the Department prior to the deadline the Application may be terminated.

(D) Applications must include materials addressing each and all of the items enumerated in this chapter and other chapters as applicable. If an Applicant does not believe that a specific item should be applied, the Applicant must include, in its place, a statement identifying the required item, stating that it is not being supplied, and a statement as to why the Applicant does not believe it should be required.

(2) Filing of Application for Tax-Exempt Bond Developments. Applications may be submitted to the Department as described in subparagraphs (A) and (B) of this paragraph. Multiple site applications for Tax-Exempt Bond Developments will be considered to be one Application as identified in Texas Government Code, Chapter 1372. Applications will be required to satisfy the requirements of the Qualified Allocation Plan (QAP) and Uniform Multifamily Rules in place at the time the Application is received by the Department. Applications that receive a Traditional Carryforward designation after November 15 will not be accepted until after January 2 and will be subject to the QAP and Uniform Multifamily Rules in place at the time the Application is received by the Department.

(A) Lottery Applications. For Applicants participating in the TBRB lottery for private activity bond volume cap and whereby advance notice is given regarding a Certificate of Reservation, the Applicant must submit a Notice to Submit Lottery Application form to the Department no later than the Notice to Submit Lottery Application Delivery Date described in §10.4 of this chapter (relating to Program Dates). The complete Application, accompanied by the Application Fee described in §10.901 of this chapter must be submitted no later than the Applications Associated with Lottery Delivery Date described in §10.4 of this chapter.

(B) Waiting List Applications. Applications designated as Priority 1 or 2 by the TBRB and receiving advance notice of a Certificate of Reservation for private activity bond volume cap must submit Parts 1 - 4 of the Application and the Application Fee described in §10.901 of this chapter prior to the issuance of the Certificate of Reservation by the TBRB. The remaining parts of the Application must be submitted at least seventy-five (75) days prior to the Board meeting at which the decision to issue a Determination Notice would be made. An Application designated as Priority 3 will not be accepted until after the issuer has induced the bonds, with such documentation included in the Application, and is subject to the following additional timeframes:

(i) The Applicant must submit to the Department confirmation that a Certificate of Reservation from the TBRB has been issued not more than thirty (30) days after the Application is received by the Department. The Executive Director may, for good cause, approve an extension for up to an additional fifteen (15) days to submit confirmation the Certificate of Reservation has been issued. The Application will be terminated if the Certificate of Reservation is not received within the required timeframe;

(ii) The Department will require at least seventy-five (75) days to review an Application, unless Department staff can complete its evaluation in sufficient time for Board consideration. Applicants should be aware that unusual financing structures, portfolio transactions, and the need to resolve Administrative Deficiencies may require additional time to review and the prioritization of Applications

will be subject to the review priority established in paragraph (6) of this subsection;

(iii) Department staff may choose to delay presentation to the Board in instances in which an Applicant is not reasonably expected to close within sixty (60) days of the issuance of a Determination Notice. Applications that receive Traditional Carryforward will be subject to closing within the same timeframe as would be typical of the Certificate of Reservation. This will be a condition of the award and reflected in the Determination Notice.

(3) Certification of Tax Exempt Bond Applications with New Docket Numbers. Applications that receive an affirmative Board Determination, but for which closing on the bonds does not occur prior to the Certificate of Reservation expiration date, and which subsequently have that docket number withdrawn from the TBRB, may have their Determination Notice reinstated. In the event that the Department's Board has not yet approved the Application, the Application will continue to be processed and ultimately provided to the Board for consideration. The Applicant would need to receive a new docket number from the TBRB and meet the requirements described in subparagraphs (A) - (C) of this paragraph:

(A) The Application must remain unchanged, which means that at a minimum, the following cannot have changed: Site Control, total number of Units, unit mix (bedroom sizes and income restrictions), design/site plan documents, financial structure including bond and Housing Tax Credit amounts, development costs, rent schedule, operating expenses, sources and uses, ad valorem tax exemption status, Target Population, scoring criteria (if TDHCA is bond issuer) or TBRB priority status including the effect on the inclusive capture rate. The entities involved in the Applicant entity and Developer cannot change; however, the certification can be submitted even if the lender, syndicator or issuer changes, as long as the financing structure and terms remain unchanged. Notifications under §10.203 of this chapter (relating to Public Notifications (§2306.6705(9))) are not required to be reissued. A revised Determination Notice will be issued once notice of the assignment of a new docket number has been provided to the Department and the Department has confirmed that the capture rate and market demand remain acceptable. This certification must be submitted no later than thirty (30) calendar days after the date the TBRB issues the new docket number; or

(B) the new docket number may not be issued more than four (4) months from the date the original application was withdrawn from the TBRB. The new docket number must be from the same program year as the original docket number or, for Applications that receive a new docket number from the program year that is immediately succeeding the program year of the original docket number, the requirements in clauses (i) and (ii) of this subparagraph must be met:

(i) The Applicant must certify that the Development will meet all rules and requirements in effect at the time the new docket number is issued; and

(ii) The Department must determine that the changes in the rules applicable to the program(s) under which the Application was originally awarded are not of a material nature that would necessitate a new Application and that any new forms and clarifications to the Application are of a nature that can be resolved through the Administrative Deficiency process; or

(C) if there are changes to the Application as referenced in subparagraph (A) of this paragraph or if such changes in the rules pursuant to subparagraph (B)(ii) of this paragraph are of a material nature the Applicant will be required to submit a new Application in full, along with the applicable fees, to be reviewed and evaluated in its entirety for a new Determination Notice to be issued. If there is public

opposition but the Application remains the same pursuant to subparagraph (A) of this paragraph, a new Application will not be required to be submitted; however, the Application must be presented before the Board for consideration of the re-issuance of the Determination Notice.

(4) Withdrawal of Application. An Applicant may withdraw an Application prior to or after receiving an award of funding by submitting to the Department written notice of the withdrawal. An Applicant may be subject to a fee associated with a withdrawal if warranted and allowable under §10.901 of this chapter.

(5) Evaluation Process. Priority Applications, which shall include those Applications believed likely to be competitive, will undergo a program review for compliance with submission requirements and selection criteria, as applicable. In general, Application reviews by the Department shall be prioritized based upon the likelihood that an Application will be competitive for an award based upon the set-aside, self score, received date, or other ranking factors. Thus, non-competitive or lower scoring Applications may never be reviewed. The Director of Multifamily Finance will identify those Applications that will receive a full program review based upon a reasonable assessment of each Application's priority, but no Application with a competitive ranking shall be skipped or otherwise overlooked. This initial assessment may be a high level assessment, not a full assessment. Applications deemed to be priority Applications may change from time to time. The Department shall underwrite Applications that received a full program review and remain competitive to determine financial feasibility and an appropriate funding amount. In making this determination, the Department will use §10.302 of this chapter (relating to Underwriting Rules and Guidelines) and §10.307 of this chapter (relating to Direct Loan Requirements). The Department may have an external party perform all or part or none of the underwriting evaluation to the extent it determines appropriate. The expense of any external underwriting shall be paid by the Applicant prior to the commencement of the aforementioned evaluation. Applications will undergo a previous participation review in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation) and Development Site conditions may be evaluated through a physical site inspection by the Department or its agents.

(6) Prioritization of Applications under various Programs. This paragraph identifies how ties or other prioritization matters will be handled when dealing with de-concentration requirements, capture rate calculations, and general review priority of Applications submitted under different programs.

(A) De-concentration and Capture Rate. Priority will be established based on the earlier date associated with an Application. The dates that will be used to establish priority are as follows:

(i) For Tax-Exempt Bond Developments, the issuance date of the Certificate of Reservation issued by the TBRB; and

(ii) For all other Developments, the date the Application is received by the Department; and

(iii) Notwithstanding the foregoing, after July 31, a Tax-Exempt Bond Development with a Certificate of Reservation from the TBRB will take precedence over any Housing Tax Credit Application from the current Application Round on the waiting list.

(B) General Review Priority. Review priority for Applications under various multifamily programs will be established based on Department staff's consideration of any statutory timeframes associated with a program or Application in relation to the volume of Applications being processed. In general, those with statutory deadlines or more restrictive deadlines will be prioritized for review and processing ahead of those that are not subject to the same constraints.

In general, any non-Competitive Housing Tax Credit Applications received during the competitive tax credit round will take longer to process due to the statutory constraints on the award and allocation of competitive tax credits.

(7) Administrative Deficiency Process. The purpose of the Administrative Deficiency process is to allow staff to request that an Applicant provide clarification, correction, or non-material missing information to resolve inconsistencies in the original Application or to assist staff in evaluating the Application. Staff will request such information via a deficiency notice. The review may occur in several phases and deficiency notices may be issued during any of these phases. Staff will send the deficiency notice via an e-mail to the Applicant and one other contact party if identified by the Applicant in the Application. The time period for responding to a deficiency notice commences on the first business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period and may also be sent in response to reviews on post-award submissions. Responses are required to be submitted electronically as a PDF or multiple PDF files. A review of the response provided by the Applicant may reveal that issues initially identified as an Administrative Deficiency are actually determined to be beyond the scope of an Administrative Deficiency process, meaning that they in fact implicated matters of a material nature not susceptible to being resolved. Department staff may in good faith provide an Applicant confirmation that an Administrative Deficiency response has been received or that such response is satisfactory. Communications from staff that the response was satisfactory do not establish any entitlement to points, eligibility status, or to any presumption of having fulfilled any requirements. Final determinations regarding the sufficiency of documentation submitted to cure an Administrative Deficiency as well as the distinction between material and non-material missing information are reserved for the Director of Multifamily Finance, Executive Director, and Board.

(A) Administrative Deficiencies for Competitive HTC Applications. Unless an extension has been timely requested and granted, if an Administrative Deficiency is not resolved to the satisfaction of the Department by 5:00 p.m. on the fifth business day following the date of the deficiency notice, then (5 points) shall be deducted from the selection criteria score for each additional day the deficiency remains unresolved. If Administrative Deficiencies are not resolved by 5:00 p.m. on the seventh business day following the date of the deficiency notice, then the Application shall be terminated. An Applicant may not change or supplement any part of an Application in any manner after the filing deadline or while the Application is under consideration for an award, and may not add any set-asides, increase the requested credit amount, revise the Unit mix (both income levels and Bedroom mixes), or adjust their self-score except in response to a direct request from the Department to do so as a result of an Administrative Deficiency. (§2306.6708(b); §2306.6708) To the extent that the review of Administrative Deficiency documentation alters the score assigned to the Application, Applicants will be re-notified of their final adjusted score.

(B) Administrative Deficiencies for all other Applications or sources of funds. If Administrative Deficiencies are not resolved to the satisfaction of the Department by 5:00 p.m. on the fifth business day following the date of the deficiency notice, then an Administrative Deficiency Notice Late Fee of \$500 for each business day the deficiency remains unresolved will be assessed, and the Application will not be presented to the Board for consideration until all outstanding fees have been paid. Applications with unresolved deficiencies after 5:00 p.m. on the tenth day following the date of the deficiency notice may be terminated. The Applicant will be responsible for the payment of fees accrued pursuant to this paragraph regardless of any

termination. Department staff may or may not assess an Administrative Deficiency Notice Late Fee for or terminate Applications for Tax-Exempt Bond or Direct Loan Developments during periods when private activity bond volume cap or Direct Loan funds are undersubscribed. Applicants should be prepared for additional time needed for completion of staff reviews as described in paragraph (2)(B) of this section.

(8) Limited Priority Reviews. If, after the submission of the Application, an Applicant identifies an error in the Application that would generally be the subject of an Administrative Deficiency, the Applicant may request a limited priority review of the specific and limited issues in need of clarification or correction. The issue may not relate to the score of an Application. This limited priority review may only cover the specific issue and not the entire Application. If the limited priority review results in the identification of an issue that does indeed need correction or clarification, staff will request such through the Administrative Deficiency process as stated in paragraph (7) of this section, if deemed appropriate. A limited priority review is intended to address:

(A) clarification of issues that Department staff would have difficulty identifying due to the omission of information that the Department may have access to only through Applicant disclosure, such as a prior removal from a tax credit transaction or participation in a Development that is not identified in the previous participation portion of the Application; or

(B) technical correction of non-material information that would cause an Application deemed non-competitive to be deemed competitive and, therefore, subject to a staff review. For example, failure to mark the Nonprofit Set-Aside in an Application that otherwise included complete submission of documentation for participation in the Nonprofit Set-Aside.

(9) Challenges to Opposition for Tax-Exempt Bond Developments. Any written statement from a Neighborhood Organization expressing opposition to an Application may be challenged if it is contrary to findings or determinations, including zoning determinations, of a municipality, county, school district, or other local Governmental Entity having jurisdiction or oversight over the finding or determination. If any such comment is challenged, the challenger must declare the basis for the challenge and submit such challenge by the Challenges to Neighborhood Organization Opposition Delivery Date as identified in §10.4 of this chapter. The Neighborhood Organization expressing opposition will be given seven (7) calendar days to provide any information related to the issue of whether their assertions are contrary to the findings or determinations of a local Governmental Entity. All such materials and the analysis of the Department's staff will be provided to a fact finder, chosen by the Department, for review and a determination of the issue presented by this subsection. The fact finder will not make determinations as to the accuracy of the statements presented, but only with regard to whether the statements are contrary to findings or determinations of a local Governmental Entity. The fact finder's determination will be final and may not be waived or appealed.

§10.202. Ineligible Applicants and Applications.

The purpose of this section is to identify those situations in which an Application or Applicant may be considered ineligible for Department funding and subsequently terminated. If such ineligibility is determined by staff to exist, then prior to termination the Department may send a notice to the Applicant and provide them the opportunity to explain how they believe they or their Application is eligible. The items listed in this section include those requirements in §42 of the Code, Texas Government Code, Chapter 2306, and other criteria considered important by the Department, and does not represent an exhaustive list of ineligibility criteria that may otherwise be identified in applicable rules or a NOFA specific to the programmatic funding.

(1) Applicants. An Applicant shall be considered ineligible if any of the criteria in subparagraphs (A) - (N) of this paragraph apply to the Applicant. If any of the criteria apply to any other member of the Development Team, the Applicant will also be deemed ineligible unless a substitution of that Development Team member is specifically allowable under the Department's rules and sought by the Applicant or appropriate corrective action has been accepted and approved by the Department. An Applicant is ineligible if the Applicant:

(A) has been or is barred, suspended, or terminated from procurement in a state or Federal program or listed in HUD's System for Award Management (SAM) (§2306.0504);

(B) has been convicted of a state or federal felony crime involving fraud, bribery, theft, misrepresentation of material fact, misappropriation of funds, or other similar criminal offenses within fifteen (15) years preceding the Application submission;

(C) is, at the time of Application, subject to an enforcement or disciplinary action under state or federal securities law or by the NASD; subject to a federal tax lien; or the subject of a proceeding in which a Governmental Entity has issued an order to impose penalties, suspend funding, or take adverse action based on an allegation of financial misconduct or uncured violation of material laws, rules, or other legal requirements governing activities considered relevant by the Governmental Entity;

(D) has breached a contract with a public agency, and, if such breach is permitted to be cured under the contract, has been given notice of the breach and a reasonable opportunity to cure, and failed to cure that breach within the time specified in the notice of breach;

(E) has misrepresented to a subcontractor the extent to which the Developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the Developer's participation in contracts with the agency, and the amount of financial assistance awarded to the Developer by the agency;

(F) has been found by the Board to be ineligible based on a previous participation review performed in accordance with Chapter 1, Subchapter C of this title;

(G) is delinquent in any loan, fee, or escrow payments to the Department in accordance with the terms of the loan, as amended, or is otherwise in default with any provisions of such loans;

(H) has failed to cure any past due fees owed to the Department at least ten (10) days prior to the Board meeting at which the decision for an award is to be made;

(I) is in violation of a state revolving door or other standard of conduct or conflict of interest statute, including Texas Government Code, §2306.6733, or a provision of Texas Government Code, Chapter 572, in making, advancing, or supporting the Application;

(J) has previous Contracts or Commitments that have been partially or fully deobligated during the twelve (12) months prior to the submission of the Application, and through the date of final allocation due to a failure to meet contractual obligations, and the Person is on notice that such deobligation results in ineligibility under this chapter;

(K) has provided fraudulent information, knowingly falsified documentation, or other intentional or negligent material misrepresentation or omission in an Application or Commitment, as part of a challenge to another Application or any other information provided to the Department for any reason. The conduct described in this subparagraph is also a violation of this chapter and will subject the Applicant to the assessment of administrative penalties under Texas Government Code, Chapter 2306 and this title;

(L) was the owner or Affiliate of the owner of a Department HOME or NSP-assisted rental development for which the federal affordability requirements were prematurely terminated and the affordability requirements have not re-affirmed or HOME or NSP funds repaid;

(M) fails to disclose, in the Application, any Principal or any entity or Person in the Development ownership structure who was or is involved as a Principal in any other affordable housing transaction, that has terminated voluntarily or involuntarily within the past ten (10) years or plans to or is negotiating to terminate their relationship with any other affordable housing development. Failure to disclose is grounds for termination. The disclosure must identify the person or persons and development involved, the identity of each other development, and contact information for the other Principals of each such development, a narrative description of the facts and circumstances of the termination or proposed termination, and any appropriate supporting documents. An Application may be terminated based upon factors in the disclosure. The Executive Director shall make an initial determination whether the person or persons should be involved in the Application within thirty (30) days after the date on which the Applicant receives a preliminary deficiency notice with respect to the Application, including providing information responsive to any supplemental Department requests. The decision of the Executive Director may be appealed in accordance with §10.902 of this chapter. In the Executive Director's making an initial determination or the Board's making a final determination as to a person's fitness to be involved as a principal with respect to an Application, the factors described in clauses (i) - (v) of this subparagraph shall be considered:

(i) the amount of resources in a development and the amount of the benefit received from the development;

(ii) the legal and practical ability to address issues that may have precipitated the termination or proposed termination of the relationship;

(iii) the role of the person in causing or materially contributing to any problems with the success of the development;

(iv) the person's compliance history, including compliance history on other developments; and

(v) any other facts or circumstances that have a material bearing on the question of the person's ability to be a compliant and effective participant in their proposed role as described in the Application; or

(N) is found to have participated in the dissemination of misinformation about affordable housing and the persons it serves or about a competing Applicant that would likely have the effect of fomenting opposition to an Application where such opposition is not based in substantive and legitimate concerns that do not implicate potential violations of fair housing laws. Nothing herein shall be construed or effectuated in a manner to deprive a person of their right of free speech, but it is a requirement of those who voluntarily choose to participate in this program that they refrain from participating in the above-described inappropriate behaviors. Applicants may inform Department staff about activities potentially prohibited by this provision outside of the Third Party Request for Administrative Deficiency process described in §11.10 of this title (relating to Third Party Request for Administrative Deficiency for Competitive HTC Applications). An Applicant submitting documentation of a potential violation may not appeal any decision that is made with regard to another competing Applicant's application.

(2) Applications. An Application shall be ineligible if any of the criteria in subparagraphs (A) - (C) of this paragraph apply to the Application:

(A) a violation of Texas Government Code, §2306.1113, exists relating to Ex Parte Communication. An ex parte communication occurs when an Applicant or Person representing an Applicant initiates substantive contact (other than permitted social contact) with a board member, or vice versa, in a setting other than a duly posted and convened public meeting, in any manner not specifically permitted by Texas Government Code, §2306.1113(b). Such action is prohibited. For Applicants seeking funding after initial awards have been made, such as waiting list Applicants, the ex parte communication prohibition remains in effect so long as the Application remains eligible for funding. The ex parte provision does not prohibit the Board from participating in social events at which a Person with whom communications are prohibited may, or will be present; provided that no matters related to any Application being considered by the Board may be discussed. An attempted but unsuccessful prohibited ex parte communication, such as a letter sent to one or more board members but not opened, may be cured by full disclosure in a public meeting, and the Board may reinstate the Application and establish appropriate consequences for cured actions, such as denial of the matters made the subject to the communication.

(B) the Application is submitted after the Application submission deadline (time or date); is missing multiple parts of the Application; or has a Material Deficiency; or

(C) for any Development utilizing Housing Tax Credits or Tax-Exempt Bonds:

(i) at the time of Application or at any time during the two-year period preceding the date the Application Round begins (or for Tax-Exempt Bond Developments any time during the two-year period preceding the date the Application is submitted to the Department), the Applicant or a Related Party is or has been a member of the Board or employed by the Department as the Executive Director, Chief of Staff, General Counsel, a Deputy Executive Director, the Director of Multifamily Finance, the Chief of Compliance, the Director of Real Estate Analysis, a manager over the program for which an Application has been submitted, or any person exercising such responsibilities regardless of job title; or (§2306.6703(a)(1); §2306.6733);

(ii) the Applicant proposes to replace in less than fifteen (15) years any private activity bond financing of the Development described by the Application, unless the exceptions in §2306.6703(a)(2) of the Texas Government Code are met.

§10.203. Public Notifications (§2306.6705(9)).

A certification, as provided in the Application, that the Applicant met the requirements and deadlines identified in paragraphs (1) - (3) of this section must be submitted with the Application. For Applications utilizing Competitive Housing Tax Credits, notifications must not be older than three (3) months from the first day of the Application Acceptance Period. For Tax-Exempt Bond Developments notifications and proof thereof must not be older than three (3) months prior to the date Parts 5 and 6 of the Application are submitted, and for all other Applications no older than three (3) months prior to the date the Application is submitted. If notifications were made in order to satisfy requirements of pre-application submission (if applicable to the program) for the same Application, then no additional notification is required at Application. However, re-notification is required by all Applicants who have submitted a change from pre-application to Application that reflects a total Unit increase of greater than 10 percent or a 5 percent increase in density (calculated as units per acre) as a result of a change in the size of the Development Site. In addition, should a change in elected official

occur between the submission of a pre-application and the submission of an Application, Applicants are required to notify the newly elected (or appointed) official.

(1) Neighborhood Organization Notifications.

(A) The Applicant must identify and notify all Neighborhood Organizations on record with the county or the state as of 30 days prior to the Full Application Delivery Date and whose boundaries include the proposed Development Site.

(B) The Applicant must list, in the certification form provided in the Application, all Neighborhood Organizations on record with the county or state as of 30 days prior to the Full Application Delivery Date and whose boundaries include the proposed Development Site as of the submission of the Application.

(2) Notification Recipients. No later than the date the Application is submitted, notification must be sent to all of the persons or entities identified in subparagraphs (A) - (H) of this paragraph. Developments located in an Extra Territorial Jurisdiction (ETJ) of a city are required to notify both city and county officials. The notifications may be sent by e-mail, fax or mail with return receipt requested or similar tracking mechanism in the format required in the Application Notification Template provided in the Application. Evidence of notification is required in the form of a certification provided in the Application. The Applicant is encouraged to retain proof of delivery in the event it is requested by the Department. Evidence of proof of delivery is demonstrated by a signed receipt for mail or courier delivery and confirmation of receipt by recipient for fax and e-mail. Officials to be notified are those officials in office at the time the Application is submitted. Note that between the time of pre-application (if made) and full Application, such officials may change and the boundaries of their jurisdictions may change. By way of example and not by way of limitation, events such as redistricting may cause changes which will necessitate additional notifications at full Application. Meetings and discussions do not constitute notification. Only a timely and compliant written notification to the correct person constitutes notification.

(A) Neighborhood Organizations on record with the state or county as of 30 days prior to the Full Application Delivery Date whose boundaries include the Development Site;

(B) Superintendent of the school district in which the Development Site is located;

(C) Presiding officer of the board of trustees of the school district in which the Development Site is located;

(D) Mayor of the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction);

(E) All elected members of the Governing Body of the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction);

(F) Presiding officer of the Governing Body of the county in which the Development Site is located;

(G) All elected members of the Governing Body of the county in which the Development Site is located; and

(H) State Senator and State Representative of the districts whose boundaries include the Development Site.

(3) Contents of Notification.

(A) The notification must include, at a minimum, all information described in clauses (i) - (vi) of this subparagraph.

(i) the Applicant's name, address, individual contact name, and phone number;

(ii) the Development name, address, city and county;

(iii) a statement indicating the program(s) to which the Applicant is applying with the Texas Department of Housing and Community Affairs;

(iv) whether the Development proposes New Construction, Reconstruction, Adaptive Reuse or Rehabilitation;

(v) the physical type of Development being proposed (e.g. single family homes, duplex, apartments, townhomes, high-rise etc.); and

(vi) the total number of Units proposed and total number of low-income Units proposed.

(B) The notification may not contain any false or misleading statements. Without limiting the generality of the foregoing, the notification may not create the impression that the proposed Development will serve exclusively a Target Population unless such targeting or preference is in full compliance with all applicable state and federal laws, including state and federal fair housing laws.

§10.204. Required Documentation for Application Submission.

The purpose of this section is to identify the documentation that is required at the time of Application submission, unless specifically indicated or otherwise required by Department rule. If any of the documentation indicated in this section is not resolved, clarified or corrected to the satisfaction of the Department through either original Application submission or the Administrative Deficiency process, the Application will be terminated. Unless stated otherwise, all documentation identified in this section must not be dated more than six (6) months prior to the close of the Application Acceptance Period or the date of Application submission as applicable to the program. The Application may include, or Department staff may request, documentation or verification of compliance with any requirements related to the eligibility of an Applicant, Application, Development Site, or Development.

(1) Certification of Development Owner. This form, as provided in the Application, must be executed by the Development Owner and address the specific requirements associated with the Development. The Person executing the certification is responsible for ensuring all individuals referenced therein are in compliance with the certification, that they have given it with all required authority and with actual knowledge of the matters certified. Applicants must read the certification carefully as it contains certain construction and Development specifications that each Development must meet.

(A) The Development will adhere to the Texas Property Code relating to security devices and other applicable requirements for residential tenancies, and will adhere to local building codes or, if no local building codes are in place, then to the most recent version of the International Building Code.

(B) This Application and all materials submitted to the Department constitute records of the Department subject to Texas Government Code, Chapter 552, and the Texas Public Information Act.

(C) All representations, undertakings and commitments made by Applicant in the Application process for Development assistance expressly constitute conditions to any Commitment, Determination Notice, Carryover Allocation, or Direct Loan Commitment for such Development which the Department may issue or award, and the violation of any such condition shall be sufficient cause for the cancellation and rescission of such Commitment, Determination Notice, Carryover Allocation, or Direct Loan Commitment by the Department. If any such representations, undertakings and commitments concern or relate to the ongoing features or operation of the Development, they

shall each and all shall be enforceable even if not reflected in the Land Use Restriction Agreement. All such representations, undertakings and commitments are also enforceable by the Department and the tenants of the Development, including enforcement by administrative penalties for failure to perform, in accordance with the Land Use Restriction Agreement.

(D) The Development Owner has read and understands the Department's fair housing educational materials posted on the Department's website as of the beginning of the Application Acceptance Period.

(E) The Development Owner agrees to implement a plan to use Historically Underutilized Businesses (HUB) in the development process consistent with the Historically Underutilized Business Guidelines for contracting with the State of Texas. The Development Owner will be required to submit a report of the success of the plan as part of the cost certification documentation, in order to receive IRS Forms 8609 or, if the Development does not have Housing Tax Credits, release of retainage.

(F) The Applicant will attempt to ensure that at least 30 percent of the construction and management businesses with which the Applicant contracts in connection with the Development are Minority Owned Businesses as further described in Texas Government Code, §2306.6734.

(G) The Development Owner will affirmatively market to veterans through direct marketing or contracts with veteran's organizations. The Development Owner will be required to identify how they will affirmatively market to veterans and report to the Department in the annual housing report on the results of the marketing efforts to veterans. Exceptions to this requirement must be approved by the Department.

(H) The Development Owner will comply with any and all notices required by the Department.

(I) If the Development has an existing LURA with the Department, the Development Owner will comply with the existing restrictions.

(2) Applicant Eligibility Certification. This form, as provided in the Application, must be executed by any individuals required to be listed on the organizational chart and also identified in subparagraphs (A) - (D) below. The form identifies the various criteria relating to eligibility requirements associated with multifamily funding from the Department, including but not limited to the criteria identified under §10.202 of this chapter (relating to Ineligible Applicants and Applications).

(A) for for-profit corporations, any officer authorized by the board of directors, regardless of title, to act on behalf of the corporation, including but not limited to the president, vice president, secretary, treasurer, and all other executive officers, and each stock holder having a 10 percent or more interest in the corporation, and any individual who has Control with respect to such stock holder;

(B) for non-profit corporations or governmental instrumentalities (such as housing authorities), any officer authorized by the board, regardless of title, to act on behalf of the corporation, including but not limited to the president, vice president, secretary, treasurer, and all other executive officers, the Audit committee chair, the Board chair, and anyone identified as the Executive Director or equivalent;

(C) for trusts, all beneficiaries that have the legal ability to Control the trust who are not just financial beneficiaries; and

(D) for limited liability companies, all managers, managing members, members having a 10 percent or more interest in the

limited liability company, any individual Controlling such members, or any officer authorized to act on behalf of the limited liability company.

(3) Architect Certification Form. This form, as provided in the Application, must be executed by the Development engineer, an accredited architect or Third Party accessibility specialist. (§2306.6722; §2306.6730)

(4) Notice, Hearing, and Resolution for Tax-Exempt Bond Developments. In accordance with Texas Government Code, §2306.67071, the following actions must take place with respect to the filing of an Application and any Department awards for a Tax-Exempt Bond Development.

(A) Prior to submission of an Application to the Department, an Applicant must provide notice of the intent to file the Application in accordance with §10.203 of this chapter (relating to Public Notifications (§2306.6705(9))).

(B) The Governing Body of a municipality must hold a hearing if the Development Site is located within a municipality or the extra territorial jurisdiction (ETJ) of a municipality. The Governing Body of a county must hold a hearing unless the Development Site is located within a municipality. For Development Sites located in an ETJ the county and municipality must hold hearings; however, the county and municipality may arrange for a joint hearing. The purpose of the hearing(s) must be to solicit public input concerning the Application or Development and the hearing(s) must provide the public with such an opportunity. The Applicant may be asked to substantively address the concerns of the public or local government officials.

(C) An Applicant must submit to the Department a resolution of no objection from the applicable Governing Body. Such resolution(s) must specifically identify the Development whether by legal description, address, Development name, Application number or other verifiable method. In providing a resolution, a municipality or county should consult its own staff and legal counsel as to whether such resolution will be consistent with Fair Housing laws as they may apply, including, as applicable, consistency with any FFAST form on file, any current Analysis of Impediments to Fair Housing Choice, or any current plans such as one year action plans or five year consolidated plans for HUD block grant funds such as HOME or CDBG funds. For an Application with a Development Site that is:

(i) Within a municipality, the Applicant must submit a resolution from the Governing Body of that municipality;

(ii) Within the extraterritorial jurisdiction (ETJ) of a municipality, the Applicant must submit both:

(I) a resolution from the Governing Body of that municipality; and

(II) a resolution from the Governing Body of the county; or

(iii) Within a county and not within a municipality or the ETJ of a municipality, a resolution from the Governing Body of the county.

(D) For purposes of meeting the requirements of subparagraph (C) of this paragraph, the resolution(s) must be submitted no later than the Resolutions Delivery Date described in §10.4 of this chapter (relating to Program Dates). An acceptable, but not required, form of resolution may be obtained in the Multifamily Programs Procedures Manual. Applicants should ensure that the resolutions all have the appropriate references and certifications or the Application may be terminated. The resolution(s) must certify that:

(i) Notice has been provided to the Governing Body in accordance with Texas Government Code, §2306.67071(a) and subparagraph (A) of this paragraph;

(ii) The Governing Body has had sufficient opportunity to obtain a response from the Applicant regarding any questions or concerns about the proposed Development;

(iii) The Governing Body has held a hearing at which public comment may be made on the proposed Development in accordance with Texas Government Code, §2306.67071(b) and subparagraph (B) of this paragraph; and

(iv) After due consideration of the information provided by the Applicant and public comment, the Governing Body does not object to the proposed Application.

(5) Designation as Rural or Urban.

(A) Each Application must identify whether the Development Site is located in an Urban Area or Rural Area of a Uniform State Service Region. The Department shall make available a list of Places meeting the requirements of Texas Government Code, §2306.004(28-a)(A) and (B), for designation as a Rural Area and those that are an Urban Area in the Site Demographics Characteristics Report. Some Places are municipalities. For any Development Site located in the ETJ of a municipality and not in a Place, the Application shall have the Rural Area or Urban Area designation of the municipality whose ETJ within which the Development Site is located. For any Development Site not located within the boundaries of a Place or the ETJ of a municipality, the applicable designation is that of the closest Place.

(B) Certain areas located within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area can request a Rural designation from the Department for purposes of receiving an allocation Housing Tax Credits (2306.6740). In order to apply for such a designation, a letter must be submitted from a duly authorized official of the political subdivision or census designated place addressing the factors outlined in clauses (i) - (vi) of this subparagraph. Photographs and other supporting documentation are strongly encouraged. In order for the area to be designated Rural by the Department for the 2016 Application Round, such requests must be made no later than December 15, 2015. If staff is able to affirm the findings outlined in the request, the Rural designation will be granted without further action and will remain in effect until such time that the population as described in clause (i) of this subparagraph exceeds 25,000. In the event that staff is unable to affirm the information contained in the request, a recommendation for denial will be presented to the Board.

(i) The population of the political subdivision or census designated place does not exceed 25,000;

(ii) The characteristics of the political subdivision or census designated place and how those differ from the characteristics of the area(s) with which it shares a contiguous boundary;

(iii) The percentage of the total border of the political subdivision or census designated place that is contiguous with other political subdivisions or census designated places designated as urban. For purposes of this assessment, less than fifty percent contiguity with urban designated places is presumptively rural in nature;

(iv) The political subdivision or census designated place contains a significant number of unimproved roads or relies on unimproved roads to connect it to other places;

(v) The political subdivision or census designated place lacks major amenities commonly associated with urban or suburban areas; and

(vi) The boundaries of the political subdivision or census designated place contain, or are surrounded by, significant areas of undeveloped or agricultural land. For purposes of this assessment, significant being more than one-third of the total surface area of political subdivision/census designated place, or a minimum of 1,000 acres immediately contiguous to the border.

(6) Experience Requirement. Evidence that meets the criteria as stated in subparagraph (A) of this paragraph must be provided in the Application, unless an experience certificate was issued by the Department in 2014 or 2015 which may be submitted as acceptable evidence of this requirement. Experience of multiple parties may not be aggregated to meet this requirement.

(A) A Principal of the Developer, Development Owner, or General Partner must establish that they have experience in the development and placement in service of 150 units or more. Acceptable documentation to meet this requirement shall include any of the items in clauses (i) - (ix) of this subparagraph:

(i) American Institute of Architects (AIA) Document (A102) or (A103) 2007 - Standard Form of Agreement between Owner and Contractor;

(ii) AIA Document G704--Certificate of Substantial Completion;

(iii) AIA Document G702--Application and Certificate for Payment;

(iv) Certificate of Occupancy;

(v) IRS Form 8609 (only one per development is required);

(vi) HUD Form 9822;

(vii) Development agreements;

(viii) Partnership agreements; or

(ix) other documentation satisfactory to the Department verifying that a Principal of the Development Owner, General Partner, or Developer has the required experience.

(B) The names on the forms and agreements in subparagraph (A)(i) - (ix) of this paragraph must reflect that the individual seeking to provide experience is a Principal of the Development Owner, General Partner, or Developer as listed in the Application. For purposes of this requirement any individual attempting to use the experience of another individual or entity must demonstrate they had the authority to act on their behalf that substantiates the minimum 150 unit requirement.

(C) Experience may not be established for a Person who at any time within the preceding three years has been involved with affordable housing in another state in which the Person or Affiliate has been the subject of issued IRS Form 8823 citing non-compliance that has not been or is not being corrected with reasonable due diligence.

(D) If a Principal is determined by the Department to not have the required experience, an acceptable replacement for that Principal must be identified prior to the date the award is made by the Board.

(E) Notwithstanding the foregoing, no person may be used to establish such required experience if that Person or an Affiliate of that Person would not be eligible to be an Applicant themselves.

(7) Financing Requirements.

(A) Non-Department Debt Financing. Interim and permanent financing sufficient to fund the proposed Total Housing De-

velopment Cost less any other funds requested from the Department must be included in the Application. For any Development that is a part of a larger development plan on the same site, the Department may request and evaluate information related to the other components of the development plan in instances in which the financial viability of the Development is in whole or in part dependent upon the other portions of the development plan. Any local, state or federal financing identified in this section which restricts household incomes at any level that is lower than restrictions required pursuant to this chapter or elected in accordance with Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan) must be identified in the rent schedule and the local, state or federal income restrictions must include corresponding rent levels in accordance with §42(g) of the Code. The income and corresponding rent restrictions will be imposed by the LURA and monitored for compliance. Financing amounts must be consistent throughout the Application and acceptable documentation shall include those described in clauses (i) and (ii) of this subparagraph.

(i) Financing is in place as evidenced by:

(I) a valid and binding loan agreement; and

(II) a valid recorded deed(s) of trust lien on the

Development in the name of the Development Owner as grantor covered by a lender's policy of title insurance;

(ii) Term sheets for interim and permanent loans issued by a lending institution or mortgage company that is actively and regularly engaged in the business of lending money must:

(I) have been signed by the lender;

(II) be addressed to the Development Owner or

Affiliate;

(III) for the permanent loan, include a minimum loan term of fifteen (15) years with at least a thirty (30) year amortization;

(IV) include anticipated interest rate, including the mechanism for determining the interest rate;

(V) include any required Guarantors, if known;

(VI) include the principal amount of the loan; and

(VII) include and address any other terms and conditions applicable to the financing. The term sheet may be conditional upon the completion of specified due diligence by the lender and upon the award of tax credits, if applicable; or

(iii) For Developments proposing to refinance an existing USDA Section 515 loan, a letter from the USDA confirming receipt of the loan transfer application.

(B) Gap Financing. Any anticipated federal, state, local or private gap financing, whether soft or hard debt, must be identified in the Application. Applicants must provide evidence that an application for such gap financing has been made. Acceptable documentation may include a letter from the funding entity confirming receipt of an application or a term sheet from the lending agency which clearly describes the amount and terms of the financing. Other Department funding requested with Housing Tax Credit Applications must be on a concurrent funding period with the Housing Tax Credit Application, and no term sheet is required for such a request. Permanent loans must include a minimum loan term of fifteen (15) years with at least a thirty (30) year amortization or for non-amortizing loan structures a term of not less than thirty (30) years.

(C) Owner Contributions. If the Development will be financed in part by a capital contribution by the General Partner, Man-

aging General Partner, any other partner that is not a partner providing the syndication equity, a guarantor or a Principal in an amount that exceeds 5 percent of the Total Housing Development Cost, a letter from a Third Party CPA must be submitted that verifies the capacity of the contributor to provide the capital from funds that are not otherwise committed or pledged. Additionally, a letter from the contributor's bank(s) or repository(ies) must be submitted confirming sufficient funds are readily available to the contributor. The contributor must certify that the funds remain readily available at Commitment. Regardless of the amount, all capital contributions other than syndication equity will be added to the Deferred Developer Fee for feasibility purposes under §10.302(i)(2) of this chapter (relating to Underwriting Rules and Guidelines) or where scoring is concerned, unless the Development is a Supportive Housing Development, the Development is not supported with Housing Tax Credits, or the ownership structure includes a non-profit organization with a history of fundraising to support the development of affordable housing.

(D) Equity Financing. (§2306.6705(2) and (3)) If applicable to the program, the Application must include a term sheet from a syndicator that, at a minimum, includes:

(i) an estimate of the amount of equity dollars expected to be raised for the Development;

(ii) the amount of Housing Tax Credits requested for allocation to the Development Owner;

(iii) pay-in schedules;

(iv) anticipated developer fees paid during construction; and

(v) syndicator consulting fees and other syndication costs. No syndication costs should be included in the Eligible Basis.

(E) Financing Narrative. (§2306.6705(1)) A narrative must be submitted that describes the complete financing plan for the Development, including but not limited to, the sources and uses of funds; construction, permanent and bridge loans, rents, operating subsidies, and replacement reserves; and the status of commitments for all funding sources. For applicants requesting HOME funds, Match in the amount of at least 5 percent of the HOME funds requested must be documented with a letter from the anticipated provider of Match indicating the provider's willingness and ability to make a financial commitment should the Development receive an award of HOME funds. The information provided must be consistent with all other documentation in the Application.

(8) Operating and Development Cost Documentation.

(A) 15-year Pro forma. All Applications must include a 15-year pro forma estimate of operating expenses, in the form provided by the Department. Any "other" debt service included in the pro forma must include a description.

(B) Utility Allowances. This exhibit, as provided in the Application, must be submitted along with documentation from the source of the utility allowance estimate used in completing the Rent Schedule provided in the Application. This exhibit must clearly indicate which utility costs are included in the estimate and must comply with the requirements of §10.614 of this chapter (relating to Utility Allowances). Where the Applicant uses any method that requires Department review, such review must have been requested prior to submission of the Application.

(C) Operating Expenses. This exhibit, as provided in the Application, must be submitted indicating the anticipated operating expenses associated with the Development. Any expenses noted as

"other" in any of the categories must be identified. "Miscellaneous" or other nondescript designations are not acceptable.

(D) Rent Schedule. This exhibit, as provided in the Application, must indicate the type of Unit designation based on the Unit's rent and income restrictions. The rent and utility limits available at the time the Application is submitted should be used to complete this exhibit. Gross rents cannot exceed the maximum rent limits unless documentation of project-based rental assistance is provided. The unit mix and net rentable square footages must be consistent with the site plan and architectural drawings. For Units restricted in connection with Direct Loans, the restricted Units will generally be designated "floating" unless specifically disallowed under the program specific rules. For Applications that propose utilizing HOME funds, at least 90 percent of the Units restricted in connection with the HOME program must be available to families whose incomes do not exceed 60 percent of the Area Median Income.

(E) Development Costs. This exhibit, as provided in the Application, must include the contact information for the person providing the cost estimate and must meet the requirements of clauses (i) and (ii) of this subparagraph.

(i) Applicants must provide a detailed cost breakdown of projected Site Work costs (excluding site amenities), if any, prepared by a Third Party engineer or cost estimator. If Site Work costs (excluding site amenities) exceed \$15,000 per Unit and are included in Eligible Basis, a letter must be provided from a certified public accountant allocating which portions of those site costs should be included in Eligible Basis.

(ii) If costs for Off-Site Construction are included in the budget as a line item, or embedded in the site acquisition contract, or referenced in the utility provider letters, then the Off-Site Cost Breakdown prepared by a Third Party engineer must be provided. The certification from a Third Party engineer must describe the necessity of the off-site improvements, including the relevant requirements of the local jurisdiction with authority over building codes. If any Off-Site Construction costs are included in Eligible Basis, a letter must be provided from a certified public accountant allocating which portions of those costs should be included in Eligible Basis. If off-site costs are included in Eligible Basis based on PLR 200916007, a statement of findings from a CPA must be provided which describes the facts relevant to the Development and affirmatively certifies that the fact pattern of the Development matches the fact pattern in PLR 200916007.

(F) Rental Assistance/Subsidy. (§2306.6705(4)) If rental assistance, an operating subsidy, an annuity, or an interest rate reduction payment is proposed to exist or continue for the Development, any related contract or other agreement securing those funds or proof of application for such funds must be provided. Such documentation shall, at a minimum, identify the source and annual amount of the funds, the number of units receiving the funds, and the term and expiration date of the contract or other agreement.

(G) Occupied Developments. The items identified in clauses (i) - (vi) of this subparagraph must be submitted with any Application where any structure on the Development Site is occupied at any time after the Application Acceptance Period begins or if the Application proposes the demolition of any housing occupied at any time after the Application Acceptance Period begins. If the current property owner is unwilling to provide the required documentation then a signed statement from the Applicant attesting to that fact must be submitted. If one or more of the items described in clauses (i) - (vi) of this subparagraph is not applicable based upon the type of occupied structures on the Development Site, the Applicant must provide an explanation of such non-applicability. Applicant must submit:

(i) at least one of the items identified in subclauses (I) - (IV) of this clause:

(I) historical monthly operating statements of the Existing Residential Development for twelve (12) consecutive months ending not more than three (3) months from the first day of the Application Acceptance Period;

(II) the two (2) most recent consecutive annual operating statement summaries;

(III) the most recent consecutive six (6) months of operating statements and the most recent available annual operating summary; or

(IV) all monthly or annual operating summaries available; and

(ii) a rent roll not more than six (6) months old as of the first day the Application Acceptance Period that discloses the terms and rate of the lease, rental rates offered at the date of the rent roll, Unit mix, and tenant names or vacancy;

(iii) a written explanation of the process used to notify and consult with the tenants in preparing the Application; (§2306.6705(6))

(iv) a relocation plan outlining relocation requirements and a budget with an identified funding source; (§2306.6705(6))

(v) any documentation necessary for the Department to facilitate, or advise an Applicant with respect to or to ensure compliance with the Uniform Relocation Act and any other relocation laws or regulations as may be applicable; and

(vi) if applicable, evidence that the relocation plan has been submitted to the appropriate legal or governmental agency. (§2306.6705(6))

(9) Architectural Drawings. All Applications must include the items identified in subparagraphs (A) - (D) of this paragraph, unless specifically stated otherwise, and must be consistent with all applicable exhibits throughout the Application. The drawings must have a legible scale and show the dimensions of each perimeter wall and floor heights.

(A) A site plan which:

(i) includes a unit and building type table matrix that is consistent with the Rent Schedule and Building/Unit Configuration forms provided in the Application;

(ii) identifies all residential and common buildings;

(iii) clearly delineates the flood plain boundary lines and shows all easements;

(iv) if applicable, indicates possible placement of detention/retention pond(s); and

(v) indicates the location of the parking spaces;

(B) Building floor plans must be submitted for each building type. Applications for Rehabilitation (excluding Reconstruction) are not required to submit building floor plans unless the floor plan changes. Applications for Adaptive Reuse are only required to include building plans delineating each Unit by number and type. Building floor plans must include square footage calculations for balconies, breezeways, corridors and any other areas not included in net rentable area;

(C) Unit floor plans for each type of Unit must be included in the Application and must include the square footage for each type of Unit. Applications for Adaptive Reuse are only required to

include Unit floor plans for each distinct typical Unit type such as one-bedroom, two-bedroom and for all Unit types that vary in Net Rentable Area by 10 percent from the typical Unit; and

(D) Elevations must be submitted for each side of each building type (or include a statement that all other sides are of similar composition as the front) and include a percentage estimate of the exterior composition and proposed roof pitch. Applications for Rehabilitation and Adaptive Reuse may submit photographs if the Unit configurations are not being altered and post-renovation drawings must be submitted if Unit configurations are proposed to be altered.

(10) Site Control.

(A) Evidence that the Development Owner has Site Control must be submitted. If the evidence is not in the name of the Development Owner, then an Affiliate of the Development Owner must have Site Control that does not expressly preclude an ability to assign the Site Control to the Development Owner or another party. All of the sellers of the proposed Property for the thirty-six (36) months prior to the first day of the Application Acceptance Period and their relationship, if any, to members of the Development Team must be identified at the time of Application. The Department may request documentation at any time after submission of an Application of the Development Owner's ability to compel title and the Development Owner must be able to promptly provide such documentation or the Application, award, or Commitment may be terminated. The Department acknowledges and understands that the Property may have one or more encumbrances at the time of Application submission and the Department will use a reasonableness standard in determining whether such encumbrance is likely to impede an Applicant's ability to meet the program's requirements. Tax-Exempt Bond Lottery Applications must have Site Control valid through December 1 of the prior program year with the option to extend through March 1 of the current program year.

(B) In order to establish Site Control, one of the items described in clauses (i) - (iii) of this subparagraph must be provided. In the case of land donations, Applicants must demonstrate that the entity donating the land has Site Control as evidenced through one of the items described in clauses (i) - (iii) of this subparagraph or other documentation acceptable to the Department.

(i) a recorded warranty deed with corresponding executed settlement statement (or functional equivalent for an existing lease with at least forty-five (45) years remaining); or

(ii) a contract or option for lease with a minimum term of forty-five (45) years that includes a price; address and/or legal description; proof of consideration in the form specified in the contract; and expiration date; or

(iii) a contract for sale or an option to purchase that includes a price; address and/or legal description; proof of consideration in the form specified in the contract; and expiration date;

(C) If the acquisition can be characterized as an identity of interest transaction, as described in §10.302 of this chapter, then the documentation as further described therein must be submitted in addition to that of subparagraph (B) of this paragraph.

(11) Zoning. (§2306.6705(5)) Acceptable evidence of zoning for all Developments must include one of subparagraphs (A) - (D) of this paragraph. In instances where annexation of a Development Site occurs while the Application is under review, the Applicant must submit evidence of appropriate zoning with the Commitment or Determination Notice.

(A) No Zoning Ordinance in Effect. The Application must include a letter from a local government official with appropriate jurisdiction stating that the Development is located within the boundaries of a political subdivision that has no zoning.

(B) Zoning Ordinance in Effect. The Application must include a letter from a local government official with appropriate jurisdiction stating the Development is permitted under the provisions of the zoning ordinance that applies to the location of the Development.

(C) Requesting a Zoning Change. The Application must include evidence in the form of a letter from a local government official with jurisdiction over zoning matters that the Applicant or Affiliate is in the process of seeking a zoning change, that a zoning application was received by the political subdivision, and that the jurisdiction received a release agreeing to hold the political subdivision and all other parties harmless in the event the appropriate zoning is denied. Documentation of final approval of appropriate zoning must be submitted to the Department with the Commitment or Determination Notice.

(D) Zoning for Rehabilitation Developments. The Application must include documentation of current zoning. If the Property is currently conforming but with an overlay that would make it a non-conforming use as presently zoned, the Application must include a letter from a local government official with appropriate jurisdiction which addresses the items in clauses (i) - (iv) of this subparagraph:

(i) a detailed narrative of the nature of non-conformance;

(ii) the applicable destruction threshold;

(iii) Owner's rights to reconstruct in the event of damage; and

(iv) penalties for noncompliance.

(12) Title Commitment/Policy. A title commitment or title policy must be submitted that includes a legal description that is consistent with the Site Control. If the title commitment or policy is dated more than six (6) months prior to the beginning of the Application Acceptance Period, then a letter from the title company indicating that nothing further has transpired during the six-month period on the commitment or policy must be submitted.

(A) The title commitment must list the name of the Development Owner as the proposed insured and lists the seller or lessor as the current owner of the Development Site.

(B) The title policy must show that the ownership (or leasehold) of the Development Site is vested in the name of the Development Owner.

(13) Ownership Structure.

(A) Organizational Charts. A chart must be submitted that clearly illustrates the complete organizational structure of the final proposed Development Owner and of any Developer or Guarantor, identifying all Principals thereof and providing the names and ownership percentages of all Persons having an ownership interest in the Development Owner or the Developer or Guarantor, as applicable, whether directly or through one or more subsidiaries. Nonprofit entities, public housing authorities, publicly traded corporations, individual board members, and executive directors must be included in this exhibit and trusts must list all beneficiaries that have the legal ability to control or direct activities of the trust and are not just financial beneficiaries.

(B) Previous Participation. Evidence must be submitted that each entity shown on the organizational chart described in sub-

paragraph (A) of this paragraph that has ownership interest in the Development Owner, Developer or Guarantor, has provided a copy of the completed Previous Participation Form to the Department. Individual Principals of such entities identified on the organizational chart must provide the Previous Participation Form, unless excluded from such requirement pursuant to Chapter 1 Subchapter C of this title. Any Person (regardless of any Ownership interest or lack thereof) receiving more than 10 percent of the Developer Fee is also required to submit this document. The form must include a list of all developments that are, or were, previously under ownership or Control of the Applicant and/or each Principal, including any Person providing the required experience. All participation in any Department funded or monitored activity, including non-housing activities, as well as Housing Tax Credit developments or other programs administered by other states using state or federal programs must be disclosed. The Previous Participation Form will authorize the parties overseeing such assistance to release compliance histories to the Department.

(14) Nonprofit Ownership. Applications that involve a §501(c)(3) or (4) nonprofit General Partner or Owner shall submit the documentation identified in subparagraph (A) or (B) of this paragraph as applicable, and subparagraph (C) of this paragraph.

(A) Competitive HTC Applications. Applications for Competitive Housing Tax Credits involving a §501(c)(3) or (4) nonprofit General Partner and which meet the Nonprofit Set-Aside requirements, must submit all of the documents described in this subparagraph and indicate the nonprofit status on the carryover documentation and IRS Forms 8609. (§2306.6706) Applications that include an affirmative election to not be treated under the set-aside and a certification that they do not expect to receive a benefit in the allocation of tax credits as a result of being affiliated with a nonprofit only need to submit the documentation in subparagraph (B) of this paragraph.

(i) An IRS determination letter which states that the nonprofit organization is a §501(c)(3) or (4) entity;

(ii) The Nonprofit Participation exhibit as provided in the Application, including a list of the names and contact information for all board members, directors, and officers;

(iii) A Third Party legal opinion stating:

(I) that the nonprofit organization is not affiliated with or Controlled by a for-profit organization and the basis for that opinion;

(II) that the nonprofit organization is eligible, as further described, for a Housing Credit Allocation from the Nonprofit Set-Aside pursuant to §42(h)(5) of the Code and the basis for that opinion;

(III) that one of the exempt purposes of the nonprofit organization is to provide low-income housing;

(IV) that the nonprofit organization prohibits a member of its board of directors, other than a chief staff member serving concurrently as a member of the board, from receiving material compensation for service on the board;

(V) that the Qualified Nonprofit Development will have the nonprofit entity or its nonprofit Affiliate or subsidiary be the Developer or co-Developer as evidenced in the development agreement;

(iv) a copy of the nonprofit organization's most recent financial statement as prepared by a Certified Public Accountant; and

(v) evidence in the form of a certification that a majority of the members of the nonprofit organization's board of directors principally reside:

(I) in this state, if the Development is located in a Rural Area; or

(II) not more than ninety (90) miles from the Development, if the Development is not located in a Rural Area.

(B) All Other Applications. Applications that involve a §501(c)(3) or (4) nonprofit General Partner or Owner must submit an IRS determination letter which states that the nonprofit organization is a §501(c)(3) or (4) entity and the Nonprofit Participation exhibit as provided in the Application. If the Application involves a nonprofit that is not a §501(c)(3) or (4), then they must disclose in the Application the basis of their nonprofit status.

(C) For all Applications. Any Applicant proposing a Development with a property tax exemption must include an attorney statement and documentation supporting the amount, basis for qualification, and the reasonableness of achieving the exemption under the Property Tax Code. A proposed Payment in Lieu of Tax ("PILOT") agreement must be documented as being reasonably achievable.

§10.205. Required Third Party Reports.

The Environmental Site Assessment, Property Condition Assessment, Appraisal (if applicable), Market Analysis, and the Site Design and Development Feasibility Report must be submitted no later than the Third Party Report Delivery Date as identified in §10.4 of this chapter (relating to Program Dates). For Competitive HTC Applications, the Environmental Site Assessment, Property Condition Assessment, Appraisal (if applicable), the Site Design and Development Feasibility Report, and the Primary Market Area map (with definition based on census tracts, zip codes or census place in electronic format) must be submitted no later than the Full Application Delivery Date as identified in §11.2 of this title (relating to Program Calendar for Competitive Housing Tax Credits) and the Market Analysis must be submitted no later than the Market Analysis Delivery Date as identified in §11.2 of this title. For Competitive HTC Applications, if the reports, in their entirety, are not received by the deadline, the Application will be terminated. An electronic copy of the report in the format of a single file containing all information and exhibits clearly labeled with the report type, Development name and Development location are required. All Third Party reports must be prepared in accordance with Subchapter D of this chapter (relating to Underwriting and Loan Policy). The Department may request additional information from the report provider or revisions to the report as needed. In instances of non-response by the report provider, the Department may substitute in-house analysis. The Department is not bound by any opinions expressed in the report.

(1) Environmental Site Assessment. This report, required for all Developments and prepared in accordance with the requirements of §10.305 of this chapter (relating to Environmental Site Assessment Rules and Guidelines), must not be dated more than twelve (12) months prior to the first day of the Application Acceptance Period. If this timeframe is exceeded, then a letter or updated report must be submitted, dated not more than three (3) months prior to the first day of the Application Acceptance Period from the Person or organization which prepared the initial assessment confirming that the site has been re-inspected and reaffirming the conclusions of the initial report or identifying the changes since the initial report.

(A) Developments funded by USDA will not be required to supply this information; however, it is the Applicant's responsibility to ensure that the Development is maintained in compliance with all state and federal environmental hazard requirements.

(B) If the report includes a recommendation that an additional assessment be performed, then a statement from the Applicant must be submitted with the Application indicating those additional assessments and recommendations will be performed prior to closing. If the assessments require further mitigating recommendations, then evidence indicating the mitigating recommendations have been carried out must be submitted at cost certification.

(2) Market Analysis. The Market Analysis, required for all Developments and prepared in accordance with the requirements of §10.303 of this chapter (relating to Market Analysis Rules and Guidelines), must not be dated more than six (6) months prior to the first day of the Application Acceptance Period. If the report is older than six (6) months, but not more than twelve (12) months prior to the first day of the Application Acceptance Period, the Qualified Market Analyst that prepared the report may provide a statement that reaffirms the findings of the original Market Analysis. The statement may not be dated more than six (6) months prior to the first day of the Application Acceptance Period and must be accompanied by the original Market Analysis.

(A) The report must be prepared by a Qualified Market Analyst approved by the Department in accordance with the approval process outlined in §10.303 of this chapter;

(B) Applications in the USDA Set-Aside proposing Rehabilitation with residential structures at or above 80 percent occupancy at the time of Application submission, the appraisal, required for Rehabilitation Developments and Identity of Interest transactions prepared in accordance with §10.304 of this chapter (relating to Appraisal Rules and Guidelines), will satisfy the requirement for a Market Analysis; however, the Department may request additional information as needed. (§2306.67055; §42(m)(1)(A)(iii))

(C) It is the responsibility of the Applicant to ensure that this analysis forms a sufficient basis for the Applicant to be able to use the information obtained to ensure that the Development will comply with fair housing laws.

(3) Property Condition Assessment (PCA). This report, required for Rehabilitation (excluding Reconstruction) and Adaptive Reuse Developments and prepared in accordance with the requirements of §10.306 of this chapter (relating to Property Condition Assessment Guidelines), must not be dated more than six (6) months prior to the first day of the Application Acceptance Period. If the report is older than six (6) months, but not more than twelve (12) months prior to the first day of the Application Acceptance Period, the report provider may provide a statement that reaffirms the findings of the original PCA. The statement may not be dated more than six (6) months prior to the first day of the Application Acceptance Period and must be accompanied by the original PCA. For Developments which require a capital needs assessment from USDA the capital needs assessment may be substituted and may be more than six (6) months old, as long as USDA has confirmed in writing that the existing capital needs assessment is still acceptable and it meets the requirements of §10.306 of this chapter. All Rehabilitation Developments financed with Direct Loans must also submit a capital needs assessment estimating the useful life of each major system. This assessment must include a comparison between the local building code and the International Existing Building Code of the International Code Council.

(4) Appraisal. This report, required for all Rehabilitation Developments and prepared in accordance with the requirements of §10.304 of this chapter, is required for any Application claiming any portion of the building acquisition in Eligible Basis, and Identity of Interest transactions pursuant to Subchapter D of this chapter, must not be dated more than six (6) months prior to the first day of the Application Acceptance Period. For Developments that require an appraisal from

USDA, the appraisal may be more than six (6) months old, as long as USDA has confirmed in writing that the existing appraisal is still acceptable.

(5) Site Design and Development Feasibility Report. This report, compiled by the Applicant or Third Party Consultant, and prepared in accordance with this paragraph, which reviews site conditions and development requirements of the Development and Development Site, is required for any New Construction or Reconstruction Development.

(A) Executive Summary as a narrative overview of the Development in sufficient detail that would help a reviewer of the Application better understand the site, the site plan, off site requirements (including discussion of any seller contributions or reimbursements), any other unique development requirements, and their impact on Site Work and Off Site Construction costs. The summary should contain a general statement regarding the level of due diligence that has been done relating to site development (including discussions with local government development offices). Additionally, the overview should contain a summary of zoning requirements, subdivision requirements, property identification number(s) and millage rates for all taxing jurisdictions, development ordinances, fire department requirements, site ingress and egress requirements, building codes, and local design requirements impacting the Development (include website links but do not attach copies of ordinances). Careful focus and attention should be made regarding any atypical items materially impacting costs.

(B) Survey or current plat as defined by the Texas Society of Professional Surveyors in their Manual of Practice for Land Surveying in Texas (Category 1A - Land Title Survey or Category 1B - Standard Land Boundary Survey). Surveys may not be older than twelve (12) months from the beginning of the Application Acceptance Period. Plats must include evidence that it has been recorded with the appropriate local entity and that, as of the date of submission, it is the most current plat. Applications proposing noncontiguous single family scattered sites are not required to submit surveys or plats at Application, but this information may be requested during the Real Estate Analysis review.

(C) Preliminary site plan prepared by the civil engineer with a statement that the plan materially adheres to all applicable zoning, site development, and building code ordinances. The site plan must identify all structures, site amenities, parking spaces (include handicap spaces and ramps) and driveways, topography (using either existing seller topographic survey or U.S. Geological Survey (USGS)/other database topography), site drainage and detention, water and waste water utility tie-ins, general placement of retaining walls, set-back requirements, and any other typical or locally required items. Off-site improvements required for utilities, detention, access or other requirement must be shown on the site plan or ancillary drawings.

(D) Architect or civil engineer prepared statement describing the entitlement, site development permitting process and timing, building permitting process and timing, and an itemization specific to the Development of total anticipated impact, site development permit, building permit, and other required fees.

§10.206. Board Decisions (§§2306.6725(c); 2306.6731; and 42(m)(1)(A)(iv)).

The Board's decisions regarding awards shall be based upon the Department's and the Board's evaluation of the proposed Developments' consistency with, and fulfillment of, the criteria and requirements set forth in this chapter, Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan) and other applicable Department rules. The Board shall document the reasons for each Application's selection, including any discretionary factors used in making

its determination, including good cause, and the reasons for any decision that conflicts with the recommendations made by Department staff. Good cause includes the Board's decision to apply discretionary factors where authorized. The Department reserves the right to reduce the amount of funds requested in an Application, condition the award recommendation or terminate the Application based on the Applicant's inability to demonstrate compliance with program requirements.

§10.207. Waiver of Rules for Applications.

(a) General Waiver Process. This waiver section is applicable only to Subchapter B of this chapter (relating to Site and Development Requirements and Restrictions), Subchapter C of this chapter (relating to Application Submission Requirements, Ineligibility Criteria, Board Decisions, and Waiver of Rules for Applications), Subchapter E of this chapter (relating to Post Award and Asset Management Requirements), and Subchapter G of this chapter (relating to Fee Schedule, Appeals, and Other Provisions), Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan), and Chapter 12 of this title (relating to Multifamily Housing Revenue Bond Rules). An Applicant may request a waiver in writing at or prior to the submission of the pre-application (if applicable) or the Application or subsequent to an award. Waiver requests will not be accepted between submission of the Application and any award for the Application. Where appropriate, the Applicant is encouraged to submit with the requested waiver any plans for mitigation or alternative solutions. Any such request for waiver must be specific to the unique facts and circumstances of an actual proposed Development and must be submitted to the Department in the format required in the Multifamily Programs Procedures Manual. Any waiver, if granted, shall apply solely to the Application and shall not constitute a general modification or waiver of the rule involved. Waiver requests that are limited to Development design and construction elements not specifically required in Texas Government Code, Chapter 2306 must meet the requirements of paragraph (1) of this subsection. All other waiver requests must meet the requirements of paragraph (2) of this subsection.

(1) The waiver request must establish good cause for the Board to grant the waiver which may include limitations of local building or zoning codes, limitations of existing building structural elements for Adaptive Reuse or Rehabilitation (excluding Reconstruction) Developments, required amenities or design elements in buildings designated as historic structures that would conflict with retaining the historic nature of the building(s), or provisions of the design element or amenity that would not benefit the tenants due to limitations of the existing layout or design of the units for Adaptive Reuse or Rehabilitation (excluding Reconstruction) Developments. Staff may recommend the Board's approval for such a waiver if the Executive Director finds that the Applicant has established good cause for the waiver. A recommendation for a waiver may be subject to the Applicant's provision of alternative design elements or amenities of a similar nature or that serve a similar purpose. Waiver requests for items that were elected to meet scoring criteria or where the Applicant was provided a menu of options to meet the requirement will not be considered under this paragraph.

(2) The waiver request must establish how it is necessary to address circumstances beyond the Applicant's control and how, if the waiver is not granted, the Department will not fulfill some specific requirement of law. In this regard, the policies and purposes articulated in Texas Government Code, §§2306.001, 2306.002, 2306.359, and 2306.6701, are general in nature and apply to the role of the Department and its programs, including the Housing Tax Credit program.

(b) Waivers Granted by the Executive Director. The Executive Director may waive requirements as provided in this rule. Even if this rule grants the Executive Director authority to waive a given item, the Executive Director may present the matter to the Board for con-

sideration and action. Neither the Executive Director nor the Board shall grant any waiver to the extent such requirement is mandated by statute. Denial of a waiver by the Executive Director may be appealed to the Board in accordance with §10.902 of this chapter (relating to Appeals Process (§2306.0321; §2306.6715)). Applicants should expect that waivers granted by the Executive Director will generally be very limited. The Executive Director's decision to defer to the Board will not automatically be deemed an adverse staff position with regard to the waiver request as public vetting of such requests is generally appropriate and preferred. However, this does not preclude a staff recommendation to approve or deny any specific request for a waiver.

(c) Waivers Granted by the Board. The Board, in its discretion, may waive any one or more of the rules in Subchapters B, C, E, and G of this chapter except no waiver shall be granted to provide forward commitments or if the requested waiver is prohibited by statute (i.e., statutory requirements may not be waived). The Board, in its discretion, may grant a waiver that is in response to a natural, federally declared disaster that occurs after the adoption of the multifamily rules.

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

Filed with the Office of the Secretary of State on September 14, 2015.

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Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 475-3344



SUBCHAPTER D. UNDERWRITING AND LOAN POLICY

10 TAC §§10.301 - 10.307

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas Department of Housing and Community Affairs (the "Department") proposes repeal of 10 TAC Chapter 10, Subchapter D, concerning 2015 Underwriting and Loan Policy.

FISCAL NOTE. Mr. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the repealed sections are in effect, enforcing or administering the repealed sections does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the repeals are in effect, the public benefit anticipated as a result of the repealed sections will be the adoption of new rules to enhance the State's ability to provide decent, safe, sanitary and affordable housing. There will not be any economic cost to any individuation required to comply with the repealed sections.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small businesses or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held September 25, 2015 to October 15, 2015 to receive input on the repealed sections. Written comments may be submitted to the Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941, ATTN: Pam Cloyde or by email to pcloyde@tdhca.state.tx.us, or by FAX to (512) 475-4420. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. on OCTOBER 15, 2015.

STATUTORY AUTHORITY. The repealed sections are proposed pursuant to Texas Government code §2306.053, which authorizes the Department to adopt rules.

The proposed repeals affect no other code, article or statute.

§10.301. *General Provisions.*

§10.302. *Underwriting Rules and Guidelines.*

§10.303. *Market Analysis Rules and Guidelines.*

§10.304. *Appraisal Rules and Guidelines.*

§10.305. *Environmental Site Assessment Rules and Guidelines.*

§10.306. *Property Condition Assessment Guidelines.*

§10.307. *Direct Loan Requirements.*

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

Filed with the Office of the Secretary of State on September 14, 2015.

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Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 475-4573



10 TAC §§10.301 - 10.307

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC Chapter 10, Subchapter D, §§10.301 - 10.307, Underwriting and Loan Policy. The purpose of the new rules is to provide the Department and participants in the Department's affordable housing programs guidance in awarding funds to properties that are economically viable and appropriate for their residents.

FISCAL NOTE. Mr. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new sections will enhance the State's ability to provide decent, safe, sanitary and affordable housing. The cost to produce the Environmental Site Assessment report required under §10.305 may increase as a result of the additional scope of work relating to the identification of potentially hazardous explosive activities on-site or in the general area of the site. The incremental cost is not known.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small businesses or micro-businesses.

§10.301. *General Provisions.* This section provides the overall purpose of the rule and describes an appeal procedure. The rule is necessary for the underwriting review of affordable housing development's financial feasibility and economic viability that ensures the most efficient allocation of State resources.

§10.302. *Underwriting Rules and Guidelines.* This section describes the general provisions, underwriting processes and contents of the underwriting reports produced by the Department. Processes for analyzing the feasibility of an affordable housing development's operating revenue and expenses are described and procedures for development cost estimation are outlined.

§10.303. *Market Analysis Rules and Guidelines.* This section establishes the organization and contents of market study reports prepared by third-party market analyst professionals. The market study reports are used by the Department to assist in determining demand for the affordable housing developments being considered for funding.

§10.304. *Appraisal Rules and Guidelines.* This section establishes the organization and contents of appraisal reports prepared by third-party appraisers. The appraisals establish values for land and affordable housing developments and these values are used by the Department in analyzing the cost of a development which impacts feasibility.

§10.305. *Environmental Site Assessment Rules and Guidelines.* This section establishes the organization and contents of reports that assess the environmental conditions of an affordable housing development site. These reports are prepared by third-party environmental engineers and professionals. The reports help the Department award funding for developments that do not contain environmental conditions that could be harmful to residents.

§10.306. *Property Condition Assessment Guidelines.* This section establishes the organization and contents of reports that assess the physical condition of an existing affordable housing development that is proposed to be rehabilitated and repaired. The reports are prepared by third-party engineers and professionals. The reports help the Department determine the cost of the rehabilitation for feasibility purposes and to inform the Department regarding the scope of work needed to adequately rehabilitate the property.

§10.307. *Direct Loan Requirements.* This section discusses the repayment terms and conditions of loans made by the Department to owners of an affordable housing developments. Items such as loan amortization, term, lien position and construction loan requirements are defined.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held September 25, 2015 to October 15, 2015 to receive input on the new sections. Written comments may be submitted to the Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941, ATTN: Pam Cloyde or by email to pcloyde@tdhca.state.tx.us, or by FAX to (512) 475-4420. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. on OCTOBER 15, 2015.

STATUTORY AUTHORITY. The new sections are proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules.

The proposed sections affect no other code, article or statute.

§10.301. *General Provisions.*

(a) Purpose. This subchapter applies to the underwriting, Market Analysis, appraisal, Environmental Site Assessment, Property

Condition Assessment, and Direct Loan standards employed by the Department. This subchapter provides rules for the underwriting review of an affordable housing Development's financial feasibility and economic viability that ensures the most efficient allocation of resources while promoting and preserving the public interest in ensuring the long-term health of the Department's portfolio. In addition, this subchapter guides staff in making recommendations to the Executive Award and Review Advisory Committee (the "Committee"), Executive Director, and the Board to help ensure procedural consistency in the determination of Development feasibility (Texas Government Code, §§2306.081(c), 2306.185, and 2306.6710(d)). Due to the unique characteristics of each Development, the interpretation of the rules and guidelines described in this subchapter is subject to the discretion of the Department and final determination by the Board.

(b) Appeals. Certain programs contain express appeal options. Where not indicated, §10.902 of this chapter (relating to Appeals Process (§2306.0321; §2306.6715) includes general appeal procedures. In addition, the Department encourages the use of Alternative Dispute Resolution ("ADR") methods, as outlined in §10.904 of this chapter (relating to Alternative Dispute Resolution (ADR) Policy).

§10.302. Underwriting Rules and Guidelines.

(a) General Provisions. Pursuant to Texas Government Code, §2306.148 and §2306.185(b), the Board is authorized to adopt underwriting standards as set forth in this section. Furthermore for Housing Credit Allocation, §42(m)(2) of the Internal Revenue Code of 1986 (the "Code"), requires the tax credits allocated to a Development not to exceed the amount necessary to assure feasibility. The rules adopted pursuant to the Texas Government Code and the Code are developed to result in a Credit Underwriting Analysis Report ("Report") used by the Board in decision making with the goal of assisting as many Texans as possible by providing no more financing than necessary based on an independent analysis of Development feasibility. The Report generated in no way guarantees or purports to warrant the actual performance, feasibility, or viability of the Development.

(b) Report Contents. The Report provides a synopsis and reconciliation of the Application information submitted by the Applicant. For the purpose of this subchapter the term Application includes additional documentation submitted after the initial award of funds that is relevant to any subsequent reevaluation. The Report contents will be based upon information that is provided in accordance with and within the timeframes set forth in the current Qualified Allocation Plan ("QAP") (10 TAC Chapter 11) or a Notice of Funds Availability ("NOFA"), as applicable, and the Uniform Multifamily Rules (10 TAC Chapter 10, Subchapters A - E and G).

(c) Recommendations in the Report. The conclusion of the Report includes a recommended award of funds or Housing Credit Allocation Amount and states any feasibility or other conditions to be placed on the award. The award amount is based on the lesser of the following:

(1) Program Limit Method. For Housing Credit Allocations, this method is based upon calculation of Eligible Basis after applying all cost verification measures and program limits as described in this section. The Applicable Percentage used is defined in §10.3 of this chapter (relating to Definitions). For Department programs other than Housing Tax Credits, this method is based upon calculation of the funding limit in current program rules or NOFA at the time of underwriting.

(2) Gap Method. This method evaluates the amount of funds needed to fill the gap created by Total Housing Development Cost less total non-Department-sourced funds or Housing Tax Credits. In making this determination, the Underwriter resizes any anticipated

deferred developer fee downward (but not less than zero) before reducing the amount of Department funds or Housing Tax Credits. In the case of Housing Tax Credits, the syndication proceeds needed to fill the gap in permanent funds are divided by the syndication rate to determine the amount of Housing Tax Credits. In making this determination and based upon specific conditions set forth in the Report, the Underwriter may assume adjustments to the financing structure (including treatment of cash flow loans as if fully amortizing over its term) or make adjustments to any Department financing, such that the cumulative Debt Coverage Ratio ("DCR") conforms to the standards described in this section. For Housing Tax Credit Developments at cost certification, timing adjusters may be considered as a reduction to equity proceeds for this purpose. Timing adjusters must be consistent with and documented in the original partnership agreement (at admission of the equity partner) but relating to causes outside of the Developer's or Owner's control. The equity partner must provide a calculation of the amount of the adjuster to be used by the Underwriter.

(3) The Amount Requested. The amount of funds that is requested by the Applicant. For Housing Tax Credit Developments (exclusive of Tax-Exempt Bond Developments) this amount is limited to the amount requested in the original Application documentation.

(d) Operating Feasibility. The operating feasibility of a Development funded by the Department is tested by analyzing its Net Operating Income ("NOI") to determine the Development's ability to pay debt service and meet other financial obligations throughout the Affordability Period. NOI is determined by subtracting operating expenses, including replacement reserves and taxes, from rental and other income sources.

(1) Income. In determining the first year stabilized pro forma, the Underwriter evaluates the reasonableness of the Applicant's income pro forma by determining the appropriate rental rate per unit based on subsidy contracts, program limitations including but not limited to utility allowances, actual rents supported by rent rolls and Market Rents and other market conditions. Miscellaneous income, vacancy and collection loss limits as set forth in subparagraphs (B) and (C) of this paragraph, respectively, are used unless well-documented support is provided and independently verified by the Underwriter.

(A) Rental Income. The Underwriter will review the Applicant's proposed rent schedule and determine if it is consistent with the representations made throughout the Application. The Underwriter will independently calculate a Pro Forma Rent for comparison to the Applicant's estimate in the Application.

(i) Market Rents. The Underwriter will use the Market Analyst's conclusion of Market Rent if reasonably justified and supported by the attribute adjustment matrix of Comparable Units as described in §10.303 of this chapter (relating to Market Analysis Rules and Guidelines). Independently determined Market Rents by the Underwriter may be used based on rent information gained from direct contact with comparable properties, whether or not used by the Market Analyst and other market data sources. For a Development that contains less than 15% unrestricted units, the Underwriter will limit the Pro Forma Rents to the lesser of Market Rent or the Net Program Rent at 60% AMI.

(ii) Gross Program Rent. The Underwriter will use the Gross Program Rents for the year that is most current at the time the underwriting begins. When underwriting for a simultaneously funded competitive round, all Applications are underwritten with the Gross Program Rents for the same year. If Gross Program Rents are adjusted by the Department after the close of the Application Acceptance Period, but prior to publication of the Report, the Underwriter may adjust the Effective Gross Income ("EGI") to account for any increase or

decrease in Gross Program Rents for the purposes of determining the reasonableness of the Applicant's EGI.

(iii) Contract Rents. The Underwriter will review rental assistance contracts to determine the Contract Rents currently applicable to the Development. Documentation supporting the likelihood of continued rental assistance is also reviewed. The Underwriter will take into consideration the Applicant's intent to request a Contract Rent increase. At the discretion of the Underwriter, the Applicant's proposed rents may be used as the Pro Forma Rent, with the recommendations of the Report conditioned upon receipt of final approval of such an increase.

(iv) Utility Allowances. The Underwriter will review Utility allowances calculated for individually metered tenant paid utilities considered to reflect a tenant's actual consumption. Methodologies for calculating Utility allowances can be found in Subchapter F, §10.614. The Underwriter generally uses the most current Public Housing Authority ("PHA") utility allowance schedule. Should HUD issue guidance requiring a different methodology for Direct Loan Programs, that methodology will be followed.

(v) Net Program Rents. Gross Program Rent less Utility Allowance.

(vi) Actual Rents for existing Developments will be reviewed as supported by a current rent roll. For Unstabilized Developments, actual rents will be based on the most recent units leased with occupancy and leasing velocity considered. Actual rents may be adjusted by the Underwriter to reflect lease-up concessions and other market considerations.

(vii) Collected Rent. Represents the monthly rent amount collected for each Unit Type. For rent-assisted units, the Contract Rent is used. In absence of a Contract Rent, the lesser of the Net Program Rent, Market Rent or actual rent is used.

(B) Miscellaneous Income. All ancillary fees and miscellaneous secondary income, including, but not limited to late fees, storage fees, laundry income, interest on deposits, carport and garage rent, washer and dryer rent, telecommunications fees, and other miscellaneous income, are anticipated to be included in a \$5 to \$20 per Unit per month range. Exceptions may be made at the discretion of the Underwriter and must be supported by either the normalized operating history of the Development or other existing comparable properties within the same market area.

(i) The Applicant must show that a tenant will not be required to pay the additional fee or charge as a condition of renting a Unit and must show that the tenant has a reasonable alternative.

(ii) The Applicant's operating expense schedule should reflect an itemized offsetting line-item associated with miscellaneous income derived from pass-through utility payments, pass-through water, sewer and trash payments, and cable fees.

(iii) Collection rates of exceptional fee items will generally be heavily discounted.

(iv) If an additional fee is charged for the optional use of an amenity, any cost associated with the construction, acquisition, or development of the hard assets needed to produce the additional fee for such amenity must be excluded from Eligible Basis.

(C) Vacancy and Collection Loss. The Underwriter generally uses a normalized vacancy rate of 7.5 percent (5 percent vacancy plus 2.5 percent for collection loss). The Underwriter may use other assumptions based on conditions in the immediate market area. 100 percent project-based rental subsidy developments and other well documented cases may be underwritten at a combined 5 percent

at the discretion of the Underwriter if the immediate market area's historical performance reflected in the Market Analysis is consistently higher than a 95 percent occupancy rate.

(D) Effective Gross Income ("EGI"). EGI is the total of Collected Rent for all units plus Miscellaneous Income less Vacancy and Collection Loss. If the Applicant's pro forma EGI is within 5 percent of the EGI independently calculated by the Underwriter, the Applicant's EGI is characterized as reasonable in the Report; however, for purposes of calculating the underwritten DCR the Underwriter's pro forma will be used unless the Applicant's pro forma meets the requirements of paragraph (3) of this subsection.

(2) Expenses. In determining the first year stabilized operating expense pro forma, the Underwriter evaluates the reasonableness of the Applicant's expense estimate based upon the characteristics of each Development, including the location, utility structure, type, the size and number of Units, and the Applicant's management plan. Historical, stabilized and certified financial statements of an existing Development or Third Party quotes specific to a Development will reflect the strongest data points to predict future performance. The Underwriter may review actual operations on the Applicant's other properties monitored by the Department, if any, or review the proposed management company's comparable properties. The Department's Database of properties located in the same market area or region as the proposed Development also provides data points; expense data from the Department's Database is available on the Department's website. Data from the Institute of Real Estate Management's ("IREM") most recent Conventional Apartments-Income/Expense Analysis book for the proposed Development's property type and specific location or region may be referenced. In some cases local or project-specific data such as PHA Utility Allowances and property tax rates are also given significant weight in determining the appropriate line item expense estimate. Estimates of utility savings from green building components, including on-site renewable energy, must be documented by an unrelated contractor or component vendor.

(A) General and Administrative Expense ("G&A"). Accounting fees, legal fees, advertising and marketing expenses, office operation, supplies, and equipment expenses. G&A does not include partnership related expenses such as asset management, accounting or audit fees. Costs of tenant services are not included in G&A

(B) Management Fee. Fee paid to the property management company to oversee the operation of the Property and is most often based upon a percentage of EGI as documented in an existing property management agreement or proposal. Typically, 5 percent of EGI is used, though higher percentages for rural transactions may be used. Percentages as low as 3 percent may be used if well documented.

(C) Payroll Expense. Compensation, insurance benefits, and payroll taxes for on-site office, leasing and maintenance staff. Payroll does not include Third-Party security or tenant services contracts. Staffing specific to tenant services, security or other staffing not related to customary property operations should be itemized and included in other expenses or tenant services expense.

(D) Repairs and Maintenance Expense. Materials and supplies for the repairs and maintenance of the Development including Third-Party maintenance contracts. This line-item does not include costs that are customarily capitalized that would result from major replacements or renovations.

(E) Utilities Expense. Gas and electric energy expenses paid by the Development. Estimates of utility savings from green building components, including on-site renewable energy, must be documented by an unrelated contractor or component vendor.

(F) Water, Sewer, and Trash Expense ("WST"). Includes all water, sewer and trash expenses paid by the Development.

(G) Insurance Expense. Cost of Insurance coverage for the buildings, contents, and general liability, but not health or workman's compensation insurance.

(H) Property Tax. Includes real property and personal property taxes but not payroll taxes.

(i) An assessed value will be calculated based on the capitalization rate published by the county taxing authority. If the county taxing authority does not publish a capitalization rate, a capitalization rate of 10 percent or a comparable assessed value may be used.

(ii) If the Applicant proposes a property tax exemption the Application must include an attorney statement and documentation supporting the amount, basis for qualification and the reasonableness of achieving the exemption under the Property Tax Code. A Proposed Payment In Lieu of Tax ("PILOT") agreement must be documented as being reasonably achievable.

(I) Replacement Reserves. Periodic deposits to a reserve account to pay for the future replacement or major repair of building systems and components (generally items considered capitalized costs). The Underwriter will use a minimum reserve of \$250 per Unit for New Construction and Reconstruction Developments and \$300 per Unit for all other Developments. The Underwriter may require an amount above \$300 for the Development based on information provided in the Property Condition Assessment ("PCA"). The Applicant's assumption for reserves may be adjusted by the Underwriter if the amount provided by the Applicant is insufficient to fund capital needs as documented by the PCA during the first fifteen (15) years of the long term pro forma. Higher reserves may be used if documented by a primary lender or syndicator.

(J) Other Operating Expenses. The Underwriter will include other reasonable, customary and documented property-level operating expenses such as audit fees, security expense, telecommunication expenses (tenant reimbursements must be reflected in EGI) and TDHCA's compliance fees. This category does not include depreciation, interest expense, lender or syndicator's asset management fees, or other ongoing partnership fees.

(K) Tenant Services. Tenant services are not included as an operating expense or included in the DCR calculation unless:

(i) There is a documented financial obligation on behalf of the Owner with a unit of state or local government to provide tenant supportive services at a specified dollar amount. The financial obligation must be identified by the permanent lender in their term sheet and the dollar amount of the financial obligation must be included in the DCR calculation on the permanent lender's 15-year pro forma at Application. At cost certification and as a minimum, the estimated expenses underwritten at Application will be included in the DCR calculation regardless if actually incurred; or

(ii) The Applicant demonstrates a history of providing comparable supportive services and expenses at existing affiliated properties within the local area. Except for Supportive Housing Developments, the estimated expense of supportive services must be identified by the permanent lender in their term sheet and included in the DCR calculation on the 15-year pro forma. At cost certification and as a minimum, the estimated expenses underwritten at Application will be included in the DCR calculation regardless if actually incurred;

(iii) On-site staffing or pro ration of staffing for coordination of services only, not provision of services, can be included

as a supportive services expense without permanent lender documentation.

(L) Total Operating Expenses. The total of expense items described above. If the Applicant's total expense estimate is within 5 percent of the final total expense figure calculated by the Underwriter, the Applicant's figure is characterized as reasonable in the Report; however, for purposes of calculating DCR, the Underwriter's independent calculation will be used unless the Applicant's first year stabilized pro forma meets the requirements of paragraph (3) of this subsection.

(3) Net Operating Income ("NOI"). The difference between the EGI and total operating expenses. If the Applicant's first year stabilized NOI figure is within 5 percent of the NOI calculated by the Underwriter, the Applicant's NOI is characterized as reasonable in the Report; however, for purposes of calculating the first year stabilized pro forma DCR, the Underwriter's calculation of NOI will be used unless the Applicant's first year stabilized EGI, total operating expenses, and NOI are each within 5 percent of the Underwriter's estimates. For Housing Tax Credit Developments at cost certification, actual NOI will be used as adjusted for stabilization of rents and extraordinary lease-up expenses. Permanent lender and equity partner stabilization requirements documented in the loan and partnership agreements will be considered in determining the appropriate adjustments and the NOI used by the Underwriter.

(4) Debt Coverage Ratio. DCR is calculated by dividing NOI by the sum of scheduled loan principal and interest payments for all permanent debt sources of funds. If executed loan documents do not exist, loan terms including principal and/or interest payments are calculated based on the terms indicated in the most current term sheet(s). Otherwise, actual terms indicated in the executed loan documents will be used. Term sheet(s) must indicate the DCR required by the lender for initial underwriting as well as for stabilization purposes. Unusual or non-traditional financing structures may also be considered.

(A) Interest Rate. The rate documented in the term sheet(s) or loan document(s) will be used for debt service calculations. Term sheets indicating a variable interest rate must provide a breakdown of the rate index and any component rates comprising an all-in interest rate. The term sheet(s) must state the lender's underwriting interest rate assumption, or the Applicant must submit a separate statement from the lender with an estimate of the interest rate as of the date of such statement. At initial underwriting, the Underwriter may adjust the underwritten interest rate assumption based on market data collected on similarly structured transactions or rate index history. Private Mortgage Insurance premiums and similar fees are not included in the interest rate but calculated on outstanding principal balance and added to the total debt service payment.

(B) Amortization Period. For purposes of calculating DCR, the permanent lender's amortization period will be used if not less than thirty (30) years and not more than forty (40) years. Up to fifty (50) years may be used for federally sourced or insured loans. For permanent lender debt with amortization periods less than thirty (30) years, thirty (30) years will be used. For permanent lender debt with amortization periods greater than forty (40) years, forty (40) years will be used. For non-Housing Tax Credit transactions a lesser amortization period may be used if the Department's funds are fully amortized over the same period as the primary senior debt.

(C) Repayment Period. For purposes of projecting the DCR over a thirty (30) year period for developments with permanent financing structures with balloon payments in less than thirty (30) years, the Underwriter will carry forward debt service based on a full amortization at the interest rate stated in the term sheet(s).

(D) Acceptable Debt Coverage Ratio Range. Except as set forth in clauses (i) or (ii) of this subparagraph, the acceptable first year stabilized pro forma DCR for all priority or foreclosable lien financing plus the Department's proposed financing must be between a minimum of 1.15 and a maximum of 1.35 (maximum of 1.50 for Housing Tax Credit Developments at cost certification).

(i) If the DCR is less than the minimum, the recommendations of the Report may be based on an assumed reduction to debt service and the Underwriter will make adjustments to the assumed financing structure in the order presented in subclauses (I) - (III) of this clause subject to a Direct Loan NOFA and program rules:

(I) a reduction of the interest rate or an increase in the amortization period for Direct Loans;

(II) a reclassification of Direct Loans to reflect grants;

(III) a reduction in the permanent loan amount for non-Department funded loans based upon the rates and terms in the permanent loan term sheet(s) as long as they are within the ranges in subparagraphs (A) and (B) of this paragraph.

(ii) If the DCR is greater than the maximum, the recommendations of the Report may be based on an assumed increase to debt service and the Underwriter will make adjustments to the assumed financing structure in the order presented in subclauses (I) - (III) of this clause subject to a Direct Loan NOFA and program rules:

(I) reclassification of Department funded grants to reflect loans;

(II) an increase in the interest rate or a decrease in the amortization period for Direct Loans;

(III) an increase in the permanent loan amount for non-Department funded loans based upon the rates and terms in the permanent loan term sheet as long as they are within the ranges in subparagraphs (A) and (B) of this paragraph.

(iii) For Housing Tax Credit Developments, a reduction in the recommended Housing Credit Allocation Amount may be made based on the Gap Method described in subsection (c)(2) of this section as a result of an increased debt assumption, if any.

(iv) The Underwriter may limit total debt service that is senior to a Direct Loan to produce an acceptable DCR on the Direct Loan.

(5) Long Term Pro forma. The Underwriter will create a 30-year operating pro forma using the following:

(A) The Underwriter's or Applicant's first year stabilized pro forma as determined by paragraph (3) of this subsection.

(B) A 2 percent annual growth factor is utilized for income and a 3 percent annual growth factor is utilized for operating expenses except for management fees that are calculated based on a percentage of each year's EGI.

(C) Adjustments may be made to the long term pro forma if satisfactory support documentation is provided by the Applicant or as independently determined by the Underwriter.

(e) Total Housing Development Costs. The Department's estimate of the Total Housing Development Cost will be based on the Applicant's development cost schedule to the extent that costs can be verified to a reasonable degree of certainty with documentation from the Applicant and tools available to the Underwriter. For New Construction Developments, the Underwriter's total cost estimate will be used unless the Applicant's Total Housing Development Cost is within

5 percent of the Underwriter's estimate. The Department's estimate of the Total Housing Development Cost for Rehabilitation Developments will be based in accordance with the estimated cost provided in the PCA for the scope of work as defined by the Applicant and §10.306(a)(5) of this chapter (relating to PCA Guidelines). If the Applicant's cost estimate is utilized and the Applicant's line item costs are inconsistent with documentation provided in the Application or program rules, the Underwriter may make adjustments to the Applicant's Total Housing Development Cost.

(1) Acquisition Costs. The underwritten acquisition cost is verified with Site Control document(s) for the Property.

(A) Excess Land Acquisition. In cases where more land is to be acquired (by the Applicant or a Related Party) than will be utilized as the Development Site and the remainder acreage is not accessible for use by tenants or dedicated as permanent and maintained green space, the value ascribed to the proposed Development Site will be prorated based on acreage from the total cost reflected in the Site Control document(s). An appraisal containing segregated values for the total acreage, the acreage for the Development Site and the remainder acreage, or tax assessment value may be used by the Underwriter in making a proration determination based on relative value; however, the Underwriter will not utilize a prorated value greater than the total amount in the Site Control document(s).

(B) Identity of Interest Acquisitions.

(i) An acquisition will be considered an identity of interest transaction when the seller is an Affiliate of, a Related Party to, any owner at any level of the Development Team or a Related Party lender; and

(I) is the current owner in whole or in part of the Property; or

(II) has or had within the prior 36 months, legal or beneficial ownership of the property or any portion thereof or interest therein prior to the first day of the Application Acceptance Period.

(ii) In all identity of interest transactions the Applicant is required to provide:

(I) the original acquisition cost evidenced by an executed settlement statement or, if a settlement statement is not available, the original asset value listed in the most current financial statement for the identity of interest owner; and

(II) if the original acquisition cost evidenced by subclause (I) of this clause is less than the acquisition cost stated in the application:

(-a-) an appraisal that meets the requirements of §10.304 of this chapter (relating to Appraisal Rules and Guidelines); and

(-b-) any other verifiable costs of owning, holding, or improving the Property, excluding seller financing, that when added to the value from subclause (I) of this clause justifies the Applicant's proposed acquisition amount.

(-1-) For land-only transactions, documentation of owning, holding or improving costs since the original acquisition date may include property taxes, interest expense to unrelated Third Party lender(s), capitalized costs of any physical improvements, the cost of zoning, platting, and any off-site costs to provide utilities or improve access to the Property. All allowable holding and improvement costs must directly benefit the proposed Development by a reduction to hard or soft costs. Additionally, an annual return of 10 percent may be applied to the original capital investment and documented holding and improvement costs; this

return will be applied from the date the applicable cost is incurred until the date of the Department's Board meeting at which the Grant, Direct Loan and/or Housing Credit Allocation will be considered.

(-2-) For transactions which include existing buildings that will be rehabilitated or otherwise retained as part of the Development, documentation of owning, holding, or improving costs since the original acquisition date may include capitalized costs of improvements to the Property, and in the case of USDA financed Developments the cost of exit taxes not to exceed an amount necessary to allow the sellers to be made whole in the original and subsequent investment in the Property and avoid foreclosure. Additionally, an annual return of 10 percent may be applied to the original capital investment and documented holding and improvement costs; this return will be applied from the date the applicable cost was incurred until the date of the Department's Board meeting at which the Grant, Direct Loan and/or Housing Credit Allocation will be considered. For any period of time during which the existing buildings are occupied or otherwise producing revenue, holding costs may not include capitalized costs, operating expenses, including, but not limited to, property taxes and interest expense.

(iii) In no instance will the acquisition cost utilized by the Underwriter exceed the lesser of the original acquisition cost evidenced by clause (ii)(I) of this subparagraph plus costs identified in clause (ii)(II)(-b-) of this subparagraph, or if applicable the "as-is" value conclusion evidenced by clause (ii)(II)(-a-) of this subparagraph. Acquisition cost is limited to appraised land value for transactions which include existing buildings that will be demolished. The resulting acquisition cost will be referred to as the "Adjusted Acquisition Cost."

(C) Eligible Basis on Acquisition of Buildings. Building acquisition cost will be included in the underwritten Eligible Basis if the Applicant provided an appraisal that meets the Department's Appraisal Rules and Guidelines as described in §10.304 of this chapter. The underwritten eligible building cost will be the lowest of the values determined based on clauses (i) - (iii) of this subparagraph:

(i) the Applicant's stated eligible building acquisition cost;

(ii) the total acquisition cost reflected in the Site Control document(s), or the Adjusted Acquisition Cost (as defined in subparagraph (B)(iii) of this paragraph), prorated using the relative land and building values indicated by the applicable appraised value;

(iii) total acquisition cost reflected in the Site Control document(s), or the Adjusted Acquisition Cost (as defined in subparagraph (B)(iii) of this paragraph), less the appraised "as-vacant" land value; or

(iv) the Underwriter will use the value that best corresponds to the circumstances presently affecting the Development and that will continue to affect the Development after transfer to the new owner in determining the building value. Any value of existing favorable financing will be attributed prorata to the land and buildings.

(2) Off-Site Costs. The Underwriter will only consider costs of Off-Site Construction that are well documented and certified to by a Third Party engineer on the required Application forms with supporting documentation.

(3) Site Work Costs. The Underwriter will only consider costs of Site Work that are well documented and certified to by a Third Party engineer on the required Application forms with supporting documentation.

(4) Building Costs.

(A) New Construction and Reconstruction. The Underwriter will use the Marshall and Swift Residential Cost Handbook, other comparable published Third-Party cost estimating data sources, historical final cost certifications of previous Housing Tax Credit developments and other acceptable cost data available to the Underwriter to estimate Building Cost. Generally, the "Average Quality" multiple, townhouse, or single family costs, as appropriate, from the Marshall and Swift Residential Cost Handbook or other comparable published Third-Party data source, will be used based upon details provided in the Application and particularly building plans and elevations. The Underwriter will consider amenities, specifications and development types not included in the Average Quality standard. The Underwriter may consider a sales tax exemption for nonprofit General Contractors.

(B) Rehabilitation and Adaptive Reuse.

(i) The Applicant must provide a detailed narrative description of the scope of work for the proposed rehabilitation.

(ii) The Underwriter will use cost data provided on the PCA Cost Schedule Supplement.

(5) Contingency. Total contingency, including any soft cost contingency, will be limited to a maximum of 7 percent of Building Cost plus Site Work and off-sites for New Construction and Reconstruction Developments, and 10 percent of Building Cost plus Site Work and off-sites for Rehabilitation and Adaptive Reuse Developments. For Housing Tax Credit Developments, the percentage is applied to the sum of the eligible Building Cost, eligible Site Work costs and eligible off-site costs in calculating the eligible contingency cost.

(6) General Contractor Fee. General Contractor fees include general requirements, contractor overhead, and contractor profit. General requirements include, but are not limited to, on-site supervision or construction management, off-site supervision and overhead, jobsite security, equipment rental, storage, temporary utilities, and other indirect costs. General Contractor fees are limited to a total of 14 percent on Developments with Hard Costs of \$3 million or greater, the lesser of \$420,000 or 16 percent on Developments with Hard Costs less than \$3 million and greater than \$2 million, and the lesser of \$320,000 or 18 percent on Developments with Hard Costs at \$2 million or less. For tax credit Developments, the percentages are applied to the sum of the Eligible Hard Costs in calculating the eligible contractor fees. For Developments also receiving financing from USDA, the combination of builder's general requirements, builder's overhead, and builder's profit should not exceed the lower of TDHCA or USDA requirements. Additional fees for ineligible costs will be limited to the same percentage of ineligible Hard Costs but will not be included in Eligible Basis.

(7) Developer Fee.

(A) For Housing Tax Credit Developments, the Developer Fee included in Eligible Basis cannot exceed 15 percent of the project's eligible costs, less Developer fees, for Developments proposing fifty (50) Units or more and 20 percent of the project's eligible costs, less Developer fees, for Developments proposing forty-nine (49) Units or less. For Public Housing Authority Developments for conversion under the HUD Rental Assistance Demonstration ("RAD") program that will be financed using tax-exempt mortgage revenue bonds, the Developer Fee cannot exceed 20 percent of the project's eligible cost less Developer Fee.

(B) Any additional Developer fee claimed for ineligible costs will be limited to the same percentage but applied only to ineligible Hard Costs (15 percent for Developments with fifty (50) or more Units, or 20 percent for Developments with forty-nine (49) or fewer

Units). Any Developer fee above this limit will be excluded from Total Housing Development Costs. All fees to Affiliates and/or Related Parties for work or guarantees determined by the Underwriter to be typically completed or provided by the Developer or Principal(s) of the Developer will be considered part of Developer fee.

(C) In the case of a transaction requesting acquisition Housing Tax Credits:

(i) the allocation of eligible Developer fee in calculating Rehabilitation/New Construction Housing Tax Credits will not exceed 15 percent of the Rehabilitation/New Construction eligible costs less Developer fees for Developments proposing fifty (50) Units or more and 20 percent of the Rehabilitation/New Construction eligible costs less Developer fees for Developments proposing forty-nine (49) Units or less; and

(ii) no Developer fee attributable to an identity of interest acquisition of the Development will be included.

(D) Eligible Developer fee is multiplied by the appropriate Applicable Percentage depending whether it is attributable to acquisition or rehabilitation basis.

(E) For non-Housing Tax Credit developments, the percentage can be up to 15 percent, but is based upon Total Housing Development Cost less the sum of the fee itself, land costs, the costs of permanent financing, excessive construction period financing described in paragraph (8) of this subsection, reserves, and any identity of interest acquisition cost.

(F) The amount of Developer Fee will be determined based on the original underwriting at application. The amount of Developer Fee will be fixed at the dollar amount underwritten through any subsequent evaluation including cost certification. Increases in eligible cost as a result of documented circumstances outside the control of the Applicant may be eligible for increased Developer Fee but fees greater than 15% will be reviewed for undue enrichment.

(8) Financing Costs. All fees required by the construction lender, permanent lender and equity partner must be indicated in the term sheets. Eligible construction period interest is limited to the lesser of actual eligible construction period interest, or the interest on one (1) year's fully drawn construction period loan funds at the construction period interest rate indicated in the term sheet(s). For tax-exempt bond transactions up to twenty four (24) months of interest may be included. Any excess over this amount will not be included in Eligible Basis. Construction period interest on Related Party construction loans is not included in Eligible Basis.

(9) Reserves. Except for the underwriting of a Housing Tax Credit Development at cost certification, the Underwriter will utilize the amount described in the Applicant's project cost schedule if it is within the range of two (2) to six (6) months of stabilized operating expenses plus debt service. Alternatively, the Underwriter may consider a greater amount proposed by the first lien lender or syndicator if the detail for such greater amount is found by the Underwriter to be both reasonable and well documented. Reserves do not include capitalized asset management fees, guaranty reserves, tenant services reserves or other similar costs. Lease up reserves, exclusive of initial start-up costs, funding of other reserves and interim interest, may be considered with documentation showing sizing assumptions acceptable to the Underwriter. In no instance at initial underwriting will total reserves exceed twelve (12) months of stabilized operating expenses plus debt service (including transferred replacement reserves for USDA or HUD financed rehabilitation transactions). Pursuant to §10.404(c) and for the underwriting of a Housing Tax Credit Development at cost certification, operating reserves that will be maintained for a minimum

period of five years and documented in the Owner's partnership agreement and/or the permanent lender's loan documents will be included as a development cost.

(10) Soft Costs. Eligible soft costs are generally costs that can be capitalized in the basis of the Development for tax purposes. The Underwriter will evaluate and apply the allocation of these soft costs in accordance with the Department's prevailing interpretation of the Code. Generally the Applicant's costs are used however the Underwriter will use comparative data to determine the reasonableness of all soft costs.

(11) Additional Tenant Amenities. For Housing Tax Credit Developments and after submission of the cost certification package, the Underwriter may consider costs of additional building and site amenities (suitable for the tenant population being served) proposed by the Owner in an amount not to exceed 1.5% of the originally underwritten Hard Costs. The additional amenities may be included in the LURA.

(12) Special Reserve Account. For Housing Tax Credit Developments at cost certification, the Underwriter may include a deposit of up to \$2,500 per Unit into a Special Reserve Account (pursuant to §10.404(d)) as a Development Cost.

(f) Development Team Capacity and Development Plan.

(1) The Underwriter will evaluate and report on the overall capacity of the Development Team by reviewing aspects, including but not limited to those identified in subparagraphs (A) - (D) of this paragraph:

(A) personal credit reports for development sponsors, Developer fee recipients and those individuals anticipated to provide guarantee(s). The Underwriter will evaluate the credit report and identify any bankruptcy, state or federal tax liens or other relevant credit risks for compliance with eligibility and debarment requirements in this chapter;

(B) quality of construction, Rehabilitation, and ongoing maintenance of previously awarded housing developments by review of construction inspection reports, compliance on-site visits, findings of UPCS violations and other information available to the Underwriter;

(C) for Housing Tax Credit Developments, repeated or ongoing failure to timely submit cost certifications, requests for and clearance of final inspections, and timely response to deficiencies in the cost certification process;

(D) adherence to obligations on existing or prior Department funded developments with respect to program rules and documentation.

(2) While all components of the development plan may technically meet the other individual requirements of this section, a confluence of serious concerns and unmitigated risks identified during the underwriting process will result in an Application being referred to the Committee. The Committee will review any recommendation made under this subsection to deny an Application for a Grant, Direct Loan and/or Housing Credit Allocation prior to completion of the Report and posting to the Department's website.

(g) Other Underwriting Considerations. The Underwriter will evaluate additional feasibility elements as described in paragraphs (1) - (3) of this subsection.

(1) Floodplains. The Underwriter evaluates the site plan, floodplain map, survey and other information provided to determine if any of the buildings, drives, or parking areas reside within the 100-year floodplain. If such a determination is made by the Underwriter, the Report will include a condition that:

(A) the Applicant must pursue and receive a Letter of Map Amendment ("LOMA") or Letter of Map Revision ("LOMR-F"); or

(B) the Applicant must identify the cost of flood insurance for the buildings and for the tenant's contents for buildings within the 100-year floodplain and certify that the flood insurance will be obtained; and

(C) the Development must be proposed to be designed to comply with the QAP, or NOFA.

(2) Proximity to Other Developments. The Underwriter will identify in the Report any developments funded or known and anticipated to be eligible for funding within one linear mile of the subject. Distance is measured in a straight line from nearest boundary point to nearest boundary point.

(3) Supportive Housing. The unique development and operating characteristics of Supportive Housing Developments may require special consideration in these areas:

(A) Operating Income. The extremely-low-income tenant population typically targeted by a Supportive Housing Development may include deep-skewing of rents to well below the 50 percent AMGI level or other maximum rent limits established by the Department. The Underwriter should utilize the Applicant's proposed rents in the Report as long as such rents are at or below the maximum rent limit proposed for the units and equal to any project based rental subsidy rent to be utilized for the Development;

(B) Operating Expenses. A Supportive Housing Development may have significantly higher expenses for payroll, management fee, security, resident support services, or other items than typical affordable housing developments. The Underwriter will rely heavily upon the historical operating expenses of other Supportive Housing Developments affiliated with the Applicant or otherwise available to the Underwriter. Expense estimates must be categorized as outlined in subsection (d)(2) of this section;

(C) DCR and Long Term Feasibility. Supportive Housing Developments may be exempted from the DCR requirements of subsection (d)(4)(D) of this section if the Development is anticipated to operate without conventional or "must-pay" debt. Applicants must provide evidence of sufficient financial resources to offset any projected 15-year cumulative negative Cash Flow. Such evidence will be evaluated by the Underwriter on a case-by-case basis to satisfy the Department's long term feasibility requirements and may take the form of one or a combination of: executed subsidy commitment(s); set-aside of Applicant's financial resources to be substantiated by current financial statements evidencing sufficient resources; and/or proof of annual fundraising success sufficient to fill anticipated operating losses. If either a set aside of financial resources or annual fundraising are used to evidence the long term feasibility of a Supportive Housing Development, a resolution from the Applicant's governing board must be provided confirming their irrevocable commitment to the provision of these funds and activities; and/or

(D) Total Housing Development Costs. For Supportive Housing Developments designed with only Efficiency Units, the Underwriter may use "Average Quality" dormitory costs, or costs of other appropriate design styles from the Marshall & Swift Valuation Service, with adjustments for amenities and/or quality as evidenced in the Application, as a base cost in evaluating the reasonableness of the Applicant's Building Cost estimate for New Construction Developments.

(h) Work Out Development. Developments that are underwritten subsequent to Board approval in order to refinance or gain relief from restrictions may be considered infeasible based on the guidelines

in this section, but may be characterized as "the best available option" or "acceptable available option" depending on the circumstances and subject to the discretion of the Underwriter as long as the option analyzed and recommended is more likely to achieve a better financial outcome for the property and the Department than the status quo.

(i) Feasibility Conclusion. An infeasible Development will not be recommended for a Grant, Direct Loan or Housing Credit Allocation unless the Underwriter can determine an alternative structure and/or conditions the recommendations of the Report upon receipt of documentation supporting an alternative structure. A Development will be characterized as infeasible if paragraph (1) or (2) of this subsection applies. The Development will be characterized as infeasible if one or more of paragraphs (3) - (5) of this subsection applies unless paragraph (6)(B) of this subsection also applies.

(1) Gross Capture Rate and Individual Unit Capture Rate. The method for determining capture rates for a Development is defined in §10.303 of this chapter. The Underwriter will independently verify all components and conclusions of the capture rates and may, at their discretion, use independently acquired demographic data to calculate demand and may make a determination of the capture rates based upon an analysis of the Sub-market. The Development:

(A) is characterized as a Qualified Elderly Development and the Gross Capture Rate exceeds 10 percent for the total proposed Units; or

(B) is outside a Rural Area and targets the general population, and the Gross Capture Rate exceeds 10 percent for the total proposed Units; or

(C) is in a Rural Area and targets the general population, and the Gross Capture Rate exceeds 30 percent; or

(D) is Supportive Housing and the Gross Capture Rate exceeds 30 percent; or,

(E) has an Individual Unit Capture Rate for any Unit Type greater than 100 percent.

(F) Developments meeting the requirements of subparagraph (A), (B), (C), (D) or (E) of this paragraph may avoid being characterized as infeasible if clause (i) or (ii) of this subparagraph apply.

(i) Replacement Housing. The proposed Development is comprised of affordable housing which replaces previously existing affordable housing within the Primary Market Area as defined in §10.303 of this chapter on a Unit for Unit basis, and gives the displaced tenants of the previously existing affordable housing a leasing preference.

(ii) Existing Housing. The proposed Development is comprised of existing affordable housing which is at least 50 percent occupied and gives displaced existing tenants a leasing preference as stated in a relocation plan.

(2) Deferred Developer Fee. Applicants requesting an allocation of tax credits where the estimated deferred Developer Fee, based on the underwritten capitalization structure, is not repayable from Cash Flow within the first fifteen (15) years of the long term pro forma as described in subsection (d)(5) of this section.

(3) Pro Forma Rent. The Pro Forma Rent for Units with rents restricted at 60 percent of AMGI is less than the Net Program Rent for Units with rents restricted at or below 50 percent of AMGI unless the Applicant accepts the Underwriter's recommendation, if any, that all restricted units have rents and incomes restricted at or below the 50 percent of AMGI level.

(4) Initial Feasibility.

(A) Except when underwritten at cost certification, the first year stabilized pro forma operating expense divided by the first year stabilized pro forma Effective Gross Income is greater than 68 percent for Rural Developments 36 Units or less and 65 percent for all other Developments.

(B) The first year DCR is below 1.15 (1.00 for USDA Developments).

(5) Long Term Feasibility. The Long Term Pro forma, as defined in subsection (d)(5) of this section, reflects a Debt Coverage Ratio below 1.15 or negative cash flow at any time during years two through fifteen.

(6) Exceptions. The infeasibility conclusions may be excepted when:

(A) Waived by the Executive Director of the Department or by the Committee if documentation is submitted by the Applicant to support unique circumstances that would provide mitigation.

(B) Developments not meeting the requirements of one or more of paragraphs (3), (4)(A) or (5) of this subsection will be re-characterized as feasible if one or more of clauses (i) - (v) of this subparagraph apply.

(i) The Development will receive Project-based Section 8 Rental Assistance or the HUD Rental Assistance Demonstration Program for at least 50 percent of the Units and a firm commitment, with terms including Contract Rent and number of Units, is submitted at Application.

(ii) The Development will receive rental assistance for at least 50 percent of the Units in association with USDA financing.

(iii) The Development will be characterized as public housing as defined by HUD for at least 50 percent of the Units.

(iv) The Development will be characterized as Supportive Housing for at least 50 percent of the Units and evidence of adequate financial support for the long term viability of the Development is provided.

(v) The Development has other long term project based restrictions on rents for at least 50 percent of the Units that allow rents to increase based upon expenses and the Applicant's proposed rents are at least 10 percent lower than both the Net Program Rent and Market Rent.

§10.303. Market Analysis Rules and Guidelines.

(a) General Provision. A Market Analysis prepared for the Department must evaluate the need for decent, safe, and sanitary housing at rental rates or sales prices that eligible tenants can afford. The analysis must determine the feasibility of the subject Property rental rates or sales price and state conclusions as to the impact of the Property with respect to the determined housing needs. The Market Analysis must include a statement that the report preparer has read and understood the requirements of this section.

(b) Self-Contained. A Market Analysis prepared for the Department must allow the reader to understand the market data presented, the analysis of the data, and the conclusions derived from such data. All data presented should reflect the most current information available and the report must provide a parenthetical (in-text) citation or footnote describing the data source. The analysis must clearly lead the reader to the same or similar conclusions reached by the Market Analyst. All steps leading to a calculated figure must be presented in the body of the report.

(c) Market Analyst Qualifications. A Market Analysis submitted to the Department must be prepared and certified by an approved Qualified Market Analyst. (§2306.67055) The Department will maintain an approved Market Analyst list based on the guidelines set forth in paragraphs (1) - (3) of this subsection.

(1) The approved Qualified Market Analyst list will be updated and published annually on or about October 1st. If not listed as an approved Qualified Market Analyst by the Department, a Market Analyst may request approval by submitting items in subparagraphs (A) - (F) of this paragraph at least thirty (30) days prior to the first day of the competitive tax credit Application Acceptance Period or thirty (30) days prior to submission of any other application for funding for which the Market Analyst must be approved.

(A) Franchise Tax Account Status from the Texas Comptroller of Public Accounts (not applicable for sole proprietorships).

(B) A current organization chart or list reflecting all members of the firm who may author or sign the Market Analysis.

(C) Resumes for all members of the firm or subcontractors who may author or sign the Market Analysis.

(D) General information regarding the firm's experience including references, the number of previous similar assignments and timeframes in which previous assignments were completed.

(E) Certification from an authorized representative of the firm that the services to be provided will conform to the Department's Market Analysis Rules and Guidelines, as described in this section, in effect for the Application Round in which each Market Analysis is submitted.

(F) A sample Market Analysis that conforms to the Department's Market Analysis Rules and Guidelines, as described in this section, in effect for the year in which the sample Market Analysis is submitted. An already approved Qualified Market Analyst will remain on the list so long as at least one (1) Market Analysis has been submitted to the Department in the previous 12 months or items (A),(B),(C) and (E) are submitted prior to October 1st. Otherwise, the Market Analyst will automatically be removed from the list.

(2) During the underwriting process each Market Analysis will be reviewed and any discrepancies with the rules and guidelines set forth in this section may be identified and require timely correction. Subsequent to the completion of the Application Round and as time permits, staff or a review appraiser will re-review a sample set of submitted market analyses to ensure that the Department's Market Analysis Rules and Guidelines are met. If it is found that a Market Analyst has not conformed to the Department's Market Analysis Rules and Guidelines, as certified to, the Market Analyst will be notified of the discrepancies in the Market Analysis and will be removed from the approved Qualified Market Analyst list.

(A) In and of itself, removal from the list of approved Market Analysts will not invalidate a Market Analysis commissioned prior to the removal date and at least ninety (90) days prior to the first day of the applicable Application Acceptance Period.

(B) To be reinstated as an approved Qualified Market Analyst, the Market Analyst must amend the previous report to remove all discrepancies or submit a new sample Market Analysis that conforms to the Department's Market Analysis Rules and Guidelines, as described in this section, in effect for the year in which the updated or new sample Market Analysis is submitted.

(3) The list of approved Qualified Market Analysts will be posted on the Department's web site no later than November 1st.

(d) Market Analysis Contents. A Market Analysis for a rental Development prepared for the Department must be organized in a format that follows a logical progression and must include, at minimum, items addressed in paragraphs (1) - (13) of this subsection.

(1) Title Page. Include Property address or location, effective date of analysis, date report completed, name and address of person authorizing report, and name and address of Market Analyst.

(2) Letter of Transmittal. The date of the letter must be the date the report was completed. Include Property address or location, description of Property, statement as to purpose and scope of analysis, reference to accompanying Market Analysis report with effective date of analysis and summary of conclusions, date of Property inspection, name of persons inspecting subject Property, and signatures of all Market Analysts authorized to work on the assignment. Include a statement that the report preparer has read and understood the requirements of this section.

(3) Table of Contents. Number the exhibits included with the report for easy reference.

(4) Market Analysis Summary. Include the Department's Market Analysis Summary exhibit.

(5) Assumptions and Limiting Conditions. Include a description of all assumptions, both general and specific, made by the Market Analyst concerning the Property.

(6) Identification of the Property. Provide a statement to acquaint the reader with the Development. Such information includes street address, tax assessor's parcel number(s), and Development characteristics.

(7) Statement of Ownership. Disclose the current owners of record and provide a three (3) year history of ownership for the subject Property.

(8) Secondary Market Area. A SMA is not required, but may be defined at the discretion of the Market Analyst to support identified demand. All of the Market Analyst's conclusions specific to the subject Development must be based on only one SMA definition. The entire PMA, as described in this paragraph, must be contained within the SMA boundaries. The Market Analyst must adhere to the methodology described in this paragraph when determining the Secondary Market Area. (§2306.67055)

(A) The SMA will be defined by the Market Analyst with:

(i) size based on a base year population of no more than 250,000 people inclusive of the PMA; and

(ii) boundaries based on U.S. census tracts.

(B) The Market Analyst's definition of the SMA must include:

(i) a detailed description of why the subject Development is expected to draw a significant number of tenants or homebuyers from the defined SMA;

(ii) a complete demographic report for the defined SMA; and

(iii) a scaled distance map indicating the SMA boundaries showing relevant U.S. census tracts with complete 11-digit identification numbers in numerical order with labels as well as the location of the subject Development and all comparable Developments.

(9) Primary Market Area. All of the Market Analyst's conclusions specific to the subject Development must be based on only

one PMA definition. The Market Analyst must adhere to the methodology described in this paragraph when determining the market area. (§2306.67055)

(A) The PMA will be defined by the Market Analyst as:

(i) size based on a base year population of no more than 100,000 people;

(ii) boundaries based on U.S. census tracts; and

(iii) the population of the PMA may exceed 100,000 if the amount over the limit is contained within a single census tract.

(B) The Market Analyst's definition of the PMA must include:

(i) a detailed description of why the subject Development is expected to draw a majority of its prospective tenants or homebuyers from the defined PMA;

(ii) a complete demographic report for the defined PMA; and

(iii) a scaled distance map indicating the PMA boundaries showing relevant U.S. census tracts with complete 11-digit identification numbers in numerical order with labels as well as the location of the subject Development and all comparable Developments. The map must indicate the total square miles of PMA.

(C) Comparable Units. Identify Developments in the PMA with Comparable Units. In PMAs lacking sufficient rent comparables, it may be necessary for the Market Analyst to collect data from markets with similar characteristics and make quantifiable location adjustments. Provide a data sheet for each Development consisting of:

(i) development name;

(ii) address;

(iii) year of construction and year of Rehabilitation, if applicable;

(iv) property condition;

(v) Target Population;

(vi) unit mix specifying number of Bedrooms, number of baths, Net Rentable Area; and

(I) monthly rent and Utility Allowance; or

(II) sales price with terms, marketing period and date of sale;

(vii) description of concessions;

(viii) list of unit amenities;

(ix) utility structure;

(x) list of common amenities;

(xi) narrative comparison of its proximity to employment centers and services relative to targeted tenant population of the subject property; and

(xii) for rental developments only, the occupancy and turnover.

(10) Market Information.

(A) For each of the defined market areas, identify the number of units for each of the categories in clauses (i) - (vi) of this subparagraph; the data must be clearly labeled as relating to either the PMA or the SMA, if applicable:

- (i) total housing;
- (ii) rental developments (all multi-family);
- (iii) Affordable housing;
- (iv) Comparable Units;
- (v) Unstabilized Comparable Units; and
- (vi) proposed Comparable Units.

(B) Occupancy. The occupancy rate indicated in the Market Analysis may be used to support both the overall demand conclusion for the proposed Development and the vacancy rate assumption used in underwriting the Development described in §10.302(d)(1)(C) of this chapter (relating to Underwriting Rules and Guidelines). State the overall physical occupancy rate for the proposed housing tenure (renter or owner) within the defined market areas by:

- (i) number of Bedrooms;
- (ii) quality of construction (class);
- (iii) Target Population; and
- (iv) Comparable Units.

(C) Absorption. State the absorption trends by quality of construction (class) and absorption rates for Comparable Units.

(D) Demographic Reports.

(i) All demographic reports must include population and household data for a five (5) year period with the year of Application submission as the base year;

(ii) All demographic reports must provide sufficient data to enable calculation of income-eligible, age-, size-, and tenure-appropriate household populations;

(iii) For Developments targeting seniors, all demographic reports must provide a detailed breakdown of households by age and by income; and

(iv) A complete copy of all demographic reports relied upon for the demand analysis, including the reference index that indicates the census tracts on which the report is based.

(E) Demand. Provide a comprehensive evaluation of the need for the proposed housing for the Development as a whole and each Unit type by number of Bedrooms proposed and rent restriction category within the defined market areas using the most current census and demographic data available.

(i) Demographics. The Market Analyst should use demographic data specific to the characteristics of the households that will be living in the proposed Development. For example, the Market Analyst should use demographic data specific to elderly population for a Qualified Elderly Development, if available, and should avoid making adjustments from more general demographic data. If adjustment rates are used based on more general data for any of the criteria described in subclauses (I) - (V) of this clause, they should be clearly identified and documented as to their source in the report.

(I) Population. Provide population and household figures, supported by actual demographics, for a five (5) year period with the year of Application submission as the base year.

(II) Target. If applicable, adjust the household projections for the Qualified Elderly targeted by the proposed Development.

(III) Household Size-Appropriate. Adjust the household projections or target household projections, as applicable,

for the appropriate household size for the proposed Unit type by number of Bedrooms proposed and rent restriction category based on 1.5 persons per Bedroom (round up).

(IV) Income Eligible. Adjust the household size appropriate projections for income eligibility based on the income bands for the proposed Unit Type by number of Bedrooms proposed and rent restriction category with:

(-a-) the lower end of each income band calculated based on the lowest gross rent proposed divided by 35 percent for the general population and 50 percent for Qualified Elderly households; and

(-b-) the upper end of each income band equal to the applicable gross median income limit for the largest appropriate household size based on 1.5 persons per Bedroom (round up) or one person for Efficiency Units.

(V) Tenure-Appropriate. Adjust the income-eligible household projections for tenure (renter or owner). If tenure appropriate income eligible target household data is available, a tenure appropriate adjustment is not necessary.

(ii) Gross Demand. Gross Demand is defined as the sum of Potential Demand from the PMA, Demand from Other Sources, and Potential Demand from a Secondary Market Area (SMA) to the extent that SMA demand does not exceed 25 percent of Gross Demand.

(iii) Potential Demand. Potential Demand is defined as the number of income-eligible, age-, size-, and tenure-appropriate target households in the designated market area at the proposed placed in service date.

(I) Maximum eligible income is equal to the applicable gross median income limit for the largest appropriate household size based on 1.5 persons per Bedroom (round up) or one person for Efficiency Units.

(II) For Developments targeting the general population:

(-a-) minimum eligible income is based on a 35 percent rent to income ratio;

(-b-) appropriate household size is defined as 1.5 persons per Bedroom (rounded up); and

(-c-) the tenure-appropriate population for a rental Development is limited to the population of renter households.

(III) For Developments consisting solely of single family residences on separate lots with all Units having three (3) or more Bedrooms:

(-a-) minimum eligible income is based on a 35 percent rent to income ratio;

(-b-) appropriate household size is defined as 1.5 persons per Bedroom (rounded up); and

(-c-) Gross Demand includes both renter and owner households.

(IV) For Qualified Elderly Developments or Supportive Housing:

(-a-) minimum eligible income is based on a 50 percent rent to income ratio; and

(-b-) Gross Demand includes all household sizes and both renter and owner households.

(iv) Demand from Secondary Market Area:

(I) Potential Demand from an SMA should be calculated in the same way as Potential Demand from the PMA;

(II) Potential Demand from an SMA may be included in Gross Demand to the extent that SMA demand does not exceed 25 percent of Gross Demand; and

(III) the supply of proposed and unstabilized Comparable Units in the SMA must be included in the calculation of the capture rate at the same proportion that Potential Demand from the SMA is included in Gross Demand.

(v) Demand from Other Sources:

(I) the source of additional demand and the methodology used to calculate the additional demand must be clearly stated;

(II) consideration of Demand from Other Sources is at the discretion of the Underwriter;

(III) Demand from Other Sources must be limited to households that are not included in Potential Demand; and

(IV) if households with Section 8 vouchers are identified as a source of demand, the Market Study must include:

(-a-) documentation of the number of vouchers administered by the local Housing Authority; and

(-b-) a complete demographic report for the area in which the vouchers are distributed.

(F) Employment. Provide a comprehensive analysis of employment trends and forecasts in the Primary Market Area.

(11) Conclusions. Include a comprehensive evaluation of the subject Property, separately addressing each housing type and specific population to be served by the Development in terms of items in subparagraphs (A) - (I) of this paragraph. All conclusions must be consistent with the data and analysis presented throughout the Market Analysis.

(A) Unit Mix. Provide a best possible unit mix conclusion based on the occupancy rates by Bedroom type within the PMA and target, income-eligible, size-appropriate and tenure-appropriate household demand by unit type and income type within the PMA.

(B) Rents. Provide a separate Market Rent conclusion for each proposed Unit Type by number of Bedrooms and rent restriction category. Conclusions of Market Rent below the maximum Net Program Rent limit must be well documented as the conclusions may impact the feasibility of the Development under §10.302(i) of this chapter. In support of the Market Rent conclusions, provide a separate attribute adjustment matrix for each proposed Unit Type by number of Bedrooms and rental restriction category.

(i) The Department recommends use of HUD Form 92273.

(ii) A minimum of three developments must be represented on each attribute adjustment matrix.

(iii) Adjustments for concessions must be included, if applicable.

(iv) Adjustments for proximity to employment centers and services narrated in the Comparable Unit description must be included.

(v) Total adjustments in excess of 15 percent must be supported with additional narrative.

(vi) Total adjustments in excess of 25 percent indicate the Units are not comparable for the purposes of determining Market Rent conclusions.

(C) Effective Gross Income. Provide rental income, secondary income, and vacancy and collection loss projections for the subject derived independent of the Applicant's estimates.

(D) Demand:

(i) state the Gross Demand for each Unit Type by number of Bedrooms proposed and rent restriction category (e.g. one-Bedroom Units restricted at 50 percent of AMGI; two-Bedroom Units restricted at 60 percent of AMGI); and

(ii) state the Gross Demand for the proposed Development as a whole. If some households are eligible for more than one Unit Type due to overlapping eligible ranges for income or household size, Gross Demand should be adjusted to avoid including households more than once.

(E) Relevant Supply. The Relevant Supply of proposed and unstabilized Comparable Units includes:

(i) the proposed subject Units;

(ii) Comparable Units in an Application with priority over the subject pursuant to §10.201(6) of this chapter.

(iii) Comparable Units in previously approved but Unstabilized Developments in the PMA; and

(iv) Comparable Units in previously approved but Unstabilized Developments in the SMA, in the same proportion as the proportion of Potential Demand from the SMA that is included in Gross Demand.

(F) Gross Capture Rate. The Gross Capture Rate is defined as the Relevant Supply divided by the Gross Demand. Refer to §10.302(i) of this chapter for feasibility criteria.

(G) Individual Unit Capture Rate. For each Unit Type by number of Bedrooms and rent restriction categories, the individual unit capture rate is defined as the Relevant Supply of proposed and unstabilized Comparable Units divided by the eligible demand for that Unit. (Some households are eligible for multiple Unit Types. In order to calculate individual unit capture rates, the Underwriter will make assumptions such that each household is included in the capture rate for only one Unit Type.)

(H) A complete demand and capture rate analysis is required in every Market Study, regardless of the current occupancy level of an existing Development.

(I) Absorption. Project an absorption period for the subject Development to achieve Breakeven Occupancy. State the absorption rate.

(J) Market Impact. Provide an assessment of the impact the subject Development, as completed, will have on existing Developments supported by Housing Tax Credits in the Primary Market. (§2306.67055)

(12) Photographs. Provide labeled color photographs of the subject Property, the neighborhood, street scenes, and comparables. An aerial photograph is desirable but not mandatory.

(13) Appendices. Any Third Party reports including demographics relied upon by the Market Analyst must be provided in appendix form. A list of works cited including personal communications also must be provided, and the Modern Language Association (MLA) format is suggested.

(14) Qualifications. Current Franchise Tax Account Status from the Texas Comptroller of Public Accounts (not applicable for sole

proprietorships) and any changes to items listed in §10.303(c)(1)(B) and (C) of this chapter.

(e) The Department reserves the right to require the Market Analyst to address such other issues as may be relevant to the Department's evaluation of the need for the subject Development and the provisions of the particular program guidelines.

(f) In the event that the PMA for a subject Development overlaps the PMA's of other proposed or unstabilized comparable Developments, the Underwriter may perform an extended Sub-Market analysis considering the combined PMA's and all proposed and unstabilized Units in the extended Sub-Market Area; the Gross Capture Rate from such an extended Sub-Market Area analysis may be used as the basis for a feasibility conclusion.

(g) All Applicants shall acknowledge, by virtue of filing an Application, that the Department shall not be bound by any such opinion or Market Analysis, and may substitute its own analysis and underwriting conclusions for those submitted by the Market Analyst.

§10.304. Appraisal Rules and Guidelines.

(a) General Provision. An appraisal prepared for the Department must conform to the Uniform Standards of Professional Appraisal Practice (USPAP) as adopted by the Appraisal Standards Board of the Appraisal Foundation. The appraisal must include a statement that the report preparer has read and understood the requirements of this section.

(b) Self-Contained. An appraisal prepared for the Department must describe sufficient and adequate data and analyses to support the final opinion of value. The final value(s) must be reasonable, based on the information included. Any Third Party reports relied upon by the appraiser must be verified by the appraiser as to the validity of the data and the conclusions.

(c) Appraiser Qualifications. The qualifications of each appraiser are determined on a case-by-case basis by the Director of Real Estate Analysis or review appraiser, based upon the quality of the report itself and the experience and educational background of the appraiser. At minimum, a qualified appraiser must be appropriately certified or licensed by the Texas Appraiser Licensing and Certification Board.

(d) Appraisal Contents. An appraisal prepared for the Department must be organized in a format that follows a logical progression. In addition to the contents described in USPAP Standards Rule 2, the appraisal must include items addressed in paragraphs (1) - (12) of this subsection.

(1) Title Page. Include a statement identifying the Department as the client, acknowledging that the Department is granted full authority to rely on the findings of the report, and name and address of person authorizing report.

(2) Letter of Transmittal. Include reference to accompanying appraisal report, reference to all person(s) that provided significant assistance in the preparation of the report, date of report, effective date of appraisal, date of property inspection, name of person(s) inspecting the property, tax assessor's parcel number(s) of the site, estimate of marketing period, and signatures of all appraisers authorized to work on the assignment including the appraiser who inspected the property. Include a statement indicating the report preparer has read and understood the requirements of this section.

(3) Table of Contents. Number the exhibits included with the report for easy reference.

(4) Disclosure of Competency. Include appraiser's qualifications, detailing education and experience.

(5) Statement of Ownership of the Subject Property. Discuss all prior sales of the subject Property which occurred within the past three (3) years. Any pending agreements of sale, options to buy, or listing of the subject Property must be disclosed in the appraisal report.

(6) Property Rights Appraised. Include a statement as to the property rights (e.g., fee simple interest, leased fee interest, leasehold, etc.) being considered. The appropriate interest must be defined in terms of current appraisal terminology with the source cited.

(7) Site/Improvement Description. Discuss the site characteristics including subparagraphs (A) - (E) of this paragraph.

(A) Physical Site Characteristics. Describe dimensions, size (square footage, acreage, etc.), shape, topography, corner influence, frontage, access, ingress-egress, etc. associated with the Development Site. Include a plat map and/or survey.

(B) Floodplain. Discuss floodplain (including flood map panel number) and include a floodplain map with the subject Property clearly identified.

(C) Zoning. Report the current zoning and description of the zoning restrictions and/or deed restrictions, where applicable, and type of Development permitted. Any probability of change in zoning should be discussed. A statement as to whether or not the improvements conform to the current zoning should be included. A statement addressing whether or not the improvements could be rebuilt if damaged or destroyed, should be included. If current zoning is not consistent with the highest and best use, and zoning changes are reasonable to expect, time and expense associated with the proposed zoning change should be considered and documented. A zoning map should be included.

(D) Description of Improvements. Provide a thorough description and analysis of the improvements including size (Net Rentable Area, gross building area, etc.), number of stories, number of buildings, type/quality of construction, condition, actual age, effective age, exterior and interior amenities, items of deferred maintenance, energy efficiency measures, etc. All applicable forms of depreciation should be addressed along with the remaining economic life.

(E) Environmental Hazards. It is recognized appraisers are not experts in such matters and the impact of such deficiencies may not be quantified; however, the report should disclose any potential environmental hazards (such as discolored vegetation, oil residue, asbestos-containing materials, lead-based paint etc.) noted during the inspection.

(8) Highest and Best Use. Market Analysis and feasibility study is required as part of the highest and best use. The highest and best use analysis should consider paragraph (7)(A) - (E) of this subsection as well as a supply and demand analysis.

(A) The appraisal must inform the reader of any positive or negative market trends which could influence the value of the appraised Property. Detailed data must be included to support the appraiser's estimate of stabilized income, absorption, and occupancy.

(B) The highest and best use section must contain a separate analysis "as if vacant" and "as improved" (or "as proposed to be improved/renovated"). All four elements (legally permissible, physically possible, feasible, and maximally productive) must be considered.

(9) Appraisal Process. It is mandatory that all three approaches, Cost Approach, Sales Comparison Approach and Income Approach, are considered in valuing the Property. If an approach is not applicable to a particular property an adequate explanation must be provided. A land value estimate must be provided if the Cost Approach is not applicable.

(A) Cost Approach. This approach should give a clear and concise estimate of the cost to construct the subject improvements. The source(s) of the cost data should be reported.

(i) Cost comparables are desirable; however, alternative cost information may be obtained from Marshall & Swift Valuation Service or similar publications. The section, class, page, etc. should be referenced. All soft costs and entrepreneurial profit must be addressed and documented.

(ii) All applicable forms of depreciation must be discussed and analyzed. Such discussion must be consistent with the description of the improvements.

(iii) The land value estimate should include a sufficient number of sales which are current, comparable, and similar to the subject in terms of highest and best use. Comparable sales information should include address, legal description, tax assessor's parcel number(s), sales price, date of sale, grantor, grantee, three (3) year sales history, and adequate description of property transferred. The final value estimate should fall within the adjusted and unadjusted value ranges. Consideration and appropriate cash equivalent adjustments to the comparable sales price for subclauses (I) - (VII) of this clause should be made when applicable.

(I) Property rights conveyed.

(II) Financing terms.

(III) Conditions of sale.

(IV) Location.

(V) Highest and best use.

(VI) Physical characteristics (e.g., topography, size, shape, etc.).

(VII) Other characteristics (e.g., existing/proposed entitlements, special assessments, etc.).

(B) Sales Comparison Approach. This section should contain an adequate number of sales to provide the reader with a description of the current market conditions concerning this property type. Sales data should be recent and specific for the property type being appraised. The sales must be confirmed with buyer, seller, or an individual knowledgeable of the transaction.

(i) Sales information should include address, legal description, tax assessor's parcel number(s), sales price, financing considerations and adjustment for cash equivalency, date of sale, recording of the instrument, parties to the transaction, three (3) year sale history, complete description of the Property and property rights conveyed, and discussion of marketing time. A scaled distance map clearly identifying the subject and the comparable sales must be included.

(ii) The method(s) used in the Sales Comparison Approach must be reflective of actual market activity and market participants.

(I) Sale Price/Unit of Comparison. The analysis of the sale comparables must identify, relate, and evaluate the individual adjustments applicable for property rights, terms of sale, conditions of sale, market conditions, and physical features. Sufficient narrative must be included to permit the reader to understand the direction and magnitude of the individual adjustments, as well as a unit of comparison value indicator for each comparable.

(II) Net Operating Income/Unit of Comparison. The Net Operating Income statistics or the comparables must be calculated in the same manner. It should be disclosed if reserves for re-

placement have been included in this method of analysis. At least one other method should accompany this method of analysis.

(C) Income Approach. This section must contain an analysis of both the actual historical and projected income and expense aspects of the subject Property.

(i) Market Rent Estimate/Comparable Rental Analysis. This section of the report should include an adequate number of actual market transactions to inform the reader of current market conditions concerning rental Units. The comparables must indicate current research for this specific property type. The comparables must be confirmed with the landlord, tenant or agent and individual data sheets must be included. The individual data sheets should include property address, lease terms, description of the property (e.g., Unit Type, unit size, unit mix, interior amenities, exterior amenities, etc.), physical characteristics of the property, and location of the comparables. Analysis of the Market Rents should be sufficiently detailed to permit the reader to understand the appraiser's logic and rationale. Adjustment for lease rights, condition of the lease, location, physical characteristics of the property, etc. must be considered.

(ii) Comparison of Market Rent to Contract Rent. Actual income for the subject along with the owner's current budget projections must be reported, summarized, and analyzed. If such data is unavailable, a statement to this effect is required and appropriate assumptions and limiting conditions should be made. The Contract Rents should be compared to the market-derived rents. A determination should be made as to whether the Contract Rents are below, equal to, or in excess of market rates. If there is a difference, its impact on value must be qualified.

(iii) Vacancy/Collection Loss. Historical occupancy data and current occupancy level for the subject should be reported and compared to occupancy data from the rental comparables and overall occupancy data for the subject's Primary Market.

(iv) Expense Analysis. Actual expenses for the subject, along with the owner's projected budget, must be reported, summarized, and analyzed. If such data is unavailable, a statement to this effect is required and appropriate assumptions and limiting conditions should be made. Historical expenses should be compared to comparables expenses of similar property types or published survey data (such as IREM, BOMA, etc.). Any expense differences should be reconciled. Include historical data regarding the subject's assessment and tax rates and a statement as to whether or not any delinquent taxes exist.

(v) Capitalization. The appraiser should present the capitalization method(s) reflective of the subject market and explain the omission of any method not considered in the report.

(I) Direct Capitalization. The primary method of deriving an overall rate is through market extraction. If a band of investment or mortgage equity technique is utilized, the assumptions must be fully disclosed and discussed.

(II) Yield Capitalization (Discounted Cash Flow Analysis). This method of analysis should include a detailed and supportive discussion of the projected holding/investment period, income and income growth projections, occupancy projections, expense and expense growth projections, reversionary value and support for the discount rate.

(10) Value Estimates. Reconciliation of final value estimates is required. The Underwriter may request additional valuation information based on unique existing circumstances that are relevant for deriving the market value of the Property.

(A) All appraisals shall contain a separate estimate of the "as vacant" market value of the underlying land, based upon current sales comparables. The appraiser should consider the fee simple or leased fee interest as appropriate.

(B) For existing Developments with any project-based rental assistance that will remain with the property after the acquisition, the appraisal must include an "as-is as-currently-restricted value" inclusive of the value associated with the rental assistance. If the rental assistance has an impact on the value, such as use of a lower capitalization rate due to the lower risk associated with rental rates and/or occupancy rates on project-based developments, this must be fully explained and supported to the satisfaction of the Underwriter.

(C) For existing Developments with rent restrictions, the appraisal must include the "as-is as-restricted" value. In particular, the restricted rents should be contemplated when deriving the value based on the income approach.

(D) For all other existing Developments, the appraisal must include the "as-is" value.

(E) For any Development with favorable financing (generally below market debt) that will remain in place and transfer to the new owner, the appraisal must include a separate value for the existing favorable financing with supporting information.

(F) If required the appraiser must include a separate assessment of personal property, furniture, fixtures, and equipment ("FF&E") and/or intangible items. If personal property, FF&E, or intangible items are not part of the transaction or value estimate, a statement to such effect should be included.

(11) Marketing Time. Given property characteristics and current market conditions, the appraiser(s) should employ a reasonable marketing period. The report should detail existing market conditions and assumptions considered relevant.

(12) Photographs. Provide good quality color photographs of the subject Property (front, rear, and side elevations, on-site amenities, interior of typical Units if available). Photographs should be properly labeled. Photographs of the neighborhood, street scenes, and comparables should be included. An aerial photograph is desirable but not mandatory.

(e) Additional Appraisal Concerns. The appraiser(s) must be aware of the Department program rules and guidelines and the appraisal must include analysis of any impact to the subject's value.

§10.305. Environmental Site Assessment Rules and Guidelines.

(a) General Provisions. The Environmental Site Assessments (ESA) prepared for the Department must be conducted and reported in conformity with the standards of the American Society for Testing and Materials ("ASTM"). The initial report must conform with the Standard Practice for Environmental Site Assessments: Phase I Assessment Process (ASTM Standard Designation: E1527-13 or any subsequent standards as published). Any subsequent reports should also conform to ASTM standards and such other recognized industry standards as a reasonable person would deem relevant in view of the Property's anticipated use for human habitation. The ESA shall be conducted by a Third Party environmental professional at the expense of the Applicant, and addressed to the Department as a User of the report (as defined by ASTM standards). Copies of reports provided to the Department which were commissioned by other financial institutions must either address Texas Department of Housing and Community Affairs as a co-recipient of the report or letters from both the provider and the recipient of the report may be submitted extending reliance on the report to the Department. The ESA report must also include a statement that the person or company preparing the ESA report will not materially benefit from the

Development in any other way than receiving a fee for performing the ESA, and that the fee is in no way contingent upon the outcome of the assessment. The ESA report must contain a statement indicating the report preparer has read and understood the requirements of this section.

(b) In addition to ASTM requirements, the report must:

(1) state if a noise study is recommended for a property in accordance with current HUD guidelines and identify its proximity to industrial zones, major highways, active rail lines, civil and military airfields, or other potential sources of excessive noise;

(2) provide a copy of a current survey, if available, or other drawing of the site reflecting the boundaries and adjacent streets, all improvements on the site, and any items of concern described in the body of the ESA or identified during the physical inspection;

(3) provide a copy of the current FEMA Flood Insurance Rate Map showing the panel number and encompassing the site with the site boundaries precisely identified and superimposed on the map;

(4) if the subject Development Site includes any improvements or debris from pre-existing improvements, state if testing for Lead Based Paint and/or asbestos containing materials would be required pursuant to local, state, and federal laws, or recommended due to any other consideration;

(5) state if testing for lead in the drinking water would be required pursuant to local, state, and federal laws, or recommended due to any other consideration such as the age of pipes and solder in existing improvements;

(6) assess the potential for the presence of Radon on the Property, and recommend specific testing if necessary;

(7) identify and assess the presence of oil, gas or chemical pipelines, processing facilities, storage facilities or other potentially hazardous explosive activities on-site or in the general area of the site that could potentially adversely impact the Development. Location of these items must be shown on a drawing or map in relation to the Development Site and all existing or future improvements. The drawing must depict any blast zones (in accordance with HUD guidelines) and include HUD blast zone calculations; and

(8) include a vapor encroachment screening in accordance with Vapor Intrusion E2600-10.

(c) If the report recommends further studies or establishes that environmental hazards currently exist on the Property, or are originating off-site, but would nonetheless affect the Property, the Development Owner must act on such a recommendation, or provide a plan for either the abatement or elimination of the hazard. Evidence of action or a plan for the abatement or elimination of the hazard must be presented upon Application submittal.

(d) For Developments in programs that allow a waiver of the Phase I ESA such as a USDA funded Development, the Development Owners are hereby notified that it is their responsibility to ensure that the Development is maintained in compliance with all state and federal environmental hazard requirements.

(e) Those Developments which have or are to receive first lien financing from HUD may submit HUD's environmental assessment report, provided that it conforms to the requirements of this section.

§10.306. Property Condition Assessment Guidelines.

(a) General Provisions. The objective of the Property Condition Assessment (PCA) for Rehabilitation Developments is to provide cost estimates for repairs and replacements, and new construction of additional buildings or amenities, which are: immediately necessary

repairs and replacements; improvements proposed by the Applicant as outlined in a scope of work narrative submitted by the Applicant to the PCA provider that is consistent with the scope of work provided in the Application; and expected to be required throughout the term of the Affordability Period and not less than thirty (30) years. The PCA prepared for the Department should be conducted and reported in conformity with the American Society for Testing and Materials "Standard Guide for Property Condition Assessments. Baseline Property Condition Assessment Process (ASTM Standard Designation: E 2118)" except as provided for in subsections (b) and (c) of this section. The PCA report must contain a statement indicating the report preparer has read and understood the requirements of this section. The PCA must include the Department's PCA Cost Schedule Supplement which details all Rehabilitation costs and projected repairs and replacements through at least twenty (20) years. The PCA must also include discussion and analysis of:

(1) Useful Life Estimates. For each system and component of the property the PCA should assess the condition of the system or component, and estimate its remaining useful life, citing the basis or the source from which such estimate is derived;

(2) Code Compliance. The PCA should review and document any known violations of any applicable federal, state, or local codes. In developing the cost estimates specified herein, it is the responsibility of the Applicant to ensure that the PCA adequately considers any and all applicable federal, state, and local laws and regulations which may govern any work performed to the subject Property. For transactions with Direct Loan funding from the Department, the PCA provider must also evaluate cost estimates to meet the International Existing Building Code and other property standards;

(3) Program Rules. The PCA should assess the extent to which any systems or components must be modified, repaired, or replaced in order to comply with any specific requirements of the housing program under which the Development is proposed to be financed, particular consideration being given to accessibility requirements as outlined in Chapter 1 of this title, the Department's Uniform Physical Condition Standards, and any scoring criteria for which the Applicant may claim points;

(4) Reconciliation of Scope of Work and Costs. The PCA report must include an analysis, detailed and shown on the Department's PCA Cost Schedule Supplement, that reconciles the scope of work and immediate costs identified in the PCA with the Applicant's scope of work and costs (Hard Costs) as presented on the Applicant's development cost schedule; and

(5) Cost Estimates for Repair and Replacement. It is the responsibility of the Applicant to ensure that the PCA provider is apprised of all development activities associated with the proposed transaction and consistency of the total immediately necessary and proposed repair and replacement cost estimates with the Total Housing Development Cost schedule and scope of work submitted as an exhibit of the Application.

(A) Immediately Necessary Repairs and Replacement. Systems or components which are expected to have a remaining useful life of less than one (1) year, which are found to be in violation of any applicable codes, which must be modified, repaired or replaced in order to satisfy program rules, or which are otherwise in a state of deferred maintenance or pose health and safety hazards should be considered immediately necessary repair and replacement. The PCA must provide a separate estimate of the costs associated with the repair, replacement, or maintenance of each system or component which is identified as being an immediate need, citing the basis or the source from which such cost estimate is derived.

(B) Proposed Repair, Replacement, or New Construction. If the development plan calls for additional repair, replacement, or New Construction above and beyond the immediate repair and replacement described in subparagraph (A) of this paragraph, such items must be identified and the nature or source of obsolescence or improvement to the operations of the Property discussed. The PCA must provide a separate estimate of the costs associated with the repair, replacement, or new construction which is identified as being above and beyond the immediate need, citing the basis or the source from which such cost estimate is derived.

(C) Expected Repair and Replacement Over Time. The term during which the PCA should estimate the cost of expected repair and replacement over time must equal the longest term of any land use or regulatory restrictions which are, or will be, associated with the provision of housing on the Property. The PCA must estimate the periodic costs which are expected to arise for repairing or replacing each system or component or the property, based on the estimated remaining useful life of such system or component as described in paragraph (1) of this subsection adjusted for completion of repair and replacement immediately necessary and proposed as described in subparagraphs (A) and (B) of this paragraph. The PCA must include a separate table of the estimated long term costs which identifies in each line the individual component of the property being examined, and in each column the year during the term in which the costs are estimated to be incurred and no less than fifteen (15) years. The estimated costs for future years should be given in both present dollar values and anticipated future dollar values assuming a reasonable inflation factor of not less than 2.5 percent per annum.

(b) Any costs not identified and discussed in the PCA as part of subsection (a)(4), (5)(A) and (5)(B) of this section will not be included in the underwritten Total Development Cost in the Report.

(c) If a copy of such standards or a sample report have been provided for the Department's review, if such standards are widely used, and if all other criteria and requirements described in this section are satisfied, the Department will also accept copies of reports commissioned or required by the primary lender for a proposed transaction, which have been prepared in accordance with:

(1) Fannie Mae's criteria for Physical Needs Assessments;

(2) Federal Housing Administration's criteria for Project Capital Needs Assessments;

(3) Freddie Mac's guidelines for Engineering and Property Condition Reports;

(4) USDA guidelines for Capital Needs Assessment.

(d) The Department may consider for acceptance reports prepared according to other standards which are not specifically named in subsection (b) of this section, if a copy of such standards or a sample report have been provided for the Department's review, if such standards are widely used, and if all other criteria and requirements described in this section are satisfied.

(e) The PCA shall be conducted by a Third Party at the expense of the Applicant, and addressed to Texas Department of Housing and Community Affairs as the client. Copies of reports provided to the Department which were commissioned by other financial institutions should address Texas Department of Housing and Community Affairs as a co-recipient of the report, or letters from both the provider and the recipient of the report should be submitted extending reliance on the report to Texas Department of Housing and Community Affairs. The PCA report should also include a statement that the person or company preparing the PCA report will not materially benefit from the Development in any other way than receiving a fee for performing the PCA.

The PCA report must contain a statement indicating the report preparer has read and understood the requirements of this section.

§10.307. Direct Loan Requirements.

(a) Direct Loans through the Department must be structured according to the criteria as identified in paragraphs (1) - (5) of this subsection:

(1) the interest rate may be as low as zero percent provided all applicable NOFA and program requirements are met as well as requirements in this subchapter;

(2) unless structured only as an interim construction or bridge loan and provided all NOFA and program requirements are met, the loan term shall be no less than fifteen (15) years and no greater than forty (40) years and the amortization schedule shall be no less than thirty (30) years and no greater than forty (40) years. The Department's debt will match within six (6) months of the shortest term or amortization of any senior debt so long as neither exceeds forty (40) years.

(3) the loan shall be structured with a regular monthly payment beginning on the first day of the 25th full month following the actual date of loan closing and continuing for the loan term. If the first lien mortgage is a federally insured HUD or FHA mortgage, the Department may approve a loan structure with annual payments payable from surplus cash flow provided that the debt coverage ratio, inclusive of the loan, continues to meet the requirements in this subchapter. The Board may also approve, on a case-by-case basis, a cash flow loan structure provided it determines that the financial risk is outweighed by the need for the proposed housing;

(4) the loan shall have a deed of trust with a permanent lien position that is superior to any other sources for financing including hard repayment debt that is less than or equal to the Direct Loan amount and for any other sources that have soft repayment structures, non-amortizing balloon notes, have deferred forgivable provisions or in which the lender has an identity of interest with any member of the Development Team. The Board may also approve, on a case-by-case basis, an alternative lien priority provided it determines that the financial risk is outweighed by the need for the proposed housing; and,

(5) If the Direct Loan amounts to more than 50 percent of the Total Housing Development Cost, except for Developments also financed through the USDA §515 program, the Application must include the documents as identified in subparagraphs (A) - (B) of this paragraph:

(A) a letter from a Third Party CPA verifying the capacity of the Applicant, Developer or Development Owner to provide at least 10 percent of the Total Housing Development Cost as a short term loan for the Development; or

(B) evidence of a line of credit or equivalent tool equal to at least 10 percent of the Total Housing Development Cost from a financial institution that is available for use during the proposed Development activities.

(b) HOME Direct Loans through the Department must observe the following construction, occupancy, and repayment provisions in accordance with 24 CFR 92 and as included in the HOME Direct Loan documents:

(1) Construction must begin no later than six (6) months from the date of "Committing to a specific local project" as defined in 24 CFR Part 92 and must be completed within twenty-four (24) months of the actual date of loan closing as reflected by the development's certificate(s) of occupancy and Certificate of Substantial Completion (AIA Form G704). A final construction inspection request must be sent to

the Department within 18 months of the actual loan closing date, with the repayment period beginning on the first day of the 25th month following the actual date of loan closing. Extensions to the construction or development period may only be made for good cause and approved by the Executive Director or authorized designee provided the start of construction is no later than twelve (12) months from the date of committing to a specific local project;

(2) Initial occupancy by eligible tenants shall occur within six (6) months of project completion. Requests to extend the initial occupancy period must be accompanied by marketing information and a marketing plan which will be submitted by the Department to HUD for final approval;

(3) repayment will be required on a per unit basis for units that have not been rented to eligible households within twenty-four (24) months of project completion; and

(4) termination and repayment of the HOME award in full will be required for any development that is not completed within four (4) years of the date of funding commitment.

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

Filed with the Office of the Secretary of State on September 14, 2015.

TRD-201503754

Timothy K. Irvine
Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 475-4573



SUBCHAPTER E. POST AWARD AND ASSET MANAGEMENT REQUIREMENTS

10 TAC §§10.400 - 10.408

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC Chapter 10, Subchapter E, §§10.400 - 10.408. The purpose of the repeal is to allow for clarification and correction of information in certain sections of the rule and to allow for the adoption of new sections that will ensure accurate processing of post award activities and communicate more effectively with multifamily development owners regarding their responsibilities after funding or award by the Department.

FISCAL NOTE. Mr. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repeal will be to allow

for the adoption of new rules to enhance the State's ability to provide decent, safe, sanitary and affordable housing. There will not be any economic cost to any individuals required to comply with the repeal.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small businesses or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held September 25, 2015 until October 15, 2015 to receive input on the repeal. Written comments may be submitted to the Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941, ATTN: Raquel Morales or by email to raquel.morales@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. ON OCTOBER 15, 2015.

STATUORY AUTHORITY. The repeal is proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules.

The proposed repeal affects no other code, article or statute.

§10.400. Purpose.

§10.401. General Commitment or Determination Notice Requirements and Documentation.

§10.402. Housing Tax Credit and Tax Exempt Bond Developments.

§10.403. Direct Loans.

§10.404. Reserve Accounts.

§10.405. Amendments and Extensions.

§10.406. Ownership Transfers (§2306.6713).

§10.407. Right of First Refusal.

§10.408. Qualified Contract Requirements.

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

Filed with the Office of the Secretary of State on September 14, 2015.

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Timothy K. Irvine

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 475-2109



10 TAC §§10.400 - 10.408

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC Chapter 10, Subchapter E, §§10.400 - 10.408. The purpose of the new rules is to clarify and correct information in all sections of the adopted rules to ensure accurate processing of post award activities and communicate more effectively with multifamily development owners regarding their responsibilities after funding or award by the Department. Post award activities include requests for action to be considered on developments awarded funding from the Department through the end of the affordability period.

FISCAL NOTE. Mr. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new sections will improve the State's ability to ensure that State resources used for affordable multifamily housing are efficient and result in viable developments. There will not be any new, increased economic cost to any individuation required to comply with the new sections in addition to the costs under current program rules.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no new economic effect on small businesses or micro-businesses in addition to the costs under current program rules.

REQUEST FOR PUBLIC COMMENT. The public comment period will be September 25, 2015 until October 15, 2015, to receive input on the new sections. Written comments may be submitted to the Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941, ATTN: Raquel Morales or by email to raquel.morales@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. ON OCTOBER 15, 2015.

STATUTORY AUTHORITY. The new sections are proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules.

The proposed new sections affect no other code, article or statute.

§10.400. Purpose.

The purpose of this subchapter is to establish the requirements governing the post award and asset management activities associated with awards of multifamily development assistance pursuant to Texas Government Code, Chapter 2306 and its regulation of multifamily funding provided through the Texas Department of Housing and Community Affairs (the "Department") as authorized by the legislature. This subchapter is designed to ensure that Developers and Development Owners of low-income Developments that are financed or otherwise funded through the Department maintain safe, decent and affordable housing for the term of the affordability period. Therefore, unless otherwise indicated in the specific section of this subchapter, any uncorrected issues of noncompliance outside of the Corrective Action Period or outstanding fees (related to the Development subject to the request) owed to the Department, must be resolved satisfactorily to the Department, EARAC or excepted by the Board, before a request for any post award activity described in this subchapter will be completed.

§10.401. General Commitment or Determination Notice Requirements and Documentation.

(a) A Commitment or Determination Notice shall not be issued with respect to any Development for an unnecessary amount or where the cost for the total development, acquisition, construction or rehabilitation exceeds the limitations established from time to time by the Department and the Board.

(b) All Commitments or Determination Notices, whether reflected in the Commitment or Determination Notice or not, are made subject to full compliance with all applicable provisions of law and rule, including but not limited to the Qualified Allocation Plan, the

Uniform Multifamily Rules, the Multifamily Housing Revenue Bond Rules, all provisions of Commitment and Contract, satisfactory completion of underwriting, and satisfactory resolution of any conditions of underwriting, award, and administrative deficiencies.

(c) The Department shall notify, in writing, the mayor, chief county judge, or other appropriate official of the municipality or county, as applicable, in which the Development is located informing him/her of the Board's issuance of a Commitment or Determination Notice, as applicable.

(d) The Department may cancel a Commitment, Determination Notice or Carryover Allocation prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or completion of construction with respect to a Development and/or apply administrative penalties if:

(1) the Applicant, Development Owner, or the Development, as applicable, fails after written notice and a reasonable opportunity to cure, to meet any of the conditions of such Commitment, Determination Notice or Carryover Allocation or any of the undertakings and commitments made by the Development Owner in the Application process for the Development;

(2) any material statement or representation made by the Development Owner or made with respect to the Development Owner or the Development is untrue or misleading;

(3) an event occurs with respect to the Applicant or the Development Owner which would have made the Application ineligible for funding pursuant to Subchapter C of this chapter (relating to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules if such event had occurred prior to issuance of the Commitment, Determination Notice or Carryover Allocation; or

(4) the Applicant, Development Owner, or the Development, as applicable, fails after written notice and a reasonable opportunity to cure, to comply with this chapter or other applicable Department rules, procedures, or requirements of the Department.

(e) Direct Loan Commitment. The Department shall execute, with the Development Owner, a Commitment which shall confirm that the Board has approved the loan and provide the loan terms. The Commitment may be abbreviated and will generally not express all terms and conditions that will be included in the loan documents. Department staff may choose to issue an Award Letter and Loan Term Sheet in lieu of a Commitment in instances in which a Federal Commitment cannot be made until loan closing or until all financing is secured. An Award Letter is subject to all of the same terms and conditions as a Commitment except that it may not constitute a Federal Commitment. For HOME Direct Loans, an actual Federal Commitment may not occur in the HUD IDIS system until all financing is secured or loan closing, whichever comes first, at which time all terms and conditions will be included in the loan documents. The Award Letter shall list an expiration date no earlier than thirty (30) days from the date issued by the Department unless signed and returned. To the extent the terms reflected in an Award Letter are amended by the Department, a new Award Letter would be issued by the Department to govern the award.

§10.402. Housing Tax Credit and Tax Exempt Bond Developments.

(a) Commitment. For Competitive HTC Developments, the Department shall issue a Commitment to the Development Owner which shall confirm that the Board has approved the Application and state the Department's commitment to make a Housing Credit Allocation to the Development Owner in a specified amount, subject to the feasibility determination described in Subchapter D of this chapter (relating to Underwriting and Loan Policy) and the determination that the Development satisfies the requirements of this chapter and other applicable Department rules. The Commitment shall expire on the

date specified therein, which shall be thirty (30) calendar days from the effective date, unless the Development Owner indicates acceptance by executing the Commitment, pays the required fee specified in §10.901 of this chapter (relating to Fee Schedule), and satisfies any conditions set forth therein by the Department. The Commitment expiration date may not be extended.

(b) Determination Notices. For Tax Exempt Bond Developments, the Department shall issue a Determination Notice which shall confirm the Board's determination that the Development satisfies the requirements of this chapter as applicable and other applicable Department rules in accordance with the §42(m)(1)(D) of the Internal Revenue Code (the "Code"). The Determination Notice shall also state the Department's commitment to issue IRS Form(s) 8609 to the Development Owner in a specified amount, subject to the requirements set forth in the Department's rules, as applicable. The Determination Notice shall expire on the date specified therein, which shall be thirty (30) calendar days from the effective date, unless the Development Owner indicates acceptance by executing the Determination Notice, pays the required fee specified in §10.901 of this chapter, and satisfies any conditions set forth therein by the Department. The Determination Notice expiration date may not be extended without prior Board approval for good cause. The Determination Notice will terminate if the Tax Exempt Bonds are not closed within the timeframe provided for by the Board on its approval of the Determination Notice or if the financing or Development changes significantly as determined by the Department pursuant to its rules and any conditions of approval included in the Board approval or underwriting report.

(c) The amount of tax credits reflected in the IRS Form(s) 8609 may be greater or less than the amount set forth in the Determination Notice based upon the Department's and the bond issuer's determination as of each building's placement in service. Any increase of tax credits will only be permitted if it is determined necessary by the Department, as required by §42(m)(2)(D) of the Code through the submission of the Cost Certification package. Increases to the amount of tax credits that exceed 110 percent of the amount of credits reflected in the Determination Notice must be approved by the Board. Increases to the amount of tax credits that do not exceed 110 percent of the amount of credits reflected in the Determination Notice may be approved administratively by the Executive Director and are subject to the Credit Increase Fee as described in §10.901 of this chapter.

(d) Documentation Submission Requirements at Commitment of Funds. No later than the expiration date of the Commitment (or no later than December 31 for Competitive HTC Applications, whichever is earlier) or Determination Notice, the documentation described in paragraphs (1) - (6) of this subsection must be provided. Failure to provide these documents may cause the Commitment or Determination Notice to be rescinded:

(1) for entities formed outside the state of Texas, evidence that the entity filed a Certificate of Application for foreign qualification in Texas, a Franchise Tax Account Status from the Texas Comptroller of Public Accounts and a Certificate of Fact from the Office of the Secretary of State. If the entity is newly registered in Texas and the Franchise Tax Account Status or Certificate of Fact are not available, a statement can be provided to that effect;

(2) for Texas entities, a copy of the Certificate of Filing for the Certificate of Formation from the Office of the Secretary of State; a Certificate of Fact from the Secretary of State and a Franchise Tax Account Status from the Texas Comptroller of Public Accounts. If the entity is newly registered and the Certificate of Fact and the Franchise Tax Account Status are not available, a statement can be provided to that effect;

(3) evidence that the signer(s) of the Commitment or Determination Notice have the authority to sign on behalf of the Applicant in the form of a corporate resolution which indicates the sub-entity in Control and that the Person(s) signing the Application constitute all Persons required to sign or submit such documents;

(4) evidence of final zoning that was proposed or needed to be changed pursuant to the Development plan;

(5) evidence of satisfaction of any conditions identified in the Credit Underwriting Analysis Report or any other conditions of the award required to be met at Commitment or Determination Notice; and

(6) documentation of any changes to representations made in the Application subject to §10.405 of this chapter (relating to Amendments and Extensions).

(e) Post Bond Closing Documentation Requirements.

(1) Regardless of the issuer of the bonds, no later than sixty (60) calendar days following closing on the bonds, the Development Owner must submit:

(A) a Management Plan and an Affirmative Marketing Plan created in compliance with the Department's Affirmative Marketing Rule in §10.617 of Subchapter F;

(B) a training certificate from a Department approved "property owner and manager Fair Housing trainer" showing that the Development Owner and on-site or regional property manager has attended at least five (5) hours of Fair Housing training within the last year;

(C) a training certificate from a Department approved "architect and engineer Fair Housing trainer" showing that the lead architect or engineer responsible for certifying compliance with the Department's accessibility and construction standards has attended at least five (5) hours of Fair Housing training within the last year;

(D) evidence that the financing has closed, such as an executed settlement statement; and

(E) a confirmation letter from the Compliance Division evidencing receipt of the Electronic Compliance Reporting Filing Agreement and the Owner's Designation of Administrator of Accounts forms pursuant to §10.607(a).

(2) Certifications required under paragraph (1)(B) and (C) of this subsection must not be older than one year from the date of the submission deadline.

(f) Carryover (Competitive HTC Only). All Developments which received a Commitment, and will not be placed in service and receive IRS Form(s) 8609 in the year the Commitment was issued, must submit the Carryover documentation, in the form prescribed by the Department in the Carryover Manual, no later than the Carryover Documentation Delivery Date as identified in §11.2 of this title (relating to Program Calendar for Competitive Housing Tax Credits) of the year in which the Commitment is issued pursuant to §42(h)(1)(C) of the Code.

(1) Commitments for credits will be terminated if the Carryover documentation has not been received by this deadline, unless an extension has been approved. This termination is final and not appealable, and immediately upon issuance of notice of termination, staff is directed to award the credits to other qualified Applicants on the approved waiting list.

(2) If the interim or permanent financing structure, syndication rate, amount of debt or syndication proceeds are finalized but different at the time of Carryover from what was proposed in the original Application, applicable documentation of such changes must be

provided and the Development may be re-evaluated by the Department for a reduction of credit or change in conditions.

(3) All Carryover Allocations will be contingent upon the Development Owner providing evidence that they have and will maintain Site Control through the 10 Percent Test or through the anticipated closing date, whichever is earlier. For purposes of this paragraph, Site Control of the Development Site at Carryover must be identical to the Development Site that was submitted at the time of Application submission or last approved by amendment as determined by the Department.

(4) Confirmation of the right to transact business in Texas, as evidenced by the Franchise Tax Account Status (the equivalent of the prior Certificate of Account Status) from the Texas Comptroller of Public Accounts and a Certificate of Fact from the Office of the Secretary of State must be submitted with the Carryover Allocation.

(g) 10 Percent Test (Competitive HTC Only). No later than July 1 of the year following the submission of the Carryover Allocation Agreement, documentation must be submitted to the Department verifying that the Development Owner has expended more than 10 percent of the Development Owner's reasonably expected basis, pursuant to §42(h)(1)(E)(i) and (ii) of the Code (as amended by The Housing and Economic Recovery Act of 2008), and Treasury Regulations, §1.42-6. The Development Owner must submit, in the form prescribed by the Department, documentation evidencing paragraphs (1) - (6) of this subsection, along with all information outlined in the Post Award Activities Manual. Satisfaction of the 10 Percent Test will be contingent upon the submission of the items described in paragraphs (1) - (6) of this subsection as well as all other conditions placed upon the Application in the Commitment. Requests for extension will be reviewed on a case by case basis as addressed in §10.405(d) of this chapter and a point deduction evaluation will be completed in accordance with Texas Government Code §2306.6710(b)(2) and §11.9(f) of this title. Documentation to be submitted for the 10 Percent Test includes:

(1) an Independent Accountant's Report and Taxpayer's Basis Schedule form. The report must be prepared on the accounting firm's letterhead and addressed to the Development Owner or an Affiliate of the Development Owner. The Independent Accountant's Report and Taxpayers Basis Schedule form must be signed by the Development Owner.

(2) evidence that the Development Owner has purchased, transferred, leased, or otherwise has ownership of the Development Site. The Development Site must be identical to the Development Site that was submitted at the time of Application submission or last approved by amendment as determined by the Department;

(3) for New Construction, Reconstruction, and Adaptive Reuse Developments, a certification from a Third Party civil engineer or architect stating that all necessary utilities will be available at the Development Site and that there are no easements, licenses, royalties, or other conditions on or affecting the Development that would materially or adversely impact the ability to acquire, develop, and operate as set forth in the Application. Copies of supporting documents may be required by the Department;

(4) for the Development Owner and on-site or regional property manager, a training certificate from a Department approved "property owner and manager Fair Housing trainer" showing that the Development Owner and on-site or regional property manager attended at least five (5) hours of Fair Housing training. For architects and engineers, a training certificate from a Department approved "architect and engineer Fair Housing trainer" showing that the lead architect or engineers responsible for certifying compliance with the Department's accessibility and construction standards has attended

at least five (5) hours of Fair Housing training within the last year. Certifications required under this paragraph must not be older than one year from the date of the 10 Percent Test Documentation submission deadline; and

(5) a Certification from the lender and syndicator identifying all known Guarantors. If identified Guarantors have changed from the Guarantors identified on the Org Charts submitted at the time of Application, a non-material amendment must be requested by the Applicant and the new Guarantors and members must be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation Reviews).

(6) a Development Owner's preliminary construction schedule or statement showing the prospective construction loan closing date, construction start and end dates, prospective placed in service date for each building, and planned first year of the credit period.

(h) Construction Status Report. Within three (3) months of the 10 Percent Test submission and every quarter thereafter, all multifamily developments must submit a construction status report. The initial report shall consist of the items identified in paragraphs (1) - (4) of this subsection. All subsequent reports shall contain items identified in paragraphs (3) and (4) of this subsection and must include any changes or amendments to items in paragraphs (1) - (2) if applicable. Construction status reports shall be due by the tenth day of the month following each quarter's end (January, April, July, and October) and continue on a quarterly basis until the entire development is complete as evidenced by the final Application and Certificate for Payment (AIA Document G702 and G703) or equivalent form approved for submission by the construction lender and/or investor. The construction status report submission consists of:

(1) the executed partnership agreement with the investor (identifying all Guarantors) or, for Developments receiving an award only from the Department's Direct Loan Programs, other documents setting forth the legal structure and ownership. If Guarantors or members with potential control have been added to the Guarantors and members identified on the Org Charts submitted at the time of Application, a non-material amendment must be requested and the new Guarantors and members must be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation Reviews);

(2) the executed construction contract and construction loan agreement. If the loan has not closed, the anticipated closing date must be provided and, upon closing, the agreement must be provided to the Department;

(3) the most recent Application and Certificate for Payment (AIA Document G702 and G703) certified by the Architect of Record (or equivalent form approved for submission by the construction lender and/or investor); and

(4) all Third Party construction inspection reports not previously submitted.

(i) LURA Origination (Competitive HTC Only). The Development Owner must request a copy of the HTC LURA as directed in the Post Award Activities Manual. The Department will draft a LURA for the Development Owner that will impose the income and rent restrictions identified in the Development's final underwriting report and other representations made in the Application, including but not limited to specific commitments to provide tenant services, to lease to Persons with Disabilities, and/or to provide specific amenities. After origination, the Department executed LURA and all exhibits and addendums will be sent to the Development Owner to execute and record in the real property records for the county in which the Development is located.

The original recorded LURA must be returned to the Department no later than the end of the first year of the Credit Period. In general, no Housing Tax Credits are allowed to be issued for a building unless there is a properly executed and recorded LURA in effect at the end of the first year of the Credit Period. Nothing in this section negates a Development Owner's responsibility for full compliance with §42(h)(6) of the Code. The Department will not issue IRS Form(s) 8609 until it receives the original, properly-recorded LURA, or has alternative arrangements which are acceptable to the Department and approved by the Executive Director. Electronically recorded LURAs provided to the Department will be acceptable in lieu of the original, recorded copy.

(j) Cost Certification (Competitive and Non-Competitive HTC, and related activities Only). The Department conducts a feasibility analysis in accordance with §42(m)(2)(C)(i)(III) of the Code and Subchapter D of this chapter (relating to Underwriting and Loan Policy) to make a final determination on the allocation of Housing Tax Credits. The requirements for cost certification include those identified in paragraphs (1) - (3) of this subsection.

(1) Development Owners must file cost certification documentation no later than January 15 following the first year of the Credit Period, as defined in §42(f)(1) of the Code.

(2) The Department will evaluate the cost certification documentation and notify the Development Owner of any additional required documentation needed to complete the review. The Department reserves the right to request additional documents or certifications as it deems necessary or useful in the determination of the Development's eligibility for a final Housing Tax Credit allocation amount. Any communication issued to the Development Owner pertaining to the cost certification documentation may also be sent to the syndicator.

(3) IRS Form(s) 8609 will not be issued until the conditions as stated in subparagraphs (A) - (H) of this paragraph have been met. The Development Owner has:

(A) provided evidence that all buildings in the Development have been placed in service by:

(i) December 31 of the year the Commitment was issued;

(ii) December 31 of the second year following the year the Carryover Allocation Agreement was executed; or

(iii) the approved Placed in Service deadline;

(B) provided a complete final cost certification package in the format prescribed by the Department. As used herein, a complete final cost certification package means a package that meets all of the Department's criteria with all required information and exhibits listed in clauses (i) - (xxxv) of this subparagraph, and pursuant to the Post Award Activities Manual. If any item on this list is determined to be unclear, deficient, or inconsistent with the cost certification review completed by the Department, a Request for Information (RFI) will be sent to the Development Owner. Failure to respond to the requested information within a thirty (30) day period from the date of request may result in the termination of the cost certification review and request for 8609s and require a new request be submitted with a Cost Certification Extension Fee as described in Subchapter G of this chapter (relating to Fee Schedule, Appeals and Other Provisions). Furthermore, cost certification reviews that remain open for an extended period of time (more than 365 days) may be reported to the EARAC during any related party previous participation review conducted by the Department.

(i) Owner's Statement of Certification

(ii) Owner Summary & Organization Charts for the Owner, Developer, and Guarantors

(iii) Evidence of Qualified Nonprofit or CHDO Participation

(iv) Evidence of Historically Underutilized Business (HUB) Participation

(v) Development Team List

(vi) Development Summary with Architect's Certification

(vii) Development Change Documentation

(viii) As Built Survey

(ix) Closing Statement

(x) Title Policy

(xi) Title Policy Update

(xii) Placement in Service

(xiii) Evidence of Placement in Service

(xiv) Architect's Certification of Completion Date and Date Ready for Occupancy

(xv) Auditor's Certification of Acquisition/Rehabilitation Placement in Service Election

(xvi) Independent Auditor's Report

(xvii) Independent Auditor's Report of Bond Financing

(xviii) Development Cost Schedule

(xix) Contractor's Application for Final Payment (G702/G703)

(xx) Additional Documentation of Offsite Costs

(xxi) Rent Schedule

(xxii) Utility Allowances

(xxiii) Annual Operating Expenses

(xxiv) 30 Year Rental Housing Operating Pro Forma

(xxv) Current Operating Statement

(xxvi) Current Rent Roll

(xxvii) Summary of Sources and Uses of Funds

(xxviii) Financing Narrative

(xxix) Final Limited Partnership Agreement

(xxx) All Loan Agreements and Promissory Notes (except for Agreements and Notes issued directly by the Department)

(xxxi) Architect's Certification of Fair Housing Requirements

(xxxii) Development Owner Assignment of Individual to Compliance Training

(xxxiii) TDHCA Compliance Training Certificate

(xxxiv) TDHCA Final Inspection Clearance Letter

(xxxv) Other Documentation as Required

(C) informed the Department of and received written approval for all amendments, extensions, and changes in ownership relating to the Development in accordance with §10.405 of this chapter (relating to Amendments and Extensions) and §10.406 of this chapter (relating to Ownership Transfers (§2306.6713));

(D) paid all applicable Department fees, including any past due fees;

(E) met all conditions noted in the Department underwriting report;

(F) corrected all issues of noncompliance, including but not limited to noncompliance status with the LURA (or any other document containing an Extended Low-income Housing Commitment) or the program rules in effect for the subject Development, as described in this chapter. Developments in the Corrective Action Period and/or with any uncorrected issues of noncompliance, outside of the Corrective Action Period, will not be issued IRS Form(s) 8609s until all events of noncompliance are corrected or otherwise approved by the Executive Award Review and Advisory Committee;

(G) completed an updated underwriting evaluation in accordance with Subchapter D of this chapter based on the most current information at the time of the review.

§10.403. Direct Loans.

(a) Loan Closing. The loan closing must occur no more than six months from the date of the Conditional Commitment or similar document is executed, which may be extended in accordance with the provisions in this subchapter. In preparation for closing any Direct Loan, the Development Owner must submit the items described in paragraphs (1) - (7) of this subsection:

(1) documentation of the prior or reasonable assurance of a concurrent closing with any superior lien holders or any other sources of funds determined to be necessary for the long-term financial feasibility of the Development and all due diligence determined by the Department to be prudent and necessary to meet the Department's rules and to secure the interests of the Department. Where the Department will have a first lien position and the Applicant provides documentation that closing on other sources is reasonably expected to occur within three (3) months, the Executive Director or authorized designee may approve a closing to move forward without the closing on other sources. The Executive Director as the authorized designee of the Department must require a personal guarantee, in form and substance acceptable to the Department, from a Principal of the Development Owner for the interim period;

(2) when Department funds have a first lien position, assurance of completion of the Development in the form of payment and performance bonds in the full amount of the construction contract will be required or equivalent guarantee in the sole determination of the Department. Such assurance of completion will run to the Department as obligee. Development Owners also utilizing the USDA §515 program are exempt from this requirement but must meet the alternative requirements set forth by USDA;

(3) Owner/General Contractor agreement and Owner/ Architect agreement;

(4) survey of the Property that includes a certification to the Department, Development Owner, Title Company, and other lenders;

(5) if layered with Housing Tax Credits, a fully executed limited partnership agreement between the General Partner and the tax credit investor entity (may be provided concurrent with closing);

(6) a revised development cost schedule, sources and uses, operating proforma, planned cost categories for the use of Direct Loan funds, updated written financial commitments/term sheets and any additional budget schedules that have changed since the time of application. If the budget or sources of funds reflect material changes from what was approved by the Board that may affect the financial feasibility of the Development, the Department may request additional documen-

tation to ensure that the Development continues to meet the requirements of Subchapter D of this chapter (relating to Underwriting and Loan Policy) and will be required to be approved by the Executive Director or the Board;

(7) if required for the Direct Loan, prior to closing, the Development Owner must have received verification of:

(A) environmental clearance;

(B) verification of HUD Site and Neighborhood clearance;

(C) documentation necessary to show compliance with the Uniform Relocation Assistance and Property Act and any other relocation requirements that may apply; and

(D) any other documentation that is necessary or prudent to meet program requirements or state or federal law in the sole determination of the Department.

(b) Loan Documents. The Development Owner is required to execute all loan closing documents required by and in form and substance acceptable to the Legal Division including but not limited to a promissory note, deed of trust, construction loan agreement (if the proceeds of the loan are to be used for construction), LURA, HOME contract, Architect and/or licensed engineer certification of understanding to complete environmental mitigation if such mitigation is identified in HUD's environmental clearance and by the Real Estate Analysis Division (REA) and assignment and security instruments whereby the Developer, the Development Owner, and/or any Affiliates (if applicable) grants the Department their respective right, title, and interest in and to other collateral, including without limitation the Owner/Architect agreement and the Owner/General Contractor agreement, to secure the payment and performance of the Development Owner's obligations under the loan documents. Repayment provisions will require repayment on a per unit basis for units that have not been rented to eligible households within eighteen (18) months of project completion; termination and repayment of the HOME award in full will be required for any development that is not completed within four (4) years of the date of funding commitment.

(c) Disbursement of Funds (including developer fees). The Development Owner must comply with the requirements in paragraphs (1) - (9) of this subsection for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the Development Owner's compliance with these requirements may be required with a request for disbursement:

(1) except for disbursement requests made for acquisition and closing costs or requests made for soft costs only, a down-date endorsement to the title policy not older than the Architect's certification date on AIA form G702 or sixty (60) calendar days, whichever is later. For release of retainage the down-date endorsement must be dated at least thirty (30) calendar days after the date of the construction completion as certified on the Certificate of Substantial Completion (AIA Form G704);

(2) for hard construction costs, documentation of the total construction costs incurred and costs incurred since the last disbursement of funds must be submitted. Such documentation must be signed by the General Contractor and certified by the Development architect and is generally in the form of an AIA Form G702 or G703;

(3) the Department will require that at least 50 percent of the funds be withheld from the initial disbursement to allow for periodic disbursements, or such lesser amount provided it meets all federal requirements. For HOME Direct Loans: The initial draw request for the development must be entered no later than ten business days prior

to the one year anniversary of the commitment date (as defined in 24 CFR Part 92) or funds may be cancelled in HUD's IDIS system;

(4) if applicable, up to 75 percent of Direct Loan funds may be drawn before providing evidence of Match. Thereafter, each Development Owner must provide evidence of Match in the form of a formal contract or commitment with the vendor clearly delineating the donated portion of the contract price, invoices showing the forgiven amount, or other equally verifiable third party documentation prior to release of the final 25 percent of funds. If funds are requested on the day of closing, an executed formal contract specifying the terms of the Match must be provided;

(5) Developer fee disbursement shall be conditioned upon:

(A) for Developments in which the loan is secured by a first lien deed of trust against the Property, 75 percent shall be disbursed in accordance with percent of construction completed (i.e. 75 percent of the total allowable fee will be multiplied by the percent completion) as documented by the construction contract and as may be verified by an inspection by the Department. The remaining 25 percent shall be disbursed at the time of release of retainage; or

(B) for Developments in which the loan is not secured by a first lien deed of trust or the Development is also utilizing Housing Tax Credits, developer fees will not be reimbursed by the Department unless the other lenders and syndicator confirm in writing that they do not have an existing or planned agreement to govern the disbursement of developer fees and expect that Department funds shall be used to fund developer fees. Provided this requirement is met, developer fees shall be reimbursed in the same manner as described in subparagraph (A) of this paragraph; and

(C) the Department may reasonably withhold any disbursement of developer fees if it determines that the Development is not progressing as necessary to meet the benchmarks for the timely completion of construction of the Development that is set forth in the loan documents, or that cost overruns have put the Development Owner's ability to repay its Direct Loan or complete the construction of the Development Owner's ability to repay its Direct Loan or complete the construction of the Development in accordance with the terms of the loan documents and within budget at risk. Once a reasonable alternative that is deemed acceptable by the Department has been provided, disbursement of the remaining fee may occur;

(6) expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure requested. The Department may request the Development Owner make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of Department funds to Development Owner as may be necessary or advisable for compliance with all program requirements. For HOME Direct Loans: Pre-award costs for predevelopment activities, as specified in the loan documents, are allowable only if they were incurred less than 24 months prior to the commitment date (as defined in 24 CFR Part 92) and were associated with the Application Round in which the project was awarded;

(7) table funding requests will not be considered unless:

(A) a "Commitment to a specific local project" as defined in 24 CFR Part 92 has been made, if applicable; and

(B) ten (10) days prior to anticipated closing, all table funding draw documentation has been completed and submitted to the Department;

(8) each Development Owner must request a progress inspection from Department staff once the property passes 25 percent construction completion based on the AIA G702-703. Up to 50 percent of the HOME award will be released prior to receipt of documentation that the progress inspection has occurred;

(9) Following fifty percent construction completion, the remaining HOME funds will be released in accordance with the percentage of construction completion, not to exceed ninety percent of award, at which point funds will be held as retainage until the final draw request. Retainage will be held until all of the items described in subparagraphs (A) - (G) of this paragraph are received:

(A) Certificate of Substantial Completion (AIA Form G704);

(B) A down date endorsement dated at least 30 calendar days after the date of completion as certified on the Certificate of Substantial Completion (AIA Form G704);

(C) For developments not layered with Housing Tax Credits, a Closed Final Development Inspection Letter from the Department;

(D) For developments subject to the Davis-Bacon Act, evidence from the Senior Labor Standards Specialist that the final wage compliance report was received and approved;

(E) Receipt of Certificates of Occupancy for New Construction or a Certificate of Substantial Completion (AIA Form G704); from the Development Architect for Rehabilitation;

(F) Development completion reports which may include documentation of full compliance with the Uniform Relocation Act, Davis-Bacon Act, and Section 3 of the Housing and Urban Development Act of 1968, as applicable to the Development, and any other applicable requirement; and

(G) If applicable to the Development, certification from Architect or a licensed engineer that all HUD and REA environmental mitigation conditions have been met.

§10.404. Reserve Accounts.

(a) Replacement Reserve Account (§2306.186). The Department will require Development Owners to provide regular maintenance to keep housing sanitary, safe and decent by establishing and maintaining a reserve for replacement account for the Development in accordance with Texas Government Code, §2306.186. The reserve account must be established, in accordance with paragraphs (3), (4), (5), and (6) of this subsection, and maintained through annual or more frequent regularly scheduled deposit, for each Unit in a Development of 25 or more rental units regardless of the amount of rent charged for the Unit. If the Department is processing a request for loan modification or other request under this subchapter, and the Development does not have an existing replacement reserve account, or sufficient funds in the reserve to meet future capital expenditure needs of the Development as determined by a history of uncorrected UPCS violations, ongoing issues related to keeping housing sanitary, safe, and decent, an account balance below the annual reserve deposit amount as specified in this section, or as indicated by the number or cost of repairs included in a PCA, the Development Owner will be required to establish and maintain a replacement reserve account or review whether the amount of regular deposits to the replacement reserve account can be increased, regardless of the number of units at the Development. The Department shall, through cooperation of its divisions responsible for asset management and compliance, ensure compliance with this section. The duties of the Development Owner under this section cease on the date of a change in ownership of the Development; however, the subsequent Development Owner of the Development is subject to the requirements of this section

and any additional or revised requirements the Department may impose after reviewing a Development's compliance history, a PCA submitted by the Owner, or the amount of reserves that will be transferred at the time of any property sale.

(1) The LURA requires the Development Owner to begin making annual deposits to the replacement reserve account on the later of the:

(A) date that occupancy of the Development stabilizes as defined by the First Lien Lender or, in the absence of a First Lien Lender other than the Department, the date the Property is at least 90 percent occupied; or

(B) the date when the permanent loan is executed and funded.

(2) The Development Owner shall continue making deposits into the replacement reserve account until the earliest of the:

(A) date on which the owner suffers a total casualty loss with respect to the Development or the date on which the Development becomes functionally obsolete, if the Development cannot be or is not restored;

(B) date on which the Development is demolished;

(C) date on which the Development ceases to be used as a multifamily rental property; or

(D) end of the Affordability Period specified by the LURA, or if an Affordability Period is not specified and the Department is the First Lien Lender, then when the Department's loan has been fully repaid or as otherwise agreed by the Owner and Department.

(3) If the Department is the First Lien Lender with respect to the Development or if the establishment of a Reserve Account for repairs has not been required by the First Lien Lender or Bank Trustee, each Development Owner receiving Department assistance for multifamily rental housing shall deposit annually into a separate, Development-specific Reserve Account through the date described in paragraph (2) of this subsection:

(A) For New Construction Developments, not less than \$250 per Unit. Withdrawals from such account will be restricted for up to five years following the date of award except in cases in which written approval from the Department is obtained relating to casualty loss, natural disaster, reasonable accommodations (but not for the construction standards required by the NOFA or program regulations), or demonstrated financial hardship; or

(B) For Adaptive Reuse, Rehabilitation and Reconstruction Developments, the greater of the amount per Unit per year either established by the information presented in a Property Condition Assessment in conformance with Subchapter D of this chapter (relating to Underwriting and Loan Policy) or \$300 per Unit per year.

(4) For all Developments, a Property Condition Assessment ("PCA") must be conducted at intervals that are consistent with requirements of the First Lien Lender, other than the Department. If the Department is the First Lien Lender, or the First Lien Lender does not require a Third Party PCA, a PCA must be conducted at least once during each five (5) year period beginning with the eleventh (11th) year after the awarding of any financial assistance from the Department. PCAs conducted by the Owner at any time or for any reason other than as required by the Department in the year beginning with the eleventh (11th) year of award must be submitted to the Department for review within 30 days of receipt by the Owner.

(5) Where there is a First Lien Lender other than the Department or a Bank Trustee as a result of a bond trust indenture or

tax credit syndication, the Development Owner shall comply with the lesser of the replacement reserve requirements of the First Lien Lender or the requirements in paragraph (3) of this subsection. In addition, the Department should be listed as a party to receive notice under any replacement reserve agreement entered into by the Development Owner. The Development Owner shall submit on an annual basis, within the Department's required Development Owner's Financial Certification packet, requested information regarding:

(A) the reserve for replacement requirements under the first lien loan agreement (if applicable) referencing where those requirements are contained within the loan documents;

(B) compliance with the first lien lender requirements outlined in subparagraph (A) of this paragraph;

(C) if the Owner is not in compliance with the lender requirements, the Development Owner's plan of action to bring the Development in compliance with all established reserve for replacement requirements; and

(D) whether a PCA has been ordered and the Owner's plans for any subsequent capital expenditures, renovations, repairs, or improvements.

(6) Where there is no First Lien Lender but the allocation of funds by the Department and Texas Government Code, §2306.186 requires that the Department oversee a Reserve Account, the Development Owner shall provide at their sole expense an escrow agent acceptable to the Department to act as Bank Trustee as necessary under this section. The Department shall retain the right to replace the escrow agent with another Bank Trustee or act as escrow agent at a cost plus fee payable by the Development Owner due to breach of the escrow agent's responsibilities or otherwise with thirty (30) days prior notice of all parties to the escrow agreement.

(7) Penalties and Non-Compliance. If the Development Owner fails to comply with the replacement reserve account requirements stated herein, and request for extension or waiver of these requirements is not approved by the Department, then a penalty of up to \$200 per dwelling Unit in the Development and/or characterization of the Development as being in default with this requirement, may be imposed:

(A) a Reserve Account, as described in this section, has not been established for the Development;

(B) the Department is not a party to the escrow agreement for the Reserve Account, if required;

(C) money in the Reserve Account:

(i) is used for expenses other than necessary repairs, including property taxes or insurance; or

(ii) falls below mandatory annual, monthly, or Department approved deposit levels;

(D) Development Owner fails to make any required deposits;

(E) Development Owner fails to obtain a Third-Party Property Condition Assessment as required under this section or submit a copy of a PCA to the Department within 30 days of receipt; or

(F) Development Owner fails to make necessary repairs in accordance with the Third Party Property Condition Assessment or §10.621 of this chapter (relating to Property Condition Standards).

(8) Department-Initiated Repairs. The Department or its agent may make repairs to the Development within 30 days of written notice from the Department if the Development Owner fails to com-

plete necessary repairs indicated in the submitted Property Condition Assessment or identified by Department physical inspection. Repairs may be deemed necessary if the Development Owner fails to comply with federal, state, and/or local health, safety, or building code requirements. Payment for necessary repairs must be made directly by the Development Owner or through a replacement Reserve Account established for the Development under this section. The Department or its agent will be allowed to produce a Request for Bids to hire a contractor to complete and oversee necessary repairs. On a case-by-case basis, the Department may determine that the money in the Reserve Account may be used for expenses other than necessary repairs, including property taxes or insurance, if:

(A) Development income before payment of return to Development Owner or deferred developer fee is insufficient to meet operating expense and debt service requirements; or

(B) Development income after payment of operating expenses, but before payment of return to Development Owner or deferred developer fee is insufficient to fund the mandatory deposit levels;

(C) In the event of (A) or (B) above, funds withdrawn must be replaced from Cash Flow after payment of Operating Expenses but before return to Development Owner or deferred developer fee until the mandatory deposit level is replenished. The Department reserves the right to re-evaluate payments to the reserve, increase such payments or require a lump sum deposit to the reserve, or require the Owner to enter into a separate Reserve Agreement if necessary to protect the long term feasibility of the Development.

(9) Exceptions to Replacement Reserve Account. This section does not apply to a Development for which the Development Owner is required to maintain a Reserve Account under any other provision of federal or state law.

(10) In the event of paragraph (7) or (8) of this subsection, the Department reserves the right to require by separate Reserve Agreement a revised annual deposit amount and/or require Department concurrence for withdrawals from the Reserve Account to bring the Development back into compliance. Establishment of a new Bank Trustee or transfer of reserve funds to a new, separate and distinct account may be required if necessary to meet the requirements of such Agreement. The Agreement will be executed by the Department, Development Owner, and financial institution representative.

(b) Lease-up Reserve Account. A lease-up reserve funds start-up expenses in excess of the revenue produced by the Development prior to stabilization. The Department will consider a reasonable lease-up reserve account based on the documented requirements from a third-party lender, third-party syndicator, or the Department. During the underwriting at the point of the Cost Certification review, the lease-up reserve may be counted as a use of funds only to the extent that it represents operating shortfalls net of escrows for property taxes and property insurance. Funds from the lease-up reserve used to satisfy the funding requirements for other reserve accounts may not be included as a use of funds for the lease-up reserve. Funds from the lease-up reserve distributed or distributable as cash flow to the Development Owner will be considered and restricted as developer fee.

(c) Operating Reserve Account. At various stages during the application, award process, and during the operating life of a Development, the Department will conduct a financial analysis of the Development's total development costs and operating budgets, including the estimated operating reserve account deposit required. For example, this analysis typically occurs at application and cost certification review. The Department will consider a reasonable operating reserve

account deposit in this analysis based on the needs of the Development and requirements of third-party lenders or investors. The amount used in the analysis will be the amount described in the project cost schedule or balance sheet, if it is within the range of two (2) to six (6) months of stabilized operating expenses plus debt service. The Department may consider a greater amount proposed or required by the Department, any superior lien lender, or syndicator, if the detail for such greater amount is reasonable and well documented. Reasonable operating reserves in this chapter do not include capitalized asset management fees, guaranty reserves, or other similar costs. In no instance will operating reserves exceed twelve (12) months of stabilized operating expenses plus debt service (exclusive of transferred replacement reserves for USDA or HUD financed rehabilitation transactions). Operating reserves are generally for the term of the permanent loan. In no instance will operating reserves released within five (5) years be included as a cost.

(d) Special Reserve Account. If the funding program requires or allows for the establishment and maintenance of a Special Reserve Account for the purpose of assisting residents at the Development with expenses associated with their tenancy, this will be established in accordance with a written agreement with the Development Owner.

(1) The Special Reserve Account is funded through a one-time payment or annually through an agreed upon percentage of net cash flow generated by the Development, excess development funds at completion as determined by the Department, or as otherwise set forth in the written agreement. For the purpose of this account, net cash flow is defined as funds available from operations after all expenses and debt service required to be paid have been considered. This does not include a deduction for depreciation and amortization expense, deferred developer fee payment, or other payments made to related parties, except as allowed by the Department for property management. Proceeds from any refinancing or other fund raising from the Development will be considered net cash flow for purposes of funding the Special Reserve Account. The account will be structured to require Department concurrence for withdrawals.

(2) All disbursements from the account must be approved by the Department.

(3) The Development Owner will be responsible for setting up a separate and distinct account with a financial institution acceptable to the Department. A Special Reserve Account Agreement will be drafted by the Department and executed by the Department, Development Owner and financial institution representative.

(4) Use of the funds in the Special Reserve Account is determined by a plan that is pre-approved by the Department. The Owner must create, update and maintain a plan for the disbursement of funds from the Special Reserve Account. The plan should be established at the time the account is created and updated and submitted for approval by the Department as needed. The plan should consider the needs of the tenants of the property and the existing and anticipated fund account balances such that all of the fund uses provide benefit to tenants. Disbursements from the fund will only be approved by the Department if they are in accordance with the current approved plan.

(e) Other Reserve Accounts. Additional reserve accounts may be recognized by the Department as necessary and required by the Department, superior lien lender or syndicator.

§10.405. Amendments and Extensions.

(a) Amendments to Housing Tax Credit (HTC) Application or Award Prior to Land Use Restriction Agreement (LURA) recording or amendments that do not result in a change to the LURA. (§2306.6712) Regardless of development stage, the Board shall re-evaluate a Development that undergoes a substantial change, as identified in paragraph

(4) of this subsection at any time after the initial Board approval of the Development. (§2306.6731(b)) The Board may deny an amendment request and subsequently may revoke any Commitment or Determination Notice issued for a Development or Competitive HTC Application, and may reallocate the credits to other Applicants on the waiting list.

(1) If a proposed modification would alter a Development approved for an allocation of Housing Tax Credits by changing any item that received points, by significantly affecting the most recent underwriting analysis, or by materially altering the Development as further described in this subsection, the Department shall require the Applicant to file a formal, written request for an amendment to the Application. Such request must include a detailed explanation of the amendment request and other information as determined to be necessary by the Department, and the applicable fee as identified in §10.901(13) of this chapter (relating to Fee Schedule) in order to be received and processed by the Department.

(2) Department staff will evaluate the amendment request. The Executive Director may administratively approve all non-material amendments, including those involving changes to the Developer, Guarantor or Person used to meet the experience requirement in §10.204(6) of this chapter (relating to Required Documentation for Application Submission). Changes in Developers or Guarantors will be subject to Previous Participation requirements as further described in §10.204(13). Amendments considered material pursuant to paragraph (4) of this subsection must be approved by the Board. Amendment requests which require Board approval must be received by the Department at least forty-five (45) calendar days prior to the Board meeting in which the amendment is anticipated to be considered. Before the fifteenth (15th) day preceding the date of Board action on the amendment, notice of an amendment and the recommendation of the Executive Director and Department staff regarding the amendment will be posted to the Department's website and the Applicant will be notified of the posting. (§2306.6717(a)(4))

(3) Amendment requests may be denied if the Board determines that the modification proposed in the amendment:

(A) would materially alter the Development in a negative manner; or

(B) would have adversely affected the selection of the Application in the Application Round.

(4) Material alteration of a Development includes, but is not limited to:

(A) a significant modification of the site plan;

(B) a modification of the number of units or bedroom mix of units;

(C) a substantive modification of the scope of tenant services;

(D) a reduction of 3 percent or more in the square footage of the units or common areas;

(E) a significant modification of the architectural design of the Development;

(F) a modification of the residential density of at least 5 percent;

(G) exclusion of any requirements as identified in Subchapter B of this chapter (relating to Site and Development Requirements and Restrictions) and Subchapter C of this chapter (relating to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules or Pre-Clearance for Applications);

(H) Significant increases in development costs or changes in financing that may affect the financial feasibility of the Development or result in reductions of credit or changes in conditions such that a full re-evaluation and analysis by staff assigned to underwrite applications is required; or

(I) any other modification considered significant by the Board.

(5) In evaluating the amendment under this subsection, Department Staff shall consider whether changes to the selection or threshold criteria would have resulted in an equivalent or higher score and if the need for the proposed modification was reasonably foreseeable by the Applicant at the time the Application was submitted or preventable by the Applicant. Amendment requests will be denied if the score would have changed the allocation decision or if the circumstances were reasonably foreseeable and preventable unless good cause is found for the approval of the amendment.

(6) This section shall be administered in a manner that is consistent with §42 of the Code.

(7) In the event that an Applicant or Developer seeks to be released from the commitment to serve the income level of tenants identified in the Application and Credit Underwriting Analysis Report at the time of award and as approved by the Board, the procedure described in subparagraphs (A) and (B) of this paragraph will apply to the extent such request is not prohibited based on statutory and/or regulatory provisions:

(A) for amendments that involve a reduction in the total number of Low-Income Units, or a reduction in the number of Low-Income Units at any rent or income level, as approved by the Board, evidence must be presented to the Department to support the amendment. In addition, the lender and syndicator must submit written confirmation that the Development is infeasible without the adjustment in Units. The Board may or may not approve the amendment request; however, any affirmative recommendation to the Board is contingent upon concurrence from Department staff that the Unit adjustment is necessary for the continued financial feasibility of the Development; and

(B) if it is determined by the Department that the loss of low-income targeting points would have resulted in the Application not receiving an award in the year of allocation, and the amendment is approved by the Board, the approved amendment will carry a penalty that prohibits the Applicant and all Persons or entities with any ownership interest in the Application (excluding any tax credit purchaser/syndicator), from participation in the Housing Tax Credit Program (for both the Competitive Housing Tax Credit Developments and Tax-Exempt Bond Developments) for twenty-four (24) months from the time that the amendment is approved.

(b) Amendments to the LURA. Department staff will evaluate the amendment request and provide the Development Owner an amended LURA for execution and recordation in the county where the Development is located. LURAs will not be amended if the subject Development has any uncorrected issues of noncompliance outside of the Corrective Action Period (other than the provision being amended) unless otherwise approved by the Executive Award Review and Advisory Committee. LURAs will not be amended if the Development Owner owes fees to the Department. The Executive Director or designee may administratively approve all non-material LURA amendments. Board approval is required if a Development Owner requests a reduction in the number of Low-Income Units, a change in the income or rent restrictions, a change in the Target Population, a substantive modification in the scope of tenant services, the removal of material participation by a HUB or Nonprofit Organization as further described in §10.406 of this subchapter, a change in the Right of First Refusal

period as described in amended §2306.6725 of the Texas Government Code, or any amendment deemed material by the Executive Director. The Department will not approve changes that would violate state or federal laws including the requirements of §42 of the Code, 24 CFR Part 92 (HOME Final Rule), Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan), Texas Government Code, Chapter 2306, the Fair Housing Act, and, for Tax Exempt Bond Developments, compliance with their trust indenture and corresponding bond issuance documents. An amendment to the LURA is not considered material if the change is the result of a Department work out arrangement as recommended by the Department's Asset Management Division. Prior to staff taking a recommendation to the Board for consideration, the procedures described in paragraphs (1) - (5) of this subsection must be followed:

(1) the Development Owner must submit a written request accompanied by an amendment fee (except for awards that are funded only through one of the Department's Direct Loan programs, which do not require a fee) as identified in §10.901 of this chapter, specifying the requested change, the reason the change is necessary, the good cause for the change and if the necessity for the amendment was reasonably foreseeable at the time of Application;

(2) the Development Owner must supply financial information for the Department to evaluate the financial impact of the change;

(3) the Department may order a Market Study or appraisal to evaluate the request which shall be at the expense of the Development Owner and the Development Owner will remit funds necessary for such report prior to the Department commissioning such report;

(4) the Development Owner must hold a public hearing at least seven (7) business days prior to the Board meeting where the Board will consider their request. The notice of the hearing and requested change must be provided to each tenant of the Development, the current lender and/or investors, the State Senator and Representative for the district containing the Development, and the chief elected official for the municipality, if located in a municipality, or the county commissioners, if located outside of a municipality; and

(5) ten (10) business days before the public hearing, the Development Owner must submit a draft notice of the hearing for approval by the Department. The Department will create and provide upon request a sample notice and approve or amend the notice within three (3) business days of receipt.

(c) Amendments to Direct Loan Terms. The Executive Director or authorized designee may approve amendments to loan terms prior to closing as described in paragraphs (1) - (6) of this subsection. Board approval is necessary for any other changes prior to closing.

(1) extensions of up to 15 months to the loan closing date specified in §10.403(a) of this chapter (relating to Direct Loans). An Applicant must document good cause, which may include constraints in arranging a multiple-source closing;

(2) changes to the loan maturity date to accommodate the requirements of other lenders or to maintain parity of term;

(3) extensions of up to 12 months for the construction completion or loan conversion date based on documentation that the extension is necessary to complete construction and that there is good cause for the extension. Such a request will generally not be approved prior to initial loan closing;

(4) changes to the loan amortization or interest rate that cause the annual repayment amount to decrease less than 20 percent

or any changes to the amortization or interest rate that increases the annual repayment amount;

(5) decreases in the Direct Loan amount, provided the decrease does not jeopardize the financial viability of the Development. Increases will generally not be approved unless the Applicant competes for the additional funding under an open NOFA; and

(6) changes to other loan terms or requirements as necessary to facilitate the loan closing without exposing the Department to undue financial risk.

(7) An Applicant may request a change to the terms of a loan. Requests for changes to the loan post closing will be processed as loan modifications and may require additional approval by the Department's Asset Management Division. Post closing loan modifications requiring changes in the Department's loan terms, lien priority, or amounts (other than in the event of a payoff) will generally only be considered as part of a Department or Asset Management Division work out arrangement or other condition intended to mitigate financial risk and will not require additional Executive Director or Board approval except where the post closing change could have been anticipated prior to closing as determined by staff.

(d) HTC Extensions. Extensions must be requested if the original deadline associated with Carryover, the 10 Percent Test (including submission and expenditure deadlines), or cost certification requirements will not be met. Extension requests submitted at least thirty (30) calendar days in advance of the applicable deadline will not be required to submit an extension fee as described in §10.901 of this chapter. Any extension request submitted fewer than thirty (30) days in advance of the applicable deadline or after the applicable deadline will not be processed unless accompanied by the applicable fee. Extension requests will be approved by the Executive Director or Designee, unless, at staff's discretion it warrants Board approval due to extenuating circumstances stated in the request. The extension request must specify a requested extension date and the reason why such an extension is required. If the Development Owner is requesting an extension to the Carryover submission or 10 percent Test deadline(s), a point deduction evaluation will be completed in accordance with Texas Government Code, §2306.6710(b)(2), and §11.9(f) of this title (relating to Competitive HTC Selection Criteria). Therefore, the Development Owner must clearly describe in their request for an extension how the need for the extension was beyond the reasonable control of the Applicant/Development Owner and could not have been reasonably anticipated. Carryover extension requests will not be granted an extended deadline later than December 1st of the year the Commitment was issued.

§10.406. Ownership Transfers (§2306.6713).

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice and a completed Ownership Transfer packet, if applicable, to the Department at least forty-five (45) calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Transfers that are the result of an involuntary removal of the general partner by the investment limited partner must be reported to the Department as soon as possible due to the sensitive timing and nature of this decision. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure, staff may make a recommendation to the Board for the debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with Chapter 1,

Subchapter C of this title (relating to Previous Participation Reviews), prior to recommending any new financing or allocation of credits.

(b) Requirement. All new members must be eligible applicants under §10.202 of Subchapter C. In addition, new members with a controlling interest will be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation Reviews). Department approval must be requested for any new member to join in the ownership of a Development. Exceptions to the full approval process include changes to the investment limited partner, non-controlling limited partner, or other non-controlling partners affiliated with the investment limited partner, or changes resulting from foreclosure wherein the lender or financial institution involved in the transaction is the resulting owner. Changes in Developers or Guarantors must be addressed as non-material amendments to the application under §10.405 of this subchapter. Limited Partners or other Investor or Special Limited Partners or Affiliates who were acknowledged by the Department at the time of a previous transfer but were not subject to a full approval process because of Limited Partnership, Investor or Special Limited Partner roles with non-controlling interests in the Owner, will be subject to full ownership transfer review requirements in the event that the Limited Partner or other Investor or Special Limited Partner at any point moves to acquire any portion of controlling interest as a member of the Development Owner. Any subsequent transfer of the Development will be required to adhere to the process in this section. Furthermore, a Development Owner may not transfer an allocation of tax credits or ownership of a Development supported with an allocation of tax credits to any Person or entity unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section. Notwithstanding the foregoing, a Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new members or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(c) Transfers Prior to 8609 Issuance or Construction Completion. Prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) an Applicant may request an amendment to its ownership structure to add parties deemed to have control. The party(ies) reflected in the Application as having control must remain in the ownership structure and retain such control, unless approved otherwise by the Board. A development sponsor, General Partner or Development Owner may not sell the Development in whole or voluntarily end their control prior to the issuance of 8609s.

(d) NonProfit Organizations. If the ownership transfer request is to replace a nonprofit organization within the Development ownership entity, the replacement nonprofit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Non-Profit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Non-Profit Organization that meets the requirements of §42(h)(5) of the Code and Texas Government Code §2306.6706 and can demonstrate planned participation in the operation of the Development on a regular, continuous, and substantial basis.

(2) If the LURA requires ownership or material participation in ownership by a qualified non-profit organization or CHDO, but the Development did not receive Tax Credits pursuant to §42(h)(5) of the Code, the Development Owner must show that the transferee is a

nonprofit organization or CHDO, as applicable, that complies with the LURA.

(3) Exceptions to the above may be made on a case by case basis if the Development is past its Compliance Period, was not reported to the IRS as part of the Department's Non-Profit Set Aside in any HTC Award year, and follows the procedures outlined in §10.405(b)(1) - (5) of this chapter (relating to LURA Amendments that require Board Approval). The Board must find that:

(A) the selling nonprofit is acting of its own volition or is being removed as the result of a default under the organizational documents of the Development Owner;

(B) the participation by the nonprofit was substantive and meaningful during the full term of the Compliance Period but is no longer substantive or meaningful to the operations of the Development; and

(C) the proposed purchaser is an affiliate of the current Owner or otherwise meets the Department's standards for ownership transfers.

(e) Historically Underutilized Business ("HUB") Organizations. If a HUB is the general partner of a Development Owner and it (i) is being removed as the result of a default under the organizational documents of the Development Owner, (ii) determines to sell its ownership interest or (iii) determines to maintain its ownership interest but is unable to maintain its HUB status, in either case, after the issuance of 8609's, the purchaser of that general partnership interest or the general partner is not required to be a HUB as long as the LURA does not require such continual ownership, or the procedures outlined in §10.405(b)(1) - (5) of this chapter (relating to LURA Amendments that require Board Approval) have been followed and approved. Such approval can be obtained concurrent with Board approval described herein. All such transfers must be approved by the Board and require that the Board find that:

(1) the selling HUB is acting of its own volition or is being removed as the result of a default under the organizational documents of the Development Owner;

(2) the participation by the HUB has been substantive and meaningful, or would have been substantial and meaningful had the HUB not defaulted under the organizational documents of the Development Owner, enabling it to realize not only financial benefit but to acquire skills relating to the ownership and operation of affordable housing; and

(3) the proposed purchaser meets the Department's standards for ownership transfers

(f) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances that gave rise to the need for the transfer and the effects of approval or denial. Documentation must be submitted as directed in the Post Award Activities Manual, which includes but is not limited to:

(1) a written explanation outlining the reason for the request;

(2) ownership transfer information, including but not limited to the type of sale, amount of Development reserves to transfer in the event of a property sale, and the prospective closing date;

(3) pre and post transfer organizational charts with TINs of each organization down to the level of natural persons in the ownership structure as described in §10.204(13)(A) of Subchapter C;

(4) a list of the names and contact information for transferees and Related Parties;

(5) Previous Participation information for any new Principal or natural person as described in §10.204(13)(B) of Subchapter C;

(6) agreements among parties associated with the transfer;

(7) a fully executed Owner's Certification of Agreement to Comply with the LURA, which may be subject to recording as required by the Department;

(8) Owners Certifications with regard to materials submitted further described in the Post Award Activities Manual;

(9) detailed information describing the organizational structure, experience, and financial capacity of transferees and related parties holding an ownership interest of 10 percent or greater in any Principal or Controlling entity;

(10) evidence and certification that the tenants in the Development have been notified in writing of the proposed transfer at least 30 calendar days prior to the date the transfer is approved by the Department. The ownership transfer approval letter will not be issued until this 30 day period has expired;

(11) any required exhibits and the list of exhibits related to specific circumstances of transfer or Ownership as detailed in the Post Award Activities Manual.

(g) Once the Department receives all necessary information under this section and as required under the Post Award Activities Manual, staff shall initiate a qualifications review of a transferee, in accordance with Chapter 1, Subchapter C of this title, to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter and §10.202 of Subchapter C (relating to ineligible applicants and applications).

(h) Credit Limitation. As it relates to the Housing Tax Credit amount further described in §11.4(a) of this title (relating to Tax Credit Request and Award Limits), the credit amount will not be applied in circumstances described in paragraphs (1) and (2) of this subsection:

(1) in cases of transfers in which the syndicator, investor or limited partner is taking over ownership of the Development and not merely replacing the general partner; or

(2) in cases where the general partner is being replaced if the award of credits was made at least five (5) years prior to the transfer request date.

(i) Penalties, Past Due Fees and Underfunded Reserves. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties or fees imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department. In the event a transferring Development has a history of uncorrected UPCS violations, ongoing issues related to keeping housing sanitary, safe, and decent, an account balance below the annual reserve deposit amount as specified in §10.404(a) (relating to Replacement Reserve Accounts), or that appears insufficient to meet capital expenditure needs as indicated by the number or cost of repairs included in a PCA, the prospective Development Owner may be required to establish and maintain a replacement reserve account or increase the amount of regular deposits to the replacement reserve account by entering into a Reserve Agreement with the Department. The Department may also request a plan and timeline relating to needed repairs or renovations

that will be completed by the departing and/or incoming Owner as a condition to approving the Transfer.

(j) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by corresponding ownership transfer fee as outlined in §10.901 of this chapter (relating to Fee Schedule).

§10.407. Right of First Refusal.

(a) General. This section applies to LURAs that provided an incentive for Development Owners to offer a Right of First Refusal (ROFR) to a Qualified ROFR Organization which is defined as a qualified nonprofit organization under §42(h)(5)(c) of the Code or tenant organizations. The purpose of this section is to provide administrative procedures and guidance on the process and valuation of properties under the LURA. All requests for ROFR submitted to the Department, regardless of existing regulations, must adhere to this process.

(1) The Development Owner may market the Property for sale and sell the Property to a Qualified ROFR Organization without going through the ROFR process outlined in this section.

(2) A ROFR request must be made in accordance with the LURA for the Development. If there is a conflict between the Development's LURA and this subchapter, requirements in the LURA supersede the subchapter. If a conflict between the LURA and statute exists the Development Owner may request a LURA amendment to be consistent with any changes to Texas Government Code Chapter 2306.

(3) If a LURA includes the ROFR provision, the Development Owner may not request a Preliminary Qualified Contract until the requirements outlined in this section have been satisfied.

(4) The Department reviews and approves all ownership transfers, including transfers to a nonprofit or tenant organization through a ROFR. Properties subject to a LURA may not be transferred to an entity that is considered an ineligible entity under the Department's most recent Qualified Allocation Plan. In addition, ownership transfers to a Qualified ROFR Organization during the ROFR period are subject to Chapter 1, Subchapter C of this title (relating to Previous Participation Reviews).

(5) Satisfying the ROFR requirement does not terminate the LURA or the ongoing application of the ROFR requirement to any subsequent Development Owner.

(6) A right of first refusal is not triggered if the transfer is made to a newly formed entity:

(A) that is under common control with the Development Owner; and

(B) the primary purpose of the formation of which is to facilitate the financing of the rehabilitation of the development using assistance administered through a state financing program.

(C) Any additional ownership entities are subject to Chapter 1, Subchapter C of this title (relating to Previous Participation Reviews).

(b) Right of First Refusal Offer Price. There are two general expectations of the ROFR offer or sale price identified in the outstanding LURAs. The descriptions in paragraphs (1) and (2) of this subsection do not alter the requirements or definitions included in the LURA but provide further clarification as applicable:

(1) Fair Market Value is established using either a current appraisal (completed within three months prior to the ROFR request and in accordance with §10.304 of this chapter (relating to Appraisal Rules and Guidelines)) of the Property or an executed purchase offer that the Development Owner would like to accept. The purchase offer

must contain specific language that the offer is conditioned upon satisfaction of the ROFR requirement. If a subsequent ROFR request is made within six months of the previously approved ROFR posting, the lesser of the prior ROFR posted value or new appraisal/purchase contract amount must be used in establishing Fair Market Value;

(2) Minimum Purchase Price, pursuant to §42(i)(7)(B) of the Code, is the sum of:

(A) the principal amount of outstanding indebtedness secured by the project (other than indebtedness incurred within the five (5)-year period immediately preceding the date of said notice); and

(B) all federal, state, and local taxes incurred or payable by the Development Owner as a consequence of such sale. If the Property has a minimum Applicable Fraction of less than 1, the offer must take this into account by multiplying the purchase price by the applicable fraction and the fair market value of the non-Low-Income Units.

(c) Required Documentation. Upon establishing the value of the Property, the ROFR process is the same for all types of LURAs. To proceed with the ROFR request, submit all documents listed in paragraphs (1) - (12) of this subsection:

(1) upon the Development Owner's determination to sell the Development to an entity other than a Qualified ROFR Organization, the Development Owner shall provide a notice of intent to the Department and to such other parties as the Department may direct at that time. If the LURA identifies a Qualified ROFR Organization that has a limited priority in exercising a ROFR to purchase the Development, the Development Owner must first offer the Property to this entity. If the nonprofit entity does not purchase the Property, this denial of offer must be in writing and submitted to the Department along with the notice of intent to sell the Property and the ROFR Fee. The Department will determine from this documentation whether the ROFR requirement has been met. In the event that the organization is not operating or in existence when the ROFR is to be made, the ROFR must be provided to another Qualified ROFR Organization that is not related to or affiliated with the current Development Owner. Upon review and approval of the notice of intent and denial of offer letter, the Department will notify the Development Owner in writing whether the ROFR requirement has been satisfied or not. Upon receipt of written notice, the Development Owner may pursue the Qualified Contract process or proceed with the sale to another buyer at or above the posted price;

(2) documentation verifying the ROFR offer price of the property:

(A) if the Development Owner receives an offer to purchase the Property from any buyer other than a Qualified ROFR Organization that the Development Owner would like to accept, the Development Owner may execute a sales contract, conditioned upon satisfaction of the ROFR requirement, and submit the executed sales contract to establish fair market value; or

(B) if the Development Owner of the Property chooses to establish fair market value using an appraisal, the Development Owner must submit an appraisal of the Property completed during the last three (3) months prior to the date of submission of the ROFR request, establishing a value for the Property in compliance with Subchapter D of this chapter (relating to Underwriting and Loan Policy) in effect at the time of the request. The appraisal should take into account the existing and continuing requirements to operate the Property under the LURA and any other restrictions that may exist. Department staff will review all materials within thirty (30) calendar days of receipt. If, after the review, the Department does not agree with the fair market value proposed in the Development Owner's appraisal, the Department may order another appraisal at the Development Owner's expense; or

(C) if the LURA requires valuation through the Minimum Purchase Price calculation, submit documentation verifying the calculation of the Minimum Purchase Price as described in subsection (b)(2) of this section regardless of any existing offer or appraised value;

(3) description of the Property, including all amenities and current zoning requirements;

(4) copies of all documents imposing income, rental and other restrictions (non-TDHCA), if any, applicable to the operation of the Property;

(5) copy of the most current title report, commitment or policy in the Development Owner's possession;

(6) the most recent Physical Needs Assessment, pursuant to Texas Government Code conducted by a Third-Party;

(7) copy of the monthly operating statements, including income statements and balance sheets for the Property for the most recent twelve (12) consecutive months (financial statements should identify amounts held in reserves);

(8) the three (3) most recent consecutive audited annual operating statements, if available;

(9) detailed set of photographs of the Property, including interior and exterior of representative units and buildings, and the Property's grounds (including digital photographs that may be easily displayed on the Department's website);

(10) current and complete rent roll for the entire Property;

(11) if any portion of the land or improvements is leased for other than residential purposes, copies of the commercial leases; and

(12) ROFR fee as identified in §10.901 of this chapter (relating to Fee Schedule).

(d) Process. Within 30 business days of receipt of all required documentation, the Department will review the submitted documents and notify the Development Owner of any deficiencies. Once the deficiencies are resolved and the Development Owner and Department come to an agreement on the ROFR offer price of the Property, the Department will list the Property for sale on the Department's website and contact entities on the nonprofit buyer list maintained by the Department to inform them of the availability of the Property at the agreed upon ROFR offer price as determined under this section. The Department will notify the Development Owner when the Property has been listed and of any inquiries or offers generated by such listing. If the Department or Development Owner receives offers to purchase the Property from more than one Qualified ROFR Organization, the Development Owner may accept back up offers. To satisfy the ROFR requirement, the Development Owner may sell the Property to the Qualified ROFR Organization selected by the Development Owner on such basis as it shall determine appropriate and approved by the Department. The period of time required for offering the property at the ROFR offer price is based upon the period identified in the LURA and clarified in paragraphs (1) - (3) of this subsection:

(1) if the LURA requires a 90 day ROFR posting period, within 90 days from the date listed on the website, the process as identified in subparagraphs (A) - (D) of this paragraph shall be followed:

(A) if a bona fide offer from a qualified ROFR organization is received at or above the posted ROFR offer price, and the Development Owner does not accept the offer, the ROFR requirement will not be satisfied;

(B) if a bona fide offer from a qualified ROFR organization is received at or above the posted ROFR offer price and the Development Owner accepts the offer, and the nonprofit fails to close the purchase, if the failure is determined to not be the fault of the Development Owner, the ROFR requirement will be deemed met so long as no other acceptable offers have been timely received. If the proposed Development Owner is subsequently not approved by the Department during the ownership transfer review due to issues identified during the Previous Participation Review process pursuant to Chapter 1, Subchapter C of this title, the ROFR requirement will be deemed met so long as no other acceptable offers have been timely received;

(C) if an offer from a nonprofit is received at a price below the posted ROFR offer price, the Development Owner is not required to accept the offer, and the ROFR requirement will be deemed met if no other offers at or above the price are received during the 90 day period;

(D) if no bona fide offers are received during the 90 day period, the Department will notify the Development Owner in writing that the ROFR requirement has been met. Upon receipt of written notice, the Development Owner may pursue the Qualified Contract process or proceed with the sale to a for-profit buyer at or above the posted price;

(2) if the LURA requires a two year ROFR posting period, and the Development Owner intends to sell the Property upon expiration of the Compliance Period, the notice of intent described in this section may be submitted at least 2 years before the expiration of the Compliance Period, as required by Texas Government Code, §2306.6726. If the Development Owner determines that it will sell the Development at some point later than the end of the Compliance Period, the notice of intent shall be given within two (2) years before the date upon which the Development Owner intends to sell the Development in order for the two year ROFR posting period to be completed prior to intended sale. The two (2) year period referenced in this paragraph begins when the Department has received and approved all documentation required under subsection (c)(1) - (12) of this section. During the two (2) years following the notice of intent and in order to satisfy the ROFR requirement of the LURA, the Development Owner may negotiate or enter into an agreement to sell the Development only with the parties listed, and in order of priority:

(A) during the first six (6) month period after notice of intent, only with a Qualified Nonprofit Organization that is also a Community Housing Development Organization, as defined in the HOME Final Rule and is approved by the Department;

(B) during the second six (6) month period after notice of intent, only with a Qualified Nonprofit Organization or a tenant organization;

(C) during the second year after notice of intent, only with the Department or with a Qualified Nonprofit Organization approved by the Department or a tenant organization approved by the Department;

(D) if, during the two (2) year period, the Development Owner shall receive an offer to purchase the Development at or above the Minimum Purchase Price from one of the organizations designated in subparagraphs (A) - (C) of this paragraph (within the period(s) appropriate to such organization), the Development Owner may sell the Development to such organization. If, during such period, the Development Owner shall receive more than one offer to purchase the Development at or above the Minimum Purchase Price from one or more of the organizations designated in subparagraphs (A) - (C) of this paragraph (within the period(s) appropriate to such organizations), the Development Owner may sell the Development at or above the Minimum

Purchase Price to the organization selected by the Development Owner on such basis as it shall determine appropriate and approved by the Department; and

(E) upon expiration of the two (2) year period, if no Minimum Purchase Price offers were received from a Qualified ROFR Organization or by the Department, the Department will notify the Development Owner in writing that the ROFR requirement has been met. Upon receipt of written notice, the Development Owner may pursue the Qualified Contract process or proceed with the sale to a for-profit buyer at or above the minimum purchase price.

(3) if the Development Owner has amended the LURA to require a 180 day ROFR posting period pursuant to Texas Government Code §2306.6725, as amended, and the Development Owner intends to sell the Property at any time after the expiration of the Compliance Period, the Development Owner shall notify the Department and the tenants of the development of the owner's intent to sell. The Development Owner shall also identify to the Department any qualified entity that is the owner's intended recipient of the right of first refusal in the LURA, if applicable. As soon as practicable after receiving the Development Owner's notice, and if the owner has specifically identified any qualified entity that is the owner's intended recipient of the ROFR, the Department shall provide notice to any identified qualified entity of the owner's intent to sell the development and shall post the notice to the Department's website. The owner's notice of intent to sell shall be given within 180 days before the date upon which the Development Owner intends to sell the Development in order for the 90 day ROFR posting period to be completed prior to the intended sale. The 180 day ROFR period referenced in this paragraph begins when the Department has received and approval all documentation required under subsection (c)(1) - (12) of this section. During the 180 days following the notice of intent and in order to satisfy the ROFR requirement of the LURA, the Development Owner may negotiate or enter into an agreement to sell the Development only with the parties listed, and in order of priority:

(A) during the first 60 day period after notice of intent, only with a Community Housing Development Organization, as defined in the HOME Final Rule, or with a qualified entity that is controlled by a Community Housing Development Organization, and is approved by the Department;

(B) during the second 60 day period after notice of intent, only with a Qualified Nonprofit Organization as described by Texas Government Code §2306.6706, a qualified entity that is controlled by a Qualified Nonprofit Organization as described by Texas Government Code §2306.6706, or a tenant organization, and is approved by the Department;

(C) during the last sixty (60) day period after notice of intent, with any other qualified entity that is approved by the Department;

(D) if, during the one hundred and eighty (180) day period, the Development Owner shall receive an offer to purchase the Development at a price that the Department determines to be reasonable from one of the organizations designated in subparagraphs (A) - (C) of this paragraph (within the period(s) appropriate to such organization), the Development Owner may sell the Development to such organization. If, during such period, the Development Owner shall receive more than one offer to purchase the Development at or above the price that the Department determines to be reasonable from one or more of the organizations designated in subparagraphs (A) - (C) of this paragraph (within the period(s) appropriate to such organizations), the Development Owner may sell the Development at or above the price that the Department determines to be reasonable in accordance with subsection (b)(2) of this section to the organization selected by the De-

velopment Owner on such basis as it shall determine appropriate and approved by the Department; and

(E) beginning on the 181st day after the date the Department posts notice of the Development Owner's intent to sell, if no offers at a price determined to be reasonable by the Department were received from a Qualified ROFR Organization or by the Department, the Department will notify the Development Owner in writing that the ROFR requirement has been met. Upon receipt of written notice, the Development Owner may pursue the Qualified Contract process or proceed with the sale to a for-profit buyer at or above the price determined to be reasonable by the Department;

(F) this section applies only to a right of first refusal memorialized in the Department's LURA. This section does not authorize a modification of any other agreement between the Development Owner and a qualified entity.

(4) If the LURA does not specify a required ROFR posting timeframe, or, is unclear on the required ROFR posting timeframe, and the required ROFR value is determined by the Minimum Purchase Price method, any Development that received a tax credit allocation prior to September 1, 1997 is required to post for a 90-day ROFR period and any Development that received a tax credit allocation on or after September 1, 1997 and until September 1, 2015 is required to post for a 2-year ROFR, unless the LURA is amended under §10.405(b), or after September 1, 2015 is required to post for a 180-day ROFR period as described in Texas Government Code, §2306.6726.

(e) Closing the Transaction. The Department shall have the right to enforce the Development Owner's obligation to sell the Development as herein contemplated by obtaining a power-of-attorney from the Development Owner to execute such a sale or by obtaining an order for specific performance of such obligation or by such other means or remedy as shall be, in the Department's discretion, appropriate.

(1) Prior to closing a sale of the Property, the Development Owner must obtain Department approval of the transfer through the ownership transfer process in accordance with §10.406 of this chapter (relating to Ownership Transfers (§2306.6713)). The request should include, among other required transfer documents outlined in the Post Award Activities Manual, the final settlement statement and final sales contract with all amendments. If there is no material change in the sales price or terms and conditions of the sale, as approved at the conclusion of the ROFR process, and there are no issues identified during the Ownership Transfer review process, the Department will notify the Development Owner in writing that the transfer is approved.

(2) If the closing price is materially less than the amount identified in the sales contract or appraisal that was submitted in accordance with subsection (c)(2)(A) - (C) of this section or the terms and conditions of the sale change materially, in the Department's sole determination, the Development Owner must go through the ROFR process again.

(3) Following notice that the ROFR requirement has been met, if the Development Owner fails to proceed with a request for a Qualified Contract or sell the Property to a for-profit entity within twenty-four (24) months of the Department's written approval, the Development Owner must again offer the Property to nonprofits in accordance with the applicable section prior to any transfer. If the Department determines that the ROFR requirement has not been met during the ROFR posting period, the Owner may not re-post under this provision at a ROFR price that is higher than the originally posted ROFR price until twenty-four (24) months has expired from the Department's written denial. The Development Owner may market the Property for sale and sell the Property to a Qualified ROFR Organization during this twenty-four month period.

(f) Appeals. A Development Owner may appeal a staff decision in accordance with §10.902 of this chapter (relating to the Appeals Process (§2306.0321; §2306.6715)). The appeal may include:

- (1) the best interests of the residents of the Development;
- (2) the impact the decision would have on other Developments in the Department's portfolio;
- (3) the source of the data used as the basis for the Development Owner's appeal;
- (4) the rights of nonprofits under the ROFR;
- (5) any offers from an eligible nonprofit to purchase the Development; and
- (6) other factors as deemed relevant by the Executive Director.

§10.408. Qualified Contract Requirements.

(a) General. Pursuant to §42(h)(6) of the Code, after the end of the 14th year of the Compliance Period, the Development Owner of a Development utilizing Housing Tax Credits can request that the allocating agency find a buyer at the Qualified Contract Price. If a buyer cannot be located within one (1) year, the Extended Use Period will expire. This section provides the procedures for the submittal and review of Qualified Contract Request.

(b) Eligibility. Development Owners who received an award of credits on or after January 1, 2002 are not eligible to request a Qualified Contract prior to the thirty (30) year anniversary of the date the property was placed in service. (§2306.185) Unless otherwise stated in the LURA, Development Owners awarded credits prior to 2002 may submit a Qualified Contract Request at any time after the end of the year proceeding the last year of the Initial Affordability Period, following the Department's determination that the Development Owner is eligible. The Initial Affordability Period starts concurrently with the credit period, which begins at placement-in-service or is deferred until the beginning of the next tax year, if there is an election. Unless the Development Owner has elected an Initial Affordability Period longer than the Compliance Period, as described in the LURA, this can commence at any time after the end of the 14th year of the Compliance Period. References in this section to actions which can occur after the 14th year of the Compliance Period shall refer, as applicable, to the year preceding the last year of the Initial Affordability Period, if the Development Owner elected an Initial Affordability Period longer than the Compliance Period.

(1) If there are multiple buildings placed in service in different years, the end of the Initial Affordability Period will be based upon the date the last building placed in service. For example, if five buildings in the Development began their credit periods in 1990 and one began in 1991, the 15th year would be 2005.

(2) If a Development received an allocation in multiple years, the end of the Initial Affordability Period will be based upon the last year of a multiple allocation. For example, if a Development received its first allocation in 1990 and a subsequent allocation and began the credit period in 1992, the 15th year would be 2006.

(c) Preliminary Qualified Contract Request. All eligible Development Owners must file a Preliminary Qualified Contract Request.

(1) In addition to determining the basic eligibility described in subsection (b) of this section, the pre-request will be used to determine that:

(A) the Development does not have any uncorrected issues of noncompliance outside the Corrective Action Period;

(B) there is a Right of First Refusal (ROFR) connected to the Development that has been satisfied;

(C) the Compliance Period has not been extended in the LURA and, if it has, the Development Owner is eligible to file a pre-request as described in paragraph (2) of this subsection; and

(2) In order to assess the validity of the pre-request, the Development Owner must submit:

(A) Preliminary Request Form;

(B) Qualified Contract Pre-Request fee as outlined in §10.901 of this chapter (relating to Fee Schedule);

(C) copy of all regulatory agreements or LURAs associated with the Property (non-TDHCA);

(D) copy of the most recent Physical Needs Assessment, pursuant to Texas Government Code §2306.186(e), conducted by a Third Party.

(3) The pre-request will not bind the Development Owner to submit a Request and does not start the One (1) Year Period (1YP). A review of the pre-request will be conducted by the Department within ninety (90) days of receipt of all documents and fees described in paragraph (2) of this subsection. If the Department determines that this stage is satisfied, a letter will be sent to the Development Owner stating that they are eligible to submit a Qualified Contract (QC) Request.

(d) Qualified Contract Request. A Development Owner may file a QC Request anytime after written approval is received from the Department verifying that the Development Owner is eligible to submit the Request.

(1) Documentation that must be submitted with a Request is outlined in subparagraphs (A) - (P) of this paragraph:

(A) a completed application and certification;

(B) the Qualified Contract price calculation worksheets completed by a Third-Party certified public accountant (CPA). The CPA shall certify that they have reviewed annual partnership tax returns for all years of operation, loan documents for all secured debt, and partnership agreements. They shall also certify that they are not being compensated for the assignment based upon a predetermined outcome;

(C) a thorough description of the Development, including all amenities;

(D) a description of all income, rental and other restrictions (non-TDHCA), if any, applicable to the operation of the Development;

(E) a current title report;

(F) a current appraisal with the effective date within six months of the date of the QC Request and consistent with Subchapter D of this chapter (relating to Underwriting and Loan Policy);

(G) a current Phase I Environmental Site Assessment (Phase II if necessary) with the effective date within six months of the date of the QC Request and consistent with Subchapter D of this chapter;

(H) a copy of the most recent Physical Needs Assessment of the property conducted by a Third Party, if different from the assessment submitted during the preliminary qualified contract request, consistent with Subchapter D of this chapter and in accordance with the requirement described in Texas Government Code, §2306.186(e);

(I) a copy of the monthly operating statements for the Development for the most recent twelve (12) consecutive months;

(J) the three most recent consecutive annual operating statements;

(K) a detailed set of photographs of the development, including interior and exterior of representative units and buildings, and the property's grounds (including digital photographs that may be easily displayed on the Department's website);

(L) a current and complete rent roll for the entire Development;

(M) a certification that all tenants in the Development have been notified in writing of the request for a Qualified Contract. A copy of the letter used for the notification must also be included;

(N) if any portion of the land or improvements is leased, copies of the leases;

(O) the Qualified Contract Fee as identified in §10.901 of this chapter; and

(P) additional information deemed necessary by the Department.

(2) Unless otherwise directed by the Department pursuant to subsection (g) of this section, the Development Owner shall contract with a broker to market and sell the Property. The Department may, at its sole discretion, notify the Owner that the selected Broker is not approved by the Department. The fee for this service will be paid by the seller, not to exceed six percent of the QC Price.

(3) Within 90 days of the submission of a complete Request, the Department will notify the Development Owner in writing of the acceptance or rejection of the Development Owner's QC Price calculation. The Department will have one (1) year from the date of the acceptance letter to find a Qualified Purchaser and present a QC. The Department's rejection of the Development Owner's QC Price calculation will be processed in accordance with subsection (e) of this section and the 1YP will commence as provided therein.

(e) Determination of Qualified Contract Price. The QC Price calculation is not the same as the Minimum Purchase Price calculation for the ROFR. The CPA contracted by the Development Owner will determine the QC Price in accordance with §42(h)(6)(F) of the Code taking the following into account:

(1) distributions to the Development Owner of any and all cash flow, including incentive management fees and reserve balance distributions or future anticipated distributions, but excluding payments of any eligible deferred developer fee. These distributions can only be confirmed by a review of all prior year tax returns for the Development;

(2) all equity contributions will be adjusted based upon the lesser of the consumer price index or 5 percent for each year, from the end of the year of the contribution to the end of year fourteen or the end of the year of the request for a QC Price if requested at the end of the year or the year prior if the request is made earlier than the last year of the month; and

(3) these guidelines are subject to change based upon future IRS Rulings and/or guidance on the determination of Development Owner distributions, equity contributions and/or any other element of the QC Price.

(f) Appeal of Qualified Contract Price. The Department reserves the right, at any time, to request additional information to document the QC Price calculation or other information submitted. If the documentation does not support the price indicated by the CPA hired by the Development Owner, the Department may engage its own CPA to perform a QC Price calculation and the cost of such service will

be paid for by the Development Owner. If a Development Owner disagrees with the QC Price calculated by the Department, a Development Owner may appeal in writing. A meeting will be arranged with representatives of the Development Owner, the Department and the CPA contracted by the Department to attempt to resolve the discrepancy. The 1YP will not begin until the Department and Development Owner have agreed to the QC Price in writing. Further appeals can be submitted in accordance with §10.902 of this title (relating to Appeals Process (§2306.0321; §2306.6715)).

(g) Marketing of Property. By submitting a Request, the Development Owner grants the Department the authority to market the Development and provide Development information to interested parties. Development information will consist of pictures of the Development, location, amenities, number of Units, age of building, etc. Development Owner contact information will also be provided to interested parties. The Development Owner is responsible for providing staff any requested information to assist with site visits and inspections. Marketing of the Development will continue until such time that a Qualified Contract is presented or the 1YP has expired. Notwithstanding subsection (d)(2) of this section, the Department reserves the right to contract directly with a Third Party in marketing the Development. Cost of such service, including a broker's fee not to exceed 6 percent, will be paid for by the existing Development Owner. The Department must have continuous cooperation from the Development Owner. Lack of cooperation will cause the process to cease and the Development Owner will be required to comply with requirements of the LURA for the remainder of the Extended Use Period. A prospective purchaser must complete all requirements of an ownership transfer request and be approved by the Department prior to closing on the purchase. Responsibilities of the Development Owner include but are not limited to the items described in paragraphs (1) - (3) of this subsection. The Development Owner must:

(1) allow access to the Property and tenant files;

(2) keep the Department informed of potential purchasers;

and

(3) notify the Department of any offers to purchase.

(h) Presentation of a Qualified Contract. If the Department finds a Qualified Purchaser willing to present an offer to purchase the property for an amount at or above the QC Price, the Development Owner may accept the offer and enter into a commercially reasonable form of earnest money agreement or other contract of sale for the property and provide a reasonable time for necessary due diligence and closing of the purchase. If the Development Owner chooses not to accept the QC offer that the Department presents, the QC request will be closed and the possibility of terminating the Extended Use Period through the Qualified Contract process is eliminated; the Property remains bound by the provisions of the LURA. If the Development Owner decides to sell the development for the QC Price pursuant to a QC, the consummation of such a sale is not required for the LURA to continue to bind the Development for the remainder of the Extended Use Period.

(1) The Department will attempt to procure a QC only once during the Extended Use Period. If the transaction closes under the contract, the new Development Owner will be required to fulfill the requirements of the LURA for the remainder of the Extended Use Period.

(2) If the Department fails to present a QC before the end of the 1YP, the Department will file a release of the LURA and the Development will no longer be restricted to low-income requirements and compliance. However, in accordance with §42(h)(6)(E)(ii) of the Code, for a three (3) year period commencing on the termination of the Extended Use Period, the Development Owner may not evict or dis-

place tenants of Low-Income Units for reasons other than good cause and will not be permitted to increase rents beyond the maximum tax credit rents. Additionally, the Development Owner should submit to the Department a request to terminate the LURA and evidence, in the form of a signed certification and a copy of the letter, to be approved by the Department, that the tenants in the Development have been notified in writing that the LURA will be terminated and have been informed of their protections during the three (3) year time frame.

(3) Prior to the Department filing a release of the LURA, the Development Owner must correct all instances of noncompliance at the Development.

(i) Compliance Monitoring during Extended Use Period. For Developments that continue to be bound by the LURA and remain affordable after the end of the Compliance Period, the Department will monitor in accordance with the Extended Use Period Compliance Policy in Subchapter F of this chapter (relating to Compliance Monitoring).

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

Filed with the Office of the Secretary of State on September 14, 2015.

TRD-201503727
Timothy K. Irvine
Executive Director

Texas Department of Housing and Community Affairs
Earliest possible date of adoption: October 25, 2015
For further information, please call: (512) 475-2109



SUBCHAPTER G. FEE SCHEDULE, APPEALS AND OTHER PROVISIONS

10 TAC §§10.901 - 10.904

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter G, §§10.901 - 10.904, concerning Fee Schedule, Appeals and Other Provisions. The purpose of the repeal is to allow for the adoption of new Subchapter G to provide for updated guidance relating to fees paid to the Department in order to cover the administrative costs of implementing the program and to provide guidance to applicants and awardees with regard to their responsibilities to the Department as well as a mechanism for formal communication with the Department.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to new costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the repeal is in effect,

the public benefit anticipated as a result of the repeal will be the replacement of existing Subchapter G with a new Subchapter G that encompasses requirements for all applications applying for multifamily funding through the Department. There is no change in economic cost to any individuals required to comply with the repeal.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held September 25, 2015, to October 15, 2015, to receive input on the repeal. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Teresa Morales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by fax to (512) 475-0764, ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. OCTOBER 15, 2015.

STATUTORY AUTHORITY. The repeal is proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules. Additionally, the repeal is proposed pursuant to Texas Government Code §2306.67022, which specifically authorizes the Department to adopt a qualified allocation plan, and Texas Government Code §§2306.144, 2306.147, and 2306.6716.

The proposed repeal affects Texas Government Code Chapter 2306, including Subchapter DD, concerning Low Income Housing Tax Credit Program. The repeal affects no other statutes, articles or codes.

§10.901. *Fee Schedule.*

§10.902. *Appeals Process (§2306.0321; §2306.6715).*

§10.903. *Adherence to Obligations (§2306.6720).*

§10.904. *Alternative Dispute Resolution (ADR) Policy.*

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

Filed with the Office of the Secretary of State on September 14, 2015.

TRD-201503741
Timothy K. Irvine
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: October 25, 2015
For further information, please call: (512) 475-3344



10 TAC §§10.901 - 10.904

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC Chapter 10, Subchapter G §§10.901 - 10.904, concerning the Uniform Multifamily Rules. The purpose of the proposed new sections is to provide for fees paid to the Department in order to cover the administrative costs of implementing the program and to provide guidance to applicants and awardees with regard to their responsibilities to the Department as well as a mechanism for formal communication with the Department. The proposed repeal of existing Subchapter G is published concurrently with this rulemaking.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to new costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new sections will be adequate revenue to cover the cost of monitoring compliance with the program requirements. The average cost of filing an application is between \$40,000 and \$50,000, which may vary depending on the specific type of application, location of the development site, and other non-state of Texas funding sources utilized. The proposed rules do not, on average, result in an increased cost of filing an application as compared to the existing program rules.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that any new economic impact on small or micro-businesses is expected to be minimal, and/or offset by reductions in other fees and would only be incurred if the business engages in actions that are at its option. The average cost of filing an application is between \$40,000 and \$50,000, which may vary depending on the specific type of application, location of the development site, and other non-state of Texas funding sources utilized. The proposed rules do not, on average, result in an increased cost of filing an application as compared to the existing program rules.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held September 25, 2015 to October 15, 2015, to receive input on the new sections. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Teresa Morales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by fax to (512) 475-0764, attn: Teresa Morales. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. OCTOBER 15, 2015.

STATUTORY AUTHORITY. The new sections are proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules. Additionally, the new sections are proposed pursuant to Texas Government Code §2306.67022, which specifically authorizes the Department to adopt a qualified allocation plan, and Texas Government Code §2306.144, §2306.147, and §2306.6716.

The proposed new sections affect Chapter 2306 of the Texas Government Code, including subchapter DD, concerning Low Income Housing Tax Credit Program. The new sections affect no other statutes, articles or codes.

§10.901. Fee Schedule.

Any fees, as stated in this section, not paid will cause an Applicant to be ineligible to apply for Department funding, ineligible to receive additional Department funding associated with a Commitment, Determination Notice or Contract, and ineligible to submit extension requests, ownership transfers, and Application amendments until such time the Department receives payment. Payments of the fees shall be in the form of a check and to the extent there are insufficient funds available, it may cause the Application, Commitment, Determination Notice or Contract to be terminated or Allocation rescinded. The Executive Director may grant a waiver for specific extenuating and extraordinary circumstances, provided the Applicant submits a written request for a waiver no later than ten (10) business days prior to the deadline associated with the particular fee. For those requests that do not have a specified deadline, the written request for a fee waiver and description

of extenuating and extraordinary circumstances must be included in the original request cover letter.

(1) Competitive Housing Tax Credit Pre-Application Fee. A pre-application fee, in the amount of \$10 per Unit, based on the total number of Units reflected in the pre-application, must be submitted with the pre-application in order for the pre-application to be considered accepted by the Department. Pre-applications in which a Community Housing Development Corporation (CHDO) or Qualified Non-profit Organization intends to serve as the Managing General Partner of the Development Owner, or Control the Managing General Partner of the Development Owner, may be eligible to receive a discount of 10 percent off the calculated pre-application fee. (§2306.6716(d))

(2) Refunds of Pre-application Fees. (§2306.6716(c)) Upon written request from the Applicant, the Department shall refund the balance of the pre-application fee for a pre-application that is withdrawn by the Applicant and that is not fully processed by the Department. The amount of refund will be commensurate with the level of review completed. Intake and data entry will constitute 50 percent of the review, threshold review prior to a deficiency issued will constitute 30 percent of the review, and deficiencies submitted and reviewed constitute 20 percent of the review.

(3) Application Fee. Each Application must be accompanied by an Application fee.

(A) Housing Tax Credit Applications. The fee will be \$30 per Unit based on the total number of Units. For Applicants having submitted a competitive housing tax credit pre-application which met the pre-application threshold requirements, and for which a pre-application fee was paid, the Application fee will be \$20 per Unit based on the number of Units in the full Application. Applications in which a CHDO or Qualified Nonprofit Organization intends to serve as the Managing General Partner of the Development Owner, or Control the Managing General Partner of the Development Owner, may be eligible to receive a discount of 10 percent off the calculated Application fee. (§2306.6716(d))

(B) Direct Loan Applications. The fee will be \$1,000 per Application. Pursuant to Texas Government Code, §2306.147(b), the Department is required to waive Application fees for private non-profit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. In lieu of the Application fee, these organizations must include proof of their exempt status and a description of their supportive services as part of the Application. An Application fee is not required for Applications that have an existing Housing Tax Credit Allocation or HOME Contract with the Department, and construction on the development has not begun or if requesting an increase in the existing HOME award. The Application fee is not a reimbursable cost under the HOME Program.

(4) Refunds of Application Fees. Upon written request from the Applicant, the Department shall refund the balance of the Application fee for an Application that is withdrawn by the Applicant and that is not fully processed by the Department. The amount of refund will be commensurate with the level of review completed. Intake and data entry will constitute 20 percent, the site visit will constitute 20 percent, eligibility and selection review will constitute 20 percent, threshold review will constitute 20 percent, and underwriting review will constitute 20 percent.

(5) Third Party Underwriting Fee. Applicants will be notified in writing prior to the evaluation in whole or in part of a Development by an independent external underwriter in accordance with §10.201(5) of this chapter (relating to Procedural Requirements for Application Submission), if such a review is required. The fee must be re-

ceived by the Department prior to the engagement of the underwriter. The fees paid by the Development Owner to the Department for the external underwriting will be credited against the Commitment or Determination Notice Fee, as applicable, established in paragraphs (8) and (9) of this section, in the event that a Commitment or Determination Notice is issued by the Department to the Development Owner.

(6) Administrative Deficiency Notice Late Fee. (Not applicable for Competitive Housing Tax Credit Applications.) Applications that fail to resolve Administrative Deficiencies pursuant to §10.201(7) of this chapter shall incur a late fee in the amount of \$500 for each business day the deficiency remains unresolved.

(7) Third Party Deficiency Request Fee. For Competitive Housing Tax Credits (HTC) Applications, a fee equal to \$500 for an Administrative Deficiency be issued with respect to challenges submitted per Application.

(8) Housing Tax Credit Commitment Fee. No later than the expiration date in the Commitment, a fee equal to 4 percent of the annual Housing Credit Allocation amount must be submitted. If the Development Owner has paid the fee and returns the credits by November 1 of the current Application Round, then a refund of 50 percent of the Commitment Fee may be issued upon request.

(9) Tax Exempt Bond Development Determination Notice Fee. No later than the expiration date in the Determination Notice, a fee equal to 4 percent of the annual Housing Credit Allocation amount must be submitted. If the Development Owner has paid the fee and is not able close on the bonds within ninety (90) days of the issuance date of the Determination Notice, then a refund of 50 percent of the Determination Notice Fee may be issued upon request.

(10) Building Inspection Fee. (For Housing Tax Credit and Tax-Exempt Bond Developments only.) No later than the expiration date on the Commitment or Determination Notice, a fee of \$750 must be submitted. Building inspection fees in excess of \$750 may be charged to the Development Owner not to exceed an additional \$250 per Development.

(11) Tax-Exempt Bond Credit Increase Request Fee. Requests for increases to the credit amounts to be issued on IRS Forms 8609 for Tax-Exempt Bond Developments must be submitted with a request fee equal to 4 percent of the amount of the credit increase for one (1) year.

(12) Extension Fees. All extension requests for deadlines relating to the Carryover, 10 Percent Test (submission and expenditure), or Cost Certification requirements submitted at least thirty (30) calendar days in advance of the applicable deadline will not be required to submit an extension fee. Any extension request submitted fewer than thirty (30) days in advance or after the original deadline must be accompanied by an extension fee of \$2,500. An extension fee will not be required for extensions requested on Developments that involve Rehabilitation when the Department or U.S. Department of Agriculture (USDA) is the primary lender if USDA or the Department is the cause for the Applicant not meeting the deadline.

(13) Amendment Fees. An amendment request for a non-material change that has not been implemented will not be required to pay an amendment fee. Material amendment requests (whether implemented or not), or non-material amendment requests that have already been implemented will be required to submit an amendment fee of \$2,500. Amendment fees are not required for the Direct Loan programs.

(14) Right of First Refusal Fee. Requests for approval of the satisfaction of the Right of First Refusal provision of the Land Use

Restriction Agreement (LURA) must be accompanied by a non-refundable fee of \$2,500.

(15) Qualified Contract Pre-Request Fee. A Development Owner must file a preliminary Qualified Contract Request to confirm eligibility to submit a Qualified Contract request. The Pre-Request must be accompanied by a non-refundable processing fee of \$250.

(16) Qualified Contract Fee. Upon eligibility approval of the Qualified Contract Pre-Request, the Development Owner may file a Qualified Contract Request. Such request must be accompanied by a non-refundable processing fee of \$3,000.

(17) Ownership Transfer Fee. Requests to approve an ownership transfer must be accompanied by a non-refundable processing fee of \$500.

(18) Unused Credit or Penalty Fee. Development Owners who have more tax credits allocated to them than they can substantiate through Cost Certification will return those excess tax credits prior to issuance of IRS Form 8609. For Competitive Housing Tax Credit Developments, a penalty fee equal to the one year credit amount of the lost credits (10 percent of the total unused tax credit amount) will be required to be paid by the Owner prior to the issuance of IRS Form 8609 if the tax credits are not returned, and 8609's issued, within one hundred eighty (180) days of the end of the first year of the credit period. This penalty fee may be waived without further Board action if the Department recaptures and re-issues the returned tax credits in accordance with Internal Revenue Code, §42. If an Applicant returns a full credit allocation after the Carryover Allocation deadline required for that allocation, the Executive Director will recommend to the Board the imposition of a penalty on the score for any Competitive Housing Tax Credit Applications submitted by that Applicant or any Affiliate for any Application in an Application Round occurring concurrent to the return of credits or if no Application Round is pending, the Application Round immediately following the return of credits. If any such point penalty is recommended to be assessed and presented for final determination by the Board, it must include notice from the Department to the affected party not less than fourteen (14) calendar days prior to the scheduled Board meeting. The Executive Director may, but is not required, to issue a formal notice after disclosure if it is determined that the matter does not warrant point penalties. The penalty will be assessed in an amount that reduces the Applicant's final awarded score by an additional 20 percent.

(19) Compliance Monitoring Fee. (HTC and HOME Developments Only.) Upon receipt of the cost certification for HTC or HTC and HOME Developments, or upon the completion of the 24-month development period and the beginning of the repayment period for HOME only Developments, the Department will invoice the Development Owner for compliance monitoring fees. The amount due will equal \$40 per tax credit Unit and \$34 per HOME designated Unit, with two fees due for units that are dually designated. For HTC Developments, the fee will be collected, retroactively if applicable, beginning with the first year of the credit period. For HOME only Developments, the fee will be collected beginning with the first year of the repayment period. The invoice must be paid prior to the issuance of IRS Form 8609 for HTC properties. Subsequent anniversary dates on which the compliance monitoring fee payments are due shall be determined by the month the first building is placed in service. Compliance fees may be adjusted from time to time by the Department.

(20) Public Information Request Fee. Public information requests are processed by the Department in accordance with the provisions of the Texas Government Code, Chapter 552. The Department uses the guidelines promulgated by the Office of the Attorney General to determine the cost of copying and other costs of production.

(21) Adjustment of Fees by the Department and Notification of Fees. (§2306.6716(b)) All fees charged by the Department in the administration of the tax credit and HOME programs will be revised by the Department from time to time as necessary to ensure that such fees compensate the Department for its administrative costs and expenses. Unless otherwise determined by the Department, all revised fees shall apply to all Applications in process and all Developments in operation at the time of such revisions.

§10.902. Appeals Process (§2306.0321; §2306.6715).

(a) An Applicant or Development Owner may appeal decisions made by the Department pursuant to the process identified in this section. Matters that can be appealed include:

(1) A determination regarding the Application's satisfaction of applicable requirements, Subchapter B of this chapter (relating to Site and Development Requirements and Restrictions) and Subchapter C of this chapter (relating to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules for Applications), pre-application threshold criteria, underwriting criteria;

(2) The scoring of the Application under the applicable selection criteria;

(3) A recommendation as to the amount of Department funding to be allocated to the Application;

(4) Misplacement of an Application or parts of an Application, mathematical errors in scoring an Application, or procedural errors resulting in unequal consideration of the Applicant's proposal;

(5) Denial of a change to a Commitment or Determination Notice;

(6) Denial of a change to a loan agreement;

(7) Denial of a change to a LURA;

(8) Any Department decision that results in the erroneous termination of an Application; and

(9) Any other matter for which an appeal is permitted under this chapter.

(b) An Applicant or Development Owner may not appeal a decision made regarding an Application filed by or an issue related to another Applicant or Development Owner.

(c) An Applicant or Development Owner must file its appeal in writing with the Department not later than seven (7) calendar days after the date the Department publishes the results of any stage of the Application evaluation or otherwise notifies the Applicant or Development Owner of a decision subject to appeal. The appeal must be signed by the person designated to act on behalf of the Applicant or an attorney that represents the Applicant. For Application related appeals, the Applicant must specifically identify the Applicant's grounds for appeal, based on the original Application and additional documentation filed with the original Application as supplemented in accordance with the limitations and requirements of this chapter.

(d) The Executive Director may respond in writing not later than fourteen (14) calendar days after the date of actual receipt of the appeal by the Department. If the Applicant is not satisfied with the Executive Director's response to the appeal or the Executive Director does not respond, the Applicant may appeal directly in writing to the Board. While additional information can be provided in accordance with any rules related to public comment before the Board, the Department expects that a full and complete explanation of the grounds for appeal and circumstances warranting the granting of an appeal be disclosed in the

appeal documentation filed with the Executive Director. Full disclosure allows the Executive Director to make a fully informed decision based on a complete analysis of the circumstances, and verification of any information that may warrant a granting of the appeal in the Applicant's or Development Owner's favor.

(e) An appeal filed with the Board must be received by Department staff not more than seven (7) days after a response from the Executive Director and at least seven (7) days prior to the applicable Board meeting or if the period for an Executive Director response has elapsed the appeal can be heard by the Board if filed at least three (3) days prior to the applicable meeting.

(f) Board review of an Application related appeal will be based on the original Application.

(g) The decision of the Board regarding an appeal is the final decision of the Department.

(h) The Department will post to its website an appeal filed with the Department or Board and any other document relating to the processing of an Application related appeal. (§2306.6717(a)(5))

§10.903. Adherence to Obligations (§2306.6720).

Any Applicant, Development Owner, or other Person that fails to adhere to its obligations with regard to the programs of the Department, whether contractual or otherwise, made false or misleading representations to the Department with regard to an Application, request for funding, or compliance requirements, or otherwise violated a provision of Texas Government Code, Chapter 2306 or a rule adopted under that chapter, may be subject to:

(1) Assessment of administrative penalties in accordance with the Department's rules regarding the assessment of such penalties. Each day the violation continues or occurs is a separate violation for purposes of imposing a penalty; and/or

(2) in the case of the competitive Low Income Housing Tax Credit Program, a point reduction of up to ten (10) points for any Application involving that Applicant over the next two Application Rounds succeeding the date on which the Department first gives written notice of any such failure to adhere to obligations or false or misleading representations. Point reductions under this section may be appealed to the Board.

§10.904. Alternative Dispute Resolution (ADR) Policy.

In accordance with Texas Government Code, §2306.082, it is the Department's policy to encourage the use of appropriate ADR procedures under the Governmental Dispute Resolution Act, Texas Government Code, Chapter 2010, to assist in resolving disputes under the Department's jurisdiction. As described in Civil Practices and Remedies Code, Chapter 154, ADR procedures include mediation. Except as prohibited by law and the Department's Ex Parte Communications policy, the Department encourages informal communications between Department staff and Applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at any time an Applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at §1.17 of this title. Any Applicant may request an informal conference with staff to attempt to resolve any appealable matter, and the Executive Director may toll the running of periods for appeal to accommodate such meetings. In the event a successful resolution cannot be reached,

the statements made in the meeting process may not be used by the Department as admissions.

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

Filed with the Office of the Secretary of State on September 14, 2015.

TRD-201503751

Timothy K. Irvine
Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 475-3344



CHAPTER 11. HOUSING TAX CREDIT PROGRAM QUALIFIED ALLOCATION PLAN

10 TAC §§11.1 - 11.10

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC Chapter 11, §§11.1 - 11.10, concerning the 2015 Housing Tax Credit Qualified Allocation Plan. The purpose of the repeal is to replace the sections with new rules that encompasses requirements for all applications applying for housing tax credit funding through the Department.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repeal will involve the replacement of sections within the rule with a new rule that encompasses requirements for all applications applying for housing tax credit funding through the Department. There is no change in economic cost to any individuals required to comply with the repeal.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no new economic effect on small or micro-businesses. The average cost of filing an application is between \$40,000 and \$50,000, which may vary depending on the specific type of application, location of the development site, and other non-state of Texas funding sources utilized. The proposed rules do not, on average, result in an increased cost of filing an application as compared to the existing program rules.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held September 25, 2015 to October 15, 2015, to receive input on the repeal. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Teresa Morales, Rule Comments, P.O. Box 13941, Austin, Texas

78711-3941 or by fax to (512) 475-0764, attn: Teresa Morales. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. OCTOBER 15, 2015.

STATUTORY AUTHORITY. The repeal is proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules. Additionally, the repeal is proposed pursuant to Texas Government Code §2306.67022, which specifically authorizes the Department to adopt a qualified allocation plan.

No other code or statute is affected by the proposal.

§11.1. *General.*

§11.2. *Program Calendar for Competitive Housing Tax Credits.*

§11.3. *Housing De-Concentration Factors.*

§11.4. *Tax Credit Request and Award Limits.*

§11.5. *Competitive HTC Set-Asides (§2306.111(d)).*

§11.6. *Competitive HTC Allocation Process.*

§11.7. *Tie Breaker Factors.*

§11.8. *Pre-Application Requirements (Competitive HTC Only).*

§11.9. *Competitive HTC Selection Criteria.*

§11.10. *Challenges of Competitive HTC Applications.*

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

Filed with the Office of the Secretary of State on September 14, 2015.

TRD-201503722

Tom Gouris

Deputy Executive Director of Asset Analysis Management

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 475-3340



10 TAC §§11.1 - 11.10

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC Chapter 11, §§11.1 - 11.10, concerning the 2016 Housing Tax Credit Qualified Allocation Plan. The purpose of the proposed new sections is to replace the current Qualified Allocation Plan with a new Qualified Allocation Plan applicable to the 2016 cycle.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new sections will be a rule that encompasses requirements for all applications applying for housing tax credit funding through the Department. There will not be any new economic cost to any individuals required to comply with the new sections. The average cost of filing an application is between \$40,000 and \$50,000, which may vary depending on the specific type of application, location of the

development site, and other non-state of Texas funding sources utilized. The proposed rules do not, on average, result in an increased cost of filing an application as compared to the existing program rules.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no new economic effect on small or micro-businesses. The average cost of filing an application is between \$40,000 and \$50,000, which may vary depending on the specific type of application, location of the development site, and other non-state of Texas funding sources utilized. The proposed rules do not, on average, result in an increased cost of filing an application as compared to the existing program rules.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held September 25, 2015 to October 15, 2015, to receive input on the new sections. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Teresa Morales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by fax to (512) 475-0764, attn: Teresa Morales. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. OCTOBER 15, 2015.

STATUTORY AUTHORITY. The new sections are proposed pursuant to Texas Government Code §2306.053, which authorizes the Department to adopt rules. Additionally, the new sections are proposed pursuant to Texas Government Code §2306.67022, which specifically authorizes the Department to adopt a qualified allocation plan.

The proposed new sections affect Chapter 2306 of the Texas Government Code, including Subchapter DD, concerning the Low Income Housing Tax Credit Program.

§11.1. General.

(a) Authority. This chapter applies to the awarding and allocation by the Texas Department of Housing and Community Affairs (the "Department") of Housing Tax Credits. The federal laws providing for the awarding and allocation of Housing Tax Credits require states to adopt a qualified allocation plan. Pursuant to Texas Government Code, Chapter 2306, Subchapter DD, the Department is assigned responsibility for this activity. As required by Internal Revenue Code (the "Code"), §42(m)(1), the Department has developed this Qualified Allocation Plan (QAP) and it has been duly approved to establish the procedures and requirements relating to an award and allocation of Housing Tax Credits. All requirements herein and all those applicable to a Housing Tax Credit Development or an Application under Chapter 10 of this title (relating to Uniform Multifamily Rules), or otherwise incorporated by reference herein collectively constitute the QAP required by Texas Government Code, §2306.67022.

(b) Due Diligence and Applicant Responsibility. Department staff may, from time to time, make available for use by Applicants information and informal guidance in the form of reports, frequently asked questions, and responses to specific questions. The Department encourages communication with staff in order to clarify any issues that may not be fully addressed in the QAP or may be unclear when applied to specific facts. However, while these resources are offered to help Applicants prepare and submit accurate information, Applicants should also appreciate that this type of guidance is limited by its nature and that staff will apply the rules of the QAP to each specific situation as it is presented in the submitted Application. Moreover, after the time that an issue is initially presented and guidance is provided, additional information may be identified and/or the issue itself may continue to develop based upon additional research and guidance. Thus, until confirmed through final action of the Board, staff guidance must

be considered merely as an aid and an Applicant continues to assume full responsibility for any actions Applicant takes regarding an Application. In addition, although the Department may compile data from outside sources in order to assist Applicants in the Application process, it remains the sole responsibility of the Applicant to perform independently the necessary due diligence to research, confirm, and verify any data, opinions, interpretations, or other information upon which an Applicant bases an Application or includes in any submittal in connection with an Application.

(c) Competitive Nature of Program. Applying for competitive housing tax credits is a technical process that must be followed completely. As a result of the highly competitive nature of applying for tax credits, an Applicant should proceed on the assumption that deadlines are fixed and firm with respect to both date and time and cannot be waived except where authorized and for truly extraordinary circumstances, such as the occurrence of a significant natural disaster that could not have been anticipated and makes timely adherence impossible. If an Applicant chooses to submit by delivering an item physically to the Department, it is the Applicant's responsibility to be within the Department's doors by the appointed deadline. Applicants should further ensure that all required documents are included, legible, properly organized, and tabbed, and that materials in required formats involving digital media are complete and fully readable. Applicants are strongly encouraged to submit the required items well in advance of established deadlines. Staff, when accepting Applications, may conduct limited reviews at the time of intake as a courtesy only. If staff misses an issue in such a limited review, the fact that the Application was accepted by staff or that the issue was not identified does not operate to waive the requirement or validate the completeness, readability, or any other aspect of the Application.

(d) Definitions. The capitalized terms or phrases used herein are defined in §10.3 of this title (relating to Definitions), unless the context clearly indicates otherwise. Any capitalized terms that are defined in Texas Government Code, Chapter 2306, §42 of the Code, or other Department rules have, when capitalized, the meanings ascribed to them therein. Defined terms when not capitalized, are to be read in context and construed according to common usage.

(e) Census Data. Where this chapter requires the use of census or American Community Survey data, the Department shall use the most current data available as of October 1, 2015, unless specifically otherwise provided in federal or state law or in the rules. The availability of more current data shall generally be disregarded.

(f) Deadlines. Where a specific date or deadline is identified in this chapter, the information or documentation subject to the deadline must be submitted on or before 5:00 p.m. Austin local time on the day of the deadline. If the deadline falls on a weekend or holiday, the deadline is 5:00 p.m. Austin local time on the next day which is not a weekend or holiday and on which the Department is open for general operation.

§11.2. Program Calendar for Competitive Housing Tax Credits.

Non-statutory deadlines specifically listed in the Program Calendar may be extended by the Executive Director for a period of not more than five (5) business days provided that the Applicant has, in writing, requested an extension prior to the date of the original deadline and has established to the reasonable satisfaction of the Executive Director that there is good cause for the extension. Except as provided for under 10 TAC §1.1 relating to Reasonable Accommodation Requests, extensions relating to Administrative Deficiency deadlines may only be extended if documentation needed to resolve the item is needed from a Third Party.

Figure: 10 TAC §11.2

§11.3. Housing De-Concentration Factors.

(a) Two Mile Same Year Rule (Competitive HTC Only). As required by Texas Government Code, §2306.6711(f), staff will not recommend for award, and the Board will not make an award to an Application that proposes a Development Site located in a county with a population that exceeds one million if the proposed Development Site is also located less than two linear miles from the proposed Development Site of another Application within said county that is awarded in the same calendar year.

(b) Twice the State Average Per Capita. As provided for in Texas Government Code, §2306.6703(a)(4), if a proposed Development is located in a municipality, or if located completely outside a municipality, a county, that has more than twice the state average of units per capita supported by Housing Tax Credits or private activity bonds at the time the Application Round begins (or for Tax-Exempt Bond Developments at the time the Certificate of Reservation is issued by the Texas Bond Review Board), the Applicant must obtain prior approval of the Development from the Governing Body of the appropriate municipality or county containing the Development. Such approval must include a resolution adopted by the Governing Body of the municipality or county, as applicable, setting forth a written statement of support, specifically citing Texas Government Code, §2306.6703(a)(4) in the text of the actual adopted resolution, and authorizing an allocation of Housing Tax Credits for the Development. An acceptable, but not required, form of resolution may be obtained in the Uniform Multifamily Application Templates. Required documentation must be submitted by the Full Application Delivery Date as identified in §11.2 of this chapter (relating to Program Calendar for Competitive Housing Tax Credits) or Resolutions Delivery Date in §10.4 of this title (relating to Program Dates), as applicable.

(c) One Mile Three Year Rule. (§2306.6703(a)(3))

(1) An Application that proposes the New Construction or Adaptive Reuse of a Development that is located one linear mile or less (measured between closest boundaries by a straight line on a map) from another development that meets all of the criteria in subparagraphs (A) - (C) of this paragraph shall be considered ineligible.

(A) The development serves the same type of household as the proposed Development, regardless of whether the Development serves families, elderly individuals, or another type of household; and

(B) The development has received an allocation of Housing Tax Credits or private activity bonds for any New Construction at any time during the three-year period preceding the date the Application Round begins (or for Tax-Exempt Bond Developments the three-year period preceding the date the Certificate of Reservation is issued); and

(C) The development has not been withdrawn or terminated from the Housing Tax Credit Program.

(2) Paragraph (1) of this subsection does not apply to a Development:

(A) that is using federal HOPE VI (or successor program) funds received through HUD;

(B) that is using locally approved funds received from a public improvement district or a tax increment financing district;

(C) that is using funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. §§12701 et seq.);

(D) that is using funds provided to the state and participating jurisdictions under the Housing and Community Development Act of 1974 (42 U.S.C. §§5301 et seq.);

(E) that is located in a county with a population of less than one million;

(F) that is located outside of a metropolitan statistical area; or

(G) that the Governing Body of the appropriate municipality or county where the Development is to be located has by vote specifically allowed the construction of a new Development located within one linear mile or less from a Development described under paragraph (1)(A) of this subsection. An acceptable, but not required, form of resolution may be obtained in the Uniform Multifamily Application Templates. Required documentation must be submitted by the Full Application Delivery Date as identified in §11.2 of this chapter or Resolutions Delivery Date in §10.4 of this title, as applicable.

(3) Where a specific source of funding is referenced in paragraph (2)(A) - (D) of this subsection, a commitment or resolution documenting a commitment of the funds must be provided in the Application.

(d) Limitations on Developments in Certain Census Tracts. An Application that proposes the New Construction or Adaptive Reuse of a Development proposed to be located in a census tract that has more than 20 percent Housing Tax Credit Units per total households as established by the 5-year American Community Survey and the Development is in a Place that has a population greater than 100,000 shall be considered ineligible unless the Governing Body of the appropriate municipality or county containing the Development has, by vote, specifically allowed the Development and submits to the Department a resolution stating the proposed Development is consistent with the jurisdiction's obligation to affirmatively further fair housing. The resolution must be submitted by the Full Application Delivery Date as identified in §11.2 of this chapter or Resolutions Delivery Date in §10.4 of this title, as applicable.

(e) Additional Phase. Applications proposing an additional phase of an existing tax credit Development serving the same Target Population, or Applications proposing Developments that are adjacent to an existing tax credit Development serving the same Target Population, or Applications that are proposing a Development serving the same Target Population on a contiguous site to another Application awarded in the same program year, shall be considered ineligible unless the other Developments or phase(s) of the Development have been completed and have maintained occupancy of at least 90 percent for a minimum six (6) month period as reflected in the submitted rent roll. If the Application proposes the Rehabilitation or replacement of existing federally-assisted affordable housing units or federally-assisted affordable housing units demolished on the same site within two years of the beginning of the Application Acceptance Period, this provision does not apply.

§11.4. Tax Credit Request and Award Limits.

(a) Credit Amount (Competitive HTC Only). (§2306.6711(b)) The Board may not award or allocate to an Applicant, Developer, Affiliate or Guarantor (unless the Guarantor is also the General Contractor, and is not a Principal of the Applicant, Developer or Affiliate of the Development Owner) Housing Tax Credits in an aggregate amount greater than \$3 million in a single Application Round. All entities that are under common Control are Affiliates. For purposes of determining the \$3 million limitation, a Person is not deemed to be an Applicant, Developer, Affiliate or Guarantor solely because it:

(1) raises or provides equity;

(2) provides "qualified commercial financing:"

(3) is a Qualified Nonprofit Organization or other not-for-profit entity that is providing solely loan funds, grant funds or social services; or

(4) receives fees as a Development Consultant or Developer that do not exceed 10 percent of the Developer Fee (or 20 percent for Qualified Nonprofit Developments and other Developments in which an entity that is exempt from federal income taxes owns at least 50% of the General Partner) to be paid or \$150,000, whichever is greater.

(b) Maximum Request Limit (Competitive HTC Only). For any given Development, an Applicant may not request more than 150 percent of the credit amount available in the sub-region based on estimates released by the Department on December 1, or \$1,500,000, whichever is less, or \$2,000,000 for Applications under the At-Risk Set-Aside. The Department will consider the amount in the Funding Request of the pre-application and Application to be the amount of Housing Tax Credits requested and will automatically reduce the Applicant's request to the maximum allowable under this subsection if exceeded. Regardless of the credit amount requested or any subsequent changes to the request made by staff, the Board may not award to any individual Development more than \$2 million in a single Application Round. (§2306.6711(b))

(c) Increase in Eligible Basis (30 percent Boost). Applications will be evaluated for an increase of up to but not to exceed 30 percent in Eligible Basis provided they meet the criteria identified in paragraphs (1) - (3) of this subsection, or if required under §42 of the Code. Staff will recommend no increase or a partial increase in Eligible Basis if it is determined it would cause the Development to be over sourced, as evaluated by the Real Estate Analysis division, in which case a credit amount necessary to fill the gap in financing will be recommended. The criteria in paragraph (3) of this subsection are not applicable to Tax-Exempt Bond Developments.

(1) The Development is located in a Qualified Census Tract (QCT) (as determined by the Secretary of HUD) that has less than 20 percent Housing Tax Credit Units per total households in the tract as established by the U.S. Census Bureau for the 5-year American Community Survey. New Construction or Adaptive Reuse Developments located in a QCT that has in excess of 20 percent Housing Tax Credit Units per total households in the tract are not eligible to qualify for a 30 percent increase in Eligible Basis, which would otherwise be available for the Development Site pursuant to §42(d)(5) of the Code. For Tax-Exempt Bond Developments, as a general rule, a QCT designation would have to coincide with the program year the Certificate of Reservation is issued in order for the Department to apply the 30 percent boost in its underwriting evaluation. For New Construction or Adaptive Reuse Developments located in a QCT with 20 percent or greater Housing Tax Credit Units per total households, the Development is eligible for the boost if the Application includes a resolution stating that the Governing Body of the appropriate municipality or county containing the Development has by vote specifically allowed the construction of the new Development and referencing this rule. An acceptable, but not required, form of resolution may be obtained in the Multifamily Programs Procedures Manual. Required documentation must be submitted by the Full Application Delivery Date as identified in §11.2 of this chapter or Resolutions Delivery Date in §10.4 of this title, as applicable. Applicants must submit a copy of the census map that includes the 11-digit census tract number and clearly shows that the proposed Development is located within a QCT.

(2) The Development is located in a Small Area Difficult Development Area (SADDA) (based on Small Area Fair Market Rents

(FMRs) as determined by the Secretary of HUD) that has high construction, land and utility costs relative to the AMGI. For Tax-Exempt Bond Developments, as a general rule, an SADDA designation would have to coincide with the program year the Certificate of Reservation is issued in order for the Department to apply the 30 percent boost in its underwriting evaluation. Applicants must submit a copy of the SADDA map that clearly shows the proposed Development is located within the boundaries of a SADDA.

(3) The Development meets one of the criteria described in subparagraphs (A) - (E) of this paragraph pursuant to §42(d)(5) of the Code:

(A) the Development is located in a Rural Area;

(B) the Development is proposing entirely Supportive Housing and is expected to be debt free or have no foreclosable or non-cash flow debt;

(C) the Development meets the criteria for the Opportunity Index as defined in §11.9(c)(4) of this chapter (relating to Competitive HTC Selection Criteria);

(D) the Applicant elects to restrict an additional 10 percent of the proposed low income Units for households at or below 30 percent of AMGI. These Units must be in addition to Units required under any other provision of this chapter; or

(E) the Development is not an Elderly Development and is not located in a QCT that is in an area covered by a concerted revitalization plan. A Development will be considered to be in an area covered by a concerted revitalization plan if it is eligible for and elects points under §11.9(d)(7) of this chapter.

§11.5. Competitive HTC Set-Asides (§2306.111(d)).

This section identifies the statutorily-mandated set-asides which the Department is required to administer. An Applicant may elect to compete in each of the set-asides for which the proposed Development qualifies. In order to be eligible to compete in the Set-Aside, the Application must meet the requirements of the Set-Aside as of the Full Application Delivery Date. Election to compete in a Set-Aside does not constitute eligibility to compete in the Set-Aside, and Applicants who are ultimately deemed not to qualify to compete in the Set-Aside will be considered not to be participating in the Set-Aside for purposes of qualifying for points under §11.9(3) of this chapter (related to Pre-Application Participation).

(1) Nonprofit Set-Aside. (§2306.6729 and §2306.6706(b)) At least 10 percent of the State Housing Credit Ceiling for each calendar year shall be allocated to Qualified Nonprofit Developments which meet the requirements of §42(h)(5) of the Code and Texas Government Code, §2306.6729 and §2306.6706(b). Qualified Nonprofit Organizations must have the controlling interest in the Development Owner applying for this set-aside (e.g., greater than 50 percent ownership in the General Partner). If the Application is filed on behalf of a limited partnership, the Qualified Nonprofit Organization must be the Managing General Partner. If the Application is filed on behalf of a limited liability company, the Qualified Nonprofit Organization must be the controlling Managing Member. Additionally, for Qualified Nonprofit Development in the Nonprofit Set-Aside the nonprofit entity or its nonprofit Affiliate or subsidiary must be the Developer or a co-Developer as evidenced in the development agreement. An Applicant that meets the requirements to be in the Qualified Nonprofit Set-Aside is deemed to be applying under that set-aside unless their Application specifically includes an affirmative election to not be treated under that set-aside and a certification that they do not expect to receive a benefit in the allocation of tax credits as a result of being affiliated with a nonprofit. The Department reserves the right to request a change in this election

and/or not recommend credits for those unwilling to change elections if insufficient Applications in the Nonprofit Set-Aside are received. Applicants may not use different organizations to satisfy the state and federal requirements of the set-aside.

(2) USDA Set-Aside. (§2306.111(d-2)) At least 5 percent of the State Housing Credit Ceiling for each calendar year shall be allocated to Rural Developments which are financed through USDA. If an Application in this set-aside involves Rehabilitation it will be attributed to and come from the At-Risk Development Set-Aside; if an Application in this set-aside involves New Construction it will be attributed to and come from the applicable Uniform State Service Region and will compete within the applicable sub-region unless the Application is receiving USDA Section 514 funding. Commitments of Competitive Housing Tax Credits issued by the Board in the current program year will be applied to each set-aside, Rural Regional Allocation, Urban Regional Allocation and/or USDA Set-Aside for the current Application Round as appropriate. Applications must also meet all requirements of Texas Government Code, §2306.111(d-2).

(3) At-Risk Set-Aside. (§2306.6714; §2306.6702)

(A) At least 15 percent of the State Housing Credit Ceiling for each calendar year will be allocated under the At-Risk Development Set-Aside and will be deducted from the State Housing Credit Ceiling prior to the application of the regional allocation formula required under §11.6 of this chapter (relating to Competitive HTC Allocation Process). Through this set-aside, the Department, to the extent possible, shall allocate credits to Applications involving the preservation of Developments identified as At-Risk Developments. (§2306.6714) Up to 5 percent of the State Housing Credit Ceiling associated with this set-aside may be given priority to Rehabilitation Developments under the USDA Set-Aside.

(B) An At-Risk Development must meet all the requirements of Texas Government Code, §2306.6702(a)(5). For purposes of this subparagraph, any stipulation to maintain affordability in the contract granting the subsidy, or any HUD-insured or HUD-held mortgage will be considered to be nearing expiration or nearing the end of its term if expiration will occur or the term will end within two (2) years of July 31 of the year the Application is submitted. Developments with HUD-insured or HUD-held mortgages qualifying as At-Risk under §2306.6702(a)(5) may be eligible if the HUD-insured or HUD-held mortgage is eligible for prepayment without penalty. To the extent that an Application is eligible under §2306.6705(a)(5)(B)(ii)(b) and the units being reconstructed were demolished prior to the beginning of the Application Acceptance Period, the Application will be categorized as New Construction.

(C) An Application for a Development that includes the demolition of the existing Units which have received the financial benefit described in Texas Government Code, §2306.6702(a)(5) will not qualify as an At-Risk Development unless the redevelopment will include at least a portion of the same site. Alternatively, an Applicant may propose relocation of the existing units in an otherwise qualifying At-Risk Development if:

(i) the affordability restrictions and any At-Risk eligible subsidies are approved to be transferred to the Development Site (i.e. the site proposed in the tax credit Application) prior to the tax credit Commitment deadline;

(ii) the Applicant seeking tax credits must propose the same number of restricted units (e.g. the Applicant may add market rate units); and

(iii) the new Development Site must qualify for points on the Opportunity Index under §11.9(c)(4) of this chapter (relating to Competitive HTC Selection Criteria).

(D) Developments must be at risk of losing affordability from the financial benefits available to the Development and must retain or renew the existing financial benefits and affordability unless regulatory barriers necessitate elimination of a portion of that benefit for the Development. For Developments qualifying under §2306.6702(a)(5)(B), only a portion of the subsidy must be retained for the proposed Development, but no less than 25 percent of the proposed Units must be public housing units supported by public housing operating subsidy. (§2306.6714(a-1))

(E) Nearing expiration on a requirement to maintain affordability includes Developments eligible to request a Qualified Contract under §42 of the Code. Evidence must be provided in the form of a copy of the recorded LURA, the first years' IRS Forms 8609 for all buildings showing Part II of the form completed and, if applicable, documentation from the original application regarding the right of first refusal.

(F) An amendment to any aspect of the existing tax credit property sought to enable the Development to qualify as an At-Risk Development, that is submitted to the Department after the Application has been filed and is under review will not be accepted.

§11.6. Competitive HTC Allocation Process.

This section identifies the general allocation process and the methodology by which awards are made.

(1) Regional Allocation Formula. The Department shall initially make available in each Rural Area and Urban Area of each Uniform State Service Region ("sub-region") Housing Tax Credits in an amount consistent with the Regional Allocation Formula developed in compliance with Texas Government Code, §2306.1115. The process of awarding the funds made available within each sub-region shall follow the process described in this section. Where a particular situation that is not contemplated and addressed explicitly by the process described herein, Department staff shall formulate a recommendation for the Board's consideration based on the objectives of regional allocation together with other policies and purposes set out in Texas Government Code, Chapter 2306 and the Department shall provide Applicants the opportunity to comment on and propose alternatives to such a recommendation. In general, such a recommendation shall not involve broad reductions in the funding request amounts solely to accommodate regional allocation and shall not involve rearranging the priority of Applications within a particular sub-region or set-aside except as described herein. If the Department determines that an allocation recommendation would cause a violation of the \$3 million credit limit per Applicant, the Department will make its recommendation by selecting the Development(s) that most effectively satisfy the Department's goals in meeting set-aside and regional allocation goals. Where sufficient credit becomes available to award an application on the waiting list late in the calendar year, staff may allow flexibility in meeting the Carryover Allocation submission deadline to ensure to the fullest extent feasible that available resources are allocated by December 31.

(2) Credits Returned and National Pool Allocated After January 1. For any credits returned after January 1 and eligible for reallocation, the Department shall first return the credits to the sub-region or set-aside from which the original allocation was made. The credits will be treated in a manner consistent with the allocation process described in this section and may ultimately flow from the sub-region and be awarded in the collapse process to an Application in another region, sub-region or set-aside. For any credit received from the "national pool" after the initial approval of awards in late July, the

credits will be added to and awarded to the next Application on the waiting list for the state collapse.

(3) Award Recommendation Methodology. (§2306.6710(a) - (f); §2306.111) The Department will assign, as described herein, Developments for review by the program and underwriting divisions. In general, Applications will be prioritized for assignment, with highest priority given to those identified as most competitive based upon the Applicant self-score and an initial program review. The procedure identified in subparagraphs (A) - (F) of this paragraph will also be used in making recommendations to the Board.

(A) USDA Set-Aside Application Selection (Step 1). The first level of priority review will be those Applications with the highest scores in the USDA Set-Aside until the minimum requirements stated in §11.5(2) of this chapter (relating to Competitive HTC Set-Asides. (§2306.111(d))) are attained. The minimum requirement may be exceeded in order to award the full credit request or underwritten amount of the last Application selected to meet the At-Risk Set-Aside requirement;

(B) At-Risk Set-Aside Application Selection (Step 2). The second level of priority review will be those Applications with the highest scores in the At-Risk Set-Aside statewide until the minimum requirements stated in §11.5(3) of this chapter are attained. This may require the minimum requirement to be exceeded to award the full credit request or underwritten amount of the last Application selected to meet the At-Risk Set-Aside requirement. This step may leave less than originally anticipated in the 26 sub-regions to award under the remaining steps, but these funds would generally come from the statewide collapse;

(C) Initial Application Selection in Each Sub-Region (Step 3). The highest scoring Applications within each of the 26 sub-regions will then be selected provided there are sufficient funds within the sub-region to fully award the Application. Applications electing the At-Risk or USDA Set-Asides will not be eligible to receive an award from funds made generally available within each of the sub-regions. In Urban Uniform State Service Regions containing a county with a population that exceeds one million, the Board may not allocate more than the maximum percentage of credits available for Elderly Developments, unless there are no other qualified Applications in the sub-region. This includes any Applications awarded under subparagraph (B) of this paragraph. The Department will, for each such Urban sub-region, calculate the maximum percentage in accordance with Texas Government Code, §2306.6711(h). These calculations will be published by the Department in the Site Demographics Characteristics Report (§2306.6711(h)).

(D) Rural Collapse (Step 4). If there are any tax credits set-aside for Developments in a Rural Area in a specific Uniform State Service Region ("Rural sub-region") that remain after award under subparagraph (C) of this paragraph, those tax credits shall be combined into one "pool" and then be made available in any other Rural Area in the state to the Application in the most underserved Rural sub-region as compared to the sub-region's allocation. This rural redistribution will continue until all of the tax credits in the "pool" are allocated to Rural Applications and at least 20 percent of the funds available to the State are allocated to Applications in Rural Areas. (§2306.111(d)(3)) In the event that more than one sub-region is underserved by the same percentage, the priorities described in clauses (i) - (ii) of this subparagraph will be used to select the next most underserved sub-region:

(i) the sub-region with no recommended At-Risk Applications from the same Application Round; and

(ii) the sub-region that was the most underserved during the Application Round during the year immediately preceding the current Application Round.

(E) Statewide Collapse (Step 5). Any credits remaining after the Rural Collapse, including those in any sub-region in the State, will be combined into one "pool." The funds will be used to award the highest scoring Application (not selected in a prior step) in the most underserved sub-region in the State compared to the amount originally made available in each sub-region. In urban Uniform State Service Regions containing a county with a population that exceeds one million, the Board may not allocate more than the maximum percentage of credits available for Elderly Developments, unless there are no other qualified Applications in the subregion. This includes any Applications awarded under subparagraph (B) of this paragraph. The Department will, for each such Urban subregion, calculate the maximum percentage in accordance with Texas Government Code, §2306.6711(h). These calculations will be published by the Department in the Site Demographics Characteristics Report (§2306.6711(h)). This process will continue until the funds remaining are insufficient to award the next highest scoring Application in the next most underserved sub-region. In the event that more than one sub-region is underserved by the same percentage, the priorities described in clauses (i) and (ii) of this subparagraph will be used to select the next most underserved sub-region:

(i) the sub-region with no recommended At-Risk Applications from the same Application Round; and

(ii) the sub-region that was the most underserved during the Application Round during the year immediately preceding the current Application Round.

(F) Contingent Qualified Nonprofit Set-Aside Step (Step 6). If an insufficient number of Applications participating in the Nonprofit Set-Aside are selected after implementing the criteria described in subparagraphs (A) - (E) of this paragraph to meet the requirements of the 10 percent Nonprofit Set-Aside, action must be taken to modify the criteria described in subparagraphs (A) - (E) of this paragraph to ensure the set-aside requirements are met. Therefore, the criteria described in subparagraphs (C) - (E) of this paragraph will be repeated after selection of the highest scoring Application(s) under the Nonprofit Set-Aside statewide are selected to meet the minimum requirements of the Nonprofit Set-Aside. This step may cause some lower scoring Applications in a sub-region to be selected instead of a higher scoring Application not participating in the Nonprofit Set-Aside.

(4) Waiting List. The Applications that do not receive an award by July 31 and remain active and eligible will be recommended for placement on the waiting list. The waiting list is not static. The allocation process will be used in determining the Application to award. For example, if credits are returned, those credits will first be made available in the set-aside or sub-region from which they were originally awarded. This means that the first Application on the waiting list is in part contingent on the nature of the credits that became available for award. The Department shall hold all credit available after the late-July awards until September 30 in order to collect credit that may become available when tax credit Commitments are submitted. Credit confirmed to be available, as of September 30, may be awarded to Applications on the waiting list unless insufficient credits are available to fund the next Application on the waiting list. For credit returned after September 30, awards from the waiting list will be made when the remaining balance is sufficient to award the next Application on the waiting list based on the date(s) of returned credit. Notwithstanding the foregoing, if decisions related to any returns or rescissions of tax credits are under appeal or are otherwise contested, the Department

may delay awards until resolution of such issues. (§2306.6710(a) - (f); §2306.111)

(5) Credit Returns Resulting from Force Majeure Events. In the event that the Department receives a return of Competitive HTCs during the current program year from an Application that received a Competitive Housing Tax Credit award during any of the preceding three years, such returned credit will, if the Board determines that all of the requirements of this paragraph are met to its satisfaction, be allocated separately from the current year's tax credit allocation, and shall not be subject to the requirements of paragraph (2) of this section. Requests to separately allocate returned credit where all of the requirements of this paragraph have not been met or requests for waivers of any part of this paragraph will not be considered. For purposes of this paragraph, credits returned after September 30 of the preceding program year may be considered to have been returned on January 1 of the current year in accordance with the treatment described in §(b)(2)(C)(iii) of Treasury Regulation 1.42-14. The Department's Governing Board may approve the execution of a current program year Carryover Agreement regarding the returned credits with the Development Owner that returned such credits only if:

(A) The credits were returned as a result of "Force Majeure" events that occurred after the start of construction and before issuance of Forms 8609. Force Majeure events are the following sudden and unforeseen circumstances outside the control of the Development Owner: acts of God such as fire, tornado, flooding, significant and unusual rainfall or subfreezing temperatures, or loss of access to necessary water or utilities as a direct result of significant weather events; explosion; vandalism; orders or acts of military authority; litigation; changes in law, rules, or regulations; national emergency or insurrection; riot; acts of terrorism; supplier failures; or materials or labor shortages. If a Force Majeure event is also a presidentially declared disaster, the Department may treat the matter under the applicable federal provisions. Force Majeure events must make construction activity impossible or materially impede its progress;

(B) Acts or events caused by the negligent or willful act or omission of the Development Owner, Affiliate or a Related Party shall under no circumstance be considered to be caused by Force Majeure;

(C) A Development Owner claiming Force Majeure must provide evidence of the type of event, as described in subparagraph (A) of this paragraph, when the event occurred, and that the loss was a direct result of the event;

(D) The Development Owner must prove that reasonable steps were taken to minimize or mitigate any delay or damages, that the Development Owner substantially fulfilled all obligations not impeded by the event, that the Development and Development Owner was properly insured and that the Department was timely notified of the likelihood or actual occurrence of an event described in subparagraph (A) of this paragraph;

(E) The event prevents the Development Owner from meeting the placement in service requirements of the original allocation;

(F) The requested current year Carryover Agreement allocates the same amount of credit as that which was returned;

(G) The Department's Real Estate Analysis Division determines that the Development continues to be financially viable in accordance with the Department's underwriting rules after taking into account any insurance proceeds related to the event; and

(H) The Development Owner submits a signed written request for a new Carryover Agreement concurrently with the voluntary return of the HTCs.

§11.7. Tie Breaker Factors.

In the event there are Competitive HTC Applications that receive the same number of points in any given set-aside category, rural regional allocation or urban regional allocation, or rural or statewide collapse, the Department will utilize the factors in this section, in the order they are presented, to determine which Development will receive preference in consideration for an award. The tie breaker factors are not intended to specifically address a tie between equally underserved sub-regions in the rural or statewide collapse.

(1) Applications scoring higher on the Opportunity Index under §11.9(c)(4) of this chapter (relating to Competitive HTC Selection Criteria) as compared to another Application with the same score.

(2) Applications proposed to be located in a census tract with the lowest poverty rate as compared to another Application with the same score.

(3) For competing Applications for Developments that will serve the general population, the Application with the highest average rating for the elementary, middle, and high school designated for attendance by the Development Site, or (for "choice" districts) the closest.

(4) Applications proposed to be located the greatest linear distance from the nearest Housing Tax Credit assisted Development. Developments awarded Housing Tax Credits but do not yet have a Land Use Restriction Agreement in place will be considered Housing Tax Credit assisted Developments for purposes of this paragraph. The linear measurement will be performed from closest boundary to closest boundary.

§11.8. Pre-Application Requirements (Competitive HTC Only).

(a) General Submission Requirements. The pre-application process allows Applicants interested in pursuing an Application to assess potential competition across the thirteen (13) state service regions, sub-regions and set-asides. Based on an understanding of the potential competition they can make a more informed decision whether they wish to proceed to prepare and submit an Application. A complete pre-application is a pre-application that meets all of the Department's criteria, as outlined in subsections (a) and (b) of this section, with all required information and exhibits provided pursuant to the Multifamily Programs Procedures Manual.

(1) The pre-application must be submitted using the URL provided by the Department, as outlined in the Multifamily Programs Procedures Manual, along with the required pre-application fee as described in §10.901 of this title (relating to Fee Schedule), not later than the Pre-application Final Delivery Date as identified in §11.2 of this chapter (relating to Program Calendar for Competitive Housing Tax Credits). If the pre-application and corresponding fee is not submitted on or before this deadline the Applicant will be deemed to have not made a pre-application.

(2) Only one pre-application may be submitted by an Applicant for each Development Site.

(3) Department review at this stage is limited, and not all issues of eligibility and threshold are reviewed or addressed at pre-application. Acceptance by staff of a pre-application does not ensure that an Applicant satisfies all Application eligibility, threshold or documentation requirements. While the pre-application is more limited in scope than an Application, pre-applications are subject to the same limitations, restrictions, or causes for disqualification or termination as a full

Application, and pre-applications will thus be subject to the same consequences for violation, including but not limited to loss of points and termination of the pre-application.

(b) Pre-Application Threshold Criteria. Pursuant to Texas Government Code, §2306.6704(c) pre-applications will be terminated unless they meet the threshold criteria described in subsection (a) of this section and paragraphs (1) and (2) of this subsection:

(1) Submission of the competitive HTC pre-application in the form prescribed by the Department which identifies at a minimum:

(A) Site Control meeting the requirements of §10.204(10) of this title (relating to Required Documentation for Application Submission). For purposes of meeting this specific requirement related to pre-application threshold criteria, proof of consideration and any documentation required for identity of interest transactions is not required at the time of pre-application submission but will be required at the time of full application submission;

(B) Funding request;

(C) Target Population;

(D) Requested set-asides (At-Risk, USDA, Nonprofit, and/or Rural);

(E) Total Number of Units proposed;

(F) Census tract number in which the Development Site is located;

(G) Expected score for each of the scoring items identified in the pre-application materials; and

(H) Proposed name of ownership entity.

(2) Evidence in the form of a certification provided in the pre-application, that all of the notifications required under this paragraph have been made. (§2306.6704)

(A) The Applicant must list in the pre-application all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as of the beginning of the Application Acceptance Period.

(B) Notification Recipients. No later than the date the pre-application is submitted, notification must be sent to all of the persons or entities prescribed in clauses (i) - (viii) of this subparagraph. Developments located in an ETJ of a city are required to notify both city and county officials. The notifications may be sent by e-mail, fax or mail with registered return receipt or similar tracking mechanism in the format required in the Pre-application Notification Template provided in the pre-application. The Applicant is encouraged to retain proof of delivery in the event the Department requires proof of notification. Acceptable evidence of such delivery is demonstrated by signed receipt for mail or courier delivery and confirmation of delivery for fax and e-mail. Officials to be notified are those officials in office at the time the pre-application is submitted. Note that between the time of pre-application (if made) and full Application, such officials may change and the boundaries of their jurisdictions may change. By way of example and not by way of limitation, events such as redistricting may cause changes which will necessitate additional notifications at full Application. Meetings and discussions do not constitute notification. Only a timely and compliant written notification to the correct person constitutes notification.

(i) Neighborhood Organizations on record with the state or county as of the beginning of the Application Acceptance Period whose boundaries include the proposed Development Site;

(ii) Superintendent of the school district in which the Development Site is located;

(iii) Presiding officer of the board of trustees of the school district in which the Development Site is located;

(iv) Mayor of the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction);

(v) All elected members of the Governing Body of the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction);

(vi) Presiding officer of the Governing Body of the county in which the Development Site is located;

(vii) All elected members of the Governing Body of the county in which the Development Site is located; and

(viii) State Senator and State Representative of the districts whose boundaries include the proposed Development Site;

(C) Contents of Notification.

(i) The notification must include, at a minimum, all of the information described in subclauses (I) - (VI) of this clause.

(I) the Applicant's name, address, an individual contact name and phone number;

(II) the Development name, address, city and county;

(III) a statement informing the entity or individual being notified that the Applicant is submitting a request for Housing Tax Credits with the Texas Department of Housing and Community Affairs;

(IV) whether the Development proposes New Construction, Reconstruction, Adaptive Reuse, or Rehabilitation;

(V) the physical type of Development being proposed (e.g. single family homes, duplex, apartments, townhomes, high-rise etc.); and

(VI) the approximate total number of Units and approximate total number of low-income Units.

(ii) The notification may not contain any false or misleading statements. Without limiting the generality of the foregoing, the notification may not create the impression that the proposed Development will serve exclusively a Target Population unless such targeting or preference is in full compliance with all applicable state and federal laws, including state and federal fair housing laws.

(c) Pre-application Results. Only pre-applications which have satisfied all of the pre-application requirements, including those in §11.9(e)(3) of this chapter, will be eligible for pre-application points. The order and scores of those Developments released on the Pre-application Submission Log do not represent a Commitment on the part of the Department or the Board to allocate tax credits to any Development and the Department bears no liability for decisions made by Applicants based on the results of the Pre-application Submission Log. Inclusion of a pre-application on the Pre-application Submission Log does not ensure that an Applicant will receive points for a pre-application.

§11.9. Competitive HTC Selection Criteria.

(a) General Information. This section identifies the scoring criteria used in evaluating and ranking Applications. The criteria identified in subsections (b) - (e) of this section include those items required under Texas Government Code, Chapter 2306, §42 of the Code, and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code. There is no rounding of numbers in this section for

any of the calculations in order to achieve the desired requirement or limitation, unless rounding is explicitly stated as allowed for that particular calculation or criteria. Due to the highly competitive nature of the program, Applicants that elect points where supporting documentation is required but fail to provide any supporting documentation will not be allowed to cure the issue through an Administrative Deficiency. However, Department staff may provide the Applicant an opportunity to explain how they believe the Application, as submitted, meets the requirements for points or otherwise satisfies the requirements. When providing a pre-application, Application or other materials to a state representative, local governmental body, Neighborhood Organization, or anyone else to secure support or approval that may affect the Applicant's competitive posture, an Applicant must disclose that in accordance with the Department's rules aspects of the Development may be subject to change, including, but not limited to, changes in the amenities ultimately selected and provided.

(b) Criteria promoting development of high quality housing.

(1) Size and Quality of the Units. (§2306.6710(b)(1)(D); §42(m)(1)(C)(iii)) An Application may qualify for up to fifteen (15) points under subparagraphs (A) and (B) of this paragraph.

(A) Unit Sizes (8 points). The Development must meet the minimum requirements identified in this subparagraph to qualify for points. Points for this item will be automatically granted for Applications involving Rehabilitation (excluding Reconstruction), for Developments receiving funding from USDA, or for Supportive Housing Developments without meeting these square footage minimums only if requested in the Self Scoring Form.

(i) five-hundred fifty (550) square feet for an Efficiency Unit;

(ii) six-hundred fifty (650) square feet for a one Bedroom Unit;

(iii) eight-hundred fifty (850) square feet for a two Bedroom Unit;

(iv) one-thousand fifty (1,050) square feet for a three Bedroom Unit; and

(v) one-thousand two-hundred fifty (1,250) square feet for a four Bedroom Unit.

(B) Unit and Development Features (7 points). Applicants that elect in an Application to provide specific amenity and quality features in every Unit at no extra charge to the tenant will be awarded points based on the point structure provided in §10.101(b)(6)(B) of this title (relating to Site and Development Requirements and Restrictions) and as certified to in the Application. The amenities will be required to be identified in the LURA. Rehabilitation Developments will start with a base score of three (3) points and Supportive Housing Developments will start with a base score of five (5) points.

(2) Sponsor Characteristics. (§42(m)(1)(C)(iv)) An Application may qualify to receive up to two (2) points under subparagraphs (A) and (B) of this paragraph.

(A) The ownership structure contains a HUB certified by the Texas Comptroller of Public Accounts by the Full Application Delivery Date, or Qualified Nonprofit Organization provided the Application is under the Nonprofit Set-Aside. The HUB or Qualified Nonprofit Organization must have some combination of ownership interest in the General Partner of the Applicant, cash flow from operations, and developer fee which taken together equal at least 80 percent and no less than 5 percent for any category. For example, a HUB or Qualified Nonprofit Organization may have 20 percent ownership interest, 30 percent

of the developer fee, and 30 percent of cash flow from operations. The HUB or Qualified Nonprofit Organization must also materially participate in the Development and operation of the Development throughout the Compliance Period and must have experience directly related to the housing industry, which may include experience with property management, construction, development, financing, or compliance. A Principal of the HUB or Qualified Nonprofit Organization cannot be a Related Party to any other Principal of the Applicant or Developer (excluding another Principal of said HUB or Qualified Nonprofit Organization). (1 point)

(B) Previous Participation Compliance History. The portfolio of the Applicant does not have compliance history of a category 2, 3, or 4 as determined in accordance with 10 TAC §1.301, related to Previous Participation. (1 point)

(c) Criteria to serve and support Texans most in need.

(1) Income Levels of Tenants. (§§2306.111(g)(3)(B) and (E); 2306.6710(b)(1)(C) and (e); and §42(m)(1)(B)(ii)(I)) An Application may qualify for up to sixteen (16) points for rent and income restricting a Development for the entire Affordability Period at the levels identified in subparagraph (A) or (B) of this paragraph.

(A) For any Development located within a non-Rural Area of the Dallas, Fort Worth, Houston, San Antonio, or Austin MSAs:

(i) At least 40 percent of all low-income Units at 50 percent or less of AMGI (16 points);

(ii) At least 30 percent of all low income Units at 50 percent or less of AMGI (14 points); or

(iii) At least 20 percent of all low-income Units at 50 percent or less of AMGI (12 points).

(B) For Developments proposed to be located in areas other than those listed in subparagraph (A) of this paragraph:

(i) At least 20 percent of all low-income Units at 50 percent or less of AMGI (16 points);

(ii) At least 15 percent of all low-income Units at 50 percent or less of AMGI (14 points); or

(iii) At least 10 percent of all low-income Units at 50 percent or less of AMGI (12 points).

(2) Rent Levels of Tenants. (§2306.6710(b)(1)(E)) An Application may qualify to receive up to thirteen (13) points for rent and income restricting a Development for the entire Affordability Period. These levels are in addition to those committed under paragraph (1) of this subsection.

(A) At least 20 percent of all low-income Units at 30 percent or less of AMGI for Supportive Housing Developments proposed by a Qualified Nonprofit or for Developments participating in the City of Houston's Permanent Supportive Housing ("HPSH") program. A Development participating in the HPSH program and electing points under this subparagraph must have applied for HPSH funds by the Full Application Delivery Date, must have a commitment of HPSH funds by Commitment, must qualify for five (5) or seven (7) points under paragraph (4) of this subsection (relating to the Opportunity Index), and must not have more than 18 percent of the total Units restricted for Persons with Special Needs as defined under paragraph (7) of this subsection (relating to Tenant Populations with Special Housing Needs) (13 points);

(B) At least 10 percent of all low-income Units at 30 percent or less of AMGI or, for a Development located in a Rural Area,

7.5 percent of all low-income Units at 30 percent or less of AMGI (11 points); or

(C) At least 5 percent of all low-income Units at 30 percent or less of AMGI (7 points).

(3) Tenant Services. (§2306.6710(b)(1)(G) and §2306.6725(a)(1)) A Supportive Housing Development proposed by a Qualified Nonprofit or Developments participating in the HPSH program may qualify to receive up to eleven (11) points and all other Developments may receive up to ten (10) points. A Development participating in the HPSH program and electing eleven (11) points under this paragraph must have applied for HPSH funds by the Full Application Delivery Date, must have a commitment of HPSH funds by Commitment, must qualify for five (5) or seven (7) points under paragraph (4) of this subsection, and must not have more than 18 percent of the total Units restricted for Persons with Special Needs as defined under paragraph (7) of this subsection. By electing points, the Applicant certifies that the Development will provide a combination of supportive services, which are listed in §10.101(b)(7) of this title, appropriate for the proposed tenants and that there is adequate space for the intended services. The provision and complete list of supportive services will be included in the LURA. The Owner may change, from time to time, the services offered; however, the overall points as selected at Application will remain the same. No fees may be charged to the tenants for any of the services. Services must be provided on-site or transportation to those off-site services identified on the list must be provided. The same service may not be used for more than one scoring item.

(4) Opportunity Index. The Department may refer to locations qualifying for points under this scoring item as high opportunity areas in some materials.

(A) For Developments located in an Urban Area, if the proposed Development Site is located within a census tract that has a poverty rate below 15 percent for Individuals (or 35 percent for Developments in Regions 11 and 13), an Application may qualify to receive up to seven (7) points upon meeting the additional requirements in clauses (i) - (v) of this subparagraph. The Department will base poverty rate on data from the five (5) year American Community Survey.

(i) The Development Site is located in a census tract with income in the top quartile of median household income for the county or MSA as applicable, and the Development Site is in the attendance zone of an elementary school that has a Met Standard rating and has achieved a 77 or greater on index 1 of the performance index, related to student achievement (7 points);

(ii) The Development Site is located in a census tract with income in the second quartile of median household income for the county or MSA as applicable, and the Development Site is in the attendance zone of an elementary school that has a Met Standard rating, has achieved a 77 or greater on index 1 of the performance index, related to student achievement, and has earned at least one distinction designation by TEA (6 points);

(iii) The Development Site is located in a census tract with income in the second quartile of median household income for the county or MSA as applicable, and the Development Site is in the attendance zone of an elementary school that has a Met Standard rating and has achieved a 77 or greater on index 1 of the performance index, related to student achievement (5 points);

(iv) The Development Site is located in a census tract with income in the top quartile of median household income for the county or MSA as applicable (3 points); or

(v) The Development Site is located in a census tract with income in the top two quartiles of median household income for the county or MSA as applicable (1 point).

(B) For Developments located in a Rural Area, an Application may qualify to receive up to seven (7) cumulative points based on median income of the area and/or proximity to the essential community assets as reflected in clauses (i) - (vi) of this subparagraph if the Development Site is located within a census tract that has a poverty rate below 15 percent for Individuals (35 percent for regions 11 and 13) or within a census tract with income in the top or second quartile of median household income for the county or MSA as applicable or within the attendance zone of an elementary school that has a Met Standard rating and has achieved a 77 or greater on index 1 of the performance index, related to student achievement.

(i) Except for an Elderly Limitation Development, the Development Site is located within the attendance zone (or in the case of a choice district the closest) of an elementary, middle, or high school that has achieved the performance standards stated in subparagraph (B); or for Elderly Developments, the Development Site has access to services specific to a senior population within 2 miles. (Note that if the school is more than 2 miles from the Development Site, free transportation must be provided by the school district in order to qualify for points. For purposes of this subparagraph only, any school, regardless of the number of grades served, can count towards points; however, schools without ratings, unless paired with another appropriately rated school will not be considered.) (3 points);

(ii) The Development Site is within 1.5 linear miles of a center that is licensed by the Department of Family and Protective Services specifically to provide a school-age program (2 points);

(iii) The Development Site is located within 1.5 linear miles of a full service grocery store (2 points);

(iv) The Development Site is located within 1.5 linear miles of a center that is licensed by the Department of Family and Protective Services to provide a child care program for infants, toddlers, and/or pre-kindergarten, at a minimum (2 points);

(v) The Development Site is located within 1.5 linear miles of a senior center (2 points); and/or

(vi) The Development Site is located within 1.5 linear miles of a health related facility (1 point).

(C) An elementary school attendance zone for the Development Site does not include schools with district-wide possibility of enrollment or no defined attendance zones, sometimes known as magnet schools. However, in districts with district-wide enrollment an Applicant may use the rating of the closest elementary schools that may possibly be attended by the tenants. The applicable school rating will be the 2015 accountability rating assigned by the Texas Education Agency. School ratings will be determined by the school number, so that in the case where a new school is formed or named or consolidated with another school but is considered to have the same number that rating will be used. A school that has never been rated by the Texas Education Agency will use the district rating. If a school is configured to serve grades that do not align with the Texas Education Agency's conventions for defining elementary schools (typically grades K-5 or K-6), the school will be considered to have the lower of the ratings of the schools that would be combined to meet those conventions.

(5) Educational Excellence. An Application may qualify to receive up to five (5) points for a Development Site located within the attendance zones of public schools meeting the criteria as described in subparagraphs (A) and (B) of this paragraph, as determined by the Texas Education Agency. An attendance zone does not include schools

with district-wide possibility of enrollment or no defined attendance zones, sometimes known as magnet schools. However, in districts with district-wide enrollment an Applicant may use the rating of the closest elementary, middle, or high schools, respectively, which may possibly be attended by the tenants. The applicable school rating will be the 2015 accountability rating assigned by the Texas Education Agency. School ratings will be determined by the school number, so that in the case where a new school is formed or named or consolidated with another school but is considered to have the same number that rating will be used. A school that has never been rated by the Texas Education Agency will use the district rating. If a school is configured to serve grades that do not align with the Texas Education Agency's conventions for defining elementary schools (typically grades K-5 or K-6), middle schools (typically grades 6-8 or 7-8) and high schools (typically grades 9-12), the school will be considered to have the lower of the ratings of the schools that would be combined to meet those conventions. In determining the ratings for all three levels of schools, ratings for all grades K-12 must be included, meaning that two or more schools' ratings may be combined. For example, in the case of an elementary school which serves grades K-4 and an intermediate school that serves grades 5-6, the elementary school rating will be the lower of those two schools' ratings. Also, in the case of a 9th grade center and a high school that serves grades 10-12, the high school rating will be considered the lower of those two schools' ratings. Sixth grade centers will be considered as part of the middle school rating.

(A) The Development Site is within the attendance zone of an elementary school, a middle school and a high school with a Met Standard rating and an Index 1 score of at least 77 For Developments in Region 11, the middle school and high school must achieve an Index 1 score of at least 70 to be eligible for these points (5 points); or

(B) The Development Site is within the attendance zone of an elementary school, a middle school, and a high school with a Met Standard rating. (3 points)

(6) Underserved Area. (§§2306.6725(b)(2); 2306.127, 42(m)(1)(C)(ii)) An Application may qualify to receive up to two (2) points if the Development Site is located in one of the areas described in subparagraphs (A) - (G) of this paragraph, and the Application contains evidence substantiating qualification for the points. If an Application qualifies for points under paragraph (4) of this subsection then the Application is not eligible for points under subparagraphs (A) and (B) of this paragraph.

(A) The Development Site is located wholly or partially within the boundaries of a colonia as such boundaries are determined by the Office of the Attorney General and within 150 miles of the Rio Grande River border. For purposes of this scoring item, the colonia must lack water, wastewater, or electricity provided to all residents of the colonia at a level commensurate with the quality and quantity expected of a municipality and the proposed Development must make available any such missing water, wastewater, and electricity supply infrastructure physically within the borders of the colonia in a manner that would enable the current dwellings within the colonia to connect to such infrastructure (2 points);

(B) An Economically Distressed Area (1 point);

(C) A Place, or if outside of the boundaries of any Place, a county that has never received a competitive tax credit allocation or a 4 percent non-competitive tax credit allocation for a Development that remains an active tax credit development (2 points);

(D) For Rural Areas only, a census tract that has never received a competitive tax credit allocation or a 4 percent non-competitive tax credit allocation for a Development that remains an active tax credit development serving the same Target Population (2 points);

(E) A census tract that has not received a competitive tax credit allocation or a 4 percent non-competitive tax credit allocation for a Development that remains an active tax credit development serving the same Target Population within the past 10 years (1 point);

(F) Within 5 miles of a new business that in the past two years has constructed a new facility and undergone initial hiring of its workforce employing 50 or more persons at or above the average median income for the population in which the Development is located (1 point); or

(G) A census tract which has experienced growth increases in excess of 120% of the county population growth over the past 10 years provided the census tract does not comprise more than 50% of the county (1 point).

(7) Tenant Populations with Special Housing Needs. (§42(m)(1)(C)(v)) An Application may qualify to receive up to three (3) points by serving Tenants with Special Housing Needs. Points will be awarded as described in subparagraphs (A) - (C) of this paragraph.

(A) Applications may qualify for three (3) points if a determination by the Department of approval is submitted in the Application indicating participation of an existing Development's in the Department's Section 811 Project Rental Assistance Demonstration Program ("Section 811 PRA Program"). In order to qualify for points, the existing Development must commit to the Section 811 PRA Program at least 10 units or, if the proposed Development would be eligible to claim points under subparagraph (B) of this paragraph, at least the same number of units (as would be required under subparagraph (B) of this paragraph for the proposed Development) have been designated for the Section 811 PRA Program in the existing Development. The same units cannot be used to qualify for points in more than one HTC Application.

(B) Applications meeting all of the requirements in clauses (i) - (v) of this subparagraph are eligible to receive two (2) points by committing to participate in the Department's Section 811 PRA Program. In order to be eligible for points, Applicants must commit at least 10 Units in the proposed Development for participation in the Section 811 PRA Program unless the Integrated Housing Rule (10 TAC §1.15) or Section 811 PRA Program guidelines and requirements limits the proposed Development to fewer than 10 Units. The same units cannot be used to qualify for points in more than one HTC Application. Once elected in the Application, Applicants may not withdraw their commitment to have the proposed Development participate in the Section 811 PRA Program unless the Department determines that the Development cannot meet all of the Section 811 PRA Program criteria. In this case, staff may allow the Application to qualify for points by meeting the requirements of subparagraph (C) of this paragraph.

(i) The Development must not be an Elderly Limitation Development or Supportive Housing;

(ii) The Development must not be originally constructed before 1978;

(iii) The Development has units available to be committed to the Section 811 PRA Program in the Development, meaning that those units do not have any other sources of project-based rental or long-term operating assistance within 6 months of receiving 811 assistance and cannot have an existing restriction for persons with disabilities;

(iv) The Development Site must be located in one of the following areas: Austin-Round Rock MSA, Brownsville-Harlingen MSA, Dallas-Fort Worth-Arlington MSA; El Paso MSA; Houston-The

Woodlands-Sugar Land MSA; McAllen-Edinburg-Mission MSA; or San Antonio-New Braunfels MSA; and

(v) The Development Site must not be located in the mapped 500-year floodplain or in the 100-year floodplain.

(C) Applications proposing Developments that do not meet all of the requirements of clauses (i) - (v) of subparagraph (B) of this paragraph may qualify for two (2) points for meeting the requirements of this subparagraph. In order to qualify for points, Applicants must agree to set-aside at least 5 percent of the total Units for Persons with Special Needs. For purposes of this subparagraph, Persons with Special Needs is defined as households where one individual has alcohol and/or drug addictions, Colonia resident, Persons with Disabilities, Violence Against Women Act Protections (domestic violence, dating violence, sexual assault, and stalking), persons with HIV/AIDS, homeless populations, veterans, wounded warriors (as defined by the Caring for Wounded Warriors Act of 2008), and farmworkers. Throughout the Compliance Period, unless otherwise permitted by the Department, the Development Owner agrees to affirmatively market Units to Persons with Special Needs. In addition, the Department will require an initial minimum twelve-month period during which Units must either be occupied by Persons with Special Needs or held vacant. After the initial twelve-month period, the Development Owner will no longer be required to hold Units vacant for Persons with Special Needs, but will be required to continue to affirmatively market Units to Persons with Special Needs.

(8) Aging in Place. (§2306.6725(d)(2) An Application for an Elderly Development may qualify to receive up to three (3) points under this paragraph only if no points are elected under subsection (c)(5) of this section (related to Educational Excellence).

(A) All Units are designed to be fully accessible (for both mobility and visual/hearing impairments) in accordance with the 2010 ADA Standards with the exceptions listed in "Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities". (2 points).

(B) The Property will employ a full-time resident services coordinator on site for the duration of the Compliance Period and Extended Use Period. If elected under this subparagraph, points for service coordinator cannot be elected under subsection (c)(3) of this section (related to Tenant Services). For purposes of this provision, full-time is defined as follows (1 point):

(i) a minimum of 16 hours per week for Developments of 79 Units or less; and

(ii) a minimum of 32 hours for Developments of 80 Units or more.

(9) Proximity to Important Services. An Application may qualify to receive up to two (2) points for being located within a one mile radius (two-mile radius for Developments in a Rural Area) of the services listed below. These do not need to be in separate facilities to qualify for the points.

(A) Full Service Grocery Store (1 point);

(B) Pharmacy (1 point).

(d) Criteria promoting community support and engagement.

(1) Local Government Support. (§2306.6710(b)(1)(B)) An Application may qualify for up to seventeen (17) points for a resolution or resolutions voted on and adopted by the bodies reflected in subparagraphs (A) - (C) of this paragraph, as applicable. The resolution(s) must be dated prior to Final Input from Elected Officials Delivery Date and must be submitted to the Department no later than the Final Input from

Elected Officials Delivery Date as identified in §11.2 of this chapter. Such resolution(s) must specifically identify the Development whether by legal description, address, Development name, Application number or other verifiable method. In providing a resolution a municipality or county should consult its own staff and legal counsel as to whether such resolution will be consistent with Fair Housing laws as they may apply, including, as applicable, consistency with any Fair Housing Activity Statement-Texas ("FHA-ST") form on file, any current Analysis of Impediments to Fair Housing Choice, or any current plans such as one year action plans or five year consolidated plans for HUD block grant funds, such as HOME or CDBG funds. Once a resolution is submitted to the Department it may not be changed or withdrawn. For an Application with a proposed Development Site that, at the time of the initial filing of the Application, is:

(A) Within a municipality, the Application will receive:

(i) seventeen (17) points for a resolution from the Governing Body of that municipality expressly setting forth that the municipality supports the Application or Development; or

(ii) fourteen (14) points for a resolution from the Governing Body of that municipality expressly setting forth that the municipality has no objection to the Application or Development.

(B) Within the extraterritorial jurisdiction of a municipality, the Application may receive points under clause (i) or (ii) of this subparagraph and under clause (iii) or (iv) of this subparagraph:

(i) eight and one-half (8.5) points for a resolution from the Governing Body of that municipality expressly setting forth that the municipality supports the Application or Development; or

(ii) seven (7) points for a resolution from the Governing Body of that municipality expressly setting forth that the municipality has no objection to the Application or Development; and

(iii) eight and one-half (8.5) points for a resolution from the Governing Body of that county expressly setting forth that the county supports the Application or Development; or

(iv) seven (7) points for a resolution from the Governing Body of that county expressly setting forth that the county has no objection to the Application or Development.

(C) Within a county and not within a municipality or the extraterritorial jurisdiction of a municipality:

(i) seventeen (17) points for a resolution from the Governing Body of that county expressly setting forth that the county supports the Application or Development; or

(ii) fourteen (14) points for a resolution from the Governing Body of that county expressly setting forth that the county has no objection to the Application or Development.

(2) Commitment of Development Funding by Local Political Subdivision. (§2306.6725(a)(5)) An Application may receive one (1) point for a commitment of Development funding from the city (if located in a city) or county in which the Development Site is located. Documentation must include a letter from an official of the municipality, county, or other instrumentality with jurisdiction over the proposed Development stating they will provide a loan, grant, reduced fees or contribution of other value for the benefit of the Development.

(3) Declared Disaster Area. (§2306.6710(b)(1)(H)) An Application may receive ten (10) points if at the time of Application submission or at any time within the two-year period preceding the date of submission, the Development Site is located in an area declared to be a disaster area under the Texas Government Code, §418.014.

(4) Quantifiable Community Participation. (§2306.6710(b)(1)(I); §2306.6725(a)(2)) An Application may qualify for up to nine (9) points for written statements from a Neighborhood Organization. In order for the statement to qualify for review, the Neighborhood Organization must have been in existence prior to the Pre-Application Final Delivery Date, and its boundaries must contain the Development Site. In addition, the Neighborhood Organization must be on record with the state (includes the Department) or county in which the Development Site is located. Neighborhood Organizations may request to be on record with the Department for the current Application Round with the Department by submitting documentation (such as evidence of board meetings, bylaws, etc.) not later than 30 days prior to the Full Application Delivery Date. Once a letter is submitted to the Department it may not be changed or withdrawn. The written statement must meet all of the requirements in subparagraph (A) of this paragraph.

(A) Statement Requirements. If an organization cannot make the following affirmative certifications or statements then the organization will not be considered a Neighborhood Organization for purposes of this paragraph.

(i) the Neighborhood Organization's name, a written description and map of the organization's boundaries, signatures and contact information (phone, email and mailing address) of at least two individual members with authority to sign on behalf of the organization;

(ii) certification that the boundaries of the Neighborhood Organization contain the Development Site and that the Neighborhood Organization meets the definition pursuant to Texas Government Code, §2306.004(23-a) and includes at least two separate residential households;

(iii) certification that no person required to be listed in accordance with Texas Government Code §2306.6707 with respect to the Development to which the Application requiring their listing relates participated in any way in the deliberations of the Neighborhood Organization, including any votes taken;

(iv) certification that at least 80 percent of the current membership of the Neighborhood Organization consists of persons residing or owning real property within the boundaries of the Neighborhood Organization; and

(v) an explicit expression of support, opposition, or neutrality. Any expression of opposition must be accompanied with at least one reason forming the basis of that opposition. A Neighborhood Organization is encouraged to be prepared to provide additional information with regard to opposition.

(B) Technical Assistance. For purposes of this section, if and only if there is no Neighborhood Organization already in existence or on record, the Applicant, Development Owner, or Developer is allowed to provide technical assistance in the creation of and/or placing on record of a Neighborhood Organization. Technical assistance is limited to:

(i) the use of a facsimile, copy machine/copying, email and accommodations at public meetings;

(ii) assistance in completing the QCP Neighborhood Information Packet, providing boundary maps and assisting in the Administrative Deficiency process; and

(iii) presentation of information and response to questions at duly held meetings where such matter is considered.

(C) Point Values for Quantifiable Community Participation. An Application may receive points based on the values in

clauses (i) - (vi) of this subparagraph. Points will not be cumulative. Where more than one written statement is received for an Application, the average of all statements received in accordance with this subparagraph will be assessed and awarded.

(i) nine (9) points for explicit support from a Neighborhood Organization that, during at least one of the three prior Application Rounds, provided a written statement that qualified as Quantifiable Community Participation opposing any Competitive Housing Tax Credit Application and whose boundaries remain unchanged;

(ii) eight (8) points for explicitly stated support from a Neighborhood Organization;

(iii) six (6) points for explicit neutrality from a Neighborhood Organization that, during at least one of the three prior Application Rounds provided a written statement, that qualified as Quantifiable Community Participation opposing any Competitive Housing Tax Credit Application and whose boundaries remain unchanged;

(iv) four (4) points for statements of neutrality from a Neighborhood Organization or statements not explicitly stating support or opposition, or an existing Neighborhood Organization provides no statement of either support, opposition or neutrality, which will be viewed as the equivalent of neutrality or lack of objection;

(v) four (4) points for areas where no Neighborhood Organization is in existence, equating to neutrality or lack of objection, or where the Neighborhood Organization did not meet the explicit requirements of this section; or

(vi) zero (0) points for statements of opposition meeting the requirements of this subsection.

(D) Challenges to opposition. Any written statement from a Neighborhood Organization expressing opposition to an Application may be challenged if it is contrary to findings or determinations, including zoning determinations, of a municipality, county, school district, or other local Governmental Entity having jurisdiction or oversight over the finding or determination. If any such statement is challenged, the challenger must declare the basis for the challenge and submit such challenge by the Challenges to Neighborhood Organization Opposition Delivery Date May 1, 2016. The Neighborhood Organization expressing opposition will be given seven (7) calendar days to provide any information related to the issue of whether their assertions are contrary to the findings or determinations of a local Governmental Entity. All such materials and the analysis of the Department's staff will be provided to a fact finder, chosen by the Department, for review and a determination of the issue presented by this subsection. The fact finder will not make determinations as to the accuracy of the statements presented, but only with regard to whether the statements are contrary to findings or determinations of a local Governmental Entity. The fact finder's determination will be final and may not be waived or appealed.

(5) Community Support from State Representative. (§2306.6710(b)(1)(J); §2306.6725(a)(2)) Applications may receive up to eight (8) points or have deducted up to eight (8) points for this scoring item. To qualify under this paragraph letters must be on the State Representative's letterhead, be signed by the State Representative, identify the specific Development and clearly state support for or opposition to the specific Development. This documentation will be accepted with the Application or through delivery to the Department from the Applicant or the State Representative and must be submitted no later than the Final Input from Elected Officials Delivery Date as identified in §11.2 of this chapter. Once a letter is submitted to the Department it may not be changed or withdrawn. Therefore, it is encouraged that letters not be submitted well in advance of the

specified deadline in order to facilitate consideration of all constituent comment and other relevant input on the proposed Development. State Representatives to be considered are those in office at the time the letter is submitted and whose district boundaries include the Development Site. Neutral letters or letters that do not specifically refer to the Development or specifically express support or opposition will receive zero (0) points. A letter that does not directly express support but expresses it indirectly by inference (e.g. "the local jurisdiction supports the Development and I support the local jurisdiction") will be treated as a neutral letter.

(6) Input from Community Organizations. (§2306.6725(a)(2))Where, at the time of Application, the Development Site does not fall within the boundaries of any qualifying Neighborhood Organization, then, in order to ascertain if there is community support, an Application may receive up to four (4) points for letters that qualify for points under subparagraphs (A), (B), and/or (C) of this paragraph. No more than four (4) points will be awarded under this point item under any circumstances. All letters must be submitted within the Application. Once a letter is submitted to the Department it may not be changed or withdrawn. Should an Applicant elect this option and the Application receives letters in opposition, then one (1) point will be subtracted from the score under this paragraph for each letter in opposition, provided that the letter is from an organization that would otherwise qualify under this paragraph. However, at no time will the Application receive a score lower than zero (0) for this item.

(A) An Application may receive two (2) points for each letter of support submitted from a community or civic organization that serves the community in which the Development Site is located. Letters of support must identify the specific Development and must state support of the specific Development at the proposed location. To qualify, the organization must be qualified as tax exempt and have as a primary (not ancillary or secondary) purpose the overall betterment, development, or improvement of the community as a whole or of a major aspect of the community such as improvement of schools, fire protection, law enforcement, city-wide transit, flood mitigation, or the like. The community or civic organization must provide evidence of its tax exempt status and its existence and participation in the community in which the Development Site is located including, but not limited to, a listing of services and/or members, brochures, annual reports, etc. Letters of support from organizations that cannot provide reasonable evidence that they are active in the area that includes the location of the Development Site will not be awarded points. For purposes of this subparagraph, community and civic organizations do not include neighborhood organizations, governmental entities (excluding Special Management Districts), or taxing entities.

(B) An Application may receive two (2) points for a letter of support from a property owners association created for a master planned community whose boundaries include the Development Site and that does not meet the requirements of a Neighborhood Organization for the purpose of awarding points under paragraph (4) of this subsection.

(C) An Application may receive two (2) points for a letter of support from a Special Management District whose boundaries, as of the Full Application Delivery Date as identified in §11.2 of this chapter (relating to Program Calendar for Competitive Housing Tax Credits), include the Development Site.

(D) Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law or the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered.

If the Department receives input that could reasonably be suspected to implicate issues of non-compliance under the Fair Housing Act, staff will refer the matter to the Texas Workforce Commission for investigation, but such referral will not, standing alone, cause staff or the Department to terminate the Application. Staff will report all such referrals to the Board and summarize the status of any such referrals in any recommendations.

(7) Concerted Revitalization Plan. An Application may qualify for points under this paragraph only if no points are elected under subsection (c)(4) of this section, related to Opportunity Index.

(A) For Developments located in an Urban Area.

(i) An Application may qualify to receive up to six (6) points if the Development Site is located in a distinct area that was once vital and has lapsed into a situation requiring concerted revitalization, and where a concerted revitalization plan has been developed and executed. The area targeted for revitalization must be larger than the assisted housing footprint and should be a neighborhood or small group of contiguous neighborhoods with common attributes and problems. The concerted revitalization plan that meets the criteria described in subclauses (I) - (IV) of this clause:

(I) The concerted revitalization plan must have been adopted by the municipality or county in which the Development Site is located.

(II) The problems in the revitalization area must be identified through a process in which affected local residents had an opportunity to express their views on problems facing the area, and how those problems should be addressed and prioritized. These problems may include the following:

(-a-) long-term disinvestment, such as significant presence of residential and/or commercial blight, streets and/or sidewalks in significant disrepair;

(-b-) declining quality of life for area residents, such as high levels of violent crime, property crime, gang activity, or other significant criminal matters such as the manufacture or distribution of illegal substances or overt illegal activities;

(III) Staff will review the target area for presence of the problems identified in the plan and for targeted efforts within the plan to address those problems. In addition, but not in lieu of, such a plan may be augmented with targeted efforts to promote a more vital local economy and a more desirable neighborhood, including but not limited to:

(-a-) attracting private sector development of housing and/or business;

(-b-) developing health care facilities;

(-c-) providing public transportation;

(-d-) developing significant recreational facilities; and/or

(-e-) improving under-performing schools.

(IV) The adopted plan must have sufficient, documented and committed funding to accomplish its purposes on its established timetable. This funding must have been flowing in accordance with the plan, such that the problems identified within the plan will have been sufficiently mitigated and addressed prior to the Development being placed into service.

(ii) Points will be awarded based on:

(I) Applications will receive four (4) points for a letter from the appropriate local official providing documentation of measurable improvements within the revitalization area based on the target efforts outline in the plan; and

(II) Applications may receive (2) points in addition to those under subclause (I) of this clause if the Development is explicitly identified by the city or county as contributing most significantly to the concerted revitalization efforts of the city or county (as applicable). A city or county may only identify one single Development during each Application Round for the additional points under this subclause. A resolution from the Governing Body of the city or county that approved the plan is required to be submitted in the Application (this resolution is not required at pre-application). If multiple Applications submit resolutions under this subclause from the same Governing Body, none of the Applications shall be eligible for the additional points. A city or county may, but is not required, to identify a particular Application as contributing most significantly to concerted revitalization efforts.

(B) For Developments located in a Rural Area.

(i) The requirements for concerted revitalization in a Rural Area are distinct and separate from the requirements related to concerted revitalization in an Urban Area in that the requirements in a Rural Area relate primarily to growth and expansion indicators. An Application may qualify for up to four (4) points if the city, county, state, or federal government has approved expansion of basic infrastructure or projects, as described in this paragraph. Approval cannot be conditioned upon the award of tax credits or on any other event (zoning, permitting, construction start of another development, etc.) not directly associated with the particular infrastructure expansion. The Applicant, Related Party, or seller of the Development Site cannot contribute funds for or finance the project or infrastructure, except through the normal and customary payment of property taxes, franchise taxes, sales taxes, impact fees and/or any other taxes or fees traditionally used to pay for or finance such infrastructure by cities, counties, state or federal governments or their related subsidiaries. The project or expansion must have been completed no more than twelve (12) months prior to the beginning of the Application Acceptance Period or have been approved and is projected to be completed within twelve (12) months from the beginning of the Application Acceptance Period. An Application is eligible for two (2) points for one of the items described in subclauses (I) - (V) of this clause or four (4) points for at least two (2) of the items described in subclauses (I) - (V) of this clause:

(I) New paved roadway (may include paving an existing non-paved road but excludes overlays or other limited improvements) or expansion of existing paved roadways by at least one lane (excluding very limited improvements such as new turn lanes or restriping), in which a portion of the new road or expansion is within one half (1/2) mile of the Development Site;

(II) New water service line (or new extension) of at least 500 feet, in which a portion of the new line is within one half (1/2) mile of the Development Site;

(III) New wastewater service line (or new extension) of at least 500 feet, in which a portion of the new line is within one half (1/2) mile of the Development Site;

(IV) Construction of a new law enforcement or emergency services station within one (1) mile of the Development Site that has a service area that includes the Development Site; and

(V) Construction of a new hospital or expansion of an existing hospital's capacity by at least 25 percent within a five (5) mile radius of the Development Site and ambulance service to and from the hospital is available at the Development Site. Capacity is defined as total number of beds, total number of rooms or total square footage of the hospital.

(ii) To qualify under clause (i) of this subparagraph, the Applicant must provide a letter from a government official with specific knowledge of the project (or from an official with a private utility company, if applicable) which must include:

(I) the nature and scope of the project;

(II) the date completed or projected completion;

(III) source of funding for the project;

(IV) proximity to the Development Site; and

(V) the date of any applicable city, county, state, or federal approvals, if not already completed.

(e) Criteria promoting the efficient use of limited resources and applicant accountability.

(1) Financial Feasibility. (§2306.6710(b)(1)(A)) An Application may qualify to receive a maximum of eighteen (18) points for this item. To qualify for points, a 15-year pro forma itemizing all projected income including Unit rental rate assumptions, operating expenses and debt service, and specifying the underlying growth assumptions and reflecting a minimum must-pay debt coverage ratio of 1.15 for each year must be submitted. The pro forma must include the signature and contact information evidencing that it has been reviewed and found to be acceptable by an authorized representative of a proposed Third Party construction or permanent lender. In addition to the signed pro forma, a lender approval letter must be submitted. An acceptable form of lender approval letter may be obtained in the Uniform Multifamily Application Templates. If the letter evidences review of the Development alone it will receive sixteen (16) points. If the letter evidences review of the Development and the Principals, it will receive eighteen (18) points.

(2) Cost of Development per Square Foot. (§2306.6710(b)(1)(F); §42(m)(1)(C)(iii)) An Application may qualify to receive up to twelve (12) points based on either the Building Cost or the Hard Costs per square foot of the proposed Development, as originally submitted in the Application. For purposes of this paragraph, Building Costs will exclude structured parking or commercial space that is not included in Eligible Basis, and Hard Costs will include general contractor overhead, profit, and general requirements. Structured parking or commercial space costs must be supported by a cost estimate from a Third Party General Contractor or subcontractor with experience in structured parking or commercial construction, as applicable. The square footage used will be the Net Rentable Area (NRA). The calculations will be based on the cost listed in the Development Cost Schedule and NRA shown in the Rent Schedule. If the proposed Development is a Supportive Housing Development, the NRA will include common area up to 50 square feet per Unit.

(A) A high cost development is a Development that meets one of the following conditions:

(i) the Development is elevator served, meaning it is either a Elderly Development with an elevator or a Development with one or more buildings any of which have elevators serving four or more floors;

(ii) the Development is more than 75 percent single family design;

(iii) the Development is Supportive Housing; or

(iv) the Development Site qualifies for five (5) or seven (7) points under subsection (c)(4) of this section, related to Opportunity Index, and is located in an Urban Area.

(B) Applications proposing New Construction or Reconstruction will be eligible for twelve (12) points if one of the following conditions is met:

(i) The Building Cost per square foot is less than \$70 per square foot;

(ii) The Building Cost per square foot is less than \$75 per square foot, and the Development meets the definition of a high cost development;

(iii) The Hard Cost per square foot is less than \$90 per square foot; or

(iv) The Hard Cost per square foot is less than \$100 per square foot, and the Development meets the definition of high cost development.

(C) Applications proposing New Construction or Reconstruction will be eligible for eleven (11) points if one of the following conditions is met:

(i) The Building Cost per square foot is less than \$75 per square foot;

(ii) The Building Cost per square foot is less than \$80 per square foot, and the Development meets the definition of a high cost development;

(iii) The Hard Cost per square foot is less than \$95 per square foot; or

(iv) The Hard Cost per square foot is less than \$105 per square foot, and the Development meets the definition of high cost development.

(D) Applications proposing New Construction or Reconstruction will be eligible for ten (10) points if one of the following conditions is met:

(i) The Building Cost is less than \$90 per square foot; or

(ii) The Hard Cost is less than \$110 per square foot.

(E) Applications proposing Adaptive Reuse or Rehabilitation (excluding Reconstruction) will be eligible for points if one of the following conditions is met:

(i) Twelve (12) points for Applications which include Hard Costs plus acquisition costs included in Eligible Basis that are less than \$100 per square foot;

(ii) Twelve (12) points for Applications which include Hard Costs plus acquisition costs included in Eligible Basis that are less than \$130 per square foot, located in an Urban Area, and that qualify for 5 or 7 points under subsection (c)(4) of this section, related to Opportunity Index; or

(iii) Eleven (11) points for Applications which include Hard Costs plus acquisition costs included in Eligible Basis that are less than \$130 per square foot.

(3) Pre-application Participation. (§2306.6704) An Application may qualify to receive up to six (6) points provided a pre-application was submitted during the Pre-Application Acceptance Period. Applications that meet the requirements described in subparagraphs (A) - (G) of this paragraph will qualify for six (6) points:

(A) The total number of Units does not increase by more than ten (10) percent from pre-application to Application;

(B) The designation of the proposed Development as Rural or Urban remains the same;

(C) The proposed Development serves the same Target Population;

(D) The pre-application and Application are participating in the same set-asides (At-Risk, USDA, Non-Profit, and/or Rural);

(E) The Application final score (inclusive of only scoring items reflected on the self score form) does not vary by more than six (6) points from what was reflected in the pre-application self score;

(F) The Development Site at Application is at least in part the Development Site at pre-application, and the census tract number listed at pre-application is the same at Application; and

(G) The pre-application met all applicable requirements.

(4) Leveraging of Private, State, and Federal Resources. (§2306.6725(a)(3))

(A) An Application may qualify to receive up to three (3) points if at least five (5) percent of the total Units are restricted to serve households at or below 30 percent of AMGI (restrictions elected under other point items may count) and the Housing Tax Credit funding request for the proposed Development meet one of the levels described in clauses (i) - (iv) of this subparagraph:

(i) the Development leverages CDBG Disaster Recovery, HOPE VI, RAD, or Choice Neighborhoods funding and the Housing Tax Credit Funding Request is less than 9 percent of the Total Housing Development Cost (3 points). The Application must include a commitment of such funding; or

(ii) If the Housing Tax Credit funding request is less than 8 percent of the Total Housing Development Cost (3 points); or

(iii) If the Housing Tax Credit funding request is less than 9 percent of the Total Housing Development Cost (2 points); or

(iv) If the Housing Tax Credit funding request is less than 10 percent of the Total Housing Development Cost (1 point).

(B) The calculation of the percentages stated in subparagraph (A) of this paragraph will be based strictly on the figures listed in the Funding Request and Development Cost Schedule. Should staff issue an Administrative Deficiency that requires a change in either form, then the calculation will be performed again and the score adjusted, as necessary. However, points may not increase based on changes to the Application. In order to be eligible for points, no more than 50 percent of the developer fee can be deferred. Where costs or financing change after completion of underwriting or award (whichever occurs later), the points attributed to an Application under this scoring item will not be reassessed unless there is clear evidence that the information in the Application was intentionally misleading or incorrect.

(5) Extended Affordability. (§§2306.6725(a)(5); 2306.111(g)(3)(C); 2306.185(a)(1) and (c); 2306.6710(e)(2); and 42(m)(1)(B)(ii)(II)) In accordance with the Code, each Development is required to maintain its affordability for a 15-year Compliance Period and, subject to certain exceptions, an additional 15-year Extended Use Period. Development Owners that agree to extend the Affordability Period for a Development to thirty-five (35) years total may receive two (2) points.

(6) Historic Preservation. (§2306.6725(a)(5)) An Application that has received a letter from the Texas Historical Commission determining preliminary eligibility for historic (rehabilitation) tax credits and is proposing the use of historic (rehabilitation) tax credits (whether federal or state credits) may qualify to receive five (5) points. At least seventy-five percent of the residential units shall reside within the Certified Historic Structure and the Development must reasonably be ex-

pected to qualify to receive and document receipt of historic tax credits by issuance of Forms 8609. The Application must include either documentation from the Texas Historical Commission that the property is currently a Certified Historic Structure, or documentation determining preliminary eligibility for Certified Historic Structure status.

(7) Right of First Refusal. (§2306.6725(b)(1); §42(m)(1)(C)(viii)) An Application may qualify to receive (1 point) for Development Owners that will agree to provide a right of first refusal to purchase the Development upon or following the end of the Compliance Period in accordance with Texas Government Code, §2306.6726 and the Department's rules including §10.407 of this title (relating to Right of First Refusal) and §10.408 of this title (relating to Qualified Contract Requirements).

(8) Funding Request Amount. An Application may qualify to receive one (1) point if the Application reflects a Funding Request of Housing Tax Credits, as identified in the original Application submission, of no more than 100% of the amount available within the sub-region or set-aside as determined by the application of the regional allocation formula on or before December 1, 2015.

(f) Point Adjustments. Staff will recommend to the Board and the Board may make a deduction of up to five (5) points for any of the items listed in paragraph (1) of this subsection, unless the person approving the extension (the Board or Executive Director, as applicable) makes an affirmative finding setting forth that the facts which gave rise to the need for the extension were beyond the reasonable control of the Applicant and could not have been reasonably anticipated. Any such matter to be presented for final determination of deduction by the Board must include notice from the Department to the affected party not less than fourteen (14) days prior to the scheduled Board meeting. The Executive Director may, but is not required, to issue a formal notice after disclosure if it is determined that the matter does not warrant point deductions. (§2306.6710(b)(2))

(1) If the Applicant or Affiliate failed to meet the original Carryover submission or 10 percent Test deadline(s) or has requested an extension of the Carryover submission deadline, the 10 percent Test deadline (relating to either submission or expenditure).

(2) If the Developer or Principal of the Applicant violates the Adherence to Obligations.

(3) Any deductions assessed by the Board for paragraph (1) or (2) of this subsection based on a Housing Tax Credit Commitment from the preceding Application Round will be attributable to the Applicant or Affiliate of an Application submitted in the current Application Round.

§11.10. Third Party Request for Administrative Deficiency for Competitive HTC Applications.

The purpose of the Third Party Request for Administrative Deficiency process is to allow an unrelated person or entity to bring new, material information about an Application to staff's attention. Such Person may request the staff to consider whether a matter in an Application in which the Person has no involvement should be the subject of an Administrative Deficiency. Staff will consider the request and proceed as it deems appropriate under the applicable rules including, if the Application in question is determined by staff to not be a priority Application, not reviewing the matter further. As a practical consideration, the Department expects that such requests be received by June 1. Requests made after this date may not be reviewed by staff. Requestors must provide, at the time of filing the challenge, all briefings, documentation, and other information that the requestor offers in support of the deficiency. Requestors must provide sufficient credible evidence that, if confirmed, would substantiate the deficiency request. Assertions not

accompanied by supporting documentation susceptible to confirmation will not be considered.

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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Tom Gouris

Deputy Executive Director of Asset Analysis Management
Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 475-3340

TITLE 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 60. PROCEDURAL RULES OF THE COMMISSION AND THE DEPARTMENT

The Texas Department of Licensing and Regulation (Department) proposes amendments to existing rules at 16 Texas Administrative Code (TAC) Chapter 60, Subchapter C, §60.34 and §60.35; Subchapter K, §§60.500, 60.501, 60.503, 60.504, and 60.510; proposes new rules at Subchapter K, §§60.512, 60.514, and 60.516; and proposes the repeal of existing rules at Subchapter K, §60.520 and §60.521, regarding the licensing of military service members, military veterans, and military spouses under the Procedural Rules of the Commission and the Department. These changes are collectively referred to as "proposed rules."

Several bills were enacted during the 84th Legislature, Regular Session (2015), affecting military service members, veterans and spouses. Senate Bill 807 (S.B. 807), Senate Bill 1307 (S.B. 1307), Senate Bill 1296 (S.B. 1296), and House Bill 3742 (H.B. 3742) amended Texas Occupations Code, Chapter 55, related to occupation licensing of military service members, military veterans, and military spouses.

S.B. 1307 makes the following changes: (1) expands existing provisions that apply only to certain military members to also include all active duty military service members; (2) expands provisions that currently apply only to military spouses to also include military service members and military veterans; (3) eliminates the distinction between licensing options for military spouses of active duty members serving in the United States Armed Forces and military spouses of active duty members serving in the reserves or in state military service; (4) updates existing definitions and adds new definitions; and (5) makes other technical clean-up changes to Chapter 55.

S.B. 807 requires initial license application fees and examination fees paid to the Department be waived for: (1) a military service member or military veteran whose military experience, service, training, or education substantially meets all of the requirements for the license; and (2) a military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction that has license requirements that are sub-

stantially equivalent to those of Texas. S.B. 1296 is the non-substantive codification bill, and it made two clean-up changes to Chapter 55 that were also included in S.B. 1307. H.B. 3742 updated a statutory cross reference included in Chapter 55.

The proposed rules under 16 TAC Chapter 60 are necessary to implement the changes made by S.B. 807, S.B. 1307, S.B. 1296, and H.B. 3742 to Texas Occupations Code, Chapter 55. The proposed rules will be effective for initial license applications and renewal applications filed by military service members, military veterans, and military spouses on or after January 1, 2016.

The proposed rules amend existing §60.34 to include military service members and military veterans who are applying for a license under Subchapter K. This section already applies to military spouses who are applying for a license under Subchapter K. Pursuant to S.B. 1307, a military service member or a military veteran who holds a current license in another jurisdiction that has licensing requirements that are substantially equivalent to the Texas license requirements will be able to apply for a Texas license under Texas Occupations Code Chapter 55 and the required rules. As amended, the substantially equivalent license requirements under §60.34 will apply to military service members, military veterans, and military spouses.

The proposed rules amend existing §60.35 to make a technical clean-up change that consolidates military service members, military veterans, and military spouses into one provision.

The proposed amendment to the title of Subchapter K is to reflect the defined terms used in Texas Occupations Code, Chapter 55 and the related rules in 16 TAC Chapter 60, Subchapter K.

The proposed rules amend existing §60.500 to reflect the defined terms used in Texas Occupations Code, Chapter 55 and the related rules in 16 TAC Chapter 60, Subchapter K.

The proposed rules amend existing §60.501 to add new definitions and amend existing definitions. The proposed amendments reflect and clarify the changes made by S.B. 1307 to the statutory definitions under Texas Occupations Code §55.001. The proposed amendments: (1) add new definitions of "Active duty" and "Military spouse"; (2) amend existing definitions of "Armed forces of the United States," "Military service member," "Military veteran," "Reserve unit of the armed forces of the United States," and "Similar military service of another state"; (3) repeal the existing definition of "National Guard"; and (4) renumber the definitions.

The proposed rules amend existing §60.503. This section implements Texas Occupations Code §55.002, and the proposed rules reflect the changes made by S.B. 1307. The proposed rules expand the late renewal fee exemption from applying only to an individual who was "on active duty in the United States armed forces serving outside of this state" to an individual who was "serving as a military service member." The amended definition of "military service member" means an individual serving on "active duty" and includes individuals serving on active duty in the United States Armed Forces, in the reserves, or in state military service. The proposed rules also expand the exemption to include a military service member who is serving in Texas.

The proposed rules amend existing §60.504. This section implements Texas Occupations Code §55.003, and the proposed rules reflect the changes made by S.B. 1307. The proposed rules expand the deadline extension provisions to include individuals serving in the United States Armed Forces, not just those serving as members of the state military forces or in a reserve

component of the United States Armed Forces and who are ordered to active duty. The proposed rules establish two years of additional time to complete any continuing education requirements and any other license renewal requirements. Previously, the additional amount of time granted was based on the total number of years or parts of years that the individual served on active duty. The proposed rules clarify that the provision applies to a military service member whose license expires while on active duty. It does not apply to an individual whose license expires prior to "active duty." The proposed rules also clarify that the two years of additional time starts from the date of discharge.

The proposed rules amend existing §60.510. This section implements Texas Occupations Code §§51.4013, 55.007, 55.008 (as redesignated by S.B. 1307 and S.B. 1296, 84th Legislature, Regular Session, 2015), 55.009 (as added by S.B. 807, 84th Legislature, Regular Session, 2015), and 1305.1645(a). (Two new sections 55.009 were enacted during the 84th Legislature, Regular Session, 2015. One section was added by S.B. 807, and the other section was added by S.B. 1307.)

Amended §60.510 applies to active duty military service members and military veterans. An applicant under this section will be eligible to receive credit for verified military experience, service, training, or education in meeting the licensing requirements, other than examination requirements, for a specific license issued by the Department.

This section sets out the requirements that must be met and the documents that must be provided by an applicant who wants to receive credit for military experience, service, training or education that is applicable towards meeting the licensing requirements, except the examination requirements, for a specific license. The Department will evaluate and determine the amount of the military experience, service, training or education that is applicable.

This section implements Texas Occupations Code §55.009, as added by S.B. 807, by waiving the initial license application fee and any examination fees paid to the Department for an applicant whose military experience, service, training, or education substantially meets all of the requirements for the license. The applicant is still responsible for paying any examination fees that are charged by a third-party examination vendor.

This section specifies that a military service member or military veteran who obtains a license under this section must comply with all of the license renewal requirements including fees for the specific license obtained.

The proposed rules add new §60.512. This section implements Texas Occupations Code §§55.004, 55.005, 55.006 and 55.009 (as added by S.B. 807, 84th Legislature, Regular Session, 2015), as they relate to an applicant who holds a "substantially equivalent" license. (Two new sections 55.009 were enacted during the 84th Legislature, Regular Session, 2015. One section was added by S.B. 807, and the other section was added by S.B. 1307.)

Prior to the changes made during the 84th Legislative Session, this licensing option was only available to military spouses of active duty members serving in the United States Armed Forces, the reserves, including National Guard, and state military services of any state.

Proposed new §60.512 applies to an active duty military service member, a military veteran, and a military spouse. An applicant under this new section is eligible to obtain a license issued by

the Department if the applicant holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the Texas licensing requirements.

Proposed new §60.512 sets out the requirements that must be met and the documents that must be provided by an applicant who holds a current license from another jurisdiction. The Department will determine whether the licensing requirements of the other jurisdiction are substantially equivalent to the Texas requirements.

Proposed new §60.512 also implements Texas Occupations Code §55.009, as added by S.B. 807, by waiving the initial license application fee paid to the Department for an applicant who holds a current license from another jurisdiction that has licensing requirements that are substantially equivalent to the Texas requirements. The applicant that qualifies for a license under this section is not required to take and pass any applicable examination required for obtaining that specific license.

A military service member, military veteran, or military spouse who obtains a license under §60.512, must comply with all of the license renewal requirements including fees for the specific license obtained.

The proposed rules add new §60.514. This section implements Texas Occupations Code §§55.004, 55.005, and 55.006, as they relate to an applicant who held the same Texas license within the last five years.

Prior to the changes made during the 84th Legislative Session, this licensing option was only available to military spouses of active duty members serving in the United States Armed Forces. The previous licensing option also required the military spouse to live in another state for at least six months within the last five years and the Texas license expired while living in another state.

Proposed new §60.514 applies to a military service member, a military veteran, and a military spouse. This new section applies to all spouses of active duty service members, not just spouses of active duty members serving in the United States Armed Forces. An applicant under this section is eligible to obtain a license issued by the Department if the applicant within the five years preceding the application date held the same license in Texas.

Proposed new §60.514 sets out the requirements that must be met and the documents that must be provided by an applicant who previously held the same Texas license within the last five years. The applicant that qualifies for a license under this section is not required to take and pass any applicable examination required for obtaining that specific license. An applicant under this section must pay the license application fees associated with obtaining that specific license.

A military service member, military veteran, or military spouse who obtains a license under §60.514 must comply with all of the license renewal requirements including fees for the specific license obtained.

The proposed rules add new §60.516. This section implements Texas Occupations Code §§55.004, 55.005, and 55.006, as they relate to an applicant that demonstrates competency by alternative methods.

Prior to the changes made during the 84th Legislative Session, this licensing option was only available to military spouses of active duty members serving in the United States Armed Forces.

Proposed new §60.516 applies to a military service member, a military veteran, and a military spouse. This new section applies to all spouses of active duty military service members, not just spouses of active duty members serving in the United States Armed Forces.

The Department may allow a military service member, military veteran, or military spouse applicant under §60.516 to demonstrate competency by alternative methods in order to meet the requirements for obtaining a specific license issued by the Department. The rules specify the alternative methods that may be used.

Proposed new §60.516 sets out the requirements that must be met and the documents that must be provided by an applicant under this section. The Department will evaluate these documents to determine whether the applicant can demonstrate competency. An applicant under this section must pay the license application fees associated with obtaining that specific license.

A military service member, military veteran, or military spouse, who obtains a license under §60.516, must comply with all of the license renewal requirements including fees for the specific license obtained.

The proposed rules repeal existing §60.520. The substantially equivalent licensing option for military spouses has been expanded to include active duty military service members and military veterans. This licensing option has been included in new §60.512.

The proposed rules repeal existing §60.521. S.B. 1307 eliminated the two military spouse provisions in the statute and eliminated the distinction between military spouses of active duty members serving in the United States Armed Forces and military spouses of active duty members serving in the reserves or in state military service. The licensing options are now the same for all military spouses of active duty military service members. In addition, the military spouse licensing options under this section have been expanded to include active duty military service members and military veterans. These licensing options have been included in new §60.514 and §60.516.

William H. Kuntz, Jr., Executive Director, has determined that for the first five-year period the proposed rules are in effect, it is anticipated that there will be no direct cost to state or local government as a result of enforcing or administering the proposed rules. The Department does not anticipate additional costs or resources in processing the applications from the military service members, military veterans, or military spouses.

It is expected, however, that there will be a loss in revenue to the state. S.B. 807 requires a state agency to waive initial license application fees and examination fees paid to the state for: (1) a military service member or military veteran whose military service, training or education substantially meets all of the requirements for the license; and (2) a military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction that has licensing requirement that are substantially equivalent to the Texas licensing requirements. The fiscal note for S.B. 807 stated that according to the Texas Comptroller of Public Accounts, there would be a loss of revenue to the state based on these fees being waived, but that there was insufficient data to estimate the loss of revenue. The Department provided a cost estimate to the Legislative Budget Board that estimated that the passage of S.B. 807 would result in an annual loss of \$500,000 in license fees for the Department. Regardless of the specific amount of lost revenue, the fiscal impact on the

state is a result of the statutory changes made by S.B. 807, not by the proposed rules.

Mr. Kuntz also has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be that military service members, military veterans, and military spouses will have additional options for obtaining an occupational license in an expedited manner. In addition, under some of these military licensing options, the military applicants will have examinations waived and/or will have initial license application fees and examination fees paid to the Department waived. These provisions are intended to assist military members, military veterans and military spouses in obtaining the necessary occupational licenses and quickly getting to work in Texas.

There will be no adverse economic effect on small or micro-businesses or to persons who are required to comply with the proposed rules. Under certain military licensing options, applicants who are military service members, military veterans or military spouses will have initial license application fees and examination fees paid to the Department waived. There will be savings for these applicants. For other military licensing options, the applicants who are military service members, military veterans, or military spouses will pay the same license application fees and examination fees paid by other applicants applying for a specific license.

Since the agency has determined that the rule will have no adverse economic effect on small businesses preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

Comments on the proposal may be submitted to Pauline Easley, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, or facsimile (512) 475-3032, or electronically: erule.comments@tdlr.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

SUBCHAPTER C. LICENSE APPLICATIONS

16 TAC §60.34, §60.35

The amendments are being proposed under Texas Occupations Code, Chapter 51, which authorizes the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement this chapter and any other law establishing a program regulated by the Department, and under Texas Occupations Code, Chapter 55, which provides for the occupational licensing of military service members, military veterans and military spouses.

The statutory provisions affected by the proposed amendments are those set forth in Texas Occupations Code, Chapter 51, the Commission's and the Department's enabling statute, and Chapter 55, the statute addressing licensing for military service members, military veterans, and military spouses. In addition, the following statutes that establish occupational licensing requirements under the Commission's and Department's jurisdiction may be affected: Texas Agriculture Code, Chapters 301 and 302 (Weather Modification and Control); Texas Education Code, Chapter 1001 (Driver Education and Safety); Texas Health and Safety Code, Chapters 754 (Elevators, Escalators, and Related Equipment) and 755 (Boilers); Texas Government Code, Chapter 469 (Elimination of Architectural Barriers); Texas Labor Code, Chapters 91 (Professional Employer Organizations) and 92 (Temporary Common Worker Employers); and

Texas Occupations Code Chapters 802 (Dog or Cat Breeders), 953 (For-Profit Legal Service Contract Companies), 1151 (Property Tax Professionals), 1152 (Property Tax Consultants), 1202 (Industrialized Housing and Buildings), 1302 (Air Conditioning and Refrigeration Contractors), 1304 (Service Contract Providers and Administrators), 1305 (Electricians), 1601 (Barbers), 1602 (Cosmetologists), 1603 (Regulation of Barbering and Cosmetology), 1703 (Polygraph Examiners), 1802 (Auctioneers), 1901 (Water Well Drillers), 1902 (Water Well Pump Installers), 2052 (Combative Sports), 2303 (Vehicle Storage Facilities), 2306 (Vehicle Protection Product Warrantors), 2308 (Vehicle Towing and Booting), and 2309 (Used Automotive Parts Recyclers).

In addition, the following statutes, which were amended effective September 1, 2015, and will be under the Commission's and Department's jurisdiction when the program transfers are complete pursuant to S.B. 202, 84th Legislature, Regular Session, 2015, may be affected: Texas Occupations Code, Chapters 203 (Midwives); 401 (Speech-Language Pathologists and Audiologists); 402 (Hearing Instrument Fitters and Dispensers); 403 (Licensed Dyslexia Practitioners and Therapists); 451 (Athletic Trainers); 605 (Orthotists and Prosthetists); and 701 (Dietitians). No other statutes, articles, or codes are affected by the proposal.

§60.34. *Substantially Equivalent License Requirements.*

(a) This section is applicable for:

(1) programs that have statutory authority to review and consider "substantially equivalent" license requirements of other states or jurisdictions; or

(2) applicants who are military service members, military veterans, or military spouses and who are applying for a license under Subchapter K.

(b) - (c) (No change.)

§60.35. *Determining the Amount of Experience, Service, Training, or Education.*

(a) This section is applicable for:

(1) programs that have statutory authority to review and determine an applicant's experience, service, training or education toward meeting the licensing requirements of a specific license; or

~~{(2) applicants who are military spouses and who are applying for a license under Subchapter K; or}~~

(2) ~~{(3)}~~ applicants who are military service members or military veterans and who are applying for a license under Subchapter K.

(b) - (c) (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.

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Brian Francis

Deputy Executive Director

Texas Department of Licensing and Regulation

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 463-8179



SUBCHAPTER K. LICENSING PROVISIONS
RELATED TO MILITARY SERVICE MEMBERS,
MILITARY VETERANS, AND MILITARY
SPOUSES

16 TAC §§60.500, 60.501, 60.503, 60.504, 60.510, 60.512,
60.514, 60.516

The new rules and amendments are being proposed under Texas Occupations Code, Chapter 51, which authorizes the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement this chapter and any other law establishing a program regulated by the Department, and under Texas Occupations Code, Chapter 55, which provides for the occupational licensing of military service members, military veterans and military spouses.

The statutory provisions affected by the proposed new rules and amendments are those set forth in Texas Occupations Code, Chapter 51, the Commission's and the Department's enabling statute, and Chapter 55, the statute addressing licensing for military service members, military veterans, and military spouses. In addition, the following statutes that establish occupational licensing requirements under the Commission's and Department's jurisdiction may be affected: Texas Agriculture Code, Chapters 301 and 302 (Weather Modification and Control); Texas Education Code, Chapter 1001 (Driver Education and Safety); Texas Health and Safety Code, Chapters 754 (Elevators, Escalators, and Related Equipment) and 755 (Boilers); Texas Government Code, Chapter 469 (Elimination of Architectural Barriers); Texas Labor Code, Chapters 91 (Professional Employer Organizations) and 92 (Temporary Common Worker Employers); and Texas Occupations Code Chapters 802 (Dog or Cat Breeders), 953 (For-Profit Legal Service Contract Companies), 1151 (Property Tax Professionals), 1152 (Property Tax Consultants), 1202 (Industrialized Housing and Buildings), 1302 (Air Conditioning and Refrigeration Contractors), 1304 (Service Contract Providers and Administrators), 1305 (Electricians), 1601 (Barbers), 1602 (Cosmetologists), 1603 (Regulation of Barbering and Cosmetology), 1703 (Polygraph Examiners), 1802 (Auctioneers), 1901 (Water Well Drillers), 1902 (Water Well Pump Installers), 2052 (Combative Sports), 2303 (Vehicle Storage Facilities), 2306 (Vehicle Protection Product Warrantors), 2308 (Vehicle Towing and Booting), and 2309 (Used Automotive Parts Recyclers).

In addition, the following statutes, which were amended effective September 1, 2015, and will be under the Commission's and Department's jurisdiction when the program transfers are complete pursuant to S.B. 202, 84th Legislature, Regular Session, 2015, may be affected: Texas Occupations Code, Chapters 203 (Midwives); 401 (Speech-Language Pathologists and Audiologists); 402 (Hearing Instrument Fitters and Dispensers); 403 (Licensed Dyslexia Practitioners and Therapists); 451 (Athletic Trainers); 605 (Orthotists and Prosthetists); and 701 (Dietitians). No other statutes, articles, or codes are affected by the proposal.

§60.500. *Military Subchapter.*

This subchapter implements the provisions related to military service members, military veterans, and military spouses under Texas Occupations Code, Chapters 51 and 55 and other statutes applicable to specific programs regulated by the commission and the department.

§60.501. *Military Definitions.*

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

(1) Active duty--Current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by §437.001, Government Code, or similar military service of another state. The term does not include service performed exclusively for training, such as basic combat training, advanced individual training, annual training, inactive duty training, and special training periodically made available to service members.

(2) [(4)] Apprenticeship or apprenticeship program--This term has the same meaning as defined by statute or rule for a specific license.

(3) [(2)] Armed forces of the United States--The Army, Navy, Air Force, Coast Guard, or Marine Corps of the United States or a reserve unit of one of those branches of the armed forces. [~~and Coast Guard.~~]

(4) [(3)] Military service member--A person who is on active duty [~~currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.~~]

(5) Military spouse--A person who is married to a military service member.

(6) [(4)] Military veteran--A person who has served on active duty and who was discharged or released from active duty. [~~in the armed forces of the United States, or in an auxiliary service of one of the branches of the armed forces of the United States.~~]

[(5)] National Guard--~~The Army National Guard and the Air National Guard.~~

(7) [(6)] Reserve unit [~~component~~] of the armed forces of the United States; [~~including the National Guard~~].--The Army National Guard of the United States, the Air National Guard of the United States, the Army Reserve, the Navy Reserve, the Air Force Reserve, the Coast Guard Reserve, and the Marine Corps Reserve; [~~and the Coast Guard Reserve~~].

(8) [(7)] Similar [State] military service of another [any] state--The state Army National Guard, state Air National Guard, or state guard.

§60.503. *Exemption from Late Renewal Fees.*

Pursuant to Texas Occupations Code; §55.002, an individual who provides the department with satisfactory documentation that the individual was serving as a military service member [~~outside of Texas on active duty in the United States armed forces~~] during a license renewal period may renew that license by paying the renewal fee and is exempt from paying a late renewal fee.

§60.504. *Extension of Certain Deadlines.*

[(a)] Pursuant to Texas Occupations Code §55.003, a military service member whose license expired while on active duty is entitled to two years of additional time from the date of discharge to complete; [~~this section applies to an individual who holds a license, is a member of the state military forces or a reserve component of the armed forces of the United States, and is ordered to active duty by proper authority.~~]

[(b)] An individual described under this section is entitled to an additional amount of time, equal to the total number of years or parts of years that the individual serves on active duty, to complete;

- (1) any continuing education requirements; and

(2) any other requirement related to the renewal of the military service member's ~~[individual's]~~ license.

§60.510. [Military Service Members and Military Veterans--]License Requirements for Applicants with Military Experience, Service, Training, or Education.

(a) This section implements Texas Occupations Code~~;~~ §§51.4013, ~~[55.005 (as added by House Bill 2254, 83rd Legislature, Regular Session (2013));]~~ 55.007, 55.008 (as redesignated by Senate Bill 1307 and Senate Bill 1296, 84th Legislature, Regular Session (2015)), 55.009 (as added by Senate Bill 807, 84th Legislature, Regular Session (2015)), and 1305.1645(a).

~~(b)~~ This section applies to a "military service member" and a "military veteran" as ~~[those terms are]~~ defined under §60.501.

~~(c)~~ ~~[(b)]~~ An applicant ~~[A military service member or a military veteran, who applies for a license]~~ under this section~~;~~ will be eligible to receive credit for verified military experience, service, training, or education in meeting the licensing requirements, other than an examination requirement, for a specific license issued by the department.

~~(d)~~ ~~[(e)]~~ If an apprenticeship is required for a license issued by the department, the department will credit verified military experience, service, training, or education that is relevant to the occupation toward the apprenticeship requirements for the license.

~~(e)~~ ~~[(d)]~~ An applicant who seeks to receive credit for verified military experience, service, training, or education must submit the following documentation:

(1) completed license application and any supporting documents [all licensing documents and fees] associated with the specific department license; and

(2) completed Military Service Member, Military Veteran, or Military Spouse Supplemental Application and supporting documents including;

~~(A)~~ ~~[(2)]~~ copy of the military orders or documents showing proof of active duty status ~~(for military service members)~~ ~~[(if applicable)]~~;

~~(B)~~ ~~[(3)]~~ copy of the military orders or documents showing proof of veteran status ~~(for military veterans)~~ ~~[(if applicable)]~~; and

~~(C)~~ ~~[(4)]~~ copy of the military orders or documents showing the type and amount of related military experience, service, training, or education applicable to a specific license.

~~(f)~~ ~~[(e)]~~ The amount of military experience, service, training, or education, which an applicant submits for purposes of meeting the licensing requirements of a specific license, will be determined in accordance with §60.502.

~~(g)~~ ~~[(f)]~~ The applicant under this section must still take and pass any applicable examination required for obtaining a specific license.

~~(h)~~ The initial license application fee and any examination fees paid to the department are waived for an applicant who meets the requirements under this section. The applicant is still responsible for paying any examination fees that are charged by a third-party examination vendor.

~~(i)~~ ~~[(g)]~~ The applicant under this section must undergo and successfully pass a criminal history background check.

~~(j)~~ A military service member or military veteran who obtains a license under this section must comply with all of the license renewal requirements including fees for the specific license obtained.

§60.512. Expedited Alternative Licensing Requirements--Substantially Equivalent License.

(a) This section implements Texas Occupations Code §§55.004, 55.005, 55.006 and 55.009 (as added by Senate Bill 807, 84th Legislature, Regular Session (2015)), as they relate to an applicant who holds a "substantially equivalent" license.

(b) This section applies to a military service member, a military veteran, and a military spouse, as defined under §60.501.

(c) An applicant under this section is eligible to obtain a license issued by the department if the applicant holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the Texas licensing requirements.

(d) The department will determine whether the licensing requirements of the other jurisdiction are substantially equivalent to the Texas requirements as prescribed under §60.34.

(e) The following documentation must be submitted to apply for a license under this section:

(1) completed license application and any supporting documents associated with the specific department license;

(2) completed Military Service Member, Military Veteran, or Military Spouse Supplemental Application and supporting documents including;

~~(A)~~ copy of the military orders or documents showing proof of active duty status (for military service member and military spouse);

~~(B)~~ copy of the military orders or documents showing proof of veteran status (for military veteran); and

~~(C)~~ copy of document showing proof of status as a military spouse (for military spouse); and

(3) copy of the applicant's current occupational license from another jurisdiction.

~~(f)~~ The applicant who qualifies for a license under this section is not required to take and pass any applicable examination required for obtaining that specific license.

~~(g)~~ The initial license application fees paid to the department are waived for an applicant under this section.

~~(h)~~ The applicant under this section must undergo and successfully pass a criminal history background check.

~~(i)~~ An application under this section shall be expedited in accordance with Texas Occupations Code §55.005.

~~(j)~~ Pursuant to Texas Occupations Code §55.004(b) (as amended by Senate Bill 1307, 84th Legislature, Regular Session (2015)), the executive director may waive any prerequisite to obtaining a license for an applicant under this section after reviewing the applicant's credentials.

~~(k)~~ Pursuant to Texas Occupations Code §55.004(c) (as amended by House Bill 3742, 84th Legislature, Regular Session (2015)), the executive director may issue a license by endorsement to an applicant under this section.

~~(l)~~ A military service member, military veteran, or military spouse who obtains a license under this section must comply with all of the license renewal requirements including fees for the specific license obtained.

§60.514. Expedited Alternative Licensing Requirements--Previously Held Texas License.

(a) This section implements Texas Occupations Code §§55.004, 55.005, and 55.006, as they relate to an applicant who held the same Texas license within the last five years.

(b) This section applies to a military service member, a military veteran, and a military spouse, as defined under §60.501.

(c) An applicant under this section is eligible to obtain a license issued by the department if the applicant within the five years preceding the application date held the same license in Texas.

(d) The following documentation must be submitted to apply for a license under this section:

(1) completed license application and any supporting documents associated with the specific department license; and

(2) completed Military Service Member, Military Veteran, or Military Spouse Supplemental Application and supporting documents including;

(A) copy of the military orders showing proof of active duty status (for military service member and military spouse);

(B) copy of the military orders or documents showing proof of veteran status (for military veteran); and

(C) copy of document showing proof of status as a military spouse (for military spouse).

(e) The applicant who qualifies for a license under this section is not required to take and pass any applicable examination required for obtaining that specific license.

(f) An applicant under this section must pay the license application fees associated with obtaining that specific license.

(g) The applicant under this section must undergo and successfully pass a criminal history background check.

(h) An application under this section shall be expedited in accordance with Texas Occupations Code §55.005.

(i) Pursuant to Texas Occupations Code §55.004(b) (as amended by Senate Bill 1307, 84th Legislature, Regular Session (2015)), the executive director may waive any prerequisite to obtaining a license for an applicant under this section after reviewing the applicant's credentials.

(j) Pursuant to Texas Occupations Code §55.004(c) (as amended by House Bill 3742, 84th Legislature, Regular Session (2015)), the executive director may issue a license by endorsement to an applicant under this section.

(k) A military service member, military veteran, or military spouse, who obtains a license under this section, must comply with all of the license renewal requirements including fees for the specific license obtained.

§60.516. Expedited Alternative Licensing Requirements--Demonstration of Competency by Alternative Methods.

(a) This section implements Texas Occupations Code §§55.004, 55.005, and 55.006, as they relate to an applicant that demonstrates competency by alternative methods.

(b) This section applies to a military service member, a military veteran, and a military spouse, as defined under §60.501.

(c) The department may allow an applicant under this section to demonstrate competency by alternative methods in order to meet the requirements for obtaining a specific license issued by the department. For purposes of this section, the standard method of demonstrat-

ing competency is the specific examination, education, and/or experience required to obtain a specific license.

(d) In lieu of the standard method(s) of demonstrating competency for a specific license and based on the applicant's circumstances, the alternative methods for demonstrating competency may include any combination of the following as determined by the department:

(1) education;

(2) continuing education;

(3) examinations (written and/or practical);

(4) letters of good standing;

(5) letters of recommendation;

(6) work experience; or

(7) other methods approved or accepted by the executive director.

(e) The following documentation must be submitted to apply for a license under this section:

(1) completed license application and any supporting documents associated with the specific department license;

(2) completed Military Service Member, Military Veteran, or Military Spouse Supplemental Application and supporting documents including;

(A) copy of the military orders showing proof of active duty status (for military service member and military spouse);

(B) copy of the military orders or documents showing proof of veteran status (for military veteran); and

(C) copy of document showing proof of status as a military spouse (for military spouse); and

(3) documents specified under subsection (d) that demonstrate the applicant's competency and that will be evaluated by the department.

(f) An applicant under this section must pay the license application fees associated with obtaining that specific license.

(g) The applicant under this section must undergo and successfully pass a criminal history background check.

(h) An application under this section shall be expedited in accordance with Texas Occupations Code §55.005.

(i) A military service member, military veteran, or military spouse, who obtains a license under this section, must comply with all of the license renewal requirements including fees for the specific license obtained.

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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Brian Francis

Deputy Executive Director

Texas Department of Licensing and Regulation

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For further information, please call: (512) 463-8179

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SUBCHAPTER K. LICENSING PROVISIONS
RELATED TO MILITARY SERVICE MEMBERS,
VETERANS, AND SPOUSES

16 TAC §60.520, §60.521

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Licensing and Regulation or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The repeal is being proposed under Texas Occupations Code, Chapter 51, which authorizes the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement this chapter and any other law establishing a program regulated by the Department, and under Texas Occupations Code, Chapter 55, which provides for the occupational licensing of military service members, military veterans and military spouses.

The statutory provisions affected by the proposed repeal are those set forth in Texas Occupations Code, Chapter 51, the Commission's and the Department's enabling statute, and Chapter 55, the statute addressing licensing for military service members, military veterans, and military spouses. In addition, the following statutes that establish occupational licensing requirements under the Commission's and Department's jurisdiction may be affected: Texas Agriculture Code, Chapters 301 and 302 (Weather Modification and Control); Texas Education Code, Chapter 1001 (Driver Education and Safety); Texas Health and Safety Code, Chapters 754 (Elevators, Escalators, and Related Equipment) and 755 (Boilers); Texas Government Code, Chapter 469 (Elimination of Architectural Barriers); Texas Labor Code, Chapters 91 (Professional Employer Organizations) and 92 (Temporary Common Worker Employers); and Texas Occupations Code Chapters 802 (Dog or Cat Breeders), 953 (For-Profit Legal Service Contract Companies), 1151 (Property Tax Professionals), 1152 (Property Tax Consultants), 1202 (Industrialized Housing and Buildings), 1302 (Air Conditioning and Refrigeration Contractors), 1304 (Service Contract Providers and Administrators), 1305 (Electricians), 1601 (Barbers), 1602 (Cosmetologists), 1603 (Regulation of Barbering and Cosmetology), 1703 (Polygraph Examiners), 1802 (Auctioneers), 1901 (Water Well Drillers), 1902 (Water Well Pump Installers), 2052 (Combative Sports), 2303 (Vehicle Storage Facilities), 2306 (Vehicle Protection Product Warrantors), 2308 (Vehicle Towing and Booting), and 2309 (Used Automotive Parts Recyclers).

§60.520. Expedited Licensing Procedures for Military Spouses--Substantially Equivalent Licenses.

§60.521. Additional and Alternative Licensing Procedures for Military Spouses of Active Duty Members of the Armed Forces of the United States.

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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Brian Francis
Deputy Executive Director
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TITLE 19. EDUCATION

**PART 1. TEXAS HIGHER EDUCATION
COORDINATING BOARD**

**CHAPTER 21. STUDENT SERVICES
SUBCHAPTER M. TEXAS COLLEGE
WORK-STUDY PROGRAM**

19 TAC §21.403, §21.405

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to §21.403 and §21.405, concerning the Texas College Work-Study Program (Senate Bill 1750, 84th Texas Legislature).

The amendment to §21.403 aligns the rules with the current statute and describes the method by which an institution is to establish and publicize a listing of work-study employment opportunities.

The amendment to §21.405 is made to indicate the Senate Bill 1750 requirements regarding the percentage of off-campus employment positions (at least 20 percent, but no more than 50 percent) that must be provided by institutions participating in the work-study program.

Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, has determined that for each year of the first five years the sections are in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Charles W. Puls has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering these sections will be the institution's ability to better meet the needs of their student populations and local community's workforce. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711, (512) 427-6365, Charles.Puls@thecb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under Texas Education Code, §§56.071 - 56.079, which provides the Coordinating Board with the authority to adopt rules to implement the Texas College Work-Study Program.

The amendments affect Texas Education Code, §§56.076, 56.080 and 56.082.

§21.403. Institutions.

(a) - (b) (No change.)

(c) Responsibilities.

(1) - (4) (No change.)

(5) Publicizing Work-Study Employment Opportunities. Institutions participating in the Texas College Work-Study Program must establish and maintain an online list of work-study employment opportunities available on campus, sorted by department as appropriate, and ensure that the list is easily accessible to the public and prominently displayed on the institution's website.

§21.405. *Eligible Employers.*

(a) - (b) (No change.)

(c) Beginning with the 2016-2017 academic year, each eligible institution shall ensure that at least 20 percent, but not more than 50 percent of the employment positions provided through the work-study program in an academic year are provided by eligible employers who are providing off-campus employment.

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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Bill Franz

General Counsel

Texas Higher Education Coordinating Board

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For further information, please call: (512) 427-6114



19 TAC §21.410

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new §21.410 concerning the Texas College Work-Study Program (Senate Bill 1750, 84th Texas Legislature). This new section adds language to implement legislative changes mandated through the passage of Senate Bill 1750. It outlines new reporting requirements for the Board and specifies the type of data that is to be collected. The report must include the total number of students employed through the program, disaggregated by the positions' location on or off-campus and its status as a for-profit or nonprofit entity. The initial report is due May 1, 2019.

Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, has determined that for each year of the first five years the section is in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Charles W. Puls has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering this section will be the institution's ability to better meet the needs of their student populations and local community's workforce. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Charles W. Puls, Ed. D., Deputy Assistant Commissioner, Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711, (512)

427-6365, Charles.Puls@thechb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under Texas Education Code, §§56.071 - 56.079, which provides the Coordinating Board with the authority to adopt rules to implement the Texas College Work-Study Program.

The new section affects Texas Education Code, §§56.076, 56.080 and 56.082.

§21.410. *Biennial Report and Data Collection.*

Not later than January 1 of each odd-numbered year, the Board shall submit to the legislative higher education standing committees and post on its website a report on the Texas College Work-Study Program. The report must include the total number of students employed through the program, disaggregated by: the employment's position's location on or off campus; and the employer's status as a for-profit or nonprofit entity. The Board shall submit its initial report not later than May 1, 2019.

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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Bill Franz

General Counsel

Texas Higher Education Coordinating Board

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CHAPTER 22. GRANT AND SCHOLARSHIP PROGRAMS

SUBCHAPTER K. PROVISIONS FOR SCHOLARSHIPS FOR STUDENTS GRADUATING IN THE TOP 10 PERCENT OF THEIR HIGH SCHOOL CLASS

19 TAC §22.197

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to §22.197, concerning the Top Ten Percent Scholarship Program. The amendment to this section corrects the citation referenced in the definition of "Institution of Higher Education", from §61.003(6) to §61.003(8).

Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, has determined that for each year of the first five years the section is in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Charles W. Puls has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering this section will be the institution's ability to better meet the needs of their student populations. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711, (512) 427-6365, Charles.Puls@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under Texas Education Code, §§56.071 - 56.079, which provides the Coordinating Board with the authority to adopt rules to implement the Top Ten Percent Scholarship Program.

The amendments affect Texas Education Code, §56.482 and §56.493.

§22.197. Definitions.

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

(1) - (7) (No change.)

(8) Institution of Higher Education--Any public technical institute, public junior college, public senior college or university, medical or dental unit or other agency of higher education as defined in Texas Education Code, §61.003(8) [~~§61.003(6)~~].

(9) - (14) (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.

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Bill Franz

General Counsel

Texas Higher Education Coordinating Board

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19 TAC §22.203

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new §22.203 concerning the Top Ten Percent Scholarship Program. This new section adds language to implement legislative changes mandated by the 84th Legislature through the passage of House Bill 1 to address the priority awarding of students if the program is not fully funded.

Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, has determined that for each year of the first five years the section is in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Charles W. Puls has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering this section will be the institution's ability to better meet the needs of their student populations. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Finan-

cial Aid Programs, P.O. Box 12788, Austin, Texas 78711, (512) 427-6365, Charles.Puls@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under Texas Education Code, §§56.071 - 56.079, which provides the Coordinating Board with the authority to adopt rules to implement the Top Ten Percent Scholarship Program.

The new section affects Texas Education Code, §56.482 and §56.493.

§22.203. Priorities in Funding.

If appropriations for the Top Ten Percent Scholarship Program are insufficient to allow awards to all eligible students, continuation awards will be given priority.

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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Bill Franz

General Counsel

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

19 TAC §22.235

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to §22.235, concerning the Towards EXcellence, Access and Success (TEXAS) Grant Program. The title to this section is amended to distinguish between awarding a student after the end of his/her period of enrollment instead of during a student's period of enrollment.

Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, has determined that for each year of the first five years the section is in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Charles W. Puls has determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering this section will be the institution's ability to better meet the needs of their student populations. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711, (512) 427-6365, charles.puls@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code §56.303 which provides the Coordinating Board with the authority to adopt rules consistent with administering the program.

The amendment affects Texas Education Code §56.303.

§22.235. *Late [Retroactive] Disbursements.*

(a) A student may receive a disbursement after the end of his/her period of enrollment if the student:

(1) owes funds to the institution for the period of enrollment for which the award is being made; or

(2) received a student loan that is still outstanding for the period of enrollment.

(b) Funds that are disbursed after the end of a student's period of enrollment must either be used to pay the student's outstanding balance from his/her period of enrollment at the institution or to make a payment against an outstanding loan received during that period of enrollment. Under no circumstances are funds to be released to the student.

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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Bill Franz

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Texas Higher Education Coordinating Board

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For further information, please call: (512) 427-6114



SUBCHAPTER M. TEXAS EDUCATIONAL OPPORTUNITY GRANT PROGRAM

19 TAC §22.261

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to §22.261, concerning the Texas Educational Opportunity Grant Program (TEOG). The title to this section is amended to distinguish between awarding a student after the end of his/her period of enrollment instead of during a student's period of enrollment.

The amendment to subsection (b) clarifies that funds disbursed after period of enrollment must be used to pay a student's outstanding balance or payment against an outstanding loan.

Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, has determined that for each year of the first five years the section is in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Charles W. Puls has determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering this section will be the institution's ability to better meet the needs of their student populations. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711, (512) 427-6365, charles.puls@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under Texas Education Code §56.403 which provides the Coordinating Board with the authority to adopt rules consistent with Texas Education Code Chapter 56, Subchapter P.

The amendment affects Texas Education Code §56.403.

§22.261. *Late [Retroactive] Disbursements.*

(a) (No change.)

(b) Funds that are disbursed after the end of a student's period of enrollment [retroactively] must either be used to pay the student's outstanding balance from his/her period of enrollment at the institution or to make a payment against an outstanding loan received during that period of enrollment. Under no circumstances are funds to be released to the student.

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

Filed with the Office of the Secretary of State on September 14, 2015.

TRD-201503712

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 427-6114



PART 2. TEXAS EDUCATION AGENCY

CHAPTER 102. EDUCATIONAL PROGRAMS

SUBCHAPTER HH. COMMISSIONER'S RULES CONCERNING THE TEXAS ADOLESCENT LITERACY ACADEMIES

19 TAC §102.1101

The Texas Education Agency proposes amendment to §102.1101, concerning Texas adolescent literacy academies. The section establishes requirements for teachers who are required to attend reading academies. The proposed amendment is necessary to bring the requirements up to date, ensure the requirements reflect current statute, and align the requirements with the current accountability system.

The Texas Education Code (TEC), §21.4551, enacted by the 80th Texas Legislature, Regular Session, 2007, required the commissioner to develop adolescent literacy academies for teachers of Grades 6-8 and authorized the commissioner to adopt rules to implement the academies and to identify teacher attendance requirements. Effective July 6, 2008, the commissioner adopted 19 TAC §102.1101, as required by the TEC, §21.4551. The rule was adopted with specific training deadlines and reflects the accountability system in place and appropriations available at that time. The training deadlines in current

rule have expired. Additionally, as a result of House Bill 3, 81st Texas Legislature, Regular Session, 2009, the accountability system has changed. Currently, there are no funds appropriated for stipends and, as a result, the training is available for free online. The proposed amendment to 19 TAC §102.1101 would reflect these changes.

The proposed amendment would have no procedural or reporting implications. The proposed amendment would have no new locally maintained paperwork requirements.

FISCAL NOTE. Monica Martinez, associate commissioner for standards and programs, has determined that for the first five-year period the amendment is in effect there will be no additional costs for state or local government as a result of enforcing or administering the amendment.

PUBLIC BENEFIT/COST NOTE. Ms. Martinez 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 amendment will be to reflect statutory changes and remove obsolete provisions from rule. There is no anticipated economic cost to persons who are required to comply with the proposed amendment.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL AND MICROBUSINESSES. There is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

REQUEST FOR PUBLIC COMMENT. The public comment period on the proposal begins September 25, 2015, and ends October 26, 2015. Comments on the proposal may be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-1497. Comments may also be submitted electronically to rules@tea.texas.gov or faxed to (512) 463-5337. 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 September 25, 2015.

STATUTORY AUTHORITY. The amendment is proposed under the Texas Education Code (TEC), §21.4551, which requires the commissioner to adopt rules requiring certain teachers to attend a reading academy and criteria for selection of other teachers who may attend a reading academy.

CROSS REFERENCE TO STATUTE. The amendment implements the TEC, §21.4551.

§102.1101. Attendance and Completion Requirements for Texas Adolescent Literacy Academies.

(a) Purpose. In accordance with the Texas Education Code (TEC), §21.4551, the Texas adolescent literacy academies shall provide instruction to English language arts and reading and content area teachers in successful, research-based strategies for improving students' academic literacy. The literacy academies shall be framed within a school-wide approach to address the needs of struggling adolescent readers.

(1) The English Language Arts Academy training, which addresses requirements in the TEC, §21.4551(b)(1) and (2), for teachers of English language arts and reading, may [with] be completed through participation in either a three-day face-to-face training or an 18-hour online training [conducted over a period of three days of

attendance in person plus completion of an equivalent of one day of follow-up activity with online documentation].

(2) The Content Area Academy training, which addresses requirements in the TEC, §21.4551(b)(3), for teachers of mathematics, science, and social studies, may [with] be completed through participation in either a nine-hour face-to-face training or a nine-hour online training [conducted over a period of one and one-half days of attendance in person plus completion of an equivalent of one day of follow-up activity with online documentation].

(b) Applicability. The requirements of this section apply to the following teachers in general education, special education, or English as a second language of [for] students in Grade 6, 7, or 8 at a campus that receives a rating that reflects unacceptable performance and that fails to meet the state system safeguard performance target in reading for one or more student groups: [is rated Academically Unacceptable (AU) based on student performance on the state reading assessment:]

(1) a certified, full-time English language arts and reading teacher who instructs English language arts and/or reading for at least 50% of the teacher's instructional duties;

(2) a certified, full-time content area teacher who instructs mathematics, science, and/or social studies for at least 50% of the teacher's instructional duties; and

(3) a noncertified, full-time teacher at an open-enrollment charter school who meets the subject area and instructional duties criteria specified in paragraph (1) or (2) of this subsection.

(c) Attendance and completion requirements.

(1) A teacher described in subsection (b) of this section is required to complete the training not later than December 31 of the calendar year in which the rating that reflects unacceptable performance is assigned.

~~[(1) A teacher who is assigned to instruct students in Grade 6 in the 2008-2009 school year at a campus rated AU based on student performance on the state reading assessment as of the final state accountability rating issued in the fall of 2007 must attend and complete the appropriate literacy academy by December 2008.]~~

~~[(2) A teacher who is assigned to instruct students in Grade 7 or 8 in the 2009-2010 school year at a campus rated AU based on student performance on the state reading assessment as of the final state accountability rating issued in the fall of 2008 must attend and complete the appropriate literacy academy by December 2009.]~~

(2) [(3)] [Attendance in person is required for each day of training at the appropriate literacy academy.] Each education service center (ESC) providing face-to-face training will determine attendance requirements and the process for the makeup of any days missed due to emergencies on an individual basis.

(3) Completion of face-to-face training is determined by the ESC providing the training. Completion of online training is accomplished through successful completion of assessments embedded in the training.

~~[(4) Completion is demonstrated by implementation of the strategies learned and completion of the online follow-up activities.]~~

(d) Eligibility for teacher stipends. A teacher whose attendance is required in subsection (b) ~~[(c)]~~ of this section is eligible for a teacher stipend ~~[stipends]~~ upon completion of the face-to-face training if funds have been appropriated and are available for that purpose [appropriate literacy academy]. A teacher who completes the online training is not eligible for a stipend.

(e) Record retention. Each school district with teachers required to attend and complete Texas adolescent reading academies according to this section must maintain records to verify teacher attendance and completion in accordance with the school district's record retention policy.

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

Filed with the Office of the Secretary of State on September 8, 2015.

TRD-201503629

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: October 25, 2015

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

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TITLE 22. EXAMINING BOARDS

**PART 8. TEXAS APPRAISER
LICENSING AND CERTIFICATION
BOARD**

**CHAPTER 153. RULES RELATING TO
PROVISIONS OF THE TEXAS APPRAISER
LICENSING AND CERTIFICATION ACT**

22 TAC §153.1

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to 22 TAC §153.1, Definitions. The proposed amendments clarify the definition of "Appraiser Trainee" and add definitions of "Certified General Appraiser," "Certified Residential Appraiser," "Licensed Residential Appraiser," "Supervisory Appraiser," and "Trade Association" to align the rule with statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

Kristen Worman, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the proposed amendments. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the proposed amendments. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendments.

Ms. Worman also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section as proposed will be a requirement that is consistent with the statute and easier to understand, apply and process.

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to general.counsel@talcb.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1103.151, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to prescribe qualifications for appraisers that are consistent with the qualifications established by the Appraiser Qualifications Board.

The statute affected by these amendments is Texas Occupations Code, Chapter 1103. No other statute, code or article is affected by the proposed amendments.

§153.1. Definitions.

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

- (1) ACE--Appraiser Continuing Education.
- (2) Act--The Texas Appraiser Licensing and Certification Act.
- (3) Administrative Law Judge--A judge employed by the State Office of Administrative Hearings (SOAH).
- (4) Analysis--The act or process of providing information, recommendations or conclusions on diversified problems in real estate other than estimating value.
- (5) Applicant--A person seeking a certification, license, approval as an appraiser trainee, or registration as a temporary out-of-state appraiser from the Board.
- (6) Appraisal practice--Valuation services performed by an individual acting as an appraiser, including but not limited to appraisal and appraisal review.
- (7) Appraisal report--A report as defined by and prepared under the USPAP.
- (8) Appraisal Standards Board--The Appraisal Standards Board (ASB) of the Appraisal Foundation, or its successor.
- (9) Appraisal Subcommittee--The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council or its successor.
- (10) Appraiser Qualifications Board--The Appraiser Qualifications Board (AQB) of the Appraisal Foundation, or its successor.
- (11) Appraiser trainee--A person approved by the Board to perform appraisals or appraiser services under the active, personal and diligent supervision and direction of the supervisory ~~[sponsoring certified]~~ appraiser. ~~[In addition an appraiser trainee may perform appraisals or appraiser services under the active, personal and diligent supervision of an authorized supervisor as further detailed in this chapter.]~~
- (12) Board--The Texas Appraiser Licensing and Certification Board.
- (13) Certified General Appraiser--A certified appraiser who is authorized to appraise all types of real property.
- (14) Certified Residential Appraiser--A certified appraiser who is authorized to appraise one-to-four unit residential properties without regard to value or complexity.
- (15) ~~[(13)]~~ Classroom hour--Fifty minutes of actual classroom session time.
- (16) ~~[(14)]~~ Client--Any party for whom an appraiser performs an assignment.
- (17) ~~[(15)]~~ College--Junior or community college, senior college, university, or any other postsecondary educational institution

established by the Texas Legislature, which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or like commissions of other regional accrediting associations, or is a candidate for such accreditation.

(18) [(46)] Commissioner--The commissioner of the Texas Appraiser Licensing and Certification Board.

(19) [(47)] Complainant--Any person who has made a written complaint to the Board against any person subject to the jurisdiction of the Board.

(20) [(48)] Complex appraisal--An appraisal in which the property to be appraised, the form of ownership, market conditions, or any combination thereof are atypical.

(21) [(49)] Council--The Federal Financial Institutions Examination Council (FFIEC) or its successor.

(22) [(20)] Day--A calendar day unless clearly indicated otherwise.

(23) [(21)] Distance education--Any educational process based on the geographical separation of student and instructor that provides a reciprocal environment where the student has verbal or written communication with an instructor.

(24) [(22)] Feasibility analysis--A study of the cost-benefit relationship of an economic endeavor.

(25) [(23)] Federal financial institution regulatory agency--The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, or the successors of any of those agencies.

(26) [(24)] Federally related transaction--Any real estate-related transaction that requires the services of an appraiser and that is engaged in, contracted for, or regulated by a federal financial institution regulatory agency.

(27) [(25)] Foundation--The Appraisal Foundation (TAF) or its successor.

(28) [(26)] Fundamental real estate appraisal course--Those courses approved by the Appraiser Qualifications Board as qualifying education.

(29) [(27)] Inactive certificate or license--A general certification, residential certification, or state license which has been placed on inactive status by the Board.

(30) [(28)] License--The whole or a part of any Board permit, certificate, approval, registration or similar form of permission required by law.

(31) [(29)] License holder--A person certified, licensed, approved, authorized or registered by the Board under the Texas Appraiser Licensing and Certification Act.

(32) Licensed Residential Appraiser--A licensed appraiser who is authorized to appraise non-complex one-to-four residential units having a transaction value less than \$1 million and complex one-to-four residential units having a transaction value less than \$250,000.

(33) [(30)] Licensing--Includes the Board processes respecting the granting, disapproval, denial, renewal, certification, revocation, suspension, annulment, withdrawal or amendment of a license.

(34) [(31)] Market analysis--A study of market conditions for a specific type of property.

(35) [(32)] Nonresidential real estate appraisal course--A course with emphasis on the appraisal of nonresidential real estate properties which include, but are not limited to, income capitalization, income property, commercial appraisal, rural appraisal, agricultural property appraisal, discounted cash flow analysis, subdivision analysis and valuation, or other courses specifically determined by the Board.

(36) [(33)] Nonresidential property--A property which does not conform to the definition of residential property.

(37) [(34)] Party--The Board and each person or other entity named or admitted as a party.

(38) [(35)] Person--Any individual, partnership, corporation, or other legal entity.

(39) [(36)] Personal property--Identifiable tangible objects and chattels that are considered by the general public as being "personal," for example, furnishings, artwork, antiques, gems and jewelry collectibles, machinery and equipment; all tangible property that is not classified as real estate.

(40) [(37)] Petitioner--The person or other entity seeking an advisory ruling, the person petitioning for the adoption of a rule, or the party seeking affirmative relief in a proceeding before the Board.

(41) [(38)] Pleading--A written document, submitted by a party or a person seeking to participate in a case as a party, that requests procedural or substantive relief, makes claims, alleges facts, makes a legal argument, or otherwise addresses matters involved in the case.

(42) [(39)] Real estate--An identified parcel or tract of land, including improvements, if any.

(43) [(40)] Real estate appraisal experience--Valuation services performed as an appraiser or appraiser trainee by the person claiming experience credit. Significant real property appraisal experience requires active participation; mere observation of another appraiser's work is not real estate appraisal experience.

(44) [(41)] Real estate-related financial transaction--Any transaction involving: the sale, lease, purchase, investment in, or exchange of real property, including an interest in property or the financing of property; the financing of real property or an interest in real property; or the use of real property or an interest in real property as security for a loan or investment including a mortgage-backed security.

(45) [(42)] Real property--The interests, benefits, and rights inherent in the ownership of real estate.

(46) [(43)] Record--All notices, pleadings, motions and intermediate orders; questions and offers of proof; objections and rulings on them; any decision, opinion or report by the Board; and all staff memoranda submitted to or considered by the Board.

(47) [(44)] Report--Any communication, written or oral, of an appraisal, review, or analysis; the document that is transmitted to the client upon completion of an assignment.

(48) [(45)] Residential property--Property that consists of at least one but not more than four residential units.

(49) [(46)] Respondent--Any person subject to the jurisdiction of the Board, licensed or unlicensed, against whom any complaint has been made.

(50) Supervisory Appraiser--A certified general or residential appraiser who is designated as a supervisory appraiser, as defined by the AQB, for an appraiser trainee. The supervisory appraiser is responsible for providing active, personal and diligent supervision and direction of the appraiser trainee.

(51) Trade Association--A nonprofit voluntary member association or organization:

(A) whose membership consists primarily of persons who are licensed as appraisers and pay membership dues to the association or organization;

(B) that is governed by a board of directors elected by the members; and

(C) that subscribes to a written code of professional conduct or ethics.

~~[(47) Sponsor or sponsoring appraiser--A certified general or residential appraiser who is designated as a supervisory appraiser, as defined by the AQB, for an appraiser trainee. The sponsor or sponsoring appraiser is responsible for providing active, personal and diligent supervision and direction of the appraiser trainee.]~~

~~[(48) State certified real estate appraiser--A person certified under the Texas Appraiser Licensing and Certification Act.]~~

~~[(49) State licensed real estate appraiser--A person licensed under the Texas Appraiser Licensing and Certification Act.]~~

(52) [(50)] USPAP--Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation.

(53) [(51)] Workfile--Documentation necessary to support an appraiser's analysis, opinions, and conclusions, and in compliance with the record keeping provisions of USPAP.

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

Filed with the Office of the Secretary of State on September 9, 2015.

TRD-201503643

Kristen Worman

General Counsel

Texas Appraiser Licensing and Certification Board

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 936-3652



PART 9. TEXAS MEDICAL BOARD

CHAPTER 185. PHYSICIAN ASSISTANTS

22 TAC §§185.2 - 185.4

The Texas Medical Board (Board) proposes amendments to §185.2, concerning Definitions; §185.3, concerning Meetings and Committees; and §185.4, concerning Procedural Rules for Licensure Applications.

The amendment to §185.2 changes the definition under paragraph (18) for "Presiding Officer" so as to comport with changes made to Texas Occupations Code §204.055 enacted by Senate Bill 622, 84th Legislature, Regular Session (2015).

The amendment to §185.3 adds language to subsection (e) clarifying that the governor must appoint a physician assistant member of the Physician Assistant Board, so as to comport with changes made to Texas Occupations Code §204.055 enacted by Senate Bill 622, 84th Legislature, Regular Session (2015).

The amendment to §185.4 deletes subsection (c) and re-letters subsection (d) to (c). The amendments further add new subsection (d), outlining the process related to a determination of licensure ineligibility by the board, and clarifying that the procedures outlined under Chapter 187 of this title (relating to Procedural Rules) concerning determinations of licensure ineligibility apply.

Scott Freshour, General Counsel for the Texas Medical Board, has determined that for each year of the first five years the amendments as proposed are in effect the public benefit anticipated as a result of enforcing this proposal will be to ensure that the rules comport with the changes made to Texas Occupations Code Chapter 204 by Senate Bill 622 (84th Legislature, Regular Session) and so that the physician assistant licensure rules comport with the board's procedures related to licensure ineligibility determinations.

Mr. Freshour has also determined that for the first five-year period the amendments are in effect there will be no fiscal implication to state or local government as a result of enforcing the amendments as proposed. There will be no effect to individuals required to comply with the rules as proposed. There will be no effect on small or micro businesses.

Comments on the proposal may be submitted to Rita Chapin, P.O. Box 2018, Austin, Texas 78768-2018 or e-mail comments to: rules.development@tmb.state.tx.us. A public hearing will be held at a later date.

The amendments are proposed under the authority of the Texas Occupations Code Annotated, §204.101, which provides authority for the Board to adopt rules and bylaws as necessary to: govern its own proceedings; perform its duties; enforce this subtitle; and establish rules related to licensure. The amendments are also authorized by Texas Occupations Code Annotated, §204.055.

No other statutes, articles or codes are affected by this proposal.

§185.2. Definitions.

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

(1) Act--The Physician Assistant Licensing Act, Texas Occupations Code Annotated, Title 3, Subtitle C, Chapter 204 as amended.

(2) Agency--The divisions, departments, and employees of the Texas Medical Board, the Texas Physician Assistant Board, and the Texas State Board of Acupuncture Examiners.

(3) Alternate physician--A physician providing appropriate supervision on a temporary basis.

(4) APA--The Administrative Procedure Act, Texas Government Code, Chapter 2001 as amended.

(5) Applicant--A party seeking a license from the Texas Physician Assistant Board.

(6) Board or the "physician assistant board"--The Texas Physician Assistant Board.

(7) Executive Director--The Executive Director of the Agency or the authorized designee of the Executive Director.

(8) Good professional character--An applicant for licensure must not be in violation of or committed any act described in the Physician Assistant Licensing Act, §§204.302 - 204.304, Texas Occupations Code Annotated.

(9) Medical Board--The Texas Medical Board.

(10) Medical Practice Act--Texas Occupations Code Annotated, Title 3, Subtitle B, as amended.

(11) Military service member--A person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.

(12) Military spouse--A person who is married to a military service member who is currently on active duty.

(13) Military veteran--A person who served on active duty in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces and who was discharged or released from active duty under conditions other than dishonorable.

(14) Open Meetings Act--Texas Government Code Annotated, Chapter 551 as amended.

(15) Party--The physician assistant board and each person named or admitted as a party in a hearing before the State Office of Administrative Hearings or contested case before the physician assistant board.

(16) Physician assistant--A person licensed as a physician assistant by the Texas Physician Assistant Board.

(17) Prescriptive authority agreement--An agreement entered into by a physician and an advanced practice registered nurse or physician assistant through which the physician delegates to the advanced practice registered nurse or physician assistant the act of prescribing or ordering a drug or device. Prescriptive authority agreements are required for the delegation of the act of prescribing or ordering a drug or device in all practice settings, with the exception of a facility-based practice, pursuant to §157.054 of the Act.

(18) Presiding Officer--The physician assistant member of the Board [person] appointed by the Governor to serve as the presiding officer of the board.

(19) State--Any state, territory, or insular possession of the United States and the District of Columbia.

(20) Submit--The term used to indicate that a completed item has been actually received and date-stamped by the board along with all required documentation and fees, if any.

(21) Supervising physician--A physician licensed by the medical board who has an active and unrestricted license and assumes responsibility and legal liability for the services rendered by the physician assistant, and who has notified the Medical Board of the intent to supervise a specific physician assistant and of the termination of such supervision.

(22) Supervision--Overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. Supervision does not require the constant physical presence of the supervising physician but includes a situation where a supervising physician and the person being supervised are, or can easily be, in contact with one another by radio, telephone, or another telecommunication device.

(23) Unrestricted medical license--A license held by a physician issued by the Medical Board that is not subject to an order with restrictions that would impair a physician's ability to supervise a PA inconsistent with the public's well-being that could harm patients.

§185.3. *Meetings and Committees.*

(a) The board may meet up to four times a year, with a minimum of two times a year to carry out the mandates of the Act.

(b) Special meetings may be called by the presiding officer of the board, by resolution of the board, or upon written request to the presiding officer of the board signed by at least three members of the board.

(c) Board and committee meetings shall, to the extent possible, be conducted pursuant to the provisions of Robert's Rules of Order Newly Revised unless, by rule, the board adopts a different procedure.

(d) All elections and any other issues requiring a vote of the board shall be decided by a simple majority of the members present. A quorum for transaction of any business by the board shall be one more than half the board's membership at the time of the meeting. If more than two candidates contest an election or if no candidate receives a majority of the votes cast on the first ballot, a second ballot shall be conducted between the two candidates receiving the highest number of votes.

(e) The governor shall designate a physician assistant member of the physician assistant board as the presiding officer of the board to serve in that capacity at the will of the governor. The board, at a regular meeting or special meeting, shall elect from its membership a secretary for one year.

(f) The board, at a regular meeting or special meeting, upon majority vote of the members present, may remove the secretary from office.

(g) The following are standing and permanent committees of the board. Each committee, with the exception of the Executive Committee, shall consist of at least one board member who is a licensed physician, one board member who is a licensed physician assistant, and one public board member. In the event that a committee does not have a representative of one or more of these groups, the presiding officer shall appoint additional members as necessary to maintain this composition. The Executive Committee shall include the presiding officer, secretary, and other members as named by the presiding officer. The presiding officer shall name the chair and assign the members of the other committees. The responsibilities and authority of these committees shall include those duties and powers as defined in paragraphs (1) - (3) of this subsection and such other responsibilities and authority which the board may from time to time delegate to these committees.

(1) Licensure Committee.

(A) Draft and review proposed rules regarding licensure, and make recommendations to the board regarding changes or implementation of such rules.

(B) Draft and review proposed rules pertaining to the overall licensure process, and make recommendations to the board regarding changes or implementation of such rules.

(C) Receive and review applications for licensure in the event the eligibility for licensure of an applicant is in question.

(D) Present the results of reviews of applications for licensure, and make recommendations to the board regarding licensure of applicants whose eligibility is in question.

(E) Make recommendations to the board regarding matters brought to the attention of the Licensure Committee.

(F) Oversee and make recommendations to the physician assistant board regarding any aspect of the examination process including the approval of an appropriate licensure examination and the administration of such an examination and documentation and verification of records from all applicants for licensure;

(2) Disciplinary Committee.

(A) Draft and review proposed rules regarding the discipline of physician assistants and enforcement of the Act.

(B) Oversee the disciplinary process and give guidance to the board and staff regarding methods to improve the disciplinary process and more effectively enforce the Act.

(C) Monitor the effectiveness, appropriateness, and timeliness of the disciplinary process.

(D) Make recommendations regarding resolution and disposition of specific cases and approve, adopt, modify, or reject recommendations from staff or representatives of the board regarding actions to be taken on pending cases. Approve dismissals of complaints and closure of investigations.

(E) Make recommendations to the board and staff regarding policies, priorities, budget, and any other matters related to the disciplinary process and enforcement of the Act.

(F) Make recommendations to the board regarding matters brought to the attention of the Disciplinary Committee.

(3) Executive Committee.

(A) Ensure records are maintained of all committee actions;

(B) Review requests from the public to appear before the board and provide opportunities for the public to speak regarding issues related to the regulations of practice of Physician Assistants;

(C) Review inquiries regarding policy or administrative procedure;

(D) Delegate tasks to other committees;

(E) Take action on matter of urgency that may arise between board meetings; such matters shall be presented to the board at the next board meeting;

(F) Assist the Medical Board in the organization, preparation, and delivery of information and testimony to the Legislators and committees of the Legislature;

(G) Formulate and make recommendations to the board regarding future board goals and objectives and the establishment of priorities and methods for their accomplishment;

(H) Study and make recommendations to the board regarding the role and responsibility of the board officers and committees;

(I) Review staff reports regarding finances and the budget; and

(J) Make recommendations to the board regarding matters brought to the attention of the Executive Committee.

(h) Meetings of the board and of its committees are open to the public unless such meetings are conducted in executive session pursuant to the Open Meetings Act, the Act, or the Medical Practice Act. In order that board meetings may be conducted safely, efficiently, and with decorum, attendees may not engage in disruptive activity that interferes with board proceedings. The public shall remain within those areas of the board offices and board meeting room designated as open to the public. Members of the public shall not address or question board members during meetings unless recognized by the board's presiding officer pursuant to a published agenda item.

(i) Journalists have the same right of access as other members of the public to board meetings conducted in open session, and are also subject to the same rules. Observers of any board meeting may not

disrupt the meeting or disturb participants. Observers may make audio or visual recordings of such proceedings conducted in open session as long as these activities do not disrupt the meeting and subject to the following limitations: the board's presiding officer may request periodically that camera operators extinguish their artificial lights to allow excessive heat to dissipate; camera operators may not assemble or disassemble their equipment while the board is in session and conducting business; persons seeking to position microphones for recording board proceedings may not disrupt the meeting or disturb participants. Journalists may conduct interviews in the reception area of the agency's offices or, at the discretion of the board's presiding officer, in the meeting room after recess or adjournment; no interview may be conducted in the hallways of the agency's offices; and the board's presiding officer may exclude from a meeting any person who, after being duly warned, persists in conduct described in this subsection and subsection (h) of this section.

(j) The secretary of the board shall assume the duties of the presiding officer in the event of the presiding officer's absence or incapacity.

(k) In the event of the absence or temporary incapacity of the presiding officer, and the secretary, the members of the board may elect another physician assistant member to act as the presiding officer of a board meeting or as [may elect] an interim acting presiding officer for the duration of the absences or incapacity or until another presiding officer is appointed by the governor.

(l) Upon the death, resignation, removal or permanent incapacity of the presiding officer or the secretary, the board shall elect a secretary from its membership an officer to fill the vacant position. The board may elect an interim acting presiding officer until another presiding officer is appointed by the governor. Such an election shall be conducted as soon as practicable at a regular or special meeting of the board.

(m) Committee minutes shall be approved by the full board with a quorum of the committee members present to vote on approval of the minutes.

§185.4. *Procedural Rules for Licensure Applicants.*

(a) Except as otherwise provided in this section, an individual shall be licensed by the board before the individual may function as a physician assistant. A license shall be granted to an applicant who:

(1) submits an application on forms approved by the board;

(2) pays the appropriate application fee as prescribed by the board;

(3) has successfully completed an educational program for physician assistants or surgeon assistants accredited by the Accreditation Review Commission on Education for the Physician Assistant, Inc. (ARC-PA), or by that committee's predecessor or successor entities, and holds a valid and current certificate issued by the National Commission on Certification of Physician Assistants ("NCCPA");

(4) certifies that the applicant is mentally and physically able to function safely as a physician assistant;

(5) does not have a license, certification, or registration as a physician assistant in this state or from any other licensing authority that is currently revoked or on suspension or the applicant is not subject to probation or other disciplinary action for cause resulting from the applicant's acts as a physician assistant, unless the board takes that fact into consideration in determining whether to issue the license;

(6) is of good moral character;

(7) is of good professional character as defined under §185.2(8) of this title (relating to Definitions).

(8) submits to the board any other information the board considers necessary to evaluate the applicant's qualifications;

(9) meets any other requirement established by rules adopted by the board; and

(10) must pass the national licensing examination required for NCCPA certification within no more than six attempts; and

(11) must pass the jurisprudence examination ("JP exam"), which shall be conducted on the licensing requirements and other laws, rules, or regulations applicable to the physician assistant profession in this state. The jurisprudence examination shall be developed and administered as follows:

(A) The staff of the Medical Board shall prepare questions for the JP exam and provide a facility by which applicants can take the examination.

(B) Applicants must pass the JP exam with a score of 75 or better within three attempts.

(C) An examinee shall not be permitted to bring medical books, compends, notes, medical journals, calculators or other help into the examination room, nor be allowed to communicate by word or sign with another examinee while the examination is in progress without permission of the presiding examiner, nor be allowed to leave the examination room except when so permitted by the presiding examiner.

(D) Irregularities during an examination such as giving or obtaining unauthorized information or aid as evidenced by observation or subsequent statistical analysis of answer sheets, shall be sufficient cause to terminate an applicant's participation in an examination, invalidate the applicant's examination results, or take other appropriate action.

(E) An applicant who is unable to pass the JP exam within three attempts must appear before a committee of the board to address the applicant's inability to pass the examination and to re-evaluate the applicant's eligibility for licensure. It is at the discretion of the committee to allow an applicant additional attempts to take the JP exam.

(F) A person who has passed the JP Exam shall not be required to retake the Exam for relicensure, except as a specific requirement of the board as part of an agreed order.

(b) The following documentation shall be submitted as a part of the licensure process:

(1) Name Change. Any applicant who submits documentation showing a name other than the name under which the applicant has applied must present certified copies of marriage licenses, divorce decrees, or court orders stating the name change. In cases where the applicant's name has been changed by naturalization the applicant should send the original naturalization certificate by certified mail to the board for inspection.

(2) Certification. Each applicant for licensure must submit:

(A) a letter of verification of current NCCPA certification sent directly from NCCPA, and

(B) a certificate of successful completion of an educational program submitted directly from the program on a form provided by the board.

(3) Examination Scores. Each applicant for licensure must have a certified transcript of grades submitted directly from the appropriate testing service to the board for all examinations accepted by the board for licensure.

(4) Verification from other states. On request of board staff, an applicant must have any state, in which he or she has ever been licensed as any type of healthcare provider regardless of the current status of the license, submit to the board a letter verifying the status of the license and a description of any sanctions or pending disciplinary matters. The information must be sent directly from the state licensing entities.

(5) Arrest Records. If an applicant has ever been arrested, a copy of the arrest and arrest disposition needs to be requested from the arresting authority and that authority must submit copies directly to the board.

(6) Malpractice. If an applicant has ever been named in a malpractice claim filed with any liability carrier or if an applicant has ever been named in a malpractice suit, the applicant must:

(A) have each liability carrier complete a form furnished by this board regarding each claim filed against the applicant's insurance;

(B) for each claim that becomes a malpractice suit, have the attorney representing the applicant in each suit submit a letter directly to the board explaining the allegation, dates of the allegation, and current status of the suit. If the suit has been closed, the attorney must state the disposition of the suit, and if any money was paid, the amount of the settlement. The letter shall be accompanied by supporting documentation including court records if applicable. If such letter is not available, the applicant will be required to furnish a notarized affidavit explaining why this letter cannot be provided; and

(C) provide a statement, composed by the applicant, explaining the circumstances pertaining to patient care in defense of the allegations.

(7) Additional Documentation. Additional documentation as is deemed necessary to facilitate the investigation of any application for licensure must be submitted.

~~{(e) The executive director shall review each application for licensure and shall recommend to the board all applicants eligible for licensure. The executive director also shall report to the board the names of all applicants determined to be ineligible for licensure, together with the reasons for each recommendation. An applicant deemed ineligible for licensure by the executive director may request review of such recommendation by a committee of the board within 20 days of receipt of such notice, and the executive director may refer any application to said committee for a recommendation concerning eligibility. If the committee finds the applicant ineligible for licensure, such recommendation, together with the reasons therefore, shall be submitted to the board unless the applicant requests a hearing within 20 days of receipt of notice of the committee's determination. The hearing shall be before an administrative law judge of the State Office of Administrative Hearings and shall comply with the Administrative Procedure Act and its subsequent amendments and the rules of the State Office of Administrative Hearings and the board. The committee may refer any application for determination of eligibility to the full board. The board shall, after receiving the administrative law judge's proposed findings of fact and conclusions of law, determine the eligibility of the applicant for licensure. A physician assistant whose application for licensure is denied by the board shall receive a written statement containing the reasons for the board's action. All reports received or gathered by the board on each applicant are confidential and are not subject to disclosure under~~

the Public Information Act. The board may disclose such reports to appropriate licensing authorities in other states.]

(c) [(d)] All physician assistant applicants shall provide sufficient documentation to the board that the applicant has, on a full-time basis, actively practiced as a physician assistant, has been a student at an acceptable approved physician assistant program, or has been on the active teaching faculty of an acceptable approved physician assistant program, within either of the last two years preceding receipt of an application for licensure. The term "full-time basis," for purposes of this section, shall mean at least 20 hours per week for 40 weeks duration during a given year. Applicants who are unable to demonstrate active practice on a full time basis may, in the discretion of the board, be eligible for an unrestricted license or a restricted license subject to one or more of the following conditions or restrictions as set forth in paragraphs (1) - (4) of this subsection:

(1) completion of specified continuing medical education hours approved for Category 1 credits by a CME sponsor approved by the American Academy of Physician Assistants;

(2) limitation and/or exclusion of the practice of the applicant to specified activities of the practice as a physician assistant;

(3) remedial education; and

(4) such other remedial or restrictive conditions or requirements which, in the discretion of the board are necessary to ensure protection of the public and minimal competency of the applicant to safely practice as a physician assistant.

(d) The executive director shall report to the board the names of all applicants determined to be ineligible for licensure, together with the reasons for each recommendation. An applicant deemed ineligible for licensure by the executive director may within 20 days of receipt of such notice request a review of the executive director's recommendation by a committee of the board, to be conducted in accordance with §187.13 of this title (relating to Informal Board Proceedings Relating to Licensure Eligibility), and the executive director may refer any application to said committee for a recommendation concerning eligibility. If the committee finds the applicant ineligible for licensure, such recommendation, together with the reasons therefore, shall be submitted to the board. The applicant shall be notified of the panel or committee's determination and given the option to appeal the determination of ineligibility to the State Office of Administrative Hearings (SOAH) or accept the determination of ineligibility. An applicant has 20 days from the date the applicant receives notice of the board's determination of ineligibility to submit a written response to the board indicating one of those two options. If the applicant does not within 20 days of receipt of such notice submit a response either accepting the determination of ineligibility or providing notice of his or her intent to appeal the determination of ineligibility, the lack of such response shall be deemed as the applicant's acceptance of the board's ineligibility determination. If the applicant timely notifies the board of his or her intent to appeal the board's ineligibility determination to SOAH, a contested case before SOAH will be initiated only in accordance with §187.24 of this title (relating to Pleadings). The applicant shall comply with all other provisions relating to formal proceedings as set out in this title Chapter 187 Subchapter C (relating to Formal Board Proceedings at SOAH). If the applicant does not timely comply with such provisions, or if prior to the initiation of a contested case at SOAH, the applicant withdraws his or her notice of intent to appeal the board's ineligibility determination to SOAH, the applicant's failure to take timely action or withdrawal shall be deemed acceptance of the board's ineligibility determination. The committee may refer any application for determination of eligibility to the full board. All reports received or gathered by the board on each applicant are confidential and are not subject to disclosure under

the Public Information Act. The board may disclose such reports to appropriate licensing authorities in other states.

(e) Applicants for licensure:

(1) whose applications have been filed with the board in excess of one year will be considered expired. Any fee previously submitted with that application shall be forfeited unless otherwise provided by §175.5 of this title (relating to Payment of Fees or Penalties). Any further request for licensure will require submission of a new application and inclusion of the current licensure fee. An extension to an application may be granted under certain circumstances, including:

(A) Delay by board staff in processing an application;

(B) Application requires Licensure Committee review after completion of all other processing and will expire prior to the next scheduled meeting;

(C) Licensure Committee requires an applicant to meet specific additional requirements for licensure and the application will expire prior to deadline established by the Committee;

(D) Applicant requires a reasonable, limited additional period of time to obtain documentation after completing all other requirements and demonstrating diligence in attempting to provide the required documentation;

(E) Applicant is delayed due to unanticipated military assignments, medical reasons, or catastrophic events;

(2) who in any way falsify the application may be required to appear before the board;

(3) on whom adverse information is received by the board may be required to appear before the board;

(4) shall be required to comply with the board's rules and regulations which are in effect at the time the completed application form and fee are filed with the board;

(5) may be required to sit for additional oral or written examinations that, in the opinion of the board, are necessary to determine competency of the applicant;

(6) must have the application of licensure complete in every detail 20 days prior to the board meeting in which they are considered for licensure. Applicants may qualify for a Temporary License prior to being considered by the board for licensure, as required by §185.7 of this title (relating to Temporary License);

(7) who previously held a Texas health care provider license, certificate, permit, or registration may be required to complete additional forms as required.

(f) Alternative License Procedure for Military Spouse.

(1) An applicant who is the spouse of a member of the armed forces of the United States assigned to a military unit headquartered in Texas may be eligible for alternative demonstrations of competency for certain licensure requirements. Unless specifically allowed in this subsection, an applicant must meet the requirements for licensure as specified in this chapter.

(2) To be eligible, an applicant must be the spouse of a person serving on active duty as a member of the armed forces of the United States and meet one of the following requirements:

(A) holds an active unrestricted physician assistant license issued by another state that has licensing requirements that are substantially equivalent to the requirements for a Texas physician assistant license; or

(B) within the five years preceding the application date held a physician assistant license in this state that expired and was cancelled for nonpayment while the applicant lived in another state for at least six months.

(3) Applications for licensure from applicants qualifying under paragraphs (1) and (2) of this subsection shall be expedited by the board's licensure division. Such applicants shall be notified, in writing or by electronic means, as soon as practicable, of the requirements and process for renewal of the license.

(4) Alternative Demonstrations of Competency Allowed. Applicants qualifying under paragraphs (1) and (2) of this subsection:

(A) in demonstrating compliance with subsection (d) of this section must only provide sufficient documentation to the board that the applicant has, on a full-time basis, actively practiced as a physician assistant, has been a student at an acceptable approved physician assistant program, or has been on the active teaching faculty of an acceptable approved physician assistant program, within one of the last three years preceding receipt of an Application for licensure;

(B) notwithstanding the one year expiration in subsection (e)(1) of this section, are allowed an additional 6 months to complete the application prior to it becoming inactive; and

(C) notwithstanding the 20 day deadline in subsection (e)(6) of this section, may be considered for permanent licensure up to 5 days prior to the board meeting.

(g) Applicants with Military Experience.

(1) For applications filed on or after March 1, 2014, the Board shall, with respect to an applicant who is a military service member or military veteran as defined in §185.2 of this title (relating to Definitions), credit verified military service, training, or education toward the licensing requirements, other than an examination requirement, for a license issued by the Board.

(2) This section does not apply to an applicant who:

(A) has had a physician assistant license suspended or revoked by another state or a Canadian province;

(B) holds a physician assistant license issued by another state or a Canadian province that is subject to a restriction, disciplinary order, or probationary order; or

(C) has an unacceptable criminal history.

(h) Re-Application for Licensure Prohibited. A person who has been determined ineligible for a license by the Licensure Committee may not reapply for a license prior to the expiration of one year from the date of the Board's ratification of the Licensure Committee's determination of ineligibility and denial of licensure.

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

Filed with the Office of the Secretary of State on September 14, 2015.

TRD-201503720

Mari Robinson, J.D.

Executive Director

Texas Medical Board

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For further information, please call: (512) 305-7016



PART 15. TEXAS STATE BOARD OF PHARMACY

CHAPTER 281. ADMINISTRATIVE PRACTICE AND PROCEDURES

SUBCHAPTER A. GENERAL PROVISIONS

22 TAC §281.7, §281.9

The Texas State Board of Pharmacy proposes amendments to §281.7 concerning Grounds for Discipline for a Pharmacist License and §281.9 concerning Grounds for Discipline for a Pharmacy Technician or a Pharmacy Technician Trainee. The amendments, if adopted, update the grounds for discipline for pharmacists and pharmacy technicians to include abusive, intimidating, or threatening behavior toward a board member or employee during the performance of such member's or employee's lawful duties; and add failure to respond to a continuing education audit to the grounds for discipline for a pharmacy technician.

Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Ms. Dodson has determined that, for each year of the first five-year period the rules will be in effect, the public benefit anticipated as a result of enforcing the amendments will ensure pharmacists and pharmacy technicians are not acting in an unprofessional manner. There is no fiscal impact for individuals, small or large businesses, or to other entities which are required to comply with these sections.

Written comments on the amendments may be submitted to Allison Benz, R.Ph., M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600, Austin, Texas 78701, FAX (512) 305-6778. Comments must be received by 5:00 p.m., October 30, 2015.

The amendments are proposed under §§551.002, 554.051 and 565.001 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act. The Board interprets §565.001(a)(2) as authorizing the agency to adopt rules regarding conduct that is determined to be unprofessional.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§281.7. *Grounds for Discipline for a Pharmacist License.*

(a) For the purposes of the Act, §565.001(a)(2), "unprofessional conduct" is defined as engaging in behavior or committing an act that fails to conform with the standards of the pharmacy profession, including, but not limited to, criminal activity or activity involving moral turpitude, dishonesty, or corruption. This conduct shall include, but not be limited to:

(1) - (21) (No change.)

(22) abusive, intimidating, or threatening behavior toward [physically abusing] a board member or employee during the performance of such member's or employee's lawful duties;

(23) - (32) (No change.)

(b) - (c) (No change.)

§281.9. *Grounds for Discipline for a Pharmacy Technician or a Pharmacy Technician Trainee.*

(a) (No change.)

(b) For the purposes of the Act, §568.003(a)(10), "negligent, unreasonable, or inappropriate conduct" shall include, but not be limited to:

(1) - (5) (No change.)

(6) abusive, intimidating, or threatening behavior toward [physically abusing] a board member or employee during the performance of such member's or employee's lawful duties; [or]

(7) failing to repay a guaranteed student loan, as provided in the Texas Education Code, §57.491; or[-]

(8) failing to respond and to provide all requested records within the time specified in an audit of continuing education records under §297.8 of this title (relating to Continuing Education Requirements).

(c) - (d) (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 September 14, 2015.

TRD-201503734

Gay Dodson, R.Ph.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 305-8028



CHAPTER 283. LICENSING REQUIREMENTS FOR PHARMACISTS

22 TAC §283.2, §283.12

The Texas State Board of Pharmacy proposes amendments to §283.2 concerning Definitions and §283.12 concerning Licenses for Military Spouse. The amendments to §283.2, if adopted, clarify that 1993 - 2004 graduates from a college/school of pharmacy whose professional degree program has been approved by the board and is accredited by the Canadian Council for Accreditation of Pharmacy Programs are not considered foreign graduates for the purpose of licensure; and update definitions regarding interns. The amendments to §283.12, if adopted, update the title of the section and implement provisions of SB 807 and SB 1307 passed by the 2015 Texas Legislature regarding military service members, military veterans, and military spouses.

Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year period the rule is in effect, there will be no fiscal implications for local government as a result of enforcing or administering the rule. The Board is unable to determine the fiscal implications for state government as a result of enforcing or administering the rule because it is unknown how many individuals are military services members, military veterans, or military spouses.

Ms. Dodson has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will ensure that military service members, military veterans, and military spouses are qualified for licensure as a pharmacist. Economic cost to persons who are required to comply with the amendments will be the fees paid to other entities and not the Texas State Board of Pharmacy. The effect on large, small or micro-businesses (pharmacies) will be the same as the economic cost to an individual, if the pharmacy chooses to pay any of the fees for the individual.

Written comments on the amendments may be submitted to Allison Benz, R.Ph., M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600, Austin, Texas 78701, FAX (512) 305-6778. Comments must be received by 5:00 p.m., October 30, 2015.

The amendments are proposed under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code) and Chapter 55, (Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act. The Board interprets Chapter 55 as authorizing the agency to adopt rules regarding the license of a person who is a military service member, military veteran, or military spouse.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§283.2. *Definitions.*

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

- (1) ACPE--Accreditation Council for Pharmacy Education.
- (2) Applicant--An individual having applied for licensure to act as a pharmacist in Texas.
- (3) Approved continuing education--Continuing education which meets the requirements of §295.8 of this title (relating to Continuing Education Requirements).
- (4) Board--The Texas State Board of Pharmacy; all members, divisions, departments, sections, and employees thereof.
- (5) College/School of pharmacy--A college/school of pharmacy whose professional degree program has been [accredited by ACPE and] approved by the board and is either accredited by: [-]
 - (A) ACPE; or
 - (B) the Canadian Council for Accreditation of Pharmacy Programs for 1993 - 2004 graduates.
- (6) Competency--A demonstrated state of preparedness for the realities of professional pharmacy practice.
- (7) Didactic--Systematic classroom instruction.
- (8) Direct supervision--A pharmacist preceptor or health-care professional preceptor is physically present and on-site at the licensed location of the pharmacy where the pharmacist-intern is performing pharmacist-intern duties.
- (9) Extended-intern--An intern, registered with the board, who has:

(A) applied to the board for licensure by examination and has successfully passed the NAPLEX and Texas Pharmacy Jurisprudence Examination but lacks the required number of hours of internship for licensure; or

(B) applied to the board to take the NAPLEX and Texas Pharmacy Jurisprudence Examinations within six calendar months after graduation and has either:

(i) graduated and received a professional degree from a college/school of pharmacy; or

(ii) completed all of the requirements for graduation and for receipt of a professional degree from a college/school of pharmacy; or

(C) applied to the board to take the NAPLEX and Texas Pharmacy Jurisprudence Examinations within six calendar months after obtaining full certification from the Foreign Pharmacy Graduate Equivalency Commission; or

(D) applied to the Board for re-issuance of a pharmacist license which has been expired for more than two years but less than ten years and has successfully passed the Texas Pharmacy Jurisprudence Examination, but lacks the required number of hours of internship or continuing education required for licensure; or

(E) been ordered by the Board to complete an internship.

(10) Foreign pharmacy graduate--An individual [A pharmacist] whose pharmacy degree was conferred by a pharmacy school whose professional degree program has not been accredited by ACPE and approved by the board. An individual whose pharmacy degree was conferred by a pharmacy school that was accredited by the Canadian Council for Accreditation of Pharmacy Programs between 1993 and 2004, inclusively, is not considered a foreign pharmacy graduate.

(11) FPGEC--The Foreign Pharmacy Graduate Equivalency Commission.

(12) Healthcare Professional--An individual licensed as:

(A) a physician in Texas or another state; or

(B) a pharmacist in a state other than Texas but not licensed in Texas.

(13) Healthcare Professional Preceptor--A healthcare professional serving as an instructor for a Texas college/school-based internship program who is recognized by a Texas college/school of pharmacy to supervise and be responsible for the activities and functions of a student-intern or intern-trainee in the internship program.

(14) Intern-trainee--An individual [A pharmacist-intern,] registered with the board, who is enrolled in the first year of the professional sequence of a Texas college/school of pharmacy and who may only work during times and in sites assigned by a Texas college/school of pharmacy.

(15) Internship--A practical experience program that is approved by the board.

(16) MPJE--Multistate Pharmacy Jurisprudence Examination.

(17) NABP--The National Association of Boards of Pharmacy.

(18) NAPLEX--The North American Pharmacy Licensing Examination, or its predecessor, the National Association of Boards of Pharmacy Licensing Examination.

(19) Pharmaceutical care--The provision of drug therapy and other pharmaceutical services defined in the rules of the board and intended to assist in the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process.

(20) Pharmacist-intern--An intern-trainee, a student-intern, a resident-intern, or an extended-intern who is participating in a board approved internship program.

(21) Pharmacist Preceptor--A pharmacist licensed in Texas to practice pharmacy who meets the requirements under board rules and is recognized by the board to supervise and be responsible for the activities and functions of a pharmacist-intern in an internship program.

(22) Resident-intern--An individual who is registered with the board and:

(A) has graduated from a college/school of pharmacy; and

(B) is completing a residency program in the state of Texas accredited by the American Society of Health-System Pharmacists.

(23) Preceptor--A pharmacist preceptor or a healthcare professional preceptor.

(24) Professional degree--A bachelor of science degree in pharmacy or a doctorate of pharmacy degree.

(25) State--One of the 50 United States of America, the District of Columbia, and Puerto Rico.

(26) Student-intern--An individual [A pharmacist-intern,] registered with the board who is enrolled in the professional sequence of a college/school of pharmacy, has completed the first professional year and obtained a minimum of 30 credit hours of work towards a professional degree in pharmacy, and is participating in a board-approved internship program.

(27) Texas Pharmacy Jurisprudence Examination--A licensing exam developed or approved by the Board which evaluates an applicant's knowledge of the drug and pharmacy requirements to practice pharmacy legally in the state of Texas.

§283.12. Licenses for Military Service Members, Military Veterans, and Military Spouses.

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

(1) Active duty--Current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, or similar military service of another state.

(2) Armed forces of the United States--The army, navy, air force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.

(3) Military service member--A person who is on active duty.

(4) Military spouse--A person who is married to a military service member.

(5) Military veteran--A person who has served on active duty and who was discharged or released from active duty.

(b) [(a)] Alternative licensing procedure. For the purpose of §55.004, Occupations Code, an applicant for a pharmacist's license who is a military service member, military veteran, or military spouse

[the spouse of a person serving on active duty as a member of the armed forces of the United States] may complete the following alternative procedures for licensing as a pharmacist.

(1) Requirements for licensing by reciprocity. An applicant for licensing by reciprocity who meets all of the following requirements may be granted a temporary license as specified in this subsection [~~(b) of this section~~] prior to completing the NABP application for pharmacist license by reciprocity, and taking and passing the Texas Pharmacy Jurisprudence Examination. The applicant shall:

(A) complete the Texas application for pharmacist license by reciprocity that includes the following:

(i) name;

(ii) addresses, phone numbers, date of birth, and social security number; however, if an individual is unable to obtain a social security number, an individual taxpayer identification number may be provided in lieu of a social security number along with documentation indicating why the individual is unable to obtain a social security number; and

(iii) any other information requested on the application;

(B) meet the educational and age requirements as set forth in §283.3 of this title (relating to Educational and Age Requirements);

(C) present to the board proof of initial licensing by examination and proof that any current licenses and any other licenses granted to the applicant by any other state have not been suspended, revoked, canceled, surrendered, or otherwise restricted for any reason;

(D) meet all requirements necessary for the board to access the criminal history records information, including submitting fingerprint information and such criminal history check does not reveal any disposition for a crime specified in [~~that board rule~~] §281.64 of this title (relating to Sanctions for Criminal Offenses) indicates a sanction of denial, revocation, or suspension; and

(E) be exempt from the application and examination fees paid to the board set forth in §283.9(a)(2)(A) and (b) [pay the licensing fee set out in §283-9] of this title (relating to Fee Requirements for Licensure by Examination, Score Transfer and Reciprocity); and

(F) provide documentation [~~that the applicant is the spouse of a member of the armed forces of the United States~~] to include:

~~(i)~~ marriage certificate; and

~~(ii)~~ [(~~ii~~)] military identification indicating that the

~~(i)~~ applicant is a military service member, military veteran, or military dependent, if a military spouse; and

~~(ii)~~ applicant's spouse is on active duty status.

~~(ii)~~ marriage certificate, if a military spouse.

(2) Requirements for an applicant whose Texas pharmacist's license has expired. An applicant whose Texas pharmacist's license has expired within five years preceding the application date [~~and while the applicant lived in another state for at least six months~~]:

(A) shall complete the Texas application for licensing that includes the following:

(i) name;

(ii) addresses, phone numbers, date of birth, and social security number; however, if an individual is unable to obtain a

social security number, an individual taxpayer identification number may be provided in lieu of a social security number along with documentation indicating why the individual is unable to obtain a social security number; and

(iii) any other information requested on the application;

(B) shall provide documentation [~~that the applicant is the spouse of a person serving on active duty as a member of the armed forces of the United States~~] to include:

~~(i)~~ marriage certificate; and

~~(ii)~~ [(~~ii~~)] military identification indicating that the applicant is a military service member, military veteran, or military dependent, if a military spouse; and

~~(ii)~~ marriage certificate, if a military spouse;

(C) shall pay the renewal fee specified in §295.5 of this title (relating to Pharmacist License Renewal Fees); however, the applicant shall be exempt from the fees specified in §295.7(3) of this title (relating to Pharmacist License Renewal).

(D) shall complete approved continuing education requirements according to the following schedule:

(i) if the Texas pharmacist license has been expired for more than one year but less than two years, the applicant shall complete 15 contact hours of approved continuing education;

(ii) if the Texas pharmacist license has been expired for more than two years but less than three years, the applicant shall complete 30 contact hours of approved continuing education; or

(iii) if the Texas pharmacist license has been expired for more than three years but less than five years, the applicant shall complete 45 contact hours of approved continuing education; and

(E) is not required to take the Texas Pharmacy Jurisprudence Examination.

(3) A temporary license issued under this section is valid for no more than six months and may be extended, if disciplinary action is pending, or upon request, as otherwise determined reasonably necessary by the executive director of the board.

(4) A temporary license issued under this section expires within six months of issuance if the individual fails to pass the Texas Pharmacy Jurisprudence Examination within six months or fails to take the Texas Pharmacy Jurisprudence Examination within six months.

(5) An individual may not serve as pharmacist-in-charge of a pharmacy with a temporary license issued under this subsection.

(c) [(b)] Expedited licensing procedure. For the purpose of §55.005, Occupations Code, an applicant for a pharmacist license who is a military service member, military veteran, or military spouse [~~the spouse of a person serving on active duty as a member of the armed forces of the United States~~] and who holds a current license as a pharmacist issued by another state may complete the following expedited procedures for licensing as a pharmacist. The applicant shall:

(1) meet the educational and age requirements specified in §283.3 of this title (relating to Educational and Age Requirements);

(2) meet all requirements necessary in order for the board to access the criminal history record information, including submitting fingerprint information and being responsible for all associated costs;

(3) complete the Texas and NABP applications for reciprocity. Any fraudulent statement made in the application for reci-

procuity is grounds for denial of the application; if such application is granted, any fraudulent statement is grounds for suspension, revocation, and/or cancellation of any license so granted by the board. The Texas application includes the following information:

(A) name;

(B) addresses, phone numbers, date of birth, and social security number; however, if an individual is unable to obtain a social security number, an individual taxpayer identification number may be provided in lieu of a social security number along with documentation indicating why the individual is unable to obtain a social security number; and

(C) any other information requested on the application.

(4) shall present to the board proof of initial licensing by examination and proof that their current license and any other license or licenses granted to the applicant by any other state have not been suspended, revoked, canceled, surrendered, or otherwise restricted for any reason; and

(5) shall pass the Texas Pharmacy Jurisprudence Examination with a minimum grade of 75. (The passing grade may be used for the purpose of licensure by reciprocity for a period of two years from the date of passing the examination.) Should the applicant fail to achieve a minimum grade of 75 on the Texas Pharmacy Jurisprudence Examination, such applicant, in order to be licensed, shall retake the Texas Pharmacy Jurisprudence Examination as specified in §283.11 of this title (relating to Examination Retake Requirements) until such time as a minimum grade of 75 is achieved.

(d) License renewal. As specified in §55.003, Occupations Code, a military service member who holds a pharmacist license is entitled to two years of additional time to complete any requirements related to the renewal of the military service member's license as follows:

(1) A military service member who fails to renew their pharmacist license in a timely manner because the individual was serving as a military service member shall submit to the board:

(A) name, address, and license number of the pharmacist;

(B) military identification indicating that the individual is a military service member; and

(C) a statement requesting up to two years of additional time to complete the renewal.

(2) A military service member specified in paragraph (1) of this subsection shall be exempt from fees specified in §295.7(3) of this title (relating to Pharmacist License Renewal).

(3) A military service member specified in paragraph (1) of this subsection is entitled to two additional years of time to complete the continuing education requirements specified in §295.9 of this title (relating to Continuing Education Requirements).

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

Filed with the Office of the Secretary of State on September 14, 2015.

TRD-201503740

Gay Dodson, R.Ph.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 305-8028

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CHAPTER 291. PHARMACIES

SUBCHAPTER A. ALL CLASSES OF PHARMACIES

22 TAC §291.3, §291.17

The Texas State Board of Pharmacy proposes amendments to §291.3 concerning Required Notifications and §291.17 concerning Inventory Requirements. The amendments to §291.3, if adopted, implement provisions of SB 460 requiring pharmacies to notify the board at least 30 days prior to changing location and allow pharmacies to notify consumers regarding complaints against the practice of pharmacy in an electronic messaging system; update the change of pharmacist employment requirements; and include the National Association of Boards of Pharmacy Veterinary-Verified Pharmacy Practice Sites (Vet-VIPPS) and e-Advertiser Approval program as being in compliance with internet notifications. The amendments to §291.17, if adopted, update the inventory requirements; clarify the recordkeeping regarding the time inventory shall be taken; and add Class A-S and Class C-S to the inventory requirements.

Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year period the rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Dodson has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will ensure the Board is adequately notified when a pharmacy is changing location; and proper inventories are taken by pharmacies. There is no fiscal impact for individuals, small or large businesses, or to other entities which are required to comply with this section.

Written comments on the amendments may be submitted to Allison Benz, R.Ph., M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600, Austin, Texas 78701, FAX (512) 305-6778. Comments must be received by 5:00 p.m., October 30, 2015.

The amendments are proposed under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§291.3. Required Notification.

(a) Change of Location and/or Name.

(1) When a pharmacy changes location and/or name, the following is applicable.

(A) A new completed pharmacy application containing the information outlined in §291.1 of this title (relating to Pharmacy

License Application), must be filed with the board not later than 30 days before the date [within 10 days] of the change of location of the pharmacy.

(B) The previously issued license must be returned to the board office.

(C) An amended license reflecting the new location and/or name of the pharmacy will be issued by the board; and

(D) A fee as specified in §291.6 of this title (relating to Pharmacy License Fees) will be charged for issuance of the amended license.

(2) At least 14 days prior to the change of location of a pharmacy that dispenses prescription drug orders, the pharmacist-in-charge shall post a sign in a conspicuous place indicating that the pharmacy is changing locations. Such sign shall be in the front of the prescription department and at all public entrance doors to the pharmacy and shall indicate the date the pharmacy is changing locations.

(3) Disasters, accidents, and emergencies which require the pharmacy to change location shall be immediately reported to the board. If a pharmacy changes location suddenly due to disasters, accidents, or other emergency circumstances and the pharmacist-in-charge cannot provide notification 14 days prior to the change of location, the pharmacist-in-charge shall comply with the provisions of paragraph (2) of this subsection as far in advance of the change of location as allowed by the circumstances.

(b) Change of Managing Officers.

(1) The owner of a pharmacy shall notify the board in writing within 10 days of a change of any managing officer of a partnership or corporation which owns a pharmacy. The written notification shall include the effective date of such change and the following information for all managing officers:

(A) name and title;

(B) home address and telephone number;

(C) date of birth;

(D) a copy of social security card or other official document showing the social security number as approved by the board; however, if an individual is unable to obtain a social security number, an individual taxpayer identification number may be provided in lieu of a social security number along with documentation indicating why the individual is unable to obtain a social security number; and

(E) a copy of current driver's license, state issued photo identification card, or passport.

(2) For purposes of this subsection, managing officers are defined as the top four executive officers, including the corporate officer in charge of pharmacy operations, who are designated by the partnership or corporation to be jointly responsible for the legal operation of the pharmacy.

(c) Change of Ownership.

(1) When a pharmacy changes ownership, a new pharmacy application must be filed with the board following the procedures as specified in §291.1 of this title (relating to Pharmacy License Application). In addition, a copy of the purchase contract or mutual agreement between the buyer and seller must be submitted.

(2) The license issued to the previous owner must be returned to the board.

(3) A fee as specified in §291.6 of this title will be charged for issuance of a new license.

(d) Change of Pharmacist Employment.

(1) Change of pharmacist employed in a pharmacy. When a change in pharmacist employment occurs, the pharmacist shall report such change in writing to the board within 10 days.

(2) Change of pharmacist-in-charge of a pharmacy.

~~[(A) On the date of change of the pharmacist-in-charge of a Class A, Class A-S, Class C, Class C-S, or Class F pharmacy, an inventory specified in §291.17 of this title (relating to Inventory Requirements) shall be taken.]~~

~~[(B) This inventory shall constitute, for the purpose of this section, the closing inventory of the departing pharmacist-in-charge and the beginning inventory of the incoming pharmacist-in-charge.]~~

~~[(C) If the departing and the incoming pharmacists-in-charge are unable to conduct the inventory together, a closing inventory shall be conducted by the departing pharmacist-in-charge and a new and separate beginning inventory shall be conducted by the incoming pharmacist-in-charge.]~~

~~[(D)]~~ The incoming pharmacist-in-charge shall be responsible for notifying the board within 10 days in writing on a form provided by the board that a change of pharmacist-in-charge has occurred. The notification shall include the following:

(A) ~~[(i)]~~ the name and license number of the departing pharmacist-in-charge;

(B) ~~[(ii)]~~ the name and license number of the incoming pharmacist-in-charge;

(C) ~~[(iii)]~~ the date the incoming pharmacist-in-charge became the pharmacist-in-charge; and

(D) ~~[(iv)]~~ a statement signed by the incoming pharmacist-in-charge attesting that:

~~(i) [(H)] an inventory, as specified in §291.17 of this title (relating to Inventory Requirements), has been conducted by the departing and incoming pharmacists-in-charge; if the inventory was not taken by both pharmacists, the statement shall provide an explanation; and~~

~~(ii) [(H)] the incoming pharmacist-in-charge has read and understands the laws and rules relating to this class of pharmacy.~~

(e) Notification of Theft or Loss of a Controlled Substance or a Dangerous Drug.

(1) Controlled substances. For the purposes of the Act, §562.106, the theft or significant loss of any controlled substance by a pharmacy shall be reported in writing to the board immediately on discovery of such theft or loss. A pharmacy shall be in compliance with this subsection by submitting to the board a copy of the Drug Enforcement Administration (DEA) report of theft or loss of controlled substances, DEA Form 106, or by submitting a list of all controlled substances stolen or lost.

(2) Dangerous drugs. A pharmacy shall report in writing to the board immediately on discovery the theft or significant loss of any dangerous drug by submitting a list of the name and quantity of all dangerous drugs stolen or lost.

(f) Fire or Other Disaster. If a pharmacy experiences a fire or other disaster, the following requirements are applicable.

(1) Responsibilities of the pharmacist-in-charge.

(A) The pharmacist-in-charge shall be responsible for reporting the date of the fire or other disaster which may affect the strength, purity, or labeling of drugs, medications, devices, or other materials used in the diagnosis or the treatment of the injury, illness, and disease; such notification shall be immediately reported to the board, but in no event shall exceed 10 days from the date of the disaster.

(B) The pharmacist-in-charge or designated agent shall comply with the following procedures.

(i) If controlled substances, dangerous drugs, or Drug Enforcement Administration (DEA) order forms are lost or destroyed in the disaster, the pharmacy shall:

(I) notify the DEA, Department of Public Safety (DPS), and Texas State Board of Pharmacy (board) of the loss of the controlled substances or order forms. A pharmacy shall be in compliance with this section by submitting to each of these agencies a copy of the DEA's report of theft or loss of controlled substances, DEA Form-106, immediately on discovery of the loss; and

(II) notify the board in writing of the loss of the dangerous drugs by submitting a list of the dangerous drugs lost.

(ii) If the extent of the loss of controlled substances or dangerous drugs is not able to be determined, the pharmacy shall:

(I) take a new, complete inventory of all remaining drugs specified in §291.17(c) of this title (relating to Inventory Requirements);

(II) submit to DEA and DPS a statement attesting that the loss of controlled substances is indeterminable and that a new, complete inventory of all remaining controlled substances was conducted and state the date of such inventory; and

(III) submit to the board a statement attesting that the loss of controlled substances and dangerous drugs is indeterminable and that a new, complete inventory of the drugs specified in §291.17(c) of this title was conducted and state the date of such inventory.

(C) If the pharmacy changes to a new, permanent location, the pharmacist-in-charge shall comply with subsection (a) of this section.

(D) If the pharmacy moves to a temporary location, the pharmacist shall comply with subsection (a) of this section. If the pharmacy returns to the original location, the pharmacist-in-charge shall again comply with subsection (a) of this section.

(E) If the pharmacy closes due to fire or other disaster, the pharmacy may not be closed for longer than 90 days as specified in §291.11 of this title (relating to Operation of a Pharmacy).

(F) If the pharmacy discontinues business (ceases to operate as a pharmacy), the pharmacist-in-charge shall comply with §291.5 of this title (relating to Closing a Pharmacy).

(G) The pharmacist-in-charge shall maintain copies of all inventories, reports, or notifications required by this section for a period of two years.

(2) Drug stock.

(A) Any drug which has been exposed to excessive heat, smoke, or other conditions which may have caused deterioration shall not be dispensed.

(B) Any potentially adulterated or damaged drug shall only be sold, transferred, or otherwise distributed pursuant to the provisions of the Texas Food Drug and Cosmetics Act (Chapter 431, Health

and Safety Code) administered by the Bureau of Food and Drug Safety of the Texas Department of State Health Services.

(g) Notification to Consumers.

(1) Pharmacy.

(A) Every licensed pharmacy shall provide notification to consumers of the name, mailing address, Internet site address, and telephone number of the board for the purpose of directing complaints concerning the practice of pharmacy to the board. Such notification shall be provided as follows.

(i) If the pharmacy serves walk-in customers, the pharmacy shall either:

(I) post in a prominent place that is in clear public view where prescription drugs are dispensed;

(-a-) a sign [~~furnished by the board~~] which notifies the consumer that complaints concerning the practice of pharmacy may be filed with the board and list the board's name, mailing address, Internet site address, telephone number [~~of the board~~], and [~~if applicable~~] a toll-free telephone number for filing complaints; or

(-b-) an electronic messaging system in a type size no smaller than ten-point Times Roman which notifies the consumer that complaints concerning the practice of pharmacy may be filed with the board and list the board's name, mailing address, Internet site address, telephone number, and a toll-free number for filing complaints; or

(II) provide with each dispensed prescription a written notification in a type size no smaller than ten-point Times Roman which states the following: "Complaints concerning the practice of pharmacy may be filed with the Texas State Board of Pharmacy at: (list the mailing address, Internet site address, telephone number of the board, and [~~if applicable~~] a toll-free telephone number for filing complaints)."

(ii) If the prescription drug order is delivered to patients at their residence or other designated location, the pharmacy shall provide with each dispensed prescription a written notification in type size no smaller than ten-point Times Roman which states the following: "Complaints concerning the practice of pharmacy may be filed with the Texas State Board of Pharmacy at: (list the mailing address, Internet site address, telephone number [~~of the board~~], and [~~if applicable~~] a toll-free telephone number for filing complaints)." If multiple prescriptions are delivered to the same location, only one such notice shall be required.

(iii) The provisions of this subsection do not apply to prescriptions for patients in facilities where drugs are administered to patients by a person required to do so by the laws of the state (i.e., nursing homes).

(B) A pharmacy that maintains a generally accessible site on the Internet that is located in Texas or sells or distributes drugs through this site to residents of this state shall post the following information on the pharmacy's initial home page and on the page where a sale of prescription drugs occurs.

(i) Information on the ownership of the pharmacy, to include at a minimum, the:

(I) owner's name or if the owner is a partnership or corporation, the partnership's or corporation's name and the name of the chief operating officer;

(II) owner's address;

(III) owner's telephone number; and

(IV) year the owner began operating pharmacies in the United States.

(ii) The Internet address and toll free telephone number that a consumer may use to:

(I) report medication/device problems to the pharmacy; and

(II) report business compliance problems.

(iii) Information about each pharmacy that dispenses prescriptions for this site, to include at a minimum, the:

(I) pharmacy's name, address, and telephone number;

(II) name of the pharmacist responsible for operation of the pharmacy;

(III) Texas pharmacy license number for the pharmacy and a link to the Internet site maintained by the Texas State Board of Pharmacy; and

(IV) the names of all other states in which the pharmacy is licensed, the license number in that state, and a link to the Internet site of the entity that regulates pharmacies in that state, if available.

(C) A pharmacy whose Internet site has been awarded a Verified Internet Pharmacy Practice Sites (VIPPS), Veterinary-Verified Internet Pharmacy Practice Sites (Vet-VIPPS) accreditation, or e-Advertiser Approval Program [certification] by the National Association of Boards of Pharmacy shall be in compliance with subparagraph (B) of this paragraph by displaying the VIPPS, Vet-VIPPS, or e-Advertiser seal on the pharmacy internet site.

(2) Texas State Board of Pharmacy. On or before January 1, 2005, the board shall establish a pharmacy profile system as specified in §2054.2606, Government Code.

(A) The board shall make the pharmacy profiles available to the public on the agency's Internet site.

(B) A pharmacy profile shall contain at least the following information:

(i) name, address, and telephone number of the pharmacy;

(ii) pharmacy license number, licensure status, and expiration date of the license;

(iii) the class and type of the pharmacy;

(iv) ownership information for the pharmacy;

(v) names and license numbers of all pharmacists working at the pharmacy;

(vi) whether the pharmacy has had prior disciplinary action by the board;

(vii) whether the pharmacy's consumer service areas are accessible to disabled persons, as defined by law;

(viii) the type of language translating services, including translating services for persons with impairment of hearing, that the pharmacy provides for consumers; and

(ix) insurance information including whether the pharmacy participates in the state Medicaid program.

(C) The board shall gather this information on initial licensing and update the information in conjunction with the license renewal for the pharmacy.

(h) Notification of Licensees or Registrants Obtaining Controlled Substances or Dangerous Drugs by Forged Prescriptions. If a licensee or registrant obtains controlled substances or dangerous drugs from a pharmacy by means of a forged prescription, the pharmacy shall report in writing to the board immediately on discovery of such forgery. A pharmacy shall be in compliance with this subsection by submitting to the board the following:

(1) name of licensee or registrant obtaining controlled substances or dangerous drugs by forged prescription;

(2) date(s) of forged prescription(s);

(3) name(s) and amount(s) of drug(s); and

(4) copies of forged prescriptions.

§291.17. *Inventory Requirements.*

(a) General requirements.

(1) The pharmacist-in-charge shall be responsible for taking all required inventories, but may delegate the performance of the inventory to another person(s).

(2) The inventory shall be maintained in a written, typewritten, or printed form. An inventory taken by use of an oral recording device must be promptly transcribed.

(3) The inventory shall be kept in the pharmacy and shall be available for inspection for two years.

(4) The inventory shall be filed separately from all other records.

(5) The inventory shall be in a written, typewritten, or printed form and include all stocks of all controlled substances [the following drugs] on hand on the date of the inventory (including any which are out-of-date).[;]

~~[(A) all controlled substances;]~~

~~[(B) all dosage forms containing nalbuphine (e.g., Nubain); and]~~

~~[(C) for any inventory taken after January 1, 2013, all dosage forms containing tramadol (e.g., Ultram).]~~

(6) The inventory may be taken either as of the opening of business or as of the close of business on the inventory date.

(7) The inventory record shall indicate whether the inventory is taken as of the opening of business or as of the close of business on the inventory date. If the pharmacy is open 24 hours a day, the inventory record shall indicate the time that the inventory was taken. ~~[the opening of business shall be 12:01 a.m. and the close of business shall be 12 midnight. The inventory shall indicate that it is a record of drugs on-hand as of the opening or closing of the business day.]~~

(8) The person(s) taking the inventory shall make an exact count or measure of all substances listed in Schedule II.

(9) The person(s) taking the inventory shall make an estimated count or measure of all controlled substances listed in Schedule III, IV, and ~~[or V [and dangerous drugs],~~ unless the container holds more than 1,000 tablets or capsules in which case, an exact count of the contents must be made.

(10) The inventory of Schedule II controlled substances shall be listed separately from the inventory of Schedule III, IV, and

V controlled substances [which shall be listed separately from the inventory of dangerous drugs].

(11) If the pharmacy maintains a perpetual inventory of any of the drugs required to be inventoried, the perpetual inventory shall be reconciled on the date of the inventory.

(b) Initial inventory.

(1) A new Class A [~~(Community) pharmacy~~], Class A-S, Class C [~~(Institutional) pharmacy~~], Class C-S, or Class F [~~(Free Standing Emergency Medical Care Center)~~] pharmacy shall take an inventory on the opening day of business. Such inventory shall include all stocks of all controlled substances (including any out-of-date drugs) [~~of the drugs specified in subsection (a)(5) of this section~~].

(2) In the event the Class A, Class A-S, Class C, Class C-S, or Class F pharmacy commences business with no controlled substances [~~none of the drugs specified in subsection (a)(5) of this section~~] on hand, the pharmacy shall record this fact as the initial inventory.

(3) The initial inventory shall serve as the pharmacy's inventory until the next May 1, or until the pharmacy's regular general physical inventory date, at which time the Class A, Class A-S, Class C, Class C-S, or Class F pharmacy shall take an annual inventory as specified in subsection (c) of this section. [~~Such inventory may be taken within four days of the specified inventory date and shall include all stocks (including out-of-date drugs)~~].

(c) Annual inventory.

(1) A Class A, Class A-S, Class C, Class C-S, or Class F pharmacy shall take an inventory on May 1 of each year, or on the pharmacy's regular general physical inventory date. Such inventory may be taken within four days of the specified inventory date and shall include all stocks of all controlled substances (including out-of-date drugs) [~~of the drugs specified in subsection (a)(5) of this section~~].

(2) A Class A, Class A-S, Class C, Class C-S, or Class F pharmacy applying for renewal of a pharmacy license shall include as a part of the pharmacy license renewal application a statement attesting that an annual inventory has been conducted, the date of the inventory, and the name of the person taking the inventory.

(3) The person(s) taking the annual inventory and the pharmacist-in-charge shall indicate the time the inventory was taken (as specified in subsection (a)(7) of this section) and shall sign and date the inventory with the date the inventory was taken. The signature of the pharmacist-in-charge and the date of the inventory shall be notarized within three days after the day the inventory is completed, excluding Saturdays, Sundays, and federal holidays.

(d) Change of ownership.

(1) A Class A, Class A-S, Class C, Class C-S, or Class F pharmacy that changes ownership shall take an inventory of all of the following drugs on the date of the change of ownership. Such inventory shall include all stocks of all controlled substances (including any out-of-date drugs) [~~of the drugs specified in subsection (a)(5) of this section~~].

(2) Such inventory shall constitute, for the purpose of this section, the closing inventory for the seller and the initial inventory for the buyer.

(3) Transfer of any controlled substances listed in Schedule II shall require the use of official DEA order forms (Form 222[C]).

(4) The person(s) taking the annual inventory and the pharmacist-in-charge shall indicate the time the inventory was taken (as specified in subsection (a)(7) of this section) and shall sign and date the

inventory with the date the inventory was taken. The signature of the pharmacist-in-charge and the date of the inventory shall be notarized within three days after the day the inventory is completed, excluding Saturdays, Sundays, and federal holidays.

(e) Closed pharmacies.

(1) The pharmacist-in-charge of a Class A, Class A-S, Class C, Class C-S, or Class F pharmacy that ceases to operate as a pharmacy shall forward to the board, within 10 days of the cessation of operation, a statement attesting that an inventory of all controlled substances [~~the drugs specified in subsection (a)(5) of this section~~] on hand has been conducted, the date of closing, and a statement attesting the manner by which the dangerous drugs and controlled substances possessed by such pharmacy were transferred or disposed.

(2) The person(s) taking the annual inventory and the pharmacist-in-charge shall indicate the time the inventory was taken (as specified in subsection (a)(7) of this section) and shall sign and date the inventory with the date the inventory was taken. The signature of the pharmacist-in-charge and the date of the inventory shall be notarized within three days after the day the inventory is completed, excluding Saturdays, Sundays, and federal holidays.

(f) Additional requirements for Class C and Class C-S [~~(Institutional)]~~ pharmacies.

(1) Perpetual inventory.

(A) A Class C or Class C-S pharmacy shall maintain a perpetual inventory of all Schedule II controlled substances.

(B) The perpetual inventory shall be reconciled on the date of the annual inventory.

(2) Annual inventory. The inventory of the Class C or Class C-S pharmacy [~~institution~~] shall be maintained in the pharmacy; if an inventory is conducted in other departments within the institution, the inventory of the pharmacy shall be listed separately, as follows:

(A) the inventory of drugs on hand in the pharmacy shall be listed separately from the inventory of drugs on hand in the other areas of the institution; and

(B) the inventory of drugs on hand in all other departments shall be identified by department.

(g) Change of pharmacist-in-charge of a pharmacy.

(1) On [~~For an inventory taken after June 1, 2013; on~~] the date of the change [~~of change~~] of the pharmacist-in-charge of a Class A [~~(Community)~~], Class A-S, Class C [~~(Institutional)~~], Class C-S, or Class F [~~(Free Standing Emergency Medical Care Center)~~] pharmacy, an inventory shall be taken. Such inventory shall include all stocks of all controlled substances (including any out-of-date drugs) [~~of the drugs specified in subsection (a)(5) of this section~~]. For an inventory taken prior to June 1, 2013, on the date of change of the pharmacist-in-charge of a Class A (Community), Class C (Institutional), or Class F (Free Standing Emergency Medical Care Center) pharmacy, an inventory of the following drugs shall be taken-]

[(A) all Schedule II controlled substances;]

[(B) all dosage forms containing pentazocine (e.g., Talwin);]

[(C) all dosage forms containing phentermine (e.g., Adipex-P, etc.);]

[(D) all dosage forms containing diazepam (e.g., Valium);]

[(E) all dosage forms containing phendimetrazine (e.g., Bontril, Prelu-2, etc.);]

[(F) all dosage forms containing codeine;]

[(G) all dosage forms containing hydrocodone (e.g., Tussionex, Tussend, Vicodin, etc.);]

[(H) all dosage forms containing alprazolam (e.g., Xanax);]

[(I) all dosage forms containing triazolam (e.g., Halcion);]

[(J) all dosage forms containing butorphanol (e.g., Stadol);]

[(K) all dosage forms containing nalbuphine (e.g., Nubain);]

[(L) all dosage forms containing carisoprodol (e.g., Soma); and]

[(M) for any inventory taken after January 1, 2013, all dosage forms containing tramadol (e.g., Ultram).]

(2) This inventory shall constitute, for the purpose of this section, the closing inventory of the departing pharmacist-in-charge and the beginning inventory of the incoming pharmacist-in-charge.

(3) If the departing and the incoming pharmacists-in-charge are unable to conduct the inventory together, a closing inventory shall be conducted by the departing pharmacist-in-charge and a new and separate beginning inventory shall be conducted by the incoming pharmacist-in-charge.

(4) The incoming pharmacist-in-charge shall be responsible for notifying the board within 10 days, as specified in §291.3 of this title (relating to Notifications) [in writing on a form provided by the board], that a change of pharmacist-in-charge has occurred. [The notification shall include the following:]

[(A) the name and license number of the departing pharmacist-in-charge;]

[(B) the name and license number of the incoming pharmacist-in-charge;]

[(C) the date the incoming pharmacist-in-charge became the pharmacist-in-charge; and]

[(D) a statement signed by the incoming pharmacist-in-charge attesting that:

[(i) an inventory has been conducted by the departing and incoming pharmacists-in-charge; if the inventory was not taken by both pharmacists, the statement shall provide an explanation; and]

[(ii) the incoming pharmacist-in-charge has read and understands the laws and rules relating to this class of pharmacy.]

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

Filed with the Office of the Secretary of State on September 14, 2015.

TRD-201503742

Gay Dodson, R.Ph.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 305-8028



SUBCHAPTER B. COMMUNITY PHARMACY (CLASS A)

22 TAC §§291.32 - 291.34

The Texas State Board of Pharmacy proposes amendments to §291.32 concerning Personnel, §291.33 concerning Operational Standards, and §291.34 concerning Records. The amendments, if adopted, clarify that pharmacists may not serve as the pharmacist-in-charge of other pharmacies if the pharmacist is required to be a full time pharmacist; correct grammar; clarify the duties of a pharmacist to include transferring or receiving a transfer of original prescription information on behalf of a patient; clarify that prescriptions must be transferred within four business hours; update the requirements with regard to interchangeable biological products; and update the rules regarding distributions to include dangerous drugs.

Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Ms. Dodson has determined that, for each year of the first five-year period the rules will be in effect, the public benefit anticipated as a result of enforcing the amendments will ensure the pharmacies are adequately supervised by the pharmacist-in-charge; ensure only pharmacists are performing duties of a pharmacist; ensure patients receive transferred prescriptions in a timely manner; and ensure biologicals are handled appropriately. There is no fiscal impact for individuals, small or large businesses, or to other entities which are required to comply with these sections.

Comments on the amendments may be submitted to Allison Benz, R.Ph., M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600, Austin, Texas 78701, FAX (512) 305-8008. Comments must be received by 5:00 p.m., October 30, 2015.

The amendments are proposed under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 566 and 568 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code.

§291.32. *Personnel.*

(a) Pharmacist-in-charge.

(1) General.

(A) Each Class A pharmacy shall have one pharmacist-in-charge who is employed on a full-time basis, who may be the pharmacist-in-charge for only one such pharmacy; provided, however, such pharmacist-in-charge may be the pharmacist-in-charge of:

(i) more than one Class A pharmacy, if the additional Class A pharmacies are not open to provide pharmacy services simultaneously; or

(ii) during an emergency, up to two Class A pharmacies open simultaneously if the pharmacist-in-charge works at least 10 hours per week in each pharmacy for no more than a period of 30 consecutive days.

(B) The pharmacist-in-charge shall comply with the provisions of §291.17 of this title (relating to Inventory Requirements).

(C) The pharmacist-in-charge of a Class A pharmacy may not serve as the pharmacist-in-charge of a Class B pharmacy or a Class C pharmacy with 101 beds or more.

(2) Responsibilities. The pharmacist-in-charge shall have responsibility for the practice of pharmacy at the pharmacy for which he or she is the pharmacist-in-charge. The pharmacist-in-charge may advise the owner on administrative or operational concerns. The pharmacist-in-charge shall have responsibility for, at a minimum, the following:

(A) educating and training of pharmacy technicians and pharmacy technician trainees;

(B) supervising a system to assure appropriate procurement of prescription drugs and devices and other products dispensed from the Class A pharmacy;

(C) disposing of and distributing drugs from the Class A pharmacy;

(D) storing all materials, including drugs, chemicals, and biologicals;

(E) maintaining records of all transactions of the Class A pharmacy necessary to maintain accurate control over and accountability for all pharmaceutical materials required by applicable state and federal laws and sections;

(F) supervising a system to assure maintenance of effective controls against the theft or diversion of prescription drugs, and records for such drugs;

(G) adhering to policies and procedures regarding the maintenance of records in a data processing system such that the data processing system is in compliance with Class A (community) pharmacy requirements;

(H) legally operating the pharmacy, including meeting all inspection and other requirements of all state and federal laws or sections governing the practice of pharmacy; and

(I) if the pharmacy uses an automated pharmacy dispensing system, shall be responsible for the following:

(i) consulting with the owner concerning and adherence to the policies and procedures for system operation, safety, security, accuracy and access, patient confidentiality, prevention of unauthorized access, and malfunction;

(ii) inspecting medications in the automated pharmacy dispensing system, at least monthly, for expiration date, misbranding, physical integrity, security, and accountability;

(iii) assigning, discontinuing, or changing personnel access to the automated pharmacy dispensing system;

(iv) ensuring that pharmacy technicians, pharmacy technician trainees, and licensed healthcare professionals performing any services in connection with an automated pharmacy dispensing system have been properly trained on the use of the system and can

demonstrate comprehensive knowledge of the written policies and procedures for operation of the system; and

(v) ensuring that the automated pharmacy dispensing system is stocked accurately and an accountability record is maintained in accordance with the written policies and procedures of operation.

(b) Owner. The owner of a Class A pharmacy shall have responsibility for all administrative and operational functions of the pharmacy. The pharmacist-in-charge may advise the owner on administrative and operational concerns. The owner shall have responsibility for, at a minimum, the following, and if the owner is not a Texas licensed pharmacist, the owner shall consult with the pharmacist-in-charge or another Texas licensed pharmacist:

(1) ~~establishing [establishment of]~~ policies for procurement of prescription drugs and devices and other products dispensed from the Class A pharmacy;

(2) ~~establishing [establishment of]~~ policies and procedures for the security of the prescription department including the maintenance of effective controls against the theft or diversion of prescription drugs;

(3) if the pharmacy uses an automated pharmacy dispensing system, reviewing and approving all policies and procedures for system operation, safety, security, accuracy and access, patient confidentiality, prevention of unauthorized access, and malfunction;

(4) providing the pharmacy with the necessary equipment and resources commensurate with its level and type of practice; and

(5) ~~establishing [establishment of]~~ policies and procedures regarding maintenance, storage, and retrieval of records in a data processing system such that the system is in compliance with state and federal requirements.

(c) Pharmacists.

(1) General.

(A) The pharmacist-in-charge shall be assisted by sufficient number of additional licensed pharmacists as may be required to operate the Class A pharmacy competently, safely, and adequately to meet the needs of the patients of the pharmacy.

(B) All pharmacists shall assist the pharmacist-in-charge in meeting his or her responsibilities in ordering, dispensing, and accounting for prescription drugs.

(C) Pharmacists are solely responsible for the direct supervision of pharmacy technicians and pharmacy technician trainees and for designating and delegating duties, other than those listed in paragraph (2) of this subsection, to pharmacy technicians and pharmacy technician trainees. Each pharmacist shall be responsible for any delegated act performed by pharmacy technicians and pharmacy technician trainees under his or her supervision.

(D) Pharmacists shall directly supervise pharmacy technicians and pharmacy technician trainees who are entering prescription data into the pharmacy's data processing system by one of the following methods.

(i) Physically present supervision. A pharmacist shall be physically present to directly supervise a pharmacy technician or pharmacy technician trainee who is entering prescription data into the data processing system. Each prescription entered into the data processing system shall be verified at the time of data entry. If the pharmacist is not physically present due to a temporary absence

as specified in §291.33(b)(3) of this title (relating to Operational Standards), on return the pharmacist must:

(I) conduct a drug regimen review for the prescriptions data entered during this time period as specified in §291.33(c)(2) of this title; and

(II) verify that prescription data entered during this time period was entered accurately.

(ii) Electronic supervision. A pharmacist may electronically supervise a pharmacy technician or pharmacy technician trainee who is entering prescription data into the data processing system provided the pharmacist:

(I) is on-site, in the pharmacy where the technician/trainee is located;

(II) has immediate access to any original document containing prescription information or other information related to the dispensing of the prescription. Such access may be through imaging technology provided the pharmacist has the ability to review the original, hardcopy documents if needed for clarification; and

(III) verifies the accuracy of the data entered information prior to the release of the information to the system for storage and/or generation of the prescription label.

(iii) Electronic verification of data entry by pharmacy technicians or pharmacy technician trainees. A pharmacist may electronically verify the data entry of prescription information into a data processing system provided:

(I) a pharmacist is on-site in the pharmacy where the pharmacy technicians/trainees are located;

(II) the pharmacist electronically conducting the verification is either a:

- (-a-) Texas licensed pharmacist; or
- (-b-) pharmacist employed by a Class E pharmacy that:

(-1-) has the same owner as the Class A pharmacy where the pharmacy technicians/trainees are located; or

(-2-) has entered into a written contract or agreement with the Class A pharmacy, which outlines the services to be provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws and regulations;

(III) the pharmacy establishes controls to protect the privacy and security of confidential records; and

(IV) the pharmacy keeps permanent records of prescriptions electronically verified for a period of two years.

(E) All pharmacists, while on duty, shall be responsible for the legal operation of the pharmacy and for complying with all state and federal laws or rules governing the practice of pharmacy.

(F) A dispensing pharmacist shall be responsible for and ensure that the drug is dispensed and delivered safely, and accurately as prescribed, unless the pharmacy's data processing system can record the identity of each pharmacist involved in a specific portion of the dispensing processing. If the system can track the identity of each pharmacist involved in the dispensing process, each pharmacist involved in the dispensing process shall be responsible for and ensure that the portion of the process the pharmacist is performing results in the safe and accurate dispensing and delivery of the drug as prescribed. The dispensing process shall include, but not be limited to, drug

regimen review and verification of accurate prescription data entry, including data entry of prescriptions placed on hold, packaging, preparation, compounding, transferring, [and] labeling, and performance of the final check of the dispensed prescription. An intern has the same responsibilities described in this subparagraph as a pharmacist but must perform his or her duties under the supervision of a pharmacist.

(2) Duties. Duties which may only be performed by a pharmacist are as follows:

(A) receiving oral prescription drug orders and reducing these orders to writing, either manually or electronically;

(B) interpreting prescription drug orders;

(C) selecting drug products;

(D) performing the final check of the dispensed prescription before delivery to the patient to ensure that the prescription has been dispensed accurately as prescribed;

(E) communicating to the patient or patient's agent information about the prescription drug or device which in the exercise of the pharmacist's professional judgment, the pharmacist deems significant, as specified in §291.33(c) of this title;

(F) communicating to the patient or the patient's agent on his or her request information concerning any prescription drugs dispensed to the patient by the pharmacy;

(G) assuring that a reasonable effort is made to obtain, record, and maintain patient medication records;

(H) interpreting patient medication records and performing drug regimen reviews;

(I) performing a specific act of drug therapy management for a patient delegated to a pharmacist by a written protocol from a physician licensed in this state in compliance with the Medical Practice Act; [and]

(J) verifying that controlled substances listed on invoices are received by clearly recording his/her initials and date of receipt of the controlled substances; and[-]

(K) transferring or receiving a transfer of original prescription information on behalf of a patient.

(d) - (e) (No change.)

§291.33. *Operational Standards.*

(a) - (b) (No change.)

(c) Prescription dispensing and delivery.

(1) - (2) (No change.)

(3) [~~Generic~~] Substitution of generically equivalent drugs or interchangeable biological products. A pharmacist may dispense a generically equivalent drug or interchangeable biological product and shall comply with the provisions of §309.3 of this title (relating to [~~Generic~~] Substitution Requirements).

(4) - (6) (No change.)

(7) Labeling.

(A) At the time of delivery of the drug, the dispensing container shall bear a label in plain language and printed in an easily readable font size, unless otherwise specified, with at least the following information:

(i) name, address and phone number of the pharmacy;

(ii) unique identification number of the prescription that is printed in an easily readable font size comparable to but no smaller than ten-point Times Roman;

(iii) date the prescription is dispensed;

(iv) initials or an identification code of the dispensing pharmacist;

(v) name of the prescribing practitioner;

(vi) if the prescription was signed by a pharmacist, the name of the pharmacist who signed the prescription for a dangerous drug under delegated authority of a physician as specified in Subtitle B, Chapter 157, Occupations Code;

(vii) name of the patient or if such drug was prescribed for an animal, the species of the animal and the name of the owner that is printed in an easily readable font size comparable to but no smaller than ten-point Times Roman. The name of the patient's partner or family member is not required to be on the label of a drug prescribed for a partner for a sexually transmitted disease or for a patient's family members if the patient has an illness determined by the Centers for Disease Control and Prevention, the World Health Organization, or the Governor's office to be pandemic;

(viii) instructions for use that is printed in an easily readable font [size] comparable to but no smaller than ten-point Times Roman;

(ix) quantity dispensed;

(x) appropriate ancillary instructions such as storage instructions or cautionary statements such as warnings of potential harmful effects of combining the drug product with any product containing alcohol;

(xi) if the prescription is for a Schedules II - IV controlled substance, the statement "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed";

(xii) if the pharmacist has selected a generically equivalent drug or interchangeable biological product pursuant to the provisions of the Act, Chapter 562, the statement "Substituted for Brand Prescribed" or "Substituted for 'Brand Name'" where "Brand Name" is the actual name of the brand name product prescribed;

(xiii) the name and strength of the actual drug or biological product dispensed that is printed in an easily readable font size comparable to but no smaller than ten-point Times Roman, unless otherwise directed by the prescribing practitioner;

(I) The name shall be either:

(-a-) the brand name; or

(-b-) if no brand name, then the generic drug or interchangeable biological product name and name of the manufacturer or distributor of such generic drug or interchangeable biological product. (The name of the manufacturer or distributor may be reduced to an abbreviation or initials, provided the abbreviation or initials are sufficient to identify the manufacturer or distributor. For combination drug products or non-sterile compounded drug preparations having no brand name, the principal active ingredients shall be indicated on the label.)

(II) Except as provided in clause (xii) of this subparagraph, the brand name of the prescribed drug or biological product shall not appear on the prescription container label unless it is the drug product actually dispensed.

(xiv) if the drug is dispensed in a container other than the manufacturer's original container, the date after which the prescription should not be used or beyond-use-date. Unless otherwise specified by the manufacturer, the beyond-use-date shall be one year from the date the drug is dispensed or the manufacturer's expiration date, whichever is earlier. The beyond-use-date may be placed on the prescription label or on a flag label attached to the bottle. A beyond-use-date is not required on the label of a prescription dispensed to a person at the time of release from prison or jail if the prescription is for not more than a 10-day supply of medication; and

(xv) either on the prescription label or the written information accompanying the prescription, the statement "Do not flush unused medications or pour down a sink or drain." A drug product on a list developed by the Federal Food and Drug Administration of medicines recommended for disposal by flushing is not required to bear this statement.

(B) If the prescription label required in subparagraph (A) of this paragraph is printed in a type size smaller than ten-point Times Roman, the pharmacy shall provide the patient written information containing the information as specified in subparagraph (A) of this paragraph in an easily readable font [size] comparable to but no smaller than ten-point Times Roman.

(C) The label is not required to include the initials or identification code of the dispensing pharmacist as specified in subparagraph (A) of this paragraph if the identity of the dispensing pharmacist is recorded in the pharmacy's data processing system. The record of the identity of the dispensing pharmacist shall not be altered in the pharmacy's data processing system.

(D) The dispensing container is not required to bear the label as specified in subparagraph (A) of this paragraph if:

(i) the drug is prescribed for administration to an ultimate user who is institutionalized in a licensed health care institution (e.g., nursing home, hospice, hospital);

(ii) no more than a 90-day supply is dispensed at one time;

(iii) the drug is not in the possession of the ultimate user prior to administration;

(iv) the pharmacist-in-charge has determined that the institution:

(I) maintains medication administration records which include adequate directions for use for the drug(s) prescribed;

(II) maintains records of ordering, receipt, and administration of the drug(s); and

(III) provides for appropriate safeguards for the control and storage of the drug(s); and

(v) the dispensing container bears a label that adequately:

(I) identifies the:

(-a-) pharmacy by name and address;

(-b-) unique identification number of the prescription;

(-c-) name and strength of the drug dispensed;

(-d-) name of the patient; and

(-e-) name of the prescribing practitioner or, if applicable, the name of the advanced practice nurse, physician assistant, or pharmacist who signed the prescription drug order;

(II) if the drug is dispensed in a container other than the manufacturer's original container, specifies the date after which the prescription should not be used or beyond-use-date. Unless otherwise specified by the manufacturer, the beyond-use-date shall be one year from the date the drug is dispensed or the manufacturer's expiration date, whichever is earlier. The beyond-use-date may be placed on the prescription label or on a flag label attached to the bottle. A beyond-use-date is not required on the label of a prescription dispensed to a person at the time of release from prison or jail if the prescription is for not more than a 10-day supply of medication; and

(III) sets forth the directions for use and cautionary statements, if any, contained on the prescription drug order or required by law.

(8) (No change.)

(d) - (i) (No change.)

§291.34. *Records.*

(a) (No change.)

(b) Prescriptions.

(1) - (6) (No change.)

(7) Prescription drug order information.

(A) (No change.)

(B) At the time of dispensing, a pharmacist is responsible for documenting the following information on either the original hard copy prescription or in the pharmacy's data processing system:

(i) unique identification number of the prescription drug order;

(ii) initials or identification code of the dispensing pharmacist;

(iii) initials or identification code of the pharmacy technician or pharmacy technician trainee performing data entry of the prescription, if applicable;

(iv) quantity dispensed, if different from the quantity prescribed;

(v) date of dispensing, if different from the date of issuance; and

(vi) brand name or manufacturer of the drug or biological product actually dispensed, if the drug was prescribed by generic name or interchangeable biological name or if a drug or interchangeable biological product other than the one prescribed was dispensed pursuant to the provisions of the Act, Chapters 562 and 563.

(8) - (10) (No change.)

(c) - (f) (No change.)

(g) Transfer of prescription drug order information. For the purpose of initial or refill dispensing, the transfer of original prescription drug order information is permissible between pharmacies, subject to the following requirements.

(1) The transfer of original prescription drug order information for controlled substances listed in Schedule III, IV, or V is permissible between pharmacies on a one-time basis only. However, pharmacies electronically sharing a real-time, on-line database may transfer up to the maximum refills permitted by law and the prescriber's authorization.

(2) The transfer of original prescription drug order information for dangerous drugs is permissible between pharmacies without limitation up to the number of originally authorized refills.

(3) The transfer is communicated orally by telephone or via facsimile directly by a pharmacist to another pharmacist; by a pharmacist to a student-intern, extended-intern, or resident-intern; or by a student-intern, extended-intern, or resident-intern to another pharmacist.

(4) Both the original and the transferred prescription drug orders are maintained for a period of two years from the date of last refill.

(5) The individual transferring the prescription drug order information shall ensure the following occurs:

(A) write the word "void" on the face of the invalidated prescription or the prescription is voided in the data processing system;

(B) record the name, address, if for a controlled substance, the DEA registration number of the pharmacy to which it was transferred, and the name of the receiving individual on the reverse of the invalidated prescription or stored with the invalidated prescription drug order in the data processing system;

(C) record the date of the transfer and the name of the individual transferring the information; and

(D) if the prescription is transferred electronically, provide the following information:

(i) date of original dispensing and prescription number;

(ii) number of refills remaining and if a controlled substance, the date(s) and location(s) of previous refills;

(iii) name, address, and if a controlled substance, the DEA registration number of the transferring pharmacy;

(iv) name of the individual transferring the prescription; and

(v) if a controlled substance, name, address and DEA registration number, and prescription number from the pharmacy that originally dispensed the prescription, if different.

(6) The individual receiving the transferred prescription drug order information shall:

(A) write the word "transfer" on the face of the prescription or the prescription record indicates the prescription was a transfer; and

(B) reduce to writing all of the information required to be on a prescription as specified in subsection (b)(7) of this section (relating to Prescriptions) and including the following information:

(i) date of issuance and prescription number;

(ii) original number of refills authorized on the original prescription drug order;

(iii) date of original dispensing;

(iv) number of valid refills remaining and if a controlled substance, date(s) and location(s) of previous refills;

(v) name, address, and if for a controlled substance, the DEA registration number of the transferring pharmacy;

(vi) name of the individual transferring the prescription; and

(vii) name, address, and if for a controlled substance, the DEA registration number, of the pharmacy that originally dispensed the prescription, if different; or

(C) if the prescription is transferred electronically, create an electronic record for the prescription that includes the receiving pharmacist's name and all of the information transferred with the prescription including all of the information required to be on a prescription as specified in subsection (b)(7) of this section (relating to Prescriptions) and the following:

(i) date of original dispensing;

(ii) number of refills remaining and if a controlled substance, the prescription number(s), date(s) and location(s) of previous refills;

(iii) name, address, and if for a controlled substance, the DEA registration number;

(iv) name of the individual transferring the prescription; and

(v) name, address, and if for a controlled substance, the DEA registration number, of the pharmacy that originally filled the prescription.

(7) Both the individual transferring the prescription and the individual receiving the prescription must engage in confirmation of the prescription information by such means as:

(A) the transferring individual faxes the hard copy prescription to the receiving individual; or

(B) the receiving individual repeats the verbal information from the transferring individual and the transferring individual verbally confirms that the repeated information is correct.

(8) Pharmacies transferring prescriptions electronically shall comply with the following:

(A) Prescription drug orders may not be transferred by non-electronic means during periods of downtime except on consultation with and authorization by a prescribing practitioner; provided however, during downtime, a hard copy of a prescription drug order may be made available for informational purposes only, to the patient or a pharmacist, and the prescription may be read to a pharmacist by telephone.

(B) The original prescription drug order shall be invalidated in the data processing system for purposes of filling or refilling, but shall be maintained in the data processing system for refill history purposes.

(C) If the data processing system does not have the capacity to store all the information as specified in paragraphs (5) and (6) of this subsection, the pharmacist is required to record this information on the original or transferred prescription drug order.

(D) The data processing system shall have a mechanism to prohibit the transfer or refilling of controlled substance prescription drug orders that have been previously transferred.

(E) Pharmacies electronically accessing the same prescription drug order records may electronically transfer prescription information if the following requirements are met.

(i) The original prescription is voided and the pharmacies' data processing systems shall store all the information as specified in paragraphs (5) and (6) of this subsection.

(ii) Pharmacies not owned by the same entity [~~person~~] may electronically access the same prescription drug order

records, provided the owner, chief executive officer, or designee of each pharmacy signs an agreement allowing access to such prescription drug order records.

(iii) An electronic transfer between pharmacies may be initiated by a pharmacist intern, pharmacy technician, or pharmacy technician trainee acting under the direct supervision of a pharmacist.

(9) An individual may not refuse to transfer original prescription information to another individual who is acting on behalf of a patient and who is making a request for this information as specified in this subsection. The transfer of original prescription information must be completed within four business hours of the request. [~~done in a timely manner.~~]

(10) When transferring a compounded prescription, a pharmacy is required to provide all of the information regarding the compounded preparation including the formula unless the formula is patented or otherwise protected, in which case, the transferring pharmacy shall, at a minimum, provide the quantity or strength of all of the active ingredients of the compounded preparation.

(11) [(40)] The electronic transfer of multiple or bulk prescription records between two pharmacies is permitted provided:

(A) a record of the transfer as specified in paragraph (5) of this section is maintained by the transferring pharmacy;

(B) the information specified in paragraph (6) of this subsection is maintained by the receiving pharmacy; and

(C) in the event that the patient or patient's agent is unaware of the transfer of the prescription drug order record, the transferring pharmacy must notify the patient or patient's agent of the transfer and must provide the patient or patient's agent with the telephone number of the pharmacy receiving the multiple or bulk prescription drug order records.

(h) Distribution of prescription drugs [~~controlled substances~~] to another registrant. A pharmacy may distribute prescription drugs [~~controlled substances~~] to a practitioner, another pharmacy, or other registrant, without being registered to distribute, under the following conditions.

(1) If the distribution is for a controlled substance, the [~~The~~] registrant to whom the controlled substance is to be distributed is registered under the Controlled Substances Act to possess [~~dispense~~] that controlled substance.

(2) The total number of dosage units of prescription drugs [~~controlled substances~~] distributed by a pharmacy may not exceed 5.0% of all prescription drugs [~~controlled substances~~] dispensed and distributed by the pharmacy during the 12-month period in which the pharmacy is registered; if at any time it does exceed 5.0%, the pharmacy is required to obtain an additional registration to distribute prescription drugs [~~controlled substances~~].

(3) If the distribution is for a dangerous drug, a record shall be maintained that indicates the:

(A) date of distribution;

(B) name, strength, and quantity of dangerous drug distributed;

(C) name and address of the distributing pharmacy; and

(D) name and address of the pharmacy, practitioner, or other registrant to whom the dangerous drugs are distributed.

(4) If the distribution is for a Schedule III, IV, or V controlled substance, a record shall be maintained that indicates the:

(A) [the actual] date of distribution;

(B) [the] name, strength, and quantity of controlled substances distributed;

(C) [the] name, address, and DEA registration number of the distributing pharmacy; and

(D) [the] name, address, and DEA registration number of the pharmacy, practitioner, or other registrant to whom the controlled substances are distributed.

(5) [(4)] If the distribution is for a Schedule II controlled substance, the following is applicable.

(A) The pharmacy, practitioner, or other registrant who is receiving the controlled substances shall issue Copy 1 and Copy 2 of a DEA order form (DEA 222) to the distributing pharmacy.

(B) The distributing pharmacy shall:

(i) complete the area on the DEA order form (DEA 222) titled "To Be Filled in by Supplier";

(ii) maintain Copy 1 of the DEA order form (DEA 222) at the pharmacy for two years; and

(iii) forward Copy 2 of the DEA order form (DEA 222) to the Divisional Office of the Drug Enforcement Administration.

(i) - (l) (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 September 14, 2015.

TRD-201503748

Gay Dodson, R.Ph.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 305-8028



SUBCHAPTER C. NUCLEAR PHARMACY (CLASS B)

22 TAC §291.53

The Texas State Board of Pharmacy proposes amendments to §291.53 concerning Personnel. The amendments, if adopted, clarify that pharmacists may not serve as the pharmacist-in-charge of other pharmacies if the pharmacist is required to be a full time pharmacist.

Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year period the rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Dodson has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will ensure the health, safety, and welfare of the citizens of Texas when receiving prescriptions from nuclear pharmacies. There is no fiscal impact for individuals, small or large businesses, or to other entities which are required to comply with this section.

Comments on the amendments may be submitted to Allison Benz, R.Ph., M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600, Austin, Texas 78701, FAX (512) 305-8008. Comments must be received by 5:00 p.m., October 30, 2015.

The amendments are proposed under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 566 and 568 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code.

§291.53. Personnel.

(a) Pharmacists-in-Charge.

(1) General.

(A) Every nuclear pharmacy shall have an authorized nuclear pharmacist designated on the nuclear pharmacy license as the pharmacist-in-charge who shall be responsible for a nuclear pharmacy's compliance with laws and regulations, both state and federal, pertaining to the practice of nuclear pharmacy.

(B) The nuclear pharmacy pharmacist-in-charge shall see that directives from the board are communicated to the owner(s), management, other pharmacists, and interns of the nuclear pharmacy.

(C) Each Class B pharmacy shall have one pharmacist-in-charge who is employed on a full-time basis, who may be the pharmacist-in-charge for only one such pharmacy; provided, however, such pharmacist-in-charge may be the pharmacist-in-charge of:

(i) more than one Class B pharmacy, if the additional Class B pharmacies are not open to provide pharmacy services simultaneously; or

(ii) during an emergency, up to two Class B pharmacies open simultaneously if the pharmacist-in-charge works at least 10 hours per week in each pharmacy for no more than a period of 30 consecutive days.

(D) The pharmacist-in-charge of a Class B pharmacy may not serve as the pharmacist-in-charge of a Class A pharmacy or a Class C pharmacy with 101 beds or more.

(2) (No change.)

(b) - (d) (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 September 14, 2015.

TRD-201503750

Gay Dodson, R.Ph.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 305-8028



SUBCHAPTER D. INSTITUTIONAL
PHARMACY (CLASS C)

22 TAC §291.73, §291.76

The Texas State Board of Pharmacy proposes amendments to §291.73 concerning Personnel and §291.76 concerning Class C Pharmacies Located in a Freestanding Ambulatory Surgical Center. The amendments to §291.73, if adopted, clarify that pharmacists may not serve as the pharmacist-in-charge of other pharmacies if the pharmacist is required to be a full time pharmacist; eliminate references to sterile compounding; and correct grammar. The amendments to §291.76, if adopted, update the rules for pharmacies in Freestanding Ambulatory Surgical Centers to be consistent with other sections; eliminate language that is no longer necessary; and correct grammar.

Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Ms. Dodson has determined that, for each year of the first five-year period the rules will be in effect, the public benefit anticipated as a result of enforcing the amendments will ensure the pharmacies are adequately supervised by the pharmacist-in-charge; and ensure the public health and safety of pharmacies located in freestanding ambulatory surgical centers. There is no fiscal impact for individuals, small or large businesses, or to other entities which are required to comply with these sections.

Comments on the amendments may be submitted to Allison Benz, R.Ph., M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600, Austin, Texas 78701, FAX (512) 305-8008. Comments must be received by 5:00 p.m., October 30, 2015.

The amendments are proposed under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 566 and 568 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code.

§291.73. *Personnel.*

(a) Requirements for pharmacist services.

(1) A Class C pharmacy in a facility with 101 beds or more shall be under the continuous on-site supervision of a pharmacist during the time it is open for pharmacy services; provided, however, that pharmacy technicians and pharmacy technician trainees may distribute prepackaged and prelabeled drugs from a drug storage area of the facility (e.g., a surgery suite), in the absence of physical supervision of a pharmacist, under the following conditions:

- (A) the distribution is under the control of a pharmacist;
and
(B) a pharmacist is on duty in the facility.

(2) A Class C pharmacy in a facility with 100 beds or less shall have the services of a pharmacist at least on a part-time or consulting basis according to the needs of the facility except that a pharmacist shall be on-site at least once every seven days.

(3) A pharmacist shall be accessible at all times to respond to other health professional's questions and needs. Such access may be through a telephone which is answered 24 hours a day, e.g., answering or paging service, a list of phone numbers where the pharmacist may be reached, or any other system which accomplishes this purpose.

(b) Pharmacist-in-charge.

(1) General.

(A) Each institutional pharmacy in a facility with 101 beds or more shall have one full-time pharmacist-in-charge, who may be pharmacist-in-charge for only one such pharmacy except as specified in subparagraph (C) of this paragraph.

(B) Each institutional pharmacy in a facility with 100 beds or less shall have one pharmacist-in-charge who is employed or under contract, at least on a consulting or part-time basis, but may be employed on a full-time basis, if desired, and who may be pharmacist-in-charge for no more than three facilities or 150 beds.

(C) A pharmacist-in-charge may be in charge of one facility with 101 beds or more and one facility with 100 beds or less, including a rural hospital, provided the total number of beds does not exceed 150 beds.

(D) The pharmacist-in-charge shall be assisted by additional pharmacists, pharmacy technicians and pharmacy technician trainees commensurate with the scope of services provided.

(E) If the pharmacist-in-charge is employed on a part-time or consulting basis, a written agreement shall exist between the facility and the pharmacist, and a copy of the written agreement shall be made available to the board upon request.

(F) The pharmacist-in-charge of a Class C pharmacy with 101 beds or more, may not serve as the pharmacist-in-charge of a Class A pharmacy or a Class B pharmacy.

(2) Responsibilities. The pharmacist-in-charge shall have the responsibility for, at a minimum, the following:

(A) providing the appropriate level of pharmaceutical care services to patients of the facility;

(B) ensuring that drugs and/or devices are prepared for distribution safely, and accurately as prescribed;

(C) supervising a system to assure maintenance of effective controls against the theft or diversion of prescription drugs, and records for such drugs;

(D) providing written guidelines and approval of the procedure to assure that all pharmaceutical requirements are met when any part of preparing, sterilizing, and labeling of sterile preparations is not performed under direct pharmacy supervision;

(E) participating in the development of a formulary for the facility, subject to approval of the appropriate committee of the facility;

(F) developing a system to assure that drugs to be administered to patients are distributed pursuant to an original or direct copy of the practitioner's medication order;

(G) developing a system for the filling and labeling of all containers from which drugs are to be distributed or dispensed;

(H) assuring that the pharmacy maintains and makes available a sufficient inventory of antidotes and other emergency drugs as well as current antidote information, telephone numbers of regional poison control center and other emergency assistance organizations,

and such other materials and information as may be deemed necessary by the appropriate committee of the facility;

(I) maintaining records of all transactions of the institutional pharmacy as may be required by applicable law, state and federal, and as may be necessary to maintain accurate control over and accountability for all pharmaceutical materials including pharmaceuticals, components used in the compounding of preparations, and participate in policy decisions regarding prescription drug delivery devices;

(J) participating in those aspects of the facility's patient care evaluation program which relate to pharmaceutical utilization and effectiveness;

(K) participating in teaching and/or research programs in the facility;

(L) implementing the policies and decisions of the appropriate committee(s) relating to pharmaceutical services of the facility;

(M) providing effective and efficient messenger or delivery service to connect the institutional pharmacy with appropriate areas of the facility on a regular basis throughout the normal workday of the facility;

(N) developing a system for the labeling, storage, and distribution of investigational new drugs, including access to related drug information for healthcare personnel in the pharmacy and nursing station where such drugs are being administered, concerning the dosage form, route of administration, strength, actions, uses, side effects, adverse effects, interactions and symptoms of toxicity of investigational new drugs;

(O) assuring that records in a data processing system are maintained such that the data processing system is in compliance with Class C (Institutional) pharmacy requirements;

(P) assuring that a reasonable effort is made to obtain, record, and maintain patient medication records;

(Q) assuring the legal operation of the pharmacy, including meeting all inspection and other requirements of all state and federal laws or rules governing the practice of pharmacy; and

(R) if the pharmacy uses an automated medication supply system, shall be responsible for the following:

(i) reviewing and approving all policies and procedures for system operation, safety, security, accuracy and access, patient confidentiality, prevention of unauthorized access, and malfunction;

(ii) inspecting medications in the automated medication supply system, at least monthly, for expiration date, misbranding, physical integrity, security, and accountability; except that inspection of medications in the automated medication supply system may be performed quarterly if:

(I) the facility uses automated medication supply systems that monitors expiration dates of prescription drugs; and

(II) security of the system is checked at regularly defined intervals (e.g., daily or weekly);

(iii) assigning, discontinuing, or changing personnel access to the automated medication supply system;

(iv) ensuring that pharmacy technicians, pharmacy technician trainees, and licensed healthcare professionals performing any services in connection with an automated medication supply system have been properly trained on the use of the system and can demon-

strate comprehensive knowledge of the written policies and procedures for operation of the system; and

(v) ensuring that the automated medication supply system is stocked accurately and an accountability record is maintained in accordance with the written policies and procedures of operation.

(c) (No change.)

(d) Pharmacists.

(1) - (2) (No change.)

(3) Special requirements for compounding.

~~[(A)] [Non-Sterile Preparations.] All pharmacists engaged in compounding non-sterile preparations shall meet the training requirements specified in §291.131 of this title (relating to Pharmacies Compounding Non-sterile Preparations).~~

~~[(B) Sterile Preparations. All pharmacists engaged in compounding sterile preparations shall meet the training requirements specified in §291.133 of this title (relating to Pharmacies Compounding Sterile Preparations).]~~

(e) Pharmacy technicians and pharmacy technician trainees.

(1) General.

(A) All pharmacy technicians and pharmacy technician trainees shall meet the training requirements specified in §297.6 of this title (relating to Pharmacy Technician and Pharmacy Technician Trainee Training).

(B) A pharmacy technician performing the duties specified in paragraph (2)(C) of this subsection shall complete training regarding:

(i) procedures for one pharmacy technician to verify the accuracy of actions performed by another pharmacy technician including required documentation; and

(ii) the duties that may be performed by one pharmacy technician and checked by another pharmacy technician.

(C) In addition to the training requirements specified in subparagraph (A) of this paragraph, pharmacy technicians working in a rural hospital and performing the duties specified in paragraph (2)(D)(ii) of this subsection shall complete the following. Training on the:

(i) procedures for verification of the accuracy of actions performed by pharmacy technicians including required documentation;

(ii) duties which may and may not be performed by pharmacy technicians in the absence of a pharmacist; and

(iii) the pharmacy technician's role in preventing dispensing and distribution errors.

(2) Duties. Duties may include, but need not be limited to, the following functions under the supervision of and responsible to a pharmacist:

(A) Facilities with 101 beds or more. The following functions must be performed under the physically present supervision of a pharmacist:

(i) pre-packing and labeling unit and multiple dose packages, provided a pharmacist supervises and conducts a final check and affixes his or her name, initials or electronic signature to the appropriate quality control records prior to distribution;

(iii) bulk compounding or batch preparation provided a pharmacist supervises and conducts in-process and final checks and affixes his or her name, initials, or electronic signature to the appropriate quality control records prior to distribution;

(iv) distributing routine orders for stock supplies to patient care areas;

(v) entering medication order and drug distribution information into a data processing system, provided judgmental decisions are not required and a pharmacist checks the accuracy of the information entered into the system prior to releasing the order;

(vi) loading unlabeled drugs into an automated compounding or counting device provided a pharmacist supervises, verifies that the system was properly loaded prior to use, and affixes his or her name, initials or electronic signature to the appropriate quality control records;

(vii) accessing automated medication supply systems after proper training on the use of the automated medication supply system and demonstration of comprehensive knowledge of the written policies and procedures for its operation; and

(viii) compounding non-sterile preparations pursuant to medication orders provided the pharmacy technicians or pharmacy technician trainees have completed the training specified in §291.131 of this title; and

~~(ix) compounding sterile preparations pursuant to medication orders provided the pharmacy technicians or pharmacy technician trainees;~~

~~(i) have completed the training specified in §291.133 of this title; and~~

~~(ii) are supervised by a pharmacist who has completed the training specified in §291.133 of this title, and who conducts in-process and final checks, and affixes his or her name, initials, or electronic signature to the label or if batch prepared, to the appropriate quality control records. (The name, initials, or electronic signature are not required on the label if it is maintained in a permanent record of the pharmacy.)~~

(B) - (D) (No change.)

(3) Procedures.

(A) Pharmacy technicians and pharmacy technician trainees shall handle medication orders in accordance with standard, written procedures and guidelines.

(B) Pharmacy technicians and pharmacy technician trainees shall handle prescription drug orders in the same manner as those working in a Class A pharmacy.

(f) Owner. The owner of a Class C pharmacy shall have responsibility for all administrative and operational functions of the pharmacy. The pharmacist-in-charge may advise the owner on administrative and operational concerns. The owner shall have responsibility for, at a minimum, the following, and if the owner is not a Texas licensed pharmacist, the owner shall consult with the pharmacist-in-charge or another Texas licensed pharmacist:

(1) establishing [~~establishment of~~] policies for procurement of prescription drugs and devices and other products dispensed from the Class C pharmacy;

(2) establishing and maintaining [~~establishment and maintenance of~~] effective controls against the theft or diversion of prescription drugs;

(3) if the pharmacy uses an automated pharmacy dispensing system, reviewing and approving all policies and procedures for system operation, safety, security, accuracy and access, patient confidentiality, prevention of unauthorized access, and malfunction;

(4) providing the pharmacy with the necessary equipment and resources commensurate with its level and type of practice; and

(5) establishing [~~establishment of~~] policies and procedures regarding maintenance, storage, and retrieval of records in a data processing system such that the system is in compliance with state and federal requirements.

(g) Identification of pharmacy personnel. All pharmacy personnel shall be identified as follows.

(1) Pharmacy technicians. All pharmacy technicians shall wear an identification tag or badge that bears the person's name and identifies him or her as a pharmacy technician; ~~or a certified pharmacy technician, if the technician maintains current certification with the Pharmacy Technician Certification Board or any other entity providing an examination approved by the board.~~

(2) - (4) (No change.)

§291.76. *Class C Pharmacies Located in a Freestanding Ambulatory Surgical Center.*

(a) Purpose. The purpose of this section is to provide standards in the conduct, practice activities, and operation of a pharmacy located in a freestanding ambulatory surgical center that is licensed by the Texas Department of State Health Services. Class C pharmacies located in a freestanding ambulatory surgical center shall comply with this section, in lieu of §§291.71 - 291.75 of this title (relating to Purpose; Definitions; Personnel; Operational Standards; and Records).

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

(1) Act--The Texas Pharmacy Act, [~~Chapters 551 - 566 and 568 - 569;~~] Occupations Code, Subtitle J, as amended.

(2) Administer--The direct application of a prescription drug by injection, inhalation, ingestion, or any other means to the body of a patient by:

(A) a practitioner, an authorized agent under his supervision, or other person authorized by law; or

(B) the patient at the direction of a practitioner.

(3) [(2)] Ambulatory surgical center (ASC)--A freestanding facility that is licensed by the Texas Department of State Health Services that primarily provides surgical services to patients who do not require overnight hospitalization or extensive recovery, convalescent time or observation. The planned total length of stay for an ASC patient shall not exceed 23 hours. Patient stays of greater than 23 hours shall be the result of an unanticipated medical condition and shall occur infrequently. The 23-hour period begins with the induction of anesthesia. [to provide surgical services to patients who do not require overnight hospital care.]

(4) Automated medication supply system--A mechanical system that performs operations or activities relative to the storage and distribution of medications for administration and which collects, controls, and maintains all transaction information.

[(3)] Automated drug dispensing system--An automated device that measures, counts, and/or packages a specified quantity of dosage units for a designated drug product.

(5) [(4)] Board--The Texas State Board of Pharmacy.

(6) ~~[(5)]~~ Consultant pharmacist--A pharmacist retained by a facility on a routine basis to consult with the ASC in areas that pertain to the practice of pharmacy.

(7) ~~[(6)]~~ Controlled substance--A drug, immediate precursor, or other substance listed in Schedules I - V or Penalty Groups 1 - 4 of the Texas Controlled Substances Act, as amended, or a drug immediate precursor, or other substance included in Schedule I - V of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended (Public Law 91-513).

~~[(7) Direct copy--Electronic copy or carbonized copy of a medication order including a facsimile (FAX) or digital image.]~~

(8) Dispense--Preparing, packaging, compounding, or labeling for delivery a prescription drug or device in the course of professional practice to an ultimate user or his agent by or pursuant to the lawful order of a practitioner.

(9) Distribute--The delivery of a prescription drug or device other than by administering or dispensing.

(10) Downtime--Period of time during which a data processing system is not operable.

(11) Electronic signature--A unique security code or other identifier which specifically identifies the person entering information into a data processing system. A facility which utilizes electronic signatures must:

(A) maintain a permanent list of the unique security codes assigned to persons authorized to use the data processing system; and

(B) have an ongoing security program which is capable of identifying misuse and/or unauthorized use of electronic signatures.

(12) Floor stock--Prescription drugs or devices not labeled for a specific patient and maintained at a nursing station or other ASC department (excluding the pharmacy) for the purpose of administration to a patient of the ASC.

(13) Formulary--List of drugs approved for use in the ASC by an appropriate committee of the ambulatory surgical center.

(14) Hard copy--A physical document that is readable without the use of a special device (i.e., data processing system, computer, etc.).

(15) Investigational new drug--New drug intended for investigational use by experts qualified to evaluate the safety and effectiveness of the drug as authorized by the federal Food and Drug Administration.

(16) Medication order--~~An [A written order from a practitioner or a verbal]~~ order from a practitioner or his authorized agent for administration of a drug or device.

(17) Pharmacist-in-charge--Pharmacist designated on a pharmacy license as the pharmacist who has the authority or responsibility for a pharmacy's compliance with laws and rules pertaining to the practice of pharmacy.

(18) Pharmacy--Area or areas in a facility, separate from patient care areas, where drugs are stored, bulk compounded, delivered, compounded, dispensed, and/or distributed to other areas or departments of the ASC, or dispensed to an ultimate user or his or her agent.

(19) Prescription drug--

(A) A substance for which federal or state law requires a prescription before it may be legally dispensed to the public;

(B) A drug or device that under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements:

(i) Caution: federal law prohibits dispensing without prescription or "Rx only" or another legend that complies with federal law; or

(ii) Caution: federal law restricts this drug to use by or on order of a licensed veterinarian; or

(C) A drug or device that is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by a practitioner only.

(20) Prescription drug order--

(A) ~~An [A written order from a practitioner or verbal]~~ order from a practitioner or his authorized agent to a pharmacist for a drug or device to be dispensed; or

(B) ~~An [A written order or a verbal]~~ order pursuant to Subtitle B, Chapter 157, Occupations Code.

(21) Full-time pharmacist--A pharmacist who works in a pharmacy from 30 to 40 hours per week or if the pharmacy is open less than 60 hours per week, one-half of the time the pharmacy is open.

(22) Part-time pharmacist--A pharmacist who works less than full-time.

(23) Pharmacy technician--An individual who is registered with the board as a pharmacy technician and whose responsibility in a pharmacy is to provide technical services that do not require professional judgment regarding preparing and distributing drugs and who works under the direct supervision of and is responsible to a pharmacist.

(24) Pharmacy technician trainee--An individual who is registered with the board as a pharmacy technician trainee and is authorized to participate in a pharmacy's technician training program.

(25) Texas Controlled Substances Act--The Texas Controlled Substances Act, the Health and Safety Code, Chapter 481, as amended.

(c) Personnel.

(1) Pharmacist-in-charge.

(A) General. Each ambulatory surgical center shall have one pharmacist-in-charge who is employed or under contract, at least on a consulting or part-time basis, but may be employed on a full-time basis.

(B) Responsibilities. The pharmacist-in-charge shall have the responsibility for, at a minimum, the following:

(i) ~~establishing [establishment of]~~ specifications for procurement and storage of all materials, including drugs, chemicals, and biologicals;

(ii) ~~participating [participation]~~ in the development of a formulary for the ASC, subject to approval of the appropriate committee of the ASC;

(iii) ~~distributing [distribution of]~~ drugs to be administered to patients pursuant to ~~[an original or direct copy of]~~ the practitioner's medication order;

(iv) filling and labeling all containers from which drugs are to be distributed or dispensed;

(v) maintaining and making available a sufficient inventory of antidotes and other emergency drugs, both in the pharmacy and patient care areas, as well as current antidote information, telephone numbers of regional poison control center and other emergency assistance organizations, and such other materials and information as may be deemed necessary by the appropriate committee of the ASC;

(vi) maintaining records of all transactions of the ASC pharmacy as may be required by applicable state and federal law, and as may be necessary to maintain accurate control over and accountability for all pharmaceutical materials;

(vii) participating [~~participation~~] in those aspects of the ASC's patient care evaluation program which relate to pharmaceutical material utilization and effectiveness;

(viii) participating [~~participation~~] in teaching and/or research programs in the ASC;

(ix) implementing [~~implementation of~~] the policies and decisions of the appropriate committee(s) relating to pharmaceutical services of the ASC;

(x) providing effective and efficient messenger and delivery service to connect the ASC pharmacy with appropriate areas of the ASC on a regular basis throughout the normal workday of the ASC;

(xi) labeling, storing, and distributing [~~storage, and distribution of~~] investigational new drugs, including maintaining [~~maintenance of~~] information in the pharmacy and nursing station where such drugs are being administered, concerning the dosage form, route of administration, strength, actions, uses, side effects, adverse effects, interactions, and symptoms of toxicity of investigational new drugs;

(xii) meeting all inspection and other requirements of the Texas Pharmacy Act and this subsection; and

(xiii) maintaining [~~maintenance of~~] records in a data processing system such that the data processing system is in compliance with the requirements for a Class C (institutional) pharmacy located in a freestanding ASC.

(2) Consultant pharmacist.

(A) The consultant pharmacist may be the pharmacist-in-charge.

(B) A written contract shall exist between the ASC and any consultant pharmacist, and a copy of the written contract shall be made available to the board upon request.

(3) Pharmacists.

(A) General.

(i) The pharmacist-in-charge shall be assisted by a sufficient number of additional licensed pharmacists as may be required to operate the ASC pharmacy competently, safely, and adequately to meet the needs of the patients of the facility.

(ii) All pharmacists shall assist the pharmacist-in-charge in meeting the responsibilities as outlined in paragraph (1)(B) of this subsection and in ordering, administering, and accounting for pharmaceutical materials.

(iii) All pharmacists shall be responsible for any delegated act performed by pharmacy technicians or pharmacy technician trainees under his or her supervision.

(iv) All pharmacists while on duty shall be responsible for complying with all state and federal laws or rules governing the practice of pharmacy.

(B) Duties. Duties of the pharmacist-in-charge and all other pharmacists shall include, but need not be limited to, the following:

(i) receiving and interpreting prescription drug orders and oral medication orders and reducing these orders to writing either manually or electronically;

(ii) selecting [~~selection of~~] prescription drugs and/or devices and/or suppliers; and

(iii) interpreting patient profiles.

(C) Special requirements for compounding non-sterile preparations. All pharmacists engaged in compounding non-sterile preparations shall meet the training requirements specified in §291.131 of this title (relating to Pharmacies Compounding Non-Sterile Preparations).

(4) Pharmacy technicians and pharmacy technician trainees.

(A) General. All pharmacy technicians and pharmacy technician trainees shall meet the training requirements specified in §297.6 of this title (relating to Pharmacy Technician and Pharmacy Technician Trainee Training).

(B) Duties. Pharmacy technicians and pharmacy technician trainees may not perform any of the duties listed in paragraph (3)(B) of this subsection. Duties may include, but need not be limited to, the following functions, under the direct supervision of a pharmacist:

(i) prepacking and labeling unit and multiple dose packages, provided a pharmacist supervises and conducts a final check and affixes his or her name, initials, electronic signature to the appropriate quality control records prior to distribution;

(ii) preparing, packaging, compounding, or labeling prescription drugs pursuant to medication orders, provided a pharmacist supervises and checks the preparation;

(iii) compounding non-sterile preparations pursuant to medication orders provided the pharmacy technicians or pharmacy technician trainees have completed the training specified in §291.131 of this title;

(iv) bulk compounding, provided a pharmacist supervises and conducts in-process and final checks and affixes his or her name, initials, or electronic signature to the appropriate quality control records prior to distribution;

(v) distributing routine orders for stock supplies to patient care areas;

(vi) entering medication order and drug distribution information into a data processing system, provided judgmental decisions are not required and a pharmacist checks the accuracy of the information entered into the system prior to releasing the order or in compliance with the absence of pharmacist requirements contained in subsection (d)(6)(E) and (F) of this section;

(vii) maintaining inventories of drug supplies;

(viii) maintaining pharmacy records; and

(ix) loading [~~bulk unlabeled~~] drugs into an automated medication supply system. For the purpose of this clause, direct supervision may be accomplished by physically present supervision

or electronic monitoring by a pharmacist. [drug dispensing system provided a pharmacist supervises, verifies that the system was properly loaded prior to use, and affixes his or her name, initials or electronic signature to the appropriate quality control records.]

(C) Procedures.

(i) Pharmacy technicians and pharmacy technician trainees shall handle medication orders in accordance with standard written procedures and guidelines.

(ii) Pharmacy technicians and pharmacy technician trainees shall handle prescription drug orders in the same manner as pharmacy technicians or pharmacy technician trainees working in a Class A pharmacy.

(D) Special requirements for compounding non-sterile preparations. All pharmacy technicians and pharmacy technician trainees engaged in compounding non-sterile preparations shall meet the training requirements specified in §291.131 of this title.

(5) Owner. The owner of an ASC pharmacy shall have responsibility for all administrative and operational functions of the pharmacy. The pharmacist-in-charge may advise the owner on administrative and operational concerns. The owner shall have responsibility for, at a minimum, the following, and if the owner is not a Texas licensed pharmacist, the owner shall consult with the pharmacist-in-charge or another Texas licensed pharmacist:

(A) establishing [establishment of] policies for procurement of prescription drugs and devices and other products dispensed from the ASC pharmacy;

(B) establishing and maintaining [establishment and maintenance of] effective controls against the theft or diversion of prescription drugs;

(C) if the pharmacy uses an automated medication supply [pharmacy dispensing] system, reviewing and approving all policies and procedures for system operation, safety, security, accuracy and access, patient confidentiality, prevention of unauthorized access, and malfunction;

(D) providing the pharmacy with the necessary equipment and resources commensurate with its level and type of practice; and

(E) establishing [establishment of] policies and procedures regarding maintenance, storage, and retrieval of records in a data processing system such that the system is in compliance with state and federal requirements.

(6) Identification of pharmacy personnel. All pharmacy personnel shall be identified as follows:

(A) Pharmacy technicians. All pharmacy technicians shall wear an identification tag or badge that bears the person's name and identifies him or her as a pharmacy technician [trainee a registered pharmacy technician, or a certified pharmacy technician if the technician maintains current certification with the Pharmacy Technician Certification Board or any other entity providing an examination approved by the board].

(B) Pharmacy technician trainees. All pharmacy technician trainees shall wear an identification tag or badge that bears the person's name and identifies him or her as a pharmacy technician trainee.

(C) Pharmacist interns. All pharmacist interns shall wear an identification tag or badge that bears the person's name and identifies him or her as a pharmacist intern.

(D) Pharmacists. All pharmacists shall wear an identification tag or badge that bears the person's name and identifies him or her as a pharmacist.

(d) Operational standards.

(1) Licensing requirements.

(A) An ASC pharmacy shall register annually or biennially with the board on a pharmacy license application provided by the board, following the procedures specified in §291.1 of this title (relating to Pharmacy License Application).

~~[(B) If the ASC pharmacy is owned or operated by a pharmacy management or consulting firm, the following conditions apply:]~~

~~[(i) The pharmacy license application shall list the pharmacy management or consulting firm as the owner or operator.]~~

~~[(ii) The pharmacy management or consulting firm shall obtain DEA and DPS controlled substances registrations that are issued in the name of the firm, unless the following occur:]~~

~~[(i) the pharmacy management or consulting firm and the facility co-sign a contractual pharmacy service agreement which assigns overall responsibility for controlled substances to the facility; and]~~

~~[(ii) such pharmacy management or consulting firm maintains dual responsibility for the controlled substances.]~~

(B) ~~[(C)]~~ An ASC pharmacy which changes ownership shall notify the board within 10 days of the change of ownership and apply for a new and separate license as specified in §291.3 of this title (relating to Required Notifications).

(C) ~~[(D)]~~ An ASC pharmacy which changes location and/or name shall notify the board of the change within 10 days and file for an amended license as specified in §291.3 of this title.

(D) ~~[(E)]~~ An ASC pharmacy owned by a partnership or corporation which changes managing officers shall notify the board in writing of the names of the new managing officers within 10 days of the change, following the procedures in §291.3 of this title.

(E) ~~[(F)]~~ An ASC pharmacy shall notify the board in writing within 10 days of closing, following the procedures in §291.5 of this title (relating to Closing a Pharmacy).

(F) ~~[(G)]~~ A fee as specified in §291.6 of this title (relating to Pharmacy License Fees) will be charged for issuance and renewal of a license and the issuance of an amended license.

(G) ~~[(H)]~~ A separate license is required for each principal place of business and only one pharmacy license may be issued to a specific location.

(H) ~~[(I)]~~ An ASC pharmacy, licensed under the Act, §560.051(a)(3), concerning institutional pharmacy (Class C), which also operates another type of pharmacy which would otherwise be required to be licensed under the Act, §560.051(a)(1), concerning community pharmacy (Class A), or the Act, §560.051(a)(2), concerning nuclear pharmacy (Class B), is not required to secure a license for the other type of pharmacy; provided, however, such license is required to comply with the provisions of §291.31 of this title (relating to Definitions), §291.32 of this title (relating to Personnel), §291.33 of this title (relating to Operational Standards), §291.34 of this title (relating to Records), and §291.35 of this title (relating to Official Prescription Records), or §291.51 of this title (relating to Purpose), §291.52 of this title (relating to Definitions), §291.53 of this title (relating to Personnel), §291.54 of this title (relating to Operational Standards), and

§291.55 of this title (relating to Records), contained in Nuclear Pharmacy (Class B), to the extent such sections are applicable to the operation of the pharmacy.

(I) ~~[(H)]~~ An ASC pharmacy engaged in the compounding of non-sterile preparations shall comply with the provisions of §291.131 of this title.

(J) ~~[(K)]~~ ~~[Effective August 31, 2014, an]~~ ASC pharmacy ~~personnel~~ shall not compound sterile preparations unless the pharmacy has applied for and obtained a Class C-S pharmacy license.

(K) ~~[(L)]~~ An ASC pharmacy engaged in the provision of remote pharmacy services, including storage and dispensing of prescription drugs, shall comply with the provisions of §291.121 of this title (relating to Remote Pharmacy Services).

(L) ~~[(M)]~~ An ASC pharmacy engaged in centralized prescription dispensing and/or prescription drug or medication order processing shall comply with the provisions of §291.123 of this title (relating to Centralized Prescription Drug or Medication Order Processing) and/or §291.125 of this title (relating to Centralized Prescription Dispensing).

(2) Environment.

(A) General requirements.

(i) Each ambulatory surgical center shall have a designated work area separate from patient areas, and which shall have space adequate for the size and scope of pharmaceutical services and shall have adequate space and security for the storage of drugs.

(ii) The ASC pharmacy shall be arranged in an orderly fashion and shall be kept clean. All required equipment shall be clean and in good operating condition.

(B) Special requirements.

(i) The ASC pharmacy shall have locked storage for Schedule II controlled substances and other controlled drugs requiring additional security.

(ii) The ASC pharmacy shall have a designated area for the storage of poisons and externals separate from drug storage areas.

(C) Security.

(i) The pharmacy and storage areas for prescription drugs and/or devices shall be enclosed and capable of being locked by key, combination, or other mechanical or electronic means, so as to prohibit access by unauthorized individuals. Only individuals authorized by the pharmacist-in-charge may enter the pharmacy or [authorized personnel may] have access to storage areas for prescription drugs and/or devices.

~~[(ii)] All storage areas for prescription drugs and/or devices shall be locked by key or combination, so as to prevent access by unauthorized personnel.~~

~~[(iii)]~~ ~~[(iii)]~~ The pharmacist-in-charge shall consult with ASC personnel with respect to security of the drug storage areas, including provisions for adequate safeguards against theft or diversion of dangerous drugs and controlled substances, and to security of records for such drugs. ~~[prescription drugs and/or devices.]~~

~~[(iii)]~~ The pharmacy shall have locked storage for Schedule II controlled substances and other drugs requiring additional security.

(3) Equipment and supplies. Ambulatory surgical centers supplying drugs for postoperative use shall have the following equipment and supplies:

(A) data processing system including a printer or comparable equipment;

(B) adequate supply of child-resistant, moisture-proof, and light-proof containers; and

(C) adequate supply of prescription labels and other applicable identification labels.[:]

(4) Library. A reference library shall be maintained that includes the following in hard-copy or electronic format and that pharmacy personnel shall be capable of accessing at all times:

(A) current copies of the following:

(i) Texas Pharmacy Act and rules;

(ii) Texas Dangerous Drug Act and rules;

(iii) Texas Controlled Substances Act and rules;

(iv) Federal Controlled Substances Act and rules or official publication describing the requirements of the Federal Controlled Substances Act and rules;

(B) at least one current or updated general drug information reference which is required to ~~[from each of the following categories:]~~

~~[(i)] [Drug interactions. A reference text on drug interactions, such as Drug Interaction Facts. A separate reference is not required if other references maintained by the pharmacy] contain drug interaction information including information needed to determine severity or significance of the interaction and appropriate recommendations or actions to be taken; and~~

~~[(ii)] General information. A general information reference text, such as:~~

~~[(i)] Facts and Comparisons with current supplements;~~

~~[(ii)] United States Pharmacopeia Dispensing Information Volume I (Drug Information for the Healthcare Provider);~~

~~[(iii)] AHFS Drug Information with current supplements;~~

~~[(iv)] Remington's Pharmaceutical Sciences; or~~

~~[(v)] Clinical Pharmacology;~~

~~[(C)] a current or updated reference on injectable drug products, such as Handbook of Injectable Drugs;~~

(C) ~~[(D)]~~ basic antidote information and the telephone number of the nearest regional poison control center.[:]

~~[(E)] if the pharmacy compounds sterile preparations, specialty references appropriate for the scope of services provided by the pharmacy, e.g., if the pharmacy prepares cytotoxic drugs, a reference text on the preparation of cytotoxic drugs, such as Procedures for Handling Cytotoxic Drugs; and~~

~~[(F)] metric-apothecary weight and measure conversion charts.~~

(5) Drugs.

(A) Procurement, preparation, and storage.

(i) The pharmacist-in-charge shall have the responsibility for the procurement and storage of drugs, but may receive input from other appropriate staff of the facility, relative to such responsibility.

(ii) The pharmacist-in-charge shall have the responsibility for determining specifications of all drugs procured by the facility.

(iii) ASC pharmacies may not sell, purchase, trade, or possess prescription drug samples, unless the pharmacy meets the requirements as specified in §291.16 of this title (relating to Samples).

(iv) All drugs shall be stored at the proper temperatures, as defined in the USP/NF and in §291.15 of this title (relating to Storage of Drugs).

(v) Any drug bearing an expiration date may not be dispensed or distributed beyond the expiration date of the drug.

(vi) Outdated drugs shall be removed from dispensing stock and shall be quarantined together until such drugs are disposed of.

(B) Formulary.

(i) A formulary may be developed by an appropriate committee of the ASC ~~[ambulatory surgical center]~~.

(ii) The pharmacist-in-charge or consultant pharmacist shall be a full voting member of any committee which involves pharmaceutical services.

(iii) A practitioner may grant approval for pharmacists at the ASC to interchange, in accordance with the facility's formulary, for the drugs on the practitioner's medication orders provided:

(I) a formulary has been developed;

(II) the formulary has been approved by the medical staff of the ASC;

(III) there is a reasonable method for the practitioner to override any interchange; and

(IV) the practitioner authorizes pharmacist in the ACS to interchange on his/her medication orders in accordance with the facility's formulary through his/her written agreement to abide by the policies and procedures of the medical staff and facility.

(C) Prepackaging ~~[of drugs]~~ and loading ~~[of bulk unlabeled]~~ drugs into automated medication supply ~~[drug dispensing]~~ system.

(i) Prepackaging of drugs.

(I) Drugs may be prepackaged in quantities suitable for distribution to other Class C pharmacies under common ownership or for internal distribution only by a pharmacist or by pharmacy technicians or pharmacy technician trainees under the direction and direct supervision of a pharmacist.

(II) The label of a prepackaged unit shall indicate:

(-a-) brand name and strength of the drug; or if no brand name, then the generic name, strength, and name of the manufacturer or distributor;

(-b-) facility's lot number;

(-c-) expiration date; ~~[and]~~

(-d-) quantity of the drug, if quantity is greater than one; ~~and~~[:]

(-e-) if the drug is distributed to another Class C pharmacy, name of the facility responsible for prepackaging the drug.

(III) Records of prepackaging shall be maintained to show:

(-a-) the name of the drug, strength, and dosage form;

(-b-) facility's lot number;

(-c-) manufacturer or distributor;

(-d-) manufacturer's lot number;

(-e-) expiration date;

(-f-) quantity per prepackaged unit;

(-g-) number of prepackaged units;

(-h-) date packaged;

(-i-) name, initials, or electronic signature of the preparer; ~~[and]~~

(-j-) signature or electronic signature of the responsible pharmacist; ~~and~~[:]

(-k-) if the drug is distributed to another Class C pharmacy, name of the facility receiving the prepackaged drug.

(IV) Stock packages, repackaged units, and control records shall be quarantined together until checked/released by the pharmacist.

(ii) Loading bulk unit of use ~~[unlabeled]~~ drugs into automated medication supply ~~[drug dispensing]~~ systems.

~~[(#)] Automated medication supply [drug dispensing] systems may be loaded with bulk unit of use [unlabeled] drugs only by a pharmacist or by pharmacy technicians or pharmacy technician trainees under the direction and direct supervision of a pharmacist. For the purpose of this clause, direct supervision may be accomplished by physically present supervision or electronic monitoring by a pharmacist. In order for the pharmacist to electronically monitor, the medication supply system must allow for bar code scanning to verify the loading of drugs, and a record of the loading must be maintained by the system and accessible for electronic review by the pharmacist.~~

~~[(#)] The label of an automated drug dispensing system container shall indicate the brand name and strength of the drug; or if no brand name, then the generic name, strength, and name of the manufacturer or distributor.~~

~~[(#)] Records of loading bulk unlabeled drugs into an automated drug dispensing system shall be maintained to show:}]~~

~~[(a-) name of the drug, strength, and dosage form;}]~~

~~[(b-) manufacturer or distributor;}]~~

~~[(c-) manufacturer's lot number;}]~~

~~[(d-) expiration date;}]~~

~~[(e-) date of loading;}]~~

~~[(f-) name, initials, or electronic signature of the person loading the automated drug dispensing system; and}]~~

~~[(g-) signature or electronic signature of the responsible pharmacist.}]~~

~~[(#)] The automated drug dispensing system shall not be used until a pharmacist verifies that the system is properly loaded and affixes his or her signature or electronic signature to the record specified in subclause (III) of this clause.}]~~

(6) Medication orders.

(A) Drugs may be administered to patients in ASCs on the order of a practitioner. No change in the order for drugs may be made without the approval of a practitioner except as authorized by the practitioner in compliance with paragraph (5)(B) of this subsection.

(B) Drugs may be distributed only pursuant to the [original or a direct copy of the] practitioner's medication order.

~~[(C) Pharmacy technicians and pharmacy technician trainees may not receive oral medication orders.]~~

(C) ~~[(D)]~~ ASC pharmacies shall be exempt from the labeling provisions and patient notification requirements of §562.006 and §562.009 of the Act, as respects drugs distributed pursuant to medication orders.

(D) ~~[(E)]~~ In ASCs with a full-time pharmacist, if a practitioner orders a drug for administration to a bona fide patient of the facility when the pharmacy is closed, the following is applicable.

(i) Prescription drugs and devices only in sufficient quantities for immediate therapeutic needs of a patient may be removed from the ASC pharmacy.

(ii) Only a designated licensed nurse or practitioner may remove such drugs and devices.

(iii) A record shall be made at the time of withdrawal by the authorized person removing the drugs and devices. The record shall contain the following information:

(I) name of the patient;

(II) name of device or drug, strength, and dosage form;

(III) dose prescribed;

(IV) quantity taken;

(V) time and date; and

(VI) signature or electronic signature of person making withdrawal.

(iv) The [original or direct copy of the] medication order in the patient's chart may substitute for such record, provided the medication order meets all the requirements of clause (iii) of this subparagraph.

(v) The pharmacist shall verify the withdrawal as soon as practical, but in no event more than 72 hours from the time of such withdrawal.

(E) ~~[(F)]~~ In ASCs with a part-time or consultant pharmacist, if a practitioner orders a drug for administration to a bona fide patient of the ASC when the pharmacist is not on duty, or when the pharmacy is closed, the following is applicable.

(i) Prescription drugs and devices only in sufficient quantities for therapeutic needs may be removed from the ASC pharmacy.

(ii) Only a designated licensed nurse or practitioner may remove such drugs and devices.

(iii) A record shall be made at the time of withdrawal by the authorized person removing the drugs and devices; the record shall meet the same requirements as specified in subparagraph (D) ~~[(E)]~~ of this paragraph.

(iv) The pharmacist shall conduct an audit of patient's medical record according to the schedule set out in the policy and procedures at [verify each distribution after] a reasonable interval, but [in no event may] such interval must occur at least once in every calendar week that the pharmacy is open [exceed seven days].

(7) Floor stock. In facilities using a floor stock method of drug distribution, the following is applicable for removing drugs or devices in the absence of a pharmacist.

(A) Prescription drugs and devices may be removed from the pharmacy only in the original manufacturer's container or prepackaged container.

(B) Only a designated licensed nurse or practitioner may remove such drugs and devices.

(C) A record shall be made at the time of withdrawal by the authorized person removing the drug or device; the record shall contain the following information:

(i) name of the drug, strength, and dosage form;

(ii) quantity removed;

(iii) location of floor stock;

(iv) date and time; and

(v) signature or electronic signature of person making the withdrawal.

(D) A pharmacist shall verify the withdrawal according to the following schedule.

(i) In facilities with a full-time pharmacist, the withdrawal shall be verified as soon as practical, but in no event more than 72 hours from the time of such withdrawal.

(ii) In facilities with a part-time or consultant pharmacist, the withdrawal shall be verified after a reasonable interval, but [in no event may] such interval must occur at least once in every calendar week that the pharmacy is open [exceed seven days].

(8) Policies and procedures. Written policies and procedures for a drug distribution system, appropriate for the ambulatory surgical center, shall be developed and implemented by the pharmacist-in-charge with the advice of the appropriate committee. The written policies and procedures for the drug distribution system shall include, but not be limited to, procedures regarding the following:

(A) controlled substances;

(B) investigational drugs;

(C) prepackaging and manufacturing;

(D) medication errors;

(E) orders of physician or other practitioner;

(F) floor stocks;

(G) adverse drug reactions;

(H) drugs brought into the facility by the patient;

(I) self-administration;

(J) emergency drug tray;

(K) formulary, if applicable;

(L) drug storage areas;

(M) drug samples;

(N) drug product defect reports;

(O) drug recalls;

(P) outdated drugs;

(Q) preparation and distribution of IV admixtures;

(R) procedures for supplying drugs for postoperative use, if applicable;

(S) use of automated medication supply [~~drug dispensing~~] systems; ~~and~~

(T) use of data processing systems; ~~and~~ [-]

(U) drug regimen review.

(9) Drugs supplied for postoperative use. Drugs supplied to patients for postoperative use shall be supplied according to the following procedures.

(A) Drugs may only be supplied to patients who have been admitted to the ASC [ambulatory surgical center].

(B) Drugs may only be supplied in accordance with the system of control and accountability established for drugs supplied from the ambulatory surgical center; such system shall be developed and supervised by the pharmacist-in-charge or staff pharmacist designated by the pharmacist-in-charge.

(C) Only drugs listed on the approved postoperative drug list may be supplied; such list shall be developed by the pharmacist-in-charge and the medical staff and shall consist of drugs of the nature and type to meet the immediate postoperative needs of the ambulatory surgical center patient.

(D) Drugs may only be supplied in prepackaged quantities not to exceed a 72-hour supply in suitable containers and appropriately prelabeled (including name, address, and phone number of the facility, and necessary auxiliary labels) by the pharmacy, provided, however that topicals and ophthalmics in original manufacturer's containers may be supplied in a quantity exceeding a 72-hour supply.

(E) At the time of delivery of the drug, the practitioner or licensed nurse under the practitioner's supervision shall complete the label, such that the prescription container bears a label with at least the following information:

(i) date supplied;

(ii) name of practitioner;

(iii) name of patient;

(iv) directions for use;

(v) brand name and strength of the drug; or if no brand name, then the generic name of the drug dispensed, strength, and the name of the manufacturer or distributor of the drug; and

(vi) unique identification number.

(F) After the drug has been labeled [~~by the practitioner~~], the practitioner or a licensed nurse under the supervision of the practitioner shall give the appropriately labeled, prepackaged medication to the patient.

(G) A perpetual record of drugs which are supplied from the ASC shall be maintained which includes:

(i) name, address, and phone number of the facility;

(ii) date supplied;

(iii) name of practitioner;

(iv) name of patient;

(v) directions for use;

(vi) brand name and strength of the drug; or if no brand name, then the generic name of the drug dispensed, strength, and the name of the manufacturer or distributor of the drug; and

(vii) unique identification number.

(H) The pharmacist-in-charge, or a pharmacist designated by the pharmacist-in-charge, shall review the records at least once in every calendar week that the pharmacy is open [~~every seven days~~].

(10) Drug regimen review.

(A) A pharmacist shall evaluate medication orders and patient medication records for:

(i) known allergies;

(ii) rational therapy--contraindications;

(iii) reasonable dose and route of administration;

(iv) reasonable directions for use;

(v) duplication of therapy;

(vi) drug-drug interactions;

(vii) drug-food interactions;

(viii) drug-disease interactions;

(ix) adverse drug reactions;

(x) proper utilization, including overutilization or underutilization; and

(xi) clinical laboratory or clinical monitoring methods to monitor and evaluate drug effectiveness, side effects, toxicity, or adverse effects, and appropriateness to continued use of the drug in its current regimen.

(B) A retrospective, random drug regimen review as specified in the pharmacy's policies and procedures shall be conducted on a periodic basis to verify proper usage of drugs not to exceed 31 days between such reviews.

(C) Any questions regarding the order must be resolved with the prescriber and a written notation of these discussions made and maintained.

(e) Records.

(1) Maintenance of records.

(A) Every inventory or other record required to be kept under the provisions of this section (relating to Class C Pharmacies Located in a Freestanding Ambulatory Surgical Center [~~Institutional Pharmacy (Class C)~~]) shall be:

(i) kept by the pharmacy and be available, for at least two years from the date of such inventory or record, for inspecting and copying by the board or its representative, and other authorized local, state, or federal law enforcement agencies; and

(ii) supplied by the pharmacy within 72 hours, if requested by an authorized agent of the Texas State Board of Pharmacy. If the pharmacy maintains the records in an electronic format, the requested records must be provided in a mutually agreeable electronic format if specifically requested by the board or its representative. Failure to provide the records set out in this subsection, either on site or within 72 hours, constitutes prima facie evidence of failure to keep and maintain records in violation of the Act.

(B) Records of controlled substances listed in Schedule [Schedules I and] II shall be maintained separately and readily retrievable from all other records of the pharmacy.

(C) Records of controlled substances listed in Schedules III - V shall be maintained separately or readily retrievable from all other records of the pharmacy. For purposes of this subparagraph

[subsection], readily retrievable means that the controlled substances shall be asterisked, red-lined, or in some other manner readily identifiable apart from all other items appearing on the record.

(D) Records, except when specifically required to be maintained in original or hard-copy form, may be maintained in an alternative data retention system, such as a data processing or direct imaging system[; e.g., microfilm or microfiche,] provided:

(i) the records in the alternative data retention system contain all of the information required on the manual record; and

(ii) the alternative data retention system is capable of producing a hard copy of the record upon the request of the board, its representative, or other authorized local, state, or federal law enforcement or regulatory agencies.

(E) Controlled substance records shall be maintained in a manner to establish receipt and distribution of all controlled substances.

(F) An ASC pharmacy shall maintain a perpetual inventory of controlled substances listed in Schedule II - V which shall be verified for completeness and reconciled at least once in every calendar week that the pharmacy is open.

(G) Distribution records for controlled substances, listed in Schedule II - V, shall include the following information:

(i) patient's name;

(ii) practitioner's name who order the drug;

(iii) name of drug, dosage form, and strength;

(iv) time and date of administration to patient and quantity administered;

(v) signature or electronic signature of individual administering the controlled substance;

(vi) returns to the pharmacy; and

(vii) waste (waste is required to be witnessed and cosigned, manually or electronically, by another individual).

(H) The record required by subparagraph (G) of this paragraph shall be maintained separately from patient records.

(I) A pharmacist shall conduct an audit by randomly comparing the distribution records required by subparagraph (G) with the medication orders in the patient record on a periodic basis to verify proper administration of drugs not to exceed 30 days between such reviews.

~~{(2) Outpatient records.}~~

~~{(A) Only a registered pharmacist may receive, certify, and receive prescription drug orders.}~~

~~{(B) Outpatient records shall be maintained as provided in §291.34 and §291.35 of this title contained in Community Pharmacy (Class A).}~~

~~{(C) Outpatient prescriptions, including, but not limited to, discharge prescriptions, that are written by the practitioner, must be written on a form which meets the requirements of the Act, §562.006. Medication order forms or copies thereof do not meet the requirements for outpatient forms.}~~

~~{(D) Controlled substances listed in Schedule II must be written on an electronic prescription form in accordance with the Texas Controlled Substances Act, §481.075, and rules promulgated pursuant to the Texas Controlled Substances Act, unless exempted by the Texas~~

~~Controlled Substances Rules, 37 TAC §13.74. Outpatient prescriptions for Schedule II controlled substances that are exempted from the official prescription requirement must be manually signed by the practitioner.}~~

~~(2) [(3)] Patient records.~~

~~(A) Each [original] medication order or set of orders issued together shall bear the following information:~~

~~(i) patient name;~~

~~(ii) drug name, strength, and dosage form;~~

~~(iii) directions for use;~~

~~(iv) date; and~~

~~(v) signature or electronic signature of the practitioner or that of his or her authorized agent, defined as a licensed nurse employee or consultant/full or part-time pharmacist of the ASC.~~

~~(B) Medication [Original medication] orders shall be maintained with the medication administration record in the medical records of the patient.~~

~~{(C) Controlled substances records shall be maintained as follows.}~~

~~{(i) All records for controlled substances shall be maintained in a readily retrievable manner.}~~

~~{(ii) Controlled substances records shall be maintained in a manner to establish receipt and distribution of all controlled substances.}~~

~~{(D) Records of controlled substances listed in Schedule II shall be maintained as follows.}~~

~~{(i) Records of controlled substances listed in Schedule II shall be maintained separately from records of controlled substances in Schedules III, IV, and V, and all other records.}~~

~~{(ii) An ASC pharmacy shall maintain a perpetual inventory of any controlled substance listed in Schedule II.}~~

~~{(iii) Distribution records for Schedule II - V controlled substances floor stock shall include the following information:}~~

~~{(I) patient's name;}~~

~~{(II) practitioner who ordered drug;}~~

~~{(III) name of drug, dosage form, and strength;}~~

~~{(IV) time and date of administration to patient and quantity administered;}~~

~~{(V) signature or electronic signature of individual administering controlled substance;}~~

~~{(VI) returns to the pharmacy; and}~~

~~{(VII) waste (waste is required to be witnessed and cosigned, manually or electronically, by another individual).}~~

~~{(E) Floor stock records shall be maintained as follows.}~~

~~{(i) Distribution records for Schedules III - V controlled substances floor stock shall include the following information:}~~

~~{(I) patient's name;}~~

~~{(II) practitioner who ordered controlled substance;}~~

~~{(III) name of controlled substance, dosage form, and strength;}~~

- ~~{(IV)}~~ time and date of administration to patient;]
- ~~{(V)}~~ quantity administered;]
- ~~{(VI)}~~ signature or electronic signature of individual administering drug;]
- ~~{(VII)}~~ returns to the pharmacy; and]
- ~~{(VIII)}~~ waste (waste is required to be witnessed and cosigned, manually or electronically, by another individual).]
- ~~{(ii)}~~ The record required by clause (i) of this subparagraph shall be maintained separately from patient records.]
- ~~{(iii)}~~ A pharmacist shall review distribution records with medication orders on a periodic basis to verify proper usage of drugs; not to exceed 30 days between such reviews.]

(3) [(F)] General requirements for records maintained in a data processing system [are as follows].

(A) [(i)] If an ASC pharmacy's data processing system is not in compliance with the board's requirements, the pharmacy must maintain a manual recordkeeping system.

(B) [(ii)] [~~Requirements for backup systems.~~] The facility shall maintain a backup copy of information stored in the data processing system using disk, tape, or other electronic backup system and update this backup copy on a regular basis to assure that data is not lost due to system failure.

~~{(iii)}~~ Change of discontinuance of a data processing system.]

(C) [(H)] [~~Records of distribution and return for all controlled substances, nalbuphine (Nubain), and carisoprodol (Soma).~~] A pharmacy that changes or discontinues use of a data processing system must:

(i) [~~(a)~~] transfer the records to the new data processing system; or

(ii) [~~(b)~~] purge the records to a printout which contains: [~~the same information as required on the audit trail printout as specified in subparagraph (G)(ii) of this paragraph. The information on this printout shall be sorted and printed by drug name and list all distributions/returns chronologically.~~]

(I) all of the information required on the original document; or

(II) for records of distribution and return for all controlled substances, the same information as required on the audit trail printout as specified in subparagraph (F) of this paragraph. The information on the printout shall be sorted and printed by drug name and list all distributions and returns chronologically.

~~{(H)}~~ Other records. A pharmacy that change or discontinues use of a data processing system must:]

~~{(a)}~~ transfer the records to the new data processing system; or]

~~{(b)}~~ purge the records to a printout which contains all of the information required on the original document.]

(D) [(H)] [~~Maintenance of purged records.~~] Information purged from a data processing system must be maintained by the pharmacy for two years from the date of initial entry into the data processing system.

(E) [(iv)] [~~Loss of data.~~] The pharmacist-in-charge shall report to the board in writing any significant loss of information

from the data processing system within 10 days of discovery of the loss.

~~{(G)}~~ Data processing system maintenance of records for the distribution and return of all controlled substances, nalbuphine (Nubain), or tramadol (Ultram) to the pharmacy.]

~~{(i)}~~ Each time a controlled substance, nalbuphine (Nubain), or tramadol (Ultram) is distributed from or returned to the pharmacy, a record of such distribution or return shall be entered into the data processing system.]

(F) [(ii)] The data processing system shall have the capacity to produce a hard-copy printout of an audit trail of drug distribution and return for any strength and dosage form of a drug (by either brand or generic name or both) during a specified time period. This printout shall contain the following information:

(i) [(H)] patient's name and room number or patient's facility identification number;

(ii) [(H)] prescribing or attending practitioner's name;

(iii) [(H)] name, strength, and dosage form of the drug product actually distributed;

(iv) [(IV)] total quantity distributed from and returned to the pharmacy;

(v) [(V)] if not immediately retrievable via electronic image, the following shall also be included on the printout:

(I) [(a)] prescribing or attending practitioner's address; and

(II) [(b)] practitioner's DEA registration number, if the medication order is for a controlled substance.

(G) [(iii)] An audit trail printout for each strength and dosage form of these drugs distributed during the preceding month shall be produced at least monthly and shall be maintained in a separate file at the facility. The information on this printout shall be sorted by drug name and list all distributions/returns for that drug chronologically.

(H) [(iv)] The pharmacy may elect not to produce the monthly audit trail printout if the data processing system has a workable (electronic) data retention system which can produce an audit trail of drug distribution and returns for the preceding two years. The audit trail required in this clause shall be supplied by the pharmacy within 72 hours, if requested by an authorized agent of the Texas State Board of Pharmacy, or other authorized local, state, or federal law enforcement or regulatory agencies.

~~{(H)}~~ Failure to maintain records. Failure to provide records set out in this subsection, either on site or within 72 hours for whatever reason, constitutes prima facie evidence of failure to keep and maintain records.]

(I) [~~Data processing system downtime.~~] In the event that an ASC pharmacy which uses a data processing system experiences system downtime, the pharmacy must have an auxiliary procedure which will ensure that all data is retained for on-line data entry as soon as the system is available for use again.

(4) Distribution of controlled substances to another registrant. A pharmacy may distribute controlled substances to a practitioner, another pharmacy, or other registrant, without being registered to distribute, under the following conditions.

(A) The registrant to whom the controlled substance is to be distributed is registered under the Controlled Substances Act to possess [~~dispense~~] that controlled substance.

(B) The total number of dosage units of controlled substances distributed by a pharmacy may not exceed 5.0% of all controlled substances dispensed by the pharmacy during the 12-month period in which the pharmacy is registered; if at any time it does exceed 5.0%, the pharmacy is required to obtain an additional registration to distribute controlled substances.

(C) If the distribution is for a Schedule III, IV, or V controlled substance, a record shall be maintained which indicates:

- (i) the actual date of distribution;
- (ii) the name, strength, and quantity of controlled substances distributed;
- (iii) the name, address, and DEA registration number of the distributing pharmacy; and
- (iv) the name, address, and DEA registration number of the pharmacy, practitioner, or other registrant to whom the controlled substances are distributed.

(D) If the distribution is for a Schedule II controlled substance, the following is applicable.

(i) The pharmacy, practitioner, or other registrant who is receiving the controlled substances shall issue Copy 1 and Copy 2 of a DEA order form (DEA 222[C]) to the distributing pharmacy.

(ii) The distributing pharmacy shall:

(I) complete the area on the DEA order form (DEA 222[C]) titled "To Be Filled in by Supplier";

(II) maintain Copy 1 of the DEA order form (DEA 222[C]) at the pharmacy for two years; and

(III) forward Copy 2 of the DEA order form (DEA 222[C]) to the divisional office of the Drug Enforcement Administration.

(5) Other records. Other records to be maintained by the pharmacy include:

(A) a permanent log of the initials or identification codes which will identify each pharmacist by name. The initials or identification code shall be unique to ensure that each pharmacist can be identified, i.e., identical initials or identification codes cannot be used;

(B) Copy 3 of DEA order form (DEA 222[C]), which has been properly dated, initialed, and filed, and all copies of each unaccepted or defective order form and any attached statements or other documents and/or for each order filled using the DEA Controlled Substance Ordering System (CSOS), the original signed order and all linked records for that order;

(C) a [~~hard~~] copy of the power of attorney to sign DEA 222[C] order forms (if applicable);

(D) suppliers' invoices of dangerous drugs and controlled substances dated and initialed or signed by the person receiving the drugs; a pharmacist shall verify that the controlled drugs listed on the invoices were added to the pharmacy's perpetual inventory [actually received] by clearly recording his/her initials and the [~~actual~~] date of review [receipt] of the perpetual inventory [controlled substances];

(E) supplier's credit memos for controlled substances and dangerous drugs;

(F) a [~~hard~~] copy of inventories required by §291.17 of this title (relating to Inventory Requirements) except that a perpetual inventory of controlled substances listed in Schedule II may be kept in a data processing system if the data processing system is capable of producing a [~~hard~~] copy of the perpetual inventory on-site;

(G) [~~hard-copy~~] reports of surrender or destruction of controlled substances and/or dangerous drugs to an appropriate state or federal agency;

~~{(H) a hard-copy Schedule V nonprescription register book;}~~

(H) [(+)] records of distribution of controlled substances and/or dangerous drugs to other pharmacies, practitioners, or registrants; and

(I) [(+)] a [~~hard~~] copy of any notification required by the Texas Pharmacy Act or these rules, including, but not limited to, the following:

(i) reports of theft or significant loss of controlled substances to DEA, DPS, and the board;

(ii) notification of a change in pharmacist-in-charge of a pharmacy; and

(iii) reports of a fire or other disaster which may affect the strength, purity, or labeling of drugs, medications, devices, or other materials used in the diagnosis or treatment of injury, illness, and disease.

(6) Permission to maintain central records. Any pharmacy that uses a centralized recordkeeping system for invoices and financial data shall comply with the following procedures.

(A) Controlled substance records. Invoices and financial data for controlled substances may be maintained at a central location provided the following conditions are met.

(i) Prior to the initiation of central recordkeeping, the pharmacy submits written notification by registered or certified mail to the divisional director of the Drug Enforcement Administration as required by the Code of Federal Regulations, Title 21, §1304(a), and submits a copy of this written notification to the Texas State Board of Pharmacy. Unless the registrant is informed by the divisional director of the Drug Enforcement Administration that permission to keep central records is denied, the pharmacy may maintain central records commencing 14 days after receipt of notification by the divisional director.

(ii) The pharmacy maintains a copy of the notification required in this subparagraph.

(iii) The records to be maintained at the central record location shall not include executed DEA order forms, prescription drug orders, or controlled substance inventories, which shall be maintained at the pharmacy.

(B) Dangerous drug records. Invoices and financial data for dangerous drugs may be maintained at a central location.

(C) Access to records. If the records are kept [~~on microfilm, computer media, or~~] in any form requiring special equipment to render the records easily readable, the pharmacy shall provide access to such equipment with the records.

(D) Delivery of records. The pharmacy agrees to deliver all or any part of such records to the pharmacy location within

two business days of written request of a board agent or any other authorized official.

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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Gay Dodson, R.Ph.

Executive Director

Texas State Board of Pharmacy

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For further information, please call: (512) 305-8028



SUBCHAPTER F. NON-RESIDENT PHARMACY (CLASS E)

22 TAC §291.103, §291.104

The Texas State Board of Pharmacy proposes amendments to §291.103 concerning Personnel and §291.104 concerning Operational Standards. The amendments, if adopted, implement provisions of S.B. 460 and HB 751 passed by the 84th Texas Legislature. The amendment to §291.103, if adopted, require the pharmacist-in-charge of a non-resident pharmacy (Class E) to be licensed in Texas. The amendments to §291.104, if adopted, update the requirements with regard to interchangeable biological products and correct grammar.

Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Ms. Dodson has determined that, for each year of the first five-year period the rules will be in effect, the public benefit anticipated as a result of enforcing the amendments will ensure the non-resident pharmacies are supervised by appropriately licensed pharmacists; and pharmacies appropriately dispense interchangeable biological products. There is no fiscal impact for individuals, small or large businesses, or to other entities which are required to comply with these sections.

Comments on the amendments may be submitted to Allison Benz, R.Ph., M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600, Austin, Texas 78701, FAX (512) 305-8008. Comments must be received by 5:00 p.m., October 30, 2015.

The amendments are proposed under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 566 and 568 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code.

§291.103. *Personnel.*

As specified in §562.101(f) of the Act (relating to Supervision of Pharmacy), a Class E pharmacy shall be under the continuous on-site super-

vision of a pharmacist and shall designate one pharmacist licensed to practice pharmacy by the regulatory or licensing agency of the state in which the Class E pharmacy is located and effective September 1, 2016, is licensed as a pharmacist in Texas to serve as the pharmacist-in-charge of the Class E pharmacy license.

§291.104. *Operational Standards.*

(a) Licensing requirements.

(1) - (2) (No change.)

(3) On renewal of a license, the pharmacy shall complete the renewal application provided by the board and, as specified in §561.0031 [§561.031] of the Act, provide an inspection report issued not more than three years before the date the renewal application is received and conducted by the pharmacy licensing board in the state of the pharmacy's physical location.

(A) A Class E pharmacy may submit an inspection report issued by an entity other than the pharmacy licensing board of the state in which the pharmacy is physically located if the state's licensing board does not conduct inspections as follows:

(i) an individual approved by the board who is not employed by the pharmacy but acting as a consultant to inspect the pharmacy;

(ii) an agent of the National Association of Boards of Pharmacy;

(iii) an agent of another State Board of Pharmacy; or

(iv) an agent of an accrediting body, such as the Joint Commission on Accreditation of Healthcare Organizations.

(B) The inspection must be substantively equivalent to an inspection conducted by the board.

(4) A Class E pharmacy which changes ownership shall notify the board within ten days of the change of ownership and apply for a new and separate license as specified in §291.3 of this title (relating to Required Notifications).

(5) A Class E pharmacy which changes location and/or name shall notify the board within ten days of the change and file for an amended license as specified in §291.3 of this title.

(6) A Class E pharmacy owned by a partnership or corporation which changes managing officers shall notify the board in writing of the names of the new managing officers within ten days of the change, following the procedures in §291.3 of this title.

(7) A Class E pharmacy shall notify the board in writing within ten days of closing.

(8) A separate license is required for each principal place of business and only one pharmacy license may be issued to a specific location.

(9) A fee as specified in §291.6 of this title (relating to Pharmacy License Fees) will be charged for the issuance and renewal of a license and the issuance of an amended license.

(10) The board may grant an exemption from the licensing requirements of this Act on the application of a pharmacy located in a state of the United States other than this state that restricts its dispensing of prescription drugs or devices to residents of this state to isolated transactions.

(11) A Class E pharmacy engaged in the centralized dispensing of prescription drug or medication orders shall comply with the provisions of §291.125 of this title (relating to Centralized Prescription Dispensing).

(12) A Class E pharmacy engaged in central processing of prescription drug or medication orders shall comply with the provisions of §291.123 of this title (relating to Central Prescription or Medication Order Processing).

(13) A Class E pharmacy engaged in the compounding of non-sterile preparations shall comply with the provisions of §291.131 of this title (relating to Pharmacies Compounding Non-Sterile Preparations).

~~[(14) Prior to August 31, 2014, a Class E pharmacy engaged in the compounding of sterile preparations shall comply with the provisions of §291.133 of this title (relating to Pharmacies Compounding Sterile Preparations).]~~

(14) ~~[(15) [Effective August 31, 2014, a] Class E pharmacy personnel shall not compound sterile preparations unless the pharmacy has applied for and obtained a Class E-S pharmacy.~~

(15) ~~[(16)]~~ A Class E pharmacy, which operates as a community type of pharmacy which would otherwise be required to be licensed under the Act §560.051(a)(1) (Community Pharmacy (Class A)), shall comply with the provisions of §291.31 of this title (relating to Definitions), §291.32 of this title (relating to Personnel), §291.33 of this title (relating to Operational Standards), §291.34 of this title (relating to Records), and §291.35 of this title (relating to Official Prescription Records), contained in Community Pharmacy (Class A); or which operates as a nuclear type of pharmacy which would otherwise be required to be licensed under the Act §560.051(a)(2) (Nuclear Pharmacy (Class B)), shall comply with the provisions of §291.51 of this title (relating to Purpose), §291.52 of this title (relating to Definitions), §291.53 of this title (relating to Personnel), §291.54 of this title (relating to Operational Standards), and §291.55 of this title (relating to Records), contained in Nuclear Pharmacy (Class B), to the extent such sections are applicable to the operation of the pharmacy.

(b) (No change.)

(c) ~~[Generic] Substitution requirements.~~

(1) Unless compliance would violate the pharmacy or drug laws or rules in the state in which the pharmacy is located a pharmacist in a Class E pharmacy may dispense a generically equivalent drug or interchangeable biological product and shall comply with the provisions of §309.3 of this title (relating to ~~[Generic] Substitution Requirements~~) and §309.7 of this title (relating to Dispensing Responsibilities).

(2) The pharmacy must include on the prescription order form completed by the patient or the patient's agent information that clearly and conspicuously:

(A) states that if a less expensive generically equivalent drug or interchangeable biological product is available for the brand prescribed, the patient or the patient's agent may choose between the generically equivalent drug or interchangeable biological product and the brand prescribed; and

(B) allows the patient or the patient's agent to indicate the choice of the generically equivalent drug or interchangeable biological product or the brand prescribed.

(d) (No change.)

(e) Transfer of Prescription Drug Order Information. Unless compliance would violate the pharmacy or drug laws or rules in the state in which the pharmacy is located, a pharmacist in a Class E pharmacy may not refuse to transfer prescriptions to another pharmacy that is making the transfer request on behalf of the patient. The transfer of original prescription information must be done within four business hours of the request ~~[in a timely manner].~~

(f) (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.

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Gay Dodson, R.Ph.

Executive Director

Texas State Board of Pharmacy

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For further information, please call: (512) 305-8028



SUBCHAPTER H. OTHER CLASSES OF PHARMACY

22 TAC §291.151

The Texas State Board of Pharmacy proposes amendments to §291.151 concerning Pharmacies Located in a Freestanding Emergency Medical Care Center (Class F). The amendments, if adopted, update the rules for pharmacies in Freestanding Emergency Medical Care Centers to be consistent with other sections; eliminate language that is no longer necessary; and correct grammar.

Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year period the rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Dodson has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will ensure the public health and safety of pharmacies located in freestanding emergency medical care centers. There is no fiscal impact for individuals, small or large businesses, or to other entities which are required to comply with this section.

Comments on the amendments may be submitted to Allison Benz, R.Ph., M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600, Austin, Texas 78701, FAX (512) 305-8008. Comments must be received by 5:00 p.m., October 30, 2015.

The amendments are proposed under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 566 and 568 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code.

§291.151. Pharmacies Located in a Freestanding Emergency Medical Care Facility ~~[Center]~~ (Class F).

(a) Purpose. The purpose of this section is to provide standards in the conduct, practice activities, and operation of a pharmacy located in a freestanding emergency medical care facilities ~~[center]~~ that is licensed by the Texas Department of State Health Services or in a freestanding emergency medical care facility ~~[center]~~ operated by a hos-

pital that is exempt from registration as provided by §254.052, Health and Safety Code. Class F pharmacies located in a freestanding emergency medical care facility [eenter] shall comply with this section.

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

(1) Act--The Texas Pharmacy Act, [Chapters 551 - 566 and 568 - 569,] Occupations Code, Subtitle J, as amended.

(2) Administer--The direct application of a prescription drug by injection, inhalation, ingestion, or any other means to the body of a patient by:

(A) a practitioner, an authorized agent under his supervision, or other person authorized by law; or

(B) the patient at the direction of a practitioner.

(3) Automated medication supply system--A mechanical system that performs operations or activities relative to the storage and distribution of medications for administration and which collects, controls, and maintains all transaction information.

[(2) Automated drug dispensing system--An automated device that measures, counts, and/or packages a specified quantity of dosage units for a designated drug product.]

(4) [(3)] Board--The Texas State Board of Pharmacy.

(5) [(4)] Consultant pharmacist--A pharmacist retained by a facility on a routine basis to consult with the FEMCF [FEMCC] in areas that pertain to the practice of pharmacy.

(6) [(5)] Controlled substance--A drug, immediate precursor, or other substance listed in Schedules I - V or Penalty Groups 1 - 4 of the Texas Controlled Substances Act, as amended, or a drug immediate precursor, or other substance included in Schedule I - V of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended (Public Law 91-513).

[(6) Direct copy--Electronic copy or carbonized copy of a medication order including a facsimile (FAX) or digital image.]

(7) Dispense--Preparing, packaging, compounding, or labeling for delivery a prescription drug or device in the course of professional practice to an ultimate user or his agent by or pursuant to the lawful order of a practitioner.

(8) Distribute--The delivery of a prescription drug or device other than by administering or dispensing.

(9) Downtime--Period of time during which a data processing system is not operable.

(10) Electronic signature--A unique security code or other identifier which specifically identifies the person entering information into a data processing system. A facility which utilizes electronic signatures must:

(A) maintain a permanent list of the unique security codes assigned to persons authorized to use the data processing system; and

(B) have an ongoing security program which is capable of identifying misuse and/or unauthorized use of electronic signatures.

(11) Floor stock--Prescription drugs or devices not labeled for a specific patient and maintained at a nursing station or other FEMCF [FEMCC] department (excluding the pharmacy) for the purpose of administration to a patient of the FEMCF [FEMCC].

(12) Formulary--List of drugs approved for use in the FEMCF [FEMCC] by an appropriate committee of the FEMCF [freestanding emergency medical care center].

(13) Freestanding emergency medical care facility (FEMCF) [eenter (FEMCC)]--A freestanding facility that is licensed by the Texas Department of State Health Services pursuant to Chapter 254, Health and Safety Code, to provide emergency care to patients.

(14) Hard copy--A physical document that is readable without the use of a special device (i.e., data processing system, computer, etc.).

(15) Investigational new drug--New drug intended for investigational use by experts qualified to evaluate the safety and effectiveness of the drug as authorized by the federal Food and Drug Administration.

(16) Medication order--An [A written order from a practitioner or a verbal] order from a practitioner or his authorized agent for administration of a drug or device.

(17) Pharmacist-in-charge--Pharmacist designated on a pharmacy license as the pharmacist who has the authority or responsibility for a pharmacy's compliance with laws and rules pertaining to the practice of pharmacy.

(18) Pharmacy--Area or areas in a facility, separate from patient care areas, where drugs are stored, bulk compounded, delivered, compounded, dispensed, and/or distributed to other areas or departments of the FEMCF [FEMCC], or dispensed to an ultimate user or his or her agent.

(19) Prescription drug--

(A) A substance for which federal or state law requires a prescription before it may be legally dispensed to the public;

(B) A drug or device that under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements:

(i) Caution: federal law prohibits dispensing without prescription or "Rx only" or another legend that complies with federal law; or

(ii) Caution: federal law restricts this drug to use by or on order of a licensed veterinarian; or

(C) A drug or device that is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by a practitioner only.

(20) Prescription drug order--

(A) An [A written order from a practitioner or verbal] order from a practitioner or his authorized agent to a pharmacist for a drug or device to be dispensed; or

(B) An [A written order or a verbal] order pursuant to Subtitle B, Chapter 157, Occupations Code.

(21) Full-time pharmacist--A pharmacist who works in a pharmacy from 30 to 40 hours per week or if the pharmacy is open less than 60 hours per week, one-half of the time the pharmacy is open.

(22) Part-time pharmacist--A pharmacist who works less than full-time.

(23) Pharmacy technician--An individual who is registered with the board as a pharmacy technician and whose responsibility in a pharmacy is to provide technical services that do not require professional judgment regarding preparing and distributing drugs and who

works under the direct supervision of and is responsible to a pharmacist.

(24) Pharmacy technician trainee--An individual who is registered with the board as a pharmacy technician trainee and is authorized to participate in a pharmacy's technician training program.

(25) Texas Controlled Substances Act--The Texas Controlled Substances Act, the Health and Safety Code, Chapter 481, as amended.

(c) Personnel.

(1) Pharmacist-in-charge.

(A) General. Each FEMCF [~~freestanding emergency medical care center~~] shall have one pharmacist-in-charge who is employed or under contract, at least on a consulting or part-time basis, but may be employed on a full-time basis.

(B) Responsibilities. The pharmacist-in-charge shall have the responsibility for, at a minimum, the following:

(i) establishing [~~establishment of~~] specifications for procurement and storage of all materials, including drugs, chemicals, and biologicals;

(ii) participating [~~participation~~] in the development of a formulary for the FEMCF [FEMCC], subject to approval of the appropriate committee of the FEMCF [FEMCC];

(iii) distributing [~~distribution of~~] drugs to be administered to patients pursuant to [~~an original or direct copy of~~] the practitioner's medication order;

(iv) filling and labeling all containers from which drugs are to be distributed or dispensed;

(v) maintaining and making available a sufficient inventory of antidotes and other emergency drugs, both in the pharmacy and patient care areas, as well as current antidote information, telephone numbers of regional poison control center and other emergency assistance organizations, and such other materials and information as may be deemed necessary by the appropriate committee of the FEMCF [FEMCC];

(vi) maintaining records of all transactions of the FEMCF [FEMCC] pharmacy as may be required by applicable state and federal law, and as may be necessary to maintain accurate control over and accountability for all pharmaceutical materials;

(vii) participating [~~participation~~] in those aspects of the FEMCF's [FEMCC's] patient care evaluation program which relate to pharmaceutical material utilization and effectiveness;

(viii) participating [~~participation~~] in teaching and/or research programs in the FEMCF [FEMCC];

(ix) implementing [~~implementation of~~] the policies and decisions of the appropriate committee(s) relating to pharmaceutical services of the FEMCF [FEMCC];

(x) providing effective and efficient messenger and delivery service to connect the FEMCF [FEMCC] pharmacy with appropriate areas of the FEMCF [FEMCC] on a regular basis throughout the normal workday of the FEMCF [FEMCC];

(xi) labeling, storing, and distributing [~~storage, and distribution of~~] investigational new drugs, including maintaining [~~maintenance of~~] information in the pharmacy and nursing station where such drugs are being administered, concerning the dosage form, route of administration, strength, actions, uses, side effects, adverse

effects, interactions, and symptoms of toxicity of investigational new drugs;

(xii) meeting all inspection and other requirements of the Texas Pharmacy Act and this section; and

(xiii) maintain [~~maintenance of~~] records in a data processing system such that the data processing system is in compliance with the requirements for a FEMCF [FEMCC].

(2) Consultant pharmacist.

(A) The consultant pharmacist may be the pharmacist-in-charge.

(B) A written contract shall exist between the FEMCF [FEMCC] and any consultant pharmacist, and a copy of the written contract shall be made available to the board upon request.

(3) Pharmacists.

(A) General.

(i) The pharmacist-in-charge shall be assisted by a sufficient number of additional licensed pharmacists as may be required to operate the FEMCF [FEMCC] pharmacy competently, safely, and adequately to meet the needs of the patients of the facility.

(ii) All pharmacists shall assist the pharmacist-in-charge in meeting the responsibilities as outlined in paragraph (1)(B) of this subsection and in ordering, administering, and accounting for pharmaceutical materials.

(iii) All pharmacists shall be responsible for any delegated act performed by pharmacy technicians or pharmacy technician trainees under his or her supervision.

(iv) All pharmacists while on duty shall be responsible for complying with all state and federal laws or rules governing the practice of pharmacy.

(B) Duties. Duties of the pharmacist-in-charge and all other pharmacists shall include, but need not be limited to, the following:

(i) receiving and interpreting prescription drug orders and oral medication orders and reducing these orders to writing either manually or electronically;

(ii) selecting [~~selection of~~] prescription drugs and/or devices and/or suppliers; and

(iii) interpreting patient profiles.

(C) Special requirements for compounding non-sterile preparations. All pharmacists engaged in compounding non-sterile preparations shall meet the training requirements specified in §291.131 of this title (relating to Pharmacies Compounding Non-Sterile Preparations).

(4) Pharmacy technicians and pharmacy technician trainees.

(A) General. All pharmacy technicians and pharmacy technician trainees shall meet the training requirements specified in §297.6 of this title (relating to Pharmacy Technician and Pharmacy Technician Trainee Training).

(B) Duties. Pharmacy technicians and pharmacy technician trainees may not perform any of the duties listed in paragraph (3)(B) of this subsection. Duties may include, but need not be limited to, the following functions, under the direct supervision of a pharmacist:

(i) prepacking and labeling unit and multiple dose packages, provided a pharmacist supervises and conducts a final check and affixes his or her name, initials, electronic signature to the appropriate quality control records prior to distribution;

(ii) preparing, packaging, compounding, or labeling prescription drugs pursuant to medication orders, provided a pharmacist supervises and checks the preparation;

(iii) compounding non-sterile preparations pursuant to medication orders provided the pharmacy technicians or pharmacy technician trainees have completed the training specified in §291.131 of this title;

(iv) bulk compounding, provided a pharmacist supervises and conducts in-process and final checks and affixes his or her name, initials, or electronic signature to the appropriate quality control records prior to distribution;

(v) distributing routine orders for stock supplies to patient care areas;

(vi) entering medication order and drug distribution information into a data processing system, provided judgmental decisions are not required and a pharmacist checks the accuracy of the information entered into the system prior to releasing the order or in compliance with the absence of pharmacist requirements contained in subsection (d)(6)(E) and (F) of this section;

(vii) maintaining inventories of drug supplies;

(viii) maintaining pharmacy records; and

(ix) loading ~~bulk unlabeled~~ drugs into an automated medication supply system. For the purpose of this clause, direct supervision may be accomplished by physically present supervision or electronic monitoring by a pharmacist. ~~[drug dispensing system provided a pharmacist supervises, verifies that the system was properly loaded prior to use, and affixes his or her name, initials or electronic signature to the appropriate quality control records.]~~

(C) Procedures.

(i) Pharmacy technicians and pharmacy technician trainees shall handle medication orders in accordance with standard written procedures and guidelines.

(ii) Pharmacy technicians and pharmacy technician trainees shall handle prescription drug orders in the same manner as pharmacy technicians or pharmacy technician trainees working in a Class A pharmacy.

(D) Special requirements for compounding non-sterile preparations. All pharmacy technicians and pharmacy technician trainees engaged in compounding non-sterile preparations shall meet the training requirements specified in §291.131 of this title.

(5) Owner. The owner of a FEMCF [FEMCC] pharmacy shall have responsibility for all administrative and operational functions of the pharmacy. The pharmacist-in-charge may advise the owner on administrative and operational concerns. The owner shall have responsibility for, at a minimum, the following, and if the owner is not a Texas licensed pharmacist, the owner shall consult with the pharmacist-in-charge or another Texas licensed pharmacist:

(A) ~~establishing [establishment of]~~ policies for procurement of prescription drugs and devices and other products dispensed from the FEMCF [FEMCC] pharmacy;

(B) ~~establishing and maintaining [establishment and maintenance of]~~ effective controls against the theft or diversion of prescription drugs;

(C) if the pharmacy uses an automated medication supply ~~[pharmacy dispensing]~~ system, reviewing and approving all policies and procedures for system operation, safety, security, accuracy and access, patient confidentiality, prevention of unauthorized access, and malfunction;

(D) providing the pharmacy with the necessary equipment and resources commensurate with its level and type of practice; and

(E) ~~establishing [establishment of]~~ policies and procedures regarding maintenance, storage, and retrieval of records in a data processing system such that the system is in compliance with state and federal requirements.

(6) Identification of pharmacy personnel. All pharmacy personnel shall be identified as follows:

(A) Pharmacy technicians. All pharmacy technicians shall wear an identification tag or badge that bears the person's name and identifies him or her as a pharmacy technician ~~[trainee a registered pharmacy technician, or a certified pharmacy technician; if the technician maintains current certification with the Pharmacy Technician Certification Board or any other entity providing an examination approved by the board].~~

(B) Pharmacy technician trainees. All pharmacy technician trainees shall wear an identification tag or badge that bears the person's name and identifies him or her as a pharmacy technician trainee.

(C) Pharmacist interns. All pharmacist interns shall wear an identification tag or badge that bears the person's name and identifies him or her as a pharmacist intern.

(D) Pharmacists. All pharmacists shall wear an identification tag or badge that bears the person's name and identifies him or her as a pharmacist.

(d) Operational standards.

(1) Licensing requirements.

(A) A FEMCF [FEMCC] pharmacy shall register annually or biennially with the board on a pharmacy license application provided by the board, following the procedures specified in §291.1 of this title (relating to Pharmacy License Application).

~~[(B) If the FEMCC pharmacy is owned or operated by a pharmacy management or consulting firm, the following conditions apply:]~~

~~[(i) The pharmacy license application shall list the pharmacy management or consulting firm as the owner or operator.]~~

~~[(ii) The pharmacy management or consulting firm shall obtain DEA and DPS controlled substances registrations that are issued in the name of the firm, unless the following occur:]~~

~~[(i) the pharmacy management or consulting firm and the facility cosign a contractual pharmacy service agreement which assigns overall responsibility for controlled substances to the facility; and]~~

~~[(ii) such pharmacy management or consulting firm maintains dual responsibility for the controlled substances.]~~

~~[(C) A FEMCF [FEMCC] pharmacy which changes ownership shall notify the board within 10 days of the change of ownership and apply for a new and separate license as specified in §291.3 of this title (relating to Required Notifications).~~

(C) [(D)] A FEMCF [FEMCC] pharmacy which changes location and/or name shall notify the board of the change within 10 days and file for an amended license as specified in §291.3 of this title.

(D) [(E)] A FEMCF [FEMCC] pharmacy owned by a partnership or corporation which changes managing officers shall notify the board in writing of the names of the new managing officers within 10 days of the change, following the procedures in §291.3 of this title.

(E) [(F)] A FEMCF [FEMCC] pharmacy shall notify the board in writing within 10 days of closing, following the procedures in §291.5 of this title (relating to Closing a Pharmacy).

(F) [(G)] A fee as specified in §291.6 of this title (relating to Pharmacy License Fees) will be charged for issuance and renewal of a license and the issuance of an amended license.

(G) [(H)] A separate license is required for each principal place of business and only one pharmacy license may be issued to a specific location.

(H) A FEMCF pharmacy, which also operates another type of pharmacy which would otherwise be required to be licensed under the Act, §560.051(a)(1), concerning community pharmacy (Class A), is not required to secure a license for the other type of pharmacy; provided, however, such license is required to comply with the provisions of §291.31 of this title (relating to Definitions), §291.32 of this title (relating to Personnel), §291.33 of this title (relating to Operational Standards), §291.34 of this title (relating to Records), and §291.35 of this title (relating to Official Prescription Records), to the extent such sections are applicable to the operation of the pharmacy.

(I) A FEMCF [FEMCC] pharmacy engaged in the compounding of non-sterile preparations shall comply with the provisions of §291.131 of this title.

(2) Environment.

(A) General requirements.

(i) Each FEMCF [freestanding emergency medical care center] shall have a designated work area separate from patient areas, and which shall have space adequate for the size and scope of pharmaceutical services and shall have adequate space and security for the storage of drugs.

(ii) The FEMCF [FEMCC] pharmacy shall be arranged in an orderly fashion and shall be kept clean. All required equipment shall be clean and in good operating condition.

(B) Special requirements.

(i) The FEMCF [FEMCC] pharmacy shall have locked storage for Schedule II controlled substances and other controlled drugs requiring additional security.

(ii) The FEMCF [FEMCC] pharmacy shall have a designated area for the storage of poisons and externals separate from drug storage areas.

(C) Security.

(i) The pharmacy and storage areas for prescription drugs and/or devices shall be enclosed and capable of being locked by key, combination, or other mechanical or electronic means, so as to prohibit access by unauthorized individuals. Only individuals authorized by the pharmacist-in-charge may enter the pharmacy or [authorized personnel may] have access to storage areas for prescription drugs and/or devices.

{(ii) All storage areas for prescription drugs and/or devices shall be locked by key or combination, so as to prevent access by unauthorized personnel.}

{(iii) The pharmacist-in-charge shall consult with FEMCF [ASC] personnel with respect to security of the drug storage areas, including provisions for adequate safeguards against theft or diversion of dangerous drugs, controlled substances, and records for such drugs. [prescription drugs and/or devices.]}

{(iii) The pharmacy shall have locked storage for Schedule II controlled substances and other drugs requiring additional security.}

(3) Equipment and supplies. FEMCFs [freestanding emergency medical care centers] supplying drugs for outpatient use shall have the following equipment and supplies:

(A) data processing system including a printer or comparable equipment;

(B) adequate supply of child-resistant, moisture-proof, and light-proof containers; and

(C) adequate supply of prescription labels and other applicable identification labels.

(4) Library. A reference library shall be maintained that includes the following in hard-copy or electronic format and that pharmacy personnel shall be capable of accessing at all times:

(A) current copies of the following:

(i) Texas Pharmacy Act and rules;

(ii) Texas Dangerous Drug Act and rules;

(iii) Texas Controlled Substances Act and rules; and

(iv) Federal Controlled Substances Act and rules or official publication describing the requirements of the Federal Controlled Substances Act and rules;

(B) at least one current or updated general drug information reference which is required to [from each of the following categories:}

{(i) [Drug interactions: A reference text on drug interactions, such as Drug Interaction Facts. A separate reference is not required if other references maintained by the pharmacy] contain drug interaction information including information needed to determine severity or significance of the interaction and appropriate recommendations or actions to be taken; and

{(ii) General information: A general information reference text, such as:}

{(i) Facts and Comparisons with current supplements;}

{(ii) United States Pharmacopeia Dispensing Information Volume I (Drug Information for the Healthcare Provider);}

{(iii) AHFS Drug Information with current supplements;}

{(iv) Remington's Pharmaceutical Sciences; or}

{(v) Clinical Pharmacology;}

{(C) a current or updated reference on injectable drug products, such as Handbook of Injectable Drugs;}

(C) [(D)] basic antidote information and the telephone number of the nearest regional poison control center.}

~~{(E) if the pharmacy compounds sterile preparations, specialty references appropriate for the scope of services provided by the pharmacy, e.g., if the pharmacy prepares cytotoxic drugs, a reference text on the preparation of cytotoxic drugs, such as Procedures for Handling Cytotoxic Drugs; and}~~

~~{(F) metric-apothecary weight and measure conversion charts.}~~

(5) Drugs.

(A) Procurement, preparation, and storage.

(i) The pharmacist-in-charge shall have the responsibility for the procurement and storage of drugs, but may receive input from other appropriate staff of the facility, relative to such responsibility.

(ii) The pharmacist-in-charge shall have the responsibility for determining specifications of all drugs procured by the facility.

(iii) FEMCF [~~FEMCC~~] pharmacies may not sell, purchase, trade, or possess prescription drug samples, unless the pharmacy meets the requirements as specified in §291.16 of this title (relating to Samples).

(iv) All drugs shall be stored at the proper temperatures, as defined in the USP/NF and in §291.15 of this title (relating to Storage of Drugs).

(v) Any drug bearing an expiration date may not be dispensed or distributed beyond the expiration date of the drug.

(vi) Outdated drugs shall be removed from dispensing stock and shall be quarantined together until such drugs are disposed of.

(B) Formulary.

(i) A formulary may be developed by an appropriate committee of the FEMCF [~~freestanding emergency medical center~~].

(ii) The pharmacist-in-charge, ~~{or}~~ consultant pharmacist, or designee shall be a full voting member of any committee which involves pharmaceutical services.

(iii) A practitioner may grant approval for pharmacists at the FEMCF to interchange, in accordance with the facility's formulary, for the drugs on the practitioner's medication orders provided:

(I) a formulary has been developed;

(II) the formulary has been approved by the medical staff of the FEMCF;

(III) there is a reasonable method for the practitioner to override any interchange; and

(IV) the practitioner authorizes pharmacist in the FEMCF to interchange on his/her medication orders in accordance with the facility's formulary through his/her written agreement to abide by the policies and procedures of the medical staff and facility.

(C) Prepackaging [~~of drugs~~] and loading [~~of bulk unlabeled~~] drugs into automated medication supply [~~drug dispensing~~] system.

(i) Prepackaging of drugs.

(I) Drugs may be prepackaged in quantities suitable for internal distribution only by a pharmacist or by pharmacy technicians or pharmacy technician trainees under the direction and direct supervision of a pharmacist.

(II) The label of a prepackaged unit shall indicate:

(-a-) brand name and strength of the drug; or if no brand name, then the generic name, strength, and name of the manufacturer or distributor;

(-b-) facility's lot number;

(-c-) expiration date; and

(-d-) quantity of the drug, if quantity is greater than one.

(III) Records of prepackaging shall be maintained to show:

(-a-) the name of the drug, strength, and dosage form;

(-b-) facility's lot number;

(-c-) manufacturer or distributor;

(-d-) manufacturer's lot number;

(-e-) expiration date;

(-f-) quantity per prepackaged unit;

(-g-) number of prepackaged units;

(-h-) date packaged;

(-i-) name, initials, or electronic signature of the prepacker; and

(-j-) signature or electronic signature of the responsible pharmacist.

(IV) Stock packages, repackaged units, and control records shall be quarantined together until checked/released by the pharmacist.

(ii) Loading bulk unit of use [~~unlabeled~~] drugs into automated medication supply [~~drug dispensing~~] systems.

{(F)} Automated medication supply [~~drug dispensing~~] systems may be loaded with bulk unit of use [~~unlabeled~~] drugs only by a pharmacist or by pharmacy technicians or pharmacy technician trainees under the direction and direct supervision of a pharmacist. For the purpose of this clause, direct supervision may be accomplished by physically present supervision or electronic monitoring by a pharmacist. In order for the pharmacist to electronically monitor, the medication supply system must allow for bar code scanning to verify the loading of drugs, and a record of the loading must be maintained by the system and accessible for electronic review by the pharmacist.

~~{(H) The label of an automated drug dispensing system container shall indicate the brand name and strength of the drug; or if no brand name, then the generic name, strength, and name of the manufacturer or distributor.}~~

~~{(H)} Records of loading bulk unlabeled drugs into an automated drug dispensing system shall be maintained to show:}~~

~~{(-a-) name of the drug, strength, and dosage form;}~~

~~{(-b-) manufacturer or distributor;}~~

~~{(-c-) manufacturer's lot number;}~~

~~{(-d-) expiration date;}~~

~~{(-e-) date of loading;}~~

~~{(-f-) name, initials, or electronic signature of the person loading the automated drug dispensing system; and}~~

~~{(-g-) signature or electronic signature of the responsible pharmacist.}~~

~~{(H)} The automated drug dispensing system shall not be used until a pharmacist verifies that the system is properly loaded and affixes his or her signature or electronic signature to the record specified in subclause (H) of this clause.}~~

(6) Medication orders.

(A) Drugs may be administered to patients in FEMCFs [FEMCCs] only on the order of a practitioner. No change in the order for drugs may be made without the approval of a practitioner except as authorized by the practitioner in compliance with paragraph (5)(B) of this subsection.

(B) Drugs may be distributed only pursuant to the [original or a direct] copy of the practitioner's medication order.

~~[(C) Pharmacy technicians and pharmacy technician trainees may not receive oral medication orders.]~~

(C) [~~(D)~~] FEMCF [FEMCC] pharmacies shall be exempt from the labeling provisions and patient notification requirements of §562.006 and §562.009 of the Act, as respects drugs distributed pursuant to medication orders.

(D) [~~(E)~~] In FEMCFs [FEMCCs] with a full-time pharmacist, if a practitioner orders a drug for administration to a bona fide patient of the facility when the pharmacy is closed, the following is applicable.

(i) Prescription drugs and devices only in sufficient quantities for immediate therapeutic needs of a patient may be removed from the FEMCF [FEMCC] pharmacy.

(ii) Only a designated licensed nurse or practitioner may remove such drugs and devices.

(iii) A record shall be made at the time of withdrawal by the authorized person removing the drugs and devices. The record shall contain the following information:

- (I) name of the patient;
- (II) name of device or drug, strength, and dosage form;
- (III) dose prescribed;
- (IV) quantity taken;
- (V) time and date; and
- (VI) signature or electronic signature of person making withdrawal.

(iv) The [original or direct copy of the] medication order in the patient's chart may substitute for such record, provided the medication order meets all the requirements of clause (iii) of this subparagraph.

(v) The pharmacist shall verify the withdrawal as soon as practical, but in no event more than 72 hours from the time of such withdrawal.

(E) [~~(F)~~] In FEMCFs [FEMCCs] with a part-time or consultant pharmacist, if a practitioner orders a drug for administration to a bona fide patient of the FEMCF [FEMCC] when the pharmacist is not on duty, or when the pharmacy is closed, the following is applicable.

(i) Prescription drugs and devices only in sufficient quantities for therapeutic needs may be removed from the FEMCF [FEMCC] pharmacy.

(ii) Only a designated licensed nurse or practitioner may remove such drugs and devices.

(iii) A record shall be made at the time of withdrawal by the authorized person removing the drugs and devices; the record

shall meet the same requirements as specified in subparagraph (D) [~~(E)~~](iii) of this paragraph.

(iv) The pharmacist shall conduct an audit of patient's medical record according to the schedule set out in the policy and procedures at [verify each distribution after] a reasonable interval, but [in no event may] such interval must occur at least once in every calendar week that the pharmacy is open [exceed seven days].

(7) Floor stock. In facilities using a floor stock method of drug distribution, the following is applicable for removing drugs or devices in the absence of a pharmacist.

(A) Prescription drugs and devices may be removed from the pharmacy only in the original manufacturer's container or prepackaged container.

(B) Only a designated licensed nurse or practitioner may remove such drugs and devices.

(C) A record shall be made at the time of withdrawal by the authorized person removing the drug or device; the record shall contain the following information:

- (i) name of the drug, strength, and dosage form;
- (ii) quantity removed;
- (iii) location of floor stock;
- (iv) date and time; and
- (v) signature or electronic signature of person making the withdrawal.

(D) A pharmacist shall verify the withdrawal according to the following schedule.

(i) In facilities with a full-time pharmacist, the withdrawal shall be verified as soon as practical, but in no event more than 72 hours from the time of such withdrawal.

(ii) In facilities with a part-time or consultant pharmacist, the withdrawal shall be verified after a reasonable interval, but [in no event may] such interval must occur at least once in every calendar week that the pharmacy is open [exceed seven days].

(8) Policies and procedures. Written policies and procedures for a drug distribution system, appropriate for the freestanding emergency medical facility [center], shall be developed and implemented by the pharmacist-in-charge with the advice of the appropriate committee. The written policies and procedures for the drug distribution system shall include, but not be limited to, procedures regarding the following:

- (A) controlled substances;
- (B) investigational drugs;
- (C) prepackaging and manufacturing;
- (D) medication errors;
- (E) orders of physician or other practitioner;
- (F) floor stocks;
- (G) adverse drug reactions;
- (H) drugs brought into the facility by the patient;
- (I) self-administration;
- (J) emergency drug tray;
- (K) formulary, if applicable;

- (L) drug storage areas;
- (M) drug samples;
- (N) drug product defect reports;
- (O) drug recalls;
- (P) outdated drugs;
- (Q) preparation and distribution of IV admixtures;
- (R) procedures for supplying drugs for postoperative use, if applicable;
- (S) use of automated medication supply [~~drug dispensing~~] systems; ~~and~~
- (T) use of data processing systems; ~~and~~ [-]
- (U) drug regimen review.

(9) Drugs supplied for outpatient use. Drugs provided to patients for take home use [supplied to patients for outpatient use] shall be supplied according to the following procedures.

(A) Drugs may only be supplied to patients who have been admitted to the FEMCF [~~freestanding emergency medical center~~].

(B) Drugs may only be supplied in accordance with the system of control and accountability established for drugs supplied from the FEMCF [~~freestanding emergency medical center~~]; such system shall be developed and supervised by the pharmacist-in-charge or staff pharmacist designated by the pharmacist-in-charge.

(C) Only drugs listed on the approved outpatient drug list may be supplied; such list shall be developed by the pharmacist-in-charge and the medical staff and shall consist of drugs of the nature and type to meet the immediate postoperative needs of the FEMCF [~~freestanding emergency medical center~~] patient.

(D) Drugs may only be supplied in prepackaged quantities not to exceed a 72-hour supply in suitable containers and appropriately prelabeled (including name, address, and phone number of the facility and necessary auxiliary labels) by the pharmacy, provided, however that topicals and ophthalmics in original manufacturer's containers may be supplied in a quantity exceeding a 72-hour supply.

(E) At the time of delivery of the drug, the practitioner or licensed nurse under the practitioner's supervision shall complete the label, such that the prescription container bears a label with at least the following information:

- (i) date supplied;
- (ii) name of practitioner;
- (iii) name of patient;
- (iv) directions for use;
- (v) brand name and strength of the drug; or if no brand name, then the generic name of the drug dispensed, strength, and the name of the manufacturer or distributor of the drug; and
- (vi) unique identification number.

(F) After the drug has been labeled [by the practitioner], the practitioner or a licensed nurse under the supervision of the practitioner shall give the appropriately labeled, prepackaged medication to the patient.

(G) A perpetual record of drugs which are supplied from the FEMCF [~~FEMCC~~] shall be maintained which includes:

- (i) name, address, and phone number of the facility;

- (ii) date supplied;
- (iii) name of practitioner;
- (iv) name of patient;
- (v) directions for use;
- (vi) brand name and strength of the drug; or if no brand name, then the generic name of the drug dispensed, strength, and the name of the manufacturer or distributor of the drug; and
- (vii) unique identification number.

(H) The pharmacist-in-charge, or a pharmacist designated by the pharmacist-in-charge, shall review the records at least once in every calendar week that the pharmacy is open [every seven days].

(10) Drug regimen review.

(A) A pharmacist shall evaluate medication orders and patient medication records for:

- (i) known allergies;
- (ii) rational therapy--contraindications;
- (iii) reasonable dose and route of administration;
- (iv) reasonable directions for use;
- (v) duplication of therapy;
- (vi) drug-drug interactions;
- (vii) drug-food interactions;
- (viii) drug-disease interactions;
- (ix) adverse drug reactions;
- (x) proper utilization, including overutilization or underutilization; and

(xi) clinical laboratory or clinical monitoring methods to monitor and evaluate drug effectiveness, side effects, toxicity, or adverse effects, and appropriateness to continued use of the drug in its current regimen.

(B) A retrospective, random drug regimen review as specified in the pharmacy's policies and procedures shall be conducted on a periodic basis to verify proper usage of drugs not to exceed 31 days between such reviews.

(C) Any questions regarding the order must be resolved with the prescriber and a written notation of these discussions made and maintained.

(e) Records.

(1) Maintenance of records.

(A) Every inventory or other record required to be kept under the provisions of this section (relating to Pharmacies Located in a Freestanding Emergency Medical Care Facility (Class F) [~~Center~~]) shall be:

(i) kept by the pharmacy and be available, for at least two years from the date of such inventory or record, for inspecting and copying by the board or its representative, and other authorized local, state, or federal law enforcement agencies; and

(ii) supplied by the pharmacy within 72 hours, if requested by an authorized agent of the Texas State Board of Pharmacy. If the pharmacy maintains the records in an electronic format, the requested records must be provided in a mutually agreeable electronic format if specifically requested by the board or its representative. Fail-

ure to provide the records set out in this subsection, either on site or within 72 hours, constitutes prima facie evidence of failure to keep and maintain records in violation of the Act.

(B) Records of controlled substances listed in Schedule I and II shall be maintained separately and readily retrievable from all other records of the pharmacy.

(C) Records of controlled substances listed in Schedules III - V shall be maintained separately or readily retrievable from all other records of the pharmacy. For purposes of this subparagraph [subsection], readily retrievable means that the controlled substances shall be asterisked, red-lined, or in some other manner readily identifiable apart from all other items appearing on the record.

(D) Records, except when specifically required to be maintained in original or hard-copy form, may be maintained in an alternative data retention system, such as a data processing or direct imaging system, e.g., microfilm or microfiche, provided:

(i) the records in the alternative data retention system contain all of the information required on the manual record; and

(ii) the alternative data retention system is capable of producing a hard copy of the record upon the request of the board, its representative, or other authorized local, state, or federal law enforcement or regulatory agencies.

(E) Controlled substance records shall be maintained in a manner to establish receipt and distribution of all controlled substances.

(F) A FEMCF pharmacy shall maintain a perpetual inventory of controlled substances listed in Schedule II - V which shall be verified for completeness and reconciled at least once in every calendar week that the pharmacy is open.

(G) Distribution records for controlled substances, listed in Schedule II - V shall include the following information:

(i) patient's name;

(ii) practitioner's name who order the drug;

(iii) name of drug, dosage form, and strength;

(iv) time and date of administration to patient and quantity administered;

(v) signature or electronic signature of individual administering the controlled substance;

(vi) returns to the pharmacy; and

(vii) waste (waste is required to be witnessed and cosigned, manually or electronically, by another individual).

(H) The record required by subparagraph (G) of this paragraph shall be maintained separately from patient records.

(I) A pharmacist shall conduct an audit by randomly comparing the distribution records required by subparagraph (G) with the medication orders in the patient record on a periodic basis to verify proper administration of drugs not to exceed 30 days between such reviews.

{(2) Outpatient records.}

{(A) Only a registered pharmacist may receive, certify, and receive prescription drug orders.}

{(B) Outpatient records shall be maintained as provided in §291.34 and §291.35 of this title contained in Community Pharmacy (Class A).}

{(C) Outpatient prescriptions, including, but not limited to, discharge prescriptions, that are written by the practitioner, must be written on a form which meets the requirements of the Act, §562.006. Medication order forms or copies thereof do not meet the requirements for outpatient forms.}

{(D) Controlled substances listed in Schedule II must be written on an official prescription form in accordance with the Texas Controlled Substances Act, §481.075; and rules promulgated pursuant to the Texas Controlled Substances Act, unless exempted by the Texas Controlled Substances Rules, 37 TAC §13.74. Outpatient prescriptions for Schedule II controlled substances that are exempted from the official prescription requirement must be manually signed by the practitioner.}

(2) [(3)] Patient records.

(A) Each [original] medication order or set of orders issued together shall bear the following information:

(i) patient name;

(ii) drug name, strength, and dosage form;

(iii) directions for use;

(iv) date; and

(v) signature or electronic signature of the practitioner or that of his or her authorized agent, defined as a licensed nurse employee or consultant/full or part-time pharmacist of the FEMCF [FEMCC].

(B) Medication [Original medication] orders shall be maintained with the medication administration record in the medical records of the patient.

{(C) Controlled substances records shall be maintained as follows.}

{(i) All records for controlled substances shall be maintained in a readily retrievable manner.}

{(ii) Controlled substances records shall be maintained in a manner to establish receipt and distribution of all controlled substances.}

{(D) Records of controlled substances listed in Schedule II shall be maintained as follows.}

{(i) Records of controlled substances listed in Schedule II shall be maintained separately from records of controlled substances in Schedules III, IV, and V, and all other records.}

{(ii) A FEMCC pharmacy shall maintain a perpetual inventory of any controlled substance listed in Schedule II.}

{(iii) Distribution records for Schedule II - V controlled substances floor stock shall include the following information:}

{(i) patient's name;}

{(ii) practitioner who ordered drug;}

{(iii) name of drug, dosage form, and strength;}

{(iv) time and date of administration to patient and quantity administered;}

{(v) signature or electronic signature of individual administering controlled substance;}

{(vi) returns to the pharmacy; and}

{(vii) waste (waste is required to be witnessed and cosigned, manually or electronically, by another individual).}

~~{(E) Floor stock records shall be maintained as follows.}~~

~~{(i) Distribution records for Schedules III - V controlled substances floor stock shall include the following information:}~~

~~{(I) patient's name;}~~

~~{(II) practitioner who ordered controlled substance;}~~

~~{(III) name of controlled substance, dosage form, and strength;}~~

~~{(IV) time and date of administration to patient;}~~

~~{(V) quantity administered;}~~

~~{(VI) signature or electronic signature of individual administering drug;}~~

~~{(VII) returns to the pharmacy; and}~~

~~{(VIII) waste (waste is required to be witnessed and cosigned, manually or electronically, by another individual).}~~

~~{(ii) The record required by clause (i) of this subparagraph shall be maintained separately from patient records.}~~

~~{(iii) A pharmacist shall review distribution records with medication orders on a periodic basis to verify proper usage of drugs, not to exceed 30 days between such reviews.}~~

~~(3) [(F)] General requirements for records maintained in a data processing system are as follows.~~

~~(A) [(i)] If an FEMCF [FEMCC] pharmacy's data processing system is not in compliance with the board's requirements, the pharmacy must maintain a manual recordkeeping system.~~

~~(B) [(ii)] [Requirements for backup systems.] The facility shall maintain a backup copy of information stored in the data processing system using disk, tape, or other electronic backup system and update this backup copy on a regular basis to assure that data is not lost due to system failure.~~

~~{(iii) Change or discontinuance of a data processing system.}~~

~~(C) [(4)] [Records of distribution and return for all controlled substances and nalbuphine (Nubain).] A pharmacy that changes or discontinues use of a data processing system must:~~

~~(i) [(-a-)] transfer the records to the new data processing system; or~~

~~(ii) [(-b-)] purge the records to a printout which contains: [the same information as required on the audit trail printout as specified in subparagraph (G)(ii) of this paragraph. The information on this printout shall be sorted and printed by drug name and list all distributions/returns chronologically.]~~

~~(I) all of the information required on the original document; or~~

~~(II) for records of distribution and return for all controlled substances, the same information as required on the audit trail printout as specified in subparagraph (F) of this paragraph. The information on the printout shall be sorted and printed by drug name and list all distributions and returns chronologically.~~

~~{(H) Other records. A pharmacy that changes or discontinues use of a data processing system must:}~~

~~{(-a-) transfer the records to the new data processing system; or}~~

~~{(-b-) purge the records to a printout which contains all of the information required on the original document.}~~

~~(D) [(III)] [Maintenance of purged records.] Information purged from a data processing system must be maintained by the pharmacy for two years from the date of initial entry into the data processing system.~~

~~(E) [(iv)] [Loss of data.] The pharmacist-in-charge shall report to the board in writing any significant loss of information from the data processing system within 10 days of discovery of the loss.~~

~~{(G) Data processing system maintenance of records for the distribution and return of all controlled substances, tramadol (Ultram), and nalbuphine (Nubain) to the pharmacy.}~~

~~{(i) Each time a controlled substance, tramadol (Ultram), or nalbuphine (Nubain) is distributed from or returned to the pharmacy, a record of such distribution or return shall be entered into the data processing system.}~~

~~(F) [(ii)] The data processing system shall have the capacity to produce a hard-copy printout of an audit trail of drug distribution and return for any strength and dosage form of a drug (by either brand or generic name or both) during a specified time period. This printout shall contain the following information:~~

~~(i) [(4)] patient's name [and room number] or patient's facility identification number;~~

~~(ii) [(H)] prescribing or attending practitioner's name;~~

~~(iii) [(HH)] name, strength, and dosage form of the drug product actually distributed;~~

~~(iv) [(IV)] total quantity distributed from and returned to the pharmacy;~~

~~(v) [(V)] if not immediately retrievable via electronic image, the following shall also be included on the printout:~~

~~(I) [(-a-)] prescribing or attending practitioner's address; and~~

~~(II) [(-b-)] practitioner's DEA registration number, if the medication order is for a controlled substance.~~

~~(G) [(iii)] An audit trail printout for each strength and dosage form of these drugs distributed during the preceding month shall be produced at least monthly and shall be maintained in a separate file at the facility. The information on this printout shall be sorted by drug name and list all distributions/returns for that drug chronologically.~~

~~(H) [(iv)] The pharmacy may elect not to produce the monthly audit trail printout if the data processing system has a workable (electronic) data retention system which can produce an audit trail of drug distribution and returns for the preceding two years. The audit trail required in this clause shall be supplied by the pharmacy within 72 hours, if requested by an authorized agent of the Texas State Board of Pharmacy, or other authorized local, state, or federal law enforcement or regulatory agencies.~~

~~{(H) Failure to maintain records. Failure to provide records set out in this subsection, either on site or within 72 hours for whatever reason, constitutes prima facie evidence of failure to keep and maintain records.}~~

~~(I) [Data processing system downtime.] In the event that an FEMCF [FEMCC] pharmacy which uses a data processing system experiences system downtime, the pharmacy must have an aux-~~

iliary procedure which will ensure that all data is retained for on-line data entry as soon as the system is available for use again.

(4) Distribution of controlled substances to another registrant. A pharmacy may distribute controlled substances to a practitioner, another pharmacy, or other registrant, without being registered to distribute, under the following conditions.

(A) The registrant to whom the controlled substance is to be distributed is registered under the Controlled Substances Act to possess [~~dispense~~] that controlled substance.

(B) The total number of dosage units of controlled substances distributed by a pharmacy may not exceed 5.0% of all controlled substances dispensed by the pharmacy during the 12-month period in which the pharmacy is registered; if at any time it does exceed 5.0%, the pharmacy is required to obtain an additional registration to distribute controlled substances.

(C) If the distribution is for a Schedule III, IV, or V controlled substance, a record shall be maintained which indicates:

(i) the actual date of distribution;

(ii) the name, strength, and quantity of controlled substances distributed;

(iii) the name, address, and DEA registration number of the distributing pharmacy; and

(iv) the name, address, and DEA registration number of the pharmacy, practitioner, or other registrant to whom the controlled substances are distributed.

(D) If the distribution is for a Schedule II controlled substance, the following is applicable.

(i) The pharmacy, practitioner, or other registrant who is receiving the controlled substances shall issue Copy 1 and Copy 2 of a DEA order form (DEA 222[~~C~~]) to the distributing pharmacy.

(ii) The distributing pharmacy shall:

(I) complete the area on the DEA order form (DEA 222[~~C~~]) titled "To Be Filled in by Supplier";

(II) maintain Copy 1 of the DEA order form (DEA 222[~~C~~]) at the pharmacy for two years; and

(III) forward Copy 2 of the DEA order form (DEA 222[~~C~~]) to the divisional office of the Drug Enforcement Administration.

(5) Other records. Other records to be maintained by the pharmacy include:

(A) a permanent log of the initials or identification codes which will identify each pharmacist by name. The initials or identification code shall be unique to ensure that each pharmacist can be identified, i.e., identical initials or identification codes cannot be used;

(B) Copy 3 of DEA order form (DEA 222[~~C~~]), which has been properly dated, initialed, and filed, and all copies of each unaccepted or defective order form and any attached statements or other documents and/or for each order filled using the DEA Controlled Substance Ordering System (CSOS), the original signed order and all linked records for that order;

(C) a [~~hard~~] copy of the power of attorney to sign DEA 222C order forms (if applicable);

(D) suppliers' invoices of dangerous drugs and controlled substances dated and initialed or signed by the person receiving

the drugs; a pharmacist shall verify that the controlled drugs listed on the invoices were added to the pharmacy's perpetual inventory [actually received] by clearly recording his/her initials and the [actual] date of review [receipt] of the perpetual inventory [controlled substances];

(E) supplier's credit memos for controlled substances and dangerous drugs;

(F) a [~~hard~~] copy of inventories required by §291.17 of this title (relating to Inventory Requirements) except that a perpetual inventory of controlled substances listed in Schedule II may be kept in a data processing system if the data processing system is capable of producing a hard copy of the perpetual inventory on-site;

(G) [~~hard-copy~~] reports of surrender or destruction of controlled substances and/or dangerous drugs to an appropriate state or federal agency;

{~~(H) a hard-copy Schedule V nonprescription register book;~~}

(H) [~~(H)~~] records of distribution of controlled substances and/or dangerous drugs to other pharmacies, practitioners, or registrants; and

(I) [~~(I)~~] a [~~hard~~] copy of any notification required by the Texas Pharmacy Act or these rules, including, but not limited to, the following:

(i) reports of theft or significant loss of controlled substances to DEA, DPS, and the board;

(ii) notification of a change in pharmacist-in-charge of a pharmacy; and

(iii) reports of a fire or other disaster which may affect the strength, purity, or labeling of drugs, medications, devices, or other materials used in the diagnosis or treatment of injury, illness, and disease.

(6) Permission to maintain central records. Any pharmacy that uses a centralized recordkeeping system for invoices and financial data shall comply with the following procedures.

(A) Controlled substance records. Invoices and financial data for controlled substances may be maintained at a central location provided the following conditions are met.

(i) Prior to the initiation of central recordkeeping, the pharmacy submits written notification by registered or certified mail to the divisional director of the Drug Enforcement Administration as required by the Code of Federal Regulations, Title 21, §1304(a), and submits a copy of this written notification to the Texas State Board of Pharmacy. Unless the registrant is informed by the divisional director of the Drug Enforcement Administration that permission to keep central records is denied, the pharmacy may maintain central records commencing 14 days after receipt of notification by the divisional director.

(ii) The pharmacy maintains a copy of the notification required in this subparagraph.

(iii) The records to be maintained at the central record location shall not include executed DEA order forms, prescription drug orders, or controlled substance inventories, which shall be maintained at the pharmacy.

(B) Dangerous drug records. Invoices and financial data for dangerous drugs may be maintained at a central location.

(C) Access to records. If the records are kept on microfilm, computer media, or in any form requiring special equipment to render the records easily readable, the pharmacy shall provide access to such equipment with the records.

(D) Delivery of records. The pharmacy agrees to deliver all or any part of such records to the pharmacy location within two business days of written request of a board agent or any other authorized official.

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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Gay Dodson, R.Ph.

Executive Director

Texas State Board of Pharmacy

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For further information, please call: (512) 305-8028



CHAPTER 295. PHARMACISTS

22 TAC §295.15, §295.16

The Texas State Board of Pharmacy proposes amendments to §295.15 concerning Administration of Immunizations or Vaccinations by a Pharmacist under Written Protocol of a Physician and new §295.16 concerning Administration of Epinephrine by a Pharmacist. The amendments to §295.15, if adopted, add requirements regarding hand sanitization for pharmacists administering immunizations. New §295.16, if adopted, implements the provisions of HB 1550 regarding the administration of epinephrine by a pharmacist.

Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Ms. Dodson has determined that, for each year of the first five-year period the rules will be in effect, the public benefit anticipated as a result of enforcing the amendments to §295.15 will ensure patient safety when receiving immunizations or vaccinations from a pharmacist; and new §295.16 will allow pharmacists to provide epinephrine through an auto-injector in emergency situations. There is no fiscal impact for individuals, small or large businesses, or to other entities which are required to comply with these sections.

Written comments on the amendments and new section may be submitted to Allison Benz, R.Ph., M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600, Austin, Texas 78701, FAX (512) 305-6778. Comments must be received by 5:00 p.m., October 30, 2015.

The amendments and new section are proposed under §§551.002, 554.051, 554.052, and 562.057 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration

and enforcement of the Act. The Board interprets §554.052 as authorizing the agency to adopt rules regarding the administration of immunizations and vaccinations. The Board interprets §562.057 as authorizing the agency to adopt rules designed to protect the public health and safety of patients by allowing pharmacists to administer epinephrine through an auto-injector device to a patient in an emergency situation.

The statutes affected by the amendments and new section: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§295.15. Administration of Immunizations or Vaccinations by a Pharmacist under Written Protocol of Physician.

(a) - (d) (No change.)

(e) Special Provisions. Pharmacists involved in the administration of immunizations or vaccinations under their license to practice pharmacy shall meet the following restrictions and requirements.

(1) Pharmacists may only administer immunizations or vaccinations pursuant to a written protocol from a physician authorizing the administration.

(2) Pharmacists may administer immunizations or vaccinations to a patient under 14 years of age only upon a referral from a physician who has an established physician-patient relationship with each patient. However, a pharmacist may administer an influenza vaccination to a patient over seven years of age without an established physician-patient relationship.

(3) Pharmacists may administer immunizations or vaccinations under written protocol of a physician within a pharmacy or at any other location specifically identified in the written protocol. Such other location may not include where the patient resides, except for a licensed nursing home or hospital.

(4) The authority of a pharmacist to administer immunizations or vaccinations may not be delegated.

(5) Pharmacists may administer immunizations and vaccinations only when a licensed health-care provider authorized to administer the medication is not reasonably available to administer the medication. For the purpose of this section, "reasonably available" means those times when the licensed health-care provider is immediately available to administer the immunization or vaccine and is specifically tasked to do so.

(6) Under the provisions of the National Vaccine Injury Compensation Program (NVICP), the health-care provider under whose authority a covered vaccine is administered (i.e., the physician issuing the written protocol) must maintain certain information in the patient's permanent record. In order for the physician to comply with the provisions of the NVICP, the pharmacist shall provide the physician with the information specified in subsection (g) of this section.

(7) Before preparing an immunization or vaccine and between each patient contact, the pharmacist shall cleanse his or her hands with an alcohol-based waterless antiseptic hand rub or shall wash his or her hands with soap and water. If gloves are worn, the pharmacist shall change gloves between patients.

(8) [(7)] The pharmacist shall comply with all other state and federal requirements regarding immunizations or vaccinations.

(f) - (i) (No change.)

§295.16. Administration of Epinephrine by a Pharmacist.

(a) Purpose. The purpose of this section is to allow pharmacists to administer epinephrine through an auto-injector device to a patient in an emergency situation as authorized in Chapter 562 of the Act.

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

(1) Act--The Texas Pharmacy Act, Chapter 551 - 569, Occupations Code, as amended.

(2) Administer--The direct application of a prescription drug to the body of an individual by any means, including injection, by a pharmacist.

(3) Anaphylaxis--A potentially life-threatening hypersensitivity to a substance. Symptoms may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma. Causes may include, but are not limited to, an insect sting, food allergy, drug reaction, and exercise.

(4) Epinephrine auto-injector--A disposable drug delivery system with a spring-activated needle that is designed for emergency administration of epinephrine to provide rapid, convenient first aid for persons suffering a potentially fatal anaphylactic reaction.

(c) Administration requirements.

(1) Pharmacists may administer epinephrine through an auto-injector to a patient in an emergency situation.

(2) The authority of a pharmacist to administer epinephrine through an auto-injector may not be delegated.

(3) Epinephrine administered by a pharmacist under the provisions of this section shall be in the legal possession of a pharmacist or the legal possession of a pharmacy which shall be the pharmacy responsible for drug accountability, including the maintenance of records of administration of the epinephrine.

(d) Limitation on liability.

(1) A pharmacist who in good faith administers epinephrine through an auto-injector in accordance with this section and Chapter 562 of the Act is not liable for civil damages for an act performed in the administration unless the act is willfully or wantonly negligent.

(2) A pharmacist may not receive remuneration for the administration of epinephrine through an auto-injector but may seek reimbursement for the cost of the epinephrine auto-injector.

(3) The administration of epinephrine through an auto-injector to a patient in accordance with the requirements of this section and Chapter 562 of the Act does not constitute the unlawful practice of any health care profession.

(e) Notifications.

(1) A pharmacist who administers epinephrine through an auto-injector to a patient shall report the use to the patient's primary care physician, as identified by the patient, as soon as practical, but in no event more than 72 hours from the time of administering the epinephrine.

(2) Immediately, after administering the epinephrine auto-injector, the pharmacist shall ensure that 911 is called and the patient is evaluated by emergency personnel for possible transfer to the nearest emergency department for additional evaluation, monitoring, and treatment.

(3) The notifications required in paragraph (1) of this subsection shall include the:

(A) name of the patient;

(B) age of the patient if under 8 years of age;

(C) name and manufacturer of the epinephrine auto-injector;

(D) date the epinephrine was administered;

(E) name and title of the person administering the epinephrine; and

(F) name, address, and telephone number of the pharmacy.

(f) Records.

(1) The notification required to be made under this section shall be kept by the pharmacy and such records shall be available for at least two years from the date of such record, for inspecting and copying by the board or its representative and to other authorized local, state, or federal law enforcement or regulatory agencies.

(2) The notification may be maintained in an alternative data retention system, such as a data processing system or direct imaging system provided:

(A) the records maintained in the alternative system contain all of the information required on the manual record; and

(B) the data processing system is capable of producing a hard copy of the record upon request of the board, its representative, or other authorized local, state, or federal law enforcement or regulatory agencies.

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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CHAPTER 297. PHARMACY TECHNICIANS AND PHARMACY TECHNICIAN TRAINEES

22 TAC §297.10

The Texas State Board of Pharmacy proposes amendments to §297.10 concerning Licenses for Military Spouse. The amendments, if adopted, update the title of the section and implement provisions of SB 807 and SB 1307 passed by the 2015 Texas Legislature regarding military service members, military veterans, and military spouses.

Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year period the rule is in effect, there will be no fiscal implications for local government as a result of enforcing or administering the rule. The Board is unable to determine the fiscal implications for state government as a result of enforcing or administering the rule because it is unknown how many individuals are military services members, military veterans, or military spouses.

Ms. Dodson has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will ensure that military service members, military veterans, and military spouses are qualified for licensure as a pharmacist. Economic cost to persons who are required to comply with the amendments will be the fees paid to other entities and not the Texas State Board of Pharmacy. The effect on large, small or micro-businesses (pharmacies) will be the same as the economic cost to an individual, if the pharmacy chooses to pay any of the fees for the individual.

Written comments on the amendments may be submitted to Allison Benz, R.Ph., M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600, Austin, Texas 78701, FAX (512) 305-6778. Comments must be received by 5:00 p.m., October 30, 2015.

The amendments are proposed under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code) and Chapter 55 (Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act. The Board interprets Chapter 55 as authorizing the agency to adopt rules regarding the license of a person who is a military service member, military veteran, or military spouse.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 569, Texas Occupations Code.

§297.10. *Registration for Military Service Members, Military Veterans, and Military Spouses.*

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

(1) Active duty--Current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, or similar military service of another state.

(2) Armed forces of the United States--The army, navy, air force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.

(3) Military service member--A person who is on active duty.

(4) Military spouse--A person who is married to a military service member.

(5) Military veteran--A person who has served on active duty and who was discharged or released from active duty.

(b) [(a)] Alternative registration procedure. For the purpose of §55.004, Occupations Code, an applicant for a pharmacy technician registration who is a military service member, military veteran, or military spouse [the spouse of a person serving on active duty as a member of the armed forces of the United States] may complete the following alternative procedures for registering as a pharmacy technician.

(1) An applicant who holds a current registration as a pharmacy technician issued by another state but does not have a current PTCB certificate shall meet the requirements for registration as a pharmacy technician trainee as specified in §297.3 of this chapter (relating to Registration Requirements).

(2) An applicant who held a pharmacy technician registration in Texas that expired within the five years preceding the application date [and the registration expired while the applicant lived in another state for at least six months] who meets the following requirements may be granted a pharmacy technician registration. The applicant:

(A) shall complete the Texas application for registration that includes the following:

(i) name;

(ii) addresses, phone numbers, date of birth, and social security number; however, if an individual is unable to obtain a social security number, an individual taxpayer identification number may be provided in lieu of a social security number along with documentation indicating why the individual is unable to obtain a social security number; and

(iii) any other information requested on the application;

(B) shall provide documentation [that the applicant is the spouse of a member of the armed forces of the United States] to include:

~~(i) marriage certificate; and~~

~~(ii) [(ii)] military identification indicating that the [:~~

~~[(#)] applicant is a military service member, military veteran, or military dependent, if a military spouse; and~~

~~(iii) [(H)] marriage certificate, if the applicant is a military spouse; applicant's spouse is on active duty status;~~

(C) be exempt from the application fees paid to the board set forth in §297.4(a) and (b)(2) of this chapter [shall pay the registration fee set out in §297.4 of this title];

(D) shall meet all necessary requirements in order for the board to access the criminal history records information, including submitting fingerprint information and such criminal history check does not reveal any charge or conviction for a crime that §281.64 of this title (relating to Sanctions for Criminal Offenses) indicates a sanction of denial, revocation, or suspension; and

(E) is not required to have a current PTCB certificate.

(c) [(b)] Expedited registration procedure. For the purpose of §55.005, Occupations Code, an applicant for a pharmacy technician registration who is a military service member, military veteran or military spouse [the spouse of a person serving on active duty as a member of the armed forces of the United States] and who holds a current registration as a pharmacy technician issued by another state or who held a pharmacy technician registration in Texas that expired within the five years preceding the application date may complete the following expedited procedures for registering as a pharmacy technician.

(1) The applicant shall:

(A) have a high school or equivalent diploma (e.g., GED), or be working to achieve a high school or equivalent diploma. For the purpose of this clause, an applicant for registration may be working to achieve a high school or equivalent diploma for no more than two years; and

(B) have taken and passed the Pharmacy Technician Certification Board's National Pharmacy Technician Certification Examination or other examination approved by the board and have a current certification certificate; and

(C) complete the Texas application for registration that includes the following information:

(i) name;

(ii) addresses, phone numbers, date of birth, and social security number; however, if an individual is unable to obtain a social security number, an individual taxpayer identification number may be provided in lieu of a social security number along with documentation indicating why the individual is unable to obtain a social security number; and

(iii) any other information requested on the application.

(D) meet all requirements necessary in order for the Board to access the criminal history record information, including submitting fingerprint information and paying the required fees; [and

(E) shall be exempt from [pay] the registration fee as specified in §297.4(b)(2) of this chapter [title] (relating to Fees).

(2) Once an applicant has successfully completed all requirements of registration, and the board has determined there are no grounds to refuse registration, the applicant will be notified of registration as a registered pharmacy technician and of his or her pharmacy technician registration number.

(3) All applicants for renewal of an expedited pharmacy technician registration issued to a military service member, military veteran, or military spouse shall comply with the renewal procedures as specified in §297.3 of this chapter [title] (relating to Registration Requirements).

(d) License renewal. As specified in §55.003, Occupations Code, a military service member who holds a pharmacy technician registration is entitled to two years of additional time to complete any requirements related to the renewal of the military service member's registration as follows:

(1) A military service member who fails to renew their pharmacy technician registration in a timely manner because the individual was serving as a military service member shall submit to the board:

(A) name, address, and registration number of the pharmacy technician;

(B) military identification indicating that the individual is a military service member; and

(C) a statement requesting up to two years of additional time to complete the renewal.

(2) A military service member specified in paragraph (1) of this subsection shall be exempt from fees specified in §297.3(d)(4) of this chapter (relating to Registration Requirements).

(3) A military service member specified in paragraph (1) of this subsection is entitled to two additional years of time to complete the continuing education requirements specified in §297.8 of this title (relating to Continuing Education Requirements).

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

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CHAPTER 309. SUBSTITUTION OF DRUG PRODUCTS

22 TAC §§309.1 - 309.8

The Texas State Board of Pharmacy proposes amendments to §309.1 concerning Objective, §309.2 concerning Definitions, §309.3 concerning Generic Substitution, §309.4 concerning Patient Notification, §309.6 concerning Records, §309.7 concerning Dispensing Responsibilities, and §309.8 concerning Advertising of Generic Drugs by Pharmacies and new §309.5 concerning Communication with Prescriber. The new rule and amendments, if adopted, implement the provisions of HB 751 regarding interchangeable biological products; and SB 460 regarding posting of the generic substitution sign.

Gay Dodson, R.Ph., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Ms. Dodson has determined that, for each year of the first five-year period the rules will be in effect, the public benefit anticipated as a result of enforcing the amendments and new rule will ensure pharmacists are substituting interchangeable biological products appropriately. There is no fiscal impact for individuals, small or large businesses, or to other entities which are required to comply with these sections.

Comments on the amendments and new rule may be submitted to Allison Benz, R.Ph., M.S., Director of Professional Services, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-600, Austin, Texas 78701, FAX (512) 305-8008. Comments must be received by 5:00 p.m., October 30, 2015.

The amendments and new rule are proposed under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 566 and 568 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments and new rule: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code.

§309.1. Objective.

These sections govern the substitution of lower-priced generically equivalent drug products for certain brand name drug products and the substitution of interchangeable biological products for certain biological products.

§309.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Any term not defined in this section shall have the definition set out in the Act, §551.003 and Chapter 562.

(1) Act--The Texas Pharmacy Act, Occupations Code, Subtitle J, as amended.

(2) Biological product--A virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein (except any chemically synthesized polypeptide), or analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition of human beings.

(3) Biosimilar--A biological product that is highly similar to the reference product notwithstanding minor differences in clinically inactive components and there are no clinically meaningful differences between the biological product and the reference product in terms of the safety, purity, and potency of the product.

(4) [(2)] Data communication device--An electronic device that receives electronic information from one source and transmits or routes it to another (e.g., bridge, router, switch, or gateway).

(5) [(3)] Electronic prescription drug order--A prescription drug order which is transmitted by an electronic device to the receiver (pharmacy).

(6) [(4)] Generically equivalent--A drug that is pharmaceutically equivalent and therapeutically equivalent to the drug prescribed.

(7) Interchangeable--Referencing a biological product that is:

(A) biosimilar to the reference product and can be expected to produce the same clinical result as the reference product in any given patient; and if the biological product is administered more than once to an individual, the risk in terms of safety or diminished efficacy of alternating or switching between use of the biological product and the reference product is not greater than the risk of using the reference product without such alternation or switch may be substituted for the reference product without the intervention of the health care provider who prescribed the reference product; or

(B) designated as therapeutically equivalent to another product by the United States Food and Drug Administration in the most recent edition or supplement of the United States Food and Drug Administration's references.

(8) [(5)] Pharmaceutically equivalent--Drug products that have identical amounts of the same active chemical ingredients in the same dosage form and that meet the identical compendial or other applicable standards of strength, quality, and purity according to the United States Pharmacopoeia or another nationally recognized compendium.

(9) Reference product--A single biological product against which a biological product is evaluated and is found to be biosimilar.

(10) [(6)] Therapeutically equivalent--Pharmaceutically equivalent drug products that, if administered in the same amounts, will provide the same therapeutic effect, identical in duration and intensity.

(11) [(7)] Original prescription--The:

(A) original written prescription drug orders; or

(B) original verbal or electronic prescription drug orders reduced to writing either manually or electronically by the pharmacist.

(12) [(8)] Practitioner--

(A) A person licensed or registered to prescribe, distribute, administer, or dispense a prescription drug or device in the course

of professional practice in this state, including a physician, dentist, podiatrist, therapeutic optometrist, or veterinarian but excluding a person licensed under this subtitle;

(B) A person licensed by another state, Canada, or the United Mexican States in a health field in which, under the law of this state, a license holder in this state may legally prescribe a dangerous drug;

(C) A person practicing in another state and licensed by another state as a physician, dentist, veterinarian, or podiatrist, who has a current federal Drug Enforcement Administration registration number and who may legally prescribe a Schedule II, III, IV, or V controlled substance, as specified under Chapter 481, Health and Safety Code, in that other state; or

(D) An advanced practice registered nurse or physician assistant to whom a physician has delegated the authority to carry out or sign prescription drug orders under §§157.0511, 157.0512, or [157.052; 157.053;] 157.054, [157.0541; or 157.0542;] Occupations Code.

§309.3. *[Generic] Substitution Requirements.*

(a) General requirements. In accordance with Chapter 562 of the Act, a pharmacist may dispense a generically equivalent drug or interchangeable biological product if:

(1) the generic drug or interchangeable biological product costs the patient less than the prescribed drug product;

(2) the patient does not refuse the substitution; and

(3) the practitioner does not certify on the prescription form that a specific prescribed brand is medically necessary as specified in a dispensing directive described in subsection (c) of this section.

(b) Prescription format for written prescription drug orders.

(1) A written prescription drug order issued in Texas may:

(A) be on a form containing a single signature line for the practitioner; and

(B) contain the following reminder statement on the face of the prescription: "A generically equivalent drug product may be dispensed unless the practitioner hand writes the words 'Brand Necessary' or 'Brand Medically Necessary' on the face of the prescription."

(2) A pharmacist may dispense a prescription that is not issued on the form specified in paragraph (1) of this subsection, however, the pharmacist may dispense a generically equivalent drug or interchangeable biological product unless the practitioner has prohibited substitution through a dispensing directive in compliance with subsection (c)(1) of this section.

(3) The prescription format specified in paragraph (1) of this subsection does not apply to the following types of prescription drug orders:

(A) prescription drug orders issued by a practitioner in a state other than Texas;

(B) prescriptions for dangerous drugs issued by a practitioner in the United Mexican States or the Dominion of Canada; or

(C) prescription drug orders issued by practitioners practicing in a federal facility provided they are acting in the scope of their employment.

(4) In the event of multiple prescription orders appearing on one prescription form, the practitioner shall clearly identify to which prescription(s) the dispensing directive(s) apply. If the practitioner does not clearly indicate to which prescription(s) the dispensing direc-

tive(s) apply, the pharmacist may substitute on all prescriptions on the form.

(c) Dispensing directive.

(1) General requirements. The following is applicable to the dispensing directive outlined in this subsection.

(A) When a prescription is issued for a brand name product that has no generic equivalent product, the pharmacist must dispense the brand name product. If a generic equivalent or interchangeable biological product becomes available, a pharmacist may substitute the generically equivalent or interchangeable biological product unless the practitioner has specified on the initial prescription that the brand name product is medically necessary.

(B) If the practitioner has prohibited substitution through a dispensing directive in compliance with this subsection, a pharmacist shall not substitute a generically equivalent drug or interchangeable biological product unless the pharmacist obtains verbal or written authorization from the practitioner, notes such authorization on the original prescription drug order, and notifies the patient in accordance with §309.4 of this title (relating to Patient Notification).

(2) Written prescriptions.

(A) A practitioner may prohibit the substitution of a generically equivalent drug or interchangeable biological product for a brand name drug product by writing across the face of the written prescription, in the practitioner's own handwriting, the phrase "brand necessary" or "brand medically necessary."

(B) The dispensing directive shall:

(i) be in a format that protects confidentiality as required by the Health Insurance Portability and Accountability Act of 1996 (29 U.S.C. Section 1181 et seq.) and its subsequent amendments; and

(ii) comply with federal and state law, including rules, with regard to formatting and security requirements.

(C) The dispensing directive specified in this paragraph may not be preprinted, rubber stamped, or otherwise reproduced on the prescription form.

(D) A practitioner may prohibit substitution on a written prescription only by following the dispensing directive specified in this paragraph. Two-line prescription forms, check boxes, or other notations on an original prescription drug order which indicate "substitution instructions" are not valid methods to prohibit substitution, and a pharmacist may substitute on these types of written prescriptions.

(3) Verbal Prescriptions.

(A) If a prescription drug order is transmitted to a pharmacist orally, the practitioner or practitioner's agent shall prohibit substitution by specifying "brand necessary" or "brand medically necessary." The pharmacist [pharmacists] shall note any substitution instructions by the practitioner or practitioner's agent, on the file copy of the prescription drug order. Such file copy may follow the one-line format indicated in subsection (b)(1) of this section, or any other format that clearly indicates the substitution instructions.

(B) If the practitioner's or practitioner's agent does not clearly indicate that the brand name is medically necessary, the pharmacist may substitute a generically equivalent drug or interchangeable biological product.

(C) To prohibit substitution on a verbal prescription reimbursed through the medical assistance program specified in 42 C.F.R., §447.331:

(i) the practitioner or the practitioner's agent shall verbally indicate that the brand is medically necessary; and

(ii) the practitioner shall mail or fax a written prescription to the pharmacy which complies with the dispensing directive for written prescriptions specified in paragraph (1) of this subsection within 30 days.

(4) Electronic prescription drug orders.

(A) To prohibit substitution, the practitioner or practitioner's agent shall clearly indicate substitution instructions in the electronic prescription drug order.

(B) If the practitioner or practitioner's agent does not indicate or does not clearly indicate in the electronic prescription drug order that the brand is necessary, the pharmacist may substitute a generically equivalent drug or interchangeable biological product.

(C) To prohibit substitution on an electronic prescription drug order reimbursed through the medical assistance program specified in 42 C.F.R., §447.331, the practitioner shall comply with state and federal laws.

(5) Prescriptions issued by out-of-state, Mexican, Canadian, or federal facility practitioners.

(A) The dispensing directive specified in this subsection does not apply to the following types of prescription drug orders:

(i) prescription drug orders issued by a practitioner in a state other than Texas;

(ii) prescriptions for dangerous drugs issued by a practitioner in the United Mexican States or the Dominion of Canada; or

(iii) prescription drug orders issued by practitioners practicing in a federal facility provided they are acting in the scope of their employment.

(B) A pharmacist may not substitute on prescription drug orders identified in subparagraph (A) of this paragraph unless the practitioner has authorized substitution on the prescription drug order. If the practitioner has not authorized substitution on the written prescription drug order, a pharmacist shall not substitute a generically equivalent drug product unless:

(i) the pharmacist obtains verbal or written authorization from the practitioner (such authorization shall be noted on the original prescription drug order); or

(ii) the pharmacist obtains written documentation regarding substitution requirements from the State Board of Pharmacy in the state, other than Texas, in which the prescription drug order was issued. The following is applicable concerning this documentation.

(I) The documentation shall state that a pharmacist may substitute on a prescription drug order issued in such other state unless the practitioner prohibits substitution on the original prescription drug order.

(II) The pharmacist shall note on the original prescription drug order the fact that documentation from such other state board of pharmacy is on file.

(III) Such documentation shall be updated yearly.

(d) Refills.

(1) Original substitution instructions. All refills shall follow the original substitution instructions unless otherwise indicated by the practitioner or practitioner's agent.

(2) Narrow therapeutic index drugs.

(A) The board and the Texas Medical Board shall establish a joint committee to recommend to the board a list of narrow therapeutic index drugs and the rules, if any, by which this paragraph applies to those drugs. The committee must consist of an equal number of members from each board. The committee members shall select a member of the committee to serve as presiding officer for a one year term. The presiding officer may not represent the same board as the presiding officer's predecessor.

(B) The board, on the recommendation of the joint committee, has determined that no drugs shall be included on a list of narrow therapeutic index drugs as defined in §562.014, Occupations Code.

(i) The board has specified in §309.7 of this title (relating to dispensing responsibilities) that for drugs listed in the publication, pharmacist shall use as a basis for determining generic equivalency, Approved Drug Products with Therapeutic Equivalence Evaluations and current supplements published by the Federal Food and Drug Administration, within the limitations stipulated in that publication. For drugs listed in the publications, pharmacists may only substitute products that are rated therapeutically equivalent in the Approved Drug Products with Therapeutic Equivalence Evaluations and current supplements.

(ii) Practitioners may prohibit substitution through a dispensing directive in compliance with subsection (c) of this section.

(C) The board shall reconsider the contents of the list if:

(i) the Federal Food and Drug Administration determines a new equivalence classification which indicates that certain drug products are equivalent but special notification to the patient and practitioner is required when substituting these products; or

(ii) any interested person petitions the board to reconsider the list. If the board receives a petition to include a drug on the list, the joint committee specified in subparagraph (A) of this paragraph shall review the request and make a recommendation to the board.

§309.4. Patient Notification.

(a) Substitution notification. Before delivery of a prescription for a generically equivalent drug or interchangeable biological product [products] as authorized by Chapter 562, Subchapter A of the Act, a pharmacist must:

(1) personally, or through his or her agent or employee inform the patient or the patient's agent that a less expensive generically equivalent drug interchangeable biological product is available for the brand prescribed; and ask the patient or the patient's agent to choose between the generically equivalent drug or biological product and the brand prescribed.

{(2) cause to be displayed, in a prominent place that is in clear public view where prescription drugs are dispensed, a sign in block letters not less than one inch in height that reads, in both English and Spanish: "TEXAS LAW REQUIRES A PHARMACIST TO INFORM YOU IF A LESS EXPENSIVE GENERICALLY EQUIVALENT DRUG IS AVAILABLE FOR CERTAIN BRAND NAME DRUGS AND TO ASK YOU TO CHOOSE BETWEEN THE GENERIC AND THE BRAND NAME DRUG. YOU HAVE A RIGHT TO ACCEPT OR REFUSE THE GENERICALLY EQUIVALENT DRUG."}

(2) [(3)] A pharmacist shall offer the patient or the patient's agent the option of paying for a prescription drug at a lower price instead of paying the amount of the copayment under the patient's prescription drug insurance plan if the price of the prescribed drug is lower than the amount of the patient's copayment.

(b) Exceptions. A pharmacy is not required to comply with the provisions of subsection (a) of this section:

(1) in the case of the refill of a prescription for which the pharmacy previously complied with subsection (a) of this section with regard to the same patient or patient's agent; or

(2) if the patient's physician or physician's agent advises the pharmacy that:

(A) the physician has informed the patient or the patient's agent that a less expensive generically equivalent drug or interchangeable biological product is available for the brand prescribed; and

(B) the patient or the patient's agent has chosen either the brand prescribed or the less expensive generically equivalent drug or interchangeable biological product.

(c) Notification by pharmacies delivering prescriptions by mail.

(1) A pharmacy that supplies a prescription by mail is considered to have complied with the provision of subsection (a) of this section if the pharmacy includes on the prescription order form completed by the patient or the patient's agent language that clearly and conspicuously:

(A) states that if a less expensive generically equivalent drug or interchangeable biological product is available for the brand prescribed, the patient or the patient's agent may choose between the generically equivalent drug or interchangeable biological product and the brand prescribed; and

(B) allows the patient or the patient's agent to indicate the choice of the generically equivalent drug or interchangeable biological product or the brand prescribed.

(2) If the patient or patient's agent fails to indicate otherwise to a pharmacy on the prescription order form under paragraph (1) of this subsection, the pharmacy may dispense a generically equivalent drug or interchangeable biological product.

(d) Inpatient notification exemption. Institutional pharmacies shall be exempt from the labeling provisions and patient notification requirements of §562.006 and §562.009 of the Act, as respects drugs distributed pursuant to medication orders.

§309.5. Communication with Prescriber.

(a) Not later than the third business day after the date of dispensing a biological product, the dispensing pharmacist or the pharmacist's designee shall communicate to the prescribing practitioner the specific product provided to the patient, including the name of the product and the manufacturer or national drug code number.

(b) The communication must be conveyed by making an entry into an interoperable electronic medical records system or through electronic prescribing technology or a pharmacy benefit management system or a pharmacy record, which may include information submitted for the payment of claims, that a pharmacist reasonably concludes is electronically accessible by the prescribing practitioner. Otherwise, the pharmacist or the pharmacist's designee shall communicate the biological product dispensed to the prescribing practitioner, using facsimile, telephone, electronic transmission, or other prevailing means, provided that communication is not required if:

(1) there is no interchangeable biological product approved by the United States Food and Drug Administration for the product prescribed; or

(2) a refill prescription is not changed from the product dispensed on the prior filling of the prescription.

(c) This section expires September 1, 2019.

§309.6. *Records.*

(a) When the pharmacist dispenses a generically equivalent drug or interchangeable biological product pursuant to the Subchapter A, Chapter 562 of the Act, the following information shall be noted on the original written or hard-copy of the oral prescription drug order:

(1) any substitution instructions communicated orally to the pharmacist by the practitioner or practitioner's agent or a notation that no substitution instructions were given; and

(2) the name and strength of the actual drug product dispensed shall be noted on the original or hard-copy prescription drug order. The name shall be either:

(A) the brand name and strength; or

(B) the generic name or the name of the interchangeable biological product, strength, and name of the manufacturer or distributor of such generic drug or interchangeable biological product. (The name of the manufacturer or distributor may be reduced to an abbreviation or initials, provided the abbreviation or initials are sufficient to identify the manufacturer or distributor. For combination drug products having no brand name, the principal active ingredients shall be indicated on the prescription.)

(b) If a pharmacist refills a prescription drug order with a generically equivalent product or interchangeable biological product from a different manufacturer or distributor than previously dispensed, the pharmacist shall record on the prescription drug order the information required in subsection (a) of this section for the product dispensed on the refill.

(c) If a pharmacy utilizes patient medication records for recording prescription information, the information required in subsections (a) and (b) of this section shall be recorded on the patient medication records.

(d) The National Drug Code (NDC) of a drug or any other code may be indicated on the prescription drug order at the discretion of the pharmacist, but such code shall not be used in place of the requirements of subsections (a) and (b) of this section.

§309.7. *Dispensing Responsibilities.*

(a) The determination of the drug product to be substituted as authorized by the Subchapter A, Chapter 562 of the Act, is the professional responsibility of the pharmacist, and the pharmacist may not dispense any product that does not meet the requirements of the Subchapter A, Chapter 562 of the Act. [~~As specified in Chapter 562 of the Act and §309.2 of this title (relating to definitions), a generically equivalent product is one that is pharmaceutically equivalent and therapeutically equivalent to the drug prescribed.~~]

(b) Pharmacists shall use as a basis for the determination of generic equivalency or interchangeability as defined in the Subchapter A, Chapter 562 of the Act, most recent edition or supplement of the United States Food and Drug Administration's references (e.g., the Orange Book or Purple Book). [~~the following:~~]

(c) Pharmacists.

~~{(1) For drugs listed in the publication, pharmacists} shall use Approved Drug Products With Therapeutic Equivalence Evalua-~~

~~tions (Orange Book) and current supplements published by the Federal Food and Drug Administration, within the limitations stipulated in that publication, to determine generic equivalency. Pharmacists may only substitute products that are rated therapeutically equivalent in the Orange Book and have an "A" rating. "A" rated drug products include but are not limited to, those designated AA, AB, AN, AO, AP, or AT in the Orange Book.~~]

~~{(2)}~~ For drugs not listed in the Orange Book, pharmacists shall use their professional judgment to determine generic equivalency.

~~(d) Pharmacists shall use Lists of Licensed Biological Products with Reference Product Exclusivity and Biosimilarity or Interchangeability Evaluations (Purple Book) and current supplements published by the Federal Food and Drug Administration, within the limitations stipulated in that publication, to determine biosimilarity to or interchangeability with a reference biological product.~~

§309.8. *Advertising of Generic Drugs by Pharmacies.*

Prescription drug advertising comparing generic drugs or biological products and brand name drugs or biological products is subject to the §554.054 of the Act and in compliance with federal law.

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

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Gay Dodson, R.Ph.

Executive Director

Texas State Board of Pharmacy

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For further information, please call: (512) 305-8028



PART 16. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS

CHAPTER 323. POWERS AND DUTIES OF THE BOARD

22 TAC §323.3

The Texas Board of Physical Therapy Examiners proposes amendments to §323.3, regarding adoption of rules.

The amendments are proposed per House Bill 763 which passed during the 84th Legislature (2015) and relates to petitioning the board for adoption, amendment, or repeal of rules.

John P. Maline, Executive Director, has determined that for the first five-year period these amendments are in effect there will be no additional costs to state or local governments as a result of enforcing or administering these amendments.

Mr. Maline has also determined that for each year of the first five-year period these amendments are in effect the opportunities for the public to provide input into the rulemaking process will be enhanced.

Mr. Maline has determined that there will be no costs or adverse economic effects to small or micro businesses, therefore an economic impact statement or regulatory flexibility analysis is not required for the amendment. There are no anticipated costs

to individuals who are required to comply with the rule as proposed.

Comments on the proposed amendments may be submitted by mail to Karen Gordon, PT Coordinator, Texas Board of Physical Therapy Examiners, 333 Guadalupe, Suite 2-510, Austin, Texas 78701 or by email to: karen@ptot.texas.gov. Comments must be received no later than 30 days from the date this proposed amendment is published in the *Texas Register*.

The amendments are proposed under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Texas Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Title 3, Subtitle H, Chapter 453, Texas Occupations Code is affected by these amendments.

§323.3. *Adoption of Rules.*

(a) - (b) (No change.)

(c) Petition for adoption of rule changes.

(1) In accordance with Texas Government Code, §2001.021, an interested person may request for the adoption, amendment, or repeal of a rule of the board by submitting a written petition to the board. In this section, "interested person" has the meaning as defined in Texas Government Code, §2001.021. The petition must contain:

(A) the name and contact information of the interested person or persons and affiliation or organization, if any;

(B) a description of the proposed rule change or amendment and the reason for it;

(C) the section numbers and titles of the rule(s) affected if applicable;

(D) the proposed rule change with an indication of language added and/or deleted.

(E) a statement of:

(i) the statutory authority under which the rule is to be adopted; and

(ii) the public benefits anticipated as a result of adopting the rule or the anticipated injury or inequity that could result from the failure to adopt the proposed rule.

(F) the signature(s) of the requesting person or persons and date of signature(s).

(2) The board shall evaluate the merits of the proposal.

(3) In accordance with the Texas Government Code, §2001.021, the presiding officer or the board's designee shall acknowledge receipt of the petition to the person designated to receive communication regarding the petition.

(4) Not later than the 60th day after the date of submission of a petition under this section, the board shall:

(A) deny the petition in writing, stating its reasons for denial; or

(B) initiate a rulemaking proceeding under this chapter.

(5) If the board initiates rulemaking procedures in response to a petition, the rule text which the board proposes may differ from the rule text proposed by the petitioner.

(6) Initial petitions for the adoption of a rule shall be presented to and decided by the Board in accordance with the provisions of this section. The Board may refuse to consider any subsequent petition from the same interested person for the adoption of the same or a similar rule submitted within twelve months after the date of the Board's rejection of the initial petition.

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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John P. Maline

Executive Director

Texas Board of Physical Therapy Examiners

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For further information, please call: (512) 305-6900



CHAPTER 329. LICENSING PROCEDURE

22 TAC §329.1, §329.6

The Texas Board of Physical Therapy Examiners proposes amendments to §329.1, regarding General Licensure Requirements and Procedures, and §329.6, Licensure by Endorsement.

The amendments are proposed per Senate Bill 807 which passed during the 84th Legislature (2015) and relates to the waiver of initial licensure and endorsement licensure application fees for active military service members, military veterans, or military spouses.

John P. Maline, Executive Director, has determined that for the first five-year period these amendments are in effect there will be no additional costs to state or local governments as a result of enforcing or administering these amendments.

Mr. Maline has also determined that for each year of the first five-year period these amendments are in effect there will be no adverse effect on public safety and will increase the opportunities for active military, military veterans, and military spouses to obtain licensure in Texas.

Mr. Maline has determined that there will be no costs or adverse economic effects to small or micro businesses, therefore an economic impact statement or regulatory flexibility analysis is not required for the amendment. There are no anticipated costs to individuals who are required to comply with the rule as proposed.

Comments on the proposed amendments may be submitted by mail to Karen Gordon, PT Coordinator, Texas Board of Physical Therapy Examiners, 333 Guadalupe, Suite 2-510, Austin, Texas 78701 or by email to: karen@ptot.texas.gov. Comments must be received no later than 30 days from the date this proposed amendment is published in the *Texas Register*.

The amendments are proposed under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Texas Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Title 3, Subtitle H, Chapter 453, Texas Occupations Code is affected by these amendments.

§329.1. *General Licensure Requirements and Procedures.*

(a) Requirements. All applications for licensure shall include:

(1) a completed board application form with a recent color photograph of the applicant;

(2) the non-refundable application fee as set by the executive council. The application fee of applicants who are active U.S. military service members or veterans will be waived upon submission of official documentation of the active duty or veteran status of the applicant.

(3) - (4) (No change.)

(b) - (i) (No change.)

§329.6. *Licensure by Endorsement.*

(a) - (b) (No change.)

(c) Licensure of a Military Service Member, Military Veteran, or Military Spouse. The board will waive the application fee and will expedite the issuance of a license by endorsement to a military service member, military veteran, or spouse of a military service member [of the U.S. armed forces on active duty]. The applicant must provide official documentation of active duty status or veteran status or the active duty status of the spouse.

(d) (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.

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John P. Maline

Executive Director

Texas Board of Physical Therapy Examiners

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CHAPTER 341. LICENSE RENEWAL

22 TAC §341.20

The Texas Board of Physical Therapy Examiners proposes amendments to §341.20, regarding licensees serving as a military service member. The amendments are proposed per Senate Bill 1307, which passed during the 84th Legislature (2015), relating to the exemption of late fees and penalty for late renewal if the licensee's failure to timely renew their license is due to serving as a military service member and providing an extension post-expiration of licensure for completion of continuing competence activities.

John P. Maline, Executive Director, has determined that for the first five-year period these amendments are in effect there will be no additional costs to state or local governments as a result of enforcing or administering these amendments.

Mr. Maline has also determined that for each year of the first five-year period these amendments are in effect there will be no adverse effect on public safety. The amendments will increase

the opportunities for military service members to maintain their licensure in Texas if actively serving in the military prohibits the licensee from being able to timely renew.

Mr. Maline has determined that there will be no costs or adverse economic effects to small or micro businesses, therefore an economic impact statement or regulatory flexibility analysis is not required for the amendment. There are no anticipated costs to individuals who are required to comply with the rule as proposed.

Comments on the proposed amendments may be submitted by mail to Karen Gordon, PT Coordinator, Texas Board of Physical Therapy Examiners, 333 Guadalupe, Suite 2-510, Austin, Texas 78701 or by email to: karen@ptot.texas.gov. Comments must be received no later than 30 days from the date this proposed amendment is published in the *Texas Register*.

The amendments are proposed under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Texas Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Title 3, Subtitle H, Chapter 453, Texas Occupations Code is affected by these amendments.

§341.20. *Licensees Serving as a Military Service Member [Called to Active Military Service].*

(a) Renewal. A licensee will be exempt from late fees and penalty if the individual establishes to the satisfaction of the board that failure to timely renew was because the individual was serving as a military service member. [who is a member of the reserves and called to active military service must submit renewal fees within 90 days after active service has ended if their license expired within the months of active service. The regular renewal month will not change. The licensee must submit official documentation of active service and its inclusive dates.]

(b) Continuing competence units (CCUs). A licensee who is serving as a military service member may receive an extension of up to two years post expiration of license in order to complete the following:

(1) Continuing competence activities as specified in §341.2 of this title (relating to Continuing Competence Requirements); and

(2) The board's jurisprudence exam.

~~[(1) A licensee who is a member of the reserves and called to active military service will have his/her CCUs prorated in proportion to the number of months of documented active service.]~~

~~[(2) A licensee whose license expires during the period of active service will be given a complete waiver of CCUs for the past renewal period, and CCUs for months of documented active service in the current renewal cycle will be prorated.]~~

~~[(3) All licensees must take two hours of board-approved programs in ethics and professional responsibility as part of their total continuing competence requirement, which cannot be prorated.]~~

(c) "Military service member" as used in this section has the meaning as defined in Texas Occupations Code, §55.001.

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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CHAPTER 347. REGISTRATION OF PHYSICAL THERAPY FACILITIES

22 TAC §§347.4, 347.5, 347.8, 347.9, 347.11 - 347.13

The Texas Board of Physical Therapy Examiners proposes amendments to §§347.4, 347.5, 347.8, 347.9, and 347.11 - 347.13 regarding registration of physical therapy facilities. The amendments are proposed to bring synchronization between the facility registration language for both physical therapy and occupational therapy facilities which should mirror each other as both healthcare services are often provided at the same location. The amendments also provide for the online verification of registration as a means for initiating physical therapy services at a facility without having to wait for the registration certificate to arrive via mail.

John P. Maline, Executive Director, has determined that for the first five-year period these amendments are in effect there will be no additional costs to state or local governments as a result of enforcing or administering these amendments.

Mr. Maline has also determined that for each year of the first five-year period these amendments are in effect there will be no adverse effect on public safety and will decrease the confusion for those registering both physical therapy and occupational therapy facilities and for staff who are processing the registration applications.

Mr. Maline has determined that there will be no costs or adverse economic effects to small or micro businesses, therefore an economic impact statement or regulatory flexibility analysis is not required for the amendments. There are no anticipated costs to individuals who are required to comply with the rules as proposed.

Comments on the proposed amendments may be submitted to Karen Gordon, PT Coordinator, Texas Board of Physical Therapy Examiners, 333 Guadalupe, Suite 2-510, Austin, Texas 78701; email: karen@ptot.texas.gov. Comments must be received no later than 30 days from the date this proposed amendment is published in the *Texas Register*.

The amendments are proposed under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Texas Occupations Code, which provides the Texas Board of Physical Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Title 3, Subtitle H, Chapter 453, Texas Occupations Code is affected by these amendments.

§347.4. Requirements for Registration Application.

- (a) Each registration application must include:
- (1) name of the facility;
 - (2) physical/street address of the facility;
 - (3) mailing address, if different from the street address;

- (4) name of the owner;
- (5) type of ownership;
- (6) identification/contact information for the facility owner as follows:

(A) Sole proprietor

- (i) name, home address, date of birth, social security number of the sole proprietor
- (ii) federal employer identification number if applicable

(B) Partnership

(i) name, home address, date of birth, social security number of the managing partners (for purposes of this subsection, managing partners are defined as the top four executive officers, including the partner in charge of the facility) [partner]

- (ii) federal employer identification number

(C) (No change.)

(D) Governmental entity (federal, state, local)

(i) name, home address, date of birth, social security number of the individual completing the application

- (ii) federal employer identification number

(7) the name and license number of the physical therapist in charge and his or her signature;

(8) names and license numbers of all PTs and PTAs who practice in the facility;

(9) the name, title, [social security number] and signature of the owner, managing partner or officer, or person authorized to complete the registration application; and

(10) the non-refundable application fee, as set by the executive council.

(b) - (c) (No change.)

(d) A physical therapy facility that has not been registered previously must complete the registration process prior to providing physical therapy services at the facility [and have the registration certificate in hand before the first patient treatment].

(e) Physical therapy services may be provided upon online verification of registration on the board's website prior to receiving the paper registration certificate from the board. The board will maintain a secure resource for verification of registration status and expiration date on its website.

(f) [(e)] The facility application is valid for one year after it is received by the board.

§347.5. Requirements for Registered Facilities.

(a) Each facility must have a designated physical therapist in charge. A registered facility is required to report the name and license number of a new physical therapist in charge no later than thirty (30) [30] days after the change occurs.

(b) - (c) (No change.)

(d) A registered facility must notify the board within thirty (30) [30] days of any change to the name, physical/street address or mailing address. In the event of a name or physical address change, or loss or destruction or the registration certificate, the owner must obtain a new registration certificate showing the correct information by

submitting a form as prescribed by the board and the fee as set by the executive council.

(e) A change in ownership or type of ownership requires a new facility registration as described in §347.8 of this chapter (relating to Change in Facility Ownership).

§347.8. Change in Facility Ownership.

(a) A facility registration cannot be transferred or sold to another person or owner. When a facility changes ownership, the new owner must register it as a new facility, and the previous owner must request in writing that the registration of the original facility be ~~cancelled~~ [withdrawn], within thirty (30) [30] days. A change of ownership takes place when one of the following occurs:

- (1) a sole proprietor (individual) incorporates or changes to a partnership;
- (2) a partnership incorporates or changes to a sole proprietor;
- (3) a corporation dissolves and changes its status to a partnership or sole proprietor;
- (4) a sole proprietor (individual), partnership or corporation purchases, sells or transfers the ownership to another individual, partnership or corporation.

(b) If there is a change of managing partners in a partnership or managing officers in a corporation, the owner of the facility must send the board written notification on a form as prescribed by the board within thirty (30) [30] days. For purposes of this subsection, managing officers are defined as the top four executive officers, including the corporate officer in charge of physical therapy facility operations. The written notification shall include the effective date of such change and the following information for the new managing partners or officers:

- (1) name and title;
- (2) home address;
- (3) date of birth; and
- (4) social security number.

§347.9. Renewal of Registration.

(a) The owner of a physical therapy facility must renew the registration annually. Licensees may not provide physical therapy services in a facility if the registration has expired [is not current]. The Board will maintain a secure resource for verification of registration status and expiration date on its website. Licensees and facility owners should verify a facility's registration and expiration date on the board's website. The renewal process is not complete until the board's online facility registration verification reflects the new renewal date.

(b) Requirements to renew a facility registration are:

- (1) a renewal application signed by the owner, managing partner or officer, or a person authorized by the owner to complete the renewal;
- (2) a list of all PTs and PTAs working at the facility, including license [and social security] numbers;
- (3) the non-refundable renewal fee as set by the executive council, and any late fees which may be due; and
- (4) a physical therapist in charge form [with the signature of the physical therapist].

(c) The annual renewal date of a facility registration is the last day of the month in which the registration was originally issued, or as synchronized with the first facility registered by an owner.

(d) The board will notify a facility at least thirty (30) [30] days prior to the registration expiration date. The facility bears the responsibility for ensuring that the registration is renewed. Failure to receive notification from the board does not exempt the facility from paying the renewal fee in a timely manner.

(e) Late Renewal. Late fees will be assessed if all items required for renewal are not postmarked if submitted by mail or electronically time and date stamped if submitted online prior to the expiration date of the registration [license]. Facility owners who do not submit all required items prior to the expiration date are subject to late fees as described below.

(1) If the facility registration has been expired for 90 days or less, the late fee is half of the renewal fee.

(2) If the facility registration has been expired for more than 90 days but less than one year, late fee is equal to the renewal fee.

(3) If the facility registration has been expired for one year or more, the facility owner must restore the registration [license] as described in §347.12 of this chapter [title] (relating to Restoration of Registration).

(f) The current registration expiration date as displayed through the online facility registration verification on the Board's website is considered evidence of current registration.

(g) [(f)] An owner may not register a new facility in lieu of renewal of an expired registration for a facility in the same location.

§347.11. Failure to Register.

Facilities which fail to register as facilities with the board as required by Act and rules [rule] will be notified of their noncompliance with the Act and the disciplinary actions by this board to which they are subject. Additionally, all licensees of this Act employed at the facility will be notified that they are in violation of the Act and rules and thereby subject to disciplinary action.

§347.12. Restoration of Registration.

(a) When a facility registration is cancelled or has expired for one year or more, the owner may restore the registration by submitting the following:

- (1) a restoration application;
- (2) a non-refundable restoration fee as set by the executive council; and
- (3) a therapist in charge form signed by the therapist in charge.

(b) - (c) (No change.)

§347.13. Cancellation of Registration.

(a) If physical therapy services will no longer be provided at a facility, the facility registration must be cancelled by submitting a form as prescribed by the Board no later than thirty (30) days after the expiration date of the registration. [The owner of a facility may cancel a facility registration if physical therapy services will no longer be provided. To cancel a registration, the owner must notify the board in writing that physical therapy services are no longer being provided at that location.]

(b) To [If the owner decides to] resume the provision of physical therapy services at a future date, the facility registration may be restored with the previous expiration date by meeting the requirements in §347.12 of this chapter [title] (relating to Restoration of Registration).

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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John P. Maline

Executive Director

Texas Board of Physical Therapy Examiners

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For further information, please call: (512) 305-6900



PART 32. STATE BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

CHAPTER 741. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

The State Board of Examiners for Speech-Language Pathology and Audiology (board) proposes amendments to §§741.1, 741.41, 741.44, 741.61 - 741.65, 741.81 - 741.85, 741.91, 741.104, 741.112, and 741.161, concerning speech-language pathologists and audiologists.

BACKGROUND AND PURPOSE

The proposed amendments update the board's rules to add definitions, reflect current operations in processing and approving license applications, and clarify requirements in existing rules.

The amendments also revise for grammar and technical form.

SECTION-BY-SECTION SUMMARY

The amendments to §741.1 add the definitions for "caseload" and "supervisor," revise the definition of "assistant in audiology" to reflect the use of this term as it currently appears in other parts of the rules, and renumber the paragraphs.

The amendments to §741.41 require a licensee to report criminal history and other legal actions to the board.

The amendments to §741.44 clarify language and eliminate an exception that currently allows a supervisor to supervise more than four interns and assistants.

The amendments to §§741.61 - 741.65 clarify language, require an applicant to submit particular materials to the board, and eliminate inconsistencies. The amendments specify that an applicant must submit fingerprints to the Department of Public Safety, as is currently required in §741.142.

The amendments to §§741.81 - 741.85 clarify language, require an applicant to submit particular materials to the board, and eliminate inconsistencies. The amendments specify that an applicant must submit fingerprints to the Department of Public Safety, as is currently required in §741.142.

The amendment to §741.91 corrects citations.

The amendment to §741.104 clarifies language.

The amendments to §741.112 eliminate redundant language.

The amendment to §741.161 clarifies language.

FISCAL NOTE

Katie Brice, Executive Director, has determined that for each year of the first five years the sections are in effect, there will be no fiscal implications to state or local governments as a result of enforcing or administering the sections as proposed.

SMALL AND MICRO-BUSINESS ECONOMIC STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.

Ms. Brice has also determined that there will be no adverse economic impact to small businesses or micro-businesses required to comply with the sections as proposed. This was determined by finding that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the sections. Therefore, an economic impact statement and regulatory flexibility analysis for small businesses and micro-businesses is not required.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the sections as proposed. The amendments do not impose additional fees.

The board anticipates some increase in local employment. Current rules require an audiology assistant to possess a bachelor's degree. The proposed rules delete the requirement for a bachelor's degree and require a high school diploma or equivalent. This proposed change may lead to an increase in the number of employed licensed audiology assistants.

PUBLIC BENEFIT

Ms. Brice has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of enforcing or administering the sections will be to ensure the effective regulation of speech-language pathologists and audiologists in Texas, which will protect and promote public health, safety, and welfare.

REGULATORY ANALYSIS

The board has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The board has determined that the proposed rules do 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, do not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Katie Brice, Executive Director, State Board of Examiners for Speech-Language Pathology and Audiology, Mail Code 1982, P.O. Box 149347, Austin, Texas 78714-9347. Comments may also be sent through email to speech@dshs.state.tx.us. Please write "Comments on Proposed Rules" in the subject line. Comments

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

SUBCHAPTER A. DEFINITIONS

22 TAC §741.1

STATUTORY AUTHORITY

The amendment is authorized under Occupations Code, §401.202, which requires the board to adopt rules necessary to administer and enforce Occupations Code, Chapter 401.

The amendment affects Occupations Code, Chapter 401.

§741.1. Definitions.

Unless the context clearly indicates otherwise, the following [words and] terms [shall] have the following meanings in this chapter.

- (1) (No change.)
- (2) Act--[Texas] Occupations Code, Chapter 401, relating to Speech-Language Pathologists and Audiologists.
- (3) Acts--[Texas] Occupations Code, Chapter 401, relating to Speech-Language Pathologists and Audiologists; and [Texas] Occupations Code, Chapter 402, relating to Hearing Instrument Fitters and Dispensers.
- (4) (No change.)
- (5) Assistant in audiology--An individual who provides audiological support services to clinical programs under supervision of a board-approved audiologist licensed under the Act [required to be licensed under Texas Occupations Code, §401.312, to provide audiological support services as described under §741.84 of this title (relating to Requirements for an Assistant in Audiology License)].
- (6) Assistant in speech-language pathology--An individual who provides [required to be licensed under Texas Occupations Code, §401.312, to provide] speech-language pathology support services [as described] under the Act [§741.64 of this title (relating to Requirements for an Assistant Speech-Language Pathology License)].
- (7) Audiologist--An individual who holds a current, renewable, unrestricted license under [Texas] Occupations Code, §401.302 and §401.304, to practice audiology.
- (8) - (9) (No change.)
- (10) Caseload--The number of clients served by the licensed speech-language pathologist or licensed speech-language pathology intern.
- (11) [(40)] Client--A consumer or proposed consumer of audiology or speech-language pathology services.
- (12) [(44)] Department--Department of State Health Services.
- (13) [(42)] Ear specialist--A licensed physician who specializes in diseases of the ear and is medically trained to identify the symptoms of deafness in the context of the total health of the client, and is qualified by special training to diagnose and treat hearing loss. Such physicians are also known as otolaryngologists, otologists, neurotologists, otorhinolaryngologists, and ear, nose, and throat specialists.
- (14) [(43)] Extended absence--More than two consecutive working days for any single continuing education experience.
- (15) [(44)] Extended recheck--Starting at 40 dB and going down by 10 dB until no response is obtained or until 20 dB is reached and then up by 5 dB until a response is obtained. The frequencies to be evaluated are 1,000, 2,000, and 4,000 hertz (Hz).

(16) [(45)] Fitting and dispensing hearing instruments--The measurement of human hearing by the use of an audiometer or other means to make selections, adaptations, or sales of hearing instruments. The term includes the making of impressions for earmolds to be used as a part of the hearing instruments and any necessary postfitting counseling for the purpose of fitting and dispensing hearing instruments.

(17) [(46)] Hearing instrument--Any wearable instrument or device designed for, or represented as aiding, improving or correcting defective human hearing. This includes the instrument's parts and any attachment, including an earmold, or accessory to the instrument. The term does not include a battery or cord.

(18) [(47)] Hearing screening--A test administered with pass/fail results for the purpose of rapidly identifying those persons with possible hearing impairment which has the potential of interfering with communication.

(19) [(48)] Intern in audiology--An individual licensed under [Texas] Occupations Code, §401.311, and [pursuant to] §741.82 of this title (relating to Requirements for an Intern Audiology License) and who works under the direction of an individual who holds a current, renewable, unrestricted audiology license under [Texas] Occupations Code, §401.302 and §401.304.

(20) [(49)] Intern in speech-language pathology--An individual licensed under [Texas] Occupations Code, §401.311, and [pursuant to] §741.62 of this title (relating to Requirements for an Intern in Speech-Language Pathology License) and who works under the direction of an individual who holds a current, renewable, unrestricted speech-language pathology license under [Texas] Occupations Code, §401.302 and §401.304.

(21) [(20)] Provisional Licensee--An individual granted a provisional license under [Texas] Occupations Code, §401.308.

(22) [(24)] Renewal Period--A two-year cycle for a license.

(23) [(22)] Sale or purchase--Includes the sale, lease or rental of a hearing instrument or augmentative communication device to a member of the consuming public who is a user or prospective user of a hearing instrument or augmentative communication device.

(24) [(23)] Speech-language pathologist--An individual who holds a current, renewable, unrestricted license under [Texas] Occupations Code, §401.302 and §401.304, to practice speech-language pathology.

(25) [(24)] Speech-language pathology--The application of nonmedical principles, methods, and procedures for measurement, testing, evaluation, prediction, counseling, habilitation, rehabilitation, or instruction related to the development and disorders of communication, including speech, voice, language, oral pharyngeal function, or cognitive processes, for the purpose of evaluating, preventing, or modifying or offering to evaluate, prevent, or modify those disorders and conditions in an individual or group.

(26) Supervisor--An individual who holds a current, renewable, unrestricted license under Occupations Code §401.302 and §401.304 and whom the board has approved to directly oversee the services provided by the assigned board-approved assistant and/or intern.

(27) [(25)] Telehealth--See definition(s) in Subchapter O. Telehealth, §741.211 of this title (relating to Definitions Relating to Telehealth).

(28) [(26)] Under the direction of--The speech-language pathologist or audiologist supervises and directly oversees the services

provided and accepts professional responsibility for the actions of the personnel he or she agrees to direct.

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

Filed with the Office of the Secretary of State on September 14, 2015.

TRD-201503726

Vickie B. Dionne

Presiding Officer

State Board of Examiners for Speech-Language Pathology and Audiology

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 776-6972



SUBCHAPTER D. CODE OF ETHICS; DUTIES AND RESPONSIBILITIES OF SUPERVISORS

22 TAC §741.41, §741.44

STATUTORY AUTHORITY

The amendments are authorized under Occupations Code, §401.202, which requires the board to adopt rules necessary to administer and enforce Occupations Code, Chapter 401.

The amendments affect Occupations Code, Chapter 401.

§741.41. *Professional Responsibilities of License Holders.*

(a) A licensee shall:

(1) (No change.)

(2) ensure [insure] a safe therapy environment;

(3) - (15) (No change.)

(16) be subject to disciplinary action by the board if the licensee or registrant is issued a written reprimand, is assessed a civil penalty by a court, or has an administrative penalty imposed by the attorney general's office under the [Texas] Code of Criminal Procedure, Articles 56.31-56.64 [Article 56.31] (relating to the Crime Victims Compensation Act);

(17) comply with the Health and Safety Code, Chapter 85, Subchapter I, concerning the Prevention of Transmission of HIV and Hepatitis B Virus by Infected Healthcare Workers [prevention of the transmission of HIV or Hepatitis B virus by infected health care workers]; and

(18) (No change.)

(19) notify the board office in writing not later than 30 days after the occurrence in any U.S. state or territory of the following:

(A) the licensee's deferred adjudication or criminal conviction, other than a Class C misdemeanor traffic offense;

(B) the settlement of or judgment rendered in a civil lawsuit filed against the licensee and relating to the licensee's professional practice in speech-language pathology or audiology; or

(C) complaints, investigations, or actions against the licensee by a governmental agency or by a licensing or certification body.

(b) A licensee shall not:

(1) - (15) (No change.)

(16) [~~intentionally or knowingly~~] offer to pay or agree to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for securing or soliciting clients or patronage for or from any health care professional[~~]. The provisions of the Texas Health and Safety Code, §161.091, concerning the prohibition of illegal remuneration apply to licensees];~~

(17) - (18) (No change.)

(c) Failure to notify the board office as required by subsection (a) of this section violates this chapter and is grounds for disciplinary action.

§741.44. *Requirements, Duties, and Responsibilities of Supervisors.*

(a) - (b) (No change.)

(c) A board-approved supervisor of an intern in speech-language pathology or audiology must possess at least a master's degree with a major in one of the areas of communicative sciences and disorders.

(d) A board-approved supervisor of an intern or assistant shall:

(1) - (3) (No change.)

(4) supervise no more than a total of four interns and/or assistants. [An exception may be made allowing supervision of more than four individuals if the supervisor submits documentation demonstrating their ability to manage the entire caseload. The board's designee will determine if an exception is granted.]

(e) In addition to the provisions listed in subsection (d) of this section, a board-approved supervisor of an assistant shall:

(1) - (2) (No change.)

(f) A licensed intern or assistant shall abide by the decisions made by his or her board-approved [the] supervisor relating to the intern's or assistant's scope of practice. If [In the event] the board-approved supervisor requests that the intern or assistant violate this chapter, the Act, or any other law, the intern or assistant shall refuse to do so and immediately notify the board office and any other appropriate authority.

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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Vickie B. Dionne

Presiding Officer

State Board of Examiners for Speech-Language Pathology and Audiology

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For further information, please call: (512) 776-6972



SUBCHAPTER E. REQUIREMENTS FOR LICENSURE OF SPEECH-LANGUAGE PATHOLOGISTS

22 TAC §§741.61 - 741.65

STATUTORY AUTHORITY

The amendments are authorized under Occupations Code, §401.202, which requires the board to adopt rules necessary to administer and enforce Occupations Code, Chapter 401.

The amendments affect Occupations Code, Chapter 401.

§741.61. *Requirements for a Speech-Language Pathology License.*

(a) An individual shall not practice as speech-language pathologist without a current license issued by the board. An applicant for the speech-language pathology license shall meet the requirements set out in the Act and this section.

(b) An applicant must submit documentation of the following educational requirements: [The graduate degree shall be completed at a college or university which has a program accredited by a national accrediting organization that is approved by the board and recognized by the United States Secretary of Education under the Higher Education Act of 1965 (20 U.S.C. §1001, et seq.).]

(1) a graduate degree from a college or university that has a program accredited by a national accrediting organization that is approved by the board and recognized by the U.S. Secretary of Education under the Higher Education Act of 1965 (20 U.S.C. §1001, et seq.).

(2) [(4)] original [Original] or certified copies of [the] transcripts showing the conferred degree and the following semester credit hours [shall verify the applicant completed the following]:

(A) at least 36 semester credit hours [shall be] in professional graduate course work, which may include a maximum of six semester credit hours of clinical experience and a maximum of six semester credit hours toward a thesis or dissertation [acceptable toward a graduate degree];

(B) at least 24 semester credit hours in [acceptable toward a] graduate level course work in [degree shall be earned in the area of] speech-language pathology including normal development and use of speech, language, and hearing; prevention evaluation, habilitation, and rehabilitation of speech, language, and hearing disorders; and related fields that augment the work of clinical practitioners of speech-language pathology; and

(C) for applications filed before January 1, 2015, six semester credit hours [shall be earned] in the area of hearing disorders, hearing evaluation, and habilitative or rehabilitative procedures with individuals who have hearing impairment.

[(2) A maximum of six academic semester credit hours associated with clinical experience and a maximum of six academic semester credit hours associated with a thesis or dissertation may be counted toward the 36 hours but not in lieu of the requirements of paragraphs (1)(B) and (1)(C) of this subsection.]

(3) A quarter hour of academic credit is equal to [shall be considered as] two-thirds of a semester credit hour.

(4) An applicant who possesses a master's degree with a major in audiology may apply for [and is pursuing] a license in speech-language pathology [may apply] if the board has an original or certified copy transcript showing completion of a master's degree with a major in audiology on file and a letter from the program director or designee of the college or university stating that the individual completed enough hours to establish a graduate level major in speech-language pathology and that the individual would meet the academic and clinical experience requirements for a license as a speech-language pathologist.

(5) An applicant who graduated from a college or university that is not accredited by the ASHA [American Speech-Language Hearing Association] Council on Academic Accreditation shall submit an original signed letter from ASHA [American Speech-Language

Hearing Association (ASHA)] stating the Council for Clinical Certification accepted the course work and clinical experience. The applicant shall bear all expenses incurred during the procedure.

(c) An applicant must submit documentation of the following requirements for the clinical practicum, which consists of [shall complete at least 25 clock hours of supervised observation before completing the minimum of the following hours of] supervised clinical direct client contact[; which may be referred to as clinical practicum,] with individuals who present a variety of communication disorders within an educational institution or in one of its cooperating programs:

(1) 25 clock hours of supervised observation before completing the clinical practicum; and

(2) the following minimum hours of the clinical practicum:

(A) [(4)] 275 clock hours if the master's degree was earned prior to November 10, 1993; or

(B) [(2)] 350 clock hours if the master's degree was earned between November 10, 1993 and December 31, 2004; or

(C) [(3)] 400 clock hours if the master's degree was earned on or after January 1, 2005.

(d) An applicant must submit documentation of having [shall have] completed supervised professional clinical work experience [in which clinical work has been accomplished] in speech-language pathology as set out in §741.62 of this title (relating to Requirements for an Intern in Speech-Language Pathology License) and documentation of the following:[-]

(1) that the applicant was [An individual shall be] licensed under §741.62 of this title prior to the beginning of the supervised professional experience; and[-]

(2) if the applicant completed the internship in another state and met the requirements in §741.62 of this title, that the supervisor during the internship period [The supervisor of an individual who completed an internship in another state and met the requirements set out in §741.62 of this title shall]:

(A) was [be] licensed in that other state[; rather than Texas]; or

(B) held [hold] the ASHA Certificate of Clinical Competence [American Speech-Language-Hearing Association certificate of clinical competence] in speech-language pathology if the other state did not require licensing.

(e) An applicant must submit documentation that the applicant passed [shall pass] the examination required in [as referenced by] §741.121 of this title (relating to Examination Administration) within:

(1) the past 10 years; and

(2) two years of the completion date of the internship referenced in subsection (d) of this section.

(f) If [In the event] the applicant passed the examination required [referenced] in subsection (e) of this section more than two years after the completion date of the internship, the applicant shall obtain the intern license as required by §741.62 of this title and shall repeat the 36 weeks of supervised internship before applying for the speech-language pathology license. [The applicant shall obtain the intern license as required by §741.62 of this title prior to repeating the internship.] The applicant may submit a written request asking the board or [appeal to the] board's designee to waive [for waiver of] the requirement to repeat the internship.

(g) An applicant who previously held the ASHA [American Speech-Language-Hearing Association] Certificate of Clinical Competence and who has had [may have] the certificate reinstated may [and] apply for licensure under §741.63 of this title (relating to Waiver of Clinical and Examination Requirements for Speech-Language Pathologists).

(h) An applicant applying for a speech-language pathology license under this section shall submit the following to the board:

(1) an original board application form including disclosure of the applicant's social security number; completed, signed, and dated within the past 60 days;

(2) the initial license fee;

(3) an original or certified copy of the transcript(s) showing the conferred degree of all relevant course work, which also verifies that the applicant possesses a minimum of a master's degree with a major in one of the areas of communicative sciences or disorders; however, an applicant who graduated from a college or university with a program not accredited by the ASHA Council on Academic Accreditation, shall submit an original signed letter from ASHA stating that the Clinical Certification Board accepted the course work and clinical experience;

(4) if not previously submitted when applying for an intern's license, a Course Work and Clinical Experience Form completed by the program director or designee of the college or university attended which verifies the applicant has met the requirements established in subsections (b) - (c) of this section;

(5) a Report of Completed Internship Form completed by the applicant's board-approved supervisor and signed by both the applicant and the board-approved supervisor; however, if the internship was completed out-of-state, the supervisor shall also submit an original letter from ASHA stating that the supervisor held the Certificate of Clinical Competence for the duration of the intern period of the applicant;

(6) a Praxis Exam Score Report showing the applicant passed the examination required in §741.121 of this title (relating to Examination Administration) within the time period established in §741.61(e) of this title;

(7) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and

(8) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

(i) An applicant for dual licenses in audiology and speech-language pathology under §741.91 of this title (relating to Requirements for Dual Licenses in Speech-Language Pathology and Audiology) shall submit separate documentation and fees as follows:

(1) an original board application form for each type of license including disclosure of the applicant's social security number completed, signed, and dated within the past 60 days requesting both licenses;

(2) two separate initial license fees; and

(3) documentation listed in subsection (h)(3) - (8) of this section and in §741.81(f)(3) - (6) of this title.

(j) An applicant who currently holds a license in audiology and wishes to obtain dual licenses by adding a license in speech-language pathology shall submit the following:

(1) an original board application form for speech language pathology including disclosure of the applicant's social security number completed, signed, and dated within the past 60 days requesting the other license;

(2) the initial license fee; and

(3) documentation listed in §741.81(f)(3) - (6) of this title.

§741.62. *Requirements for an Intern in Speech-Language Pathology License.*

(a) - (d) (No change.)

(e) A Speech-Language Pathology Intern Plan and Agreement of Supervision Form ~~[form]~~ shall be completed and signed by both the applicant and the licensed speech-language pathologist who agrees to assume responsibility for all services provided by the intern in speech-language pathology. The proposed board-approved supervisor must meet the requirements set out in the Act and §741.44 of this title (relating to Requirements, Duties, and Responsibilities of Supervisors).

(1) Approval from the board office shall be required prior to practice by the intern in speech-language pathology. The Speech-Language Pathology Intern Plan and Agreement of Supervision Form ~~[form]~~ shall be submitted upon:

(A) application for a license;

(B) license renewal;

(C) changes in supervision; and

(D) the addition of other proposed board-approved supervisors.

(2) If ~~[In the event]~~ more than one licensed speech-language pathologist agrees to supervise the intern in speech-language pathology, each proposed board-approved supervisor must submit a signed Speech-Language Pathology Intern Plan and Agreement of Supervision Form ~~[form]~~ which shall also identify all proposed board-approved supervisors.

(3) If the board-approved ~~[In the event the]~~ supervisor ceases supervision of the intern in speech-language pathology, the intern shall stop practicing immediately. The board shall hold the board-approved supervisor responsible for the practice of the intern in speech-language pathology until the board-approved supervisor notifies the board, in writing, of the change in supervision.

(4) If ~~[Should]~~ the intern in speech-language pathology practices ~~[practice]~~ without approval from the board office, disciplinary action may be initiated against the intern in speech-language pathology. If the board-approved supervisor had knowledge of this violation, disciplinary action against the board-approved supervisor may also be initiated.

(f) The internship shall:

(1) begin within four years after the academic and clinical experience requirements as required by subsection (a) of this section have been met;

(2) be completed within a maximum period of 48 months once initiated;

(3) be successfully completed after no more than two attempts;

(4) consist of 36 weeks of full-time supervised professional experience (35 hours per week) totaling a minimum of 1,260 hours, or its part-time equivalent, of supervised professional experience in which clinical work has been accomplished in speech-language pathology. Professional experience of less than 5 hours per week cannot be used to meet the supervised professional experience.

(5) involve primarily clinical activities such as assessment, diagnosis, evaluation, screening, treatment, report writing, family/client consultation, and/or counseling related to the management process of individuals who exhibit communication disabilities;

(6) be divided into three segments with no fewer than 36 clock hours of supervisory activities to include:

(A) six hours of in person observations per segment by the board-approved supervisor(s) of the intern's direct client contact at the worksite in which the intern provides screening, evaluation, assessment, habilitation, and rehabilitation; and

(B) six hours of other monitoring activities per segment with the board-approved [board approved] supervisor(s) which may include correspondence, review of videotapes, evaluation of written reports, phone conferences with the intern, evaluations by professional colleagues; or

(C) an alternative plan as approved by the board's designee.

(g) An applicant who does not meet the time frames defined in subsection (f)(1) and (2) of this section shall request an extension, in writing, explaining the reason for the request. The request must be signed by both the intern and the board-approved supervisor. Evaluation of the intern's progress of performance from all board-approved supervisors must accompany the request. Intern plans and supervisory evaluations for any completed segments must be submitted. Within 15 working days of receipt of the request, the board's designee shall determine if the internship:

(1) should be revised or extended; and

(2) whether additional course work, continuing professional education hours, or passing the examination referenced in §741.121 of this title (relating to Examination Administration) is required.

(h) (No change.)

(i) During each segment of the internship, each board-approved supervisor shall conduct a formal evaluation of the intern's progress in the development of professional skills. Documentation of this evaluation shall be maintained by both parties for three years or until the speech-language pathology license is granted. A copy of this documentation shall be submitted to the board upon request.

(j) Prior to implementing changes in the internship, approval from the board office is required.

(1) If the intern changes his or her board-approved supervisor, the new proposed supervisor shall submit [or adds additional supervisors,] a current Intern Plan and Agreement of Supervision Form to the board. The intern may not [shall be submitted by the new proposed supervisor and approved by the board before the intern may resume] practice until the board approves the Intern Plan and Agreement of Supervision Form. If the intern adds a board-approved supervisor(s), each new proposed supervisor shall submit a current Intern Plan and Agreement of Supervision Form to the board. The intern may not practice under the additional proposed supervisor(s) until the board approves the Intern Plan and Agreement of Supervision Form. If the intern has completed the internship with the previous supervisor, the previous su-

pervisor and intern shall complete the [The] Report of Completed Internship Form [form shall be completed by the past supervisor and intern] and shall submit the report [submitted] to the board office [upon completion of that portion of the internship. It is the decision of the supervisor to determine whether the internship is acceptable.]. The board office shall evaluate the form and inform the intern of the results. The board-approved supervisor determines whether the internship was acceptable.

(2) Each board-approved supervisor who ceases supervising an intern shall submit a Report of Completed Internship Form [form] for the portion of the internship completed under the board-approved supervisor's supervision. This must be submitted within 30 days of the date the supervision ended.

(3) If the intern changes his or her employer but the board-approved supervisor and the number of hours employed per week remain the same, the board-approved supervisor shall submit a signed statement giving the name, address and phone number of the new location. This must be submitted within 30 days of the date the change occurred.

(k) - (n) (No change.)

(o) An applicant applying for an intern in speech-language pathology license shall submit the following to the board:

(1) an original board application form including disclosure of the applicant's social security number completed, signed, and dated within the past 60 days;

(2) the initial license fee;

(3) an original or certified copy of the transcript(s) showing the conferred degree of all relevant course work which also verifies that the applicant possesses a minimum of a master's degree with a major in one of the areas of communicative sciences or disorders; however, an applicant who graduated from a college or university with a program not accredited by the ASHA Council on Academic Accreditation, shall submit an original signed letter from ASHA stating that the Clinical Certification Board accepted the course work and clinical experience;

(4) if the graduate degree has not been officially conferred, an original or certified copy of transcript(s) and verification from the university attended verifying the applicant successfully completed all requirements for the graduate degree, and is only awaiting the date of next graduation for the degree to be conferred;

(5) a Course Work and Clinical Experience Form completed by the university program director or designee of the college or university attended that verifies the applicant has met the requirements established in §741.61(b) - (c) or §741.81(b) - (c) of this title;

(6) an Intern Plan and Agreement of Supervision Form completed by the proposed board-approved supervisor(s) and signed by both the applicant and the proposed board-approved supervisor(s);

(7) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and

(8) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

§741.63. Waiver of Clinical and Examination Requirements for Speech-Language Pathologists.

(a) An applicant for a speech-language pathology license [issued by this board] who currently holds the ASHA Certificate of Clinical Competence [(CCC)] may ask the board to waive clinical and examination requirements [submit official documentation from ASHA of the CCC as evidence that the applicant meets the clinical experience and examination requirements as set out in the Act, and §741.61 of this title (relating to Requirements for a Speech-Language Pathology License)].

(b) An applicant who seeks a waiver shall submit the following:

(1) an original board application form for a speech-language pathology license, including disclosure of the applicant's social security number, completed, signed, and dated within the past 60 days;

(2) the initial license fee;

(3) an original or certified copy of a signed letter from ASHA that verifies the applicant currently holds the Certificate of Clinical Competence in the area of speech-language pathology;

(4) an original or certified copy of the transcript(s) showing the conferred degree of all relevant course work, which also verifies that the applicant possesses a minimum of a master's degree with a major in speech-language pathology; however, an applicant whose transcript is in a language other than English shall submit an original evaluation form from an approved credentialing agency;

(5) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and

(6) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history information from the Department of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

§741.64. *Requirements for an Assistant [i#] Speech-Language Pathology License.*

(a) An individual shall not practice as an assistant in speech-language pathology without a current license issued by the board. An applicant for an assistant in speech-language pathology license shall meet the requirements [set out] in the Act[;] and this section. The applicant for the assistant license shall meet the following requirements [must]:

(1) possess a baccalaureate degree with an emphasis in communicative sciences and disorders;

(2) have acquired the following:

(A) at least 24 semester hours in speech-language pathology and/or audiology with a grade of "C" or above;

(B) and at least 18 semester hours of the 24 hours must be in speech-language pathology;

(C) at least three semester hours in language disorders;

(D) at least three semester hours in speech disorders;

and

(E) excludes clinical experience and course work such as special education, deaf education, or sign language; and

(3) have earned no fewer than 25 hours of clinical observation in the area of speech-language pathology and 25 hours of clinical assisting experience in the area of speech-language pathology obtained

within an educational institution or in one of its cooperating programs or under the direct supervision at their place of employment.

(b) - (d) (No change.)

(e) An applicant applying for an assistant in speech-language pathology license under this section shall submit the following to the board:

(1) an original board application form including disclosure of the applicant's social security number completed, signed, and dated within the past 60 days;

(2) the initial license fee;

(3) a Supervisory Responsibility Statement Form completed by the licensed supervisor who agrees to accept responsibility for the services provided by the assistant and signed by both the applicant and the proposed board-approved supervisor;

(4) an original or certified copy of the transcript(s) showing the conferred degree of relevant course work which also verifies that the applicant possesses a baccalaureate degree with an emphasis in speech-language pathology and/or audiology;

(5) if not previously submitted, a Clinical Observation and Clinical Experience Form completed by the university program director or designee of the college or university training program verifying the applicant completed the requirements in subsection (a)(3) of this section or §741.84(b)(3) of this title;

(6) for an applicant who did not obtain the hours required in paragraph (5) of this subsection, a Clinical Deficiency Plan Form to obtain the necessary hours lacking;

(7) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and

(8) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history information from the Department of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

(f) [(e)] An applicant who has not acquired the 25 hours of clinical observation and 25 hours of clinical experience referenced in subsection (a)(3) of this section shall not meet the minimum qualifications for the assistant license. These hours must be obtained through an accredited college or university, or through a Clinical Deficiency Plan. In order to acquire these hours, the applicant shall first obtain the assistant license by submitting the forms, fees, and documentation referenced in §741.112(d) of this title (relating to Required Application Materials) and include the prescribed Clinical Deficiency Plan to acquire the clinical observation and clinical assisting experience hours lacking.

(1) The licensed speech-language pathologist who will provide the applicant with the training to acquire these hours must meet the requirements set out in the Act and §741.44 of this title (relating to Requirements, Duties, and Responsibilities of Supervisors) and shall submit:

(A) the supervisory responsibility statement form; and

(B) the prescribed Clinical Deficiency Plan.

(2) The board office shall evaluate the documentation and fees submitted to determine if the assistant license shall be issued. Additional information or revisions may be required before approval is granted.

(3) The Clinical Deficiency Plan shall be completed within 60 days of the issue date of the assistant's license or the licensed assistant shall be considered to have voluntarily surrendered the license.

(4) Immediately upon completion of the Clinical Deficiency Plan, the licensed speech-language pathologist identified in the plan shall submit:

(A) a supervision log that verifies the specific times and dates in which the hours were acquired with a brief description of the training conducted during each session;

(B) a rating scale of the licensed assistant's performance; and

(C) a signed statement that the licensed assistant successfully completed the clinical observation and clinical assisting experience under his or her 100% direct, in person supervision. This statement shall specify the number of hours completed and verify completion of the training identified in the Clinical Deficiency Plan.

(5) Board staff shall evaluate the documentation required in paragraph (4) of this subsection and inform the licensed assistant and licensed speech-language pathologist who provided the training if acceptable.

(6) A licensed assistant may continue to practice under 100% in person supervision of the licensed speech-language pathologist who provided the licensed assistant with the training while the board office evaluates the documentation identified in paragraph (4) of this subsection.

(7) In the event another licensed speech-language pathologist shall supervise the licensed assistant after completion of the Clinical Deficiency Plan, a supervisory responsibility statement form shall be submitted to the board office seeking approval for the change in supervision. If the documentation required by paragraph (4) of this subsection has not been received and approved by the board office, approval for the change in supervision shall not be granted.

(g) ~~[(f)]~~ The applicant and the proposed board-approved supervisor who agrees to assume responsibility for all services provided by the licensed assistant shall complete and sign a Supervisory Responsibility Statement Form [A supervisory responsibility statement form shall be completed and signed by both the applicant and the licensed speech-language pathologist who agrees to assume responsibility for all services provided by the licensed assistant]. The proposed board-approved [licensed speech-language pathology] supervisor must meet the requirements set out in the Act and §741.44 of this title relating to (Requirements, Duties, and Responsibilities of Supervisors).

(1) Approval from the board office shall be required prior to practice by the licensed assistant. The supervisor responsibility statement shall be submitted upon:

(A) application for an assistant license;

(B) license renewal when there is a change in supervisor;

(C) other changes in supervision; and

(D) the addition of board-approved ~~[other]~~ supervisors.

(2) If [In the event] more than one licensed speech-language pathologist agrees to supervise the licensed assistant, each licensed speech-language pathology board-approved supervisor shall be identified on the supervisor responsibility statement, and meet the minimum requirement of supervision as referenced in subsection (g)(4) of this section. The licensed assistant shall only provide services for the supervising speech-language pathologist's caseload.

(3) A licensed assistant may renew the license if there is a change in supervision, but may not practice until a new supervisory responsibility statement form is approved.

(4) If [In the event] the licensed speech-language pathology board-approved supervisor ceases supervision of the licensed assistant, the licensed board-approved [speech-language pathology] supervisor shall notify the board[.] in writing, and shall inform the licensed assistant to stop practicing immediately. The board-approved [board shall hold the licensed speech-language pathology] supervisor is responsible for the practice of the licensed assistant until the board receives written notification that the supervisor has stopped supervising the licensed assistant [has been received in the board office].

(5) If an individual practices without a license in violation of this chapter, the board may take enforcement action [Should the licensed assistant practice without approval from the board office, disciplinary action may be initiated] against the individual and may also take enforcement [licensed assistant. If the licensed speech-language pathology supervisor had knowledge of this violation, disciplinary] action against the board-approved [licensed speech-language pathology] supervisor [may also be initiated].

(h) ~~[(g)]~~ A licensed speech-language pathology board-approved supervisor shall assign duties and provide appropriate supervision to the licensed assistant.

(1) Initial contacts directly with the client shall be conducted by the supervising speech-language pathologist.

(2) Following the initial contact, the supervising speech-language pathologist shall determine whether the licensed assistant has the competence to perform specific duties before delegating tasks.

(3) Indirect methods of supervision may include audio and/or video tape recording, report review, telephone or electronic communication, or other means of reporting.

(4) The supervising speech-language pathologist shall provide a minimum of two hours per week of supervision, at least one hour of which is in person supervision where the licensed assistant is providing the therapy. This applies whether the licensed assistant's practice is full or part-time.

(5) An exception to paragraph (4) of this subsection may be requested. The supervising speech-language pathologist shall submit the prescribed alternate supervision request plan form for review by the board's designee. Within 15 working days of receipt of the request, the board's designee shall approve or not approve the plan. The plan shall be for not more than one year's duration.

(6) If the exception referenced in paragraph (5) of this subsection is approved and the reason continues to exist, the licensed supervising speech-language pathologist shall annually resubmit a request to be evaluated by the board's designee. Within 15 working days of receipt of the request, the board's designee shall approve or not approve the plan.

(7) Supervisory records shall be maintained for a period of three years by the licensed speech-language pathologist that verify regularly scheduled monitoring, assessment, and evaluation of the licensed assistant's and client's performance. Such documentation may be requested by the board.

(A) A licensed assistant may not conduct an evaluation which includes diagnostic testing and observation, test interpretation, diagnosis, decision making, statement of severity or implication, case selection or case load decisions.

(B) A licensed assistant may conduct assessments which includes data collection, clinical observation and routine test administration if the licensed assistant has been appropriately trained and the assessments are conducted under the direction of the licensed speech-language pathology board-approved supervisor. A licensed assistant may not conduct a test if the test developer has specified that a graduate degreed examiner should conduct the test.

(i) [(h)] The [Although the] licensed board-approved supervising speech-language pathologist may delegate specific clinical tasks to a licensed assistant but may not delegate [; the] responsibility for services provided to the client [for all services provided cannot be delegated]. The licensed speech-language pathologist shall ensure that all services comply [provided are in compliance] with this chapter.

(1) The licensed supervising speech-language pathologist need not be present when the licensed assistant is completing the assigned tasks; however, the licensed speech-language pathologist shall document all services provided and the supervision of the licensed assistant.

(2) The licensed supervising speech-language pathologist shall keep job descriptions and performance records of the licensed assistant. Records shall be current and made available to the board within 30 days of the date of the board's request for such records.

(3) The licensed speech-language pathology board-approved supervisor of the licensed assistant shall:

(A) in writing, determine the skills and assigned tasks the licensed assistant is able to carry out within the licensed assistant's scope of practice. This document must be agreed upon by the licensed assistant and the supervising speech-language pathologist;

(B) notify the client or client's legal guardian(s) that services will be provided by a licensed assistant;

(C) develop the client's treatment program in all settings and review them with the licensed assistant who will provide the service; and

(D) maintain responsibility for the services provided by the licensed assistant.

(4) The licensed assistant may execute specific components of the clinical speech, language, and/or hearing program if the licensed speech-language pathology board-approved supervisor determines that the licensed assistant has received the training and has the skill to accomplish that task, and the board-approved [icensed speech-language pathology] supervisor provides sufficient supervision to ensure appropriate completion of the task assigned to the licensed assistant.

(5) Examples of duties which a licensed assistant may be assigned by the speech-language pathology board-approved supervisor who agreed to accept responsibility for the services provided by the licensed assistant, provided appropriate training has been received, are to:

(A) conduct or participate in speech, language, and/or hearing screening;

(B) implement the treatment program or the individual education plan (IEP) designed by the licensed speech-language pathology supervisor;

(C) provide carry-over activities which are the therapeutically designed transfer of a newly acquired communication ability to other contexts and situations;

(D) collect data;

(E) administer routine tests if the test developer does not specify a graduate degreed examiner and the board-approved supervisor has determined the licensed assistant is competent to perform the test;

(F) maintain clinical records;

(G) prepare clinical materials;

(H) participate with the licensed speech-language pathology board-approved supervisors' research projects, staff development, public relations programs, or similar activities as designated and supervised by the licensed speech-language pathologist;

(I) may write lesson plans based on the therapy program developed by the supervising speech-language pathologist. The lesson plans shall be reviewed and approved by the supervising speech-language pathologist; and

(J) must only work with assigned cases of the supervising speech-language pathologist's caseload.

(j) [(h)] The licensed assistant shall not:

(1) conduct evaluations, even under supervision, since this is a diagnostic and decision making activity;

(2) interpret results of routine tests;

(3) interpret observations or data into diagnostic statements, clinical management strategies, or procedures;

(4) represent speech-language pathology at staff meetings or at an admission, review and dismissal (ARD), except as specified in this section;

(5) attend staffing meeting or ARD without the licensed assistant's supervising speech-language pathology board-approved supervisor being present except as specified in this section;

(6) design or alter a treatment program or individual education plan (IEP);

(7) determine case selection;

(8) present written or oral reports of client information, except as provided by this section;

(9) refer a client to other professionals or other agencies;

(10) use any title which connotes the competency of a licensed speech-language pathologist;

(11) practice as an assistant in speech-language pathology without a valid supervisory responsibility statement on file in the board office;

(12) perform invasive procedures;

(13) screen or diagnose clients for feeding and swallowing disorders;

(14) use a checklist or tabulated results of feeding or swallowing evaluations;

(15) demonstrate swallowing strategies or precautions to clients, family, or staff;

(16) provide client or family counseling;

(17) sign any formal document relating to the reimbursement for or the provision of speech-language pathology services without the licensed assistant's board-approved [board approved] speech-language pathology supervisor's signature; or

(18) use "SLP-A" or "STA" as indicators for their credentials. Licensees shall use "Assistant SLP" or "SLP Assistant" to shorten their professional title.

(k) ~~[(j)]~~ The licensed, board-approved ~~[board approved]~~ supervisor of the licensed assistant, prior to the ARD, shall:

(1) notify the parents of students with speech impairments that services will be provided by a licensed assistant and that the licensed assistant will represent Speech Pathology at the ARD;

(2) develop the student's new IEP goals and objectives and review them with the licensed assistant; and

(3) maintain undiminished responsibility for the services provided and the actions of the licensed assistant.

(l) ~~[(k)]~~ A licensed assistant may represent special education and speech pathology at the ARD meetings with the following stipulations.

(1) The licensed assistant shall have written documentation of approval from the licensed, board-approved ~~[board approved]~~ speech-language pathologist supervisor.

(2) The licensed assistant shall have three years of experience as a licensed assistant in the school setting.

(3) The licensed assistant may attend, with written approval of the supervising speech-language pathologist, a student's annual review ARD meeting if the meeting involves a student for whom the licensed assistant provides services. If a licensed assistant attends a meeting as provided by this rule, the supervising speech-language pathologist is not required to attend the meeting. A supervising speech-language pathologist must attend an ARD meeting if the purpose of the meeting is to develop a student's initial IEP or if the meeting is to consider the student's dismissal, unless the supervising speech-language pathologist has submitted their recommendation in writing on or before the date of the meeting.

(4) The licensed assistant shall present IEP goals and objectives that have been developed by the supervising speech-language pathologist and reviewed with the parent by the supervising speech-language pathologist.

(5) The licensed assistant shall discontinue participation in the ARD meeting, and contact the supervising speech-language pathologist, when questions or changes arise regarding the IEP document.

(m) ~~[(h)]~~ In any professional context the licensee must indicate the licensee status as a licensed speech-language pathology assistant.

(n) ~~[(m)]~~ The board may audit a random sampling of licensed assistants for compliance with this section and §741.44 of this title.

(1) The board shall notify a licensed assistant and licensed speech-language pathology board-approved supervisor by mail that the licensee has been selected for an audit. In the notice, the board will request documentation of compliance with the Act and this chapter.

(2) The [Upon receipt of an audit notification, the] licensed assistant and the licensed speech-language pathology board-approved supervisor who agreed to accept responsibility for the services provided by the licensed assistant shall comply with the audit and shall mail the requested proof of compliance to the board.

~~[(3) The licensed assistant and the supervising speech-language pathologist shall comply with the board's request for documentation and information concerning compliance with the audit.]~~

§741.65. *Requirements for a Temporary Certificate of Registration in Speech-Language Pathology.*

(a) - (c) (No change.)

(d) The proposed board-approved supervisor and applicant shall complete the Temporary Supervisory Form and submit it to the board office. The applicant shall not practice until the application is approved by the board.

(e) The applicant shall submit the following materials to the board to complete the application process:

(1) an original board application form including disclosure of the applicant's social security number; completed, signed, and dated within the past 60 days;

(2) the temporary certificate of registration fee;

(3) an original or certified copy of the transcript(s) showing the conferred degree of all relevant course work which also verifies that the applicant possesses a minimum of a master's degree with a major in one of the areas of communicative sciences or disorders; however, an applicant who graduated from a college or university with a program not accredited by the ASHA Council on Academic Accreditation, shall submit an original signed letter from ASHA stating that the Clinical Certification Board accepted the course work and clinical experience;

(4) a Course Work and Clinical Experience Form completed by the university program director or designee of the college or university attended which verifies the applicant has met the requirements in §741.61(b) - (c) of this title;

(5) a Report of Completed Internship Form completed by the applicant's board-approved supervisor and signed by both the applicant and the board-approved supervisor; however, if the internship was completed out-of-state, the supervisor shall also submit a copy of his or her diploma or transcript showing the master's degree in one of the areas of communicative sciences and disorders had been conferred and a copy of a valid license to practice in that state. If that state did not require licensure, the supervisor shall submit an original letter from ASHA stating that the Certificate of Clinical Competence was held when the applicant completed the internship in addition to proof of a master's degree in communicative sciences and disorders;

(6) a Temporary Supervisory Form completed by the applicant's proposed board-approved supervisor and signed by both the applicant and the proposed board-approved supervisor;

(7) an applicant who completed the internship in another state and graduated from a college or university with a program not accredited by ASHA, shall submit an original, signed letter from ASHA stating that the Clinical Certification Board accepted the course work, clinical practicum, and the clinical fellowship year;

(8) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and

(9) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

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

Filed with the Office of the Secretary of State on September 14, 2015.



SUBCHAPTER F. REQUIREMENTS FOR LICENSURE OF AUDIOLOGISTS

22 TAC §§741.81 - 741.85

STATUTORY AUTHORITY

The amendments are authorized under Occupations Code, §401.202, which requires the board to adopt rules necessary to administer and enforce Occupations Code, Chapter 401.

The amendments affect Occupations Code, Chapter 401.

§741.81. *Requirements for an Audiology License.*

(a) - (b) (No change.)

(c) An applicant who graduated from a college or university program not accredited by a national accrediting organization that is approved by the board and recognized by the U.S. Secretary of Education under the Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.) [the American Speech-Language Hearing Association Council on Academic Accreditation] shall have the [American Speech-Language-Hearing Association] Clinical Certification Board of ASHA evaluate the course work [and clinical experience earned] to determine whether the applicant qualifies for the Certificate of Clinical Competence [if acceptable]. The applicant shall bear all expenses incurred during the procedure.

(d) (No change.)

(e) An applicant who previously held the ASHA [American Speech-Language-Hearing Association] Certificate of Clinical Competence or the ABA [American Board of Audiology (ABA)] certification may have the certificate reinstated and apply for licensure under §741.83 of this title (relating to Waiver of Clinical and Examination Requirements for Audiologists).

(f) The applicant shall submit the following materials to the board to complete the application process:

(1) an original board application form including disclosure of the applicant's social security number; completed, signed, and dated within the past 60 days;

(2) the initial application fee;

(3) an original or certified copy of the transcript(s) showing the conferred doctoral degree; or if the degree was not earned at an institution as described in subsection (b) of this section, official documentation from the ASHA Council on Academic Accreditation that the conferred doctoral degree is adequate for ASHA Certification or from the ABA that the conferred doctoral degree is adequate for ABA Certification;

(4) if the applicant currently holds an intern in audiology license, a Report of Completed Internship Form completed by the applicant's board-approved supervisor and signed by both the applicant and the board-approved supervisor;

(5) a Praxis Exam Score Report showing the applicant passed the examination required in §741.121 of this title (relating to

Examination Administration) within the time period established in subsection (d) of this section;

(6) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and

(7) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

{(f) An individual who was licensed as an audiologist in this state between September 1, 2007 and September 1, 2011, and who files an application for a license in audiology before September 1, 2014, may renew the lapsed license if the individual meets the following conditions:}

{(1) has a master's degree in audiology;}

{(2) has completed approved continuing education in an amount equal to the number of hours that would have been required had the license not lapsed;}

{(3) has completed the jurisprudence examination;}

{(4) has completed and cleared the board required fingerprinting and criminal history background check; and}

{(5) has paid the appropriate current renewal fee and late fee.}

(g) An applicant for dual licenses in audiology and speech-language pathology under §741.91 of this title (relating to Requirements for Dual Licenses in Speech-Language Pathology and Audiology) shall submit separate documentation and fees listed in subsection (f) of this section and in §741.61(h)(1) - (7) of this title.

(h) An applicant who currently holds a license in speech-language pathology and wishes to obtain dual licenses by adding a license in audiology shall submit documentation listed in subsection (f) of this section and §741.61(i) of this title.

§741.82. *Requirements for an Intern in Audiology License.*

(a) - (b) (No change.)

(c) The board prescribed Intern Plan and Agreement of Supervision for an Intern in Audiology Form [form] shall be completed and signed by both the applicant and the licensed audiologist who agrees to assume responsibility for all services provided by the intern in audiology. The proposed board-approved supervisor shall hold a valid Texas license in audiology and possess a master's degree or higher with a major in one of the areas of communicative sciences and disorders and meet the requirements set out in the Act and §741.44 of this title (relating to Requirements, Duties, and Responsibilities of Supervisors).

(1) Written approval from the board office shall be required prior to practice by the intern in audiology. The Intern Plan and Agreement of Supervision of An Intern in Audiology Form [form] shall be submitted upon:

(A) - (C) (No change.)

(D) addition of a proposed board-approved supervisor [other supervisors].

(2) If [In the event] more than one licensed audiologist agrees to supervise the intern in audiology, the primary board-approved supervisor shall be identified and separate forms submitted by each board-approved supervisor.

(3) If ~~[In the event]~~ the board-approved supervisor ceases supervision of the intern, the intern in audiology shall stop practicing immediately until a new supervisor is approved by the board office.

(4) If an individual practices ~~[Should the intern in audiology practice]~~ without a license in violation of this chapter, the board may take enforcement ~~[approval from the board office, disciplinary]~~ action ~~[shall be initiated]~~ against the individual and may also take enforcement ~~[intern. If the supervisor had knowledge of this violation, disciplinary]~~ action against the board-approved supervisor ~~[shall also be initiated]~~.

(d) (No change.)

(e) Before ~~[Prior to]~~ implementing any changes in the supervision of the internship, the intern must receive the board's written approval ~~[from the board office is required]~~.

(1) If the intern in audiology changes his or her board-approved supervisor or adds board-approved supervisor(s) ~~[additional supervisors]~~, the new proposed supervisor shall submit a current Intern Plan and Agreement of Supervision of An Intern in Audiology Form to ~~[form shall be submitted by the new supervisor and approved by]~~ the board. The ~~[before the]~~ intern in audiology may not resume practice until the board approves the Intern Plan and Agreement of Supervision Form. When the intern has completed the internship with the previous board-approved supervisor, the previous board-approved supervisor and intern shall complete a ~~[- A]~~ Report of Completed Internship of An Intern in Audiology Form ~~[form]~~ and shall submit the report ~~[be completed by the previous supervisor and the intern in audiology and submitted]~~ to the board office ~~[upon completion of that portion of the internship]~~. The board-approved ~~[It is the decision of the]~~ supervisor determines ~~[to determine]~~ whether the internship meets the board's requirements. The board office shall evaluate the form and inform the intern in audiology of the results.

(2) A primary board-approved supervisor who ceases supervising an intern in audiology shall submit a Report of Completed Internship of An Intern in Audiology Form ~~[form]~~ for the portion of the internship completed under his or her supervision. This must be submitted within 30 days of the date the supervision ended.

(3) A secondary board-approved supervisor who ceases supervising an intern in audiology shall submit written documentation of the intern in audiology's performance under their supervision. This must be submitted within 30 days of the date the supervision ended.

(4) If the intern in audiology changes his or her employer but the board-approved supervisor and the number of hours employed per week remain the same, the board-approved supervisor shall submit a signed statement giving the name, address and phone number of the new location. This must be submitted within 30 days of the date the change occurred.

(5) (No change.)

(f) The intern in audiology may continue to practice under supervision if he or she holds a valid intern in audiology license while awaiting the processing of the audiology license. If the intern in audiology changes a board-approved supervisor ~~[supervisors]~~, the new board-approved supervisor shall first submit the Intern Plan and Agreement of Supervision of An Intern in Audiology Form ~~[form]~~ and receive board approval before the intern in audiology may resume practice.

(g) The applicant shall submit the following materials to the board to complete the application process:

(1) an original board application form including disclosure of the applicant's social security number completed, signed and dated within the past 60 days;

(2) the initial application fee;

(3) a Course work and Clinical Experience Form for Audiology Intern signed by the university program director or designee verifying the applicant is enrolled in a professionally recognized accredited doctoral program as approved by the board, and has completed all required academic and clinical course work;

(4) an original or certified copy of the most current transcript;

(5) an Intern Plan and Agreement of Supervision Form completed by the proposed board-approved supervisor and signed by both the applicant and the proposed board-approved supervisor;

(6) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and

(7) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

§741.83. Waiver of Clinical and Examination Requirements for Audiologists.

(a) An applicant for a license from the ~~[this]~~ board who currently holds either the ASHA Certificate of Clinical Competence ~~[+CCC]~~ or the ABA Board Certification in audiology ~~[American Board of Audiology (ABA) certification]~~ may submit official documentation from ASHA or ABA as evidence that the applicant meets the clinical experience and examination requirements as referenced in §741.81 of this title (relating to Requirements for an Audiology License).

(b) An applicant under this section who holds a current ASHA Certificate of Clinical Competence or who is currently ABA Board Certified and is applying for licensure under §741.63 of this title (relating to Waiver of Clinical and Examination Requirements for Speech-Language Pathologists) shall submit the following:

(1) an original board application form including disclosure of the applicant's social security number completed, signed, and dated within the past 60 days;

(2) the initial license fee;

(3) an original or certified copy of a signed letter from ASHA or the ABA which verifies the applicant holds a current Certificate of Clinical Competence or ABA Board Certification in audiology;

(4) an original or certified copy of the transcript(s) showing the conferred degree of all relevant course work which also verifies that the applicant possesses a minimum of a doctoral degree in audiology or related hearing science; however, an applicant whose transcript is in a language other than English shall submit an original evaluation form from an approved credentialing agency;

(5) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and

(6) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history record information from the Depart-

ment of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

§741.84. *Requirements for an Assistant in Audiology License.*

(a) An individual shall not practice as an assistant in audiology without a current license issued by the board. An applicant for an assistant in audiology license shall meet the requirements set out in the Act and this section.

(b) An assistant in audiology shall meet [is an individual who provides audiology support services to clinical programs under supervision of a licensed audiologist and meets] the following requirements:

(1) reach the minimum age of 18 and possess a high school diploma or equivalent [possesses a baccalaureate degree with an emphasis in communicative sciences and disorders];

(2) complete the approved 20-hour certification course from the Council for Accreditation of Occupational Hearing Conservation (CAOHC) and earn a passing score on the examination [acquired no fewer than 24 semester hours in speech-language pathology and/or audiology with at least a grade of "C" or above, at least 12 of which must be in audiology core curriculum, including but not limited to anatomy and physiology of speech and hearing, hearing science, basic audiology, aural rehabilitation, hearing instruments and assistive devices, and hearing and deafness, and excludes clinical experience and course work such as special education, deaf education, or sign language]; and

(3) submit the board-prescribed Supervisory Responsibility Statement for an Assistant in Audiology form, that shall include: [earned no fewer than 25 hours of clinical observation in the area of audiology and 25 hours of clinical assisting experience in the area of audiology obtained within an educational institution or in one of its co-operating programs, or through an approved clinical deficiency plan in audiology.]

(A) an agreement signed by both the licensed proposed board-approved supervisor (who must meet the requirements set out in the Act and §741.44 of this title) and the applicant, to enter into a supervisory relationship, in which the proposed board-approved supervisor agrees to assume responsibility for the applicant's activities, and the applicant agrees to perform only those activities assigned by the board-approved supervisor that are not prohibited under this section; and

(B) a plan for a minimum of 25 hours of job-specific competency-based training to be carried out by the board-approved supervisor. Until this training is complete, the licensed assistant in audiology may practice only under direct supervision by the board-approved supervisor.

(c) Upon satisfactory completion of job-specific competency-based training, the board-approved supervisor shall submit the Report of Completed Training for an Assistant in Audiology Form on behalf of the licensed assistant in audiology. After the board approves the report, the licensed assistant may practice only in compliance with the supervision requirements under subsection (e) of this section. [The baccalaureate degree shall be completed at a college or university that holds accreditation or candidacy status from a recognized regional accrediting agency.]

[(1) The transcript(s) submitted must include the following:]

[(A) an original or certified copy of the transcripts showing the date that the degree was conferred;]

[(B) only course work earned within the past 10 years with a grade of "C" or above is acceptable;]

[(C) a quarter hour of academic credit shall be considered as two-thirds of a semester credit hour; and]

[(D) academic courses, the titles of which are not self-explanatory, shall be substantiated through course descriptions in official school catalogs or bulletins or by other official means.]

[(2) In the event the course work and clinical experience set out in subsection (b) of this section were earned more than 10 years before the date of application for the assistant license, the applicant shall submit proof of current knowledge of the practice of audiology to be evaluated by the board's designee. If an applicant is required to earn additional course work or continuing professional education hours, §741.193 of this title (relating to Revocation, Suspension, Emergency Suspension, or Denial) shall not apply. The applicant may reapply for the license when the requirements of this section are met.]

(d) If more than one licensed audiologist agrees to supervise the licensed assistant in audiology, each proposed board-approved supervisor must submit a separate Supervisory Responsibility Statement for an Assistant in Audiology Form. [An applicant who possesses a baccalaureate degree with a major that is not in communicative sciences and disorders may qualify for the assistant in audiology license. The board's designee shall evaluate transcripts on a case-by-case basis to ensure equivalent academic preparation and shall determine if the applicant satisfactorily completed 24 semester hours in communicative sciences or disorders, 12 of which must be in audiology.]

(e) A board-approved supervising audiologist shall be on-site at the licensed assistant in audiology's employment location for at least ten hours per week, and provide at least one hour of direct supervision, at the location where the assistant is employed. This requirement applies whether the licensed assistant in audiology is employed full- or part-time. [Degrees and/or course work received at foreign universities shall be acceptable only if such course work and clinical practicum hours may be verified as meeting the requirements of subsection (a) of this section. The applicant must bear all expenses incurred during the procedure. The board's designee shall evaluate the documentation within 15 working days of receipt of all documentation which shall include an original transcript and an original report from a credential evaluation services agency acceptable to the board.]

(f) The board-approved supervisor shall maintain supervisory records for three years. The records must verify regularly scheduled monitoring, assessment, and evaluation of the licensed assistant in audiology's job performance. The board may request this documentation at any time. [The applicant shall first obtain the assistant in audiology license by submitting the forms, fees, and documentation referenced in §741.112(e) of this title (relating to Required Application Materials) and include a Clinical Deficiency Plan for An Assistant in Audiology form to acquire the clinical observation and clinical assisting experience hours lacking.]

[(1) The licensed audiologist who will provide the licensed assistant in audiology with the training to acquire these hours must meet the requirements set out in the Act and §741.44 of this title (relating to Requirements, Duties, and Responsibilities of Supervisors) and shall submit:]

[(A) the prescribed Supervisory Responsibility Statement for An Assistant in Audiology form; and]

[(B) the prescribed Clinical Deficiency Plan for An Assistant in Audiology form.]

{(2) The board office shall evaluate the documentation and fees submitted to determine if the licensed assistant in audiology license shall be issued. Additional information or revisions may be required before approval is granted}

{(3) The Clinical Deficiency Plan for An Assistant in Audiology shall be completed within 60 days of the issue date of the license or disciplinary action shall be initiated against the licensed assistant in audiology and the licensed audiology supervisor.}

{(4) Immediately upon completion of the clinical deficiency plan for an assistant in audiology, the licensed audiologist who is providing the licensed assistant in audiology with the training identified in the plan shall submit the prescribed Report of Completed Clinical Deficiency Plan for An Assistant in Audiology form.}

{(5) Board staff shall evaluate the Report of Completed Clinical Deficiency Plan for An Assistant in Audiology and inform the licensed audiologist if acceptable.}

{(6) A licensed assistant in audiology may continue to practice under the supervision of the licensed audiologist who is providing the licensed assistant in audiology with the training while the board office evaluates the Report of Completed Clinical Deficiency Plan for An Assistant in Audiology.}

{(7) In the event another licensed audiologist shall supervise the licensed assistant in audiology after completion of the clinical deficiency plan, a Supervisory Responsibility Statement for An Assistant in Audiology form shall be submitted to the board office seeking approval for the change in supervision. If the Report of Completed Clinical Deficiency Plan for An Assistant in Audiology has not been received and approved by the board office, approval for the change shall not be granted.}

(g) If the board-approved supervisor(s) cease supervision of the licensed assistant in audiology, the licensed assistant in audiology shall stop practicing immediately. The licensed assistant in audiology may not practice until a new a Supervisory Responsibility Statement for an Assistant in Audiology Form has been submitted and approved by the board. [The prescribed Supervisory Responsibility Statement for An Assistant in Audiology form must be completed and signed by both the applicant and the licensed audiologist who agrees to assume responsibility for all services provided by the licensed assistant in audiology. The supervisor must meet the requirements set out in the Act and §741.44 of this title.]

{(1) Approval from the board office shall be required prior to practice by the licensed assistant in audiology. The Supervisory Responsibility Statement for An Assistant in Audiology form shall be submitted upon.}

{(A) application for a license;}

{(B) license renewal;}

{(C) changes in supervision; and}

{(D) addition of other supervisors.}

{(2) In the event more than one licensed audiologist agrees to supervise the licensed assistant in audiology, each licensed audiologist shall be identified and a separate Supervisory Responsibility Statement for An Assistant in Audiology form be submitted by each supervisor.}

{(3) A licensed assistant in audiology may renew the license but may not practice until a new Supervisory Responsibility Statement for An Assistant in Audiology is approved.}

{(4) In the event the supervisor ceases supervision of the licensed assistant in audiology, the licensed assistant in audiology shall stop practicing immediately.}

{(5) Should the licensed assistant in audiology practice without approval from the board office, disciplinary action shall be initiated against the licensed assistant in audiology. If the supervisor had knowledge of this violation, disciplinary action against the supervisor shall also be initiated.}

(h) The board-approved supervisor [A licensed audiologist] shall assign duties and provide appropriate supervision to the licensed assistant in audiology.

(1) All diagnostic contacts shall be conducted by the board-approved supervisor [supervising licensed audiologist].

(2) Following the initial diagnostic contact, the board-approved supervising audiologist shall determine whether the licensed assistant in audiology is competent [has the competence] to perform specific non-diagnostic and non-prohibited duties before delegating tasks (as referenced in subsection (i)(4) [(i)(5)] of this section).

{(3) The supervising audiologist(s) shall be on-site at the licensed assistant in audiology's employment location for at least ten hours per week, and provide at least one hour of direct supervision, at the location where the assistant is employed. This applies whether the licensed assistant in audiology is employed full or part-time.}

{(4) An exception to paragraph (3) of this subsection may be requested. The supervising audiologist shall submit the prescribed Alternate Supervision Plan of An Assistant in Audiology form to be reviewed by the board's designee. The Alternate Supervision Plan of a licensed assistant in audiology shall be for not more than one year's duration.}

{(5) If the Alternate Supervision Plan of An Assistant in Audiology is approved and the reason continues to exist, the licensed supervising audiologist shall annually resubmit an updated Alternate Supervision Plan of An Assistant in Audiology form to be evaluated by the board's designee.}

{(6) Supervisory records shall be maintained by the licensed audiologist for a period of three years which verify regularly scheduled monitoring, assessment, and evaluation of the licensed assistant in audiology's and client's performance. Such documentation may be requested by the board.}

{(A) A licensed assistant in audiology may conduct assessments for the purpose of documenting patient's progress in aural rehabilitation therapy. Such assessments are not diagnostic in nature and include data collection and clinical observation, if the licensed assistant in audiology has been appropriately trained and the assessments are conducted under the direction of the audiology supervisor.}

{(B) A licensed assistant in audiology may not conduct an evaluation which includes diagnostic testing, diagnosis, decision making, statement of severity or implication, case selection or case load decisions.}

(i) The [Although the] licensed board-approved supervising audiologist may delegate specific clinical tasks to a licensed assistant but may not delegate [, the] responsibility for services provided to the client [for all services provided cannot be delegated]. The board-approved supervisor [licensed audiologist] shall ensure that all services comply [provided are in compliance] with this chapter.

(1) The board-approved supervisor [licensed audiologist] need not be in direct supervision when the licensed assistant is completing the assigned tasks; however, the board-approved supervisor

[licensed audiologist] shall document all services provided and the supervision of the licensed assistant.

(2) The board-approved supervisor [licensed audiologist] shall maintain [keep] job descriptions and performance records relating to the practice of the licensed assistant. The board-approved supervisor shall keep records [Records shall be] current and shall provide the records [be made available] to the board within 30 days of the date of the board's request for such records.

(3) The licensed assistant may execute specific components of the clinical hearing program if the board-approved supervisor [licensed audiologist] determines that the licensed assistant has received the training and has the skill to accomplish that task, and the board-approved supervisor [licensed audiologist] provides sufficient supervision to ensure appropriate completion of the task assigned to the licensed assistant.

(4) Examples of duties that the board-approved supervisor may assign to [which] a licensed assistant who has received [may be assigned by the audiologist who agreed to accept responsibility for the services provided by the licensed assistant, provided] appropriate training include the following [has been received, are to]:

(A) conducting [conduct] or participating [participate] in [speech, language, and/or] hearing screening including screening otoscopy, tympanometry, otoacoustic emissions procedures and pure tone air conduction procedures, but may not diagnose hearing loss or disorders of the auditory system, or make statements of severity or implication;

~~(B) conduct aural habilitation or rehabilitation activities or therapy;~~

~~(C) provide carry-over activities (therapeutically designed transfer of a newly acquired communication ability to other contexts and situations) for patients in aural rehabilitation therapy;~~

~~(D) collect data during aural rehabilitation therapy documenting progress and results of therapy;~~

~~(E) administer assessments during aural rehabilitation therapy to assess therapeutic progress;~~

(B) ~~(F)~~ maintaining [maintain] clinical records;

(C) ~~(G)~~ preparing [prepare] clinical materials;

(D) ~~(H)~~ participating [participate] with the board-approved supervisor [licensed audiologist] in research projects, staff development, public relations programs, or similar activities as designated and supervised by the board-approved supervisor [licensed audiologist];

(E) ~~(I)~~ maintaining [maintain] equipment by conducting biologic and electroacoustic calibration of audiometric equipment, perform preventative maintenance checks and safety checks of equipment;

(F) ~~(J)~~ explaining [explain] the [use and] proper care of hearing instruments and assistive listening devices to patients;

(G) ~~(K)~~ maintaining [maintain] hearing instruments including cleaning, replacing ear mold tubing, minor hearing instrument repairs, determining need for repair, and performing biologic and electroacoustic checks of hearing instruments;

(H) ~~(L)~~ providing [provide] case history and/or self-assessment forms and clarifying [clarify] questions on the forms to patients as needed;

~~(I) [(M)] assisting~~ [assist] the audiologist with play audiometry, visual reinforcement audiometry, and tasks such as picture-pointing speech audiometry;

~~(J) [(N)] assisting~~ [assist] the audiologist in the evaluation of difficult-to-test patients;

~~(K) [(O)] assisting~~ [assist] the audiologist with technical tasks for diagnostic evaluation such as preparing test rooms, attaching electrodes, and preparing patients prior to procedures;

~~[(P)] perform basic screening procedures such as pure tone screening, otoacoustic emissions screening, immittance screening, or screening ear canal status with an otoscope;~~

~~(L) [(Q)] conducting~~ [conduct] basic record keeping and prepare paperwork for signature by the audiologist;

~~(M) [(R)] coordinating~~ [coordinate] ear mold and hearing instrument records or repairs and other orders;

~~(N) [(S)] attaching~~ [attach] hearing aids to computers and using [use] software to verify internal electroacoustic settings;

~~(O) [(T)] performing~~ other non-diagnostic duties not prohibited in paragraph (5) of this subsection, for which the assistant has been trained and demonstrates appropriate skills, as assigned by the board-approved supervising audiologist.

(5) The licensed assistant shall not:

(A) conduct [evaluations of] any audiological procedure that requires decision-making or leads to a diagnosis, even under direct supervision;

(B) interpret results of procedures and evaluations, except for screening tests;

(C) make diagnostic statements, or propose or develop clinical management strategies;

(D) make ear impressions;

(E) cause any substance to enter the ear canal or place any instrument or object in the ear canal for the purpose of removing cerumen or debris;

(F) make any changes to the internal settings of a hearing instrument manually or using computer software;

(G) represent audiology at staff meetings or on an admission, review and dismissal (ARD) committee;

(H) attend staffing meetings or ARD committee meetings without the board-approved supervisor being present;

(I) design a treatment program;

(J) determine case selection;

(K) present written or oral reports of client information, except to his or her board-approved [their] supervisor;

(L) refer a client to other professionals or other agencies;

(M) use any title which connotes the competency of a licensed audiologist; or

(N) practice as a licensed assistant in audiology without a valid Supervisory Responsibility Statement for an [An] Audiology Assistant Form [form] on file in the board office.

(j) (No change.)

(k) A licensed audiology assistant may not ~~fit or dispense [engage in the fitting, dispensing or sale of a] hearing instruments [instrument]~~; however, a licensed audiology assistant who also holds a license ~~[is licensed]~~ under ~~[the Texas]~~ Occupations Code, Chapter 402 may engage in activities that are authorized under Occupations Code, Chapter 402 ~~[as allowed by that law and is not considered to be functioning under his or her audiology assistant license when performing those activities].~~

(l) The board may audit a random sampling of licensed audiology assistants for compliance with this section and §741.44 of this title.

(1) The board shall notify a licensed assistant in audiology and board-approved supervisor ~~[licensed audiologist]~~ by mail that he or she has been selected for an audit. In the notice, the board will request documentation of compliance with the Act and this chapter.

(2) The ~~[Upon receipt of an audit notification, the]~~ licensed assistant in audiology and the board-approved supervisor ~~[licensed audiologist]~~ who agreed to accept responsibility for the services provided by the licensed assistant in audiology shall comply with the audit and shall mail the requested proof of compliance to the board.

~~[(3) The licensed assistant in audiology and the board-approved supervisor supervising audiologist shall comply with the board's request for documentation and information concerning compliance with the audit.]~~

(m) The applicant shall submit the following materials to the board to complete the application process:

(1) an original board application form including disclosure of the applicant's social security number completed, signed, and dated within the past 60 days;

(2) the initial license fee;

(3) a Supervisory Responsibility Statement Form completed by the licensed proposed board-approved supervisor who agrees to accept responsibility for the services provided by the assistant and signed by both the applicant and the proposed board-approved supervisor;

(4) an original or certified copy of the applicant's birth certificate indicating that the applicant is 18 years of age or older;

(5) a high school diploma or equivalent;

(6) an original or certified copy of the CAOHC certificate indicating that the applicant has completed the required CAOHC training and passed the required examination;

(7) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and

(8) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

§741.85. *Requirements for a Temporary Certificate of Registration in Audiology.*

(a) - (c) (No change.)

(d) The applicant shall submit the following materials to the board to complete the application process:

(1) an original board application form including disclosure of the applicant's social security number; completed, signed, and dated within the past 60 days;

(2) the initial application fee;

(3) an original or certified copy of the transcript(s) showing the conferred doctoral degree; or if the degree was not earned at an institution as described in §741.81(b), official documentation from the ASHA Council on Academic Accreditation that the conferred doctoral degree is adequate for ASHA Certification or from the ABA that the conferred doctoral degree is adequate for ABA Certification;

(4) if the applicant currently holds an intern in audiology license, a Report of Completed Internship Form completed by the applicant's board-approved supervisor and signed by both the applicant and the board-approved supervisor;

(5) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and

(6) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

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 G. REQUIREMENTS FOR DUAL LICENSURE AS A SPEECH-LANGUAGE PATHOLOGIST AND AN AUDIOLOGIST

22 TAC §741.91

STATUTORY AUTHORITY

The amendment is authorized under Occupations Code, §401.202, which requires the board to adopt rules necessary to administer and enforce Occupations Code, Chapter 401.

The amendment affects Occupations Code, Chapter 401.

§741.91. *Requirements for Dual Licenses in Speech-Language Pathology and Audiology.*

An applicant for dual licenses in speech-language pathology and in audiology as referenced in the Act shall meet the requirements set out in:

(1) Section 741.63 of this title (relating to Waiver of Clinical and Examination Requirements for Speech-Language Pathologists)

and §741.83 of this title (relating to Waiver of Clinical and Examination Requirements for Audiologists); and[-]

(2) (No change.)

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SUBCHAPTER H. FITTING AND DISPENSING OF HEARING INSTRUMENTS

22 TAC §741.104

STATUTORY AUTHORITY

The amendment is authorized under Occupations Code, §401.202, which requires the board to adopt rules necessary to administer and enforce Occupations Code, Chapter 401.

The amendment affects Occupations Code, Chapter 401.

§741.104. *Joint Rule Regarding the Sale of Hearing Instruments.*

(a) - (b) (No change.)

(c) Upon the sale of any hearing instrument(s) or change of model or serial number of the hearing instrument(s), the owner shall ensure that each client receives a written contract that contains:

(1) - (9) (No change.)

(10) the board-approved supervisor's name, license type, and license number, if applicable;

(11) - (13) (No change.)

(d) - (e) (No change.)

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SUBCHAPTER I. APPLICATION PROCEDURES

22 TAC §741.112

STATUTORY AUTHORITY

The amendment is authorized under Occupations Code, §401.202, which requires the board to adopt rules necessary to administer and enforce Occupations Code, Chapter 401.

The amendment affects Occupations Code, Chapter 401.

§741.112. *Required Application Materials.*

(a) Applicants applying for speech-language pathology licenses shall submit documentation as required in subchapter E of this chapter. [An applicant applying for a speech-language pathology or audiology license under §741.61 of this title (relating to Requirements for a Speech-Language Pathology License) or §741.81 of this title (relating to Requirements for an Audiology License) shall submit the following:]

{(1) an original board application form including disclosure of the applicant's social security number completed, signed and dated within the past 60 days;}

{(2) the application and initial license fee;}

{(3) an original or certified copy of the transcript(s) showing the conferred degree of all relevant course work which also verifies that the applicant possesses a minimum of a master's degree with a major in one of the areas of communicative sciences or disorders; however, an applicant who graduated from a college or university with a program not accredited by the American Speech-Language-Hearing Association Council on Academic Accreditation, shall submit an original signed letter from the American Speech-Language-Hearing Association stating the Clinical Certification Board accepted the course work and clinical experience;}

{(4) if not previously submitted when applying for an intern's license, a Course Work and Clinical Experience Form completed by the program director or designee of the college or university attended which verifies the applicant has met the requirements established in §741.61(b) - (e) or §741.81(b) - (e) of this title;}

{(5) a Report of Completed Internship Form completed by the applicant's supervisor and signed by both the applicant and the supervisor; however, if the internship was completed out-of-state, the supervisor shall also submit a copy of his or her diploma or transcript showing the master's degree in one of the areas of communicative sciences and disorders had been conferred and a copy of a valid license to practice in that state. If that state did not require licensure, the supervisor shall submit an original letter from the American Speech-Language-Hearing Association stating the certificate of clinical competence was held when the applicant completed the internship in addition to proof of a master's degree in communicative sciences and disorders; and}

{(6) a Praxis Exam Score Report showing the applicant passed the examination described in §741.121 of this title (relating to Examination Administration) within the time period established in §741.61(e) or §741.81(e) of this title.}

(b) Applicants applying for audiology licenses shall submit documentation as required in Subchapter F of this chapter. [An applicant applying for an intern in speech-language pathology license under §741.62 of this title (relating to Requirements for an Intern in Speech-Language Pathology License) or an intern in audiology license under §741.82 of this title (relating to Requirements for an Intern in Audiology License) shall submit the following:]

{(1) an original board application form including disclosure of the applicant's social security number completed, signed and dated within the past 60 days;}

{(2) the application and initial license fee;}

{(3) an original or certified copy of the transcript(s) showing the conferred degree of all relevant course work which also verifies that the applicant possesses a minimum of a master's degree with a major in one of the areas of communicative sciences or disorders; however, an applicant who graduated from a college or university with a program not accredited by the American Speech-Language-Hearing Association Council on Academic Accreditation, shall submit an original signed letter from the American Speech-Language-Hearing Association stating the Clinical Certification Board accepted the course work and clinical experience;}

{(4) if the graduate degree has not been officially conferred, an original or certified copy of transcript(s) and verification from the university attended verifying the applicant successfully completed all requirements for the graduate degree, and is only awaiting the date of next graduation for the degree to be conferred;}

{(5) a Course Work and Clinical Experience Form completed by the university program director or designee of the college or university attended which verifies the applicant has met the requirements established in §741.61(b) - (e) or §741.81(b) - (e) of this title; and}

{(6) an Intern Plan and Agreement of Supervision Form completed by the proposed supervisor and signed by both the applicant and the proposed supervisor.}

{(c) An applicant who holds the American Speech-Language-Hearing Association certificate of clinical competence applying for licensure under §741.63 of this title (relating to Waiver of Clinical and Examination Requirements for Speech-Language Pathologists) or §741.83 of this title (relating to Waiver of Clinical and Examination Requirements for Audiologists) shall submit the following:}

{(1) an original board application form including disclosure of the applicant's social security number completed, signed and dated within the past 60 days;}

{(2) the application and initial license fee;}

{(3) an original or certified copy of a signed letter from the American Speech-Language-Hearing Association (ASHA) or the American Board of Audiology (ABA) which verifies the applicant currently holds the certificate of clinical competence or board certification in the area in which the applicant has applied for license; and}

{(4) an original or certified copy of the transcript(s) showing the conferred degree of all relevant course work which also verifies that the applicant possesses a minimum of a master's degree with a major in one of the areas of communicative sciences or disorders; however, an applicant whose transcript is in a language other than English shall submit an original evaluation form from an approved credentialing agency.}

{(d) An applicant applying for an assistant in speech-language pathology license under §741.64 of this title (relating to Requirements for an Assistant in Speech-Language Pathology License) or an assistant in audiology license under §741.84 of this title (relating to Requirements for an Assistant in Audiology License) shall submit the following:}

{(1) an original board application form including disclosure of the applicant's social security number completed, signed and dated within the past 60 days;}

{(2) the application and initial license fee;}

{(3) a Supervisory Responsibility Statement Form completed by the licensed supervisor who agrees to accept responsibility for the services provided by the assistant and signed by both the applicant and the proposed supervisor;}

{(4) an original or certified copy of the transcript(s) showing the conferred degree of relevant course work which also verifies that the applicant possesses a baccalaureate degree with an emphasis in speech-language pathology and/or audiology;}

{(5) if not previously submitted, a Clinical Observation and Clinical Experience Form completed by the university program director or designee of the college or university training program verifying the applicant completed the requirements set out in §741.64(a)(3) or §741.84(b)(3) of this title; and}

{(6) for an applicant who did not obtain the hours referenced in paragraph (5) of this subsection, a Clinical Deficiency Plan Form to obtain the hours lacking.}

{(e) An applicant applying for a speech-language pathology temporary certificate of registration under §741.65 of this title (relating to Requirements for a Temporary Certificate of Registration in Speech-Language Pathology) or an audiology temporary certificate of registration under §741.85 of this title (relating to Requirements for a Temporary Certificate of Registration in Audiology) shall submit the following:}

{(1) an original board application form including disclosure of the applicant's social security number completed, signed and dated within the past 60 days;}

{(2) the temporary certificate of registration fee;}

{(3) an original or certified copy of the transcript(s) showing the conferred degree of all relevant course work which also verifies that the applicant possesses a minimum of a master's degree with a major in one of the areas of communicative sciences or disorders; however, an applicant who graduated from a college or university with a program not accredited by the American Speech-Language-Hearing Association Council on Academic Accreditation, shall submit an original signed letter from the American Speech-Language-Hearing Association stating the Clinical Certification Board accepted the course work and clinical experience;}

{(4) a Course Work and Clinical Experience Form completed by the university program director or designee of the college or university attended which verifies the applicant has met the requirements established in §741.61(b) - (e) or §741.81(b) - (e) of this title;}

{(5) a Report of Completed Internship Form completed by the applicant's supervisor and signed by both the applicant and the supervisor; however, if the internship was completed out-of-state, the supervisor shall also submit a copy of his or her diploma or transcript showing the master's degree in one of the areas of communicative sciences and disorders had been conferred and a copy of a valid license to practice in that state. If that state did not require licensure, the supervisor shall submit an original letter from the American Speech-Language-Hearing Association stating the certificate of clinical competence was held when the applicant completed the internship in addition to proof of a master's degree in communicative sciences and disorders;}

{(6) a Temporary Supervisory Form completed by the applicant's proposed supervisor and signed by both the applicant and the supervisor; and}

{(7) an applicant who completed the internship in another state and graduated from a college or university with a program not

accredited by the American Speech-Language-Hearing Association, shall submit an original, signed letter from the American Speech-Language-Hearing Association stating the Clinical Certification Board accepted the course work, clinical practicum and the clinical fellowship year.]

[(f) An applicant for dual licenses in speech-language pathology and audiology under §741.91 of this title (relating to Requirements for Dual Licenses in Speech-Language Pathology and Audiology) shall submit separate documentation and fees as follows:]

[(1) an original board application form including disclosure of the applicant's social security number completed, signed and dated within the past 60 days requesting both licenses:]

[(2) two separate application and initial license fees; and]

[(3) documentation listed in subsection (a)(3) - (6) or (e)(3) - (4) of this section.]

[(g) An applicant who currently holds one license and wishes to obtain dual licenses shall submit the following:]

[(1) an original board application form including disclosure of the applicant's social security number completed, signed and dated within the past 60 days requesting the other license:]

[(2) the application and initial license fee; and]

[(3) documentation listed in subsection (a)(3) - (6) or (e)(3) - (4) of this section.]

[(h) After December 31, 2009, all applicants for licensure shall submit proof of successful completion of the jurisprudence examination at the time of application. The jurisprudence examination must be completed no more than six months prior to the date of licensure application.]

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 L. LICENSE RENEWAL AND CONTINUING PROFESSIONAL EDUCATION

22 TAC §741.161

STATUTORY AUTHORITY

The amendment is authorized under Occupations Code, §401.202, which requires the board to adopt rules necessary to administer and enforce Occupations Code, Chapter 401.

The amendment affects Occupations Code, Chapter 401.

§741.161. *Renewal Procedure* [Procedures].

(a) - (g) (No change.)

(h) An intern shall submit the following for license renewal:

(1) (No change.)

(2) evaluation of the intern's progress or performance from all board-approved supervisors must accompany the request. Intern plans and supervisory evaluations for completed segments must be submitted; and

(3) (No change.)

(i) An assistant shall submit the following for license renewal:

(1) (No change.)

(2) A Supervisory Responsibility Statement Form from each board-approved supervisor providing the supervision unless the assistant is currently not practicing or the board-approved supervisor(s) has not changed.

(j) - (v) (No change.)

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TITLE 25. HEALTH SERVICES

PART 11. CANCER PREVENTION AND RESEARCH INSTITUTE OF TEXAS

CHAPTER 703. GRANTS FOR CANCER PREVENTION AND RESEARCH

25 TAC §703.12, §703.22

The Cancer Prevention and Research Institute of Texas (Institute) proposes an amendment to §703.12, regarding use of indirect costs by grantees. The Institute also proposes a new rule, §703.22, that requires grantees to complete compliance training.

Background and Justification

Texas Health and Safety Code §102.203 outlines the authorized use of indirect costs by grantees. The proposed change to §703.12 allows prevention grantees, in addition to research grantees, to spend up to five percent (5%) of grant award funds for indirect costs. The amendment clarifies that prevention grantees are able to expend a portion of their grant funds towards indirect cost. Grantees receiving research grants are already subject to the same limitation.

The proposed new rule §703.22 requires compliance training for new grantees as well as annual training for all grantees while they have an active grant. The training will be developed by the Institute's Chief Compliance Officer. If a grantee fails to complete required training, the Institute will withhold reimbursement unless there is good cause to disburse payment. Required train-

ing will help to ensure that grantees remain in compliance with the Institute's statute and administrative rules.

Fiscal Note

Kristen Pauling Doyle, General Counsel for the Cancer Prevention and Research Institute of Texas, has determined that for the first five-year period the rule changes are in effect there will be no foreseeable implications relating to costs or revenues for state or local government as a result of enforcing or administering the rules.

Public Benefit and Costs

Ms. Doyle has determined that for each year of the first five years the rule changes are in effect the public benefit anticipated as a result of enforcing the rules will be clarification of policies and procedures the Institute will follow to implement its statutory duties.

Small Business and Micro-business Impact Analysis

Ms. Doyle has determined that the rule changes shall not have an effect on small businesses or on micro businesses.

Written comments on the proposed rule changes may be submitted to Ms. Kristen Pauling Doyle, General Counsel, Cancer Prevention and Research Institute of Texas, P.O. Box 12097, Austin, Texas 78711 no later than October 26, 2015. Parties filing comments are asked to indicate whether or not they support the rule revisions proposed by the Institute and, if a change is requested, to provide specific text proposed to be included in the rule. Comments may be submitted electronically to kdoyle@cprit.state.tx.us. Comments may be submitted by facsimile transmission to (512) 475-2563.

Statutory Authority

The new rule and amendments are proposed under the authority of the Texas Health and Safety Code Annotated, §102.108, which provides the Institute with broad rule-making authority to administer the chapter. Kristen Pauling Doyle, the Institute's General Counsel, has reviewed the proposed amendment and certifies the proposal to be within the Institute's authority to adopt.

There is no other statute, article or code that is affected by these rules.

§703.12. *Limitation on Use of Funds.*

(a) A Grant Recipient may use Grant Award funds only for Cancer Research and Cancer Prevention projects consistent with the purpose of the Act, and in accordance with the Grant Contract. Grant Award funds may not be used for purposes other than those purposes for which the grant was awarded. The Institute may require a Grant Recipient to repay Grant Award funds if the Grant Recipient fails to expend the Grant Award funds in accordance with the terms and conditions of the Grant Contract and the provisions of this chapter.

(b) Grant Award funds must be used for Authorized Expenses.

(1) Expenses that are not authorized and shall not be paid from Grant Award funds, include, but are not limited to:

(A) Bad debt, such as losses arising from uncollectible accounts and other claims and related costs.

(B) Contributions to a contingency reserve or any similar provision for unforeseen events.

(C) Contributions and donations made to any individual or organization.

(D) Costs of entertainment, amusements, social activities, and incidental costs relating thereto, including tickets to shows or sports events, meals, alcoholic beverages, lodging, rentals, transportation and gratuities.

(E) Costs relating to food and beverage items, unless the food item is related to the issue studied by the project that is the subject of the Grant Award.

(F) Fines, penalties, or other costs resulting from violations of or failure to comply with federal, state, local or Indian tribal laws and regulations.

(G) An honorary gift or a gratuitous payment.

(H) Interest and other financial costs related to borrowing and the cost of financing.

(I) Legislative expenses such as salaries and other expenses associated with lobbying the state or federal legislature or similar local governmental bodies, whether incurred for purposes of legislation or executive direction.

(J) Liability insurance coverage.

(K) Benefit replacement pay or legislatively-mandated pay increases for eligible general revenue-funded state employees at Grant Recipient state agencies or universities.

(L) Professional association fees or dues for the Grant Recipient or an individual.

(M) Promotional items and costs relating to items such as T-shirts, coffee mugs, buttons, pencils, and candy that advertise or promote the project or Grant Recipient.

(N) Patient support services costs relating to services such as personal care items and financial assistance for low-income clients.

(2) Additional guidance regarding Authorized Expenses for a specific program may be provided by the terms of the Grant Contract and by the Uniform Grant Management Standards (UGMS) adopted by the Comptroller's Office. If guidance from UGMS on a particular issue conflicts with a specific provision of the Grant Contract, Chapter 102, Texas Health and Safety Code, or the Institute's administrative rules, then the Grant Contract, statute, or Institute administrative rule shall prevail.

(3) The Institute is responsible for making the final determination regarding whether an expense shall be considered an Authorized Expense.

(c) A Grant Recipient of Grant Award funds for a Cancer Research or Cancer Prevention project may not spend more than five percent (5%) of the Grant Award funds for Indirect Costs.

(d) The Institute may not award more than five percent (5%) of the total Grant Award funds for each fiscal year to be used for facility purchase, construction, remodel, or renovation purposes during any year. Any Grant Award funds that are to be expended by a Grant Recipient for facility purchase, construction, remodel, or renovations are subject to the following conditions:

(1) The use of Grant Award funds must be specifically approved by the Chief Executive Officer with notification to the Oversight Committee;

(2) Grant Award funds spent on facility purchase, construction, remodel, or renovation projects must benefit Cancer Prevention and Research;

(3) If Grant Award funds are used to build a capital improvement, then the state retains a lien or other interest in the capital improvement in proportion to the percentage of the Grant Award funds used to pay for the capital improvement. If the capital improvement is sold, then the Grant Recipient agrees to repay to the state the Grant Award funds used to pay for the capital improvement, with interest, and share with the state a proportionate amount of any profit realized from the sale.

(e) The Institute may not award more than ten percent (10%) of the money awarded from the Cancer Prevention and Research Fund or from the proceeds of bonds issued on behalf of the Institute to be used for Cancer Prevention and Control programs during any year. Grant Awards for Cancer Prevention research projects shall not be counted toward the Grant Award amount limit for Cancer Prevention and Control Programs. For purposes of this subsection, the Institute is presumed to award the full amount of funds available.

§703.22. Required Training for Grant Recipients.

(a) The Institute, under the direction of the Chief Compliance Officer, shall create a compliance training program for Grant Recipients addressing applicable financial, administrative, and programmatic requirements related to proper stewardship over Grant Award funds, including grant reporting.

(b) Initial Grant Recipient training program - A Grant Recipient that is approved for a Grant Award for the first time on or after September 1, 2015, shall complete an initial compliance training program. For purposes of this subsection, a Grant Recipient that has received at least one Grant Award prior to September 1, 2015, is not required to complete the initial compliance training program.

(1) The Chief Compliance Officer shall design the initial compliance training program.

(2) The Grant Recipient must complete the initial compliance training program prior to receiving disbursement of Grant Award funds, unless the Chief Compliance Officer finds good cause to disburse grant funds in advance of completing the initial compliance training program.

(3) Nothing herein prohibits the Chief Compliance Officer from requiring a Grant Recipient to complete the initial compliance training program.

(c) Annual Grant Recipient training program - All Grant Recipients shall complete an annual compliance training program by November 1, 2016, and then by November 1 of each year thereafter that the Grant Recipient has at least one active Grant Award.

(1) The Chief Compliance Officer shall design the annual compliance training program.

(2) The Institute shall withhold disbursement of Grant Award funds if the Grant Recipient fails to complete the annual compliance training program by November 1, unless the Chief Compliance Officer finds good cause to disburse grant funds in advance of completing the annual compliance training program.

(d) Grant Recipient personnel required to attend training - The Grant Recipient's Authorized Signing Official and at least one other individual employed by the Grant Recipient must attend the trainings required by this rule.

(1) Upon a finding of good cause, the Chief Compliance Officer may allow the Grant Recipient to substitute another employee to attend a required training in place of the Authorized Signing Official.

(2) In the event that the Authorized Signing Official designated by the Grant Recipient changes on or after November 1, 2016,

and the new Authorized Signing Official has not completed the annual compliance training program, the new Authorized Signing Official shall complete the annual compliance training program within 60 days of change. Failure to do so may result in the withholding of Grant Award funds until the training is completed.

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

Filed with the Office of the Secretary of State on September 11, 2015.

TRD-201503699

Heidi McConnell

Chief Operating Officer

Cancer Prevention and Research Institute of Texas

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 463-3190

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 2. DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES

CHAPTER 108. DIVISION FOR EARLY CHILDHOOD INTERVENTION SERVICES

SUBCHAPTER H. ELIGIBILITY, EVALUATION, AND ASSESSMENT

40 TAC §108.813

The Texas Health and Human Services Commission (HHSC) on behalf of the Department of Assistive and Rehabilitative Services (DARS) proposes to amend §108.813(a), concerning Determination of Hearing and Auditory Status.

BACKGROUND AND JUSTIFICATION

At the October 2014 Council meeting, DARS Early Childhood Intervention (ECI) proposed various rule amendments, repeals of rules, and new rules related to its four-year statutory rule review for Chapter 108, ECI. Words that DARS had originally proposed for deletion in §108.813(a), Determination of Hearing and Auditory Status, were inadvertently published and eventually adopted. At the July 2015 DARS Council, DARS presented its intent to proceed with this rule proposal packet to correct the error.

While no consumer services or program operations were affected by this error, DARS believes the error should be corrected. The correction will restore clarity to the rule and provide the public and agency staff with understandable text in §108.813(a), Determination of Hearing and Auditory Status as it appears in DARS Chapter 108, Subchapter H.

SECTION-BY-SECTION SUMMARY

Section 108.813(a), Determination of Hearing and Auditory Status, currently reads as follows:

"As part of evaluation the interdisciplinary team must determine any need for further hearing assessment. This determination is completed by reviewing the current hearing and auditory status

for every child through an analysis of evaluation protocol results. A screening tool may be used for a or other screening tool if the child who is eligible based on a medical diagnosis or vision impairment."

The italicized words in the last sentence of this paragraph should have been removed:

"A screening tool may be used for a *or other screening tool if the* child who is eligible based on a medical diagnosis or vision impairment."

Once the amendment is adopted, the sentence will read as intended:

"A screening tool may be used for a child who is eligible based on a medical diagnosis or vision impairment."

FISCAL NOTE

Rebecca Trevino, DARS Chief Financial Officer, has determined that during the first five-year period the proposed amended rule is in effect there will be no fiscal impact to state government. The proposed amended rule will not result in any fiscal implications for local health and human services agencies. Local governments will not incur additional costs.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Trevino has also determined that there will be no effect on small businesses or micro businesses to comply with the proposed amended rule as they will not be required to alter their business practices as a result of the amended rules. There are no anticipated economic costs to persons who are required to comply with the proposed amended rule. There is no anticipated negative impact on local employment.

PUBLIC BENEFIT

Ms. Trevino has determined that for each year of the first five years the proposed amended rule is in effect it is expected that the public will benefit from increased clarity regarding rules for the DARS Division for Early Childhood Intervention Services.

REGULATORY ANALYSIS

DARS has determined that this proposal is not a "major environmental rule" as defined by §2001.0225 of the Texas Government Code. A "major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

DARS has determined that this 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 §2007.043 of the Government Code.

PUBLIC COMMENT

Written comments on the proposal may be submitted to the Department of Assistive and Rehabilitative Services, 4800 North Lamar Boulevard, Austin, Texas 78756; or by e-mail to DARSrules@dars.state.tx.us within 30 days of publication of this proposal in the *Texas Register*.

STATUTORY AUTHORITY

The proposed amendment is authorized under the Texas Human Resources Code, Chapter 111, §111.051, Chapter 73, and Chapter 117. The amendment is proposed pursuant to HHSC's statutory rulemaking authority under Texas Government Code, Chapter 531, §531.0055(e), which provides the Executive Commissioner of HHSC with the authority to promulgate rules for the operation of and provision of health and human services by the health and human services agencies.

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

§108.813. *Determination of Hearing and Auditory Status.*

(a) As part of evaluation the interdisciplinary team must determine any need for further hearing assessment. This determination is completed by reviewing the current hearing and auditory status for every child through an analysis of evaluation protocol results. A screening tool may be used for a [or other screening tool if the] child who is eligible based on a medical diagnosis or vision impairment.

(b) - (c) (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 September 14, 2015.

TRD-201503721

Sylvia F. Hardman

General Counsel

Department of Assistive and Rehabilitative Services

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 424-4050

PART 12. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS

CHAPTER 363. CONSUMER/LICENSEE INFORMATION

40 TAC §363.2

The Texas Board of Occupational Therapy Examiners proposes a new rule, §363.2, concerning the petition for the adoption of a rule. The new section would prescribe the form for a petition to the Board and the procedure for its submission, consideration, and disposition as provided by Texas Government Code, §2001.021.

John P. Maline, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Maline has also determined that for each of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be the expansion of occupational therapy services for consumers. There will be no effect on small businesses and no anticipated economic cost to persons having to comply.

Comments on the proposed rule may be submitted to Lea Weiss, Occupational Therapy Coordinator, Texas Board of Occupational Therapy Examiners, 333 Guadalupe Street, Suite 2-510, Austin, Texas 78701 or to lea@ptot.texas.gov no later than 30 days from the date that this proposed rule is published in the *Texas Register*.

The new rule is proposed under the Occupational Therapy Practice Act, Title 3, Subtitle H, Chapter 454, Occupations Code, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Title 3, Subtitle H, Chapter 454 of the Occupations Code is affected by this proposal.

§363.2. Petition for the Adoption of a Rule.

(a) In accordance with Texas Government Code, §2001.021, an interested person may petition the Board for the adoption of a rule. In this section, "interested person" has the meaning as defined in Texas Government Code, §2001.021.

(b) The petition must be submitted to the Board and must contain the name and contact information of the interested person and affiliation or organization if any; a description of the rule and the reason for it; the section numbers and titles from the Texas Board of Occupational Therapy Examiners Rules of the rule sections affected if applicable; and the proposed rule text with any added language underlined and any deleted language bracketed. The petition must include a statement of the statutory authority under which the rule is to be adopted and a statement regarding the public benefits anticipated as a result of adopting the rule or the anticipated injury or inequity that could result from the failure to adopt the proposed rule. The petition must be dated and signed by the interested person.

(c) The Board shall evaluate the merits of the proposal.

(d) In accordance with Texas Government Code, §2001.021, the Board shall respond to the petitioner within 60 days of receipt of the petition. The response shall:

(1) advise that rulemaking proceedings will be initiated; or

(2) deny the petition, stating the reasons for its denial.

(e) If the Board initiates rulemaking procedures in response to a petition, the rule text that the Board proposes may differ from the rule text proposed by the petitioner.

(f) Initial petitions for the adoption of a rule shall be presented to and decided by the Board in accordance with the provisions of this section. The Board may refuse to consider any subsequent petition from the same interested person for the adoption of the same or a similar rule submitted within twelve months after the date of the Board's rejection of the initial petition.

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

Filed with the Office of the Secretary of State on September 11, 2015.

TRD-201503700

John P. Maline

Executive Director

Texas Board of Occupational Therapy Examiners

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 305-6900

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CHAPTER 364. REQUIREMENTS FOR
LICENSURE

40 TAC §§364.1 - 364.3

The Texas Board of Occupational Therapy Examiners proposes amendments to §§364.1 - 364.3, concerning the requirements for initial licensure. The amendments will clarify the existing rules in general. Furthermore, the amendments include changes regarding fee waivers and/or expedited services under specified conditions for active duty military service members, military veterans, and/or military spouses, as necessitated by Senate Bill 807 and Senate Bill 1307 from the 84th Legislative Session, which concerns Chapter 55 of the Occupations Code. In addition, the requirement that all applicants for licensure by examination submit the receipt showing that they have ordered the NBCOT score report for Texas has been removed. According to the amendment, only those applying for a temporary license must submit such in order to ensure the Board receives notification of their passing examination score as if the Board does not receive such, the temporary license is void. The amendments include further grammatical changes, clarifications, and cleanups.

John P. Maline, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the amended rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr. Maline has also determined that for each of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be the expansion of occupational therapy services for consumers. There will be no effect on small businesses and no anticipated economic cost to persons having to comply.

Comments on the proposed amendments may be submitted to Lea Weiss, Occupational Therapy Coordinator, Texas Board of Occupational Therapy Examiners, 333 Guadalupe Street, Suite 2-510, Austin, Texas 78701 or to lea@ptot.texas.gov no later than 30 days from the date that these proposed amendments are published in the *Texas Register*.

The amendments are proposed under the Occupational Therapy Practice Act, Title 3, Subtitle H, Chapter 454, Occupations Code, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Title 3, Subtitle H, Chapter 454 of the Occupations Code is affected by this proposal.

§364.1. Requirements for Licensure.

(a) All applicants for initial Texas licensure shall:

(1) submit a complete Board application form or online Board application with a recent passport-type color photograph of the applicant;

(2) submit a non-refundable application fee as set by the Executive Council;

(3) submit a successfully completed Board jurisprudence examination on the [~~Texas Occupational Therapy Practice~~] Act and Rules [~~Board rules~~];

(4) have completed an accredited OT/OTA program;

(5) have completed supervised fieldwork experience, a minimum of 6 months for OT and 2 months for OTA; and

(6) either meet the requirements in §364.2 of this title (relating to Initial License by Examination) and apply by examination or meet the requirements in §364.4 of this title (relating to Licensure by Endorsement) and apply by endorsement.

(b) The applicant must also meet the requirements in §364.2 of this title and apply by examination if the applicant:

(1) has not passed the NBCOT certification examination; or

(2) has passed the NBCOT certification examination and

(A) is not currently licensed as an occupational therapist or occupational therapy assistant in another state or territory of the U.S.; or

(B) if not currently licensed in another state or territory of the U.S., is applying from the U.S. military or a non-licensing state or territory of the U.S. and cannot substantiate occupational therapy employment for at least two years immediately preceding application for a Texas license.

(c) The applicant must also meet the requirements in §364.4 of this title and apply by endorsement if the applicant has passed the NBCOT certification examination and:

(1) is currently licensed as an occupational therapist or occupational therapy assistant in another state or territory of the U.S.; or

(2) if not currently licensed in another state or territory of the U.S., is applying from the U.S. military or a non-licensing state or territory of the U.S. and can substantiate occupational therapy employment for at least two years immediately preceding application for a Texas license.

(d) Applicants who are military service members, military veterans, and military spouses:

(1) The Board shall credit verified military service, training, or education toward the licensing requirements, other than an examination requirement, with respect to an applicant who is a military service member or military veteran.

(2) The Board shall waive the application fees for a military service member or military veteran who is applying for a license by examination as per §364.2 of this title (relating to Initial License by Examination). In order to request a waiver of application fees, the military service member or military veteran must submit a copy of the Uniformed Services Military ID card or other appropriate official documentation evidencing current or former military affiliation and notify the Board of his or her military affiliation.

(3) The Board shall waive the application fees and will expedite the issuance of a license for a military service member, military veteran, or military spouse who is applying for licensure by endorsement as per §364.4 of this title (relating to Initial Licensure by Endorsement). In order to request a waiver of application fees and expedited services, the military service member, military veteran, or military spouse must submit a copy of the Uniformed Services Military ID card or other appropriate official documentation evidencing current or former military affiliation and notify the Board of his or her military affiliation.

(4) In this section, "military service member," "military veteran," and "military spouse" have the meaning as defined in Chapter 55, Occupations Code, §55.001.

~~[(d) For applicants who are active U.S. military service members or U.S. veterans, any military service, training or education verified and credited by an accredited OT or OTA program is acceptable to the Board. Applicants who are U.S. active duty military service members and their spouses shall receive expedited services from the Board. Applicants shall mail or fax a copy of the Uniformed Services Military ID Card and notify the Board of their military affiliation.]~~

(e) An application for license is valid for one year after the date it is received by the Board. At the end of the year, the application fee must be paid to continue the application process for the second year. The process will then continue under the terms of the original application.

(f) An applicant who submits an application containing false information may be denied a license by the Board.

(g) Should the Board reject an application for license, the reasons for the rejection will be communicated in writing to the applicant. The applicant may submit additional information and request reconsideration by the Board. If the applicant remains dissatisfied, a hearing may be requested as specified in the Act.

(h) Applicants and licensees must notify the Board in writing of changes in name, residential address, work address, mailing address, email address, and/or supervising occupational therapist [and work address] within 30 days of the change. A copy of the legal document (e.g., a marriage license, court decree, or divorce decree) evidencing the name change must be submitted by the licensee or applicant with any written notification of a change in name.

(i) The address of record is the information provided to the public. Until licensees select an address of record, the work [business] address will be used as the default. If no work [business] address is available, the mailing address will be used. If no alternate address is available, the home address will be used. Applicants and licensees may update this information at any time.

(j) The Board may issue a copy of a license to replace one lost or destroyed upon receipt from the licensee of a written request on a form prescribed by the Board and the appropriate, non-refundable fee as set by the Executive Council. The Board may issue a replacement copy of a license to reflect a name change upon receipt from the licensee of a written request on a form prescribed by the Board, the appropriate, non-refundable fee as set by the Executive Council, and a copy of the legal document (e.g., a marriage license, court decree, or divorce decree) evidencing the name change.

~~[(i) The Board will issue a replacement copy of a license to replace one lost or destroyed upon receipt of a written request and the appropriate fee from the licensee. For a name change, the appropriate fee and a copy of the legal document (e.g. marriage certificate, divorcee decree) enacting the name change must accompany the request.]~~

(k) ~~[(j)]~~ The first regular license is valid from the date of issuance until the last day of the applicant's birth month, with a duration of at least two years.

(l) A new licensee with a regular or temporary license may provide occupational therapy services according to the terms of the license upon online verification of current licensure and license expiration date from the Board's license verification web page. The Board will maintain a secure resource for verification of license status and expiration date on its website.

(m) ~~[(k)]~~ Licensees will follow the rules for continuing education, as described in Chapter 367 of this title (relating to Continuing Education).

§364.2. *Initial License by Examination.*

(a) An applicant applying for license by examination must:

(1) meet all provisions of §364.1 of this title (relating to Requirements for a License); and

~~[(2) submit a copy of the receipt showing that an NBCOT score report has been ordered for the Board; and]~~

~~(2) [(3)]~~ pass the NBCOT certification examination for occupational therapists or occupational therapy assistants with a score set by NBCOT. Score reports must be sent directly to the Board by NBCOT.

(b) The application for license must be received no later than two years following the date of the passing examination. If the application is received after this time, the applicant must take and pass the NBCOT examination for licensure purposes only. The applicant must request Board approval to take this examination ~~[and submit a copy of the receipt showing that an NBCOT score report has been ordered for the Board]~~. The score report must be sent directly to the Board by NBCOT.

(c) An applicant who fails an examination may take additional examinations by sending in the appropriate, non-refundable fee as set by the Executive Council with the Board's re-exam form.

(d) An applicant with a history of licensure in occupational therapy must submit a verification of license from each state or territory of the U.S. in which the applicant is currently licensed or previously held a license. This must be an original verification sent directly to the Board by the licensing board in that state or territory. Any disciplinary actions must be reported to the Board.

(e) Previous Texas licensees are not eligible for Initial License by Examination.

§364.3. *Temporary License.*

(a) The Board may only issue a temporary license to an applicant who is taking the NBCOT certification examination for the first time.

(b) Temporary Licensure is not available to applicants who have received a license in any state or territory of the U.S. or another country as an occupational therapy practitioner or to applicants applying from the U.S. military or a non-licensing state or territory of the U.S. who have had occupational therapy employment for at least two years ~~[immediately]~~ preceding application for a Texas license, unless it was as ~~[a certified occupational therapy assistant (COTA) or]~~ an occupational therapy assistant (OTA), and they now meet the requirements for a temporary license as an occupational therapist (OT). In this section, "occupational therapy practitioner" means an individual licensed as an occupational therapist or occupational therapy assistant in any state or territory of the U.S. or another country.

(c) To be issued a temporary license, the applicant must:

(1) meet all provisions of §364.1 of this title (relating to Requirements for a License);

(2) meet all provisions of §364.2 of this title (relating to License by Examination);

(3) submit the Confirmation of Examination Registration and Eligibility to Examine form from NBCOT, which must be sent directly to the Board by NBCOT and which reflects the 90 day window in which the applicant will take the examination;

~~(4) submit a copy of the receipt showing that an NBCOT score report has been ordered for the Board;~~

~~(5) [(4)]~~ submit a signed verification of supervision on a form prescribed ~~[Verification of Supervision Form as provided]~~ by the Board; and

~~(6) [(5)]~~ send the Board the non-refundable temporary license fee as set by the Executive Council.

(d) If the applicant fails the examination, fails to take the examination during the 90 day window as stated on the Confirmation of Examination Registration and Eligibility to Examine form from NBCOT, or fails to have the score reported, the temporary license is void and must be returned to the Board. An additional temporary license will not be issued.

(e) A temporary license shall be valid no longer than 180 days.

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

Filed with the Office of the Secretary of State on September 11, 2015.

TRD-201503701

John P. Maline

Executive Director

Texas Board of Occupational Therapy Examiners

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 305-6900



CHAPTER 370. LICENSE RENEWAL

40 TAC §§370.1 - 370.3

The Texas Board of Occupational Therapy Examiners proposes amendments to §§370.1 - 370.3, concerning the renewal and restoration of an occupational therapy license. The amendments will clarify the existing rules in general. The amendments include, furthermore, changes regarding late fee waivers, renewal requirements extensions, and/or expedited services under specified conditions for active duty military service members, military veterans, and/or military spouses, as necessitated by Senate Bill 1307 from the 84th Legislative Session, which concerns Chapter 55 of the Occupations Code. The amendment to §370.3, in addition, includes a provision that an individual whose license has been restored may provide occupational therapy services according to the terms of the license upon online verification of current licensure and license expiration date from the Board's license verification web page. The proposed amendments include cleanups and grammatical revisions, as well.

John P. Maline, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the amended rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr. Maline has also determined that for each of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be the expansion of occupational therapy services for consumers. There will be no effect on small businesses and no anticipated economic cost to persons having to comply.

Comments on the proposed amendments may be submitted to Lea Weiss, Occupational Therapy Coordinator, Texas Board of Occupational Therapy Examiners, 333 Guadalupe Street, Suite

2-510, Austin, Texas 78701 or to lea@ptot.texas.gov no later than 30 days from the date that these proposed amendments are published in the *Texas Register*.

The amendments are proposed under the Occupational Therapy Practice Act, Title 3, Subtitle H, Chapter 454, Occupations Code, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Title 3, Subtitle H, Chapter 454 of the Occupations Code is affected by this proposal.

§370.1. *License Renewal.*

(a) Licensee Renewal. Licensees are required to renew their licenses every two years by the end of their birth month. A licensee may not provide occupational therapy services without a current license. Licenses and license expiration dates should be verified on the Board's license verification web page. The Board will maintain a secure resource for verification of license status and expiration date on its website. [The licensee's expiration date is displayed on the board's website and should be considered evidence of current licensure. Licensees and employers should verify licenses and registrations on the board's website.]

(1) General Requirements. The renewal application is not complete until the Board [board] receives all required items. The components required for license renewal [renewals] are:

(A) a signed Board renewal application form[;] or online equivalent verifying completion of 30 hours of continuing education, as per Chapter 367 of this title (relating to Continuing Education);

(B) the renewal fee and any late fees as set by the Executive Council that [which] may be due;

(C) a passing score on the online jurisprudence exam; and

~~(D) any additional forms the board may require; and~~

(D) [(E)] the licensee's physical address, any work address, other mailing address, email address, and a chosen address of record. The address of record is the address that will be shared with the public. Until licensees select an address of record, the work [business] address will be used as the default. If no work [business] address is available, the mailing address will be used. If no alternate address is available, the home address will be used.

(2) The licensee is responsible for ensuring that the license is renewed, whether receiving a renewal notice or not.

(3) The renewal process is not complete until the Board's website verification reflects that the license has been renewed by displaying the new renewal date. [Online Renewal: Licensees may submit and pay for their renewal but the renewal process is not complete until the board's website verification reflects the renewal date.]

(4) [(A)] Licensees who do not have a social security number [Social Security Number] on file will be unable to renew online.

(5) [(B)] Licensees who are on inactive status[;] or who wish to change their current status must renew with a paper application before the expiration date of the license.

(6) [(C)] Licensees who wish [want] to change their name on their license must submit a written request on a form prescribed by the Board with the appropriate, non-refundable fee as set by the Executive Council and a copy of the legal document (e.g., a marriage license, court decree, or divorce decree) evidencing the name change. [eop]

of court documents with the new name. Changing the wall license requires a replacement license fee.]

(7) Renewal fees and late fees are non-refundable.

(b) Restrictions to Renewal/Restoration.

(1) The Board [board] will not renew a license if a licensee has defaulted with the Texas Guaranteed Student Loan Corporation (TGSLC). Upon notice from TGSLC that a repayment agreement has been established, the license shall be renewed if all other renewal requirements have been met.

(2) The Board [board] will not renew a license if the licensee has defaulted on a court or Attorney General's [attorney general's] notice of child support. Upon receipt that repayment has been established, the license shall be renewed if all other renewal requirements have been met.

§370.2. *Late Renewal.*

(a) A renewal application is late if all required materials are not postmarked prior to the expiration date of the license. Licensees who do not complete the renewal process prior to the expiration date are subject to late fees as described. Likewise, a renewal completed online must be electronically date and time stamped prior to the expiration date or it is late and subject to late fees as described.

(1) If the license has been expired for 90 days or less, the person may renew the license by completing all renewal requirements and submitting the renewal fee and the appropriate late fee.[;]

~~[(A) submitting the renewal fee and the board approved late fee; and]~~

~~[(B) reporting completion of the required number of contact hours of Continuing Education.]~~

(2) If the license has been expired for more than 90 days, but less than one year, the person may renew the license by completing all renewal requirements and:

(A) submitting the renewal fee and the appropriate late fee [and the board approved late fee]; and

(B) submitting [providing] copies of the continuing education documentation as per Chapter 367 [activities and completing the CE submission form].

(b) Military Service[;]

(1) A licensee will be exempt from late fees and penalty for failure to timely renew a license if the licensee establishes to the satisfaction of the Board that failure to renew the license in a timely manner was because the licensee was serving as a military service member.

(2) A licensee who is a military service member is entitled to two years of additional time after the expiration of the license to complete:

(A) any continuing education requirements; and

(B) any other requirements related to the renewal of the license.

(3) In this section, "military service member" has the meaning as defined in Chapter 55, Occupations Code, §55.001.

~~[(4) If a reserve status licensee is called into active military service, and his or her license expires during service, the licensee may follow the requirements for renewal with no penalty if the licensee:]~~

~~[(A) submits the renewal within 90 days after return to reserve status;]~~

~~[(B) submits evidence of active service and its inclusive dates.]~~

~~[(2) A reserve status licensee who is called into active military service will have 6 additional months after release from active military service to submit proof of completion of the 30 required CE hours as per Chapter 367 of the this title (relating to Continuing Education).]~~

§370.3. Restoration of a Texas License.

(a) Restoration of a license expired more than one year to a person with a current license or occupational therapy employment:

(1) The Board may restore a license to a person whose Texas license has been expired more than one year if the person:

(A) is currently licensed in another state or territory of the U.S. and that license has not been suspended, revoked, cancelled, surrendered or otherwise restricted for any reason; or

(B) if not currently licensed in another state or territory of the U.S., is applying from the U.S. military or a non-licensing state or territory of the U.S. and can substantiate occupational therapy employment for at least two years immediately preceding application for a Texas license.

(2) The person shall meet the following requirements:

(A) make application for licensure to the Board on a form prescribed by the Board, which includes a recent passport-type photo;

(B) submit to the Board a verification of license from each state or territory of the U.S. in which the applicant is currently licensed or previously held a license. This must be an original verification sent directly to the Board by the licensing board in that state or territory. Any disciplinary actions must be reported to the Board. If not currently licensed in another state or territory of the U.S. and applying from the U.S. military or a non-licensing state or territory of the U.S., the person must submit a Verification of Employment form substantiating occupational therapy employment for at least two years immediately preceding application for a Texas license;

(C) pass the Board jurisprudence exam;

(D) pay the restoration fee as set by the Executive Council; and

(E) complete all requirements for licensure within one year from the date of application.

(b) Restoration of a license expired more than one year and less than two years to a person without a current license or occupational therapy employment:

(1) The Board may restore a license expired more than one year and less than two years to a person who was licensed in Texas and:

(A) is not currently licensed in another state or territory of the U.S.; or

(B) if not currently licensed in another state or territory of the U.S., is applying from the U.S. military or a non-licensing state or territory of the U.S. and cannot substantiate occupational therapy employment for at least two years immediately preceding application for a Texas license.

(2) The person shall meet the following requirements:

(A) make application for licensure to the Board on a form prescribed by the Board, which includes a recent passport-type photo;

(B) submit copies of the completed continuing education showing 45 hours of continuing education as per Chapter 367 of this title (relating to Continuing Education) with a minimum of 30 hours in Type 2;

(C) submit to the Board a verification of license from each state or territory of the U.S. in which the applicant is currently licensed or previously held a license. This must be an original verification sent directly to the Board by the licensing board in that state or territory. Any disciplinary actions must be reported to the Board;

(D) pass the Board jurisprudence examination;

(E) pay the restoration fee as set by the Executive Council; and

(F) complete all requirements for licensure within one year from the date of the application.

(c) Restoration of a license expired more than two years to a person without a current license or occupational therapy employment:

(1) The Board may restore a license expired more than two years to a person who was licensed in Texas and:

(A) is not currently licensed in another state or territory of the U.S.; or

(B) if not currently licensed in another state or territory of the U.S., is applying from the U.S. military or a non-licensing state or territory of the U.S. and cannot substantiate occupational therapy employment for at least two years immediately preceding application for a Texas license.

(2) The person shall meet the following requirements:

(A) make application for licensure to the Board on a form prescribed by the Board, which includes a recent passport-type photo;

(B) submit to the Board a verification of license from each state or territory of the U.S. in which the applicant is currently licensed or previously held a license. This must be an original verification sent directly to the Board by the licensing board in that state or territory. Any disciplinary actions must be reported to the Board;

(C) pass the Board jurisprudence exam;

(D) pay the restoration fee as set by the Executive Council;

(E) complete all requirements for licensure within one year from the date of application; and

(F) satisfy one of the following:

(i) complete a re-entry course through an accredited college or university and submit the certificate of completion or transcript to the Board;

(ii) obtain an advanced or post-professional occupational therapy degree, with an official transcript sent to the Board; or

(iii) take and pass the NBCOT examination for licensure purposes only (after requesting Board approval to take the examination) and have the passing score reported to the Board directly by NBCOT. In addition, copies of the completed continuing education showing 45 hours of continuing education as per Chapter 367 of this title (relating to Continuing Education), with a minimum of 30 hours in Type 2, must be submitted.

(d) The Board shall expedite the restoration of a license to a military service member, military veteran, or military spouse who within the five years preceding the application date held a license in

Texas. To request expedited services, the military service member, military veteran, or military spouse must submit a copy of the Uniformed Services Military ID card or other appropriate official documentation evidencing current or former military affiliation and notify the Board of his or her military affiliation. In this section, "military service member," "military veteran," and "military spouse" have the meaning as defined in Chapter 55, Occupations Code, §55.001.

(e) The licensee whose license has been restored may provide occupational therapy services according to the terms of the license upon online verification of current licensure and license expiration date from the Board's license verification web page. The Board will maintain a secure resource for verification of license status and expiration date on its website.

(f) The restoration fee is non-refundable.

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

Filed with the Office of the Secretary of State on September 11, 2015.

TRD-201503702

John P. Maline

Executive Director

Texas Board of Occupational Therapy Examiners

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 305-6900



CHAPTER 376. REGISTRATION OF FACILITIES

40 TAC §§376.1 - 376.10

The Texas Board of Occupational Therapy Examiners proposes amendments to §§376.1 - 376.10, concerning the registration of facilities. The amendments will clarify the existing rules in general. Revisions include that a change in ownership or type of ownership as described in §376.10, Change in Occupational Therapy Facility Ownership, requires that the former owner notify the Board in writing on a form prescribed by the Board within 30 days after the change in ownership, and that the new owner register the facility under new ownership. In addition, a change includes that if occupational therapy services will no longer be provided at a registered facility, the facility registration must be cancelled by submitting a form as prescribed by the Board within 30 days after the facility's registration expires and that to resume the provision of occupational therapy services at a future date, the facility registration may be restored by meeting the requirements in §376.8, Restoration of Registration. The proposed amendments include cleanups and grammatical revisions, as well.

John P. Maline, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the amended rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr. Maline has also determined that for each of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be the expansion of occupational therapy services for consumers. There will be no effect on small

businesses and no anticipated economic cost to persons having to comply.

Comments on the proposed amendments may be submitted to Lea Weiss, Occupational Therapy Coordinator, Texas Board of Occupational Therapy Examiners, 333 Guadalupe Street, Suite 2-510, Austin, Texas 78701 or to lea@ptot.texas.gov no later than 30 days from the date that these proposed amendments are published in the *Texas Register*.

The amendments are proposed under the Occupational Therapy Practice Act, Title 3, Subtitle H, Chapter 454, Occupations Code, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Title 3, Subtitle H, Chapter 454 of the Occupations Code is affected by this proposal.

§376.1. Facility Definitions.

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

(1) Occupational therapy facility [~~Therapy Facility~~]~~--A physical site, such as a building, office, or portable facility, where the practice of occupational therapy takes place; also may be known as registered facility. [An Occupational Therapy Facility must be under the direction of an occupational therapist, registered or occupational therapist licensed by the board.]~~ The definition of an occupational therapy facility [~~Occupational Therapy Facility~~] does not include a physical site such as a building, office, or portable facility if it meets all three conditions:

(A) It is not in the care, custody or control of the individual or company providing occupational therapy services therein; and

(B) Occupational therapy services are not provided on a predictable or regular basis at any one location; and

(C) Healthcare delivery is not the primary purpose, activity, or business of the site where the services are provided.

(2) Occupational therapist in charge [~~The OT or OTR in Charge~~]~~--An occupational therapist who is designated on the application for registration and who has the authority and responsibility for the facility's compliance with the Act and Rules pertaining to the practice of occupational therapy in the facility.~~

§376.2. Requirement for Practice Setting of Licensees.

All licensees of this Act who practice in an occupational therapy facility [~~Occupational Therapy Facility~~] can do so only if that facility is registered or exempt under this rule. A facility shall not be required to register under this section if such facility or any person providing health care services at the facility does not perform or hold itself or themselves out as performing or offering to perform occupational therapy as defined in the Act.

§376.3. Requirements for Registration Application.

(a) Each registration application [~~Registration applications~~] must include:

(1) name of the facility [~~Occupational Therapy Facility~~];

(2) physical/street address of the facility [~~Occupational Therapy Facility~~];

(3) mailing address, if different from the street address;

(4) name of the owner;

(5) type of ownership;

(6) identification/contact information for the facility owner as follows:

[(4) the name and following information about the entity or individual (in the case of a sole proprietorship) holding themselves out as offering occupational therapy services at the facility:]

(A) Sole proprietor:

(i) name, home address, date of birth, social security number of the sole proprietor;

(ii) federal employer identification number if applicable.

(B) Partnership:

(i) names, home addresses, dates of birth, and social security numbers [name, home address, date of birth, social security number] of the managing partners (for purposes of this subsection, managing partners are defined as the top four partners including the partner in charge of the facility) [partner];

(ii) federal employer identification number.

(C) Corporation:

(i) names, home addresses, dates of birth, and social security numbers of managing officers (for purposes of this subsection, managing officers are defined as the top four executive officers, including the corporate officer in charge of the facility [occupational therapy Facility] operations);

(ii) federal employer identification number.

(D) Governmental entity (federal, state, county, local):

(i) name, home address, date of birth, social security number of the individual completing the application;

(ii) federal employer identification number;

(7) [(5)] the name and license number of the occupational therapist in charge [OT or OTR in Charge] and his or her signature;

(8) [(6)] the names and license numbers of all occupational therapists and occupational therapy assistants [other licensees of the Act] who will practice in the facility [Occupational Therapy Facility];

(9) [(7)] the name, title, [Social Security Number] and signature of the owner [individual], managing partner or officer, or person authorized to complete the form; and

(10) [(8)] the non-refundable application fee, as set by the Executive Council.

(b) The Board requires a separate application and application fee for each facility registered.

[(b) An individual or entity that holds themselves out as offering occupational therapy at more than one facility is required to submit a facility application for each Occupational Therapy Facility registered.]

(c) All of the facilities owned by an individual, partnership, corporation or other entity will receive synchronized expiration dates. An additional occupational therapy facility [Occupational Therapy Facility] registered six or more months before the first registered facility's [facility] expiration date will receive the same expiration date as [for] the first registered facility.

(d) A facility [An Occupational Therapy Facility] that has not been registered previously must complete the registration process prior

to providing occupational therapy services. Occupational therapy services may be provided at the facility upon online verification of current registration on the Board's website prior to receiving the paper registration certificate from the Board. The Board will maintain a secure resource for verification of registration status and expiration date on its website [and have the registration certificate before the first patient treatment].

(e) The occupational therapy facility [Occupational Therapy Facility] application is valid for one year after it is received by the Board [board].

(f) The occupational therapy facility [Occupational Therapy Facility] registration fee(s) will be waived in circumstances that [which] are temporary in nature, such as a natural disaster or events for special populations, such as the Special Olympics.

(g) Waiver from occupational therapy facility [Occupational Therapy Facility] registration fees does not nullify any [all] other sections as set forth in this chapter [the TBOPE Rules, Chapter 376].

§376.4. Requirements for Registered Facilities.

(a) Each registered facility must have a designated occupational therapist in charge [OT or OTR in charge]. A registered facility is required to report the name and license number of the new occupational therapist in charge [OT or OTR in charge] no later than 30 days after the change occurs.

(b) A registered facility must display the registration certificate in a prominent location in the facility where it is available for inspection by the public. A registration certificate issued by the Board [board] is the property of the Board [board] and must be surrendered on demand by the Board [board].

(c) A registered facility [Occupational Therapy Facility] is subject to random inspection to verify compliance with the Act and Rules [this chapter] by authorized personnel of the Board [board] at any reasonable time.

(d) A registered facility must notify the Board within 30 days of any change to the facility name, physical/street address, or mailing address. In the event of a name or physical address change or the loss or destruction of the registration certificate, the owner must obtain a new registration certificate by submitting a form as prescribed by the Board and a non-refundable fee as set by the Executive Council.

(e) A change in ownership or type of ownership as described in §376.10 of this chapter (relating to Change in Occupational Therapy Facility Ownership) requires that the former owner notify the Board in writing on a form prescribed by the Board within 30 days after the change in ownership, and that the new owner register the facility under new ownership.

(f) If occupational therapy services will no longer be provided at a registered facility, the facility registration must be cancelled by submitting a form as prescribed by the Board within 30 days after the facility's registration expires. To resume the provision of occupational therapy services at a future date, the facility registration may be restored by meeting the requirements in §376.8 of this chapter (relating to Restoration of Registration).

[(d) An individual or entities that registers a facility under this Rule must notify the board within 30 days of any change to the physical/street address or mailing address or name and pay for a new wall certificate to reflect the physical address change. A change in ownership or type of ownership requires a new registration.]

[(e) The owner must cancel a facility registration if occupational therapy services will no longer be provided at that facility. To cancel registration the owner must notify the board in writing within 30

days of the termination of occupational therapy services at this facility. If the owner decides to resume the provision of occupational services at a future date, the facility registration may be restored with the previous expiration date by meeting the requirements in §376.8 of this title (relating to Restoration of Registration).]

[(f) If the owner does not notify the board in writing that there is a termination of occupational therapy services and the facility's registration is expired more than one year, there will be a penalty should the owner want to resume occupational therapy services at the facility at a future date.]

[(g) Within thirty days of a change in facility ownership, the former owner must notify the Board in writing of the change. The new owner must register the facility under new ownership as required by §376.10 of this title (relating to Change in Occupational Therapy Facility Ownership).]

§376.5. Exemptions to Registration.

A facility licensed under Subtitle B, Title 4, Health and Safety Code, is exempt from this definition, i.e., hospitals, nursing homes, ambulatory surgical centers, birthing centers, abortion, continuing care, personal care, and special care facilities. Colleges, universities, schools, home health settings, and settings where Early Childhood Intervention (ECI) services take place are exempted from registration. These types of facilities are automatically exempt and are not required to obtain a formal exemption from the Board [board].

§376.6. Renewal of Registration [Application].

(a) The owner of a registered facility [An individual or entity registered as a facility under this chapter] must renew its registration annually. Licensees [Licensee] may not provide occupational therapy services in a facility if the registration has expired [is not current]. The Board will maintain a secure resource for verification of registration status and expiration date on its website. Licensees and facility owners should verify a facility's registration and registration expiration date on the Board's website. The renewal process is not complete until the Board's website verification reflects that the registration has been renewed by displaying the new renewal date.

(b) Requirements to renew a facility registration are:

(1) a renewal application signed by the owner, managing partner or officer, or a person authorized by the owner to complete the renewal [form and the OT or OTR-in-charge];

(2) a list of all occupational therapy practitioners working at the facility including license numbers;

(3) the non-refundable renewal fee and any non-refundable late fees as set by the Executive Council[;] that [and any late fees, which] may be due; and

(4) an occupational therapist in charge form [Occupational Therapist-in-Charge form with the signature of the occupational therapist, if the Therapist-in-Charge has changed].

(c) The annual renewal date of a facility registration is the last day of the month in which the registration was originally issued, or as synchronized with the first facility registered by an owner. The owner of occupational therapy [OT] facilities may request that the renewal date of the occupational therapy [OT] facilities be synchronized with the owner's physical therapy [PT] facilities in the same locations.

(d) The Board [board] will notify the registered facility at least 30 days before the registration expiration date. The owner [An individual or entity offering occupational therapy] bears the responsibility for ensuring that the registration is renewed. Failure to receive a renewal notice from the Board [board] does not exempt the requirement to pay the renewal fee in a timely manner.

(e) Late Renewal. Late fees will be assessed if all items required for renewal are not postmarked if submitted by mail or electronically time and date stamped if submitted online prior to the expiration date of the registration. Facility owners who do not submit all required items prior to the expiration date are subject to late fees as described below.

(1) If the facility registration has been expired for 90 days or less, the late fee is half of the renewal fee.

(2) If the facility registration has been expired for more than 90 days but less than one year, the late fee is equal to the renewal fee.

(3) If the facility registration has been expired for one year or more, the facility owner must restore the license as described in §376.8 of this chapter (relating to Restoration of Registration).

(f) An owner may not register a new facility in lieu of renewal of the owner's previously registered facility at the same location.

[(e) Occupational therapy services may not be provided at a facility without a current facility registration. The current registration expiration date as displayed on the board's website is considered evidence of the current registration.]

[(f) Late Renewal. A facility renewing after the expiration date, must submit all the items listed in subsection (b) of this section plus the late fee which is determined as:]

[(1) One day late to 90 days late—a late fee equal to half the renewal fee, plus the renewal fee.]

[(2) More than 90 days to less than one year late—a late fee equal to the renewal fee, plus the renewal fee.]

[(3) A facility late more than one year must follow the requirements set out in §376.8 of this title (relating to Restoration of Registration).]

[(4) An owner may not register a new facility in lieu of renewal of a previously registered facility at the same location.]

§376.7. Failure To Register.

Individuals or entities that [which] fail to register an occupational therapy facility [Occupational Therapy Facility] with the Board [board] as required by the Act and Rules [rule] will be notified of their noncompliance with the Act and Rules and the disciplinary actions by this Board [board] to which they are subject. Additionally, all licensees of this Act employed at the facility will be notified that they are in violation of the Act and Rules and thereby subject to disciplinary action.

§376.8. Restoration of Registration.

(a) When a [an individual or entity fails to renew the registration of a facility within the renewal month and the] facility's registration has been [is] expired more than one year, or if the registration of a facility has been cancelled, the owner [facility] may restore the registration by submitting the following: [completing the requirements including paying fees as set by the Executive Council. The restoration requirements include:]

(1) the [a] restoration application;

(2) the non-refundable [a] restoration fee as set by the Executive Council; and

(3) the occupational therapist in charge [a Therapist-in-Charge] form signed by the occupational therapist in charge [Therapist-in-Charge].

(b) Restoration fees:

(1) If the owner cancelled the facility registration in writing, the restoration fee is the same as the renewal fee.

(2) If the owner did not cancel the registration in writing and the registration expired, the fee is twice the renewal fee.

~~[(b) The fee is determined by whether the owner of the facility notified the board in writing before its expiration that occupational therapy services would no longer be provided. Those that follow that requirement set out in §376.6 of this title (relating to Renewal of Registration Application) will pay one fee and those that do not notify the board will pay another.]~~

(c) An owner ~~[of a facility]~~ may not register a ~~[the facility as a]~~ new facility in lieu of ~~[renewal or]~~ restoration of the owner's [a] previously registered facility in the same location.

§376.9. *Disciplinary Action.*

(a) The Board ~~[board]~~ may assign disciplinary action to an individual or entity registering a facility under this Rule for violation of the Act or Rules. The disciplinary action may include: revocation or suspension of the registration; probation; penalty fees; or other appropriate disciplinary action.

(b) The processing of complaints against individuals or entities registering or applying for the registration of occupational therapy facilities ~~[Occupational Therapy Facilities]~~ under this Rule is accomplished in accordance with Chapter 374 of this title (relating to Complaints).

(c) A revocation or suspension of a registration affects all facilities registered by the same owner.

§376.10. *Change in Occupational Therapy Facility Ownership.*

(a) A registration cannot be transferred or sold to another person or owner. When a facility changes ownership, the new owner must register it as a new facility. The [and the] previous owner must request in writing that the registration of the original facility be cancelled [withdrawn] within 30 days after the change in ownership. A change in [of] ownership takes place when one of the following occurs:

(1) a sole proprietor (individual) incorporates or changes to a partnership;

(2) a partnership incorporates or changes to a sole proprietor;

(3) a corporation dissolves and changes its status to a partnership or sole proprietor;

(4) a sole proprietor (individual), partnership or corporation sells or transfers the ownership to another individual, partnership or corporation.

(b) If there is a change of managing partners in a partnership or managing officers in a ~~[partnership or]~~ corporation, the entity that registered the occupational therapy facility ~~[Occupational Therapy Facility]~~ must send the Board ~~[board]~~ written notification on a form prescribed by the Board within 30 days. For purposes of this subsection, managing partners are defined as the top four partners including, the partner in charge of the facility, and managing officers are defined as the top four executive officers, including the corporate officer in charge of occupational therapy facility operations. The written notification shall include the effective date of such change and the following information for the new managing partners or officers:

(1) name and title;

(2) home address;

(3) date of birth; and

(4) social security number.

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

Filed with the Office of the Secretary of State on September 11, 2015.

TRD-201503703

John P. Maline

Executive Director

Texas Board of Occupational Therapy Examiners

Earliest possible date of adoption: October 25, 2015

For further information, please call: (512) 305-6900



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 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 371. MEDICAID AND OTHER HEALTH AND HUMAN SERVICES FRAUD AND ABUSE PROGRAM INTEGRITY

The Texas Health and Human Services Commission (HHSC) adopts the repeal of §371.21, concerning Subpoena Authority, and adopts amendments to §371.1003 and §371.1013, concerning Provider Disclosure and Screening; §§371.1607, 371.1609, 371.1613, and 371.1615, concerning General Provisions; and §371.1709 and §371.1711, concerning Administrative Actions and Sanctions. The repeal of §371.21 and amendments to §§371.1013, 371.1607, 371.1609, 371.1613, 371.1615, 371.1709 and 371.1711 are adopted without changes to the proposed text as published in the June 26, 2015, issue of the *Texas Register* (40 TexReg 4110) and will not be republished. Section 371.1003 is adopted with changes to the proposed text as published in the June 26, 2015, issue of the *Texas Register* (40 TexReg 4110). The text of the rule will be republished.

Background and Justification

The rules in Chapter 371 include various provisions to ensure the integrity of Medicaid and other HHS programs by discovering, preventing, and correcting fraud, waste, or abuse.

The repeal and amendments to rules in Chapter 371 are adopted in light of recent state legislation affecting Texas Government Code Chapter 531. Specifically, these rules implement various provisions of Senate Bill 207, 84th Legislature, Regular Session, 2015 (S.B. 207).

The amendments revise the current process for informal resolution meetings, appeals, and payment holds, as mandated by S.B. 207. The amendments also include additional components and clarifications related to provider enrollment and administrative actions and sanctions by HHSC's Office of Inspector General (OIG).

HHSC intends that any obligations or requirements that accrued under Chapter 371 before the effective date of these rules will be governed by the prior rules in Chapter 371, and that those rules continue in effect for this purpose. HHSC does not intend for the amendments to the rules in Chapter 371 to affect the prior operation of the rules; any prior actions taken under the rules; any validation, cure, right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred under the rules; any violation of the rules or any penalty, forfeiture, or punishment incurred under the rules before their amendment; or any investigation, proceeding, or remedy concerning any privilege, obliga-

tion, liability, penalty, forfeiture, or punishment. HHSC additionally intends that any investigation, proceeding, or remedy may be instituted, continued, or enforced, and the penalty, forfeiture, or punishment imposed, as if the rules had not been amended.

HHSC intends that should any sentence, paragraph, subdivision, clause, phrase, or section of the amended or new rules in Chapter 371 be determined, adjudged, or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of the subchapter as a whole, or any part or provision hereof other than the part so declared to be unconstitutional, illegal, or invalid, and shall not affect the validity of the subchapter as a whole.

Public Comment

The 30-day comment period ended July 26, 2015. During this period, HHSC received comments regarding the amendments from the Texas Medicaid and Healthcare Partnership and Texas Medical Association. A summary of comments relating to the rules and HHSC's responses follows.

Comment: Concerning §371.1003, one commenter noted three items for a complete provider enrollment application were not required on all applications and recommended that clarification be added to reflect that the items may be required in some instances.

Response: HHSC agrees with the comment and added "if required" to the items in response to this comment.

Comment: One commenter expressed their appreciation and support for the proposed amendments.

Response: HHSC acknowledges and appreciates the comment. No changes were made in response to this comment.

SUBCHAPTER B. OFFICE OF INSPECTOR GENERAL

1 TAC §371.21

Legal Authority

The repeal is adopted under Texas Government Code §531.102(a-2), which provides that the Executive Commissioner shall work in consultation with the Office of Inspector General to adopt rules necessary to implement a power or duty of the office; Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; and Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas and to administer Medicaid funds.

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

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Karen Ray

Chief Counsel

Texas Health and Human Services Commission

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Proposal publication date: June 26, 2015

For further information, please call: (512) 424-6900



SUBCHAPTER E. PROVIDER DISCLOSURE AND SCREENING

1 TAC §371.1003, §371.1013

Legal Authority

The amendments are adopted under Texas Government Code §531.102(a-2), which provides that the Executive Commissioner shall work in consultation with the Office of Inspector General to adopt rules necessary to implement a power or duty of the office; Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; and Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas and to administer Medicaid funds.

§371.1003. Definitions.

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

(1) Applicant--An individual or an entity that has filed an enrollment application to become a provider, re-enroll as a provider, or enroll a new practice location in a Medicaid program or the Children's Health Insurance Program.

(2) Children's Health Insurance Program (CHIP)--The Texas State Children's Health Insurance Program established under Title XXI of the federal Social Security Act (42 U.S.C. §§1397aa, et seq.) and Chapter 62 of the Health and Safety Code.

(3) Complete Application--A provider enrollment application that contains all the required information, including:

(A) All questions answered completely, including correct date of birth, social security numbers, license numbers, and all requirements per provider type defined in the Texas Medicaid Provider Procedures Manual;

(B) IRS Form W-9, if required;

(C) Signed and certified provider agreements;

(D) Provider Information Form (PIF-1);

(E) Principal Information Forms (PIF-2) on all persons required to be disclosed, if required;

(F) Full disclosure of all criminal history, including copies of complete dispositions on all criminal history;

(G) Full disclosure of all board or licensing orders, including documentation of compliance with current board orders;

(H) Full disclosure of all corporate compliance agreements, settlement agreements, state or federal debt, and sanctions;

(I) Documentation of an active license that is not subject to expiration within 30 days of submission of the enrollment application, if required;

(J) Completion of a pre-enrollment site visit by HHSC or its designee, if required, and all required current documentation (e.g., liability insurance); and

(K) Documentation of fingerprints of a provider or any person with a 5 percent or more direct or indirect ownership in the provider, if required.

(4) Enrollment application--A form prescribed by the Texas Health and Human Services Commission (HHSC) that a provider or applicant submits to HHSC or its designee to enroll or re-enroll as a provider.

(5) Health and human services agency--A state agency identified in §531.001(4) of the Government Code.

(6) HHSC--The Texas Health and Human Services Commission (HHSC).

(7) Medicaid--The medical assistance program, a state and federal cooperative program authorized under Title XIX of the Social Security Act that pays for certain medical and health care costs for people who qualify.

(8) Medical assistance--A medical or health care related service, item, benefit, or supply.

(9) Person--Any legally cognizable entity, including an individual, firm, association, partnership, limited partnership, corporation, agency, institution, MCO, Special Investigative Unit, CHIP participant, trust, non-profit organization, special-purpose corporation, limited liability company, professional entity, professional association, professional corporation, accountable care organization, or other organization or legal entity.

(10) Provider--An applicant that successfully completes the enrollment process outlined in this chapter, Chapter 352 of this title (relating to Medicaid and Children's Health Insurance Program Provider Enrollment), if applicable, or another health and human services program.

(11) Provider agreement--An agreement between HHSC and a provider wherein the provider agrees to certain contract provisions as a condition of participation.

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

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Karen Ray

Chief Counsel

Texas Health and Human Services Commission

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For further information, please call: (512) 424-6900



SUBCHAPTER G. ADMINISTRATIVE ACTIONS AND SANCTIONS

DIVISION 1. GENERAL PROVISIONS

1 TAC §§371.1607, 371.1609, 371.1613, 371.1615

The amendments are adopted under Texas Government Code §531.102(a-2), which provides that the Executive Commissioner shall work in consultation with the Office of Inspector General to adopt rules necessary to implement a power or duty of the office; Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; and Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas and to administer Medicaid funds.

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DIVISION 3. ADMINISTRATIVE ACTIONS AND SANCTIONS

1 TAC §371.1709, §371.1711

The amendments are adopted under Texas Government Code §531.102(a-2), which provides that the Executive Commissioner shall work in consultation with the Office of Inspector General to adopt rules necessary to implement a power or duty of the office; Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; and Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas and to administer Medicaid funds.

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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TITLE 13. CULTURAL RESOURCES

PART 3. TEXAS COMMISSION ON THE ARTS

CHAPTER 35. A GUIDE TO PROGRAMS AND SERVICES

13 TAC §35.1

The Texas Commission on the Arts (Commission) adopts an amendment to §35.1, concerning a Guide to Programs and Services, without changes to the proposed text as published in the July 10, 2015, issue of the *Texas Register* (40 TexReg 4435). The rule will not be republished.

The purpose of the amendment is to be consistent with changes to programs and services of the Commission as revised June 2015.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Government Code, §444.009, which provides the Texas Commission on the Arts with the authority to make rules and regulations for its government and that of its officers and 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 September 4, 2015.

TRD-201503619

Gary Gibbs

Executive Director

Texas Commission on the Arts

Effective date: September 24, 2015

Proposal publication date: July 10, 2015

For further information, please call: (512) 936-6564



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 127. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR CAREER DEVELOPMENT

The State Board of Education (SBOE) adopts the repeal of §§127.1, 127.3, 127.4, 127.11, and 127.13-127.15, concerning Texas essential knowledge and skills (TEKS) for career development. The repeal is adopted without changes to the proposed text as published in the May 29, 2015 issue of the *Texas Register* (40 TexReg 2913) and will not be republished. The adopted repeal removes TEKS that will be superseded by new career development TEKS in 19 TAC Chapter 127, Subchapters A and B. The repeal is adopted with an effective date of the 2017-2018 school year to coincide with the implementation of the new TEKS. The adopted effective date of the repeal is August 28, 2017.

REASONED JUSTIFICATION. With the implementation of the new career development TEKS in the 2017-2018 school year,

the current career development TEKS in 19 TAC Chapter 127 adopted effective August 2010 will no longer be needed and may be repealed with an effective date of August 28, 2017.

The repeal of 19 TAC Chapter 127, Subchapters A and B, and 19 TAC Chapter 130, Subchapters A-P, was approved by the SBOE for first reading and filing authorization at its April 17, 2015 meeting and for second reading and final adoption at its July 17, 2015 meeting.

SUMMARY OF COMMENTS AND RESPONSES. No public comments were received on the proposal.

SUBCHAPTER A. MIDDLE SCHOOL

19 TAC §§127.1, 127.3, 127.4

STATUTORY AUTHORITY. The repeal is adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements, and §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §7.102(c)(4) and §28.002.

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 September 10, 2015.

TRD-201503657

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: August 28, 2017

Proposal publication date: May 29, 2015

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



SUBCHAPTER B. HIGH SCHOOL

19 TAC §§127.11, 127.13 - 127.15

STATUTORY AUTHORITY. The repeal is adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

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

Filed with the Office of the Secretary of State on September 10, 2015.

TRD-201503658

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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Proposal publication date: May 29, 2015

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



CHAPTER 127. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR CAREER DEVELOPMENT

The State Board of Education (SBOE) adopts new §§127.1-127.3 and 127.11-127.15, concerning Texas essential knowledge and skills (TEKS) for career development. Sections 127.1, 127.11, and 127.12 are adopted without changes to the proposed text as published in the March 13, 2015, issue of the *Texas Register* (40 TexReg 1167) and will not be republished. Sections 127.2, 127.3, and 127.13-127.15 are adopted with changes to the proposed text as published in the March 13, 2015, issue of the *Texas Register* (40 TexReg 1167). The adoption adds new TEKS for middle school and high school career development courses for implementation in the 2017-2018 school year. The effective date of the new sections is August 28, 2017.

REASONED JUSTIFICATION. Applications for appointment to career and technical education (CTE) TEKS review committees, including review committees for career development, were accepted by the Texas Education Agency (TEA) from October 2013 through January 10, 2014. Nominations for CTE TEKS review committees were made in spring 2014 and committee members were notified of the appointment in May 2014. The CTE TEKS review committees convened in Austin in June 2014 to begin work on draft recommendations for the TEKS. The committees met again in July 2014 to complete their initial draft recommendations. Mathematics and science educators were also in attendance at the July meeting to provide content expertise to the CTE TEKS review committees in the revision and development of TEKS for courses that may satisfy a mathematics or science credit. In September 2014 the first draft recommendations were posted to the TEA website for informal feedback, and the TEA shared the draft recommendations with numerous stakeholders, including professional organizations and educators. At the September 2014 SBOE meeting, one representative from each CTE TEKS review committee provided invited testimony to the SBOE Committee on Instruction. In October 2014, the CTE TEKS review committees met for a third time in order to continue work to finalize their recommendations for revisions to the CTE TEKS.

Due to the number of CTE courses included in the CTE TEKS review, the SBOE divided the adoption of the CTE TEKS revisions into two portions. The final recommendations from the CTE TEKS review committees for the first portion, those included in 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development, Subchapter A, Middle School, and Subchapter B, High School, and 19 TAC Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter C, Arts, Audio/Video Technology, and Communications, Subchapter D, Business Management and Administration, Subchapter E, Education and Training, Subchapter F, Finance, Subchapter I, Hospitality and Tourism, Subchapter J,

Human Services, Subchapter M, Manufacturing, and Subchapter N, Marketing, were posted on the TEA website in November 2014 and were shared with SBOE members as a discussion item at the November 2014 meeting.

A public hearing on the proposed new 19 TAC Chapter 127, Subchapters A and B, and Chapter 130, Subchapters C, D, E, F, I, J, M, and N, was held in February 2015 and the SBOE approved the proposal for first reading and filing authorization.

Another public hearing on the proposed new Chapters 127 and 130 was held in April 2015 and the SBOE approved for second reading and final adoption proposed new 19 TAC Chapter 127, Subchapters A and B, and Chapter 130, Subchapters C, D, E, F, I, J, M, and N.

The following changes were made in the proposed new 19 TAC Chapter 127, Subchapters A and B, since published as proposed.

Language in the introductions §127.2(b) and §127.3(b) was amended to strike references to instructional arrangements and to make the introductions of all CTE courses consistent.

The student expectation in §127.3(c)(2)(C) was amended to add college savings.

A technical edit was made to the general requirements in §127.13(a) to re-order the order of sentences consistent with other CTE courses.

Language in §127.14 and §127.15 was amended to limit each course to two credits.

SUMMARY OF COMMENTS AND RESPONSES. Following is a summary of the public comments received and the corresponding responses regarding proposed new 19 TAC Chapter 127, Subchapters A and B.

Comment. One community member stated that §127.3, College and Career Readiness, should be recommended for high school, Grades 9-12.

Response. The SBOE disagrees and has determined that the course was appropriately recommended for students in Grades 7 and 8.

Comment. One university/college staff member recommended changing student expectation §127.3(c)(1)(D) to read "determine certifications and academic requirements in related career fields." The commenter stated that entry-level career fields require a specific business or industry certification rather than an academic preparation.

Response. The SBOE disagrees and has determined that the student expectation was appropriate as proposed.

Comment. One counselor recommended including the following student expectation in the proposed TEKS for middle school, "complete actual or virtual labs to simulate the technical skills required in various occupations."

Response. The SBOE disagrees and has determined that the TEKS for middle school appropriately address technical skills.

Comment. One university/college staff member recommended in §127.14(b)(3) striking the word "variety" from the phrase "prepare students with a variety of skills." The commenter added that the term is confusing because it suggests that students will be working at several different jobs during their tenure in the course.

Response. The SBOE disagrees and has determined that the language in §127.14(b)(3) is appropriate as proposed.

Comment. One university/college staff member recommended in §127.14(b)(4) changing the term "extracurricular" to "co-curricular." The commenter added that the officially recognized career and technical student organizations are considered to be co-curricular rather than extracurricular.

Response. The SBOE disagrees and has determined that the language in §127.14(b)(4) is appropriate as proposed.

Comment. Two teachers expressed concern about whether §127.14, Career Preparation I, and §127.15, Career Preparation II, can be the final course in a coherent sequence for an endorsement on the Foundation High School Program.

Response. This comment is outside the scope of the proposed rulemaking.

Comment. One teacher expressed support for offering career courses at junior high, but added that the emphasis on career and pathways should be minimized.

Response. The SBOE disagrees and has determined that including instruction in career preparation and career pathways is a critical component of the middle school CTE courses.

SUBCHAPTER A. MIDDLE SCHOOL

19 TAC §§127.1 - 127.3

STATUTORY AUTHORITY. The new sections are adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements, and §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials.

CROSS REFERENCE TO STATUTE. The new sections implement the Texas Education Code, §7.102(c)(4) and §28.002.

§127.2. Investigating Careers, Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 7 and 8.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) Career development is a lifelong pursuit of answers to the questions: Who am I? Why am I here? What am I meant to do with my life? It is vital that students have a clear sense of direction for their career choice. Career planning is a critical step and is essential to success.

(3) The goal of this course is to create a foundation for success in high school, future studies, and careers such as Science, Technology, Engineering, and Mathematics; Business and Industry; Public Service; Arts and Humanities; and Multidisciplinary Studies. The students research labor market information, learn job-seeking skills, and create documents required for employment.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student investigates one or more careers within the 16 career clusters. The student is expected to:

(A) identify the various career opportunities within one or more career clusters; and

(B) identify the pathways within one or more career clusters.

(2) The student investigates career pathways in one or more of the 16 career clusters. The student is expected to:

(A) research the academic requirements for one or more of the careers in an identified cluster;

(B) research the certification or educational requirements for careers; and

(C) describe the technical-skill requirements for careers.

(3) The student investigates the professional skills needed for college and career success. The student is expected to:

(A) apply core academic skills to meet personal, academic, and career goals;

(B) investigate the importance of co-curricular, extracurricular, career preparation, and extended learning experiences;

(C) investigate the steps required to participate in a variety of career and educational opportunities, including, but not limited to, entry-level employment, military service, apprenticeships, community and technical colleges, and universities;

(D) identify professional associations affiliated with a career pathway;

(E) recognize the value of community service and volunteerism; and

(F) demonstrate characteristics required for personal and professional success such as work ethics, integrity, dedication, perseverance, and interacting with diverse populations.

(4) The student investigates labor market information. The student is expected to:

(A) analyze national, state, regional, and local labor market information;

(B) classify evidence of high-skill, high-wage, or high-demand occupations based on analysis of labor market information; and

(C) analyze the effects of changing employment trends, societal needs, and economic conditions on career planning.

(5) The student investigates job-seeking skills. The student is expected to:

(A) identify the steps for an effective job search;

(B) describe appropriate appearance for an interview; and

(C) participate in a mock interview.

(6) The student creates professional documents required for employment. The student is expected to:

(A) develop a resume;

(B) write appropriate business correspondence such as a letter of intent and a thank you letter;

(C) complete sample job applications; and

(D) explain protocol for selecting and using references.

§127.3. *College and Career Readiness, Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 7 and 8.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) Career development is a lifelong pursuit of answers to the questions: Who am I? Why am I here? What am I meant to do with my life? It is vital that students have a clear sense of direction for their career choice. Career planning is a critical step and is essential to success.

(3) The career development process is unique to every person and evolves throughout one's life. Students will use decision-making and problem-solving skills for college and career planning. Students will explore valid, reliable educational and career information to learn more about themselves and their interests and abilities. Students integrate skills from academic subjects, information technology, and interpersonal communication to make informed decisions. This course is designed to guide students through the process of investigation and in the development of a college and career readiness achievement plan. Students will use interest inventory software or other tools available to explore college and career areas of personal interest. Students will use this information to explore educational requirements for various colleges and a variety of chosen career paths.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student explores career assessments as related to college and career planning. The student is expected to:

(A) analyze and discuss the initial results of career assessments;

(B) explore the 16 career clusters;

(C) research trending fields related to career interest areas;

(D) determine academic requirements in related career fields; and

(E) research educational options and requirements using available resources.

(2) The student analyzes college and career opportunities. The student is expected to:

(A) determine academic requirements for transitioning to high school;

(B) explore opportunities for earning college credit in high school such as advanced placement courses, International Baccalaureate courses, dual credit, and local and statewide articulated credit;

(C) develop an awareness of financial aid, scholarships, and other sources of income as well as college savings to support college and career advancement;

(D) discuss the impact of effective college and career planning;

(E) demonstrate decision-making skills related to school and community issues, programs of study, and college and career planning; and

(F) identify how performance on assessments such as the PSAT/NMSQT®, SAT®, ACT®, ASVAB®, and Texas Success Initiative (TSI®) impact personal academic and career goals.

(3) The student evaluates skills for personal success. The student is expected to:

(A) use interpersonal skills to facilitate effective teamwork;

(B) use problem-solving models and critical-thinking skills to make informed decisions;

(C) use effective time-management and goal-setting strategies;

(D) identify skills that can be transferable among a variety of careers;

(E) create a personal career portfolio;

(F) make oral presentations that fulfill specific purposes using appropriate technology; and

(G) identify entrepreneurial opportunities within a field of personal interest.

(4) The student recognizes the impact of college and career choices on personal lifestyle. The student is expected to:

(A) prepare a personal budget reflecting the student's desired lifestyle; and

(B) use resources to compare and contrast salaries of at least three careers in the student's interest area.

(5) The student demonstrates an understanding of financial management. The student is expected to:

(A) compare the advantages and disadvantages of different types of money management services;

(B) simulate opening and maintaining different types of financial accounts;

(C) simulate different methods of withdrawals and deposits;

(D) reconcile financial statements, including fees and services;

(E) compare and contrast forms of credit, including credit cards and debit cards;

(F) discuss the importance of credit scores;

(G) discuss the impact of identity theft on credit; and

(H) examine the effects of poor credit scores as they relate to personal finance and career opportunities.

(6) The student develops skills for professional success. The student is expected to:

(A) demonstrate effective verbal, nonverbal, written, and electronic communication skills;

(B) evaluate the impact of positive and negative personal choices, including use of electronic communications such as social networking sites;

(C) model characteristics of effective leadership, teamwork, and conflict management;

(D) recognize the importance of a healthy lifestyle, including the ability to manage stress; and

(E) explore characteristics necessary for professional success such as work ethics, integrity, dedication, perseverance, and interactions with diverse populations.

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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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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



SUBCHAPTER B. HIGH SCHOOL

19 TAC §§127.11 - 127.15

STATUTORY AUTHORITY. The new sections are adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; §28.00222, which authorizes the SBOE to ensure that at least six advanced career and technology education or technology applications courses, including courses in personal financial literacy consistent with TEC, §28.0021, and in statistics, are approved to satisfy a fourth credit in mathematics required for high school graduation; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The new sections implement the Texas Education Code, §§7.102(c)(4), 28.002, 28.00222, and 28.025.

§127.13. *Applied Mathematics for Technical Professionals (One Credit)*, Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 11 and 12. Recommended prerequisites: Algebra I and Geometry. This course satisfies a high school mathematics graduation requirement. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The process standards describe ways in which students are expected to engage in the content. The placement of the process standards at the beginning of the knowledge and skills listed for each grade and course is intentional. The process standards weave the other knowledge and skills together so that students may be successful problem solvers and use mathematics efficiently and effectively in daily life. The process standards are integrated at every grade level and course. When possible, students will apply mathematics to problems arising in everyday life, society, and the workplace. Students will use a problem-solving model that incorporates analyzing given information, formulating a plan or strategy, determining a solution, justifying the solution, and evaluating the problem-solving process and the reasonableness of the solution. Students will select appropriate tools such as real objects, manipulatives, paper and pencil, and technology and techniques such as mental math, estimation, and number sense to solve problems. Students will effectively communicate mathematical ideas, reasoning, and their implications using multiple representations such as symbols, diagrams, graphs, and language. Students will use mathematical relationships to generate solutions and make connections and predictions. Students will analyze mathematical relationships to connect and communicate mathematical ideas. Students will display, explain, or justify mathematical ideas and arguments using precise mathematical language in written or oral communication.

(3) Career development is a lifelong pursuit of answers to the questions: Who am I? Why am I here? What am I meant to do with my life? It is vital that students have a clear sense of direction for their career choice. Career planning is a critical step and is essential to success.

(4) Applied Mathematics for Technical Professionals uses problem-solving situations, hands-on activities, and technology to extend mathematical thinking and engage student reasoning. Situations relating to technical applications provide students opportunities to make connections with mathematics and the workplace. In addition, students will learn the skills necessary to communicate using mathematics. Hands-on activities will allow students to model, explore, and develop abstract concepts applicable to technical careers. (Essential to this course is the partnership between mathematics and technical teachers.)

(5) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(6) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student uses mathematical processes to acquire and demonstrate mathematical understanding. The student is expected to:

(A) apply mathematics to problems arising in everyday life, society, and the workplace;

(B) use a problem-solving model that incorporates analyzing given information, formulating a plan or strategy, determining a solution, justifying the solution, and evaluating the problem-solving process and the reasonableness of the solution;

(C) select tools, including real objects, manipulatives, paper and pencil, and technology as appropriate, and techniques, including mental math, estimation, and number sense as appropriate, to solve problems;

(D) communicate mathematical ideas, reasoning, and their implications using multiple representations, including symbols, diagrams, graphs, and language as appropriate;

(E) create and use representations to organize, record, and communicate mathematical ideas;

(F) analyze mathematical relationships to connect and communicate mathematical ideas; and

(G) display, explain, and justify mathematical ideas and arguments using precise mathematical language in written or oral communication.

(2) The student uses mathematical concepts of algebra to explain linear and non-linear applications in business and industry situations. The student is expected to:

(A) calculate rise and run such as the rise and run of stair stringers or roof pitch;

(B) distinguish the purpose and difference of a linear and non-linear increase and decrease of a variable with time such as cost or profit;

(C) write systems of equations and inequalities from real-life situations that compare "best deal opportunities" with profit and expenses in businesses;

(D) use linear programming to maximize or minimize linear objective function in real-life situations and determine the reasonableness of solutions;

(E) express numbers as powers of 10 as applied to business and industry settings;

(F) determine the powers and roots of numbers;

(G) apply compound interest formulas related to operating a business; and

(H) use exponential decay models to determine the depreciation on equipment used in business and industry and explain the meaning of models.

(3) The student applies geometric concepts to real-world problems in technical situations. The student is expected to:

(A) identify various geometric figures in order to identify what formulas are needed to solve situational problems;

(B) compute measurements such as area, surface area, volume, perimeter, and circumference in order to prepare engineering drawings for projects;

(C) use trigonometric functions such as sine, cosine, tangent, cotangent, cosecant, and secant to calculate angles and length of sides;

(D) apply Heron's formula for finding areas of triangles when the height is not known;

(E) determine how changing dimensions will affect the perimeter, area, surface area, or volume in a project;

(F) determine how angles will affect structural strength and stability;

(G) apply right triangle relationships using the Pythagorean Theorem, special right triangles, and trigonometry for

roof construction, building the frame of a car, or calculating machined parts;

(H) determine the materials needed for a job or project by finding missing parts of a circle;

(I) draw orthographic and isometric views and use them to produce engineering drawings;

(J) use cross-sections, including conic sections, of three-dimensional figures to relate to plane figures in specific detail on an engineered drawing; and

(K) explain and use auxiliary views, revolutions, intersections, and engineered drawings.

(4) The student applies measurement to all aspects of business and industry occupations. The student is expected to:

(A) use dimensional analysis to select an appropriate tool to make measurements;

(B) apply accurate readings of both U.S. customary and metric measuring devices to a problem situation;

(C) square, measure, and cut materials to specified dimensions;

(D) draw segments to scale using an accurate scale and measure segments that are drawn to scales;

(E) convert temperature values between Celsius and Fahrenheit in situations involving thermodynamics; and

(F) determine length, distance, area, surface area, volume, and weight with appropriate unit labels.

(5) The student uses mathematical processes with graphical and numerical techniques to study patterns and analyze data related to finance. The student is expected to:

(A) use rates and linear functions to solve problems involving finance and budgeting, including compensations and deductions;

(B) solve problems related to local, state, and federal taxes;

(C) analyze data to make decisions about banking and finance;

(D) use mathematical processes with algebraic formulas, numerical techniques, and graphs to solve problems related to job cost analysis;

(E) identify what parameters to change such as cost of materials, cost of labor, and work time required to improve the overall cost of a project; and

(F) identify the most reasonable mathematical solution using estimation.

(6) The student applies mathematical processes to design a study and use graphical, numerical, and analytical techniques to communicate the results. The student is expected to:

(A) interpret and present situations in terms of given graphs and that fit graphics;

(B) apply Ohm's Law and Kirchhoff's laws to troubleshoot electrical circuits;

(C) collect and organize data; make and interpret scatterplots; and model, predict, and make decisions and critical judgments; and

(D) prepare technical reports and presentations with visual media or models, including tables, graphs, and verbal descriptions.

(7) The student applies mathematical principles of manufacturing processes. The student is expected to:

(A) identify the line types used on engineering drawings;

(B) identify selected symbols commonly used on engineering drawings;

(C) identify the components of engineering drawings;

(D) read, interpret, and create engineering drawings; and

(E) use proper nomenclature when identifying engineering or manufacturing processes.

§127.14. Career Preparation I (Two Credits), Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 11 and 12. Students shall be awarded two credits for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) Career development is a lifelong pursuit of answers to the questions: Who am I? Why am I here? What am I meant to do with my life? It is vital that students have a clear sense of direction for their career choice. Career planning is a critical step and is essential to success.

(3) Career Preparation I provides opportunities for students to participate in a work-based learning experience that combines classroom instruction with business and industry employment experiences. The goal is to prepare students with a variety of skills for a changing workplace. Career preparation is relevant and rigorous, supports student attainment of academic standards, and effectively prepares students for college and career success.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional employability skills to gain an entry-level position. The student is expected to:

(A) identify employment opportunities;

(B) demonstrate the application of essential workplace knowledge and skills;

(C) develop a resume;

(D) demonstrate proper interview techniques in various situations; and

(E) create and complete appropriate documents such as electronic portfolio, employment application, letter of intent, I-9 form, W-4 form, and thank you letters.

(2) The student develops skills for success in the workplace. The student is expected to:

(A) identify and model appropriate grooming and appearance for the workplace;

(B) demonstrate dependability, punctuality, and initiative;

(C) research positive interpersonal skills, including respect for diversity;

(D) model appropriate business and personal etiquette in the workplace;

(E) exhibit productive work habits, ethical practices, and a positive attitude;

(F) demonstrate the ability to work with other employees to support the organization and complete assigned tasks;

(G) identify how to prioritize work to fulfill responsibilities and meet deadlines;

(H) evaluate the relationship of good physical and mental health to job success and personal achievement;

(I) demonstrate effective methods to secure, maintain, and terminate employment; and

(J) develop soft skills in a working environment.

(3) The student discusses work ethics, employer expectations, interactions with diverse populations, and communication skills in the workplace. The student is expected to:

(A) illustrate how personal integrity affects human relations on the job;

(B) research characteristics of successful working relationships such as teamwork, conflict resolution, self-control, and ability to accept criticism;

(C) discuss and analyze employer expectations;

(D) demonstrate respect for the rights of others;

(E) develop listening skills;

(F) apply effective listening skills used in the workplace;

(G) identify ethical standards; and

(H) comply with organizational policies and procedures.

(4) The student applies academic skills to the workplace. The student is expected to:

(A) apply mathematical skills to business transactions;

(B) develop a personal budget based on a career choice;

(C) interpret data from tables, charts, and graphs to estimate and find solutions to problems; and

(D) organize, write, and compile workplace business documents.

(5) The student applies the ethical code of conduct and legal responsibilities within the workplace. The student is expected to:

(A) research and compare published workplace policies and procedures;

(B) demonstrate responsible and ethical behavior;

(C) summarize provisions of the Fair Labor Standards Act;

(D) describe the consequences of "breach of confidentiality"; and

(E) research and describe laws related to different careers.

(6) The student applies the use of self-development techniques and interpersonal skills. The student is expected to:

(A) identify and practice effective interpersonal and team-building skills with coworkers, managers, and customers; and

(B) develop effective leadership skills through participation in activities such as career and technical student organizations.

(7) The student applies concepts and skills related to safety in the workplace. The student is expected to:

(A) identify and apply safe working practices related to the workplace;

(B) demonstrate knowledge of personal and occupational safety practices in the workplace;

(C) offer solutions related to unsafe work practices and attitudes;

(D) explain Occupational Safety and Health Administration regulations in the workplace; and

(E) determine health and wellness practices that influence job performance.

(8) The student evaluates personal attitudes and work habits that support career retention and advancement. The student is expected to:

(A) analyze the future employment outlook in the occupational area;

(B) describe entrepreneurial opportunities in the occupational area;

(C) compare rewards and demands for various levels of employment in a variety of careers;

(D) evaluate strategies for career retention and advancement in response to the changing global workplace;

(E) summarize the rights and responsibilities of employers and employees; and

(F) determine effective money-management and financial-planning techniques.

(9) The student identifies skills and attributes necessary for professional advancement. The student is expected to:

(A) evaluate and compare employment options, including salaries and benefits;

(B) determine how interests, abilities, personal priorities, and family responsibilities affect career choices; and

(C) determine continuing education opportunities that enhance career advancement and promote lifelong learning.

§127.15. Career Preparation II (Two Credits), Adopted 2015.

(a) General requirements. This course is recommended for students in Grade 12. Prerequisite: Career Preparation I. Students shall be awarded two credits for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant

technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) Career development is a lifelong pursuit of answers to the questions: Who am I? Why am I here? What am I meant to do with my life? It is vital that students have a clear sense of direction for their career choice. Career planning is a critical step and is essential to success.

(3) Career Preparation II develops essential knowledge and skills through advanced classroom instruction with business and industry employment experiences. Career Preparation II maintains relevance and rigor, supports student attainment of academic standards, and effectively prepares students for college and career success.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student uses and evaluates employability skills to improve marketability within the workplace. The student is expected to:

(A) refine a professional electronic portfolio such as a two- to four-year individual career plan of study, resume, cover letter, awards, commendations, and thank you letters;

(B) obtain letters of recommendation;

(C) expand personal communication skills; and

(D) refine interview skills.

(2) The student demonstrates professional employability skills as required by business and industry. The student is expected to:

(A) maintain appropriate grooming and appearance for the workplace;

(B) demonstrate positive interpersonal skills, including respect for diversity;

(C) demonstrate appropriate business and personal etiquette in the workplace;

(D) exhibit productive work habits, attitudes, and ethical practices;

(E) evaluate consequences for breach of personal and occupational safety practices in the workplace; and

(F) prioritize work to fulfill responsibilities and meet deadlines.

(3) The student applies work ethics, job expectations, multicultural considerations, and communication skills in the workplace. The student is expected to:

(A) evaluate personal integrity and its effects on human relations in the workplace;

(B) evaluate characteristics of successful working relationships such as teamwork, conflict resolution, self-control, and the ability to accept criticism;

(C) recognize and appreciate diversity in the workplace;

(D) analyze employer expectations;

(E) exhibit productive work habits and attitudes;

(F) communicate effectively to a variety of audiences;

(G) analyze ethical standards; and

(H) comply with organizational policies and procedures.

(4) The student applies and enhances academic knowledge and skills in the workplace. The student is expected to:

(A) apply critical- and creative-thinking skills to solve complex problems;

(B) integrate mathematical concepts into business transactions;

(C) analyze and apply data from tables, charts, and graphs to find solutions to problems;

(D) apply effective listening skills used in the workplace;

(E) read and write technical reports and summaries; and

(F) apply effective verbal, nonverbal, written, and electronic communication skills.

(5) The student recognizes legal responsibilities of the workplace. The student is expected to:

(A) evaluate provisions of the Fair Labor Standards Act;

(B) analyze the legal consequences of "breach of confidentiality"; and

(C) research and describe laws governing the different professions.

(6) The student recognizes the dangers of identity theft. The student is expected to:

(A) identify various methods criminals use to obtain information; and

(B) research how to avoid becoming a victim.

(7) The student applies the use of interpersonal skills to improve personal development. The student is expected to:

(A) evaluate effective interpersonal and team-building skills involving situations with coworkers, managers, and customers; and

(B) participate in leadership and career-development activities.

(8) The student recognizes knowledge and skills related to safety in the workplace. The student is expected to:

(A) apply safe working practices to a training station;

(B) evaluate unsafe work practices and attitudes;

(C) evaluate the impact of Occupational Safety and Health Administration regulations in the workplace;

(D) recognize the importance of applying safety rules in all situations; and

(E) analyze health and wellness practices that influence job performance.

(9) The student acquires the academic and technical skills for future education and employment in high-skill, high-wage, or high-demand occupations. The student is expected to:

- (A) research and identify current or emerging occupations;
 - (B) analyze future employment outlook;
 - (C) research entrepreneurial opportunities;
 - (D) analyze rewards and demands for various levels of employment;
 - (E) identify the academic and technical entry requirements for employment in various high-skill, high-wage, or high-demand occupations;
 - (F) identify and pursue opportunities available in high school and postsecondary to acquire the necessary academic and technical skills for employment in high-skill, high-wage, or high-demand occupations;
 - (G) evaluate the rights and responsibilities of employers and employees; and
 - (H) apply money-management and financial-planning techniques.
- (10) The student identifies skills and characteristics necessary for professional advancement. The student is expected to:

- (A) evaluate and compare employment advancement options such as salaries, benefits, and prerequisites;
- (B) compare rewards and demands for various levels of employment in a variety of careers;
- (C) determine continuing education opportunities that enhance career advancement and promote lifelong learning;
- (D) determine preparation requirements for levels of employment in a variety of careers;
- (E) determine personal priorities such as interests, abilities, and family responsibilities affecting career choice; and
- (F) demonstrate effective methods to secure, maintain, and terminate employment.

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

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CHAPTER 130. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR CAREER AND TECHNICAL EDUCATION

The State Board of Education (SBOE) adopts the repeal of §§130.1-130.25, 130.41-130.62, 130.81-130.99, 130.111-130.122, 130.141-130.145, 130.161-130.169, 130.181-130.190, 130.201-130.209, 130.221-130.230,

130.241-130.253, 130.271-130.280, 130.291-130.301, 130.321-130.330, 130.341-130.348, 130.361-130.376, and 130.391-130.404, concerning Texas essential knowledge and skills (TEKS) for career and technical education (CTE). The repeal is adopted without changes to the proposed text as published in the May 29, 2015 issue of the *Texas Register* (40 TexReg 2914) and will not be republished. The adopted repeal removes CTE TEKS that will be superseded by new CTE TEKS in 19 TAC Chapter 130, Subchapters A-P. The repeal is adopted with an effective date of the 2017-2018 school year to coincide with the implementation of the new TEKS. The adopted effective date of the repeal is August 28, 2017.

REASONED JUSTIFICATION. With the implementation of the new CTE TEKS in the 2017-2018 school year, the current CTE TEKS in 19 TAC Chapter 130 adopted effective August 2010 will no longer be needed and may be repealed with an effective date of August 28, 2017.

The repeal of 19 TAC Chapter 127, Subchapters A and B, and 19 TAC Chapter 130, Subchapters A-P, was approved by the SBOE for first reading and filing authorization at its April 17, 2015 meeting and for second reading and final adoption at its July 17, 2015 meeting.

SUMMARY OF COMMENTS AND RESPONSES. No public comments were received on the proposal.

SUBCHAPTER A. AGRICULTURE, FOOD, AND NATURAL RESOURCES

19 TAC §§130.1 - 130.25

STATUTORY AUTHORITY. The repeal is adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

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 B. ARCHITECTURE AND CONSTRUCTION

19 TAC §§130.41 - 130.62

STATUTORY AUTHORITY. The repeal is adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

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SUBCHAPTER C. ARTS, AUDIO/VIDEO TECHNOLOGY, AND COMMUNICATIONS

19 TAC §§130.81 - 130.99

STATUTORY AUTHORITY. The repeal is adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

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SUBCHAPTER D. BUSINESS MANAGEMENT AND ADMINISTRATION

19 TAC §§130.111 - 130.122

STATUTORY AUTHORITY. The repeal is adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

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SUBCHAPTER E. EDUCATION AND TRAINING

19 TAC §§130.141 - 130.145

STATUTORY AUTHORITY. The repeal is adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

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SUBCHAPTER F. FINANCE

19 TAC §§130.161 - 130.169

STATUTORY AUTHORITY. The repeal is adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

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SUBCHAPTER G. GOVERNMENT AND PUBLIC ADMINISTRATION

19 TAC §§130.181 - 130.190

STATUTORY AUTHORITY. The repeal is adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

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SUBCHAPTER H. HEALTH SCIENCE

19 TAC §§130.201 - 130.209

STATUTORY AUTHORITY. The repeal is adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

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SUBCHAPTER I. HOSPITALITY AND TOURISM

19 TAC §§130.221 - 130.230

STATUTORY AUTHORITY. The repeal is adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

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SUBCHAPTER J. HUMAN SERVICES

19 TAC §§130.241 - 130.253

STATUTORY AUTHORITY. The repeal is adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

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SUBCHAPTER K. INFORMATION TECHNOLOGY

19 TAC §§130.271 - 130.280

STATUTORY AUTHORITY. The repeal is adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; and §28.025, which authorizes the SBOE to determine by rule

curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

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 L. LAW, PUBLIC SAFETY, CORRECTIONS, AND SECURITY

19 TAC §§130.291 - 130.301

STATUTORY AUTHORITY. The repeal is adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

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SUBCHAPTER M. MANUFACTURING

19 TAC §§130.321 - 130.330

STATUTORY AUTHORITY. The repeal is adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the

essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

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SUBCHAPTER N. MARKETING

19 TAC §§130.341 - 130.348

STATUTORY AUTHORITY. The repeal is adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

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SUBCHAPTER O. SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS

19 TAC §§130.361 - 130.376

STATUTORY AUTHORITY. The repeal is adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

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SUBCHAPTER P. TRANSPORTATION, DISTRIBUTION, AND LOGISTICS

19 TAC §§130.391 - 130.404

STATUTORY AUTHORITY. The repeal is adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

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

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CHAPTER 130. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR CAREER AND TECHNICAL EDUCATION

The State Board of Education (SBOE) adopts new §§130.81-130.116, 130.131-130.143, 130.161-130.165, 130.181, 130.182, 130.184-130.190, 130.251-130.261, 130.271-130.284, 130.351-130.366, 130.381-130.387, concerning Texas essential knowledge and skills (TEKS) for career and technical education (CTE). Sections 130.81, 130.131-130.133, 130.140, 130.142, 130.161, 130.181, 130.184-130.190, 130.251, 130.252, 130.258, 130.260, 130.271, 130.275, 130.277, 130.279, 130.282, 130.351, 130.381, and 130.383-130.386 are adopted without changes to the proposed text as published in the March 13, 2015 issue of the *Texas Register* (40 TexReg 1176) and will not be republished. Sections 130.82-130.116, 130.134-130.139, 130.141, 130.143, 130.162-130.165, 130.182, 130.253-130.257, 130.259, 130.261, 130.272-130.274, 130.276, 130.278, 130.280, 130.281, 130.283, 130.284, 130.352-130.366, 130.382, and 130.387 are adopted with changes to the proposed text as published in the March 13, 2015 issue of the *Texas Register* (40 TexReg 1176). The adoption adds new TEKS for high school CTE courses for Arts, Audio/Video Technology, and Communications; Business Management and Administration; Education and Training; Finance; Hospitality and Tourism; Human Services; Manufacturing; and Marketing for implementation in the 2017-2018 school year. The adopted effective date of the new sections is August 28, 2017.

REASONED JUSTIFICATION. Applications for appointment to career and technical education (CTE) TEKS review committees were accepted by the Texas Education Agency (TEA) from October 2013 through January 10, 2014. Nominations for CTE TEKS review committees were made in spring 2014 and committee members were notified of the appointment in May 2014. The CTE TEKS review committees convened in Austin in June 2014 to begin work on draft recommendations for the TEKS. The committees met again in July 2014 to complete their initial draft recommendations. Mathematics and science educators were also in attendance at the July meeting to provide content expertise to the CTE TEKS review committees in the revision and development of TEKS for courses that may satisfy a mathematics or science credit. In September 2014 the first draft recommendations were posted to the TEA website for informal feedback, and the TEA shared the draft recommendations with numerous stakeholders, including professional organizations and educators. At the September 2014 SBOE meeting, one representative from each CTE TEKS review committee provided invited testimony to the SBOE Committee on Instruction. In October 2014, the CTE TEKS review committees met for a third time in order to continue work to finalize their recommendations for revisions to the CTE TEKS.

Due to the number of CTE courses included in the CTE TEKS review, the SBOE divided the adoption of the CTE TEKS revisions into two portions. The final recommendations from the CTE TEKS review committees for the first portion, those included in 19 TAC Chapter 127, Texas Essential Knowledge and Skills for Career Development, Subchapter A, Middle School, and Subchapter B, High School, and 19 TAC Chapter 130, Texas Essential Knowledge and Skills for Career and Technical Education, Subchapter C, Arts, Audio/Video Technology, and Communications, Subchapter D, Business Management and Administration, Subchapter E, Education and Training, Subchapter F,

Finance, Subchapter I, Hospitality and Tourism, Subchapter J, Human Services, Subchapter M, Manufacturing, and Subchapter N, Marketing, were posted on the TEA website in November 2014 and were shared with SBOE members as a discussion item at the November 2014 meeting.

A public hearing on proposed new 19 TAC Chapter 127, Subchapters A and B, and Chapter 130, Subchapters C, D, E, F, I, J, M, and N, was held in February 2015 and the SBOE approved the proposal for first reading and filing authorization. At that time, the board postponed action on the proposed new Financial Mathematics course in 19 TAC Chapter 130, Subchapter F, until its April 2015 meeting to allow additional time to review recommendations. The proposed new course for Financial Mathematics was approved for first reading and filing authorization at the April 2015 meeting and for second reading and final adoption at the July 2015 meeting. Information about the adoption of 19 TAC §130.180, Financial Mathematics (One Credit), Adopted 2015, can be found in the Adopted Rules section of the August 21, 2015 issue of the *Texas Register*.

In April 2015, another public hearing on proposed new Chapters 127 and 130 was held and the SBOE approved for second reading and final adoption proposed new 19 TAC Chapter 127, Subchapters A and B, and Chapter 130, Subchapters C, D, E, F, I, J, M, and N. At that time, the board postponed action on the proposed new Food Chemistry course in 19 TAC Chapter 130, Subchapter I; the proposed welding courses in 19 TAC Chapter 130, Subchapter M; and the proposed new Practicum in Marketing course in 19 TAC Chapter 130, Subchapter N, until its July 2015 meeting to allow for additional work on the courses. The SBOE approved the proposed new courses for Food Chemistry, welding, and Practicum in Marketing for second reading and final adoption at its July 2015 meeting.

The following changes were made in the proposed new 19 TAC Chapter 130, Subchapters C, D, E, F, I, J, M, and N, since published as proposed.

Language in student expectations throughout all subchapters that referenced licenses and certifications was amended to clarify that licensures and certifications are example activities rather than required activities.

Language in the general requirements in subsection (a) throughout all subchapters that required a laboratory course as a corequisite was amended to recommend the lab corequisite.

Language in the general requirements in subsection (a) for lab courses was made consistent.

Language in the general requirements in subsection (a) throughout all subchapters was amended to strike references to 19 TAC Chapter 74.

Language in the general requirements in subsection (a) throughout all subchapters was amended to make the language consistent.

Language in practicum courses throughout all subchapters was amended to limit practicums to two credits.

Language in student expectations throughout all subchapters that referenced portfolios was amended to be consistent.

Language related to projects throughout several subchapters was amended to reflect current project management terminology.

The title of §130.256, Food Chemistry (One Credit), Adopted 2015, was amended to Food Science (One Credit), Adopted 2015.

Language in the student expectations in §130.256 was amended to reflect recommendations from the Texas Science Education Leadership Association (TSELA) to clarify language.

Language in the general requirements in §130.276(a) and §130.278(a) was amended to change required prerequisites to recommended prerequisites.

Language in §130.283 and §130.284, Cosmetology I and II, was amended to limit the courses to two credits each.

Language in the welding courses in Subchapter M, Manufacturing, was amended to add student expectations on recycling of materials, conversion between standard and metric units, and references to American Welding Society education standards. Additionally the welding TEKS were amended to more accurately reflect industry standards and terminology.

Language in student expectation §130.359(c)(9)(F) was amended to replace "indicate" with "locate and set a work piece."

The title of §130.387, Practicum in Marketing I (Two to Three Credits), Adopted 2015, was amended to Practicum in Marketing (Two Credits), Adopted 2015.

Technical edits were made throughout the subchapters to correct non-substantive typographical and grammatical errors.

SUMMARY OF COMMENTS AND RESPONSES. Following is a summary of the public comments received and the corresponding responses regarding proposed new 19 TAC Chapter 130, Subchapters C, D, E, F, I, J, M, and N.

Comment. One administrator expressed concern about adding a required lab corequisite to §130.83, Animation I; §130.102, Fashion Design I; and §130.106, Graphic Design and Illustration I. The commenter added that students would not have room in their schedules for two-credit courses.

Response. The SBOE agrees that labs should not be required corequisites. In response to this and other comments, the SBOE took action to change all required lab corequisites to recommended corequisites.

Comment. One parent stated that the required labs for digital graphics courses would be burdensome and make students have second thoughts about taking the courses.

Response. The SBOE agrees that labs should not be required corequisites. In response to this and other comments, the SBOE took action to change all required lab corequisites to recommended corequisites.

Comment. One parent stated that the required labs for Arts, Audio/Video Technology, and Communications are not necessary, waste both time and money, and should be eliminated.

Response. The SBOE disagrees and has determined that the lab courses provide opportunities for additional, hands-on time with the content. In response to other comments, the SBOE took action to change all required lab corequisites to recommended corequisites.

Comment. Four teachers, one administrator, one parent, and three community members recommended eliminating all corequisite labs or changing the labs to recommended corequisites.

Response. The SBOE agrees that labs should not be required corequisites. In response to this and other comments, the SBOE took action to change all required lab corequisites to recommended corequisites.

Comment. One teacher expressed concern that §130.106, Graphic Design and Illustration I, would no longer be a prerequisite for Animation I.

Response. The SBOE disagrees and has determined that the recommended prerequisite for Animation I was appropriate as proposed.

Comment. Eleven teachers, one administrator, four parents, and one community member expressed concern with the corequisite requirement for §130.83, Animation I, and §130.84, Animation I Lab.

Response. The SBOE agrees that labs should not be required corequisites. In response to this and other comments, the SBOE took action to change all required lab corequisites to recommended corequisites.

Comment. One teacher suggested that the Animation I Lab should be considered as a recommended corequisite for Animation I, rather than a required course.

Response. The SBOE agrees that labs should not be required corequisites. In response to this and other comments, the SBOE took action to change all required lab corequisites to recommended corequisites.

Comment. Two teachers and one parent expressed concern that the corequisite requirement for §130.87, Audio/Video Production I, will reduce enrollment.

Response. The SBOE disagrees that corequisite requirements will reduce enrollment. In response to other comments, however, the SBOE took action to change all required lab corequisites to recommended corequisites.

Comment. One administrator recommended that §130.307, Digital Media, in the Information Technology cluster be added as a recommended prerequisite for §130.87, Audio/Video Production I.

Response. The SBOE disagrees and has determined that the prerequisite for the course was appropriate as proposed.

Comment. Four teachers and two administrators expressed concern that the proposal to offer Audio/Video Production I and the associated lab and Audio/Video Production II and its associated lab as separate corequisite courses will cause scheduling issues for students and affect enrollment.

Response. The SBOE disagrees that offering separate lab courses will cause scheduling issues and affect enrollment. In response to other comments, however, the SBOE took action to change all required lab corequisites to recommended corequisites.

Comment. One teacher recommended adding TRRS to the list of audio connectors provided in student expectations §130.91(c)(13)(F) and §130.92(c)(13)(F).

Response. The SBOE disagrees and has determined that the student expectations were appropriate as proposed.

Comment. One teacher recommended moving the fashion design courses from the Arts, Audio/Video Technology, and Communications cluster to the Human Services cluster since fashion

design courses are usually taught by family and consumer science teachers.

Response. The SBOE disagrees and has determined that fashion design is most appropriately included in the Arts, Audio/Video Technology, and Communications Career Cluster.

Comment. Four teachers, three administrators, and one parent asked the SBOE to reconsider the proposal to require a corequisite lab period for §130.102, Fashion Design I, and §130.104, Fashion Design II.

Response. The SBOE agrees that labs should not be required corequisites. In response to this and other comments, the SBOE took action to change all required lab corequisites to recommended corequisites.

Comment. Thirteen parents, eight community members, and two teachers expressed disagreement with requiring lab corequisites for CTE courses.

Response. The SBOE agrees that lab corequisites should not be required for all students in order to provide more flexibility for districts and schools. In response to this and other comments, the SBOE took action to make all lab corequisites recommended rather than required.

Comment. One administrator recommended offering courses with a required lab corequisite as two-credit courses instead of requiring lab corequisites.

Response. The SBOE disagrees that the lab course should be combined with the theory-based course. In response to other comments, however, the SBOE took action to make all lab corequisites recommended rather than required.

Comment. One community member expressed concern with the word "require" in §130.82(b)(3) because all students might not have a strong background in computer technology applications.

Response. The SBOE disagrees and has determined that the language was appropriate as proposed and aligns with the description of the National Career Clusters Framework.

Comment. One teacher expressed support for the changes to §130.82, Principles of Arts, Audio/Video Technology, and Communications.

Response. The SBOE agrees.

Comment. One teacher stated that §130.82, Principles of Arts, Audio/Video Technology, and Communication, should be offered for one-half credit because the course is too basic and lacks sufficient hands-on experience with industry software.

Response. The SBOE disagrees and has determined that the course credit was appropriate as proposed.

Comment. One teacher stated that §130.110, Professional Communications, has 87 TEKS, which is excessive for a one-half credit course. The commenter recommended offering the course for one credit.

Response. The SBOE disagrees and has determined that the course credit was appropriate as proposed.

Comment. One teacher expressed concern that offering §130.134, Business Law, for one credit will reduce enrollment in the course. The commenter added that the proposed TEKS only support a one-semester course.

Response. The SBOE disagrees and has determined that the course credit was appropriate as proposed.

Comment. Five teachers and one administrator recommended that §130.134, Business Law, be offered as a one-half to one credit course.

Response. The SBOE disagrees and has determined that offering a course for a range of credit (one-half to one credit) allowed for credit to be awarded inconsistently from district to district. As a result the SBOE took steps to identify the exact amount of credit to be awarded for each course and eliminated credit ranges throughout the CTE TEKS.

Comment. One teacher recommended that §130.135, Business English, be offered as a one-half to one credit course.

Response. The SBOE disagrees and has determined that offering a course for a range of credit (one-half to one credit) allowed for credit to be awarded inconsistently from district to district. As a result the SBOE took steps to identify the exact amount of credit to be awarded for each course and eliminated credit ranges throughout the CTE TEKS.

Comment. Two teachers stated that districts should be given the flexibility to offer §130.139, Business Management, for one-half to one credit because the proposal to offer the course for one credit limits students.

Response. The SBOE disagrees and has determined that offering a course for a range of credit (one-half to one credit) allowed for credit to be awarded inconsistently from district to district. As a result the SBOE took steps to identify the exact amount of credit to be awarded for each course and eliminated credit ranges throughout the CTE TEKS.

Comment. Two teachers expressed concern with the proposal to offer §130.143, Practicum in Business Management, for a range of two to three credits.

Response. The SBOE agrees and has determined that credit for practicum courses may not be based on time. In response to this and other comments, the SBOE took action to amend all practicum courses to change the credit to two credits. The SBOE also requested that staff develop TEKS for an extended, one-credit practicum course that, when paired with a practicum, would allow districts the flexibility of offering a practicum course for a total of three credits.

Comment. One teacher expressed concern with the option in §130.143, Practicum in Business Management, to allow students to earn only two credits.

Response. The SBOE disagrees and has determined that the first practicum course should allow students to earn two credits. In response to other comments, the SBOE took action to amend all practicum courses to change the credit to two credits. The SBOE also requested that staff develop TEKS for extended, one-credit practicum courses that, when paired with a practicum, would allow districts the flexibility of offering a practicum course for a total of three credits.

Comment. Two teachers expressed concern with not including a second practicum course in business management in the proposed rules.

Response. The SBOE agrees and has determined that a second-level course for each practicum is necessary. In response to this and other comments, the SBOE requested that staff develop TEKS for extended, one-credit practicum courses that, when paired with a practicum, would allow districts the flexibility of offering a practicum course for a total of three credits.

Comment. One teacher stated that the TEKS for §130.136, Business Information Management I, are too heavy on databases and need more emphasis on word processing, spreadsheets, and presentation software.

Response. The SBOE disagrees and has determined that the course was appropriate as proposed. In response to other comments, the SBOE took action to amend the introduction of the course in order to make it consistent with all other CTE courses.

Comment. One teacher stated that in Business Information Management I, student expectation §130.136(c)(6)(E) is unrealistic because of time constraints. The commenter suggested changing "research paper" to "report."

Response. The SBOE disagrees and has determined that the student expectation was appropriate as proposed.

Comment. Three teachers and one administrator expressed concern about the credit requirement for §130.132, Principles of Business, Marketing, and Finance. The commenter recommended that the course be offered as either a one-half credit course or a one-half to one credit course.

Response. The SBOE disagrees and has determined that the credit for the course was appropriate as proposed.

Comment. One teacher expressed support for including certifications as a part of the CTE TEKS as long as the certifications are not required.

Response. The SBOE agrees and has determined that licenses and certifications should not be required. The SBOE took action to amend language throughout each of the subchapters to clarify that licensures and certifications are example activities rather than required activities.

Comment. Two teachers expressed concern that the TEKS for §130.132, Principles of Business, Marketing, and Finance; §130.134, Business Law; §130.182, Money Matters; and §130.384, Entrepreneurship, overlap and there is not enough content for year-long courses.

Response. The SBOE disagrees and has determined that the courses were appropriate as proposed. Technical edits were made in §130.134 and §130.182 to correct non-substantive typographical and grammatical errors, as authorized by the SBOE.

Comment. One teacher stated that courses in the Hospitality and Tourism and Human Services Career Clusters should continue to be offered as one-half credit courses. The commenter stated that because districts cannot offer as many one-credit courses, this change will reduce student enrollment in these clusters.

Response. The SBOE disagrees and has determined that the credit for the courses was appropriate as proposed.

Comment. Two teachers stated that one-half credit courses provide students with a variety of course options.

Response. The SBOE agrees and has determined that the credit for each course was appropriate based on the content of the course.

Comment. One community member stated that a personal financial education class should be added to the Texas high school graduation requirements, in addition to §130.182, Money Matters.

Response. The SBOE provides the following clarification. In accordance with statute, Texas Education Code, §28.00222, the

SBOE has approved a personal financial literacy CTE course, §130.180, Financial Mathematics.

Comment. One teacher expressed concern with the proposal to change §130.182, Money Matters; §130.184, Securities and Investments; and §130.185, Insurance Operations, from one credit to one-half credit because there would not be a one-credit personal finance course option for students.

Response. The SBOE provides the following clarification. The courses in question were all approved for one credit. Additionally, in accordance with statute, TEC, §28.00222, the SBOE has approved a personal financial literacy CTE course, §130.180, Financial Mathematics, for one credit.

Comment. Two teachers recommended that §130.187, Accounting I, satisfy a mathematics graduation requirement.

Response. The SBOE disagrees and has determined that Accounting I should not satisfy a mathematics graduation requirement.

Comment. One teacher stated that Accounting I should be a corequisite course.

Response. The SBOE disagrees and has determined that the course is not an appropriate corequisite for any other course.

Comment. One teacher stated that Accounting I should include 10-key by touch on a printing calculator and on a computer keyboard.

Response. The SBOE disagrees and has determined that the topics addressed in Accounting I were appropriate as proposed.

Comment. Four teachers stated that the SBOE should allow districts the flexibility to offer §130.182, Money Matters, for one-half credit or one credit.

Response. The SBOE disagrees and has determined that offering a course for a range of credit (one-half to one credit) allowed for credit to be awarded inconsistently from district to district. As a result the SBOE took steps to identify the exact amount of credit to be awarded for each course and eliminated credit ranges throughout the CTE TEKS.

Comment. One community member and one teacher stated that there is not enough content for Money Matters to be offered as a one credit, year-long course.

Response. The SBOE disagrees and has determined that the credit for the course was appropriate based on the content.

Comment. One teacher recommended replacing Money Matters with the TEKS from §130.183, Financial Mathematics, because the latter is the stronger of the two courses.

Response. The SBOE disagrees and has determined that both courses were appropriately included in the TEKS for CTE. The Financial Mathematics course was adopted as §130.180.

Comment. Six teachers expressed support for the Arts, Audio/Video Technology, and Communications courses that were originally recommended to satisfy the fine arts graduation requirement because fine arts principles are taught in these courses.

Response. The SBOE disagrees and has determined that the courses should not satisfy a fine arts graduation requirement.

Comment. One teacher and one parent expressed support for not allowing additional CTE courses to satisfy the fine arts graduation requirement.

Response. The SBOE agrees and has determined that the courses should not satisfy a fine arts graduation requirement.

Comment. One teacher expressed concern about CTE funding for middle school.

Response. This comment is outside the scope of the proposed rulemaking.

Comment. One teacher expressed support for the proposed CTE TEKS.

Response. The SBOE agrees.

Comment. One teacher stated that some of the TEKS for family and consumer science courses were repeated in other family and consumer science courses.

Response. The SBOE provides the following clarification. Some repetition of basic knowledge and skills in the various family and consumer science courses is appropriate in order to adequately provide students with the knowledge needed to be successful in each course.

Comment. One teacher expressed concern with the proposal to offer §130.253, Introduction to Culinary Arts, for one credit instead of one-half credit.

Response. The SBOE disagrees and has determined that the credit for the course was appropriate based on the course content.

Comment. One teacher recommended that enrollment for §130.255, Advanced Culinary Arts, be limited to students in Grades 11 and 12.

Response. The SBOE disagrees and has determined that the recommended grade levels were appropriate as proposed.

Comment. One administrator expressed concern that many of the student expectations for §130.253, Introduction to Culinary Arts, duplicate student expectations for §130.252, Principles of Hospitality and Tourism. The commenter suggested combining the two courses.

Response. The SBOE disagrees that many of the student expectations are duplicative. The SBOE also provides the following clarification. The Principles of Hospitality and Tourism course was designed to provide an introduction of careers in the hospitality and tourism industries and could not be combined with another course.

Comment. One teacher suggested that §130.252, Principles of Hospitality and Tourism, be offered for either one-half or one credit, to be determined by the school district.

Response. The SBOE disagrees and has determined that offering a course for a range of credit (one-half to one credit) allowed for credit to be awarded inconsistently from district to district. As a result the SBOE took steps to identify the exact amount of credit to be awarded for each course and eliminated credit ranges throughout the CTE TEKS.

Comment. One teacher recommended offering §130.252, Principles of Hospitality and Tourism, for one-half credit instead of one credit.

Response. The SBOE disagrees and has determined that the credit for the course was appropriate based on the course content.

Comment. One teacher stated that the TEKS for §130.252, Principles of Hospitality and Tourism, should include basic

kitchen measurement, tool identification, safety, and sanitation because parents want students to learn more basic kitchen skills in school.

Response. The SBOE disagrees and has determined that the content of the course was appropriate as proposed.

Comment. Seven teachers stated that the proposed TEKS for §130.252, Principles of Hospitality and Tourism, offer limited skill exploration within a kitchen environment and should address the kitchen skills students need for success.

Response. The SBOE disagrees and has determined that the content of the course was appropriate as proposed. The SBOE also provides the following clarification. The Principles of Hospitality and Tourism course was designed to provide an introduction of careers in the hospitality and tourism industries and not simply to focus on one aspect.

Comment. One teacher asked if the current Restaurant Management course has been eliminated from the proposed TEKS.

Response. The SBOE provides the following clarification. The current Restaurant Management course has been renamed Introduction to Culinary Arts in the revised TEKS.

Comment. One administrator recommended that the proposed course title for §130.256, Food Chemistry, be changed to Food Science and Chemistry. The commenter stated that keeping the word science in the title aligns the course with course titles used in university programs, such as Food Science or Food Science and Nutrition.

Response. The SBOE agrees with the need to change the course title. The SBOE took action to change the title to "Food Science (One Credit), Adopted 2015."

Comment. One community member expressed support for the recommended changes for §130.256, Food Chemistry, as presented by the Texas Science Education Leadership Association.

Response. The SBOE agrees that some, but not all, of the changes recommended by the Texas Science Education Leadership Association were appropriate. The SBOE took action to amend a number of student expectations in §130.256(c) to align with the recommendations.

Comment. The Texas Science Education Leadership Association recommended changing the name of §130.256, Food Chemistry, to "Food Science."

Response. The SBOE agrees and took action to amend the course title to Food Science.

Comment. The Texas Science Education Leadership Association recommended changing references to "experimental, descriptive, or comparative" throughout the course to "descriptive, comparative, or experimental."

Response. The SBOE disagrees and has determined that the language as proposed was consistent with other courses that may satisfy a science graduation requirement.

Comment. The Texas Science Education Leadership Association recommended amending knowledge and skill statement §130.256(c)(3) to change "processes" to "methods."

Response. The SBOE provides the following clarification. Knowledge and skill statement §130.256(c)(3) as proposed uses the term "methods" rather than "processes."

Comment. The Texas Science Education Leadership Association recommended amending student expectation §130.256(c)(6)(D) to change "organisms" to "microorganisms."

Response. The SBOE agrees and took action to amend §130.256(c)(6)(D) to read, "compare beneficial and harmful microorganisms."

Comment. The Texas Science Education Leadership Association recommended amending student expectation §130.256(c)(6)(E) to read "analyze and practice sanitary food-handling practices."

Response. The SBOE disagrees and has determined that the knowledge and skill statement was appropriate as proposed.

Comment. The Texas Science Education Leadership Association recommended amending student expectation §130.256(c)(7)(A) by deleting "related to food science."

Response. The SBOE disagrees and has determined that the knowledge and skill statement was appropriate as proposed.

Comment. The Texas Science Education Leadership Association recommended amending student expectation §130.256(c)(8)(E) by changing the wording to read "relationships among" instead of "relationships of."

Response. The SBOE agrees and took action to amend §130.256(c)(8)(E) to read, "investigate the relationships among the three parts of an emulsion."

Comment. The Texas Science Education Leadership Association recommended amending student expectation §130.256(c)(9)(A) by deleting the words "of food."

Response. The SBOE disagrees and has determined that the knowledge and skill statement was appropriate as proposed.

Comment. The Texas Science Education Leadership Association recommended amending student expectation §130.256(c)(9)(C) to add "including factors that influence enzyme activity."

Response. The SBOE agrees and took action to amend §130.256(c)(9)(C) to read as follows, "analyze the functions of enzymes in digestion, including the factors that influence enzyme activity."

Comment. The Texas Science Education Leadership Association recommended amending student expectation §130.256(c)(10)(B) by changing "access" to "assess."

Response. The SBOE provides the following clarification. Student expectation §130.256(c)(10)(B) correctly used the word "assess," and no change was needed.

Comment. The Texas Science Education Leadership Association recommended deleting student expectation §130.256(c)(10)(C) as it is redundant with other student expectations.

Response. The SBOE agrees and took action to strike §130.256(c)(10)(C).

Comment. The Texas Science Education Leadership Association recommended deleting "in baked products" from student expectations §130.256(c)(11)(A)-(C).

Response. The SBOE agrees and took action to amend §130.256(c)(11)(A)-(C) to strike the phrase "in baked products."

Comment. The Texas Science Education Leadership Association recommended amending student expectation §130.256(c)(12)(C) to read "investigate agencies involved in regulating food additives."

Response. The SBOE disagrees and has determined that the student expectation was appropriate as proposed.

Comment. The Texas Science Education Leadership Association recommended deleting student expectation §130.256(c)(12)(D).

Response. The SBOE agrees and took action to strike §130.256(c)(12)(D).

Comment. The Texas Science Education Leadership Association recommended amending knowledge and skill statement §130.256(c)(13) by using the language of the current TEKS, which reads, "The student explains how food provides energy."

Response. The SBOE disagrees and has determined that the knowledge and skill statement was appropriate as proposed.

Comment. The Texas Science Education Leadership Association recommended amending student expectation §130.256(c)(13)(C) to read, "investigate the role of latent heat in phase changes in food production such as crystallization and condensation."

Response. The SBOE agrees and took action to amend §130.256(c)(13)(C) to read, "investigate the role of latent heat in phase changes in food production such as crystallization and condensation."

Comment. The Texas Science Education Leadership Association recommended revising student expectation §130.256(c)(13)(D) by using the language from the current TEKS, which reads, "compare various temperatures on rates of reaction."

Response. The SBOE disagrees and has determined that the student expectation was appropriate as proposed.

Comment. The Texas Science Education Leadership Association recommended deleting student expectations §130.256(c)(13)(E) and (F).

Response. The SBOE agrees and has determined that the student expectations were included elsewhere in the course. The SBOE took action to strike §130.256(c)(13)(E) and (F).

Comment. The Texas Science Education Leadership Association recommended revising knowledge and skill statement §130.256(c)(14) to add the words "in food."

Response. The SBOE agrees and took action to amend §130.256(c)(14) to read, "The student evaluates properties of carbohydrates in foods and their effects on food production."

Comment. The Texas Science Education Leadership Association recommended amending student expectation §130.256(c)(14)(C) by using the language of the current student expectation, which reads, "describe the regulation of glucose in the blood and the conditions resulting from low and high glucose levels."

Response. The SBOE disagrees and has determined that the student expectation was appropriate as proposed.

Comment. The Texas Science Education Leadership Association recommended deleting student expectation §130.256(c)(14)(F).

Response. The SBOE agrees and has determined that the student expectation was included elsewhere in the TEKS for this course. The SBOE took action to strike §130.256(c)(14)(F).

Comment. The Texas Science Education Leadership Association recommended amending knowledge and skill statement §130.256(c)(15) to read, "The student evaluates the properties of fats in food and their effects on food production and role in maintaining optimum health."

Response. The SBOE agrees with the recommendation to add the phrase "in food" to the knowledge and skill statement, but did not agree with the recommendation to add language related to maintaining optimum health. The SBOE took action to amend §130.256(c)(15) to read, "The student evaluates the properties of fats in food and their effects on food production."

Comment. The Texas Science Education Leadership Association recommended amending knowledge and skill statement §130.256(c)(16) to read, "The student evaluates the properties of proteins and their effects on food production and role in maintaining optimal health."

Response. The SBOE agrees with the recommendation to strike amino acids, but disagrees with the recommendation to add language related to maintaining optimum health. The SBOE took action to amend §130.256(c)(16) to read, "The student evaluates the properties of proteins and their effects on food production."

Comment. The Texas Science Education Leadership Association recommended deleting student expectations §130.256(c)(16)(A), (B), and (G).

Response. The SBOE agrees and took action to strike §130.256(c)(16)(A), (B), and (G).

Comment. The Texas Science Education Leadership Association recommended amending knowledge and skill statement §130.256(c)(17) to add "role in maintaining optimum health."

Response. The SBOE disagrees and has determined that the knowledge and skill statement was appropriate as proposed.

Comment. The Texas Science Education Leadership Association recommended amending student expectation §130.256(c)(17)(A) to read, "discuss the functions of vitamins and minerals in food production and maintaining optimum health."

Response. The SBOE disagrees and has determined that the student expectation was appropriate as proposed.

Comment. The Texas Science Education Leadership Association recommended deleting student expectation §130.256(c)(17)(D).

Response. The SBOE agrees and has determined that the student expectation was included elsewhere in the TEKS for this course. The SBOE took action to strike §130.256(c)(17)(D).

Comment. The Texas Science Education Leadership Association recommended amending knowledge and skill statement §130.256(c)(18) to add "role in maintaining optimum health."

Response. The SBOE disagrees and has determined that the knowledge and skill statement was appropriate as proposed.

Comment. The Texas Science Education Leadership Association recommended amending student expectation §130.256(c)(18)(D) to add "and create a food product."

Response. The SBOE agrees and took action to amend §130.256(c)(18)(D) to read, "explain the functions of water in food production such as a heat medium and a solvent and create a food product."

Comment. The Texas Science Education Leadership Association recommended deleting student expectations §130.256(c)(18)(E) and (F).

Response. The SBOE agrees and has determined that the student expectations were included elsewhere in the TEKS for this course. The SBOE took action to strike §130.256(c)(18)(E) and (F).

Comment. The Texas Science Education Leadership Association recommended amending student expectation §130.256(c)(20)(D) by replacing "investigate" with "describe."

Response. The SBOE agrees and took action to amend §130.256(c)(20)(D) to read, "describe information required on a food label."

Comment. The Texas Science Education Leadership Association recommended amending student expectation §130.256(c)(21)(B) to add "and create a food product using dehydration."

Response. The SBOE agrees and took action to amend §130.256(c)(21)(B) to read, "compare methods of dehydration and create a food product using dehydration."

Comment. The Texas Science Education Leadership Association recommended amending student expectation §130.256(c)(21)(C) to add "and create a food product using canning."

Response. The SBOE disagrees and has determined that the student expectation was appropriate as proposed.

Comment. The Texas Science Education Leadership Association recommended amending student expectation §130.256(c)(21)(D) to add "and create a food product using freezing."

Response. The SBOE disagrees and has determined that the student expectation was appropriate as proposed.

Comment. The Texas Science Education Leadership Association recommended deleting student expectations §130.256(c)(21)(E)-(G).

Response. The SBOE agrees and has determined that the student expectations were included elsewhere in the TEKS for this course. The SBOE took action to strike §130.256(c)(21)(E)-(G).

Comment. One administrator expressed concern that many of the student expectations for §130.258, Travel and Tourism Management, duplicate the student expectations in §130.252, Principles of Hospitality and Tourism, as proposed. The commenter suggested combining the two courses.

Response. The SBOE disagrees that many of the student expectations are duplicative. The SBOE also provides the following clarification. The Principles of Hospitality and Tourism course was designed to provide an introduction of careers in the hospitality and tourism industries and could not be combined with another course.

Comment. One teacher recommended §130.272, Principles of Human Services, as a prerequisite for §130.103, Fashion Design I Lab.

Response. The SBOE disagrees and has determined that the prerequisite for the course was appropriate as proposed.

Comment. One teacher stated that §130.277, Child Development, should remain a one-semester course.

Response. The SBOE disagrees and has determined that the course was appropriate as a one-credit course. The SBOE also provides the following clarification. There are no instructional time requirements for courses. As a result, a district or charter school may determine over how many semesters to offer a course.

Comment. One teacher stated that in the Counseling and Mental Health course, student expectation §130.276(c)(4)(C) needs to be reworded for better clarity.

Response. The SBOE disagrees and has determined that the student expectation was appropriately clear.

Comment. One administrator expressed concern about requiring §130.272, Principles of Human Services, as a prerequisite for §130.276, Counseling and Mental Health, because Health Science certified teachers also teach Counseling and Mental Health.

Response. The SBOE agrees that Principles of Human Services was not necessary as a prerequisite. In response to this and other comments, the SBOE took action to amend the general requirements to make Principles of Human Services a recommended rather than required prerequisite.

Comment. One teacher suggested offering §130.272, Principles of Human Services, for one-half or one credit, to be determined by the school district.

Response. The SBOE disagrees and has determined that allowing each district to determine the amount of credit for a course may lead to the award of credit inconsistently from district to district. As a result, the SBOE took steps to identify the exact amount of credit to be awarded for each course and eliminated credit ranges throughout the CTE TEKS.

Comment. One teacher expressed concern with the proposal to offer §130.277, Child Development, and §130.272, Principles of Human Services, for one credit.

Response. The SBOE disagrees and has determined that the credit for each course was appropriate based on the course content.

Comment. One teacher stated that §130.274, Lifetime Nutrition and Wellness, should be a year-long course so that it can be articulated more easily for honors and college credit. The commenter asked for the option to teach the course for either one-half or one full year.

Response. The SBOE provides the following clarification. There are no instructional time requirements for courses. As a result, a district or charter school may determine over how many semesters to offer a course.

Comment. One teacher expressed concern with the proposal to offer §130.280, Practicum in Human Services, to students participating in both paid and unpaid work-based learning experiences instead of offering separate courses.

Response. The SBOE disagrees that there needs to be separate TEKS for paid and unpaid practicum courses. The SBOE determined, however, that the credit for practicum courses could not be tied to the amount of time a student spent in the work-based

experiences. As a result, the SBOE took action to amend the credit for all practicum courses to two credits each.

Comment. One administrator expressed concern with the proposal to offer §130.357, Metal Fabrication and Machining I, for two credits. The commenter recommended offering the course for one credit.

Response. The SBOE disagrees and has determined that the credit for the course was appropriate based on the course content.

Comment. One teacher expressed concern with the prerequisite requirement for §130.360, Precision Metal Manufacturing II, given the level of mathematical skills required to be successful in the course.

Response. The SBOE disagrees and has determined that the prerequisite for the course was appropriate as proposed.

Comment. One teacher asked why §130.352, Principles of Manufacturing, is the only principles course with a one-half to one credit option.

Response. The SBOE provides the following clarification. The credit for Principles of Manufacturing is one credit, which is consistent with all other CTE principles courses.

Comment. One administrator expressed concern with §130.352(a), which states that a student shall be awarded one-half credit for successful completion of one semester of the course.

Response. The SBOE agrees and has determined that the language in question is unnecessary in the general requirements since it already appears in §74.26 of this title (relating to Award of Credit). The SBOE took action to eliminate the language from this and other courses where it appeared.

Comment. One administrator expressed concern with the recommended prerequisite of Algebra I for §130.352, Principles of Manufacturing, because the course is designed for students in ninth grade who may not have completed Algebra I.

Response. The SBOE disagrees and has determined that the prerequisite is recommended and not required.

Comment. One business and industry representative recommended that the SBOE add Algebra I as a co-requisite for §130.362, Introduction to Welding.

Response. The SBOE disagrees and has determined that Algebra I was appropriately recommended as a prerequisite or corequisite for the course as proposed.

Comment. One business and industry representative recommended that the SBOE add a new student expectation to read, "explain the importance of recycling materials used in welding." The commenter stated that welding labs produce a lot of recyclable materials, and it is important that students learn about the importance of recycling.

Response. The SBOE agrees and took action to add new §130.362(c)(3)(C) to read, "explain the importance of recycling materials used in welding."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.362(c)(3)(C) to read, "choose appropriate personal protective equipment." The commenter stated that the choice of the appropriate personal protective equipment is more important than evaluating it.

Response. The SBOE agrees and took action to amend §130.362(c)(3)(C), re-lettered as §130.362(c)(3)(D), to read, "choose appropriate personal protective equipment."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.362(c)(5)(E) to read, "solve problems using whole numbers, fractions, mixed numbers, and decimals." The commenter stated that the Bloom's Taxonomy verb "solve" is more appropriate than "calculate."

Response. The SBOE agrees and took action to amend §130.362(c)(5)(E) to read, "solve problems using whole numbers, fractions, mixed numbers, and decimals."

Comment. One business and industry representative recommended that the SBOE add a new student expectation to read, "perform conversions between standard units and metric units." The commenter stated that students need to know how to use both standard and metric units and convert between them.

Response. The SBOE agrees and took action to add new §130.362(c)(5)(G) to read, "perform conversions between standard units and metric units."

Comment. One business and industry representative recommended that the SBOE revise knowledge and skill statement §130.362(c)(7) to read, "The student performs oxy-fuel cutting processes on carbon steels. The student is expected to." The commenter stated that the oxy-fuel processes include welding, brazing, soldering, and cutting; but these TEKS only cover cutting, and that should be made clear in the statement.

Response. The SBOE agrees and took action to amend §130.362(c)(7) to read, "The student performs oxy-fuel cutting processes on carbon steels. The student is expected to."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.362(c)(7)(A) to read, "use safe operating practices." The commenter stated that the action verb "use" is more appropriate.

Response. The SBOE agrees and took action to amend §130.362(c)(7)(A) to read, "use safe operating practices."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.362(c)(7)(E) to read, "identify the factors affecting the oxy-fuel cutting of base metals." The commenter stated that the verb "identify" is more appropriate, although the verb "rank" could also be used.

Response. The SBOE agrees and took action to amend §130.362(c)(7)(E) to read, "identify the factors affecting the oxy-fuel cutting of base metals."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.362(c)(8)(B) to read, "demonstrate knowledge of welding currents." The commenter stated that shielded metal arc welding is performed with AC, DCRP, and DCEP currents; and the students need to know all three.

Response. The SBOE agrees and took action to amend §130.362(c)(8)(B) to read, "demonstrate knowledge of welding currents."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.362(c)(8)(F) to read, "perform fillet and groove welds in

all positions." The commenter stated that the term "such as" is inappropriate since fillet and groove are the only two types of welds the students do. The term "varied" is inappropriate since there are four standard positions, and the students make welds in all of them.

Response. The SBOE agrees and took action to amend §130.362(c)(8)(F) to read, "perform fillet and groove welds in all positions."

Comment. One business and industry representative recommended that the SBOE replace student expectation §130.362(c)(8)(G) to read, "prepare joints for welding." The commenter stated that the term "plate preparation" is limiting, and the term "joints" is more inclusive and descriptive.

Response. The SBOE agrees and took action to replace §130.362(c)(8)(G) to read, "prepare joints for welding."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.362(c)(9)(D) to read, "use appropriate equipment setup for base metal in gas metal arc welding." The commenter stated that the most important factor in making quality gas metal arc welds is the setup.

Response. The SBOE agrees and took action to amend §130.362(c)(9)(D) to read, "use appropriate equipment setup for base metal in gas metal arc welding."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.362(c)(9)(E) to read, "perform fillet and groove welds using gas metal arc welding with various metal transfer processes." The commenter stated that the term "various gas welding techniques" is vague and there are a variety of metal transfer methods that the students must be familiar with.

Response. The SBOE agrees and took action to amend §130.362(c)(9)(E) to read, "perform fillet and groove welds using gas metal arc welding with various metal transfer processes."

Comment. One teacher recommended that the student expectations in §130.363, Welding I, be approved to satisfy the course requirements for §111.48, Algebraic Reasoning. The commenter stated that the National Center for Construction Education and Research (NCCER) curriculum often used for the Welding I course addresses the Algebraic Reasoning TEKS and helps students become stronger in math.

Response. The SBOE disagrees and determined that the course was appropriately recommended for elective credit.

Comment. One administrator recommended that §130.363, Welding I, be offered for one credit instead of two credits.

Response. The SBOE disagrees and has determined that the credit for the course was appropriate based on the course content.

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(3)(G) to read, "solve problems using whole numbers, fractions, mixed numbers, and decimals." The commenter stated that the Bloom's Taxonomy verb "solve" is more appropriate than "calculate."

Response. The SBOE agrees and took action to amend §130.363(c)(3)(G) to read, "solve problems using whole numbers, fractions, mixed numbers, and decimals."

Comment. One business and industry representative recommended that the SBOE add a new student expectation to read, "perform conversions between standard units and metric units." The commenter stated that students need to know how to use both standard and metric units and convert between them.

Response. The SBOE agrees and took action to add new §130.363(c)(3)(J) to read, "perform conversions between standard units and metric units."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(3)(K) to read, "diagram the parts of a circle." The commenter stated that the term "employ" is vague and the terms "diagram," "use," or "apply" are more applicable.

Response. The SBOE agrees and took action to amend §130.363(c)(3)(K), re-lettered as §130.363(c)(3)(L), to read, "diagram the parts of a circle."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(4)(A) to read, "operate welding equipment according to safety standards." The commenter stated that the safe operation is more appropriate than "employ."

Response. The SBOE agrees and took action to amend §130.363(c)(4)(A) to read, "operate welding equipment according to safety standards."

Comment. One business and industry representative recommended that the SBOE add a new student expectation to read, "explain the importance of recycling materials used in welding." The commenter stated that welding labs produce a lot of recyclable materials, and it is important that students learn about the importance of recycling.

Response. The SBOE agrees and took action to add new §130.363(c)(4)(C) to read, "explain the importance of recycling materials used in welding."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(4)(C) to read, "choose appropriate personal protective equipment." The commenter stated that the choice of the appropriate personal protective equipment is more important than evaluating it.

Response. The SBOE agrees and took action to amend §130.363(c)(4)(C), re-lettered as §130.363(c)(4)(D), to read, "choose appropriate personal protective equipment."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(5)(B) to read, "interpret orthographic and isometric views of three-dimensional figures." The commenter stated that it is important that students be able to interpret mechanical drawings.

Response. The SBOE agrees and took action to amend §130.363(c)(5)(B) to read, "interpret orthographic and isometric views of three-dimensional figures."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(5)(E) to read, "identify types of welding joints." The commenter stated that students need to identify types of joints but do not need to analyze them; that is what an engineer would do.

Response. The SBOE agrees and took action to amend §130.363(c)(5)(E) to read, "identify types of welding joints."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(5)(F) to read, "identify positions of welding." The commenter stated that there is little about welding positions that a student could "analyze."

Response. The SBOE agrees and took action to amend §130.363(c)(5)(F) to read, "identify positions of welding."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(6)(A) to read, "explain weld inspection processes." The commenter stated that a student might "evaluate" a weld but would need to "explain" the inspection process.

Response. The SBOE agrees and took action to amend §130.363(c)(6)(A) to read, "explain weld inspection processes."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(6)(B) to read, "interpret welding codes." The commenter stated that welders must interpret how a welding code would be applied to a weld.

Response. The SBOE agrees and took action to amend §130.363(c)(6)(B) to read, "interpret welding codes."

Comment. One business and industry representative recommended that the SBOE revise knowledge and skill statement §130.363(c)(7) to read, "The student analyzes oxy-fuel cutting processes on carbon steels. The student is expected to." The commenter stated that the oxy-fuel processes include welding, brazing, soldering, and cutting; but these TEKS only cover cutting, and that should be made clear in the statement.

Response. The SBOE agrees and took action to amend §130.363(c)(7) to read, "The student analyzes oxy-fuel cutting processes on carbon steels. The student is expected to."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(7)(A) to read, "practice safe operating practices." The commenter stated that the active verb "practice" is more appropriate than the passive verb "observe" as it relates to welding safety.

Response. The SBOE agrees and took action to amend §130.363(c)(7)(A) to read, "practice safe operating practices."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(7)(C) to read, "identify components of oxy-fuel gas cutting system." The commenter stated that the student expectation is an incomplete statement without the word "system."

Response. The SBOE agrees and took action to amend §130.363(c)(7)(C) to read, "identify components of oxy-fuel gas cutting system."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(7)(D) to read, "demonstrate proper set-up procedures for oxy-fuel cutting process." The commenter stated that there are significant differences between how an oxy-fuel system is set up for cutting and how it would be set up for welding, brazing, and soldering.

Response. The SBOE agrees and took action to amend §130.363(c)(7)(D) to read, "demonstrate proper set-up procedures for oxy-fuel cutting process."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(7)(E) to read, "identify factors affecting oxy-fuel cutting of base metals." The commenter stated that this student expectation was too general.

Response. The SBOE agrees and took action to amend §130.363(c)(7)(E) to read, "identify factors affecting oxy-fuel cutting of base metals."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(7)(H) to read, "evaluate alternative fuels gasses such as propane, propylene, and Chemtane 2®." The commenter stated that the word "gasses" should be added for clarification.

Response. The SBOE agrees and took action to amend §130.363(c)(7)(H) to read, "evaluate alternative fuels gasses such as propane, propylene, and Chemtane 2®."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(8)(A) to read, "use safe operating practices." The commenter stated that the action verb "use" is more appropriate.

Response. The SBOE agrees and took action to amend §130.363(c)(8)(A) to read, "use safe operating practices."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(8)(G) to read, "perform straight line, piercing, bevels, and shape cuts." The commenter stated that the plasma cutting is used to make the same variety of cuts as oxy-fuel.

Response. The SBOE agrees and took action to amend §130.363(c)(8)(G) to read, "perform straight line, piercing, bevels, and shape cuts."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(9)(B) to read, "analyze welding current relationships such as alternating current and direct current, heat transfer, and polarity." The commenter stated that the term "welding current" is more descriptive of what a student needs to know than "electrical."

Response. The SBOE agrees and took action to amend §130.363(c)(9)(B) to read, "analyze welding current relationships such as alternating current and direct current, heat transfer, and polarity."

Comment. One business and industry representative recommended that the SBOE add a new student expectation to read, "explain the American Welding Society (AWS) identification system for shielded metal arc welding electrodes." The commenter stated that students must be able to explain the AWS electrode identification system.

Response. The SBOE agrees and took action to add new §130.363(c)(9)(E) to read, "explain the American Welding Society (AWS) identification system for shielded metal arc welding electrodes."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(9)(E) to read, "determine appropriate electrodes

for base metal in shielded metal arc welding." The commenter stated that the term "electrode" is a more commonly used for shielded metal arc welding.

Response. The SBOE agrees and took action to amend §130.363(c)(9)(E), re-lettered as §130.363(c)(9)(F), to read, "determine appropriate electrodes for base metal in shielded metal arc welding."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(9)(F) to read, "perform multi pass groove welds in all positions to the AWS Schools Excelling through National Skills Education (SENSE) standards." The commenter stated that the AWS is a well-established organization with a long history of publishing codes and standards for the welding industry.

Response. The SBOE agrees and took action to amend §130.363(c)(9)(F), re-lettered as §130.363(c)(9)(G), to read, "perform multi pass groove welds in all positions to the AWS Schools Excelling through National Skills Education (SENSE) standards."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(10)(A) to read, "use safe operating practices." The commenter stated that the action verb "use" is more appropriate.

Response. The SBOE agrees and took action to amend §130.363(c)(10)(A) to read, "use safe operating practices."

Comment. One business and industry representative recommended that the SBOE replace student expectation §130.363(c)(10)(B) to read, "explain the effects that weld angle, work angle, and electrode extension have on welds." The commenter stated that gas metal arc welding uses only one polarity, DC electrode positive, and that weld angle, work angle, and electrode extension have the greatest effect on a gas metal arc weld once the equipment is set up.

Response. The SBOE agrees and took action to replace §130.363(c)(10)(B) to read, "explain the effects that weld angle, work angle, and electrode extension have on welds."

Comment. One business and industry representative recommended that the SBOE add a new student expectation to read, "explain the AWS identification system for gas metal arc welding filler metal."

Response. The SBOE agrees and took action to add new §130.363(c)(10)(E) to read, "explain the AWS identification system for gas metal arc welding filler metal."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(10)(E) to read, "determine appropriate filler metal for base metal in gas metal arc welding." The commenter stated that the term "filler" is usually followed by the word "metal" or "wire."

Response. The SBOE agrees and took action to amend §130.363(c)(10)(E), re-lettered as §130.363(c)(10)(F), to read, "determine appropriate filler metal for base metal in gas metal arc welding."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(10)(F) to read, "perform fillet and groove welds in all positions." The commenter stated that gas metal arc welding

is used to make both fillet and groove welds in all four welding positions.

Response. The SBOE agrees and took action to amend §130.363(c)(10)(F), re-lettered as §130.363(c)(10)(G), to read, "perform fillet and groove welds in all positions."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(11)(A) to read, "use safe operating practices." The commenter stated that the action verb "use" is more appropriate.

Response. The SBOE agrees and took action to amend §130.363(c)(11)(A) to read, "use safe operating practices."

Comment. One business and industry representative recommended that the SBOE replace student expectation §130.363(c)(11)(B) to read, "explain the effects that weld angle, work angle, and electrode extension have on welds." The commenter stated that all flux cored arc welding uses only one polarity, DC electrode negative. The commenter further stated that weld angle, work angle, and electrode extension have the greatest effect on a flux cored arc weld once the equipment is set up and must be included.

Response. The SBOE agrees and took action to replace §130.363(c)(11)(B) to read, "explain the effects that weld angle, work angle, and electrode extension have on welds."

Comment. One business and industry representative recommended that the SBOE add a new student expectation to read, "explain the AWS identification system for flux cored arc welding electrodes." The commenter stated that students must be able to explain the AWS filler metal identification system.

Response. The SBOE agrees and took action to add new §130.363(c)(11)(E) to read, "explain the AWS identification system for flux cored arc welding electrodes."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(11)(E) to read, "determine appropriate filler metal for base metal in flux cored arc welding." The commenter stated that the term "filler" is usually followed by the word "metal" or "wire."

Response. The SBOE agrees and took action to amend §130.363(c)(11)(E), re-lettered as §130.363(c)(11)(F), to read, "determine appropriate filler metal for base metal in flux cored arc welding."

Comment. One business and industry representative recommended that the SBOE combine student expectations §130.363(c)(11)(F) and (G) to read, "perform fillet and groove welds in all positions." The commenter stated that the flux cored arc welding is used to make both fillet and groove welds in all four welding positions.

Response. The SBOE agrees and took action to amend §130.363(c)(11)(F), re-lettered as §130.363(c)(11)(G), to read, "perform fillet and groove welds in all positions" and to strike §130.363(c)(11)(G).

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(12)(A) to read, "use safe operating practices." The commenter stated that the action verb "use" is more appropriate.

Response. The SBOE agrees and took action to amend §130.363(c)(12)(A) to read, "use safe operating practices."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(12)(B) to read, "analyze electrical welding current relationships such as alternating current and direct current, heat transfer, and polarity." The commenter stated that adding the term "welding current" clarifies this TEKS so it is clear that it is not referring to the primary power.

Response. The SBOE agrees and took action to amend §130.363(c)(12)(B) to read, "analyze electrical welding current relationships such as alternating current and direct current, heat transfer, and polarity."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(12)(C) to read, "identify the common types of tungsten and filler metals according to the AWS identification system." The commenter stated that students must be able to explain the AWS tungsten and filler metal identification systems.

Response. The SBOE agrees and took action to amend §130.363(c)(12)(C) to read, "identify the common types of tungsten and filler metals according to the AWS identification system."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(12)(E) to read, "perform fillet and groove welds in all positions." The commenter stated that gas tungsten arc welding is used to make both fillet and groove welds in all four welding positions.

Response. The SBOE agrees and took action to amend §130.363(c)(12)(E) to read, "perform fillet and groove welds in all positions."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.363(c)(12)(F) to read, "perform welds on carbon steel, stainless steel, and aluminum." The commenter stated that gas tungsten arc welding is most suited for making welds on stainless steel and aluminum, so these metals should be included.

Response. SBOE agrees and took action to amend §130.363(c)(12)(F) to read, "perform welds on carbon steel, stainless steel, and aluminum."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.364(c)(3)(B) to read, "explain the impact of accurate readings of measuring devices on cost estimates." The commenter recommended changing the student expectation from negative phrase to a positive one.

Response. SBOE agrees and took action to amend §130.364(c)(3)(B) to read, "explain the impact of accurate readings of measuring devices on cost estimates."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.364(c)(3)(E) to read, "solve problems using whole numbers, fractions, mixed numbers, and decimals." The commenter stated that the Bloom's Taxonomy verb "solve" is more appropriate than "calculate."

Response. The SBOE agrees and took action to amend §130.364(c)(3)(E) to read, "solve problems using whole numbers, fractions, mixed numbers, and decimals."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.364(c)(3)(G) to read, "select a mathematical formula for using estimation."

Response. The SBOE agrees and took action to amend §130.364(c)(3)(G) to read, "select a mathematical formula for using estimation."

Comment. One business and industry representative recommended that the SBOE add a new student expectation to read, "explain the importance of recycling materials used in welding." The commenter stated that welding labs produce a lot of recyclable materials, and it is important that students learn about the importance of recycling.

Response. The SBOE agrees and took action to add new §130.364(c)(4)(C) to read, "explain the importance of recycling materials used in welding."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.364(c)(4)(C) to read, "evaluate the impact of emerging technologies in welding." The commenter stated that emerging technologies have a much broader impact on welding than just performance.

Response. The SBOE agrees and took action to revise §130.364(c)(4)(C), re-lettered as §130.364(c)(4)(D), to read, "evaluate the impact of emerging technologies in welding."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.364(c)(5)(B) to read, "evaluate projects using engineering drawing specifications." The commenter stated that students evaluating their projects and the projects of team members is an important part of teamwork.

Response. The SBOE agrees and took action to amend §130.364(c)(5)(B) to read, "evaluate projects using engineering drawing specifications."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.364(c)(7)(B) to read, "select codes for weld inspections."

Response. The SBOE agrees and took action to amend §130.364(c)(7)(B) to read, "select codes for weld inspections."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.364(c)(8)(C) to read, "perform cutting processes according to accepted welding standards."

Response. The SBOE agrees and took action to amend §130.364(c)(8)(C) to read, "perform cutting processes according to accepted welding standards."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.364(c)(9)(B) to read, "demonstrate skills required to make welds in all positions according to the American Welding Society (AWS) Schools Excelling through National Skills Education (SENSE) welding standards." The commenter stated that the AWS is a well-established organization with a long history of publishing codes and standards for the welding industry.

Response. The SBOE agrees and took action to amend §130.364(c)(9)(B) to read, "demonstrate skills required to make welds in all positions according to the American Welding Society

(AWS) Schools Excelling through National Skills Education (SENSE) welding standards."

Comment. One business and industry representative recommended that the SBOE combine student expectations §130.364(c)(10)(B) and (C) to read, "perform fillet and groove welds" for consistency.

Response. The SBOE agrees and took action to amend §130.364(c)(10)(B) to read, "perform fillet and groove welds." The SBOE also took action to strike §130.364(c)(10)(C) since groove welds were added to the previous student expectation.

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.364(c)(10)(D) to read, "perform welds in all appropriate positions according to the AWS SENSE welding standards." The commenter stated that the AWS SENSE program is recognized nationally and internationally, and the AWS standards it is based on are the foundation for all of the other welding certification programs.

Response. The SBOE agrees and took action to amend §130.364(c)(10)(D), re-lettered as §130.364(c)(10)(C), to read, "perform welds in all appropriate positions according to the AWS SENSE welding standards."

Comment. One business and industry representative recommended that the SBOE combine student expectations §130.364(c)(11)(B), (C), and (D) for consistency to read, "perform fillet and groove welds in all positions."

Response. The SBOE agrees and took action to amend §130.364(c)(11)(B) to read, "perform fillet and groove welds in all positions." The SBOE also took action to strike §130.364(c)(11)(C) and (D) since performing welds, including groove welds, in all positions was added to §130.364(c)(11)(B).

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.364(c)(11)(E) to read, "perform welds on metals such as carbon steel, stainless steel, pipe, and aluminum to the AWS SENSE welding standards."

Response. The SBOE agrees and took action to amend §130.364(c)(11)(E), re-lettered as §130.364(c)(11)(C), to read, "perform welds on metals such as carbon steel, stainless steel, pipe, and aluminum to the AWS SENSE welding standards."

Comment. One administrator recommended that the TEKS for §130.364, Welding II, and §130.365, Welding II Lab, be combined into a single, two-credit course.

Response. The SBOE disagrees and has determined that the courses were designed as separate courses to offer districts the flexibility to offer either just the Welding II course or a combined Welding II and Welding II Lab block.

Comment. One business and industry representative recommended that the SBOE add a new student expectation in §130.365 to read, "explain the importance of recycling materials used in welding." The commenter stated that welding labs produce a lot of recyclable materials, and it is important that students learn about the importance of recycling.

Response. The SBOE agrees and took action to add new §130.365(c)(2)(C) to read, "explain the importance of recycling materials used in welding."

Comment. One business and industry representative recommended that the SBOE revise student expectation

§130.365(c)(4)(A) to read, "explain weld inspection processes." The commenter stated that a student might "evaluate" a weld but would need to "explain" the inspection process.

Response. The SBOE agrees and took action to amend §130.365(c)(4)(A) to read, "explain weld inspection processes."

Comment. One business and industry representative recommended that the SBOE revise knowledge and skill statement §130.365(c)(5) to read, "The student performs oxy-fuel cutting processes. The student is expected to." The commenter stated that oxy-fuel processes include welding, brazing, soldering, and cutting; but the proposed TEKS for Welding only cover cutting, which should be made clear in the statement.

Response. The SBOE agrees and took action to amend §130.365(c)(5) to read, "The student performs oxy-fuel cutting processes. The student is expected to."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(5)(A) to read, "use safe operating practices." The commenter stated that the action verb "use" is more appropriate.

Response. The SBOE agrees and took action to amend §130.365(c)(5)(A) to read, "use safe operating practices."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(5)(D) to read, "demonstrate proper setup cutting techniques such as piercing, straight line, bevel." The commenter stated that there are significant differences between how an oxy-fuel system is set up for cutting and how it would be set up for welding, brazing, and soldering.

Response. The SBOE agrees and took action to amend §130.365(c)(5)(D) to read, "demonstrate proper set-up for cutting techniques such as piercing, straight line, and bevel."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(6)(A) to read, "use safe operating practices." The commenter stated that the action verb "use" is more appropriate.

Response. The SBOE agrees and took action to amend §130.365(c)(6)(A) to read, "use safe operating practices."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(6)(B) to read, "explain the difference between safe and unsafe storage and handling of compressed gas supply." The commenter stated that welders must be familiar with both the safe storing and safe handling of all compressed gasses, including air.

Response. The SBOE agrees and took action to amend §130.365(c)(6)(B) to read, "explain the difference between safe and unsafe storage and handling of compressed gas supply."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(6)(D) to read, "demonstrate straight line, piercing, bevels, and shape cutting." The commenter stated that plasma arc cutting is used to make all of the same types of cuts that oxy-fuel cutting is used.

Response. The SBOE agrees and took action to amend §130.365(c)(6)(D) to read, "demonstrate proper cutting techniques, including straight line, piercing, and bevels."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(7)(A) to read, "use safe operating practices." The commenter stated that the action verb "use" is more appropriate.

Response. The SBOE agrees and took action to amend §130.365(c)(7)(A) to read, "use safe operating practices."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(7)(D) to read, "select appropriate electrodes for base metal in shielded metal arc welding." The commenter stated that the term "electrode" is more commonly used for shielded metal arc welding.

Response. The SBOE agrees and took action to amend §130.365(c)(7)(D) to read, "select appropriate electrodes for base metal in shielded metal arc welding."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(7)(E) to read, "perform welds such as fillet and groove according to the AWS Schools Excelling through National Skills Education (SENSE) welding standards."

Response. The SBOE agrees and took action to amend §130.365(c)(7)(E) to read, "perform welds such as fillet and groove according to the AWS Schools Excelling through National Skills Education (SENSE) welding standards."

Comment. One business and industry representative recommended that the SBOE replace student expectation §130.365(c)(7)(F) to read, "perform multiple pass welds." The commenter stated that all "multiple pass welds" contain each of these weld passes, so there is no need to list them separately.

Response. The SBOE agrees and took action to replace §130.365(c)(7)(F) to read, "perform multiple pass welds."

Comment. One business and industry representative recommended that the SBOE replace student expectation §130.365(c)(7)(G) to read, "prepare joints for welding." The commenter stated that the term "plate preparation" is limiting, and the term "joints" is more inclusive and descriptive.

Response. The SBOE agrees and took action to replace §130.365(c)(7)(G) to read, "prepare joints for welding."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(7)(H) to read, "explain heating processes such as pre-heating and post-heating." The commenter stated that for the most part, welding test plates and projects made in a welding shop would not need to be preheated. However, out in the field welders often need to preheat base plates and pipes during the winter; therefore, students need to be able to explain the processes of pre- and post-heating.

Response. The SBOE agrees and took action to amend §130.365(c)(7)(H) to read, "explain heating processes such as pre-heating and post-heating."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(8)(A) to read, "use safe operating practices." The commenter stated that the action verb "use" is more appropriate.

Response. The SBOE agrees and took action to amend §130.365(c)(8)(A) to read, "use safe operating practices."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(8)(C) to read, "demonstrate proper set-up for gas metal arc welding."

Response. The SBOE agrees and took action to amend §130.365(c)(8)(C) to read, "demonstrate proper set-up for gas metal arc welding."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(8)(D) to read, "select appropriate filler metals for base metal in gas metal arc welding." The commenter stated that the term "filler" is usually followed by the word "metal" or "wire."

Response. The SBOE agrees and took action to amend §130.365(c)(8)(D) to read, "select appropriate filler metals for base metal in gas metal arc welding."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(8)(E) to read, "perform fillet and groove welds in all positions according to the AWS SENSE welding standards."

Response. The SBOE agrees and took action to amend §130.365(c)(8)(E) to read, "perform fillet and groove welds in all positions according to the AWS SENSE welding standards."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(9)(A) to read, "use safe operating practices." The commenter stated that the action verb "use" is more appropriate.

Response. The SBOE agrees and took action to amend §130.365(c)(9)(A) to read, "use safe operating practices."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(9)(D) to read, "appraise appropriate filler metal for base metal in flux cored arc welding." The commenter stated that the term "filler" is usually followed by the word "metal" or "wire."

Response. The SBOE agrees and took action to amend §130.365(c)(9)(D) to read, "appraise appropriate filler metal for base metal in flux cored arc welding."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(9)(E) to read, "perform fillet and groove welds" for consistency with §130.362, Introduction to Welding, §130.363, Welding I, and §130.364, Welding II.

Response. The SBOE agrees and took action to amend §130.365(c)(9)(E) to read, "perform fillet and groove welds."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(9)(F) to read, "perform welds in all appropriate positions according to the AWS SENSE welding standards."

Response. The SBOE agrees and took action to amend §130.365(c)(9)(F) to read, "perform welds in all appropriate positions according to the AWS SENSE welding standards."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(10)(A) to read, "use safe operating practices." The commenter stated that the action verb "use" is more appropriate.

Response. The SBOE agrees and took action to amend §130.365(c)(10)(A) to read, "use safe operating practices."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(10)(C) to read, "demonstrate proper set-up for gas tungsten arc welding."

Response. The SBOE agrees and took action to amend §130.365(c)(10)(C) to read, "demonstrate proper set-up for gas tungsten arc welding."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(10)(D) to read, "select appropriate use of filler metals for base metal in gas tungsten arc welding." The commenter stated that the term "filler" is usually followed by the word "metal" or "wire."

Response. The SBOE agrees and took action to amend §130.365(c)(10)(D) to read, "select appropriate use of filler metals for base metal in gas tungsten arc welding."

Comment. One business and industry representative recommended that the SBOE revise student expectation §130.365(c)(10)(E) to read, "perform welds in all appropriate positions according to the AWS SENSE welding standards."

Response. The SBOE agrees and took action to amend §130.365(c)(10)(E) to read, "perform welds in all appropriate positions according to the AWS SENSE welding standards."

Comment. One business and industry representative recommended adding a new knowledge and skill statement with four student expectations (A)-(D) to read, "The student performs weldment fabrications. The student is expected to: (A) identify layout tools; (B) perform a part layout on plate according to a blueprint; (C) perform a layout of a pipe fitting according to a blueprint; and (D) perform an assembly according to a blueprint."

Response. The SBOE agrees and took action to add new §130.365(c)(11) and student expectations (A)-(D) to read, "(11) The student performs weldment fabrications. The student is expected to: (A) identify layout tools; (B) perform a part layout on plate according to a blueprint; (C) perform a layout of a pipe fitting according to a blueprint; and (D) perform an assembly according to a blueprint."

Comment. One teacher expressed concern with the proposal to offer §130.384, Entrepreneurship, for one credit instead of one-half credit. The commenter stated that there is not enough content for a year-long course.

Response. The SBOE disagrees and has determined that the credit for the course was appropriate based on the course content.

Comment. One teacher stated that §130.383, Fashion Marketing, needs to have the option to remain a full-year credit.

Response. The SBOE disagrees and provides the following clarification. There are no instructional time requirements for courses. As a result, a district or charter school may determine over how many semesters to offer a course.

Comment. One teacher and one administrator expressed concern that awarding one-half credit for §130.386, Sports and Entertainment Marketing, would limit students' exposure to a growing field.

Response. The SBOE disagrees and has determined that the credit for the course was appropriate based on the course content.

Comment. One teacher stated that §130.387, Practicum in Marketing, should be offered for three credits instead of offering a range of two to three credits for the course.

Response. The SBOE disagrees that the Practicum in Marketing course should be offered for three credits. In response to other comments, however, the SBOE took action to amend all practicum courses to change the credit to two credits. The SBOE also requested that staff develop TEKS for an extended, one-credit practicum course that, when paired with a practicum, would allow districts the flexibility of offering a practicum course for a total of three credits.

Comment. Forty-eight teachers, two administrators, and two community members expressed concern with eliminating the Practicum in Marketing II course. The commenters recommended reinstating the course.

Response. The SBOE disagrees that the Practicum in Marketing II course should be reinstated. In response to this and other comments, however, the SBOE requested that staff develop TEKS for an extended, one-credit practicum course that, when paired with a practicum, would allow districts the flexibility of offering a practicum course for a total of three credits.

Comment. One teacher expressed concern about practicum courses only having a two-credit option. The commenter stated that students who work 15 or more hours per week should earn three credits.

Response. The SBOE agrees and has determined that credit for practicum courses may not be based on time. In response to this and other comments, the SBOE took action to amend all practicum courses to change the credit to two credits. The SBOE also requested that staff develop TEKS for an extended, one-credit practicum course that, when paired with a practicum, would allow districts the flexibility of offering a practicum course for a total of three credits.

Comment. One teacher expressed concern with not seeing two levels of practicum courses for any of the clusters. The commenter asked how students can take a second-year practicum course.

Response. The SBOE agrees that a second-level practicum option should be available. The SBOE requested that staff develop TEKS for an extended, one-credit practicum course that, when paired with a practicum, would allow districts the flexibility of offering a practicum course for a total of three credits.

Comment. One teacher stated that students need to know exactly how many credits they will be awarded for practicum courses instead of offering a range of credits for practicum courses to ensure that the students meet the requirements for graduation.

Response. The SBOE agrees that credit for practicum courses should not be offered as a credit range. In response to this and other comments, the SBOE took action to amend all practicum courses to change the credit to two credits. The SBOE also requested that staff develop TEKS for an extended, one-credit practicum course that, when paired with a practicum, would allow districts the flexibility of offering a practicum course for a total of three credits.

Comment. One community member stated that the revisions to the CTE TEKS should be delayed until after 2018. The commenter stated this would allow for better alignment of curriculum materials.

Response. The SBOE disagrees and provides the following clarification. The implementation of the CTE TEKS is scheduled for the 2017-2018 school year depending upon the availability of funding for instructional materials. This schedule allows sufficient time for the review and adoption of instructional materials to align with the revised TEKS.

Comment. One teacher supported implementation of the revised CTE TEKS no later than 2017. The commenter said that the TEKS must be supported and coincide with the planned implementation and adoption of the purchase of instructional materials.

Response. The SBOE agrees. The implementation of the CTE TEKS is scheduled for the 2017-2018 school year depending upon the availability of funding for instructional materials.

Comment. One teacher requested that CTE be included in Proclamation 2017 and that the CTE TEKS be implemented no later than 2017.

Response. The SBOE agrees. The implementation of the CTE TEKS is scheduled for the 2017-2018 school year depending upon the availability of funding for instructional materials.

Comment. The Vocational Agriculture Teachers Association of Texas commented that the implementation of the CTE TEKS should not be delayed until 2018, as suggested. The association discussed the need for implementing the standards and adoption of instructional materials according to the original schedule.

Response. The SBOE agrees. The implementation of the CTE TEKS is scheduled for the 2017-2018 school year depending upon the availability of funding for instructional materials.

Comment. The Project Management Institute Educational Foundation recommended revising the following student expectations in §130.137(c)(2) to read, "(A) initiate a project; (B) plan a project; (C) execute a project; (D) monitor and control a project; and (E) close a business project."

Response. The SBOE agrees and took action to amend §130.137(c)(2) to read, "(A) initiate a project; (B) plan a project; (C) execute a project; (D) monitor and control a project; and (E) close a business project."

Comment. The Project Management Institute Educational Foundation recommended revising student expectation §130.139(c)(9)(A) to read, "initiate a project, which includes identifying resources needed for a project."

Response. The SBOE agrees and took action to amend §130.139(c)(9)(A) to read, "initiate a project, which includes identifying resources needed for a project."

Comment. The Project Management Institute Educational Foundation recommended adding two new student expectations in §130.139(c)(9) to read, "(D) monitor and control a project; and (E) close a project."

Response. The SBOE agrees and took action to add new §130.139(c)(9)(D) and (E) to read, "(D) monitor and control a project; and (E) close a project."

Comment. The Project Management Institute Educational Foundation recommended revising student expectations in

§130.141(c)(9) to read, "(A) initiate a project, which includes identifying resources needed for a project; (B) develop a project plan; (C) execute a project; and (D) monitor and control a project, including coordinating work with that of team members."

Response. The SBOE agrees and took action to amend §130.141(c)(9)(A)-(D) to read, "(A) initiate a project, which includes identifying resources needed for a project; (B) develop a project plan; (C) execute a project; and (D) monitor and control a project, including coordinating work with that of team members."

Comment. The Project Management Institute Educational Foundation recommended adding a new student expectation in §130.141(c)(9)(E) to read, "close a project."

Response. The SBOE agrees and took action to add new §130.141(c)(9)(E) to read, "close a project."

Comment. The Project Management Institute Educational Foundation recommended revising student expectation §130.352(c)(4)(A) to read, "analyze the processes needed to complete a project such as initiate, plan, execute, monitor and control, and close."

Response. The SBOE agrees and took action to amend §130.352(c)(4)(A) to read, "analyze the processes needed to complete a project such as initiate, plan, execute, monitor and control, and close."

Comment. The Project Management Institute Educational Foundation recommended revising student expectation §130.353(c)(5)(A) to read, "analyze the processes needed to complete a project such as initiate, plan, execute, monitor and control, and close."

Response. The SBOE agrees and took action to amend §130.353(c)(5)(A) to read, "analyze the processes needed to complete a project such as initiate, plan, execute, monitor and control, and close."

Comment. The Project Management Institute recommended changing student expectation §130.354(c)(6)(A) to replace "chemical, mechanical, and physical" with "the processes needed to complete a project."

Response. The SBOE agrees and took action to amend §130.354(c)(6)(A) to read as follows, "analyze engineering properties such as the processes needed to complete a project."

Comment. The Project Management Institute Educational Foundation recommended revising student expectation §130.354(c)(6)(B) to read, "analyze the processes needed to complete a project such as initiate, plan, execute, monitor and control, and close."

Response. The SBOE agrees and took action to amend §130.354(c)(6)(B) to read, "analyze the processes needed to complete a project such as initiate, plan, execute, monitor and control, and close."

Comment. The Project Management Institute Educational Foundation recommended revising student expectation §130.366(c)(5)(G) to read, "use project management skills such as initiate, plan, execute, monitor and control, and close to improve workflow."

Response. The SBOE agrees and took action to amend §130.366(c)(5)(G) to read, "use project management skills such as initiate, plan, execute, monitor and control, and close to improve workflow."

SUBCHAPTER C. ARTS, AUDIO/VIDEO TECHNOLOGY, AND COMMUNICATIONS

19 TAC §§130.81 - 130.116

STATUTORY AUTHORITY. The new sections are adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; §28.00222, which authorizes the SBOE to ensure that at least six advanced career and technology education or technology applications courses, including courses in personal financial literacy consistent with TEC, §28.0021, and in statistics, are approved to satisfy a fourth credit in mathematics required for high school graduation; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The new sections implement the Texas Education Code, §§7.102(c)(4), 28.002, 28.00222, and 28.025.

§130.82. Principles of Arts, Audio/Video Technology, and Communications (One Credit), Adopted 2015.

(a) General requirements. This course is recommended for students in Grade 9. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in the Arts, Audio/Video Technology, and Communications Career Cluster require a creative aptitude, a strong background in computer and technology applications, a strong academic foundation, and a proficiency in oral and written communication. Within this context, students will be expected to develop an understanding of the various and multifaceted career opportunities in this cluster and the knowledge, skills, and educational requirements for those opportunities.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) explore opportunities in training, education, and certifications for employment;

(B) demonstrate professional standards and personal qualities needed to be employable such as oral and written communication, leadership, teamwork, appreciation for diversity, conflict management, customer service, work ethic, and adaptability;

(C) demonstrate skills related to seeking and applying for employment;

(D) create a resume and cover letter/letter of interest to document information such as work experiences, licenses, certifications, and work samples; and

(E) demonstrate skills in evaluating and comparing employment opportunities.

(2) The student applies English language arts in Arts, Audio/Video Technology, and Communications projects. The student is expected to:

(A) demonstrate use of content, technical concepts, and vocabulary;

(B) use correct grammar, punctuation, and terminology to write and edit documents;

(C) identify assumptions, purpose, and propaganda techniques;

(D) compose and edit copy for a variety of written documents;

(E) evaluate oral and written information; and

(F) research topics for the preparation of oral and written communication.

(3) The student applies professional communications strategies. The student is expected to:

(A) adapt language structure and style for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

(D) deliver formal and informal presentations;

(E) apply active listening skills to obtain and clarify information;

(F) develop and interpret tables, charts, and figures to support written and oral communications;

(G) listen to and speak with diverse individuals; and

(H) exhibit public relations skills to increase internal and external customer/client satisfaction.

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student uses technology applications when completing Arts, Audio/Video Technology, and Communications projects and processes. The student is expected to:

(A) use technology applications such as social media, email, Internet, writing and publishing, presentation, and spreadsheet

or database applications for Arts, Audio/Video Technology, and Communications projects; and

(B) use processes such as personal information management, file management, and file sharing.

(6) The student understands arts, audio/video technology, and communications systems. The student is expected to:

(A) describe the nature and types of businesses in arts, audio/video technology, and communications;

(B) analyze and summarize the history and evolution of the arts, audio/video technology, and communications fields of study;

(C) analyze the arts, audio/video technology, and communications economic base; and

(D) analyze and summarize evidence of interdependence between the technical and the artistic sides of arts, audio/video technology, and communications.

(7) The student understands principles of audio/video production. The student is expected to:

(A) apply knowledge of audio and video script production;

(B) discuss the impact of audio and video selection on human emotion;

(C) demonstrate the use of audio and video for a three-screen environment, including cell phones, television monitors, and computer screens;

(D) demonstrate various videography techniques, including picture composition, video composition, audio composition, editing, and delivery;

(E) understand the differences between linear and non-linear systems; and

(F) demonstrate knowledge of control peripherals for capturing or ingesting media.

(8) The student understands principles of fashion design that impact consumer purchasing of fashion and apparel accessories. The student is expected to:

(A) describe social, cultural, and life cycle influences;

(B) explain how fashion trends are determined; and

(C) analyze the influence of advertising on consumer apparel choices.

(9) The student understands principles of video game design. The student is expected to:

(A) demonstrate knowledge and appropriate use of computer operating systems;

(B) demonstrate appropriate use of hardware components, software programs, and storage devices;

(C) demonstrate knowledge of sound editing;

(D) demonstrate knowledge of file formats and cross-platform compatibility;

(E) acquire and exchange information in a variety of electronic file sharing formats; and

(F) combine graphics, images, and sound.

(10) The student understands principles of graphic design and illustration. The student is expected to:

- (A) research the history of visual arts and design;
- (B) explain the evolution of art and design;
- (C) compare current visual arts technologies with historical technologies;
- (D) understand general characteristics in artwork from a variety of cultures; and
- (E) analyze and apply art elements and principles in photographic works, multimedia applications, and digital and print media.

(11) The student understands principles of commercial photography. The student is expected to:

- (A) demonstrate knowledge of photographic composition and layout; and
- (B) evaluate photographs using principles of art, commercial photography standards, and critical-thinking skills.

(12) The student understands principles, elements, and techniques of animation. The student is expected to:

- (A) describe and use audience identification, script writing, character design, storyboarding, and audio and delivery formats;
- (B) describe and use cell, stop motion, tweening, motion paths, masking, looping, scripting/programming, and interactivity;
- (C) describe lighting and camera shots; and
- (D) describe and use flip books, claymation, or cut-outs;

(13) The student understands principles of printing and imaging. The student is expected to:

- (A) identify processes required for the production of various printed products;
- (B) identify basic design elements such as text, graphics, and white space; and
- (C) demonstrate basic knowledge of color theory.

(14) The student applies safety regulations. The student is expected to:

- (A) implement personal and classroom safety rules and regulations; and
- (B) follow emergency procedures as needed.

(15) The student identifies and develops leadership characteristics. The student is expected to:

- (A) identify leadership characteristics; and
- (B) participate in student leadership and professional development activities.

(16) The student applies ethical decision making and understands and complies with laws regarding use of technology in arts, audio/video technology, and communications. The student is expected to:

- (A) demonstrate an understanding of ethical conduct related to interacting with others such as maintaining client confidentiality and privacy of sensitive content and giving proper credit for ideas;
- (B) examine the First Amendment, Federal Communications Commission regulations, Freedom of Information Act, liability laws, and other regulations for compliance issues;

(C) examine the liabilities, copyright laws, fair use, and duplication of materials associated with productions and performances;

(D) analyze the impact of arts, audio/video technology, and communications industries on society;

(E) demonstrate an understanding of proper digital etiquette, personal security guidelines, use of network resources, and the district's acceptable use policy for technology; and

(F) identify and demonstrate positive personal qualities such as flexibility, open-mindedness, initiative, listening attentively to speakers, willingness to learn new knowledge and skills, and pride in quality work.

(17) The student understands communications strategies as they relate to arts, audio/video technology, and communications. The student is expected to:

- (A) adapt the language and design of a project for audience, purpose, situation, and intent;
- (B) organize oral, written, and graphic information into formal and informal projects;
- (C) interpret and communicate information for multiple audiences; and
- (D) collaborate to create original projects, including seeking and responding to advice from others such as peers or experts in the creation and evaluation process.

(18) The student uses a variety of strategies to plan, obtain, evaluate, and use valid information. The student is expected to:

- (A) obtain print and digital information such as graphics, audio, and video from a variety of resources while citing the sources;
- (B) evaluate information for accuracy and validity; and
- (C) present accurate information using techniques appropriate for the intended audience.

(19) The student applies technical skills for efficiency. The student is expected to:

- (A) employ planning and time-management skills to complete work tasks; and
- (B) use technology to enhance productivity.

(20) The student develops a basic understanding of arts, audio/video technology, and communications. The student is expected to:

- (A) research the scope of career opportunities;
- (B) develop an understanding of the elements and principles of art;

(C) develop an understanding of the industry by explaining the history and evolution of the arts, audio/video technology, and communications career fields and defining and using related terminology;

(D) evaluate works of art using critical-thinking skills;

(E) determine the use of art elements such as color, texture, form, line, and space; and

(F) determine the use of principles of design such as continuity, pattern, rhythm, balance, proportion, and unity in products.

(21) The student makes informed judgments about product designs and the designs of others. The student is expected to:

(A) interpret, evaluate, and justify artistic decisions; and

(B) select and analyze original product designs by peers and others to form precise conclusions about formal qualities and historical and cultural contexts, intents, and meanings.

§130.83. *Animation I (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Art I or Principals of Art, Audio/Video Technology, and Communications. Recommended corequisite: Animation I Lab. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in animation span all aspects of motion graphics. Within this context, in addition to developing technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an understanding of the history and techniques of the animation industry.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify and participate in training, education, or certification for employment;

(B) identify and demonstrate positive work behaviors and personal qualities needed to be employable;

(C) demonstrate skills related to seeking and applying for employment;

(D) create a career portfolio to document information such as work experiences, licenses, certifications, and work samples;

(E) demonstrate skills in evaluating and comparing employment opportunities; and

(F) examine employment opportunities in entrepreneurship.

(2) The student applies academic knowledge and skills in animation projects. The student is expected to:

(A) apply English language arts knowledge by demonstrating skills such as correct use of content, technical concepts, vocabulary, grammar, punctuation, and terminology to write and edit a variety of documents; and

(B) apply mathematics knowledge and skills such as using whole numbers, decimals, fractions, and knowledge of arithmetic operations.

(3) The student understands professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills.

(4) The student understands and employs problem-solving methods and conflict-management skills. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications. The student is expected to use personal information management, email, Internet, writing and publishing, and presentation applications for animation projects.

(6) The student applies cyber safety procedures. The student is expected to implement personal and professional safety rules and regulations.

(7) The student applies leadership characteristics to student leadership and professional development activities. The student is expected to:

(A) demonstrate leadership skills independently and in a group setting;

(B) conduct and participate in groups; and

(C) model mentoring skills.

(8) The student applies ethical decision making and understands and complies with laws regarding use of technology in animation. The student is expected to:

(A) exhibit ethical conduct related to interacting with others such as maintaining client confidentiality and privacy of sensitive content and giving proper credit for ideas;

(B) discuss and apply copyright laws;

(C) model respect of intellectual property;

(D) demonstrate proper etiquette and knowledge of acceptable use policies; and

(E) analyze the impact of the animation industry on society.

(9) The student applies technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(10) The student develops an understanding of animation technology. The student is expected to:

- (A) demonstrate appropriate use of hardware components, software programs, and storage devices;
- (B) demonstrate knowledge of sound editing;
- (C) demonstrate knowledge of file formats and cross-platform compatibility; and
- (D) acquire and exchange information in a variety of electronic file sharing formats.

(11) The student evaluates visual information. The student is expected to:

- (A) recognize the use of principles and elements of design; and
- (B) recognize the use of typography.

(12) The student uses an appropriate design process to create and modify solutions to problems. The student is expected to:

- (A) combine graphics, images, and sound;
- (B) apply principles of design;
- (C) develop and reference technical documentation; and
- (D) edit products.

(13) The student creates animation projects. The student is expected to:

- (A) use a variety of techniques and software programs; and
- (B) publish and deliver products using a variety of media.

(14) The student researches the history and evolution of animation. The student is expected to:

- (A) explain the history of animation;
- (B) describe how changing technology is affecting the industry;
- (C) analyze the use of symbols in the animation of diverse cultures;
- (D) compare current animation technologies with historical technologies;
- (E) compare various styles of animation; and
- (F) explore emerging and innovative animation technologies and software.

(15) The student understands and applies animation principles, elements, and techniques. The student is expected to:

- (A) describe and use audience identification, script writing, character design, storyboarding, and audio and delivery formats;
- (B) describe and use cells, stop motion, tweening, motion paths, masking, looping, scripting/programming, and interactivity;
- (C) describe lighting and camera shots;
- (D) describe and use flip books, claymation, or cut-outs;
- (E) render; and
- (F) describe and use postproduction processes such as editing and creating titles, credits, and special effects.

(16) The student presents oral or written evaluations of animation projects. The student is expected to:

- (A) identify the intended audience;
- (B) describe aesthetics;
- (C) explain the storyline;
- (D) summarize subject matter; and
- (E) discuss the use of sound.

§130.84. *Animation I Lab (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Art I and Principals of Arts, Audio/Video Technology, and Communications. Corequisite: Animation I. This course must be taken concurrently with Animation I and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with Animation I to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in animation span all aspects of motion graphics. Within this context, in addition to developing technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an understanding of the history and techniques of the animation industry.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

- (A) identify and participate in training, education, or certification for employment;
- (B) identify and demonstrate positive work behaviors and personal qualities needed to be employable;
- (C) demonstrate skills related to seeking and applying for employment;
- (D) create a career portfolio to document information such as work experiences, licenses, certifications, and work samples;
- (E) demonstrate skills in evaluating and comparing employment opportunities; and

(F) examine employment opportunities in entrepreneurship.

(2) The student applies academic knowledge and skills in animation projects. The student is expected to:

(A) apply English language arts knowledge by demonstrating skills such as correct use of content, technical concepts, vocabulary, grammar, punctuation, and terminology to write and edit a variety of documents; and

(B) apply mathematics knowledge and skills such as using whole numbers, decimals, and fractions and knowledge of arithmetic operations.

(3) The student understands professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills.

(4) The student understands and employs problem-solving methods and conflict-management skills. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications. The student is expected to use personal information management, email, Internet, writing and publishing, and presentation applications for animation projects.

(6) The student applies cyber safety procedures. The student is expected to implement personal and professional safety rules and regulations.

(7) The student applies leadership characteristics to student leadership and professional development activities. The student is expected to:

(A) demonstrate leadership skills independently and in a group setting;

(B) conduct and participate in groups; and

(C) model mentoring skills.

(8) The student applies ethical decision making and understands and complies with laws regarding use of technology in animation. The student is expected to:

(A) demonstrate an understanding of ethical conduct related to interacting with others such as maintaining client confidentiality and privacy of sensitive content and giving proper credit for ideas;

(B) discuss and apply copyright laws;

(C) model respect of intellectual property;

(D) demonstrate proper etiquette and knowledge of acceptable use policies; and

(E) analyze the impact of the animation industry on society.

(9) The student applies technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(10) The student develops an understanding of animation technology. The student is expected to:

(A) demonstrate appropriate use of hardware components, software programs, and storage devices;

(B) demonstrate knowledge of sound editing;

(C) demonstrate knowledge of file formats and cross-platform compatibility; and

(D) acquire and exchange information in a variety of electronic file sharing formats.

(11) The student evaluates visual information. The student is expected to:

(A) recognize the use of principles and elements of design; and

(B) recognize the use of typography.

(12) The student uses an appropriate design process to create and modify solutions to problems. The student is expected to:

(A) combine graphics, images, and sound;

(B) apply principles of design;

(C) develop and reference technical documentation; and

(D) edit products.

(13) The student creates animation projects. The student is expected to:

(A) use a variety of techniques and software programs; and

(B) publish and deliver the product using a variety of media.

(14) The student researches the history and evolution of animation. The student is expected to:

(A) explain the history of animation;

(B) describe how evolving technology is affecting the industry;

(C) analyze the use of symbols in the animation of diverse cultures;

(D) compare current animation technologies with historical technologies;

(E) compare various styles of animation; and

(F) explore emerging and innovative animation technologies and software.

(15) The student understands and applies animation principles, elements, and techniques. The student is expected to:

(A) describe and use audience identification, script writing, character design, storyboarding, and audio and delivery formats;

(B) describe and use cells, stop motion, tweening, motion paths, masking, looping, scripting/programming, and interactivity;

- (C) describe lighting and camera shots;
- (D) describe and use flip books, claymation, or cut-outs;
- (E) render; and
- (F) describe and use postproduction processes such as editing and creating titles, credits, and special effects.

(16) The student presents oral or written evaluations of animation projects. The student is expected to:

- (A) identify the intended audience;
- (B) describe aesthetics;
- (C) explain the storyline;
- (D) summarize subject matter; and
- (E) discuss the use of sound.

§130.85. *Animation II (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisite: Animation I. Recommended corequisite: Animation II Lab. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in animation span all aspects of motion graphics. Within this context, in addition to developing advanced knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to create two- and three-dimensional animations. The instruction also assists students seeking careers in the animation industry.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

- (A) participate in training, education, or certification for employment;
- (B) demonstrate positive work behaviors and personal qualities needed to be employable;
- (C) demonstrate skills related to seeking and applying for employment to find and obtain a desired job, including identifying job opportunities, developing a resume and letter of application, completing a job application, and demonstrating effective interview skills; and

(D) maintain a career portfolio to document information such as work experiences, licenses, certifications, and work samples.

(2) The student applies academic knowledge and skills in animation projects. The student is expected to:

(A) apply English language arts knowledge by demonstrating skills such as correct use of content, technical concepts, vocabulary, grammar, punctuation, and terminology to write and edit a variety of documents; and

(B) apply mathematics knowledge and skills such as using whole numbers, decimals, fractions, and knowledge of arithmetic operations.

(3) The student applies professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills.

(4) The student understands and employs problem-solving methods and conflict-management skills. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications. The student is expected to use personal information management, email, Internet, writing and publishing, and presentation applications for animation projects.

(6) The student understands animation systems. The student is expected to analyze and summarize the history and evolution of the animation field.

(7) The student applies cyber safety procedures. The student is expected to implement personal and professional safety rules and regulations.

(8) The student applies leadership characteristics to student leadership and professional development activities. The student is expected to:

(A) employ leadership skills to accomplish goals and objectives by analyzing the various roles of leaders within organizations, exhibiting problem-solving and management traits, describing effective leadership styles, and participating in civic and community leadership and teamwork opportunities to enhance skills;

(B) establish and maintain effective working relationships by providing constructive praise and criticism, demonstrating sensitivity to and value for diversity, and managing stress and controlling emotions;

(C) prepare for meetings by developing goals and objectives to achieve within a scheduled time and producing agendas;

(D) conduct and participate in meetings to accomplish work tasks by achieving goals and objectives within a scheduled time, producing meeting minutes, including decisions and next steps; and using parliamentary procedures, as needed; and

(E) employ mentoring skills to inspire and teach others.

(9) The student applies ethical decision making and complies with laws regarding use of technology in animation. The student is expected to:

(A) exhibit ethical conduct;

(B) apply copyright laws;

(C) model respect for intellectual property; and

(D) demonstrate proper etiquette and knowledge of acceptable use policies.

(10) The student applies advanced technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(11) The student develops an advanced technical understanding of animation. The student is expected to:

(A) operate communication systems to prepare and conduct verbal and visual communication;

(B) use production elements such as transitions, edits, framing, angle, and lighting techniques;

(C) use orthographic and isometric drawing techniques; and

(D) demonstrate familiarity with commercial production applications.

(12) The student demonstrates animation principles and elements. The student is expected to:

(A) apply animation principles such as arcs, timing, and exaggeration; and

(B) identify animation elements such as cycles, layers, transitions, and transparency.

(13) The student applies the elements and principles of art to animation projects. The student is expected to:

(A) identify animation design elements such as line, color, shape, and texture;

(B) explain the use of additive color theory; and

(C) compare various styles of animation.

(14) The student applies pre-production processes. The student is expected to:

(A) analyze target audience to identify needs and wants;

(B) write and edit scripts;

(C) create storyboards; and

(D) select aspect ratio and frame rate appropriate to delivery method.

(15) The student applies production processes. The student is expected to:

(A) design color and compositional elements;

(B) design characters, environments, and props;

(C) model characters, environments, and props;

(D) light sets or animating lights as needed;

(E) develop rigs for animating characters;

(F) assemble particle systems for visual effects such as rain, snow, and fire;

(G) animate characters, environments, or cameras;

(H) incorporate music and sound effects; and

(I) render scenes.

(16) The student applies post-production processes. The student is expected to:

(A) edit;

(B) produce titles and credits;

(C) add visual effects and processing;

(D) add audio effects and processing; and

(E) produce output.

§130.86. *Animation II Lab (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisite: Animation I. Corequisite: Animation II. This course must be taken concurrently with Animation II and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with Animation II to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in animation span all aspects of motion graphics. Within this context, in addition to developing advanced knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to create two- and three-dimensional animations. The instruction also assists students seeking careers in the animation industry.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) participate in training, education, or certification for employment;

(B) demonstrate positive work behaviors and personal qualities needed to be employable;

(C) demonstrate skills related to seeking and applying for employment to find and obtain a desired job, including identifying job opportunities, developing a resume and letter of application, completing a job application, and demonstrating effective interview skills; and

(D) maintain a career portfolio to document information such as work experiences, licenses, certifications, and work samples.

(2) The student applies academic knowledge and skills in animation projects. The student is expected to:

(A) apply English language arts knowledge by demonstrating skills such as correct use of content, technical concepts, vocabulary, grammar, punctuation, and terminology to write and edit a variety of documents; and

(B) apply mathematics knowledge and skills such as using whole numbers, decimals, fractions, and knowledge of arithmetic operations.

(3) The student demonstrates professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills.

(4) The student understands and employs problem-solving methods and conflict-management skills. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications. The student is expected to use personal information management, email, Internet, writing and publishing, and presentation applications for animation projects.

(6) The student applies cyber safety procedures. The student is expected to implement personal and professional safety rules and regulations.

(7) The student applies leadership characteristics to student leadership and professional development activities. The student is expected to:

(A) employ leadership skills to accomplish goals and objectives by analyzing the various roles of leaders within organizations, exhibiting problem-solving and management traits, describing effective leadership styles, and participating in civic and community leadership and teamwork opportunities to enhance skills;

(B) employ teamwork and conflict-management skills to achieve collective goals;

(C) establish and maintain effective working relationships by providing constructive praise and criticism, demonstrating sensitivity to and value for diversity, and managing stress and controlling emotions;

(D) prepare for meetings by developing goals and objectives to achieve within a scheduled time and producing agendas;

(E) conduct and participate in meetings to accomplish work tasks by achieving goals and objectives within a scheduled time, producing meeting minutes, including decisions and next steps; and using parliamentary procedures, as needed; and

(F) employ mentoring skills to inspire and teach others.

(8) The student applies ethical decision making and complies with laws regarding use of technology in animation. The student is expected to:

(A) exhibit ethical conduct;

(B) apply copyright laws;

(C) model respect for intellectual property; and

(D) demonstrate proper etiquette and knowledge of acceptable use policies.

(9) The student applies advanced technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(10) The student develops an advanced technical understanding of animation. The student is expected to:

(A) operate communication systems to prepare and conduct verbal and visual communication;

(B) use production elements such as transitions, edits, framing, angle, and lighting techniques;

(C) use orthographic and isometric drawing techniques; and

(D) demonstrate familiarity with commercial production applications.

(11) The student demonstrates animation principles and elements. The student is expected to:

(A) apply animation principles such as arcs, timing, and exaggeration; and

(B) identify animation elements such as cycles, layers, transitions, and transparency.

(12) The student applies the elements and principles of art to animation projects. The student is expected to:

(A) identify animation design elements such as line, color, shape, and texture;

(B) explain the use of additive color theory; and

(C) compare various styles of animation.

(13) The student applies pre-production processes. The student is expected to:

(A) analyze target audience to identify needs and wants;

(B) write and edit scripts;

(C) create storyboards; and

(D) select aspect ratio and frame rate appropriate to delivery method.

(14) The student applies production processes. The student is expected to:

(A) design color and compositional elements;

- (B) design characters, environments, and props;
- (C) model characters, environments, and props;
- (D) light sets or animating lights as needed;
- (E) develop rigs for animating characters;
- (F) assemble particle systems for visual effects such as rain, snow, and fire;
- (G) animate characters, environments, or cameras;
- (H) incorporate music and sound effects; and
- (I) render scenes.

(15) The student applies post-production processes. The student is expected to:

- (A) edit;
- (B) produce titles and credits;
- (C) add visual effects and processing;
- (D) add audio effects and processing; and
- (E) produce output.

§130.87. *Audio/Video Production I (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9-12. Recommended prerequisite: Principles of Arts, Audio/Video Technology, and Communications. Recommended corequisite: Audio/Video Production I Lab. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in audio and video technology and film production span all aspects of the audio/video communications industry. Within this context, in addition to developing technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an understanding of the industry with a focus on pre-production, production, and post-production audio and video products.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) participate in training, education, or certification for employment;

(B) demonstrate professional standards and personal qualities needed to be employable such as oral and written communication, leadership, teamwork, appreciation for diversity, conflict management, customer service, work ethic, and adaptability;

(C) demonstrate skills related to seeking and applying for employment; and

(D) create a resume and cover letter/letter of interest to document information such as work experiences, licenses, certifications, and work samples.

(2) The student applies academic knowledge and skills in audio and video projects. The student is expected to:

(A) apply English language arts knowledge and skills by demonstrating use of content, technical concepts, and vocabulary; using correct grammar, punctuation, and terminology to write and edit documents; and composing and editing copy for a variety of written documents such as scripts, captions, schedules, reports, and manuals; and

(B) apply mathematics knowledge and skills in invoicing and time-based mathematics by demonstrating knowledge of arithmetic operations and applying measurement to solve problems.

(3) The student understands professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent through structure and style;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills.

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student uses technology applications and processes. The student is expected to:

(A) use technology applications such as social media, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for audio and video production projects; and

(B) use processes such as personal information management, file management, and file sharing.

(6) The student understands the evolution and current trends of the audio and video production industry. The student is expected to:

(A) summarize the history and evolution of the audio and video production industry; and

(B) analyze the current trends of the audio and video production industry.

(7) The student applies safety regulations. The student is expected to:

(A) implement personal and workplace safety rules and regulations;

(B) follow emergency procedures; and

(C) examine and summarize safety-related problems that may result from working on location.

(8) The student develops leadership characteristics. The student is expected to:

(A) employ leadership skills;

(B) employ teamwork and conflict-management skills;

(C) participate in meetings; and

(D) participate in mentoring activities.

(9) The student applies ethical decision making and complies with laws regarding use of technology in audio and video production. The student is expected to:

(A) demonstrate an understanding of ethical conduct related to interacting with others and providing proper credit for ideas;

(B) discuss and apply copyright laws in relation to fair use and acquisition, trademark laws, and personal privacy laws;

(C) model respect for intellectual property;

(D) analyze the ethical impact of the audio and video production industry on society; and

(E) evaluate audio and video products for accuracy and validity.

(10) The student uses innovative thinking to develop new ideas and processes for solving real-world issues and conveying those ideas to a global audience through a digital product. The student is expected to:

(A) examine real-world issues relating to current topics such as health care, government, business, or education; and

(B) create unique methods and products for audiences beyond the classroom such as school officials, non-profit organizations, higher education officials, government, or other stakeholders.

(11) The student develops career-building characteristics. The student is expected to:

(A) create a career portfolio to document information such as work experiences, licenses, certifications, and work samples;

(B) demonstrate skills in evaluating and comparing employment opportunities;

(C) examine and employ professional networking opportunities such as career and technical student organizations, professional social media, and industry professional organizations; and

(D) examine employment opportunities in entrepreneurship.

(12) The student applies technical skills for efficiency. The student is expected to:

(A) employ planning and time-management skills to complete work tasks; and

(B) use technology to enhance productivity.

(13) The student develops a basic understanding of audio and video production. The student is expected to:

(A) understand the audio, video, and film industry, including the history, current practices, and future trends;

(B) explain the beginning and evolution of the audio, video, and film industry;

(C) describe how changing technology is impacting the audio, video, and film industry;

(D) define and use terminology associated with the audio, video, and film industry;

(E) identify various audio tape, tapeless, and file formats and the key elements required in audio scripts;

(F) apply writing skills to develop an audio script;

(G) explain how various styles of music can create a specific emotional impact;

(H) understand various microphones based upon type, pickup patterns, and various audio cables and connectors;

(I) identify the key elements required in video scripts;

(J) apply writing skills to develop a video script;

(K) identify various video tape, tapeless, and file formats;

(L) understand various video cables and connectors;

(M) distinguish between analog and digital formats;

(N) describe various videography techniques, including picture composition, focus, camera and tripod movements, and proper exposure and white balance;

(O) understand the basics of audio and video editing platforms such as differences between linear and nonlinear editing systems; and

(P) describe various digital platforms, including high definition and standard definition.

(14) The student understands the pre-production process. The student is expected to:

(A) design and implement procedures to track trends, set timelines, and evaluate progress for continual improvement in process and product;

(B) respond to advice from peers and professionals;

(C) create technology specifications;

(D) monitor process and product quality using established criteria;

(E) create a script and identify resources needed to begin the production;

(F) identify budgeting considerations for cast, crew, equipment, and location;

(G) analyze the script and storyboard development processes for a successful production;

(H) identify and participate in the team roles required for completion of a production;

(I) identify cast, crew, equipment, and location requirements for a scripted production; and

(J) understand the casting or audition process.

(15) The student understands the post-production process. The student is expected to:

(A) use technology applications to facilitate evaluation of work, both process and product, by evaluating the project's success in meeting established criteria; and

(B) research the best method for promoting the product by identifying and analyzing market research such as market share, audience-measurement ratings, sweeps periods, distribution, product release dates, demographics, target audience, and advertising rates and revenue.

§130.88. *Audio/Video Production I Lab (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9-12. Recommended prerequisite: Principles of Arts, Audio/Video Technology, and Communications or Digital and Interactive Media in the Information Technology Career Cluster. Corequisite: Audio/Video Production I. This course must be taken concurrently with Audio/Video Production I and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with Audio/Video Production I to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in audio and video technology and film production span all aspects of the audio/video communications industry. Within this context, in addition to developing technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an understanding of the industry with a focus on pre-production, production, and post-production audio and video products. Requiring a lab corequisite for the course affords necessary time devoted specifically to the production and post-production process.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) participate in training, education, or certification for employment;

(B) demonstrate professional standards and personal qualities needed to be employable such as oral and written communication, leadership, teamwork, appreciation for diversity, conflict management, customer service, work ethic, and adaptability;

(C) demonstrate skills related to seeking and applying for employment; and

(D) create a resume and cover letter/letter of interest to document information such as work experiences, licenses, certifications, and work samples.

(2) The student applies academic knowledge and skills in audio and video projects. The student is expected to:

(A) apply English language arts knowledge and skills by demonstrating use of content, technical concepts, and vocabulary; using correct grammar, punctuation, and terminology to write and edit documents; and composing and editing copy for a variety of written documents such as scripts, captions, schedules, reports, and manuals; and

(B) apply mathematics knowledge and skills in invoicing and time-based mathematics by demonstrating knowledge of arithmetic operations and applying measurement to solve problems.

(3) The student understands professional communications strategies. The student is expected to:

(A) adapt language such as structure and style for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills.

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications and processes. The student is expected to:

(A) use technology applications such as social media, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for audio and video production projects; and

(B) use processes such as personal information management, file management, and file sharing.

(6) The student applies safety regulations. The student is expected to:

(A) implement personal and workplace safety rules and regulations;

(B) follow emergency procedures; and

(C) identify and report safety-related problems that may result from working on location.

(7) The student develops leadership characteristics. The student is expected to:

(A) employ leadership skills;

(B) employ teamwork and conflict-management skills;

(C) participate in meetings; and

(D) participate in mentoring activities.

(8) The student applies ethical decision making and complies with laws regarding use of technology in audio and video production. The student is expected to:

(A) demonstrate an understanding of ethical conduct related to interacting with others and providing proper credit for ideas;

(B) apply copyright laws in relation to fair use and acquisition, trademark laws, and personal privacy laws; and

(C) model respect for intellectual property.

(9) The student develops career-building characteristics. The student is expected to:

(A) create a career portfolio to document information such as work experiences, licenses, certifications, and work samples;

(B) demonstrate skills in evaluating and comparing employment opportunities;

(C) examine and employ professional networking opportunities such as career and technical student organizations, professional social media, industry professional organizations; and

(D) examine employment opportunities in entrepreneurship.

(10) The student applies technical skills for efficiency. The student is expected to:

(A) employ planning and time-management skills to complete work tasks; and

(B) use technology to enhance productivity.

(11) The student develops a basic understanding of audio and video production. The student is expected to:

(A) use terminology associated with the industries;

(B) apply writing skills to develop an audio script;

(C) apply various styles of music as needed to create a specific emotional impact;

(D) use various audio tape, tapeless, and file formats;

(E) use various microphones based upon type and pickup patterns; and

(F) use various audio cables and connectors.

(12) The student employs knowledge regarding use of video. The student is expected to:

(A) apply writing skills to develop a video script;

(B) use various video tape, tapeless, and file formats;

(C) use various video cables and connectors;

(D) demonstrate operation of video cameras; and

(E) demonstrate how to properly maintain video equipment;

(13) The student employs various videography techniques. The student is expected to:

(A) demonstrate how to frame and maintain picture composition;

(B) demonstrate focusing techniques;

(C) demonstrate camera and tripod movements; and

(D) demonstrate proper exposure and white balance.

(14) The student edits basic audio and video productions. The student is expected to:

(A) demonstrate skills required for editing using linear and nonlinear systems; and

(B) employ knowledge of control peripherals for capturing or ingesting media.

(15) The student understands the pre-production process. The student is expected to:

(A) implement procedures to track trends, set timelines, and evaluate progress for continual improvement in process and product;

(B) respond to advice from peers and professionals;

(C) create technology specifications;

(D) monitor process and product quality using established criteria;

(E) create a script and identify resources needed to begin the production;

(F) apply budgeting considerations for cast, crew, equipment, and location;

(G) analyze the script and storyboard for a successful production;

(H) participate in the team roles required for completion of a production; and

(I) employ cast, crew, equipment, and location for a scripted production.

(16) The student understands the production process. The student is expected to:

(A) implement a coherent sequence of events to successfully produce a script;

(B) use lighting techniques, including three-point lighting, reflected light, color temperatures, and lighting filters;

(C) employ audio techniques, including microphone variances and sound mixing; and

(D) demonstrate knowledge of interpersonal skills with sensitivity to diversity when directing crew or talent.

(17) The student understands the post-production process. The student is expected to:

(A) demonstrate knowledge of video systems such as digital and analog systems, software applications, and communication and network components;

(B) make appropriate decisions regarding the selection of software;

(C) make necessary adjustments regarding compatibility issues, including digital file formats and cross-platform connectivity;

(D) apply animation effects using character generators, fonts, colors, and principles of composition to create graphic images, captions, or titles for video and graphics;

(E) demonstrate proficiency in the use of a variety of electronic input devices;

(F) use a variety of strategies to acquire information from online resources;

(G) acquire electronic information in a variety of formats;

(H) use different compression standards and techniques to output for distribution;

(I) format digital information for effective communication with a defined audience using appropriate font attributes and color, white space and graphics, and camera perspective;

(J) use appropriate content selection and presentation;

(K) understand target audiences and demographics;

(L) determine appropriate delivery method based on distribution needs;

(M) deliver products in a variety of media by using various delivery formats such as disk, broadcast, cellular, portable device, electronic, and online delivery;

(N) use appropriate computer-based productivity tools to create and modify solutions to problems;

(O) create audio and video technology products for a variety of purposes and audiences;

(P) develop technical documentation related to audio and video technology; and

(Q) demonstrate innovative uses of a wide range of emerging technologies, including online learning, mobile devices, digital content, and Web 2.0 tools such as podcasting, wikis, and blogs.

§130.89. *Audio/Video Production II (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Prerequisite: Audio/Video Production I. Recommended corequisite: Audio/Video Production II Lab. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in audio and video technology and film production span all aspects of the audio/video communications industry. Building upon the concepts taught in Audio/Video Production, in addition to developing advanced knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an advanced understanding of the industry with a focus on pre-production, production, and post-production products. This course may be implemented in an audio format or a format with both audio and video.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) participate in training, education, or certification for employment;

(B) demonstrate professional standards and personal qualities needed to be employable such as oral and written communication, leadership, teamwork, appreciation for diversity, conflict management, customer service, work ethic, and adaptability;

(C) demonstrate skills related to seeking and applying for employment; and

(D) create resume and cover letter/letter of interest to document information such as work experiences, licenses, certifications, and work samples.

(2) The student applies academic knowledge and skills in production projects. The student is expected to:

(A) apply English language arts knowledge and skills by consistently demonstrating use of content, technical concepts, and vocabulary; using correct grammar, punctuation, and terminology to write and edit documents; and composing and editing copy for a variety of written documents such as scripts, captions, schedules, reports, manuals, proposals, and other client-based documents; and

(B) apply mathematics knowledge and skills in invoicing and time-based mathematics by consistently demonstrating knowledge of arithmetic operations and applying measurement to solve problems.

(3) The student applies professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent through structure and style;

(B) analyze and organize oral and written information;

(C) analyze, interpret, and communicate information, data, and observations;

(D) create and deliver formal and informal presentations;

(E) apply active listening skills to obtain and clarify information;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills to increase internal and external customer/client satisfaction.

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student uses technology applications and processes. The student is expected to:

(A) use technology applications such as social media, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for audio and video production projects; and

(B) use processes such as personal information management, file management, and file sharing.

(6) The student understands the evolution and current trends of the audio and video production industry. The student is expected to:

(A) summarize the history and evolution of the audio and video production industry; and

(B) analyze the current trends of the audio and video production industry.

(7) The student applies safety regulations. The student is expected to:

(A) implement personal and workplace safety rules and regulations;

(B) recognize and resolve potential safety concerns; and

(C) follow emergency procedures.

(8) The student applies leadership characteristics to student organizations and professional development activities. The student is expected to:

(A) employ leadership skills to accomplish goals and objectives by analyzing the various roles of leaders within organizations, exhibiting problem-solving and management traits, describing effective leadership styles, and participating in civic and community leadership and teamwork opportunities to enhance skills;

(B) employ teamwork and conflict-management skills to achieve collective goals;

(C) establish and maintain effective working relationships by providing constructive praise and criticism, demonstrating sensitivity to and value for diversity, and managing stress and controlling emotions;

(D) prepare for meetings by developing goals and objectives to achieve within a scheduled time and producing agendas;

(E) conduct and participate in meetings to accomplish work tasks by achieving goals and objectives within a scheduled time; producing meeting minutes, including decisions and next steps; and using parliamentary procedures, as needed; and

(F) employ mentoring skills to inspire and teach others.

(9) The student applies ethical decision making and complies with laws regarding use of technology in audio/video production. The student is expected to:

(A) demonstrate an understanding of ethical conduct related to interacting with others and providing proper credit for ideas;

(B) apply copyright laws in relation to fair use and acquisition, trademark laws, and personal privacy laws;

(C) model respect for intellectual property; and

(D) demonstrate proper etiquette and knowledge of acceptable use policies.

(10) The student develops career-building characteristics. The student is expected to:

(A) update a career portfolio to document information such as work experiences, licenses, certifications, and work samples;

(B) demonstrate skills in evaluating and comparing employment opportunities;

(C) examine and employ professional networking opportunities such as career and technical student organizations, professional social media, industry professional organizations; and

(D) examine employment opportunities in entrepreneurship.

(11) The student applies technical skills for efficiency. The student is expected to:

(A) employ planning and time-management skills to complete work tasks; and

(B) use technology to enhance productivity.

(12) The student demonstrates knowledge of audio and video production. The student is expected to:

(A) understand set-up, execution, and trouble-shooting of standard systems for the audio/video industry, including editing systems, wireless and wired transmission systems, cabling, and configurations for production purposes;

(B) employ knowledge of recording equipment usage by explaining analog and digital formats;

(C) describe tape and tapeless formats;

(D) demonstrate the operation of recording devices, including metering a recording signal for proper levels and proper maintenance of recording equipment; and

(E) apply appropriate industry-related terminology.

(13) The student understands the pre-production process. The student is expected to:

(A) apply critical elements, including purpose, target audience, and distribution, in the pre-production stage to identify and evaluate the production;

(B) demonstrate procedures to establish timelines;

(C) develop a budget with considerations for cast, crew, equipment, and location;

(D) write documents of the scripting process such as treatments, storyboards, rundowns, and scripts for various types of programs using proper formatting for the specific type of production document;

(E) identify specific elements needed for successful production such as cast, crew, equipment, location, props, and sound effects;

(F) discuss how various styles of music can create a specific emotional impact;

(G) examine the end goal of the production to determine the appropriate format for recording and distributing;

(H) identify several means to work within budget restraints;

(I) conduct auditions for the talent and secure the crew required for a successful production; and

(J) examine various contracts related to industry tasks, including talent releases for productions, and key elements for contracts such as crew, talent, location, and distribution.

(14) The student understands the business aspects of the industry. The student is expected to:

(A) understand the roles of various industry professionals by identifying and discussing the responsibilities and relationships

among the production team, including producers, directors, editors, engineers, talent, additional crew members, and sales team;

(B) understand the opportunities in the industry for freelance entrepreneurs by identifying standard freelance self-promotion techniques, proposals, technology applications for freelance entrepreneurs, best practices for various freelance job responsibilities, and standard billing practices for freelance labor, including invoices and collections rates;

(C) understand the unique characteristics of live productions such as roles, equipment, time accountability, back-timing, time-based mathematics, and financial support; and

(D) identify roles, costs, equipment, and strategies for financially supporting studio and field productions.

(15) The student demonstrates an understanding of regulatory agency guidelines for content appropriateness. The student is expected to:

(A) identify applicable guidelines based on production distribution methods; and

(B) distinguish between Federal Communications Commission (FCC), National Public Radio (NPR), and other regulatory agencies.

(16) The student understands the technical broadcast standards established by the FCC. The student is expected to:

(A) apply knowledge of broadcast formats by distinguishing between analog and digital formats;

(B) describe the difference in data signals and equipment for analog and digital technology;

(C) identify the evolution of the broadcast signal and standards such as High-Definition (HD), Standard-Definition (SDTV), National Television System Committee (NTSC), Phase Alternating Line (PAL), and Sequential Color with Memory (SECAM); and

(D) identify the location of radio and television frequencies in the electromagnetic spectrum.

(17) The student understands the evolution of various media formats. The student is expected to:

(A) identify the evolution of various media formats such as tape, tapeless, film, and electronic; and

(B) identify the evolution and application of digital media formats and compression standards.

§130.90. *Audio/Video Production II Lab (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Prerequisite: Audio/Video Production I. Corequisite: Audio/Video Production II. This course must be taken concurrently with Audio/Video Production II and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with Audio/Video Production II to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, ex-

hibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in audio and video technology and film production span all aspects of the audio/video communications industry. Building upon the concepts taught in Audio/Video Production, in addition to developing advanced knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an advanced understanding of the industry with a focus on pre-production, production, and post-production products. Through diverse forms of storytelling and production, students will exercise and develop creativity, intellectual curiosity, and critical-thinking, problem-solving, and collaborative skills. This course may be implemented in an audio format or a format with both audio and video. Requiring a lab corequisite for the course affords necessary time devoted specifically to the production and post-production process.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) participate in training, education, or certification for employment;

(B) demonstrate professional standards and personal qualities needed to be employable such as oral and written communication, leadership, teamwork, appreciation for diversity, conflict management, customer service, work ethic, and adaptability;

(C) demonstrate skills related to seeking and applying for employment;

(D) update a resume, cover letter/letter of interest, and career portfolio to document information such as work experiences, licenses, certifications, and work samples; and

(E) demonstrate skills in evaluating and comparing employment opportunities.

(2) The student applies academic knowledge and skills in production projects. The student is expected to:

(A) apply English language arts knowledge and skills by consistently demonstrating use of content, technical concepts, and vocabulary; using correct grammar, punctuation, and terminology to write and edit documents; and composing and editing copy for a variety of written documents such as scripts, captions, schedules, reports, manuals, proposals, and other client-based documents; and

(B) apply mathematics knowledge and skills in invoicing and time-based mathematics by consistently demonstrating knowledge of arithmetic operations and applying measurement to solve problems.

(3) The student develops a perception of self, human relationships, and the world. The student is expected to:

(A) demonstrate the value and purpose of listening, observing, concentrating, cooperating, and using emotional and sensory recall;

(B) develop and practice effective voice and diction;

(C) analyze strategies such as advertising; perpetuating stereotypes; and using visual representations, special effects, and language used by media to inform, persuade, entertain, and transform culture;

(D) explore the emotional and intellectual effects of visual media on viewers; and

(E) analyze how visual and audio techniques such as special effects, editing, camera angles, reaction shots, sequencing, and music convey messages in media.

(4) The student applies professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent through structure and style;

(B) analyze and organize oral and written information;

(C) analyze, interpret, and communicate information, data, and observations;

(D) create and deliver formal and informal presentations;

(E) apply active listening skills to obtain and clarify information;

(F) listen to and speak with diverse individuals;

(G) collaborate with others in a production role such as talent, director, producer, videographer, and editor to tell a story through live or recorded productions; and

(H) exhibit public relations skills to increase internal and external customer/client satisfaction.

(5) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups;

(B) employ interpersonal skills in groups to solve problems; and

(C) demonstrate responsibility, artistic discipline, and creative problem solving by concentrating in one or more areas of audio and video production such as directing, producing, writing, videography, and editing.

(6) The student uses technology applications and processes. The student is expected to:

(A) use technology applications such as social media, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for audio and video production projects; and

(B) use processes such as personal information management, file management, and file sharing.

(7) The student applies safety regulations. The student is expected to:

(A) implement personal and workplace safety rules and regulations throughout the production process;

(B) recognize and resolve potential safety concerns; and

(C) follow emergency procedures.

(8) The student applies leadership characteristics to student organizations and professional development activities. The student is expected to:

(A) employ leadership skills to accomplish goals and objectives by exhibiting problem-solving and management traits;

(B) employ teamwork and conflict-management skills to achieve collective goals;

(C) establish and maintain effective working relationships by providing constructive praise and criticism, demonstrating sensitivity to and value for diversity, and managing stress and controlling emotions;

(D) prepare for meetings by developing goals and objectives to achieve within a scheduled time and producing agendas;

(E) conduct and participate in meetings to accomplish work tasks by achieving goals and objectives within a scheduled time; producing meeting minutes, including decisions and next steps; and using parliamentary procedures, as needed; and

(F) employ mentoring skills to inspire and teach others.

(9) The student applies ethical decision making and complies with laws regarding use of technology in audio/video production. The student is expected to:

(A) demonstrate an understanding of ethical conduct related to interacting with others and providing proper credit for ideas;

(B) apply copyright laws in relation to fair use and acquisition, trademark laws, and personal privacy laws;

(C) model respect for intellectual property; and

(D) demonstrate proper etiquette and knowledge of acceptable use policies.

(10) The student applies technical skills for efficiency. The student is expected to:

(A) employ planning and time-management skills to complete work tasks; and

(B) use technology to enhance productivity.

(11) The student demonstrates an understanding of audio and video production. The student is expected to:

(A) understand set-up, execution, and trouble-shooting of standard systems for the audio/video industry, including editing systems, wireless and wired transmission systems, cabling, and configurations for production purposes;

(B) employ the operation of recording devices, including metering a recording signal for proper levels and proper maintenance of recording equipment; and

(C) apply appropriate industry-related terminology.

(12) The student understands the pre-production process. The student is expected to:

(A) apply critical elements, including purpose, target audience, and distribution, in the pre-production stage by identifying and evaluating the production;

(B) use advanced technology applications to facilitate pre-production by developing a budget with considerations for cast, crew, equipment, and location;

(C) write documents of the scripting process such as treatments, storyboards, rundowns, and scripts for various types of programs;

(D) use proper formatting for the specific type of production document;

(E) identify specific elements of the production document needed for successful production, such as cast, props, and sound effects;

(F) determine artistic impact of production plan;

(G) determine the use of art elements such as color, texture, form, line, and space;

(H) determine the principles of design such as continuity, pattern, rhythm, balance, proportion, and unity in products;

(I) determine cast, crew, equipment, and location requirements for a successful production;

(J) conduct auditions for the talent and secure the crew required for a successful production; and

(K) examine various contracts related to industry tasks by using talent releases for productions.

(13) The student applies the production process. The student is expected to:

(A) apply the coherent sequence of events to successfully produce a script;

(B) use lighting techniques, including three-point lighting, reflected light, color temperatures, lighting filters, lighting gels, and understand lighting and its emotional impact on productions;

(C) demonstrate a knowledge of audio techniques by using various microphone types;

(D) demonstrate an understanding of sound mixing and elements of a final audio mix;

(E) execute production of the script by demonstrating teamwork and knowledge of interpersonal skills with sensitivity to diversity when directing crew and talent;

(F) apply knowledge of the critical elements in designing activities in the production stage;

(G) employ knowledge of digital editing by addressing various distribution formats, including electronic, disk, tapeless, and tape;

(H) ingest media to an editing system for the purpose of manipulating recorded media;

(I) properly monitor equipment to ensure quality recordings;

(J) set appropriate levels before recording by using broadcast standard tools; and

(K) identify standards for logging notes during the recording process.

(14) The student understands the post-production process relating to video systems. The student is expected to:

(A) demonstrate knowledge of video systems such as digital and analog systems, software applications, and communication and network components;

(B) demonstrate an understanding of various input, processing, output, and storage devices;

(C) demonstrate an understanding of compatibility issues, including digital file formats and cross-platform connectivity; and

(D) demonstrate an understanding of high definition and standard definition output media.

(15) The student understands the post-production process relating to animation effects. The student is expected to:

(A) use character generators, fonts, colors, and principles of composition to create graphic images; and

(B) create captions or titles for video and graphics.

(16) The student understands the post-production process relating to output for distribution. The student is expected to:

(A) demonstrate proficiency in outputting production for distribution using various compression standards and techniques;

(B) understand the relationship between file size and quality;

(C) use various delivery formats such as disk, broadcast, cellular, portable devices, electronic, and online delivery;

(D) determine the appropriate delivery method based on distribution needs;

(E) extend the learning environment through digital sharing and gathering such as cloud computing, emerging collaboration technologies, data mining strategies, and mobile technologies;

(F) use appropriate computer-based productivity tools to create and modify solutions to problems;

(G) integrate productivity tools to develop and modify solutions to problems; and

(H) create technical documentation related to project specifications.

(17) The student understands the post-production process relating to level of project success. The student is expected to:

(A) critique production to determine how the various elements resulted in a successful or unsuccessful project; and

(B) recognize and evaluate final production as an art form.

§130.91. *Digital Audio Technology I (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9-12. Recommended prerequisite: Principles of Arts, Audio/Video Technology, and Communications or Digital and Interactive Media (DIM) or both Audio/Video Production I and Audio/Video Production I Lab. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Digital Audio Technology I was designed to provide students interested in audio production careers such as audio for radio and television broadcasting, audio for video and film, audio for anima-

tion and game design, music production and live sound, and additional opportunities and skill sets. Digital Audio Technology I does not replace Audio Video Production courses but is recommended as a single credit, co-curricular course with an audio production technical emphasis. This course can also be paired with Digital and Interactive Media. Students will be expected to develop an understanding of the audio industry with a technical emphasis on production and critical-listening skills.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) participate in training, education, or certification for employment;

(B) demonstrate professional standards and personal qualities needed to be employable such as oral and written communication, leadership, teamwork, appreciation for diversity, conflict management, customer service, work ethic, and adaptability;

(C) demonstrate skills related to seeking and applying for employment; and

(D) create a resume and cover letter/letter of interest to document information such as work experiences, licenses, certifications, and work samples.

(2) The student applies academic knowledge and skills in audio and video projects. The student is expected to:

(A) apply English language arts knowledge and skills by demonstrating use of content, technical concepts, and vocabulary; using correct grammar, punctuation, and terminology to write and edit documents; and composing and editing copy for a variety of written documents such as scripts, captions, schedules, reports, and manuals; and

(B) apply mathematics knowledge and skills in invoicing and time-based mathematics by demonstrating knowledge of arithmetic operations and applying measurement to solve problems.

(3) The student understands professional communications strategies. The student is expected to:

(A) adapt language such as structure and style for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills.

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications and processes. The student is expected to:

(A) use technology applications such as social media, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for audio production projects; and

(B) use processes such as personal information management, file management, and file sharing.

(6) The student understands the evolution and current trends of the audio industry. The student is expected to:

(A) summarize the history and evolution of the audio production industry; and

(B) analyze the current trends of the audio production industry.

(7) The student applies safety regulations. The student is expected to:

(A) implement personal and workplace safety rules and regulations; and

(B) follow emergency procedures.

(8) The student develops leadership characteristics. The student is expected to:

(A) employ leadership skills;

(B) employ teamwork and conflict-management skills;

(C) participate in meetings; and

(D) participate in mentoring activities.

(9) The student applies ethical decision making and complies with laws and regulations regarding use of technology in audio production. The student is expected to:

(A) demonstrate an understanding of ethical conduct related to interacting with others and providing proper credit for ideas;

(B) model respect for intellectual property;

(C) analyze the ethical impact of the audio production industry on society;

(D) understand and comply with all copyright and fair use laws; and

(E) understand and comply with all applicable rules and regulations of the associated governing authority such as the Federal Communications Commission (FCC), local school district, or client.

(10) The student develops career-building characteristics. The student is expected to demonstrate skills in evaluating and comparing employment opportunities.

(11) The student applies technical skills for efficiency. The student is expected to:

(A) employ planning and time-management skills to complete work tasks; and

(B) use technology to enhance productivity.

(12) The student develops a basic understanding of the audio production industry. The student is expected to:

(A) identify various career pathways and job opportunities in the audio production industry;

(B) understand the roles of various industry audio professionals such as producers, editors, engineers, and talent as they apply to specific audio production career pathways;

(C) understand the history, current practices, and future trends for audio production careers such as radio and television broadcasting, video and film, animation and game design, music production, and live sound;

(D) describe how the changing technology is impacting the audio industry; and

(E) define and appropriately use terminology associated with the audio production industry.

(13) The student develops a basic understanding of audio production equipment. The student is expected to:

(A) understand types and application of microphones such as dynamic, condenser, ribbon, pressure zone (PZM), universal serial bus (USB), and wireless;

(B) understand pick-up patterns and application of microphones such as cardioid, omni-directional, and figure eight;

(C) understand the operation and application of audio consoles (mixers) such as broadcast consoles, live sound consoles, and recording consoles;

(D) understand the operation and application of audio processing equipment or software such as equalizer (EQ), dynamic compressor, noise gate, band pass filters, reverb, and delays;

(E) understand the operation and application of analog and digital audio recording devices such as handheld recorders, USB interfaces, multi-track devices, and digital audio workstations (DAW);

(F) understand the application of audio interconnect cabling and connectors such as XLR balanced, TRS balanced, TS unbalanced, RCA, 1/4" TRS/TS, and mini TRS/TS;

(G) understand the operation and application of additional audio hardware such as musical instrument digital interface (MIDI) controllers, direct boxes, audio splitters, and analog to digital converters as needed; and

(H) understand the types and applications of audio speakers such as broadcast monitors, studio monitors, and live sound speakers.

(14) The student develops an understanding of audio production elements. The student is expected to:

(A) identify key elements (stems) of an audio production such as dialogue, sound effects, music, and environmental;

(B) understand how music styles, sound effects, or vocal performance can create a specific emotional impact;

(C) identify key technical elements of audio production for effect such as panning, ducking, track doubling, retiming, and auto-tune; and

(D) understand and identify digital audio codecs and compression standards such as Waveform Audio (WAV), MP3, and advanced audio coding (AAC).

(15) The student identifies, creates, and obtains required assets for audio production projects. The student is expected to:

(A) identify key elements required in audio scripts;

(B) apply writing skills to develop an audio script; and

(C) create or obtain required audio assets through recording, synthesis, or permissions.

(16) The student develops a basic understanding of a DAW and audio editing. The student is expected to:

(A) understand how to record or import various types of audio content such as audio files, MIDI data or automation;

(B) understand types and application of audio track such as instrument track, master track, auxiliary track, and global attributes track;

(C) understand audio editing tools and transitions such as cut, trim, and fade;

(D) understand the use and application of software plug-ins such as EQ, dynamic compression, reverb, and software instruments;

(E) understand the use and application of software automation; and

(F) understand the various delivery formats such as disk, broadcast, cellular, portable device, electronic, and online delivery.

§130.92. Digital Audio Technology II (One Credit), Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 10-12. Prerequisite: Digital Audio Technology I. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Digital Audio Technology II was designed to provide additional opportunities and skill sets for students interested in audio production careers such as audio for radio and television broadcasting, audio for video and film, audio for animation and game design, and music production and live sound. Digital Audio Technology II does not replace Audio Video Production courses but is recommended as a single credit, co-curricular course with an audio production technical emphasis. This course can also be paired with Digital and Interactive Media (DIM). Students will be expected to develop an understanding of the audio industry with a technical emphasis on production and critical-listening skills.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) participate in training, education, or certification for employment;

(B) demonstrate professional standards and personal qualities needed to be employable such as oral and written communication, leadership, teamwork, appreciation for diversity, conflict management, customer service, work ethic, and adaptability;

(C) demonstrate skills related to seeking and applying for employment; and

(D) create a resume and cover letter/letter of interest to document information such as work experiences, licenses, certifications, and work samples.

(2) The student applies academic knowledge and skills in audio and video projects. The student is expected to:

(A) apply English language arts knowledge and skills by demonstrating use of content, technical concepts, and vocabulary; using correct grammar, punctuation, and terminology to write and edit documents; and composing and editing copy for a variety of written documents such as scripts, captions, schedules, reports, and manuals; and

(B) apply mathematics knowledge and skills in invoicing and time-based mathematics by demonstrating knowledge of arithmetic operations and applying measurement to solve problems.

(3) The student understands professional communications strategies. The student is expected to:

(A) adapt language such as structure and style for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills.

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications and processes. The student is expected to:

(A) use technology applications such as social media, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for audio production projects; and

(B) use processes such as personal information management, file management, and file sharing.

(6) The student understands the evolution and current trends of the audio industry. The student is expected to:

(A) summarize the history and evolution of the audio production industry; and

(B) analyze the current trends of the audio production industry.

(7) The student applies safety regulations. The student is expected to:

(A) implement personal and workplace safety rules and regulations; and

(B) follow emergency procedures.

(8) The student develops leadership characteristics. The student is expected to:

(A) employ leadership skills;

(B) employ teamwork and conflict-management skills;

(C) participate in meetings; and

(D) participate in mentoring activities.

(9) The student applies ethical decision making and complies with laws and regulations regarding use of technology in audio production. The student is expected to:

(A) demonstrate an understanding of ethical conduct related to interacting with others and providing proper credit for ideas;

(B) model respect for intellectual property;

(C) analyze the ethical impact of the audio production industry on society;

(D) understand and comply with all copyright and fair use laws; and

(E) understand and comply with all applicable rules and regulations of the associated governing authority such as the Federal Communications Commission (FCC), local school district, or client.

(10) The student develops career-building characteristics. The student is expected to:

(A) create a career portfolio to document information such as work experiences, licenses, certifications, and work samples;

(B) examine and employ professional networking opportunities such as career and technical student organizations, professional social media, and industry professional organizations; and

(C) examine employment opportunities in entrepreneurship.

(11) The student applies technical skills for efficiency. The student is expected to:

(A) employ planning and time-management skills to complete work tasks; and

(B) use technology to enhance productivity.

(12) The student develops a basic understanding of the audio production industry. The student is expected to:

(A) identify various career pathways and job opportunities in the audio production industry;

(B) understand the roles of various industry audio professionals such as producers, editors, engineers, and talent as they apply to specific audio production career pathways;

(C) understand the history, current practices, and future trends for audio production careers such as radio and television broadcasting, video and film, animation and game design, music production, and live sound;

(D) describe how the changing technology is impacting the audio industry; and

(E) define and appropriately use terminology associated with the audio production industry.

(13) The student develops a basic understanding of audio production equipment. The student is expected to:

(A) use types and applications of microphones such as dynamic, condenser, ribbon, pressure zone (PZM), universal serial bus (USB), and wireless;

(B) use pick-up patterns and applications of microphones such as cardioid, omni-directional, and figure eight;

(C) demonstrate the operation and application of audio consoles (mixers) such as broadcast consoles, live sound consoles, and recording consoles;

(D) demonstrate the operation and application of audio processing equipment or software such as equalizer (EQ), dynamic compressor, noise gate, band pass filters, reverb, and delays;

(E) demonstrate the operation and application of analog and digital audio recording devices such as handheld recorders, USB interfaces, multi-track devices, and digital audio workstations (DAW);

(F) demonstrate the application of audio interconnect cabling and connectors such as XLR balanced, TRS balanced, TS unbalanced, RCA, 1/4" TRS/TS, and mini TRS/TS;

(G) demonstrate the operation and application of additional audio hardware such as musical instrument digital interface (MIDI) controllers, direct boxes, audio splitters, and analog to digital converters as needed; and

(H) use the types and applications of audio speakers such as broadcast monitors, studio monitors, and live sound speakers.

(14) The student develops an understanding of audio production elements. The student is expected to:

(A) consistently identify key elements (stems) of an audio production such as dialogue, sound effects, music, and environmental;

(B) use music styles, sound effects, or vocal performances to create a specific emotional impact;

(C) use key technical elements of audio production for effect such as panning, ducking, track doubling, retiming, and auto-tune; and

(D) use digital audio codecs and compression standards such as Waveform Audio (WAV), MP3, and advanced audio coding (AAC).

(15) The student identifies, creates, and obtains required assets for audio production projects. The student is expected to:

(A) use key elements required in audio scripts;

(B) consistently apply writing skills to develop an audio script; and

(C) create or obtain required audio assets through recording, synthesis, or permissions.

(16) The student develops a basic understanding of a DAW and audio editing. The student is expected to:

(A) demonstrate how to record or import various types of audio content such as audio files, MIDI data, or automation;

(B) use types and application of audio tracks such as audio track, instrument track, master track, auxiliary track, and global attributes track;

(C) use audio editing tools and transitions such as cut, trim, and fade;

(D) demonstrate the use and application of software plug-ins such as EQ, dynamic compression, reverb, and software instruments;

(E) demonstrate the use and application of software automation; and

(F) use the various delivery formats such as disk, broadcast, cellular, portable device, electronic, and online delivery.

§130.93. *Video Game Design (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9-12. Recommended prerequisite: Principles of Art, Audio/Video Technology, and Communications. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Video Game Design will allow students to explore one of the largest industries in the global marketplace and the new emerging careers it provides in the field of technology. Students will learn gaming, computerized gaming, evolution of gaming, artistic aspects of perspective, design, animation, technical concepts of collision theory, and programming logic. Students will participate in a simulation of a real video game design team while developing technical proficiency in constructing an original game design.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify and demonstrate positive work behaviors and personal qualities needed to be employable;

(B) demonstrate skills related to seeking and applying for employment;

(C) create a career portfolio to document information such as work experiences, licenses, certifications, and work samples; and

(D) demonstrate skills in evaluating and comparing employment opportunities.

(2) The student applies academic knowledge and skills in video game design projects. The student is expected to:

(A) apply English language arts knowledge by demonstrating skills such as correct use of content, technical concepts, vocabulary, grammar, punctuation, and terminology to write and edit a variety of documents; and

(B) apply mathematics knowledge and skills such as using whole numbers, decimals, fractions, and knowledge of arithmetic operations.

(3) The student understands professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information;

(D) apply active listening skills; and

(E) communicate with diverse individuals.

(4) The student understands and employs problem-solving methods and conflict-management skills. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies cyber safety procedures. The student is expected to implement personal and professional safety rules and regulations.

(6) The student applies leadership characteristics to student leadership and professional development activities. The student is expected to:

(A) demonstrate leadership skills; and

(B) participate in a group setting.

(7) The student applies ethical decision making and understands and complies with laws regarding use of technology in video game design. The student is expected to:

(A) exhibit ethical conduct related to interacting with others such as maintaining client confidentiality and privacy of sensitive content and providing proper credit for ideas;

(B) discuss and apply copyright laws;

(C) model respect of intellectual property;

(D) demonstrate proper etiquette and knowledge of acceptable use policies; and

(E) analyze the impact of the video game design industry on society.

(8) The student applies technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(9) The student develops an understanding of video game design. The student is expected to:

(A) demonstrate knowledge and appropriate use of computer operating systems;

(B) demonstrate appropriate use of hardware components, software programs, and storage devices;

(C) demonstrate knowledge of sound editing;

(D) demonstrate knowledge of file formats and cross-platform compatibility;

(E) acquire and exchange information in a variety of electronic file sharing formats; and

(F) evaluate visual information by recognizing the use of principles and elements of design.

(10) The student employs an appropriate design process to create and modify solutions to problems. The student is expected to:

(A) combine graphics, images, and sound;

(B) apply principles of design;

(C) develop and reference technical documentation; and

(D) edit products.

(11) The student researches the history and evolution of video game design. The student is expected to:

(A) explain the history of video game design;

(B) describe how changing technology is affecting the industry;

(C) analyze the use of symbols in video game design of diverse cultures;

(D) compare current video game design technologies with historical technologies;

(E) compare various styles of video game design; and

(F) explore emerging and innovative video game design technologies and software.

(12) The student understands and applies video game design principles, elements, and techniques. The student is expected to:

(A) employ audience identification, script writing, character design, storyboarding, and audio and delivery formats;

(B) describe and use motion paths, scripting, programming, and interactivity;

(C) describe lighting and perspective; and

(D) describe and use production processes such as titles, credits, and special effects.

(13) The student evaluates a product using critical-thinking skills. The student is expected to evaluate products and product quality against established criteria and rubrics.

(14) The student presents oral or written evaluations of video game design projects. The student is expected to:

(A) identify the intended audience;

(B) describe aesthetics;

(C) explain the storyline;

(D) summarize subject matter; and

(E) discuss the use of sound.

(15) The student creates video game design projects. The student is expected to use a variety of techniques and software programs.

(16) The student differentiates current programming languages. The student is expected to:

(A) discuss the use of computer programming languages in other fields of study; and

(B) demonstrate knowledge of specific programming terminology and concepts.

(17) The student applies problem-solving strategies. The student is expected to apply design specifications, step-wise refinement, or algorithm development.

(18) The student develops coding with correct and efficient use of expressions. The student is expected to use user-defined functions; proper operator precedence; and sequential, conditional, and repetitive control structures.

(19) The students applies constructive criticism to products. The student is expected to seek and respond to advice from peers and professionals in delineating technological tasks.

(20) The student uses research skills and electronic communication, with appropriate supervision, to create new knowledge. The student is expected to:

(A) participate with electronic communities as a learner, initiator, contributor, and teacher or mentor;

(B) extend the learning environment beyond the school walls with digital products created to increase teaching and learning in the foundation and enrichment curricula; and

(C) participate in relevant, meaningful activities in the larger community and society to create electronic projects.

(21) The student uses technology applications to facilitate evaluation of communication processes and products. The student is expected to:

(A) write technology specifications for planning/evaluation rubrics documenting variables, prompts, and programming code internally and externally; and

(B) debug and solve problems using reference materials and effective strategies.

(22) The student understands technology concepts, systems, and operations as they apply to game programming. The student is expected to:

(A) identify basic game components, including the game engine, game play subsystems, data structures, models, and interfaces;

(B) generate random numbers in a program;

(C) create a program implementing conditional statements;

(D) develop an appropriate data model;

(E) demonstrate an understanding of and apply object-oriented game programming;

(F) demonstrate an understanding of game programming essentials, including event-driven programming, communicating with messages, and device management;

(G) demonstrate an understanding of the role of game events, the animation loop, and game timing;

(H) demonstrate an understanding of the role of game engines;

(I) apply basic game screen design and layout, including visual controls, user interfaces, menus, and options;

(J) use game control design to understand, access, and control input devices;

(K) demonstrate an understanding of and apply game animation, including the principles of animation and frame-based animation;

(L) demonstrate an understanding of game events, including listeners, triggers, and timed events;

(M) demonstrate an understanding of and implement collision detection, including models and sprite collisions;

(N) demonstrate an understanding of player progression, including leveling, linear progression, and maintaining high score data; and

(O) demonstrate an understanding of algorithmic decision making.

§130.94. *Printing and Imaging Technology I (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9-12. Recommended corequisite: Printing and Imaging Technology I Lab. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in printing span all aspects of the industry, including prepress, press, and finishing and bindery operations. In addition to developing technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an understanding of the printing industry with a focus on digital prepress and digital publishing.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify appropriate training, education, or certification for printing and imaging technology employment;

(B) recognize positive work behaviors and personal qualities needed to be employable; and

(C) describe skills related to seeking, applying for, and obtaining a desired job.

(2) The student applies academic knowledge and skills in printing and imaging projects. The student is expected to:

(A) apply English language arts knowledge and skills in accordance with industry standards to a variety of written documents; and

(B) apply mathematics knowledge and skills in accordance with industry standards to solve a problem.

(3) The student applies professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) listen to and speak with diverse groups of individuals; and

(G) exhibit public relations skills.

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications. The student is expected to use personal information management, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for printing and imaging projects.

(6) The student applies safety regulations. The student is expected to:

(A) implement personal and workplace safety rules and regulations; and

(B) follow emergency procedures.

(7) The student applies leadership characteristics to student leadership and professional development activities. The student is expected to:

(A) employ communication skills;

(B) employ teamwork and conflict-management skills;

(C) conduct and participate in meetings; and

(D) employ mentoring skills.

(8) The student applies ethical decision making and understands and complies with laws regarding use of technology in printing. The student is expected to:

(A) demonstrate an understanding of ethical conduct;

(B) understand copyright laws in relation to fair use and duplication of materials; and

(C) understand Creative Commons laws, including all licensing.

(9) The student develops career-building characteristics. The student is expected to:

(A) understand the use and importance of a portfolio in documenting information such as work experiences, licenses, certifications, and work samples;

(B) demonstrate skills in evaluating and comparing employment opportunities; and

(C) examine employment opportunities in entrepreneurship.

(10) The student applies technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(11) The student develops a basic understanding of printing and imaging. The student is expected to:

(A) understand printing systems and their uses;

(B) describe the processes required for the production of various printed products;

(C) explain the impact of the printing industry on the U.S. economy;

(D) understand the impact of emerging technologies in hardware and software applications;

(E) understand how to manage the printing process, including customer service and sales, scheduling, and quality control;

(F) describe materials used in various printing projects;

(G) understand how to acquire information in a variety of formats;

(H) evaluate information for accuracy, validity, and usability;

(I) compare the features of graphics programs used in digital printing;

(J) explain how design elements such as text, graphics, headlines, use of color, and white space affect usability;

(K) explain the principles of typography, including font size and style;

(L) explain color theory and its use in the design process;

(M) identify graphic design concepts such as contrast, alignment, repetition, and proximity;

(N) reference technical documentation;

(O) understand file and cross-platform compatibility;

(P) identify and use the principles of design to discuss, analyze, critique, and write about visual aspects in print design, including the student's own designs; and

(Q) demonstrate knowledge of the principles of design in print design images, with a focus on composition, color, design, shape, shadow, negative space, and background.

(12) The student researches the history of the printing and imaging field. The student is expected to analyze and summarize the evolution of the printing and imaging field and its historical impact on society.

§130.95. *Printing and Imaging Technology I Lab (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9-12. Corequisite: Printing and Imaging Technology I. This course must be taken concurrently with Printing and Imag-

ing Technology I and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with Printing and Imaging Technology I to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in printing span all aspects of the industry, including prepress, press, and finishing and bindery operations. In addition to developing technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to demonstrate an understanding of the printing industry with a focus on digital prepress and digital publishing.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify and participate in training, education, or certification for printing and imaging technology employment;

(B) demonstrate positive work behaviors and personal qualities needed to be employable; and

(C) demonstrate skills related to seeking, applying for, and obtaining a desired job.

(2) The student applies academic knowledge and skills in printing and imaging projects. The student is expected to:

(A) apply English language arts knowledge and skills in accordance with industry standards to a variety of written documents; and

(B) apply mathematics knowledge and skills in accordance with industry standards to solve a problem.

(3) The student applies professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills.

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications. The student is expected to use personal information management, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for printing and imaging projects.

(6) The student applies safety regulations. The student is expected to:

(A) implement personal and workplace safety rules and regulations; and

(B) follow emergency procedures.

(7) The student applies leadership characteristics to student leadership and professional development activities. The student is expected to:

(A) employ communication skills;

(B) employ teamwork and conflict-management skills;

(C) conduct and participate in meetings; and

(D) employ mentoring skills.

(8) The student applies ethical decision making and understands and complies with laws regarding use of technology in printing. The student is expected to:

(A) demonstrate an understanding of ethical conduct;

(B) apply copyright laws in relation to fair use and duplication of materials;

(C) model respect for intellectual property;

(D) demonstrate proper etiquette and knowledge of acceptable use policies; and

(E) demonstrate an understanding of Creative Commons laws, including all licensing.

(9) The student develops career-building characteristics. The student is expected to:

(A) maintain a portfolio to document information such as work experiences, licenses, certifications, and work samples;

(B) demonstrate skills in evaluating and comparing employment opportunities; and

(C) examine employment opportunities in entrepreneurship.

(10) The student applies technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(11) The student develops a basic understanding of printing and imaging. The student is expected to:

(A) understand printing systems and their uses;

(B) employ processes required for the production of various printed products;

- (C) demonstrate print process management, including customer service and sales, scheduling, and quality control;
- (D) evaluate customer needs and materials;
- (E) acquire information in a variety of formats;
- (F) evaluate information for accuracy, validity, and usability;
- (G) apply digital publishing techniques to create products by using word processing, graphics, or drawing programs;
- (H) apply design elements such as text, graphics, headlines, and white space;
- (I) apply typography concepts, including font size and style;
- (J) apply color theory;
- (K) apply graphic design concepts such as contrast, alignment, repetition, and proximity;
- (L) edit and evaluate products;
- (M) develop technical documentation;
- (N) demonstrate knowledge and appropriate use of hardware components, software programs, and storage devices;
- (O) demonstrate knowledge of file and cross-platform compatibility; and
- (P) deliver products in a variety of media.

§130.96. *Printing and Imaging Technology II (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisites: Printing and Imaging Technology I and Printing and Imaging Technology I Lab. Recommended corequisite: Printing and Imaging Technology II Lab. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in printing span all aspects of the industry, including prepress, press, and finishing and bindery operations. In addition to developing advanced knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an advanced understanding of the printing industry with a focus on digital prepress and desktop digital publishing.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

- (A) identify appropriate training, education, or certification for employment;
- (B) identify positive work behaviors and personal qualities needed to be employable; and
- (C) identify skills related to seeking, applying for, and obtaining a desired job, including identifying job opportunities, developing a resume and letter of application, completing a job application, and demonstrating effective interview skills.

(2) The student applies academic knowledge and skills in printing and imaging projects. The student is expected to:

- (A) apply English language arts knowledge and skills in accordance with industry standards to a variety of written documents such as brochures, programs, and newsletters; and
- (B) apply mathematics knowledge and skills in accordance with industry standards to solve a problem.

(3) The student applies professional communications strategies. The student is expected to:

- (A) adapt language for audience, purpose, situation, and intent;
- (B) organize oral and written information;
- (C) interpret and communicate information, data, and observations;
- (D) present information formally and informally;
- (E) apply active listening skills to obtain and clarify information;
- (F) listen to and speak with diverse individuals; and
- (G) exhibit public relations skills to increase internal and external customer/client satisfaction.

(4) The student understands and examines problem-solving methods. The student is expected to:

- (A) employ critical-thinking skills independently and in groups; and
- (B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications. The student is expected to use personal information management, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for printing and imaging projects.

(6) The student applies safety regulations. The student is expected to:

- (A) implement personal and workplace safety rules and regulations; and
- (B) follow emergency procedures.

(7) The student applies leadership characteristics to student leadership and professional development activities. The student is expected to:

- (A) employ leadership skills to accomplish goals and objectives by analyzing the various roles of leaders within organizations, exhibiting problem-solving and management traits, describing

effective leadership styles, and participating in civic and community leadership and teamwork opportunities to enhance skills;

(B) employ teamwork and conflict-management skills to achieve collective goals;

(C) establish and maintain effective working relationships by providing constructive praise and criticism, demonstrating sensitivity to and value for diversity, and managing stress and controlling emotions;

(D) prepare for meetings by developing goals and objectives to achieve within a scheduled time and producing agendas;

(E) conduct and participate in meetings to accomplish work tasks by achieving goals and objectives within a scheduled time; producing meeting minutes, including decisions and next steps; and using parliamentary procedures, as needed; and

(F) employ mentoring skills to inspire and teach others.

(8) The student applies ethical decision making and understands and complies with laws regarding use of technology in printing. The student is expected to:

(A) demonstrate an understanding of ethical conduct;

(B) understand copyright laws;

(C) model respect for intellectual property;

(D) demonstrate proper etiquette and knowledge of acceptable use policies;

(E) understand Creative Commons laws, including all licensing; and

(F) analyze the impact of the printing industry on society.

(9) The student develops career-building characteristics. The student is expected to:

(A) understand the use and importance of a portfolio in documenting information such as work experiences, licenses, certifications, and work samples;

(B) demonstrate skills in evaluating and comparing employment opportunities; and

(C) examine employment opportunities in entrepreneurship.

(10) The student applies technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(11) The student develops an advanced understanding of printing and imaging. The student is expected to:

(A) understand printing systems;

(B) explain how to manage the printing process;

(C) describe how to prepare customer materials for printing;

(D) understand a variety of printing processes;

(E) explain ink processes used for various types of printing, identify ink types, and describe how properties of ink affect coverage, color, and color separation;

(F) explain the uses of papers, including weights and finishes used for various types of printing;

(G) explain cleanup and maintenance of equipment;

(H) identify and use the principles of design to discuss, analyze, critique, and write about visual aspects in print design, including the student's own designs; and

(I) demonstrate knowledge of the principles of design in print design images with a focus on composition, color, design, shape, shadow, negative space, and background.

§130.97. Printing and Imaging Technology II Lab (One Credit), Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 10-12. Corequisite: Printing and Imaging Technology II. This course must be taken concurrently with Printing and Imaging Technology II and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with Printing and Imaging Technology II to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in printing span all aspects of the industry, including prepress, press, and finishing and bindery operations. In addition to developing advanced knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an advanced understanding of the printing industry with a focus on digital prepress and desktop digital publishing.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) participate in training, education, or certification for employment;

(B) identify and demonstrate positive work behaviors and personal qualities needed to be employable;

(C) demonstrate skills related to seeking, applying for, and obtaining a desired job, including identifying job opportunities, developing a resume and letter of application, completing a job application, and demonstrating effective interview skills;

(2) The student applies academic knowledge and skills in printing and imaging projects. The student is expected to:

(A) apply English language arts knowledge and skills in accordance with industry standards to a variety of written documents; and

(B) apply mathematics knowledge and skills in accordance with industry standards to solve a problem.

(3) The student applies professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

(D) deliver formal and informal presentations;

(E) demonstrate active listening skills to obtain and clarify information;

(F) listen to and speak with diverse individuals; and

(G) demonstrate public relations skills to increase internal and external customer/client satisfaction.

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications. The student is expected to use personal information management, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for printing and imaging projects.

(6) The student applies safety regulations. The student is expected to:

(A) implement personal and workplace safety rules and regulations; and

(B) follow emergency procedures.

(7) The student applies leadership characteristics to student leadership and professional development activities. The student is expected to:

(A) employ leadership skills to accomplish goals and objectives by analyzing the various roles of leaders within organizations, exhibiting problem-solving and management traits, describing effective leadership styles, and participating in civic and community leadership and teamwork opportunities to enhance skills;

(B) employ teamwork and conflict-management skills to achieve collective goals;

(C) establish and maintain effective working relationships by providing constructive praise and criticism, demonstrating sensitivity to and value for diversity, and managing stress and controlling emotions;

(D) prepare for meetings by developing goals and objectives to achieve within a scheduled time and producing agendas;

(E) conduct and participate in meetings to accomplish work tasks by achieving goals and objectives within a scheduled time; producing meeting minutes, including decisions and next steps; and using parliamentary procedures, as needed; and

(F) employ mentoring skills to inspire and teach others.

(8) The student applies ethical decision making and understands and complies with laws regarding use of technology in printing. The student is expected to:

(A) demonstrate an understanding of ethical conduct;

(B) apply copyright laws;

(C) model respect for intellectual property;

(D) demonstrate proper etiquette and knowledge of acceptable use policies; and

(E) understand Creative Commons laws, including all licensing.

(9) The student develops career-building characteristics. The student is expected to:

(A) maintain and update a portfolio to document information such as work experiences, licenses, certifications, and work samples; and

(B) demonstrate skills in evaluating and comparing employment opportunities.

(10) The student applies technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(11) The student develops an advanced understanding of printing and imaging. The student is expected to:

(A) understand printing systems and their uses;

(B) demonstrate print process management;

(C) prepare customer materials for printing;

(D) demonstrate and apply a variety of printing processes;

(E) demonstrate industry standard ink processes used for various types of printing, identify ink types, and describe how properties of ink affect coverage, color, and color separation;

(F) demonstrate knowledge of papers, including weights and finishes used for various types of printing; and

(G) perform cleanup and maintenance of equipment.

§130.98. *Commercial Photography I (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9-12. Recommended corequisite: Commercial Photography I Lab. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in commercial photography require skills that span all aspects of the industry from setting up a shot to delivering products in a competitive market. In addition to developing knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop

an understanding of the commercial photography industry with a focus on creating quality photographs.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify and participate in training, education, or certification for employment;

(B) identify and demonstrate positive work behaviors and personal qualities needed to be employable; and

(C) demonstrate skills related to finding and obtaining a desired job.

(2) The student applies academic knowledge and skills in commercial photography. The student is expected to:

(A) apply English language arts knowledge and skills in accordance with industry standards to a variety of written documents; and

(B) apply mathematics knowledge and skills in accordance with industry standards to solve a problem.

(3) The student applies professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills.

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications. The student is expected to use personal information management, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for commercial photography projects.

(6) The student understands commercial photography systems. The student is expected to analyze and summarize the history and evolution of commercial photography.

(7) The student applies safety regulations. The student is expected to:

(A) implement personal and workplace safety rules and regulations in a photography studio and lab; and

(B) follow emergency procedures.

(8) The student applies leadership characteristics to student leadership and professional development activities. The student is expected to:

(A) employ communication skills;

(B) employ teamwork and conflict-management skills;

(C) conduct and participate in meetings; and

(D) employ mentoring skills.

(9) The student applies ethical decision making and understands and complies with laws regarding use of technology in commercial photography. The student is expected to:

(A) demonstrate an understanding of ethical conduct related to interacting with others such as maintaining client confidentiality and privacy of sensitive content and providing proper credit for ideas;

(B) discuss and apply copyright laws in relation to fair use and duplication of images;

(C) model respect for intellectual property when manipulating, morphing, and editing digital images;

(D) analyze the impact of photography on society; and

(E) understand Creative Commons laws, including all licensing.

(10) The student develops career-building characteristics. The student is expected to:

(A) create a portfolio to document information such as work experiences, licenses, certifications, and work samples; and

(B) examine employment opportunities in entrepreneurship.

(11) The student applies technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(12) The student develops a basic understanding of commercial photography. The student is expected to:

(A) research career opportunities and qualifications in photography;

(B) research the history and evolution of photography;

(C) analyze principles of commercial photography such as working with clients, interpreting client instructions, developing production schedules, and delivering products in a competitive market;

(D) analyze and apply the elements and principles of art to photographs;

(E) demonstrate knowledge of different types of cameras and lenses and their applications to photography;

(F) demonstrate knowledge of photographic composition and layout;

(G) demonstrate knowledge of different types of photographic media;

(H) demonstrate knowledge of the basics of digital photography;

(I) demonstrate knowledge of photographic lighting techniques, including three-point lighting;

(J) identify characteristics and uses of various types of photographic paper;

(K) demonstrate an understanding of standard conventions for mounting, matting, or framing;

(L) produce a variety of photographs using appropriate, current, industry-standard production processes;

(M) evaluate photographs using principles of art, commercial photography standards, and critical-thinking skills;

(N) understand resolution and digital file format;

(O) identify and use the principles of design to discuss, analyze, critique, and write about visual aspects in photographic work, including the student's own work; and

(P) demonstrate knowledge of the principles of design in photographic work with a focus on composition, color, design, shape, shadow, negative space, and background.

§130.99. Commercial Photography I Lab (One Credit), Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 9-12. Corequisite: Commercial Photography I. This course must be taken concurrently with Commercial Photography I and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with Commercial Photography I to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in commercial photography require skills that span all aspects of the industry from setting up a shot to delivering products in a competitive market. In addition to developing knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an understanding of the commercial photography industry with a focus on creating quality photographs.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify and participate in training, education, or certification for employment;

(B) identify and demonstrate positive work behaviors and personal qualities needed to be employable; and

(C) demonstrate skills related to seeking employment to find and obtain a desired job.

(2) The student applies academic knowledge and skills in commercial photography. The student is expected to:

(A) apply English language arts knowledge and skills in accordance with industry standards to a variety of written documents; and

(B) apply mathematics knowledge and skills in accordance with industry standards to solve a problem.

(3) The student applies professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications. The student is expected to use personal information management, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for commercial photography projects.

(6) The student understands commercial photography systems. The student is expected to analyze and summarize the history and evolution of commercial photography.

(7) The student applies safety regulations. The student is expected to:

(A) implement personal and workplace safety rules and regulations in a photography studio and lab; and

(B) follow emergency procedures.

(8) The student applies leadership characteristics to student leadership and professional development activities. The student is expected to:

(A) employ communication skills;

(B) employ teamwork and conflict-management skills;

(C) conduct and participate in meetings; and

(D) employ mentoring skills.

(9) The student applies ethical decision making and understands and complies with laws regarding use of technology in commercial photography. The student is expected to:

(A) demonstrate an understanding of ethical conduct related to interacting with others such as maintaining client confidentiality and privacy of sensitive content and providing proper credit for ideas;

(B) discuss and apply copyright laws in relation to fair use and duplication of images;

(C) model respect for intellectual property when manipulating, morphing, and editing digital images;

(D) analyze the impact of photography on society; and

(E) understand Creative Commons Laws, including all licensing.

(10) The student develops career-building characteristics. The student is expected to:

(A) create a portfolio to document information such as work experiences, licenses, certifications, and work samples; and

(B) examine employment opportunities in entrepreneurship.

(11) The student applies technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(12) The student demonstrates a basic understanding of commercial photography. The student is expected to:

(A) analyze principles of commercial photography such as working with clients, interpreting client instructions, developing production schedules, and delivering products in a competitive market;

(B) analyze and apply the elements and principles of art to photographs;

(C) demonstrate knowledge of different types of cameras and lenses and their applications to photography;

(D) demonstrate knowledge of photographic composition and layout;

(E) demonstrate knowledge of the characteristics of different types of photographic media;

(F) demonstrate knowledge of the basics of digital photography;

(G) demonstrate knowledge of photographic lighting techniques, including three-point lighting;

(H) identify characteristics and uses of various types of photographic paper;

(I) demonstrate an understanding of standard conventions for mounting, matting, or framing;

(J) produce a variety of photographs using appropriate, current, industry-standard production processes;

(K) evaluate photographs using principles of art, commercial photography standards, and critical-thinking skills; and

(L) demonstrate an understanding of resolutions and digital file format.

§130.100. *Commercial Photography II (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisites: Commercial Photography I and Commercial Photography I Lab. Recommended

corequisite: Commercial Photography II Lab. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in commercial photography span all aspects of the industry from setting up a shot to delivering products in a competitive market. In addition to developing advanced technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an advanced technical understanding of the commercial photography industry with a focus on producing, promoting, and presenting professional quality photographs.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) participate in training, education, or certification for employment;

(B) demonstrate positive work behaviors and personal qualities needed to be employable; and

(C) demonstrate skills related to seeking, applying for, and obtaining a desired job, including identifying job opportunities, developing a resume and letter of application, completing a job application, and demonstrating effective interview skills.

(2) The student applies academic knowledge and skills in commercial photography. The student is expected to:

(A) apply English language arts knowledge and skills in accordance with industry standards to a variety of written documents; and

(B) apply mathematics knowledge and skills in accordance with industry standards to solve a problem.

(3) The student applies professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

(D) deliver formal and informal presentations;

(E) apply active listening skills to obtain and clarify information;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills to increase internal and external customer/client satisfaction.

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications. The student is expected to use personal information management, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for commercial photography projects.

(6) The student applies knowledge of commercial photography systems. The student is expected to analyze and summarize the history and evolution of the commercial photography field.

(7) The student applies safety regulations. The student is expected to:

(A) implement personal and workplace safety rules and regulations in a photography studio and lab; and

(B) follow emergency procedures.

(8) The student applies leadership characteristics to student leadership and professional development activities. The student is expected to:

(A) employ leadership skills to accomplish goals and objectives by analyzing the various roles of leaders with organizations, exhibiting problem-solving and management traits, describing effective leadership styles, and participating in civic and community leadership and teamwork opportunities;

(B) employ teamwork and conflict-management skills to achieve collective goals;

(C) establish and maintain effective working relationships by providing constructive praise and criticism, demonstrating sensitivity to and value for diversity, and managing stress and controlling emotions;

(D) prepare for meetings by developing goals and objectives to achieve within a scheduled time and producing agendas;

(E) conduct and participate in meetings to accomplish work tasks by achieving goals and objectives within a scheduled time; producing meeting minutes, including decisions and next steps; and using parliamentary procedures, as needed; and

(F) employ mentoring skills to inspire and teach others.

(9) The student applies ethical decision making and complies with laws regarding use of technology in commercial photography. The student is expected to:

(A) demonstrate an understanding of ethical conduct related to interacting with others such as maintaining client confidentiality and privacy of sensitive content and providing proper credit for ideas;

(B) discuss and apply copyright laws in relation to fair use and duplication of images;

(C) model respect for intellectual property when manipulating, morphing, and editing digital images; and

(D) demonstrate proper etiquette and knowledge of acceptable use policies, including Creative Commons laws and licensing.

(10) The student develops career-building characteristics. The student is expected to:

(A) maintain and update a portfolio with information such as work experiences, licenses, certifications, and work samples; and

(B) demonstrate skills in evaluating and comparing employment opportunities.

(11) The student applies technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks such as creating quotes and budgeting.

(12) The student develops an increased understanding of commercial photography. The student is expected to:

(A) identify photographs for commercial photography;

(B) recognize the elements and principles of art as they apply to a variety of commercial photography projects;

(C) use principles of commercial photography such as working with clients, interpreting client instructions, developing production schedules, and delivering products in a competitive market;

(D) identify appropriate cameras and lenses;

(E) recognize appropriate photographic composition and layout principles;

(F) identify the use of appropriate digital black and white and color photography;

(G) understand the use of effective photographic lighting techniques, including three-point, studio, portraiture, and product;

(H) recognize the elements of professional quality photographs;

(I) identify the most appropriate types of photographic paper for projects;

(J) recognize appropriate solutions for mounting, matting, or framing photographs;

(K) understand appropriate, current, and industry-standard production processes to produce photographs;

(L) evaluate photographs using principles of art, commercial photography standards, and critical-thinking skills;

(M) identify appropriate resolution and digital file formats;

(N) identify and use the principles of design to discuss, analyze, critique, and write about visual aspects of photographic work, including the student's own work; and

(O) demonstrate knowledge of the principles of design in photographic work with a focus on composition, color, design, shape, shadow, negative space, and background.

§130.101. *Commercial Photography II Lab (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisites: Commercial Photography I and Commercial Photography I Lab. Corequisite: Commercial Photography II. This course must be taken concurrently with

Commercial Photography II and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with Commercial Photography II to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in commercial photography span all aspects of the industry from setting up a shot to delivering products in a competitive market. In addition to developing advanced technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an advanced technical understanding of the commercial photography industry with a focus on producing, promoting, and presenting professional quality photographs.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) participate in training, education, or certification for employment;

(B) demonstrate positive work behaviors and personal qualities needed to be employable; and

(C) demonstrate skills related to seeking, applying for, and obtaining a desired job, including identifying job opportunities, developing a resume and letter of application, completing a job application, and demonstrating effective interview skills.

(2) The student applies academic knowledge and skills in commercial photography. The student is expected to:

(A) apply English language arts knowledge and skills in accordance with industry standards to a variety of written documents; and

(B) apply mathematics knowledge and skills in accordance with industry standards to solve a problem.

(3) The student applies professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

(D) deliver formal and informal presentations;

(E) apply active listening skills to obtain and clarify information;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills to increase internal and external customer/client satisfaction.

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications. The student is expected to use personal information management, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for commercial photography projects.

(6) The student applies knowledge of commercial photography systems. The student is expected to analyze and summarize the history and evolution of the commercial photography field.

(7) The student applies safety regulations. The student is expected to:

(A) implement personal and workplace safety rules and regulations in a photography studio and lab; and

(B) follow emergency procedures.

(8) The student applies leadership characteristics to student leadership and professional development activities. The student is expected to:

(A) employ leadership skills to accomplish goals and objectives by analyzing the various roles of leaders with organizations, exhibiting problem-solving and management traits, describing effective leadership styles, and participating in civic and community leadership and teamwork opportunities;

(B) employ teamwork and conflict-management skills to achieve collective goals;

(C) establish and maintain effective working relationships by providing constructive praise and criticism, demonstrating sensitivity to and value for diversity, and managing stress and controlling emotions;

(D) prepare for meetings by developing goals and objectives to achieve within a scheduled time and producing agendas;

(E) conduct and participate in meetings to accomplish work tasks by achieving goals and objectives within a scheduled time; producing meeting minutes, including decisions and next steps; and using parliamentary procedures, as needed; and

(F) employ mentoring skills to inspire and teach others.

(9) The student applies ethical decision making and complies with laws regarding use of technology in commercial photography. The student is expected to:

(A) demonstrate an understanding of ethical conduct related to interacting with others such as maintaining client confidentiality and privacy of sensitive content and providing proper credit for ideas;

(B) discuss and apply copyright laws in relation to fair use and duplication of images;

(C) model respect for intellectual property when manipulating, morphing, and editing digital images; and

(D) demonstrate proper etiquette and knowledge of acceptable use policies, including Creative Commons laws and licensing.

(10) The student develops career-building characteristics. The student is expected to:

(A) maintain and update a portfolio to document information such as work experiences, licenses, certifications, and work samples; and

(B) demonstrate skills in evaluating and comparing employment opportunities.

(11) The student applies technical skills for efficiency. The student is expected to:

(A) employ planning and time-management skills to complete work tasks such as creating quotes and budgeting; and

(B) demonstrate skills in budgeting and creating quotes for freelance or contract projects.

(12) The student develops an increased understanding of commercial photography. The student is expected to:

(A) create photographs for defined purposes;

(B) apply the elements and principles of art to a variety of commercial photography projects;

(C) demonstrate the principles of commercial photography such as working with clients, interpreting client instructions, developing production schedules, and delivering products in a competitive market;

(D) demonstrate the use of appropriate cameras and lenses;

(E) apply appropriate photographic composition and layout principles;

(F) demonstrate appropriate digital black and white and color photography;

(G) apply effective photographic lighting techniques, including three point, studio, portraiture, and product;

(H) produce professional quality photographs;

(I) use the most appropriate types of photographic paper for projects;

(J) use the most appropriate solutions for mounting, matting, or framing photographs;

(K) demonstrate use of appropriate, current, and industry-standard production processes to produce photographs;

(L) evaluate photographs using principles of art, commercial photography standards, and critical-thinking skills; and

(M) demonstrate use of appropriate resolution and digital file formats.

§130.102. Fashion Design I (One Credit), Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Principles of Arts, Audio/Video Technology, and Communications. Recommended corequisite: Fashion Design I Lab. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in fashion span all aspects of the textile and apparel industries. Within this context, in addition to developing technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an understanding of the fashion industry with an emphasis on design and construction.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify training, education, or certification for employment;

(B) demonstrate positive work behaviors and personal qualities needed to be employable;

(C) demonstrate skills related to seeking and applying for employment;

(D) create a career portfolio to document work samples; and

(E) examine employment opportunities in entrepreneurship.

(2) The student applies academic knowledge and skills in fashion, textile, and apparel projects. The student is expected to:

(A) apply English language arts knowledge by demonstrating skills such as correct use of content, technical concepts, vocabulary, grammar, punctuation, and terminology to write and edit a variety of documents; and

(B) apply mathematics knowledge and skills such as using whole numbers, decimals, fractions, and knowledge of arithmetic operations.

(3) The student applies professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) communicate with diverse individuals; and

(G) exhibit public relations skills.

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications. The student is expected to use personal information management, email, Internet, and industry programs for fashion, textiles, and apparel projects.

(6) The student understands fashion, textile, and apparel systems. The student is expected to:

(A) analyze the history of the fashion, textiles, and apparel field; and

(B) compare fashion history relative to current fashions trends.

(7) The student applies safety regulations. The student is expected to implement personal and workplace safety rules and procedures.

(8) The student applies leadership characteristics in classroom and professional settings. The student is expected to:

(A) employ leadership skills;

(B) apply characteristics of effective working relationships;

(C) participate in groups; and

(D) employ mentoring skills.

(9) The student applies ethical decision making with laws regarding use of technology in fashion, textiles, and apparel. The student is expected to:

(A) exhibit ethical conduct such as maintaining client confidentiality and privacy of sensitive content and providing proper credit for ideas;

(B) identify and apply copyright laws; and

(C) analyze fashion industry influences on society.

(10) The student applies technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(11) The student analyzes the nature of fashion. The student is expected to:

(A) explain the value of fashion;

(B) identify the spectrum of the fashion industry;

(C) identify prominent fashion publications;

(D) evaluate the fashion cycle; and

(E) use appropriate terminology.

(12) The student evaluates factors influencing the apparel industry. The student is expected to:

(A) describe the interrelationship of the U.S. and international economies;

(B) identify and discuss labor laws of the United States and other countries;

(C) recognize procedures within the apparel industry that protect the environment; and

(D) describe technological advancements influencing the apparel industry.

(13) The student analyzes factors that impact consumer purchasing of fashion and apparel accessories. The student is expected to:

(A) describe social, cultural, and life cycle influences;

(B) explain how fashion trends are determined;

(C) analyze the influence of advertising on consumer apparel choices; and

(D) determine apparel management techniques for individuals with special needs.

(14) The student selects proper care and maintenance practices for apparel. The student is expected to:

(A) interpret labeling information to determine care procedures for apparel products;

(B) evaluate clothing care products and equipment;

(C) determine proper equipment and services related to care, maintenance, and storage of apparel;

(D) identify proper safety procedures when using care products and equipment; and

(E) analyze the impact of clothing care requirements on clothing selection and the clothing budget.

(15) The student applies skills related to commercial care of clothing. The student is expected to:

(A) identify procedures to receive, mark, and identify laundry or dry cleaning;

(B) identify appropriate laundry and dry cleaning procedures;

(C) identify safety and sanitation procedures while laundering, pressing, or dry cleaning;

(D) describe commercial laundry or dry cleaning techniques; and

(E) identify pressing procedures.

(16) The student proposes ways to effectively manage the apparel dollar. The student is expected to:

(A) develop a budget for apparel and accessory costs, care, and maintenance;

(B) compare various sources for apparel and accessory purchases;

(C) analyze the impact of technology on consumer apparel purchasing options; and

(D) develop and implement ideas for recycling apparel.

(17) The student designs apparel products using principles of effective design. The student is expected to:

(A) identify basic body types;

(B) identify and apply proportion, balance, emphasis, rhythm, and harmony for specific fashion ensembles;

(C) determine clothing silhouettes, fabric selection, and design elements appropriate for specific body types;

(D) use design principles to design products for the human form, including adaptations for individuals with special needs;

(E) sketch fashion drawings using basic design tools and techniques such as fashion drawing, draping, and flat pattern methods for fitting a garment; and

(F) apply technology applications useful in the apparel design process.

(18) The student designs apparel products using elements of effective design. The student is expected to:

(A) identify and apply shape, line, form, color, and texture for specific fashion ensembles;

(B) determine clothing silhouettes, fabric selection, and design elements appropriate for specific body types; and

(C) use design elements to design products for the human form, including adaptations for individuals with special needs.

§130.103. Fashion Design I Lab (One Credit), Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Principles of Arts, Audio/Video Technology, and Communications. Corequisite: Fashion Design I. This class must be taken concurrently with Fashion Design I and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with Fashion Design I to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in fashion span all aspects of the textile and apparel industries. Within this context, in addition to developing technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an understanding of the fashion industry with an emphasis on design and construction.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) participate in training, education, or certification for employment;

(B) demonstrate positive work behaviors and personal qualities needed to be employable;

(C) demonstrate skills related to seeking and applying for employment; and

(D) create a career portfolio to document work samples.

(2) The student applies academic knowledge and skills in fashion, textile, and apparel projects. The student is expected to:

(A) apply English language arts knowledge by demonstrating skills such as correct use of content, technical concepts, vocabulary, grammar, punctuation, and terminology to write and edit a variety of documents; and

(B) apply mathematics knowledge and skills such as using whole numbers, decimals, fractions, and knowledge of arithmetic operations.

(3) The student applies professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) communicate with diverse individuals; and

(G) exhibit public relations skills.

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications. The student is expected to use personal information management, email, Internet, and industry programs for fashion, textiles, and apparel projects.

(6) The student analyzes the history of the fashion, textiles, and apparel field. The student is expected to:

(A) compare fashion history relative to current fashions trends; and

(B) evaluate how historical events and attitudes influence fashion trends.

(7) The student applies safety regulations. The student is expected to implement personal and workplace safety rules and procedures.

(8) The student applies leadership characteristics in classroom and professional settings. The student is expected to:

(A) employ leadership skills;

(B) apply characteristics of effective working relationships;

(C) participate in groups; and

(D) employ mentoring skills.

(9) The student applies ethical decision making with laws regarding use of technology in fashion, textiles, and apparel. The student is expected to:

(A) exhibit ethical conduct such as maintaining client confidentiality and privacy of sensitive content and providing proper credit for ideas;

(B) apply copyright laws; and

(C) evaluate fashion industry influences on society.

(10) The student applies technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(11) The student analyzes the nature of fashion. The student is expected to:

(A) analyze prominent fashion publications; and

(B) analyze trends using the fashion cycle.

(12) The student analyzes fiber and textile characteristics. The student is expected to:

(A) identify fibers and textiles;

(B) evaluate water resistance, heat sensitivity, and colorfastness of various textiles;

(C) evaluate textile products as to suitability for varied apparel uses; and

(D) distinguish textile selvage and grain line.

(13) The student selects proper care and maintenance practices for apparel. The student is expected to:

(A) use appropriate care procedures for textile products; and

(B) use appropriate care procedures for apparel products.

(14) The student applies skills related to commercial care of clothing. The student is expected to:

(A) demonstrate safety and sanitary procedures while laundering, pressing, or dry cleaning; and

(B) demonstrate pressing procedures.

(15) The student analyzes the apparel production process from design concept to finished product. The student is expected to:

(A) identify and describe equipment needed for the apparel production process; and

(B) outline the apparel construction process.

(16) The student applies knowledge of fibers, fabrics, and design when evaluating and designing textile products. The student is expected to:

(A) identify characteristics and properties of natural and manufactured fibers;

(B) describe methods of textile production; and

(C) assess the effects of various environmental conditions on textiles.

(17) The student demonstrates effective repair and alteration techniques. The student is expected to:

(A) use appropriate measurement tools and measurement units;

(B) demonstrate appropriate use, selection, and care of equipment, tools, and notions;

(C) apply design principles and elements when altering apparel;

(D) apply safety procedures while operating equipment; and

(E) determine apparel design and alterations to accommodate individuals with special needs.

(18) The student demonstrates effective construction techniques. The student is expected to:

(A) apply principles of quality apparel construction;

(B) apply design principles and elements when designing and constructing apparel;

(C) apply appropriate construction and pressing techniques in apparel and textile construction; and

(D) describe pattern parts and terminology.

§130.104. *Fashion Design II (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisite: Fashion Design I. Recommended corequisite: Fashion Design II Lab. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in fashion span all aspects of the textile and apparel industries. Within this context, in addition to developing technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an understanding of the fashion industry with an emphasis on design and construction.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify and participate in training, education, or certification for employment;

(B) identify and demonstrate positive work behaviors and personal qualities needed to be employable;

(C) demonstrate skills related to seeking and applying for employment to find and obtain a desired job;

(D) create a career portfolio to document information such as work experiences, licenses, certifications, and work samples; and

(E) examine employment opportunities in entrepreneurship.

(2) The student applies academic knowledge and skills in fashion, textile, and apparel projects. The student is expected to:

(A) apply English language arts knowledge by demonstrating skills such as correct use of content, technical concepts, vocabulary, grammar, punctuation, and terminology to write and edit a variety of documents; and

(B) apply mathematics knowledge and skills such as using whole numbers, decimals, fractions, and knowledge of arithmetic operations.

(3) The student applies professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) communicate with diverse individuals; and

(G) exhibit public relations skills.

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications. The student is expected to use personal information management, email, Internet, and industry programs for fashion, textiles, and apparel projects.

(6) The student analyzes the history of the fashion, textiles, and apparel field. The student is expected to analyze fashion history relative to current fashions trends.

(7) The student applies safety regulations. The student is expected to implement personal and workplace safety rules and procedures.

(8) The student applies leadership characteristics in classroom and professional settings. The student is expected to:

(A) employ leadership skills to accomplish collective goals;

(B) establish and maintain practices for effective working relationships such as providing constructive praise and criticism, demonstrating sensitivity to and value for diversity, and managing stress and controlling emotions;

(C) conduct and participate in meetings using parliamentary procedure; and

(D) employ mentoring skills to inspire others.

(9) The student demonstrates ethical decision making and complies with legal practices pertaining to fashion, textiles, and apparel. The student is expected to:

(A) exhibit ethical conduct as defined by the fashion and apparel industries;

(B) apply copyright laws;

(C) model respect for intellectual property;

(D) demonstrate knowledge of acceptable use policies;

(E) summarize the rights and responsibilities of employers and employees; and

(F) analyze legal aspects of the fashion and apparel industries.

(10) The student applies advanced technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(11) The student describes how garment development and fashion have evolved from ancient times to present day. The student is expected to:

(A) evaluate significant historic fashions from early civilizations to today;

(B) describe social influences that have affected fashion;

(C) explain values communicated through clothing in specific historical periods;

(D) show the influence of historic fashions on current-year fashion; and

(E) identify prominent historical designers.

(12) The student analyzes various types of worldwide fashion production. The student is expected to:

(A) describe mass production techniques; and

(B) describe the development of haute couture.

(13) The student determines design influences on the fashion industry. The student is expected to:

(A) explain the role of leading designers in determining fashion trends;

(B) analyze international factors affecting fashion design;

(C) determine the impact of technology on the design industry; and

(D) determine the impact of design decisions on product cost.

(14) The student creates a portfolio of fashion designs. The student is expected to:

(A) demonstrate fashion figure drawing;

(B) apply design elements and principles to create fashion drawings;

(C) demonstrate the properties and characteristics of color;

(D) use computer-aided techniques to create fashion designs;

(E) select appropriate textiles to use in specific designs; and

(F) assemble portfolio components to present fashion designs.

(15) The student demonstrates basic techniques in personal fashion image analysis. The student is expected to:

- (A) describe techniques used to analyze the fashion image of individual clients;
- (B) analyze factors involved in fashion image consulting such as personal coloring, color harmonies, appropriate fabric textures, body proportion and silhouette, figure, facial and hair analysis, and wardrobe coordination; and
- (C) develop a personal fashion image evaluation for an individual.

§130.105. *Fashion Design II Lab (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisite: Fashion Design I. Corequisite: Fashion Design II. This course must be taken concurrently with Fashion Design II and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with Fashion Design II to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in fashion span all aspects of the textile and apparel industries. Within this context, in addition to developing technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an understanding of the fashion industry with an emphasis on design and construction.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

- (A) identify and participate in training, education, or certification for employment;
- (B) identify and demonstrate positive work behaviors and personal qualities needed to be employable;
- (C) demonstrate skills related to seeking and applying for employment to find and obtain a desired job;
- (D) create a career portfolio to document information such as work experiences, licenses, certifications, and work samples; and
- (E) examine employment opportunities in entrepreneurship.

(2) The student applies academic knowledge and skills in fashion, textile, and apparel projects. The student is expected to:

(A) apply English language arts knowledge by demonstrating skills such as correct use of content, technical concepts, vocabulary, grammar, punctuation, and terminology to write and edit a variety of documents; and

(B) apply mathematics knowledge and skills such as using whole numbers, decimals, fractions, and knowledge of arithmetic operations.

(3) The student applies professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) communicate with diverse individuals; and

(G) exhibit public relations skills.

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications. The student is expected to use personal information management, email, Internet, word processors, industry programs, slide show presentation, and spreadsheet applications for fashion, textiles, and apparel projects.

(6) The student understands fashion, textile, and apparel systems. The student is expected to analyze and summarize the history and evolution of the fashion, textiles, and apparel field.

(7) The student applies safety regulations. The student is expected to implement personal and workplace safety rules and procedures.

(8) The student applies leadership characteristics in classroom and professional settings. The student is expected to:

(A) employ leadership skills to accomplish goals and objectives by analyzing the various roles of leaders within organizations, exhibiting problem-solving and management traits, describing effective leadership styles, and participating in civic and community leadership and teamwork opportunities to enhance skills;

(B) establish and maintain effective working relationships by providing constructive praise and criticism, demonstrating sensitivity to and value for diversity, and managing stress and controlling emotions;

(C) conduct and participate in meetings using parliamentary procedure; and

(D) employ mentoring skills to inspire and teach others.

(9) The student demonstrates ethical decision making and complies with legal practices pertaining to fashion, textiles, and apparel. The student is expected to:

- (A) exhibit ethical conduct;
- (B) apply copyright laws;
- (C) model respect for intellectual property;
- (D) demonstrate knowledge of acceptable use policies;
- (E) summarize the rights and responsibilities of employers and employees;
- (F) exhibit ethical practices as defined by the fashion and apparel industries; and
- (G) analyze legal aspects of the fashion and apparel industries.

(10) The student applies advanced technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(11) The student performs operations for various roles in the fashion industry. The student is expected to:

- (A) identify tasks that employees may perform;
- (B) follow procedures identified for performing tasks;

and

(C) apply resource management procedures when completing assigned tasks.

(12) The student determines textile suitability for specific applications and uses. The student is expected to:

- (A) compare processes for dyeing, printing, and finishing used in the textile industry;
- (B) explain how finishes affect the characteristics of fabrics; and
- (C) recommend care procedures for various textile products.

(13) The student determines implications of textile characteristics on apparel and fashion. The student is expected to:

- (A) outline the textile design process from concept to finished product;
- (B) differentiate types and methods of textile production;
- (C) summarize implications and methods of dyeing, printing, and finishing of textiles;
- (D) determine textile and apparel labeling requirements; and
- (E) determine factors affecting the cost of textile products.

(14) The student creates a portfolio of fashion designs. The student is expected to:

- (A) demonstrate fashion figure drawing;
- (B) apply design elements and principles to create fashion drawings;
- (C) use computer-aided techniques to create fashion designs;
- (D) select appropriate textiles to use in specific designs; and
- (E) assemble portfolio components to present fashion designs.

(15) The student produces quality fashion products. The student is expected to:

- (A) outline general procedures and equipment used in apparel design and pattern development;
- (B) construct custom made garments using appropriate tools, equipment, and supplies;
- (C) develop garments for proper fit;
- (D) apply correct procedures used in garment fitting, pattern making, and pattern alterations;
- (E) construct custom made garments; and
- (F) demonstrate safety practices related to garment construction.

(16) The student demonstrates basic techniques in personal fashion image analysis. The student is expected to:

- (A) describe techniques used to analyze the fashion image of individual clients;
- (B) analyze factors involved in fashion image consulting such as personal coloring, color harmonies, appropriate fabric textures, body proportion and silhouette, figure, facial and hair analysis, and wardrobe coordination; and
- (C) develop a personal fashion image evaluation for an individual.

§130.106. *Graphic Design and Illustration I (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Principles of Arts, Audio/Video Technology, and Communications. Recommended corequisite: Graphic Design and Illustration I Lab. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster is focused on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in graphic design and illustration span all aspects of the advertising and visual communications industries. Within this context, in addition to developing knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an understanding of the industry with a focus on fundamental elements and principles of visual art and design.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify and participate in training, education, or certification for employment;

(B) identify and demonstrate positive work behaviors and personal qualities needed to be employable;

(C) demonstrate skills related to seeking employment to find and obtain a desired job;

(D) maintain a career portfolio to document information such as work experiences, licenses, certifications, and work samples; and

(E) examine employment opportunities in entrepreneurship.

(2) The student applies academic knowledge and skills in art and design projects. The student is expected to:

(A) apply English language arts knowledge by demonstrating skills such as correct use of content, technical concepts, vocabulary, grammar, punctuation, and terminology to write and edit a variety of documents; and

(B) apply mathematics knowledge and skills such as using whole numbers, decimals, fractions, and knowledge of arithmetic operations.

(3) The student understands professional communications strategies. The student is expected to:

(A) adapt language such as structure and style for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills.

(4) The student understands and employs problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications. The student is expected to use personal information management, email, Internet, writing and publishing, and presentation applications for art and design projects.

(6) The student understands design systems. The student is expected to analyze and summarize the history and evolution of related fields.

(7) The student applies cyber safety procedures. The student is expected to implement personal and professional safety rules and regulations.

(8) The student applies leadership characteristics to student leadership and professional development activities. The student is expected to:

(A) employ leadership skills;

(B) employ teamwork and conflict-management skills;

(C) conduct and participate in meetings; and

(D) employ mentoring skills.

(9) The student applies ethical decision making and understands and complies with laws regarding use of technology in graphic design and illustration. The student is expected to:

(A) exhibit ethical conduct related to interacting with others such as maintaining client confidentiality and privacy of sensitive content and providing proper credit for ideas;

(B) discuss and apply copyright laws in relation to fair use and acquisition;

(C) model respect for intellectual property;

(D) demonstrate proper etiquette and knowledge of acceptable use policies; and

(E) analyze the impact of the advertising and visual communication design industry on society.

(10) The student applies technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(11) The student develops an increasing understanding of graphic design and illustration. The student is expected to research art and design career opportunities and qualifications.

(12) The student researches the history and evolution of art and design. The student is expected to:

(A) explain the history of visual arts and design;

(B) understand general characteristics in artwork from a variety of cultures; and

(C) compare current visual arts technologies with historical technologies.

(13) The student conducts oral or written critiques of designs. The student is expected to:

(A) interpret, evaluate, and justify design decisions;

(B) apply a critical method of evaluation;

(C) communicate an oral or written defense; and

(D) evaluate oral or written feedback.

(14) The student demonstrates an understanding of artistic design. The student is expected to analyze and apply art elements and principles in photographic works, multimedia applications, and digital and print media.

(15) The student employs a creative design process to create original two- or three-dimensional projects. The student is expected to:

(A) create designs for defined applications;

(B) apply elements of design;

(C) apply design principles and typography;

(D) use good composition;

(E) demonstrate anatomical figure drawing;

(F) demonstrate drawing in one-point, two-point, and multi-point perspective;

(G) create a project by applying color; and

(H) apply printing concepts.

§130.107. *Graphic Design and Illustration I Lab (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Principles of Arts, Audio/Video Technology, and Communications. Corequisite: Graphic Design and Illustration I. This class must be taken concurrently with Graphic Design and Illustration I and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with Graphic Design and Illustration I to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster is focused on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in graphic design and illustration span all aspects of the advertising and visual communications industries. Within this context, in addition to developing knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an understanding of the industry with a focus on fundamental elements and principles of visual art and design.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify and participate in training, education, or certification for employment;

(B) identify and demonstrate positive work behaviors and personal qualities needed to be employable;

(C) demonstrate skills related to seeking employment to find and obtain a desired job;

(D) maintain a career portfolio to document information such as work experiences, licenses, certifications, and work samples; and

(E) examine employment opportunities in entrepreneurship.

(2) The student applies academic knowledge and skills in art and design projects. The student is expected to:

(A) apply English language arts knowledge by demonstrating skills such as correct use of content, technical concepts, vo-

cabulary, grammar, punctuation, and terminology to write and edit a variety of documents; and

(B) apply mathematics knowledge and skills such as using whole numbers, decimals, fractions, and knowledge of arithmetic operations.

(3) The student understands professional communications strategies. The student is expected to:

(A) adapt language such as structure and style for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills.

(4) The student understands and employs problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student applies technology applications. The student is expected to use personal information management, email, Internet, writing and publishing and presentation applications for art and design projects.

(6) The student understands design systems. The student is expected to analyze and summarize the history and evolution of related fields.

(7) The student applies cyber safety procedures. The student is expected to implement personal and professional safety rules and regulations.

(8) The student applies leadership characteristics to student leadership and professional development activities. The student is expected to:

(A) employ leadership skills;

(B) employ teamwork and conflict-management skills;

(C) conduct and participate in meetings; and

(D) employ mentoring skills.

(9) The student applies ethical decision making and understands and complies with laws regarding use of technology in graphic design and illustration. The student is expected to:

(A) exhibit ethical conduct related to interacting with others such as maintaining client confidentiality and privacy of sensitive content and providing proper credit for ideas;

(B) apply copyright laws in relation to fair use and acquisition;

(C) model respect for intellectual property;

(D) demonstrate proper etiquette and knowledge of acceptable use policies; and

(E) analyze the impact of the advertising and visual communication design industry on society.

(10) The student applies technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(11) The student develops an increasing understanding of graphic design and illustration. The student is expected to research art and design career opportunities and qualifications.

(12) The student researches the history and evolution of art and design. The student is expected to:

(A) explain the history of visual arts and design;

(B) understand general characteristics in artwork from a variety of cultures; and

(C) compare current visual arts technologies with historical technologies.

(13) The student conducts oral or written critiques of designs. The student is expected to:

(A) interpret, evaluate, and justify design decisions;

(B) apply a critical method of evaluation;

(C) communicate an oral or written defense; and

(D) evaluate oral or written feedback.

(14) The student demonstrates an understanding of artistic design. The student is expected to analyze and apply art elements and principles in photographic works, multimedia applications, and digital and print media.

(15) The student employs a creative design process to create original two- or three-dimensional projects. The student is expected to:

(A) create designs for defined applications;

(B) apply elements of design;

(C) apply design principles and typography;

(D) use good composition;

(E) demonstrate anatomical figure drawing;

(F) demonstrate drawing in one-point, two-point, and multi-point perspective;

(G) create a project by applying color; and

(H) apply printing concepts.

§130.108. *Graphic Design and Illustration II (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Prerequisite: Graphic Design and Illustration I. Recommended corequisite: Graphic Design and Illustration II Lab. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster is focused on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in graphic design and illustration span all aspects of the advertising and visual communications industries. Within this context, in addition to developing advanced technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an advanced understanding of the industry with a focus on mastery of content knowledge and skills.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) participate in training, education, or certification for employment;

(B) demonstrate positive work behaviors and personal qualities needed to be employable;

(C) demonstrate skills related to seeking and applying for employment to find and obtain a desired job, including identifying job opportunities, developing a resume and letter of application, completing a job application, and demonstrating effective interview skills;

(D) maintain a career portfolio to document information such as work experiences, licenses, certifications, and work samples; and

(E) demonstrate skills in evaluating and comparing employment opportunities.

(2) The student applies academic knowledge and skills in art and design projects. The student is expected to:

(A) apply English language arts knowledge by demonstrating skills such as correct use of content, technical concepts, vocabulary, grammar, punctuation, and terminology to write and edit a variety of documents; and

(B) apply mathematics knowledge and skills such as using whole numbers, decimals, fractions, and knowledge of arithmetic operations.

(3) The student understands and employs problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(4) The student applies knowledge of design systems. The student is expected to analyze and summarize the history and evolution of related fields.

(5) The student applies cyber safety procedures. The student is expected to implement personal and professional safety rules and regulations.

(6) The student applies leadership characteristics to student leadership and professional development activities. The student is expected to:

(A) employ leadership skills;

- (B) employ teamwork and conflict-management skills;
- (C) conduct and participate in meetings; and
- (D) employ mentoring skills.

(7) The student applies ethical decision making and complies with laws regarding use of technology in art and design. The student is expected to:

- (A) exhibit ethical conduct;
- (B) apply copyright laws;
- (C) model respect for intellectual property;
- (D) demonstrate proper etiquette and knowledge of acceptable use policies; and
- (E) identify the impact of the advertising and visual communication design industry on society.

(8) The student applies technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(9) The student develops an advanced understanding of graphic design and illustration. The student is expected to:

- (A) interpret, evaluate, and justify design decisions;
- (B) participate in oral or written critiques of designs by applying a critical method of evaluation; and
- (C) identify and apply art elements and principles to designs and illustrations.

§130.109. Graphic Design and Illustration II Lab (One Credit), Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 10-12. Prerequisite: Graphic Design and Illustration I. Corequisite: Graphic Design and Illustration II. This course must be taken concurrently with Graphic Design and Illustration II and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with Graphic Design and Illustration II to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster is focused on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in graphic design and illustration span all aspects of the advertising and visual communications industries. Within this context, in addition to developing advanced technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an advanced understanding of the industry with a focus on mastery of content knowledge and skills.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) participate in training, education, or certification for employment;

(B) demonstrate positive work behaviors and personal qualities needed to be employable;

(C) demonstrate skills related to seeking and applying for employment to find and obtain a desired job, including identifying job opportunities, developing a resume and letter of application, completing a job application, and demonstrating effective interview skills;

(D) maintain a career portfolio to document information such as work experiences, licenses, certifications, and work samples; and

(E) demonstrate skills in evaluating and comparing employment opportunities.

(2) The student applies academic knowledge and skills in art and design projects. The student is expected to:

(A) apply English language arts knowledge by demonstrating skills such as correct use of content, technical concepts, vocabulary, grammar, punctuation, and terminology to write and edit a variety of documents; and

(B) apply mathematics knowledge and skills such as using whole numbers, decimals, fractions, and knowledge of arithmetic operations.

(3) The student demonstrates professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information;

(D) deliver formal and informal presentations;

(E) demonstrate active listening skills;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills.

(4) The student applies technology applications. The student is expected to use personal information management, email, Internet, writing and publishing, and presentation applications for art and graphic design projects.

(5) The student applies cyber safety procedures. The student is expected to implement personal and professional safety rules and regulations.

(6) The student demonstrates ethical decision making and complies with laws regarding use of technology in art and design. The student is expected to:

(A) exhibit ethical conduct;

(B) apply copyright laws;

(C) model respect for intellectual property; and

(D) demonstrate proper etiquette and knowledge of acceptable use policies.

(7) The student applies technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(8) The student develops an advanced understanding of graphic design and illustration. The student is expected to interpret, evaluate, and justify design decisions.

(9) The student participates in oral or written critiques of designs. The student is expected to:

- (A) apply a critical method of evaluation;
- (B) communicate an oral or written defense; and

(C) identify and demonstrate art elements and principles in designs and illustrations.

(10) The student employs a creative design process to create original two- or three-dimensional projects. The student is expected to:

- (A) create designs for defined applications;
- (B) demonstrate elements of design;
- (C) demonstrate design principles and typography;
- (D) use appropriate composition;
- (E) use anatomically appropriate figure drawing;
- (F) use appropriate perspective;
- (G) use the most effective color choices in projects; and
- (H) use printing concepts.

§130.110. *Professional Communications (One-Half Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9-12. This course satisfies a speech credit or skills graduation requirement. Students shall be awarded one-half credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Professional Communications blends written, oral, and graphic communication in a career-based environment. Careers in the global economy require individuals to be creative and have a strong background in computer and technology applications, a strong and solid academic foundation, and a proficiency in professional oral and written communication. Within this context, students will be expected to develop and expand the ability to write, read, edit, speak, listen, apply software applications, manipulate computer graphics, and conduct Internet research.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) explore opportunities in training, education, and certifications for employment;

(B) demonstrate professional standards and personal qualities needed to be employable such as oral and written communication, leadership, teamwork, appreciation for diversity, conflict management, customer service, work ethic, and adaptability;

(C) demonstrate skills related to seeking and applying for employment;

(D) create a resume and cover letter/letter of interest to document information such as work experiences, licenses, certifications, and work samples; and

(E) demonstrate skills in evaluating and comparing employment opportunities.

(2) The student applies English language arts in professional communications projects. The student is expected to:

(A) demonstrate use of content, technical concepts, and vocabulary;

(B) use correct grammar, punctuation, and terminology to write and edit documents;

(C) identify assumptions, purpose, outcomes, solutions, and propaganda techniques;

(D) compose and edit copy for a variety of written documents;

(E) evaluate oral and written information; and

(F) research topics for the preparation of oral and written communications.

(3) The student applies professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

(D) deliver formal and informal presentations;

(E) apply active listening skills;

(F) develop and interpret tables, charts, and figures;

(G) listen to and speak with diverse individuals; and

(H) exhibit public relations skills.

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student uses technology applications and processes. The student is expected to:

(A) use technology applications such as social media, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for audio and video production projects; and

(B) use processes such as personal information management, file management, and file sharing.

(6) The student understands communications systems. The student is expected to:

(A) describe the nature and types of businesses;

(B) analyze and summarize the history and evolution of the various related fields of study; and

(C) analyze the economic base in order to demonstrate an understanding of the economic factors influencing the industry as a whole.

(7) The student applies safety regulations. The student is expected to:

(A) implement personal and classroom safety rules and regulations; and

(B) follow emergency procedures as needed.

(8) The student identifies and develops leadership characteristics. The student is expected to:

(A) identify leadership characteristics; and

(B) participate in student leadership and professional development activities.

(9) The student applies ethical decision making and understands and complies with laws regarding use of technology in communications. The student is expected to:

(A) exhibit ethical conduct;

(B) discuss copyright laws in relation to fair use and duplication of materials;

(C) analyze the impact of communications on society; and

(D) understand and exhibit digital citizenship.

(10) The student applies technical skills for efficiency. The student is expected to:

(A) employ planning and time-management skills to relate to professional communications; and

(B) use technology to enhance productivity.

(11) The student develops an understanding of professional communications through exploration of the Arts, Audio/Video Technology, and Communications Career Cluster. The student is expected to:

(A) develop an understanding of the evolution of the arts, audio/video technology, and communications career field, including the history, foundation elements, principles, and communicative effects;

(B) demonstrate knowledge of the communication process, including the characteristics of oral language, types and effects of nonverbal communication, effective nonverbal strategies such as a firm handshake, direct eye contact, and appropriate use of space and distance;

(C) demonstrate knowledge of the components of the listening process and specific kinds of listening such as critical, deliberative, and empathetic;

(D) identify and analyze ethical and social responsibilities of communicators;

(E) demonstrate knowledge of various communication processes in professional contexts, including using effective communication skills; analyzing standards for appropriate use of informal, standard, and technical language; making appropriate and important communication decisions based on accurate and complete information; and recognizing and analyzing appropriate channels of communication in organizations;

(F) use appropriate interpersonal communication strategies in professional contexts, including using different types of professional communication and communication management skills and observing professional etiquette;

(G) demonstrate knowledge of the interview process, including effective communication as interviewee and interviewer, and federal employment laws regarding interviews;

(H) identify and use appropriate strategies for communicating with a variety of audiences;

(I) identify the types, purposes, dynamics, processes, effectiveness, roles of members, and leadership styles of professional groups;

(J) communicate effectively in group contexts by assuming productive roles, solving problems, managing conflicts, and building consensus in groups;

(K) research formal and informal professional presentations by analyzing the audience, occasion, purpose, and primary and secondary sources; determining specific topics for presentations; and evaluating sources using media literacy strategies such as recognizing bias, misinformation, untruths, and source credibility;

(L) develop formal and informal professional presentations using effective strategies to organize presentations, using information to support points in presentations, preparing scripts or notes, using visual or auditory aids to enhance presentations, and providing credit for information sources;

(M) conduct formal and informal professional presentations using effective verbal and nonverbal strategies to inform, persuade, or motivate an audience;

(N) use appropriate techniques to manage communication apprehension and build self-confidence;

(O) evaluate formal and informal professional presentations by participating in question-and-answer sessions following presentations, applying critical-listening strategies, and evaluating the effectiveness of presentations, including self-evaluation;

(P) participate in an informative or persuasive group discussion;

(Q) use a variety of strategies to acquire information from electronic resources;

(R) acquire electronic information in a variety of formats;

(S) use research skills and electronic communications;

(T) format digital information for appropriate and effective communication in a product by defining the purpose, identifying the intended audience, and using the principles of page design such

as leading, kerning, automatic text flow into linked columns, widows, orphans, and text wrap;

(U) apply desktop publishing to create products using word processing programs, editing products, or drawing programs; design elements such as text, graphics, headlines, color, white space; typography concepts, including font size and style; and graphic design concepts such as contrast, alignment, repetition, and proximity;

(V) develop and reference technical documentation; and

(W) deliver digital products in a variety of appropriate media.

§130.111. *Practicum in Animation (Two Credits), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisites: Animation II and Animation II Lab. Students shall be awarded two credits for successful completion of this course. A student may repeat this course once for credit provided that the student is experiencing different aspects of the industry and demonstrating proficiency in additional and more advanced knowledge and skills.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in animation span all aspects of the arts, audio/video technology, and communications industry. Building upon the concepts taught in Animation II and its corequisite Animation II Lab, in addition to developing advanced technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an increasing understanding of the industry with a focus on applying pre-production, production, and post-production animation products in a professional environment. Instruction may be delivered through lab-based classroom experiences or career preparation opportunities.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) participate in training, education, or certification for employment;

(B) demonstrate professional standards and personal qualities needed to be employable such as oral and written communication, leadership, teamwork, appreciation for diversity, conflict management, customer service, work ethic, and adaptability;

(C) demonstrate skills related to seeking and applying for employment; and

(D) create a resume and cover letter/letter of interest to document information such as work experiences, licenses, certifications, and work samples.

(2) The student applies academic knowledge and skills in production projects. The student is expected to:

(A) apply English language arts knowledge and skills by consistently demonstrating use of content, technical concepts, and vocabulary; using correct grammar, punctuation, and terminology to write and edit documents; and composing and editing copy for a variety of written documents such as scripts, captions, schedules, reports, manuals, proposals, and other client-based documents; and

(B) apply mathematics knowledge and skills in invoicing and time-based mathematics by consistently demonstrating knowledge of arithmetic operations and applying measurement to solve problems.

(3) The student implements advanced professional communications strategies. The student is expected to:

(A) adapt language such as structure and style for audience, purpose, situation, and intent;

(B) formulate, analyze, and organize oral and written information;

(C) formulate, analyze, interpret, and communicate information, data, and observations;

(D) create and deliver formal and informal presentations;

(E) apply active listening skills to obtain and clarify information;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills to increase internal and external customer/client satisfaction.

(4) The student implements advanced problem-solving methods. The student is expected to:

(A) employ critical-thinking skills, including data gathering and interpretation independently and in groups; and

(B) employ interpersonal skills in groups to solve problems and make decisions.

(5) The student implements advanced technology applications and processes. The student is expected to:

(A) use technology applications such as social media, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for animation projects; and

(B) use processes such as personal information management, file management, and file sharing.

(6) The student implements advanced knowledge of the evolution and current trends of the animation industry. The student is expected to:

(A) summarize the history and evolution of the animation industry; and

(B) analyze the current trends of the animation industry.

(7) The student applies safety regulations. The student is expected to:

(A) consistently implement personal and workplace safety rules and regulations;

and (B) recognize and resolve potential safety concerns;

(C) follow emergency procedures.

(8) The student applies leadership characteristics to student organizations and professional development activities. The student is expected to:

(A) employ leadership skills to accomplish goals and objectives by analyzing the various roles of leaders within organizations, exhibiting problem-solving and management traits, describing effective leadership styles, and participating in civic and community leadership and teamwork opportunities to enhance skills;

(B) employ teamwork and conflict-management skills to achieve collective goals;

(C) establish and maintain effective working relationships by providing constructive praise and criticism, demonstrating sensitivity to and value for diversity, and managing stress and controlling emotions;

(D) prepare for meetings by developing goals and objectives to achieve within a scheduled time and producing agendas;

(E) conduct and participate in meetings to accomplish work tasks by achieving goals and objectives within a scheduled time; producing meeting minutes, including decisions and next steps; and using parliamentary procedures, as needed; and

(F) employ mentoring skills to inspire and teach others.

(9) The student implements ethical decision making and complies with laws regarding use of technology. The student is expected to:

(A) exhibit ethical conduct related to providing proper credit for ideas and privacy of sensitive content;

(B) discuss and apply copyright laws in relation to fair use and acquisition, trademark laws, and personal privacy laws and use digital information citing sources using established methods;

(C) model respect for intellectual property when manipulating, morphing, and editing graphics, video, text, and sound;

(D) demonstrate proper etiquette and knowledge of acceptable use policies when using networks, especially resources on the Internet and intranet; and

(E) analyze the impact of the animation industry on society.

(10) The student demonstrates appropriate career-building characteristics and maintains a professional portfolio. The student is expected to:

(A) maintain a career portfolio to document information such as work experiences, licenses, certifications, and work samples;

(B) demonstrate skills in evaluating and comparing employment opportunities;

(C) examine and employ professional networking opportunities such as career and technical student organizations, professional social media, and industry professional organizations; and

(D) examine employment opportunities in entrepreneurship.

(11) The student employs effective planning and time-management skills to enhance productivity. The student is expected to:

(A) employ effective planning and time-management skills to complete work tasks; and

(B) use technology to enhance productivity.

(12) The student implements an advanced understanding of a client-based production in all stages of production. The student is expected to:

(A) determine and meet client needs by conducting client meetings to identify specific project requirements and target demographics; and

(B) develop a production proposal for client approval that includes a production schedule, research-based production costs, and appropriate delivery and distribution options.

(13) The student engages in pre-production activities for a successful execution of the project. The student is expected to:

(A) identify cast, crew, equipment, and location requirements;

(B) develop a budget with considerations for cast, crew, equipment, and location;

(C) analyze the script and storyboard processes; and

(D) assign team roles required for production.

(14) The student engages in production activities for successful execution of the project. The student is expected to:

(A) conduct a client meeting for presenting production strategies and implement client feedback;

(B) implement a coherent sequence of production events;

(C) use necessary equipment and crew for quality productions;

(D) demonstrate teamwork and knowledge of interpersonal skills with sensitivity to diversity;

(E) demonstrate appropriate use of editing systems; and

(F) make decisions appropriate for each element of production.

(15) The student engages in post-production activities for a successful output and distribution of the project. The student is expected to:

(A) make necessary adjustments regarding compatibility issues, including digital file formats and cross-platform connectivity;

(B) use various compression standards;

(C) research the appropriate delivery formats for the target audience;

(D) advise clients on optimal delivery options; and

(E) discuss distribution options with optimal project reach.

(16) The student practices business skills for freelance entrepreneurs. The student is expected to:

(A) implement standard freelance entrepreneur self-promotion techniques;

(B) develop proposals and standard billing and collection practices;

(C) research freelance entrepreneur start-up practices; and

(D) use technology applications common to freelance entrepreneurs.

(17) The student develops an understanding of professional employment strategies through practical experience in the arts, audio/video technology, and communications career field. The student is expected to:

(A) identify types and requirements of potential employers;

(B) use professional etiquette and protocol in situations such as making introductions, speaking on the phone, communicating via electronic devices, offering and receiving criticism, and making follow-up communications; and

(C) exhibit appropriate grooming and attire.

(18) The student develops an understanding of appropriate interview strategies in professional contexts. The student is expected to:

(A) employ appropriate verbal, nonverbal, and listening skills;

(B) use clear and appropriate communications to convey skill set to others;

(C) understand and apply federal laws regarding lawful employment interviews; and

(D) identify and use appropriate strategies for dealing with diverse individuals.

§130.112. *Practicum in Audio/Video Production (Two Credits), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisites: Audio/Video Production II and Audio/Video Production II Lab. Students shall be awarded two credits for successful completion of this course. A student may repeat this course once for credit provided that the student is experiencing different aspects of the industry and demonstrating proficiency in additional and more advanced knowledge and skills.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in audio/video production span all aspects of the audio/video communications industry. Building upon the concepts taught in Audio/Video Production II and its corequisite Audio/Video Production II Lab, in addition to developing advanced technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an increasing understanding of the industry with a focus on applying pre-production, production, and post-production audio and video products in a professional environment. This course may be im-

plemented in an advanced audio/video or audio format. Instruction may be delivered through lab-based classroom experiences or career preparation opportunities.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) participate in training, education, or certification for employment;

(B) demonstrate professional standards and personal qualities needed to be employable such as oral and written communication, leadership, teamwork, appreciation for diversity, conflict management, customer service, work ethic, and adaptability;

(C) demonstrate skills related to seeking and applying for employment; and

(D) create a resume and cover letter/letter of interest to document information such as work experiences, licenses, certifications, and work samples.

(2) The student applies academic knowledge and skills in production projects. The student is expected to:

(A) apply English language arts knowledge and skills by consistently demonstrating use of content, technical concepts, and vocabulary; using correct grammar, punctuation, and terminology to write and edit documents; and composing and editing copy for a variety of written documents such as scripts, captions, schedules, reports, manuals, proposals, and other client-based documents; and

(B) apply mathematics knowledge and skills in invoicing and time-based mathematics by consistently demonstrating knowledge of arithmetic operations and applying measurement to solve problems.

(3) The student implements advanced professional communications strategies. The student is expected to:

(A) adapt language such as structure and style for audience, purpose, situation, and intent;

(B) formulate, analyze, and organize oral and written information;

(C) formulate, analyze, interpret, and communicate information, data, and observations;

(D) create and deliver formal and informal presentations;

(E) apply active listening skills to obtain and clarify information;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills to increase internal and external customer/client satisfaction.

(4) The student implements advanced problem-solving methods. The student is expected to:

(A) employ critical-thinking skills, including data gathering and interpretation independently and in groups; and

(B) employ interpersonal skills in groups to solve problems and make decisions.

(5) The student implements advanced technology applications and processes. The student is expected to:

(A) use technology applications such as social media, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for audio and video production projects; and

(B) use processes such as personal information management, file management, and file sharing.

(6) The student implements advanced knowledge of the evolution and current trends of the audio and video production industries. The student is expected to:

(A) summarize the history and evolution of audio and video production industries; and

(B) analyze the current trends of audio and video production industries.

(7) The student applies safety regulations. The student is expected to:

(A) consistently implement personal and workplace safety rules and regulations;

(B) recognize and resolve potential safety concerns; and

(C) follow emergency procedures.

(8) The student implements leadership characteristics in student organizations and professional development activities. The student is expected to:

(A) employ leadership skills to accomplish goals and objectives by analyzing the various roles of leaders within organizations, exhibiting problem-solving and management traits, describing effective leadership styles, and participating in civic and community leadership and teamwork opportunities to enhance skills;

(B) employ teamwork and conflict-management skills to achieve collective goals;

(C) establish and maintain effective working relationships by providing constructive praise and criticism, demonstrating sensitivity to and value for diversity, and managing stress and controlling emotions;

(D) prepare for meetings by developing goals and objectives to achieve within a scheduled time and producing agendas;

(E) conduct and participate in meetings to accomplish work tasks by achieving goals and objectives within a scheduled time; producing meeting minutes, including decisions and next steps; and using parliamentary procedures, as needed; and

(F) employ mentoring skills to inspire and teach others.

(9) The student implements ethical decision making and complies with laws regarding use of technology. The student is expected to:

(A) exhibit ethical conduct related to providing proper credit for ideas and privacy of sensitive content;

(B) discuss and apply copyright laws in relation to fair use and acquisition, trademark laws, personal privacy laws, and use of digital information by citing sources using established methods;

(C) model respect for intellectual property when manipulating, morphing, and editing graphics, video, text, and sound;

(D) demonstrate proper etiquette and knowledge of acceptable use policies when using networks, especially resources on the Internet and intranet; and

(E) analyze the impact of the audio/video production industry on society.

(10) The student demonstrates appropriate career-building characteristics and maintains a professional portfolio. The student is expected to:

(A) maintain a career portfolio to document information such as work experiences, licenses, certifications, and work samples;

(B) demonstrate skills in evaluating and comparing employment opportunities;

(C) examine and employ professional networking opportunities such as career and technical student organizations, professional social media, and industry professional organizations; and

(D) examine employment opportunities in entrepreneurship.

(11) The student employs effective planning and time-management skills to enhance productivity. The student is expected to:

(A) employ effective planning and time-management skills to complete work tasks; and

(B) use technology to enhance productivity.

(12) The student implements an advanced understanding of a client-based production in all stages of production. The student is expected to:

(A) determine and meet client needs by conducting client meetings to identify specific project requirements and target demographics; and

(B) develop a production proposal for client approval that includes a production schedule, research-based production costs, and appropriate delivery and distribution options.

(13) The student engages in pre-production activities for a successful execution of the project. The student is expected to:

(A) identify cast, crew, equipment, and location requirements;

(B) develop a budget with considerations for cast, crew, equipment, and location;

(C) analyze the script and storyboard processes; and

(D) assign team roles required for production.

(14) The student engages in production activities for successful execution of the project. The student is expected to:

(A) conduct a client meeting for presenting production strategies and implement client feedback;

(B) implement a coherent sequence of production events;

(C) use necessary equipment and crew for quality productions;

(D) demonstrate teamwork and knowledge of interpersonal skills with sensitivity to diversity;

- (E) demonstrate appropriate use of editing systems; and
- (F) make decisions appropriate for each element of production.

(15) The student engages in post-production activities for a successful output and distribution of the project. The student is expected to:

- (A) make necessary adjustments regarding compatibility issues, including digital file formats and cross-platform connectivity;
- (B) use various compression standards;
- (C) research the appropriate delivery formats for the target audience;
- (D) advise clients on optimal delivery options; and
- (E) discuss distribution options with optimal project reach.

(16) The student practices business skills for freelance entrepreneurs. The student is expected to:

- (A) implement standard freelance entrepreneur self-promotion techniques;
- (B) develop proposals, standard billing, and collection practices;
- (C) research freelance entrepreneur start-up practices; and
- (D) use technology applications common to freelance entrepreneurs.

(17) The student develops an understanding of professional employment strategies through practical experience in the arts, audio/video technology, and communications career field. The student is expected to:

- (A) identify types and requirements of potential employers;
- (B) use professional etiquette and protocol in situations such as making introductions, speaking on the phone, communicating via electronic devices, offering and receiving criticism, and making follow-up communication; and
- (C) exhibit appropriate grooming and attire.

(18) The student develops an understanding of appropriate interview strategies in professional contexts. The student is expected to:

- (A) employ appropriate verbal, nonverbal, and listening skills;
- (B) use clear and appropriate communications to convey skill set to others;
- (C) understand and apply federal laws regarding lawful employment interviews; and
- (D) identify and use appropriate strategies for dealing with diverse individuals.

§130.113. *Practicum in Printing and Imaging Technology (Two Credits)*, Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 10-12. Prerequisites: Printing and Imaging Technology II and Printing and Imaging Technology II Lab. Students shall be awarded two credits for successful completion of this course. A stu-

dent may repeat this course once for credit provided that the student is experiencing different aspects of the industry and demonstrating proficiency in additional and more advanced knowledge and skills.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in printing span all aspects of the industry, including prepress, press, and finishing and bindery operations. In addition to developing advanced technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an advanced technical understanding of the printing industry with a focus on finishing and bindery operations and customer-based projects. Instruction may be delivered through lab-based classroom experiences or career preparation opportunities.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify and participate in training, education, or certification to prepare for employment;

(B) identify and demonstrate professional standards and personal qualities needed to be employable such as self-discipline, self-worth, positive attitude, integrity, and commitment; and

(C) demonstrate skills related to seeking, applying for, and obtaining a desired job, including identifying job opportunities, developing a resume and letter of application, completing a job application, and demonstrating effective interview skills.

(2) The student applies academic knowledge and skills in printing and imaging projects. The student is expected to:

(A) apply English language arts knowledge and skills in accordance with industry standards to a variety of written documents; and

(B) apply mathematics knowledge and skills in accordance with industry standards to solve a problem.

(3) The student implements advanced communications strategies. The student is expected to:

(A) adapt language such as structure and style for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

- (D) present information formally and informally;
- (E) apply active listening skills to obtain and clarify information;
- (F) listen to and speak with diverse individuals; and
- (G) exhibit public relations skills to increase internal and external customer/client satisfaction.

(4) The student implements advanced problem-solving methods. The student is expected to:

- (A) employ critical-thinking skills independently and in groups; and
- (B) employ interpersonal skills in groups to solve problems.

(5) The student implements advanced technology applications. The student is expected to use personal information management, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for printing and imaging projects.

(6) The student applies safety regulations. The student is expected to:

- (A) implement personal and workplace safety rules and regulations; and
- (B) follow emergency procedures.

(7) The student implements leadership characteristics in student leadership and professional development activities. The student is expected to:

(A) employ leadership skills to accomplish goals and objectives by analyzing the various roles of leaders within organizations, exhibiting problem-solving and management traits, describing effective leadership styles, and participating in civic and community leadership and teamwork opportunities to enhance skills;

(B) employ teamwork and conflict-management skills to achieve collective goals;

(C) establish and maintain effective working relationships by providing constructive praise and criticism, demonstrating sensitivity to and value for diversity, and managing stress and controlling emotions;

(D) prepare for meetings by developing goals and objectives to achieve within a scheduled time and producing agendas;

(E) conduct and participate in meetings to accomplish work tasks by achieving goals and objectives within a scheduled time; producing meeting minutes, including decisions and next steps; and using parliamentary procedures, as needed; and

(F) employ mentoring skills to inspire and teach others.

(8) The student implements ethical decision making and complies with laws regarding use of technology in printing. The student is expected to:

(A) demonstrate an understanding of ethical conduct related to interacting with others such as maintaining client confidentiality and privacy of sensitive content and providing proper credit for ideas;

(B) apply copyright laws in relation to fair use and duplication of materials;

(C) model respect for intellectual property;

(D) demonstrate proper etiquette and knowledge of acceptable use policies; and

(E) understand Creative Commons laws, including all licensing.

(9) The student implements career-building characteristics. The student is expected to:

(A) maintain, update, and present a portfolio with information such as work experiences, licenses, certifications, and work samples;

(B) demonstrate skills in evaluating and comparing employment opportunities; and

(C) examine employment opportunities in entrepreneurship.

(10) The student implements technical skills for efficiency. The student is expected to employ planning and time-management skills and tools to enhance results and complete work tasks.

(11) The student implements an advanced technical understanding of professional printing and imaging. The student is expected to:

(A) understand printing systems and their uses;

(B) manage the printing process;

(C) prepare customer documents;

(D) use appropriate printing processes;

(E) use binding processes, including cutting, folding, and trimming;

(F) calculate paper counts from a stock sheet;

(G) demonstrate folding a variety of print pieces, adapting equipment as needed;

(H) demonstrate saddle stitch, perfect bind, and flat stitching in various printed materials;

(I) demonstrate padding press operations;

(J) use appropriate embossing, foil stamping, die cutting, and laminating samples;

(K) print appropriate paper labels, ink jet labels, and bulk forms;

(L) demonstrate knowledge of postal regulations related to packages, contents, sizes, and destinations; and

(M) meet customer needs with regard to labeling, packaging, and shipping according to regulatory standards.

§130.114. Practicum in Commercial Photography (Two Credits), Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 10-12. Prerequisites: Commercial Photography I and Commercial Photography I Lab along with teacher recommendation. Students shall be awarded two credits for successful completion of this course. A student may repeat this course once for credit provided that the student is experiencing different aspects of the industry and demonstrating proficiency in additional and more advanced knowledge and skills.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant

technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in commercial photography span all aspects of the industry from setting up a shot to delivering products in a competitive market. In addition to developing advanced technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an advanced technical understanding of the commercial photography industry with a focus on producing, promoting, and presenting professional quality photographs.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) participate in training, education, or certification for employment;

(B) demonstrate positive work behaviors and personal qualities needed to be employable; and

(C) demonstrate skills related to seeking, applying for, and obtaining a desired job, including identifying job opportunities, developing a resume and letter of application, completing a job application, and demonstrating effective interview skills.

(2) The student applies academic knowledge and skills in commercial photography. The student is expected to:

(A) apply English language arts knowledge and skills in accordance with industry standards to a variety of written documents; and

(B) apply mathematics knowledge and skills in accordance with industry standards to solve a problem.

(3) The student applies professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

(D) present information formally and informally;

(E) apply active listening skills to obtain and clarify information;

(F) listen to and speak with diverse individuals; and

(G) exhibit public relations skills to increase internal and external customer/client satisfaction.

(4) The student understands and examines problem-solving methods. The student is expected to:

(A) employ critical-thinking skills independently and in groups; and

(B) employ interpersonal skills in groups to solve problems.

(5) The student is expected to use personal information management, email, Internet, writing and publishing, presentation, and spreadsheet or database applications for commercial photography projects.

(6) The student applies knowledge of commercial photography systems. The student is expected to analyze and summarize the history and evolution of the commercial photography field.

(7) The student applies safety regulations. The student is expected to:

(A) implement personal and workplace safety rules and regulations in a photography studio and lab; and

(B) follow emergency procedures.

(8) The student applies leadership characteristics to student leadership and professional development activities. The student is expected to:

(A) employ leadership skills to accomplish goals and objectives by analyzing the various roles of leaders within organizations, exhibiting problem-solving and management traits, describing effective leadership styles, and participating in civic and community leadership and teamwork opportunities to enhance skills;

(B) employ teamwork and conflict-management skills to achieve collective goals;

(C) establish and maintain effective working relationships by providing constructive praise and criticism, demonstrating sensitivity to and value for diversity, and managing stress and controlling emotions;

(D) prepare for meetings by developing goals and objectives to achieve within a scheduled time and producing agendas;

(E) conduct and participate in meetings to accomplish work tasks by achieving goals and objectives within a scheduled time; producing meeting minutes, including decisions and next steps; and using parliamentary procedures, as needed; and

(F) employ mentoring skills to inspire and teach others.

(9) The student applies ethical decision making and complies with laws regarding use of technology in commercial photography. The student is expected to:

(A) demonstrate an understanding of ethical conduct related to interacting with others such as maintaining client confidentiality and privacy of sensitive content and providing proper credit for ideas;

(B) discuss and apply copyright laws in relation to fair use and duplication of images;

(C) model respect for intellectual property when manipulating, morphing, and editing digital images; and

(D) demonstrate proper etiquette and knowledge of acceptable use policies, including Creative Commons laws and licensing.

(10) The student develops career-building characteristics. The student is expected to:

(A) maintain and update portfolio to document information such as work experiences, licenses, certifications, and work samples; and

(B) demonstrate skills in evaluating and comparing employment opportunities.

(11) The student is expected to employ planning and time-management skills to complete work tasks such as creating quotes and budgeting. The student is expected to:

(A) employ planning and time-management skills to complete work tasks; and

(B) demonstrate skills in budgeting and creating quotes for freelance or contract projects.

(12) The student develops an increased understanding of commercial photography. The student is expected to:

(A) create photographs for defined purposes;

(B) apply the elements and principles of art to a variety of commercial photography projects;

(C) demonstrate the principles of commercial photography such as working with clients, interpreting client instructions, developing production schedules, and delivering products in a competitive market;

(D) demonstrate the use of appropriate cameras and lenses;

(E) apply appropriate photographic composition and layout principles;

(F) demonstrate appropriate digital black and white and color photography;

(G) apply effective photographic lighting techniques, including three point, studio, portraiture, and product;

(H) produce professional quality photographs;

(I) use the most appropriate types of photographic paper for projects;

(J) use the most appropriate solutions for mounting, matting, or framing photographs;

(K) demonstrate use of appropriate, current, and industry-standard production processes to produce photographs;

(L) evaluate photographs using principles of art, commercial photography standards, and critical-thinking skills; and

(M) demonstrate use of appropriate resolution and digital file formats.

§130.115. Practicum in Fashion Design (Two Credits), Adopted 2015.

(a) General requirements. This course is for students in Grades 11 and 12. Prerequisite: Fashion Design II and Fashion Design II Lab. Students shall be awarded two credits for successful completion of this course. A student may repeat this course once for credit provided that the student is experiencing different aspects of the industry and demonstrating proficiency in additional and more advanced knowledge and skills.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster focuses on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in fashion span all aspects of the textile and apparel industries. Within this context, in addition to developing advanced technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop an advanced technical understanding of the business aspects of fashion, with emphasis on promotion and retailing. Instruction may be delivered through lab-based classroom experiences or career preparation opportunities.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify and participate in training, education, or certification to prepare for employment;

(B) identify and demonstrate professional standards and personal qualities needed to be employable such as self-discipline, self-worth, positive attitude, integrity, and commitment;

(C) demonstrate skills related to seeking and applying for employment to find and obtain a desired job, including identifying job opportunities, developing a resume and letter of application, completing a job application, and demonstrating effective interview skills;

(D) maintain a career portfolio to document information such as work experiences, licenses, certifications, and work samples;

(E) demonstrate skills in evaluating and comparing employment opportunities; and

(F) examine employment opportunities in entrepreneurship.

(2) The student applies academic knowledge and skills in fashion, textile, and apparel projects. The student is expected to:

(A) apply English language arts knowledge by demonstrating skills such as correct use of content, technical concepts, vocabulary, grammar, punctuation, and terminology to write and edit a variety of documents; and

(B) apply mathematics knowledge and skills such as using whole numbers, decimals, fractions, and knowledge of arithmetic operations.

(3) The student implements advanced professional communications strategies. The student is expected to:

(A) adapt language for audience, purpose, situation, and intent;

(B) organize oral and written information;

(C) interpret and communicate information, data, and observations;

- (D) deliver formal and informal presentations;
- (E) apply active listening skills to obtain and clarify information;
- (F) communicate with diverse individuals; and
- (G) exhibit public relations skills to increase internal and external customer/client satisfaction.

(4) The student implements advanced problem-solving methods. The student is expected to:

- (A) employ critical-thinking skills independently and in groups; and
- (B) employ interpersonal skills in groups to solve problems.

(5) The student implements advanced technology applications. The student is expected to use personal information management, email, Internet, and industry programs for fashion, textiles, and apparel projects.

(6) The student implements advanced knowledge of fashion, textile, and apparel systems. The student evaluates the history of the fashion, textiles, and apparel field. The student is expected to compare fashion history relative to current fashions trends.

(7) The student applies safety regulations. The student is expected to implement personal and workplace safety rules and procedures.

(8) The student implements leadership characteristics in classroom and professional settings. The student is expected to:

- (A) employ leadership skills to accomplish collective goals;
- (B) employ practices for effective working relationships such as providing constructive praise and criticism, demonstrating sensitivity to and value for diversity, and managing stress and controlling emotions;
- (C) conduct and participate in meetings using parliamentary procedure; and
- (D) employ mentoring skills to inspire others.

(9) The student applies ethical decision making and complies with legal practices related to fashion, textiles, and apparel. The student is expected to:

- (A) exhibit ethical conduct; and
- (B) apply copyright laws.

(10) The student implements technical skills for efficiency. The student is expected to employ planning and time-management skills to complete work tasks.

(11) The student describes fundamentals of fashion buying. The student is expected to:

- (A) explain processes for retail buying;
- (B) identify wholesale market resources;
- (C) compare various apparel markets;
- (D) analyze how timing and pricing of fashion apparel and accessories are determined;
- (E) analyze the price of a fashion product;
- (F) describe various types of retail outlets;

(G) describe how offshore sourcing impacts fashion retailing; and

(H) compose a scenario plan for retail pricing, sales, inventory, and purchasing.

(12) The student describes the relationship between marketing and the fashion industry. The student is expected to:

- (A) explain the marketing concept;
- (B) relate marketing functions to the fashion industry;
- (C) explain how each component of the marketing mix contributes to successful fashion marketing;
- (D) explain the importance of target markets;
- (E) describe advantages and disadvantages of market segmentation and mass marketing;
- (F) research trends and emerging technologies affecting fashion marketing;
- (G) determine examples of niche marketing;
- (H) describe cultural and societal influences on the fashion market; and
- (I) describe how international marketing has affected the fashion industry.

(13) The student develops, implements, and evaluates a promotional plan. The student is expected to:

- (A) identify components of the promotional mix such as advertising, visual merchandising, and personal selling;
- (B) demonstrate visual merchandising techniques for fashion goods, services, or ideas;
- (C) analyze a promotional plan for effectiveness;
- (D) describe deceptive practices in fashion promotion; and
- (E) employ ethical practices in promotional activities.

(14) The student applies marketing techniques when assisting with promotional activities. The student is expected to:

- (A) describe various types of business promotion strategies;
- (B) classify types of customers and their motives for buying textile and apparel products;
- (C) describe roles of public relations and publicity in product promotion;
- (D) explain the use of promotional activities to market textile and apparel products and services;
- (E) plan special fashion events such as fashion shows, trunk shows, retail shows, and educational events;
- (F) create and develop a fashion show theme;
- (G) develop a scale drawing to illustrate fashion show sets and staging;
- (H) describe all fashion show responsibilities; and
- (I) write press releases to publicize promotional activities.

(15) The student creates product displays using the principles of design. The student is expected to:

- (A) identify components used in developing displays;
- (B) determine ways in which design elements and principles are used in the creation of displays;
- (C) describe types and uses of interior and exterior displays; and
- (D) create window or other displays of fashion and apparel products.

(16) The student demonstrates effective customer service. The student is expected to:

- (A) determine factors that promote quality customer relations;
- (B) evaluate the impact of cultural diversity on customer relations;
- (C) exhibit skills needed for effective customer service;
- (D) create solutions to specific customer issues; and
- (E) examine the role of selling fashion products in retail.

(17) The student identifies wholesale settings. The student is expected to:

- (A) analyze motives for consumer fashion purchases;
- (B) describe qualities of an effective salesperson;
- (C) apply appropriate fashion vocabulary in selling situations; and
- (D) demonstrate effective sales techniques from customer approach to closure.

(18) The student summarizes important business procedures in fashion retailing. The student is expected to:

- (A) explain methods a business uses to control risks such as surveillance, safety training, and loss control;
- (B) explain the use of inventory information such as preparing financial reports and making buying decisions;
- (C) demonstrate cash and credit transaction methods;
- (D) analyze data used to make accurate forecasts;
- (E) demonstrate knowledge of the fashion buying process such as preparing a buying plan, completing purchase orders, and processing invoices;
- (F) examine operational costs such as markup, mark-down, cash flow, and other factors affecting profit; and
- (G) demonstrate procedures for reporting and handling accidents, safety, and security incidents.

§130.116. *Practicum in Graphic Design and Illustration (Two Credits)*, Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 10-12. Prerequisites: Graphic Design and Illustration II and Graphic Design and Illustration II Lab. Students shall be awarded two credits for successful completion of this course. A student may repeat this course once for credit provided that the student is experiencing different aspects of the industry and demonstrating proficiency in additional and more advanced knowledge and skills.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant

technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Arts, Audio/Video Technology, and Communications Career Cluster is focused on careers in designing, producing, exhibiting, performing, writing, and publishing multimedia content, including visual and performing arts and design, journalism, and entertainment services.

(3) Careers in graphic design and illustration span all aspects of the advertising and visual communications industry. Within this context, in addition to developing technical knowledge and skills needed for success in the Arts, Audio/Video Technology, and Communications Career Cluster, students will be expected to develop a technical understanding of the industry with a focus on skill proficiency. Instruction may be delivered through lab-based classroom experiences or career preparation opportunities.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify and participate in training, education, or preparation for certification to prepare for employment;

(B) identify and demonstrate professional standards and personal qualities needed to be employable such as self-discipline, self-worth, positive attitude, integrity, and commitment;

(C) demonstrate skills related to seeking and applying for employment to find and obtain a desired job, including identifying job opportunities, developing a resume and letter of application, completing a job application, and demonstrating effective interview skills;

(D) maintain a career portfolio to document information such as work experiences, licenses, certifications, and work samples;

(E) demonstrate skills in evaluating and comparing employment opportunities; and

(F) examine employment opportunities in entrepreneurship.

(2) The student applies academic knowledge and skills in art and design projects. The student is expected to:

(A) apply English language arts knowledge by demonstrating skills such as correct use of content, technical concepts, vocabulary, grammar, punctuation, and terminology to write and edit a variety of documents; and

(B) apply mathematics knowledge and skills such as using whole numbers, decimals, fractions, and knowledge of arithmetic operations.

(3) The student implements advanced professional communications strategies. The student is expected to:

(A) adapt language such as structure and style for audience, purpose, situation, and intent;

(B) organize oral and written information;

- (C) interpret and communicate information;
- (D) deliver formal and informal presentations;
- (E) apply active listening skills;
- (F) listen to and speak with diverse individuals; and
- (G) exhibit public relations skills to increase internal and external customer/client satisfaction.

(4) The student implements advanced problem-solving methods. The student is expected to:

(A) employ critical-thinking skills, including data gathering and interpretation, independently and in groups to solve problems and make decisions; and

(B) employ interpersonal skills in groups to solve problems and make decisions.

(5) The student implements advanced technology applications. The student is expected to use personal information management, email, Internet, writing and publishing, and presentation applications for graphic design and illustration projects.

(6) The student implements advanced knowledge of design systems. The student is expected to analyze and summarize the history and evolution of the commercial art and design field.

(7) The student applies cyber safety procedures. The student is expected to implement personal and professional safety rules and regulations.

(8) The student implements leadership characteristics in student leadership and professional development activities. The student is expected to:

(A) employ leadership skills to accomplish goals and objectives by analyzing the various roles of leaders within organizations, exhibiting problem-solving and management traits, describing effective leadership styles, and participating in civic and community leadership and teamwork opportunities to enhance skills;

(B) employ teamwork and conflict-management skills to achieve collective goals;

(C) establish and maintain effective working relationships by providing constructive praise and criticism, demonstrating sensitivity to and value for diversity, and managing stress and controlling emotions;

(D) prepare for meetings by developing goals and objectives to achieve within a scheduled time and producing agendas;

(E) conduct and participate in meetings to accomplish work tasks by achieving goals and objectives within a scheduled time; producing meeting minutes, including decisions and next steps; and using parliamentary procedures, as needed; and

(F) employ mentoring skills to inspire and teach others.

(9) The student applies ethical decision making and complies with laws regarding use of technology. The student is expected to:

(A) exhibit ethical conduct related to interacting with others such as maintaining client confidentiality and privacy of sensitive content and providing proper credit for ideas;

(B) discuss and apply copyright laws in relation to fair use and acquisition and use of digital information using established methods to cite sources;

(C) model respect of intellectual property when manipulating, morphing, and editing graphics, video, text, and sound;

(D) demonstrate proper etiquette and knowledge of acceptable use policies when using networks, especially resources on the Internet and intranet; and

(E) analyze and identify the impact of the advertising and visual communication design industry on society.

(10) The student applies effective planning and time-management skills. The student is expected to employ tools to enhance results and complete work tasks.

(11) The student uses advanced graphic design and illustration methods and skills. The student is expected to:

(A) interpret, evaluate, and justify design decisions;

(B) conduct verbal or written critiques of design projects; and

(C) identify and apply art elements and principles to designs and illustrations.

(12) The student employs a creative design process to create professional quality, two- or three-dimensional projects. The student is expected to:

(A) create designs for defined applications;

(B) use appropriate elements of design;

(C) use appropriate design principles and typography;

(D) use appropriate composition;

(E) use anatomically appropriate figure drawing;

(F) use appropriate perspective;

(G) use the most effective color choices in projects; and

(H) use appropriate printing concepts.

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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Texas Education Agency

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SUBCHAPTER D. BUSINESS MANAGEMENT AND ADMINISTRATION

19 TAC §§130.131 - 130.143

STATUTORY AUTHORITY. The new sections are adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate

and that will be used in evaluating instructional materials; §28.00222, which authorizes the SBOE to ensure that at least six advanced career and technology education or technology applications courses, including courses in personal financial literacy consistent with TEC, §28.0021, and in statistics, are approved to satisfy a fourth credit in mathematics required for high school graduation; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The new sections implement the Texas Education Code, §§7.102(c)(4), 28.002, 28.00222, and 28.025.

§130.134. *Business Law (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Business Management and Administration Career Cluster focuses on careers in planning, organizing, directing, and evaluating business functions essential to efficient and productive business operations.

(3) Business Law is designed for students to analyze various aspects of the legal environment, including ethics, the judicial system, contracts, personal property, sales, negotiable instruments, agency and employment, business organization, risk management, and real property.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills required by business and industry. The student is expected to:

(A) communicate effectively with others using oral and written skills;

(B) demonstrate collaboration skills through teamwork;

(C) demonstrate professionalism by conducting oneself in a manner appropriate for the profession and workplace;

(D) demonstrate a positive, productive work ethic by performing assigned tasks as directed;

(E) show integrity by choosing the ethical course of action and comply with all applicable rules, laws, and regulations; and

(F) demonstrate time-management skills by prioritizing tasks, following schedules, and tending to goal-relevant activities in a way that uses time wisely and optimizes efficiency and results.

(2) The student defines ethics in business. The student is expected to:

(A) distinguish between ethical and unethical business practices; and

(B) contrast ethical, moral, and legal choices that relate to the decision-making process in business situations.

(3) The student identifies the different types of law, courts, and regulations in the judicial system. The student is expected to:

(A) identify the concepts of civil and criminal law;

(B) explain the different types of courts and traditional court procedures;

(C) differentiate between business torts and crimes; and

(D) comprehend the rationale for governmental regulations of business activities.

(4) The student identifies the principles of contracts in business. The student is expected to:

(A) explain the classes of contracts;

(B) cite methods of offer and acceptance;

(C) explain the different capacities to contract;

(D) examine the concepts of consideration;

(E) describe defective agreements;

(F) describe illegal agreements; and

(G) research contemporary cases dealing with contract law using appropriate online technology.

(5) The student explains personal property. The student is expected to:

(A) contrast real property with personal property;

(B) analyze the nature of personal property;

(C) recognize the different types of bailments and obligations and rights under each type; and

(D) research cases dealing with personal property using appropriate online technology.

(6) The student identifies the concept of sales in the context of business law. The student is expected to:

(A) identify the nature of goods and services;

(B) explain the formalities of sale;

(C) characterize the transfer of title and risks in sales contracts;

(D) identify and explain the types and categories of warranties, product liability, and consumer protection; and

(E) research cases dealing with contract sales using appropriate online technology.

(7) The student researches negotiable instruments. The student is expected to:

(A) explain the nature of negotiable instruments;

(B) identify the essentials of negotiability;

(C) explain promissory notes and drafts;

(D) distinguish between negotiation and discharge;

(E) assess the liabilities of the holders in due course;

(F) identify the defenses in dealing with negotiable instruments; and

(G) research cases dealing with negotiable instruments using appropriate online technology.

(8) The student analyzes the concepts of agency and employment. The student is expected to:

- (A) summarize the nature and creation of an agency;
- (B) explain the operation and termination of an agency;
- (C) recognize the nature of employer and employee relations;
- (D) explain employee rights;
- (E) identify the tenets of labor legislation; and

(F) research cases dealing with employment law using appropriate online technology.

(9) The student identifies the different types of business organization. The student is expected to:

- (A) explain a sole proprietorship;
- (B) explain the creation and operation of a partnership;
- (C) discuss the nature and creation of a corporation;
- (D) depict the ownership of a corporation; and
- (E) describe the management and dissolution of a corporation.

(10) The student explains risk-management instruments. The student is expected to:

- (A) identify the principles of insurance;
- (B) review the types of insurance;
- (C) recognize security devices such as fidelity bonds and securities;
- (D) discuss the appropriateness and categories of bankruptcy; and
- (E) research contemporary cases dealing with risk-bearing devices using appropriate online technology.

(11) The student describes the legal contexts of real property. The student is expected to:

- (A) explain the nature of real property;
- (B) establish the proper methods for the transfer of real property;
- (C) describe the different types of real estate mortgages;
- (D) review contemporary landlord-tenant law;
- (E) explain wills, inheritances, and trusts; and

(F) research cases dealing with real estate law using appropriate online technology.

(12) The student knows how to use self-development techniques and interpersonal skills to accomplish legal tasks and solve cases. The student is expected to:

- (A) identify and practice effective interpersonal skills involving situations with coworkers, supervisors, and clients;
- (B) identify and practice effective team-building skills involving situations with coworkers, supervisors, and clients; and

(C) participate in leadership and career development activities.

§130.135. *Business English (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grade 12. Prerequisite: English III Recommended Prerequisite: Touch Systems Data Entry. This course satisfies the high school advanced English graduation requirement. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Business Management and Administration Career Cluster focuses on careers in planning, organizing, directing, and evaluating business functions essential to efficient and productive business operations.

(3) In Business English, students enhance communication and research skills by applying them to the business environment, in addition to exchanging information and producing properly formatted business documents using emerging technology.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

- (A) communicate effectively with others using oral and written skills;
- (B) demonstrate collaboration skills through teamwork;
- (C) demonstrate professionalism by conducting oneself in a manner appropriate for the profession and workplace;
- (D) demonstrate a positive, productive work ethic by performing assigned tasks as directed;
- (E) show integrity by choosing the ethical course of action and comply with all applicable rules, laws, and regulations; and
- (F) demonstrate time-management skills by prioritizing tasks, following schedules, and tending to goal-relevant activities in a way that uses time wisely and optimizes efficiency and results.

(2) The student prepares for effective communication skills. The student is expected to:

- (A) organize ideas logically and sequentially;
- (B) locate and interpret written information;
- (C) distinguish communicated fact from opinion by identifying key words;
- (D) interpret visual materials such as charts, graphs, pictures, and maps and translate the information into textual form;
- (E) employ precise language to communicate ideas clearly and concisely; and

(F) organize ideas in writing in a coherent, logical progression.

(3) The student employs appropriate research techniques to produce effective business communication. The student is expected to:

(A) incorporate information from printed copies and electronic resources and references;

(B) locate and paraphrase secondary sources;

(C) document secondary sources;

(D) design, conduct, and analyze the results of a survey;

(E) conduct interviews to obtain resource materials; and

(F) create a business project incorporating data imported from various sources.

(4) The student exchanges information via telecommunications such as email, images, social media, and other online information services with appropriate supervision. The student is expected to:

(A) evaluate which telecommunications methods are most appropriate to a given situation; and

(B) apply appropriate business ethics and correct etiquette when using telecommunications.

(5) The student illustrates proficiency in interpersonal communication. The student is expected to:

(A) develop professional vocabulary skills;

(B) execute effective oral presentations;

(C) deliver an effective business presentation such as sales, reports, and proposals;

(D) apply effective communication techniques when using the telephone and different forms of technology;

(E) demonstrate the ability to listen by writing summaries of presentations and oral conversations;

(F) display active listening through oral feedback;

(G) follow oral and written directions;

(H) demonstrate the ability to give oral instructions for completing a simple task; and

(I) apply proper business interviewing techniques in various situations such as one-on-one, group, and committee interviews.

(6) The student develops communication skills necessary to address a changing business environment. The student is expected to:

(A) describe the communication process;

(B) identify barriers to effective communication;

(C) assess the ethical and legal implications of messages;

(D) discern appropriate channels for transmitting messages;

(E) interpret nonverbal communication in various activities;

(F) illustrate the impact of nonverbal communication on the total communication process;

(G) identify ways to improve communication in organizations; and

(H) discuss potential communication problems in multicultural business environments.

(7) The student produces business documents using current and emerging technology. The student is expected to:

(A) format business documents;

(B) demonstrate basic writing skills through assigned tasks;

(C) compose positive, negative, and persuasive messages;

(D) compose business letters and memos using the appropriate organizational strategies;

(E) produce a business report containing text and graphics; and

(F) develop a business newsletter.

(8) The student documents technical knowledge and skills. The student is expected to:

(A) prepare a professional electronic portfolio that includes information such as:

(i) attainment of technical skill competencies;

(ii) recognitions, awards, and scholarships;

(iii) extended learning experiences such as community service and active participation in career and technical student organizations;

(iv) sample letter of application;

(v) resume;

(vi) samples of work; and

(vii) teacher recommendations; and

(B) present the portfolio to interested stakeholders.

(9) The student understands how to collect and use information in procedural texts and documents. The student is expected to:

(A) draw conclusions about how the patterns of organization and hierarchic structures support the understandability of text;

(B) evaluate the structures of text such as format or headers for their clarity and organizational coherence; and

(C) evaluate the structures of text for the effectiveness of their graphic representations.

(10) The student uses comprehension skills to analyze how words, images, graphics, and sounds work together in various forms to impact meaning. The student applies the knowledge and skills in paragraphs (2)-(9) of this subsection with greater depth in increasingly more complex texts. The student is expected to:

(A) evaluate how messages presented in media reflect social and cultural views in ways different from traditional texts;

(B) evaluate the interactions of different techniques used in multi-layered media such as layout, pictures, typeface in print media, images, text, or sound in electronic journalism;

(C) evaluate how one issue or event is represented across various media to understand the notions of bias, audience, and purpose; and

(D) evaluate changes in formality and tone across various media for different audiences and purposes.

(11) The student uses elements of the writing process (planning, drafting, revising, editing, and publishing) to compose text. The student is expected to:

(A) plan a first draft by selecting the correct genre for conveying the intended meaning to multiple audiences; determining appropriate topics through a range of strategies such as discussion, background reading, personal interests, or interviews; and developing a thesis or controlling idea;

(B) structure ideas in persuasive ways such as using outlines, note taking, graphic organizers, or lists to develop drafts in timed and open-ended situations;

(C) revise drafts to clarify meaning, consistency of tone, and logical organization;

(D) edit drafts for grammar, mechanics, and spelling; and

(E) revise a final draft in response to feedback from peers and teacher and publish written work for appropriate audiences.

(12) The student writes expository and procedural or work-related texts to communicate ideas and information to specific audiences for specific purposes. The student is expected to:

(A) write an analytical essay of sufficient length that includes effective introductory, concluding, and supporting paragraphs that incorporate relevant perspectives and evidence;

(B) write procedural and work-related documents such as resumes, proposals, college applications, or operation manuals that include a clearly stated purpose combined with a well-supported viewpoint on the topic; appropriate formatting structures such as headings, graphics, or white space; and accurate technical information; and

(C) produce a multimedia presentation such as a documentary, class newspaper, docudrama, infomercial, or visual or textual parody that includes graphics, images, and sound and appeals to a specific audience.

(13) The student understands the function of and uses the conventions of academic language when speaking and writing. The student continues to apply the knowledge and skills in paragraphs (2)-(12) with greater complexity. The student is expected to:

(A) understand and use adjectival, noun, or adverbial clauses and phrases; and

(B) use a variety of correctly structured sentences such as compound, complex, or compound-complex.

(14) The student writes legibly and uses appropriate capitalization and punctuation conventions in compositions. The student is expected to correctly and consistently use conventions of punctuation and capitalization.

(15) The student spells correctly. The student is expected to spell correctly, including using various resources to determine and check correct spellings.

(16) The student organizes and presents ideas and information according to the purpose of the research and the audience. The student is expected to:

(A) synthesize research into an extended written or oral presentation;

(B) provide an analysis that supports and develops personal opinions, as opposed to simply restating existing information;

(C) use a variety of formats and rhetorical strategies to argue for the thesis;

(D) develop an argument that incorporates the complexities of and discrepancies in information from multiple sources and perspectives while anticipating and refuting counter-arguments;

(E) document sources and format written materials using a style manual such as *Modern Language Association*; and

(F) produce a document of sufficient length and complexity to address the topic.

(17) The student makes oral presentations. The student is expected to use proper conventions of language and presentation.

(18) The student works productively with others in teams. The student is expected to offer ideas or judgments that are purposeful in moving the team toward goals, ask relevant and insightful questions, tolerate a range of positions and ambiguity in decision making, and evaluate the work of the group based on agreed-upon criteria.

§130.136. *Business Information Management I (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9-12. Recommended prerequisite: Touch Systems Data Entry. Recommended corequisite: Business Lab. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Business Management and Administration Career Cluster focuses on careers in planning, organizing, directing, and evaluating business functions essential to efficient and productive business operations.

(3) In Business Information Management I, students implement personal and interpersonal skills to strengthen individual performance in the workplace and in society and make a successful transition to the workforce and postsecondary education. Students apply technical skills to address business applications of emerging technologies, create word-processing documents, develop a spreadsheet, formulate a database, and make an electronic presentation using appropriate software.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) communicate effectively with others using oral and written skills;

(B) demonstrate collaboration skills through teamwork;

(C) demonstrate professionalism by conducting oneself in a manner appropriate for the profession and workplace;

(D) demonstrate a positive, productive work ethic by performing assigned tasks as directed;

(E) comply with all applicable rules, laws, and regulations; and

(F) demonstrate time-management skills by prioritizing tasks, following schedules, and tending to goal-relevant activities in a way that uses time wisely and optimizes efficiency and results.

(2) The student coordinates information management and business management to aid in business planning. The student is expected to:

(A) explain the strategic role of information systems and information communication technology within an organization;

(B) determine risks and rewards of developing a strategic role for information systems and information communication technology; and

(C) integrate information systems planning with business planning.

(3) The student enhances usability of systems operations to support business strategies and operations. The student is expected to:

(A) identify the management information requirements and business needs of an organization; and

(B) explain issues involved in designing and developing systems for different environments.

(4) The student analyzes available software packages for use in business settings. The student is expected to:

(A) determine equipment and supplies needed;

(B) establish equipment and supplies maintenance systems;

(C) schedule equipment maintenance;

(D) use equipment and supplies maintenance procedures; and

(E) use critical-thinking skills to troubleshoot equipment and software issues.

(5) The student uses the computer's operating system to execute work responsibilities. The student is expected to:

(A) move files in the computer operating system;

(B) create directories; and

(C) save files in various formats such as plain text, PDF, rich text format, and older versions of word-processing software.

(6) The student applies word-processing technology. The student is expected to:

(A) identify customary styles of business documents;

(B) improve touch-system skills using the keyboard and keypad to input data;

(C) use hardware and software needed to produce documents to address different computer applications;

(D) demonstrate writing techniques generating ideas and gathering information relevant to the topic and purpose while maintaining accurate records of outside sources;

(E) produce business documents, including business letters, resumes, research papers, and newsletters;

(F) edit a variety of written documents;

(G) insert and edit objects such as tables, graphics, hyperlinks, headers, and footers into a document;

(H) prepare and distribute personalized correspondence using mail merge; and

(I) use online word-processing technologies to create, edit, and share documents.

(7) The student identifies database software to create databases that facilitate business decision making. The student is expected to:

(A) explain the principles of data analysis;

(B) explain the nature of tools that can be used to access information in the database system;

(C) choose appropriate software;

(D) define fields and type of data;

(E) create database structure;

(F) define relationships of tables;

(G) analyze company data requirements; and

(H) design a database to meet business requirements.

(8) The student applies data entry techniques to enter information in databases. The student is expected to:

(A) access information in the database system;

(B) build data in a data warehouse;

(C) enter and edit data into database tables and database forms for easy data entry; and

(D) import and export databases.

(9) The student uses commands to retrieve data and create reports from databases. The student is expected to:

(A) retrieve data from tables and queries;

(B) formulate queries; and

(C) create and print reports.

(10) The student applies data mining methods to acquire pertinent information for business decision making. The student is expected to:

(A) discuss the nature of data mining;

(B) describe data mining tools;

(C) demonstrate basic data mining techniques; and

(D) interpret data mining findings.

(11) The student applies spreadsheet technology. The student is expected to:

(A) perform mathematical processes, including percentages and decimals, order of operations principle, estimation, and prediction of patterns of data;

(B) formulate and produce solutions to a variety of business problems such as budgets, payroll, inventory, invoices, balance sheets, profit-loss statements, and conversion of foreign currencies;

(C) create charts, graphs, and infographics using spreadsheet data; and

(D) use online spreadsheet technologies to create, edit, and share documents.

(12) The student applies presentation management technology. The student is expected to:

(A) identify the guidelines for using graphics, fonts, and special effects in presentations;

(B) analyze the effectiveness of multimedia presentations;

(C) determine the appropriate technology to create and deliver an effective presentation;

(D) save documents in various formats such as template, video, and PDF to share or transport electronically;

(E) deliver an effective presentation; and

(F) use online presentation management technologies to create, edit, transport, and share documents.

(13) The student applies desktop publishing technology. The student is expected to:

(A) identify technologies available for desktop publishing;

(B) identify customary standards and styles of desktop publishing; and

(C) create desktop publications importing text and graphics.

(14) The student uses a variety of software applications. The student is expected to integrate multiple learned software applications to efficiently accomplish workplace tasks.

§130.137. *Business Information Management II (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Prerequisite: Business Information Management I. Recommended Prerequisite: Touch System Data Entry. Recommended corequisite: Business Lab. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Business Management and Administration Career Cluster focuses on careers in planning, organizing, directing, and evaluating business functions essential to efficient and productive business operations.

(3) In Business Information Management II, students implement personal and interpersonal skills to strengthen individual performance in the workplace and in society and make a successful transition to the workforce or postsecondary education. Students apply technical skills to address business applications of emerging technologies, create complex word-processing documents, develop sophisticated spreadsheets using charts and graphs, and make an electronic presentation using appropriate multimedia software.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those that contain the phrase "such as" are intended as possible illustrative samples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills required by business and industry. The student is expected to:

(A) communicate effectively with others using oral and written skills;

(B) demonstrate collaboration skills through teamwork;

(C) demonstrate professionalism by conducting oneself in a manner appropriate for the profession and workplace;

(D) demonstrate a positive, productive work ethic by performing assigned tasks as directed;

(E) show integrity by choosing the ethical course of action and comply with all applicable rules, laws, and regulations; and

(F) demonstrate time-management skills by prioritizing tasks, following schedules, and tending to goal-relevant activities in a way that uses time wisely and optimizes efficiency and results.

(2) The student demonstrates project management processes to conduct a business project using emerging technologies. The student is expected to:

(A) initiate a project;

(B) plan a project;

(C) execute a project;

(D) monitor and control a project; and

(E) close a business project.

(3) The student demonstrates the use of the concepts, strategies, and systems for obtaining and conveying ideas and information to enhance communication in a diverse workplace. The student is expected to:

(A) employ verbal and active listening skills when obtaining and conveying information;

(B) record information needed to present a report on a given topic and use items such as tables of contents, indexes, tabs, footnotes, endnotes, captions, and/or building blocks;

(C) write business correspondence using advanced word processing features such as templates and forms; mail merge, including letters, labels, and envelopes; and document protection and security that convey information effectively using correct grammar, spelling, punctuation, and capitalization;

(D) use online word processing technologies to create, edit, and share documents;

(E) communicate with relevant parties such as coworkers and customers by interpreting verbal and nonverbal behaviors;

(F) apply strategies for communicating about issues in dealing with a diverse workforce such as sexual harassment and cultural differences; and

(G) demonstrate the ability to communicate and resolve conflicts within a diverse workforce.

(4) The student creates, evaluates, and uses information resources to accomplish specific occupational tasks. The student is expected to:

(A) create and interpret items such as tables, charts, infographics, and figures to accomplish specific occupational tasks;

(B) use resources such as informational texts, Internet websites, and technical materials to review and apply information sources for occupational tasks;

(C) evaluate the reliability of information from sources such as informational texts, Internet websites, and technical materials and resources; and

(D) reference sources of information.

(5) The student develops and delivers formal and informal presentations using appropriate media to engage and inform audiences. The student is expected to:

(A) prepare oral presentations to provide information for specific purposes and audiences;

(B) identify support materials that will enhance an oral presentation;

(C) prepare support materials that will enhance an oral presentation;

(D) deliver an oral presentation that sustains listeners' attention;

(E) align presentation strategies to the intended audience;

(F) implement multimedia strategies for presentations; and

(G) use online presentation management technologies to create, edit, transport, and share documents.

(6) The student demonstrates public relations skills to increase internal and external customer satisfaction. The student is expected to communicate effectively when developing positive customer relationships.

(7) The student designs solutions to mathematical business problems using advanced spreadsheet technologies. The student is expected to:

(A) recognize and apply spreadsheet items such as lookup tables, what-if and built-in functions, macros, and advanced charts, graphs, and functions; and

(B) create and interpret financial statements such as comparisons and projections, predictions and forecasts, trend analyses, and charts and graphs.

(8) The student follows procedures of advanced data management. The student is expected to:

(A) design a database to solve business problems; and

(B) use advanced functions of database management such as updating queries, creating formulas, using built-in formulas, and creating custom format reports.

(9) The student documents technical knowledge and skills. The student is expected to:

(A) prepare a professional electronic portfolio that includes information such as:

(i) attainment of technical skill competencies;

(ii) licensures or certifications;

(iii) recognitions, awards, and scholarships;

(iv) extended learning experiences such as community service and active participation in career and technical student organizations and professional organizations;

(v) sample letter of application;

(vi) abstract of key points of accomplishments;

(vii) resume;

(viii) samples of work; and

(ix) evaluation from a teacher; and

(B) present the portfolio to interested stakeholders.

§130.138. *Business Lab (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9-12 as a corequisite course for students participating in a coherent sequence of career and technical education courses in the Business Management and Administration Career Cluster. This course provides an enhancement opportunity for students to develop the additional skills necessary to pursue industry certification. Corequisite: any course in the Business Management and Administration Career Cluster. Recommended corequisite: Business Information Management I or Business Information Management II. This course must be taken concurrently with a corequisite course from the Business Management and Administration Career Cluster and may not be taken as a stand-alone course. Districts are encouraged to offer this lab in a consecutive block with the corequisite course to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Business Management and Administration Career Cluster focuses on careers in planning, organizing, directing, and evaluating business functions essential to efficient and productive business operations.

(3) Business Lab is designed to provide students an opportunity to further enhance skills of previously studied knowledge and skills and may be used as an extension of Business Information Management I or Business Information Management II; it is a recommended corequisite course, and may not be offered as a stand-alone course. Students implement personal and interpersonal skills to strengthen individual performance in the workplace and in society and to make a successful transition to the workforce or postsecondary education. Students apply technical skills to address business applications of emerging technologies. Students develop a foundation in the economical, financial, technological, international, social, and ethical aspects of business to become competent consumers, employees, and entrepreneurs. Students enhance reading, writing, computing, communication, and reasoning skills and apply them to the business environment. Students incorporate a broad base of knowledge that includes the legal, managerial, marketing, financial, ethical, and international dimensions of business to make appropriate business decisions.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those that contain the phrase "such as" are intended as possible illustrative samples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills required by business and industry. The student is expected to:

- (A) communicate effectively with others using oral and written skills;
- (B) demonstrate collaboration skills through teamwork;
- (C) demonstrate professionalism by conducting oneself in a manner appropriate for the profession and workplace;
- (D) demonstrate a positive, productive work ethic by performing assigned tasks as directed;
- (E) comply with all applicable rules, laws, and regulations;
- (F) demonstrate time-management skills by prioritizing tasks, following schedules, and tending to goal-relevant activities in a way that uses time wisely and optimizes efficiency and results; and
- (G) pursue appropriate licensing, certification, and/or credentialing requirements relevant to the business field.

(2) The student develops an elevated aptitude for the essential skills listed for the recommended corequisite course(s). The student is expected to:

- (A) demonstrate deeper understanding of related course requirements;
- (B) develop mastery of hands-on skills at an industry accepted standard; and
- (C) exhibit progress toward achieving industry recognized documentation of specific expertise in a business field or skill.

§130.139. *Business Management (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Business Management and Administration Career Cluster focuses on careers in planning, organizing, directing and evaluating business functions essential to efficient and productive business operations.

(3) Business Management is designed to familiarize students with the concepts related to business management as well as the functions of management, including planning, organizing, staffing, leading, and controlling. Students will also demonstrate interpersonal and project-management skills.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills required by business and industry. The student is expected to:

- (A) communicate effectively with others using oral and written skills;
- (B) demonstrate collaboration skills through teamwork;
- (C) demonstrate professionalism by conducting oneself in a manner appropriate for the profession and workplace;
- (D) demonstrate a positive, productive work ethic by performing assigned tasks as directed;
- (E) comply with all applicable rules, laws, and regulations; and
- (F) demonstrate time-management skills by prioritizing tasks, following schedules, and tending to goal-relevant activities in a way that uses time wisely and optimizes efficiency and results.

(2) The student demonstrates an understanding of the management concept. The student is expected to:

- (A) define the term management;
- (B) explain management functions, including planning, organizing, staffing, leading, and controlling;
- (C) define the management pyramid;
- (D) define the role of management;
- (E) explain the history and evolution of management;
- (F) identify the external and internal environmental factors that influence management;
- (G) define ethical workplace behavior;
- (H) summarize how to make ethical decisions;
- (I) define social responsibility;
- (J) explain how socially responsible management policies are initiated and implemented; and
- (K) research contemporary cases dealing with ethics and social responsibility using appropriate online technology.

(3) The student recognizes the importance of planning in an organization. The student is expected to:

- (A) define the term planning;
- (B) explain the necessity of proper planning;
- (C) define types of planning such as marketing, financial, and organizational;
- (D) identify steps of the management decision-making process, including:
 - (i) identifying the problem or opportunity;
 - (ii) gathering relevant information or data;
 - (iii) determining alternative courses of action;
 - (iv) evaluating each alternative;
 - (v) computing an optimal decision;
 - (vi) implementing the chosen course of action; and
 - (vii) evaluating the decision feedback and determining if any changes are necessary;
- (E) determine competitive advantage;

- (F) establish organizational strategy;
- (G) determine innovative strategies;
- (H) identify the need for change;
- (I) define global management; and
- (J) explain how the organization will function in a global environment.

(4) The student recognizes the importance of organizations. The student is expected to:

- (A) explain how to design an adaptive organization;
- (B) define the concepts, methods, and types of departmentalization;
- (C) define the chain of command;
- (D) explain line authority;
- (E) define staff authority;
- (F) explain the advantages and disadvantages of different types of organizations, including line, line and staff, and matrix;
- (G) define delegation in a management context;
- (H) compare and contrast centralized and decentralized organizations;
- (I) identify the concept of teams and teamwork; and
- (J) define span of control or span of management.

(5) The student explains the role of staffing within an organization. The student is expected to:

- (A) describe ethics in human resource issues;
- (B) explain or define the major federal employment laws;
- (C) define adverse impact and employment discrimination;
- (D) identify sexual harassment in the workplace;
- (E) explain the methods of recruiting potential employees;
- (F) define the selection process for new employees;
- (G) explain the types of training needed for newly hired employees;
- (H) define professional development in terms of current employees;
- (I) explain employee compensation in a competitive environment;
- (J) define the potential need for downsizing;
- (K) rationalize the costs of employee turnover and what can be done to reduce turnover rate;
- (L) explain the need and benefits of a diverse workforce; and
- (M) research contemporary cases addressing recruitment, downsizing, and diversity using appropriate online resources.

(6) The student demonstrates the qualities of leadership. The student is expected to:

- (A) define motivation;

- (B) distinguish between extrinsic and intrinsic rewards;
- (C) explain how to address real or perceived inequities in the workplace;
- (D) define the Expectancy Theory;
- (E) explain how rewards and goals affect motivation;
- (F) compare a leader to a manager;
- (G) explain the roles of a leader;
- (H) explain the traits of an effective leader;
- (I) define the different styles of leadership, including autocratic, democratic, and free rein;
- (J) explain when each style of leadership is appropriate;
- (K) define the management communication process;
- (L) explain the concept of employee perception;
- (M) analyze the communication process;
- (N) compare and contrast formal and informal communication; and
- (O) explain how to improve communication within an organization.

(7) The student understands the necessity of the control process. The student is expected to:

- (A) examine the control process;
- (B) illustrate the five primary control methods;
- (C) explain the importance of quality control;
- (D) define the strategic importance of management information;
- (E) develop the importance of gathering and sharing information;
- (F) explain the importance of managing for productivity and growth;
- (G) define the quality-related characteristics for products;
- (H) explain International Standards Organization (ISO) standards, including ISO 9000 and ISO 14000;
- (I) define the quality-related characteristics for services;
- (J) explain the Baldrige National Quality Award;
- (K) explain the Deming Award;
- (L) research and critique recent winners of the Baldrige awards using appropriate online technology;
- (M) research and critique recent winners of the Deming award using appropriate online technology;
- (N) define Total Quality Management;
- (O) explain service operations;
- (P) develop a service quality standards instrument such as a customer satisfaction survey or SERVQUAL survey;
- (Q) analyze manufacturing operations;
- (R) define inventory in the management context; and

(S) explain the fiscal importance of controlling inventory.

(8) The student knows self-development techniques and interpersonal skills to accomplish management objectives. The student is expected to:

- (A) recognize personal biases and stereotypes;
- (B) identify and practice effective interpersonal skills involving situations with coworkers, supervisors, and subordinates;
- (C) identify and practice effective team-building skills involving situations with coworkers, supervisors, and subordinates;
- (D) participate in leadership activities;
- (E) participate in career development activities;
- (F) assess personal strengths and weaknesses; and
- (G) develop personal traits and behaviors to foster career advancement.

(9) The student demonstrates project-management skills to improve workflow and minimize costs. The student is expected to:

- (A) initiate a project, which includes identifying resources needed for a project;
- (B) develop a project plan;
- (C) execute a project;
- (D) monitor and control a project; and
- (E) close a project.

§130.141. *Virtual Business (One-Half Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Touch System Data Entry. Students shall be awarded one-half credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Business Management and Administration Career Cluster focuses on careers in planning, organizing, directing, and evaluating business functions essential to efficient and productive business operations.

(3) Virtual Business is designed for students to start a virtual business by creating a web presence, conducting online and off-line marketing, examining contracts appropriate for an online business, and demonstrating project-management skills. Students will also demonstrate bookkeeping skills for a virtual business, maintain business records, and understand legal issues associated with a virtual business.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills required by business and industry. The student is expected to:

- (A) communicate effectively with others using oral and written skills;
- (B) demonstrate collaboration skills through teamwork;
- (C) demonstrate professionalism by conducting oneself in a manner appropriate for the profession and workplace;
- (D) demonstrate a positive, productive work ethic by performing assigned tasks as directed;
- (E) comply with all applicable rules, laws, and regulations; and
- (F) demonstrate time-management skills by prioritizing tasks, following schedules, and tending to goal-relevant activities in a way that uses time wisely and optimizes efficiency and results.

(2) The student analyzes an overview of starting and growing a virtual business office. The student is expected to:

- (A) identify the nature, history, and duties of a virtual business office;
- (B) list benefits afforded to virtual business clients;
- (C) assess personality characteristics to determine suitability for being a self-employed virtual business office employee;
- (D) inventory skills, interests, strengths, and weaknesses to determine appropriate services to offer;
- (E) prepare a business plan, including the following sections: executive summary, mission statement, long- and short-term goals, marketing plan, financial plan, and organizational plan; and
- (F) examine global business considerations.

(3) The student demonstrates online and off-line marketing, including establishing a web presence. The student is expected to:

- (A) create and design a website for a virtual business office;
- (B) describe details of setting up a virtual business office;
- (C) determine appropriate marketing of a virtual business office;
- (D) describe steps to successfully market a virtual business office; and
- (E) participate in leadership and career development activities.

(4) The student develops contracts appropriate for virtual business office services provided. The student is expected to:

- (A) research details of setting up a virtual business office;
- (B) determine particulars of communicating with clients locally and remotely; and
- (C) set appropriate fees for virtual business office services provided.

(5) The student establishes pricing, billing, and collections procedures. The student is expected to:

- (A) research pricing and billing practices of a virtual business office;

- (B) research appropriate recordkeeping and tax issues;
- (C) apply fundamental bookkeeping skills for a virtual business office;
- (D) define appropriate bookkeeping terminology such as accounts payable, accounts receivable, income, expense, asset, liability, profit, balance sheet, and income statement; and
- (E) prepare appropriate bookkeeping statements, including basic balance sheet and income statement.

(6) The student describes legal and tax issues related to running a virtual business office. The student is expected to:

- (A) determine local licensing requirements required for a virtual business office;
- (B) set up a virtual business office;
- (C) research support resources for a virtual business; and
- (D) describe the advantages and disadvantages of the various forms of legal construction of a virtual business office.

(7) The student maintains business records to facilitate management. The student is expected to:

- (A) describe the nature of business records needs for a virtual business office; and
- (B) maintain customer records.

(8) The student acquires information to analyze business decision making. The student is expected to:

- (A) monitor internal records for business information; and
- (B) conduct an environment scan to obtain business information and interpret statistical findings.

(9) The student demonstrates project-management skills to improve workflow and minimize costs. The student is expected to:

- (A) initiate a project, which includes identifying resources needed for a project;
- (B) develop a project plan;
- (C) execute a project;
- (D) monitor and control a project, including coordinating work with that of team members; and
- (E) close a project.

§130.143. Practicum in Business Management (Two Credits), Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 11 and 12. Recommended prerequisites: Touch System Data Entry and Business Management or Business Information Management II. Students shall be awarded two credits for successful completion of this course. A student may repeat this course once for credit provided that the student is experiencing different aspects of the industry and demonstrating proficiency in additional and more advanced knowledge and skills.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Business Management and Administration Career Cluster focuses on careers in planning, organizing, directing, and evaluating business functions essential to efficient and productive business operations.

(3) Practicum in Business Management is designed to give students supervised practical application of previously studied knowledge and skills. Practicum experiences occur in a paid or unpaid arrangement and a variety of locations appropriate to the nature and level of experience. Students implement personal and interpersonal skills to strengthen individual performance in the workplace and in society and to make a successful transition to the workforce or postsecondary education. Students apply technical skills to address business applications of emerging technologies. Students develop a foundation in the economic, financial, technological, international, social, and ethical aspects of business to become competent consumers, employees, and entrepreneurs. Students enhance reading, writing, computing, communication, and reasoning skills and apply them to the business environment. Students incorporate a broad base of knowledge that includes the legal, managerial, marketing, financial, ethical, and international dimensions of business to make appropriate business decisions.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills required by business and industry. The student is expected to:

- (A) communicate effectively with others using oral and written skills;
- (B) demonstrate collaboration skills through teamwork;
- (C) demonstrate professionalism by conducting oneself in a manner appropriate for the profession and workplace;
- (D) demonstrate a positive, productive work ethic by performing assigned tasks as directed;
- (E) comply with all applicable rules, laws, and regulations; and
- (F) demonstrate time-management skills by prioritizing tasks, following schedules, and tending to goal-relevant activities in a way that uses time wisely and optimizes efficiency and results.

(2) The student identifies and implements employability skills to gain a position in a company. The student is expected to:

- (A) assess personal marketability;
- (B) practice job-search strategies, including:
 - (i) write a letter of application;
 - (ii) prepare a resume;
 - (iii) use networking techniques to identify employment opportunities; and
 - (iv) complete a job application;
- (C) demonstrate proper interview techniques and professional dress and appearance;

(D) interview for a job, performing proper interview techniques and modeling professional dress and appearance;

(E) practice appropriate follow-up etiquette procedures, including:

(i) write a thank you note; and

(ii) write a follow-up letter after a job interview;

(F) identify skills and attributes necessary for professional advancement;

(G) evaluate and compare employment options such as salaries, benefits, and prerequisites;

(H) identify and rank tangible and intangible rewards of work; and

(I) identify employment opportunities and complete job search procedures such as job applications and W-4.

(3) The student demonstrates professional standards as required by business and industry. The student is expected to:

(A) adhere to policies and procedures;

(B) demonstrate positive work behaviors and attitudes, including punctuality, time-management, initiative, and cooperation;

(C) apply ethical reasoning to a variety of situations in order to make ethical decisions; and

(D) complete tasks with the highest standards to ensure quality products and services.

(4) The student develops and demonstrates skills for success in the workplace. The student is expected to:

(A) explain the importance of and model appropriate dress, hygiene, and demeanor for the work assignment;

(B) exhibit productive work habits and attitudes, including accepting constructive criticism; and

(C) prioritize work to fulfill responsibilities, meet deadlines, and complete tasks with the highest standards to ensure quality products and services.

(5) The student applies principles of effective interpersonal skills. The student is expected to:

(A) demonstrate professional qualities, including positive attitude, loyalty, and diplomacy;

(B) identify and demonstrate skills needed to maintain effective work relations with relevant parties such as colleagues and customers;

(C) demonstrate a respect for different workplace cultures and individuals from different cultures, genders, and backgrounds;

(D) understand rights and responsibilities concerning sexual harassment in the workplace;

(E) apply tact in handling criticism and disagreement or disappointment, accept constructive criticism, and revise personal views when valid evidence warrants;

(F) explain the concepts of integrity and confidentiality as related to the office environment; and

(G) demonstrate methods for implementing and improving customer satisfaction.

(6) The student demonstrates leadership and teamwork skills in collaborating with others to accomplish goals and objectives. The student is expected to:

(A) analyze leadership in relation to trust, positive attitude, integrity, and willingness to accept key responsibilities in a work situation;

(B) demonstrate teamwork skills through working cooperatively with others to achieve goals;

(C) demonstrate teamwork processes that promote team building, consensus, continuous improvement, respect for the opinions of others, cooperation, adaptability, and conflict resolution;

(D) demonstrate responsibility for shared group and individual work tasks; and

(E) establish and maintain effective working relationships by:

(i) demonstrating interpersonal skills;

(ii) using positive interpersonal skills to work cooperatively with others;

(iii) negotiating effectively to arrive at decisions; and

(iv) demonstrating sensitivity to and value for diversity.

(7) The student facilitates internal and external office communications to support work activities. The student is expected to:

(A) record messages accurately, legibly, and completely;

(B) deliver messages to the appropriate person or department;

(C) coordinate arrangements for participants;

(D) follow calling and login procedures; and

(E) troubleshoot any problems.

(8) The student abides by risk-management policies and procedures for technology to minimize loss. The student is expected to:

(A) adhere to technology safety and security policies such as acceptable use policy and web page policies;

(B) apply ergonomic techniques to technology tasks;

(C) adhere to laws pertaining to computer crime, fraud, and abuse;

(D) follow procedures used to restart and recover from situations such as system failure and virus infection;

(E) follow policies to prevent loss of data integrity; and

(F) adhere to the organization's policies for technology use.

(9) The student uses information technology tools to manage and perform work responsibilities. The student is expected to:

(A) demonstrate advanced web search skills;

(B) demonstrate advanced word-processing skills by:

(i) identifying customary styles of business documents such as memoranda, letters, emails, and reports;

(ii) inputting data using the touch system;

(iii) demonstrating basic writing techniques such as correct memorandum format, informal or formal style, and direct or indirect layout;

(iv) applying correct grammar, spelling, punctuation, and other English mechanics; and

(v) using references and preparing notations;

(C) apply advanced presentation applications;

(D) demonstrate advanced spreadsheet applications by:

(i) entering labels and values into spreadsheet cells;

(ii) formatting labels and values;

(iii) preparing tables, graphs, infographics and graphics;

(iv) developing formulas and entering appropriate functions; and

(v) verifying formulas and functions with sample values;

(E) construct advanced database applications;

(F) perform scheduling functions electronically to facilitate on-time, prompt completion of work activities by:

(i) creating a calendar or schedule;

(ii) maintaining an appointment calendar;

(iii) verifying appointments;

(iv) coordinating travel arrangements;

(v) setting up meeting arrangements; and

(vi) disseminating meeting information to appropriate persons; and

(G) enter data without error.

(10) The student manages personal finances to achieve financial goals. The student is expected to:

(A) develop a budget based on personal financial goals;

(B) interpret a pay stub;

(C) read and reconcile bank statements;

(D) maintain financial records;

(E) demonstrate the wise use of credit;

(F) validate a credit history;

(G) protect against identity theft; and

(H) prepare personal income tax forms, including the 1040E.

(11) The student establishes procedures to maintain equipment and supplies. The student is expected to:

(A) determine equipment needed;

(B) determine supplies needed;

(C) establish equipment and supplies maintenance systems;

(D) schedule equipment maintenance; and

(E) use equipment and supplies maintenance procedures.

(12) The student applies concepts of critical thinking and problem solving. The student is expected to:

(A) analyze elements of a problem to develop creative and innovative solutions;

(B) critically analyze information to determine value to the problem-solving task;

(C) compare and contrast alternatives using a variety of problem-solving and critical-thinking skills; and

(D) conduct technical research to gather information necessary for decision making.

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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Texas Education Agency

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SUBCHAPTER E. EDUCATION AND TRAINING

19 TAC §§130.161 - 130.165

STATUTORY AUTHORITY. The new sections are adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; §28.00222, which authorizes the SBOE to ensure that at least six advanced career and technology education or technology applications courses, including courses in personal financial literacy consistent with TEC, §28.0021, and in statistics, are approved to satisfy a fourth credit in mathematics required for high school graduation; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The new sections implement the Texas Education Code, §§7.102(c)(4), 28.002, 28.00222, and 28.025.

§130.162. *Principles of Education and Training (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9 and 10. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant

technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Education and Training Career Cluster focuses on planning, managing, and providing education and training services and related learning support services.

(3) Principles of Education and Training is designed to introduce learners to the various careers available within the Education and Training Career Cluster. Students use self-knowledge as well as educational and career information to analyze various careers within the Education and Training Career Cluster. Students will develop a graduation plan that leads to a specific career choice in the student's interest area.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

- (A) demonstrate written communication;
- (B) perform job-appropriate numerical and arithmetic application;
- (C) practice various forms of communication such as verbal and non-verbal communication used in educational and career settings;
- (D) exhibit teamwork skills;
- (E) apply decision-making skills;
- (F) implement problem-solving techniques;
- (G) acquire conflict management skills;
- (H) develop leadership skills;
- (I) demonstrate professionalism; and
- (J) develop effective work ethic practices.

(2) The student explores education and training careers by such means as shadowing, interviewing, career interest inventory, researching, and/or self-reflection. The student is expected to:

- (A) identify and investigate the three Education and Training Programs of Study: Teaching/Training, Professional Support Services, and Administration and Administrative Support;
- (B) analyze transferable skills among a variety of careers within the Education and Training Career Cluster;
- (C) recognize the impact of career choice on personal lifestyle;
- (D) develop productive work habits such as organization, time management, and initiative; and
- (E) analyze assessment results such as an interest and ability inventory as relative to those necessary for success in education and training.

(3) The student explains societal impacts within the education and training career cluster. The student is expected to:

(A) investigate trends or issues that have influenced the development of education across the United States such as historical, societal, cultural, and political trends and issues; and

(B) predict the Education and Training Career Cluster job market by using information from sources such as labor market information, technology, and societal or economic trends.

(4) The student explores careers in the teaching and training program of study. The student is expected to:

- (A) summarize the various roles and responsibilities of professionals in the fields of teaching and training;
- (B) describe typical personal characteristics, qualities, and aptitudes of professionals in the field of teaching and training;
- (C) investigate education or training alternatives after high school for a career choice within the student's interest areas; and
- (D) examine education or training degree plans for various occupations within the field of teaching and training.

(5) The student explores careers in the professional support services program of study. The student is expected to:

- (A) summarize the various roles and responsibilities of professionals in the field of professional support services;
- (B) describe typical personal characteristics, qualities, and aptitudes of professionals in the field of professional support services;
- (C) investigate education and training alternatives after high school for a career choice within the student's interest areas; and
- (D) examine education and training degree plans for various occupations within the field of professional support services.

(6) The student explores careers in the administration and administrative support program of study. The student is expected to:

- (A) summarize the various roles and responsibilities of professionals in the field of administration and administrative support;
- (B) describe typical personal characteristics, qualities, and aptitudes of professionals in the field of administration and administrative support;
- (C) investigate education and training alternatives after high school for a career choice within the student's interest areas; and
- (D) examine education and training degree plans for various occupations within the fields of administration and administrative support.

(7) The student experiences authentic education and training opportunities. The student is expected to:

- (A) experience educator duties and responsibilities through activities such as assisting, shadowing, or observing;
- (B) develop instructional materials such as visuals, teacher aids, manipulatives, lesson components, and mini lessons; and
- (C) formulate a personal set of beliefs relevant to education in preparation of developing a philosophy of education.

(8) The student explores options in education and career planning. The student is expected to:

- (A) develop a graduation plan that leads to a specific career choice in the area of interest;
- (B) identify high school and dual enrollment courses related to specific career cluster programs of study;

(C) identify and compare technical and community college programs that align with interest areas; and

(D) identify and compare university programs and institutions that align with interest areas.

(9) The student documents technical knowledge and skills. The student is expected to:

(A) assemble basic professional portfolio components such as basic resume, samples of work, service learning log, assessment results, and mock scholarship applications; and

(B) present the portfolio to interested stakeholders.

§130.163. *Human Growth and Development (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Principles of Education and Training. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Education and Training Career Cluster focuses on planning, managing, and providing education and training services and related learning support services.

(3) Human Growth and Development is an examination of human development across the lifespan with emphasis on research, theoretical perspectives, and common physical, cognitive, emotional, and social developmental milestones. The course covers material that is generally taught in a postsecondary, one-semester introductory course in developmental psychology or human development.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) demonstrate written communication;

(B) perform job-appropriate numerical and arithmetic application;

(C) practice various forms of communication such as verbal and non-verbal communication used in educational and career settings;

(D) exhibit teamwork skills;

(E) apply decision-making skills;

(F) implement problem-solving techniques;

(G) acquire conflict management skills;

(H) develop leadership skills;

(I) demonstrate professionalism; and

(J) develop effective work ethic practices.

(2) The student understands historical, theoretical, and research perspectives of human growth and development throughout the lifespan. The student is expected to:

(A) explain the role of theories in understanding human development;

(B) describe theoretical perspectives that influence human development throughout the lifespan;

(C) summarize historical influences on modern theories of human development;

(D) compare and contrast the research methods commonly used to study human development; and

(E) compare and contrast pedagogy and andragogy.

(3) The student understands the importance of prenatal care in the development of a child. The student is expected to:

(A) describe nutritional needs prior to and during pregnancy;

(B) analyze reasons for medical care and good health practices prior to and during pregnancy;

(C) outline stages of prenatal development;

(D) discuss the role of genetics in prenatal development; and

(E) determine environmental factors affecting development of the fetus.

(4) The student understands the development of children ages newborn through two years. The student is expected to:

(A) analyze the physical, emotional, social, and cognitive development of infants and toddlers;

(B) analyze various developmental theories relating to infants and toddlers;

(C) discuss the influences of the family and society on the infant and toddler;

(D) summarize strategies for optimizing the development of infants and toddlers, including those with special needs;

(E) determine techniques that promote the health and safety of infants and toddlers; and

(F) determine developmentally appropriate guidance techniques for children in the first two years of life.

(5) The student understands the development of children ages three through five years. The student is expected to:

(A) analyze the physical, emotional, social, and cognitive development of preschoolers;

(B) analyze various developmental theories relating to preschoolers;

(C) discuss the influences of the family and society on preschoolers;

(D) summarize strategies for optimizing the development of preschoolers, including those with special needs;

(E) determine techniques that promote the health and safety of preschoolers; and

(F) determine developmentally appropriate guidance techniques for preschoolers.

(6) The student understands the development of children ages six through ten years. The student is expected to:

(A) analyze the physical, emotional, social, and cognitive development of children in the early to middle childhood stage of development;

(B) analyze various developmental theories relating to children in the early to middle childhood stage of development;

(C) discuss the influences of the family and society on children in the early to middle childhood stage of development;

(D) summarize strategies for optimizing the development of children in the early to middle childhood stage of development, including those with special needs;

(E) determine techniques that promote the health and safety of children in the early to middle childhood stage of development; and

(F) determine developmentally appropriate guidance techniques for children in the early to middle childhood stage of development.

(7) The student understands the development of adolescents ages 11 through 19 years. The student is expected to:

(A) analyze the biological and cognitive development of adolescents;

(B) analyze the emotional and social development of adolescents;

(C) discuss various theoretical perspectives relevant to adolescent growth and development;

(D) discuss the influences of the family and society on adolescents;

(E) summarize strategies for optimizing the development of the adolescent;

(F) determine techniques that promote the health and safety of the adolescent; and

(G) determine developmentally appropriate guidance techniques for adolescents.

(8) The student understands the importance of care and protection of children and adolescents. The student is expected to:

(A) determine services provided by agencies that protect the rights of children and adolescents;

(B) summarize various resources focusing on children and adolescents;

(C) predict the impact of changing demographics and cultural diversity on the health and welfare of children and adolescents;

(D) analyze forms, causes, effects, prevention, and treatment of child abuse;

(E) explain the impact of appropriate health care and importance of safety for children and adolescents; and

(F) discuss responsibilities of citizens, legislation, and public policies affecting children and adolescents.

(9) The student understands the development of adults ages 20 through 39 years. The student is expected to:

(A) analyze various development theories relating to early adults, including biological and cognitive development;

(B) analyze various development theories relating to early adults, including emotional, moral, and psychosocial development;

(C) discuss the influences of society and culture on early adults; and

(D) discuss the importance of family, human relationships, and social interaction for early adults.

(10) The student understands the development of adults ages 40 through 65 years. The student is expected to:

(A) analyze various development theories relating to middle adults, including biological and cognitive development;

(B) analyze various development theories relating to middle adults, including emotional, moral, and psychosocial development;

(C) discuss the influences of society and culture on middle adults; and

(D) discuss the importance of family, human relationships, and social interaction for middle adults.

(11) The student understands the development of adults ages 66 years and older. The student is expected to:

(A) analyze various development theories relating to those within the stage of late adulthood, including biological and cognitive development;

(B) analyze various development theories relating to those within the stage of late adulthood, including emotional, moral, and psychosocial development;

(C) discuss the influences of society and culture on those within the stage of late adulthood; and

(D) discuss the importance of family, human relationships, and social interaction for those within the stage of late adulthood.

(12) The student explores opportunities available in education and training. The student is expected to:

(A) assess personal interests, aptitudes, and abilities as related to the various stages of human growth and development;

(B) evaluate employment and entrepreneurial opportunities, including education requirements in the educational field of interest;

(C) propose short-term and long-term education and career goals; and

(D) demonstrate effective methods and obligations for securing, maintaining, and terminating employment.

(13) The student documents technical knowledge and skills. The student is expected to:

(A) update professional portfolio components such as resume, samples of work, service learning log, assessment results, and mock scholarship applications; and

(B) present the portfolio to interested stakeholders.

§130.164. *Instructional Practices (Two Credits), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Recommended prerequisites: Principles of Education and Training and Human Growth and Development. Students shall be awarded two credits for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Education and Training Career Cluster focuses on planning, managing, and providing education and training services and related learning support services.

(3) Instructional Practices is a field-based (practicum) internship that provides students with background knowledge of child and adolescent development as well as principles of effective teaching and training practices. Students work under the joint direction and supervision of both a teacher with knowledge of early childhood, middle childhood, and adolescence education and exemplary educators or trainers in direct instructional roles with elementary-, middle school-, and high school-aged students. Students learn to plan and direct individualized instruction and group activities, prepare instructional materials, develop materials for educational environments, assist with record keeping, and complete other responsibilities of teachers, trainers, paraprofessionals, or other educational personnel.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

- (A) demonstrate written communication;
- (B) perform job-appropriate numerical and arithmetic application;
- (C) practice various forms of communication such as verbal and non-verbal communication skills used in educational and career settings;
- (D) exhibit teamwork skills;
- (E) apply decision-making skills;
- (F) implement problem-solving techniques;
- (G) acquire conflict management skills;
- (H) develop leadership skills;
- (I) demonstrate professionalism; and
- (J) develop effective work ethic practices.

(2) The student explores the teaching and training profession. The student is expected to:

- (A) demonstrate an understanding of the historical foundations of education and training in the United States;
- (B) determine and implement knowledge and skills needed by teaching and training professionals;
- (C) demonstrate and implement personal characteristics needed by teaching and training professionals;
- (D) identify qualities of effective schools;

(E) investigate possible career options in the field of education and training;

(F) discuss teaching and training in non-traditional setting such as those in corporations, community outreach, nonprofits, and government entities; and

(G) formulate a professional philosophy of education based on a personal set of beliefs.

(3) The student understands the learner and the learning process. The student is expected to:

- (A) relate and implement principles and theories of human development to teaching and training situations;
- (B) relate and implement principles and theories about the learning process to teaching and training situations;
- (C) demonstrate and implement behaviors and skills that facilitate the learning process; and
- (D) explain the relationship between effective instructional practices and learning differences, learner exceptionality, and special-needs conditions.

(4) The student interacts effectively in the role of an educator. The student is expected to:

- (A) demonstrate effective interaction skills with stakeholders such as students, educators, parents/guardians, community members, and other professionals; and
- (B) demonstrate techniques promoting literacy.

(5) The student plans and develops effective instruction. The student is expected to:

- (A) explain the role of the Texas Essential Knowledge and Skills in planning and evaluating instruction;
- (B) explain the rationale for having a fundamental knowledge of the subject matter in order to plan, prepare, and deliver effective instruction;
- (C) explain the rationale for and process of instructional planning;
- (D) describe principles and theories that impact instructional planning;
- (E) create clear short-term and long-term learning objectives that are developmentally appropriate for students; and
- (F) demonstrate lesson planning to meet instructional goals.

(6) The student creates an effective learning environment. The student is expected to:

- (A) describe and implement a safe and an effective learning environment;
- (B) demonstrate teacher and trainer characteristics that promote an effective learning environment;
- (C) identify classroom-management techniques that promote an effective learning environment; and
- (D) demonstrate conflict-management and mediation techniques supportive of an effective learning environment.

(7) The student assesses teaching and learning. The student is expected to:

(A) describe the role of assessment as part of the learning process;

(B) analyze the assessment process; and

(C) use appropriate assessment strategies in an instructional setting.

(8) The student understands the relationship between school and society. The student is expected to:

(A) explain the relationship between school and society;

(B) recognize and use resources for professional growth such as family, school, and community resources; and

(C) collaborate with stakeholders such as family, school, and community to promote learning.

(9) The student develops technology skills. The student is expected to:

(A) describe the role of technology in the instructional process;

(B) use technology applications appropriate for specific subject matter and student needs; and

(C) demonstrate skillful use of technology as a tool for instruction, evaluation, and management.

(10) The student understands the professional, ethical, and legal responsibilities in teaching and training. The student is expected to:

(A) describe teacher and trainer characteristics that promote professional and ethical conduct;

(B) analyze professional and ethical standards that apply to educators and trainers;

(C) analyze situations requiring decisions based on professional, ethical, and legal considerations; and

(D) analyze expected effects of compliance and non-compliance with Texas teacher code of conduct.

(11) The student participates in field-based experiences in education and training. The student is expected to:

(A) apply instructional strategies and concepts within a local educational or training facility; and

(B) document, assess, and reflect on instructional experiences.

(12) The student documents technical knowledge and skills. The student is expected to:

(A) update professional portfolio components such as resume, samples of work, service learning log, assessment results, and mock scholarship applications; and

(B) present the portfolio to interested stakeholders.

§130.165. Practicum in Education and Training (Two Credits), Adopted 2015.

(a) General requirements. This course is recommended for students in Grade 12. Prerequisite: Instructional Practices. Recommended prerequisites: Principles of Education and Training and Human Growth and Development. Students shall be awarded two credits for successful completion of this course. A student may repeat this course once for credit provided that the student is experiencing differ-

ent aspects of the industry and demonstrating proficiency in additional and more advanced knowledge and skills.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Education and Training Career Cluster focuses on planning, managing, and providing education and training services and related learning support services.

(3) Practicum in Education and Training is a field-based internship that provides students background knowledge of child and adolescent development principles as well as principles of effective teaching and training practices. Students in the course work under the joint direction and supervision of both a teacher with knowledge of early childhood, middle childhood, and adolescence education and exemplary educators in direct instructional roles with elementary-, middle school-, and high school-aged students. Students learn to plan and direct individualized instruction and group activities, prepare instructional materials, assist with record keeping, make physical arrangements, and complete other responsibilities of classroom teachers, trainers, paraprofessionals, or other educational personnel.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) demonstrate written communication;

(B) perform job-appropriate numerical and arithmetic application;

(C) practice various forms of communication such as verbal and non-verbal communication used in educational and career settings;

(D) exhibit teamwork skills;

(E) apply decision-making skills;

(F) implement problem-solving techniques;

(G) acquire conflict management skills;

(H) develop leadership skills;

(I) demonstrate professionalism; and

(J) develop effective work ethic practices.

(2) The student explores the teaching and training profession. The student is expected to:

(A) analyze current trends and issues that impact education such as political, societal, and economic trends and issues;

(B) demonstrate and implement knowledge and skills needed by the teaching and training profession;

(C) update assessment of personal characteristics needed to work in the teaching and training profession;

- (D) explore qualities of effective schools;
- (E) refine professional philosophy of education based on a personal set of beliefs;
- (F) explore the educational/academic requirements and possible degree/certifications available in education;
- (G) refine personal career plan in preparation for a career in the field of education or training;
- (H) explore teaching and training in non-traditional setting such as those in corporations, community outreach, nonprofits, and government entities; and
- (I) explore educational high-needs and teacher-shortage areas.

(3) The student understands the learner and learning process. The student is expected to:

- (A) apply principles and theories of human development appropriate to specific teaching or training situations;
- (B) apply principles and theories about the learning process to specific teaching or training situations;
- (C) analyze the dynamics of personal and student behaviors that facilitate the learning process;
- (D) analyze teaching skills that facilitate the learning process; and
- (E) demonstrate and evaluate effective instructional practices to accommodate diversity such as learning differences, learner exceptionality, and special-needs considerations.

(4) The student interacts effectively in the role of an educator. The student is expected to:

- (A) demonstrate and evaluate effective interaction skills with stakeholders such as students, educators, parents/guardians, community members, and other professionals; and
- (B) demonstrate and evaluate techniques promoting literacy.

(5) The student plans and uses effective instruction. The student is expected to:

- (A) apply principles and theories that impact instructional planning;
- (B) develop instructional materials that align with the Texas Essential Knowledge and Skills;
- (C) demonstrate competency in core and non-core subject areas;
- (D) create lessons plans that meet instructional goals;
- (E) analyze concepts for developing effective instructional strategies;
- (F) evaluate and analyze effectiveness of lessons plans and instructional strategies; and
- (G) explain how learner and professional feedback is used to guide selection and adjustment of instructional strategies.

(6) The student creates and maintains an effective learning environment. The student is expected to:

- (A) create and maintain a safe and an effective learning environment;

(B) integrate teacher or trainer characteristics that promote an effective learning environment;

(C) apply classroom management techniques that promote an effective learning environment; and

(D) demonstrate specific conflict management and mediation techniques supportive of an effective learning environment.

(7) The student assesses instruction and learning. The student is expected to:

(A) develop and apply assessments to foster student learning;

(B) use assessment strategies to promote personal growth and teaching or training improvement; and

(C) use reflective techniques to promote personal growth and teaching or training improvement.

(8) The student understands the relationship between school and society. The student is expected to:

- (A) identify and support learning through advocacy;
- (B) select family, school, and community resources for professional growth; and

(C) promote learning and build support through positive school partnership activities with stakeholders such as families, schools, communities, and business/industry.

(9) The student develops technology skills. The student is expected to:

(A) access and use current technology applications appropriate for specific subject matter and student needs; and

(B) integrate the skillful use of technology as a tool for instruction, evaluation, and management.

(10) The student understands the professional, ethical, and legal responsibilities in teaching and training. The student is expected to:

(A) develop teacher and trainer characteristics that promote professional and ethical conduct;

(B) analyze professional and ethical standards that apply to educators and trainers;

(C) analyze situations requiring decisions based on professional, ethical, and legal considerations; and

(D) analyze expected effects of compliance and non-compliance with Texas teacher code of conduct.

(11) The student explores the need and opportunities for continued professional development for educators and trainers. The student is expected to:

(A) identify strategies and resources for the professional development of educators or trainers such as research and assessment;

(B) demonstrate teacher or trainer characteristics that promote ongoing professional development and lifelong learning; and

(C) plan for professional growth.

(12) The student continues to participate in field-based experiences in education or training. The student is expected to:

(A) apply instructional strategies and concepts within a local educational or training facility; and

(B) document, assess, and reflect on instructional experiences.

(13) The student documents technical knowledge and skills. The student is expected to:

(A) gather artifacts and documentation that support attainment of technical skill competencies;

(B) update a professional portfolio to include components such as a resume, samples of work, service learning log, recognitions, awards, scholarship essays, letters of recommendation, certifications, and evaluations; and

(C) present the portfolio to interested stakeholders.

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

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SUBCHAPTER F. FINANCE

19 TAC §§130.181, 130.182, 130.184 - 130.190

STATUTORY AUTHORITY. The new sections are adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; §28.00222, which authorizes the SBOE to ensure that at least six advanced career and technology education or technology applications courses, including courses in personal financial literacy consistent with TEC, §28.0021, and in statistics, are approved to satisfy a fourth credit in mathematics required for high school graduation; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The new sections implement the Texas Education Code, §§7.102(c)(4), 28.002, 28.00222, and 28.025.

§130.182. *Money Matters (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9-12. Recommended prerequisite: Principles of Business, Marketing, and Finance. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Finance Career Cluster focuses on planning, services for financial and investment planning, banking, insurance, and business financial management.

(3) In Money Matters, students will investigate money management from a personal financial perspective. Students will apply critical-thinking skills to analyze financial options based on current and projected economic factors. Students will gain knowledge and skills necessary to establish short-term and long-term financial goals. Students will examine various methods of achieving short-term and long-term financial goals through various methods such as investing, tax planning, asset allocating, risk management, retirement planning, and estate planning.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) demonstrate an understanding of appropriate communication with customers, employers, and coworkers through verbal, nonverbal, and digital means;

(B) demonstrate an understanding of the use of business etiquette;

(C) demonstrate an understanding of appropriate customer service such as building customer relationships and resolving customer complaints; and

(D) demonstrate an understanding of ethical and legal issues in business.

(2) The student uses career planning concepts, tools, and strategies to explore, obtain, and develop a financial plan. The student is expected to:

(A) discuss the nature and benefits of financial planning; and

(B) discuss the role of ethics and personal responsibility in financial planning.

(3) The student demonstrates an understanding of a postsecondary plan. The student is expected to:

(A) understand educational, military, and current job opportunities; and

(B) create a postsecondary plan that includes topics such as application requirements; testing requirements; certification requirements; associated deadlines; associated costs, including living expenses; job prospects and opportunities; beginning earnings; expected future earnings; and resumes and cover letters.

(4) The student demonstrates an understanding of the fundamental principles of money. The student is expected to:

(A) explain forms of financial exchange, including cash, credit cards, debit cards, and electronic funds transfer;

(B) compare and contrast various types of currency, including paper money, coins, banknotes, government bonds, and treasury notes;

(C) identify functions of money, including medium of exchange, unit of measure, and store of value;

(D) describe sources of income, including wages and salaries, interest, rent, dividends, capital gains, and transfer payments;

(E) explain the time value of money; and

(F) discuss the purposes and importance of credit.

(5) The student examines economic systems. The student is expected to:

(A) explain sole proprietorships, partnerships, and corporations;

(B) identify factors affecting profit, revenue, and expenses; and

(C) understand the rights and responsibilities of consumers within various economic systems.

(6) The student examines personal financial activities and the role of government. The student is expected to:

(A) analyze the importance and purpose of taxes;

(B) analyze monetary policy and fiscal policy;

(C) analyze the supply and demand for money; and

(D) analyze the role of the Federal Reserve System.

(7) The student discusses economic indicators impacting personal financial decision making. The student is expected to:

(A) analyze the measure of consumer spending as an economic indicator;

(B) analyze the impact of a nation's unemployment rates;

(C) analyze the concept of Gross Domestic Product;

(D) analyze the economic impact of inflation on personal financial decision making;

(E) analyze unemployment and inflation tradeoffs;

(F) analyze the economic impact of interest rate fluctuations; and

(G) analyze the impact of business cycles on personal financial decision making.

(8) The student analyzes the impact of international activities on personal financial decision making. The student is expected to:

(A) examine international current events as related to personal financial decision making;

(B) examine currency exchange rates; and

(C) examine domestic and international labor issues as related to personal financial decision making.

(9) The student examines how personal financial decisions are used to achieve financial goals. The student is expected to:

(A) develop a budget based on personal financial goals;

(B) explain the benefits of saving and investing;

(C) examine tax liabilities, including as they relate to the completion of a W-4;

(D) analyze a pay stub;

(E) interpret and reconcile bank statements;

(F) maintain financial records;

(G) evaluate credit scores;

(H) use identify theft protection measures; and

(I) prepare personal income tax forms by completing a 1040EZ with a W-2 form and using current tax tables.

(10) The student understands the purposes of financial service providers. The student is expected to:

(A) describe types of financial service providers, including banks and credit unions;

(B) evaluate financial service providers based on selection criteria such as location, interest rates, and benefits;

(C) analyze financing needed for long-term personal assets, including home purchases and payments and auto purchases, leases, and payments;

(D) explain loan evaluation criteria used by lending institutions;

(E) summarize the components of a loan application package;

(F) calculate a home loan payment schedule;

(G) calculate an automobile loan payment schedule; and

(H) understand the risks of using a payday loan and title loan.

(11) The student identifies various investment strategies. The student is expected to:

(A) evaluate different types of investments such as stocks, bonds, and property;

(B) evaluate investment goals and objectives as they relate to risk tolerance;

(C) investigate the opportunities and costs of postsecondary education;

(D) investigate long-term needs and financial goals, including retirement; and

(E) investigate the factors that affect the value of investments.

(12) The student identifies methods to manage personal risk. The student is expected to:

(A) understand the concept of insurance;

(B) explore the reasons for obtaining personal insurance, including health, disability, life, cancer, and long-term care insurance;

(C) explore the reasons for obtaining property insurance coverage, including homeowner's, personal liability, renter's, flood, earthquake, and auto insurance; and

(D) understand the insurance claim settlement process.

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

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SUBCHAPTER I. HOSPITALITY AND TOURISM

19 TAC §§130.251 - 130.261

STATUTORY AUTHORITY. The new sections are adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; §28.00222, which authorizes the SBOE to ensure that at least six advanced career and technology education or technology applications courses, including courses in personal financial literacy consistent with TEC, §28.0021, and in statistics, are approved to satisfy a fourth credit in mathematics required for high school graduation; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The new sections implement the Texas Education Code, §§7.102(c)(4), 28.002, 28.00222, and 28.025.

§130.253. *Introduction to Culinary Arts (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9 and 10. Recommended prerequisite: Principles of Hospitality and Tourism. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Hospitality and Tourism Career Cluster focuses on the management, marketing, and operations of restaurants and other food/beverage services, lodging, attractions, recreation events, and travel-related services.

(3) Introduction to Culinary Arts will emphasize the principles of planning, organizing, staffing, directing, and controlling the management of a variety of food service operations. The course will provide insight into the operation of a well-run restaurant. Introduction to Culinary Arts will provide insight into food production skills, various levels of industry management, and hospitality skills. This is an entry level course for students interested in pursuing a career in the food service industry. This course is offered as a classroom and laboratory-based course.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

- (A) model effective oral and written communication;
- (B) practice professional grooming and hygiene standards;
- (C) exercise punctuality and time-management skills;
- (D) demonstrate self-respect and respect for others;
- (E) demonstrate effective teamwork and leadership; and
- (F) employ initiative, adaptability, and problem-solving techniques in practical applications.

(2) The student gains academic knowledge and skills required to pursue the full range of career and postsecondary education opportunities within the restaurant food service industry. The student is expected to:

- (A) organize oral and written information;
- (B) compose a variety of written documents such as menus, presentations, and advertisements;
- (C) calculate numerical concepts such as weights, measurements, and percentages;
- (D) identify how scientific principles are used in the food service industry; and
- (E) use mathematics and science knowledge and skills to produce quality food products.

(3) The student uses verbal and nonverbal communication skills to create, express, and interpret information to establish a positive work environment. The student is expected to:

- (A) develop and deliver presentations;
- (B) identify various marketing strategies used by the food service industry such as traditional and innovative marketing strategies;
- (C) demonstrate proper techniques for answering restaurant phones;
- (D) relate interpersonal communications such as verbal and nonverbal cues to enhance communication with coworkers, employers, customers, and clients; and
- (E) demonstrate active listening skills to obtain and clarify information.

(4) The student solves problems using critical thinking, innovation, and creativity independently and in teams. The student is expected to:

- (A) generate creative ideas to solve problems by brainstorming possible solutions; and
- (B) employ critical-thinking and interpersonal skills to resolve conflicts with individuals such as coworkers, customers, clients, and employers.

(5) The student uses information technology tools specific to restaurant management to access, manage, integrate, and interpret information. The student is expected to:

(A) use information technology tools and applications to perform workplace responsibilities;

(B) demonstrate knowledge and use of point-of-sale systems; and

(C) evaluate Internet resources for information.

(6) The student understands roles within teams, work units, departments, organizations, and the larger environment of the food service industry. The student is expected to:

(A) explain the different types and functions of kitchen, front-of-the-house, and support roles;

(B) investigate quality-control standards and practices;

(C) differentiate between various styles of restaurant services such as table, buffet, fast food, fast casual, and quick service;

(D) illustrate various place settings using proper placement of dining utensils; and

(E) demonstrate the proper service techniques in food service operations.

(7) The student understands the importance of health, safety, and environmental management systems in organizations and their importance to organizational performance and regulatory compliance. The student is expected to:

(A) assess workplace conditions with regard to safety and health;

(B) analyze potential effects caused by common chemicals and hazardous materials;

(C) demonstrate first aid and cardiopulmonary resuscitation skills;

(D) apply safety and sanitation standards common to the workplace;

(E) research sources of food-borne illness and determine ways to prevent them;

(F) determine professional attire and personal hygiene for restaurant employees; and

(G) prepare for a state or national food sanitation certification or other appropriate certifications.

(8) The student uses leadership and teamwork skills in collaborating with others to accomplish organizational goals and objectives. The student is expected to:

(A) apply team-building skills;

(B) apply decision-making and problem-solving skills;

(C) determine leadership and teamwork qualities to aid in creating a pleasant working atmosphere; and

(D) participate in community leadership and teamwork opportunities to enhance professional skills.

(9) The student knows and understands the importance of professional ethics and legal responsibilities within the food service industry. The student is expected to:

(A) demonstrate ethical reasoning in a variety of workplace situations in order to make decisions;

(B) interpret and explain written organizational policies and procedures to help employees perform their jobs; and

(C) develop guidelines for professional conduct.

(10) The student demonstrates an understanding that personal success depends on personal effort. The student is expected to:

(A) demonstrate a proactive understanding of self-responsibility and self-management;

(B) identify behaviors needed to be employable and maintain employment such as positive work ethics and positive personal qualities;

(C) identify and evaluate the effects of exercise, nutritional dietary habits, and emotional factors such as stress, fatigue, or anxiety on job performance;

(D) implement stress-management techniques; and

(E) follow directions and procedures independently.

(11) The student develops principles in time management, decision making, effective communication, and prioritization. The student is expected to:

(A) apply effective practices for managing time and energy;

(B) analyze various steps in the career decision-making process; and

(C) discuss the importance of balancing a career, family, and leisure activities.

(12) The student knows and understands the importance of employability skills. The student is expected to:

(A) demonstrate skills related to seeking employment in the food service industry;

(B) identify the required training and educational requirements that lead toward appropriate career goals;

(C) select educational and work history highlights to include in a career portfolio;

(D) create and update a personal career portfolio;

(E) recognize required employment forms and their functions such as I-9, work visa, W-4, and licensures to meet employment requirements;

(F) research the local and regional labor workforce market to determine opportunities for advancement;

(G) investigate professional development training opportunities to keep current on relevant trends and information within the industry; and

(H) recognize entrepreneurship opportunities.

(13) The student understands the use of technical knowledge and skills required to pursue careers in the restaurant food service industry, including knowledge of design, operation, and maintenance of technological systems. The student is expected to:

(A) define job-specific technical vocabulary;

(B) analyze customer comments to formulate improvements in services and products and training of staff;

(C) detail ways to achieve high rates of customer satisfaction;

(D) use different types of payment options to facilitate customer payments for services; and

(E) demonstrate technical skills used in producing quality food service.

(14) The student understands factors that affect the food service industry. The student is expected to:

(A) outline the history and growth of the food service industry;

(B) identify an entrepreneur who has made significant contributions to the food service industry; and

(C) explain cultural globalization and its influence on food.

(15) The student evaluates and determines equipment, ingredients, and procedures in a professional food setting. The student is expected to:

(A) identify the role of mise en place;

(B) identify and use large and small equipment in the professional food service setting;

(C) identify the types of knives and proper usage in a commercial kitchen;

(D) demonstrate proper knife safety, handling, cleaning, and storage;

(E) differentiate between different types of produce and identify factors such as grading, purchasing, storage, and usage;

(F) differentiate between dry goods and identify factors such as purchasing and storage;

(G) differentiate between proteins and identify factors such as types, grades, purchasing, and storage;

(H) describe the methods of cooking, including dry heat, moist heat, and combination heat; and

(I) differentiate between common baking methods and identify common ingredients used in baking.

§130.254. Culinary Arts (Two Credits), Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisites: Principles of Hospitality and Tourism and Introduction to Culinary Arts. Students shall be awarded two credits for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Hospitality and Tourism Career Cluster focuses on the management, marketing, and operations of restaurants and other food/beverage services, lodging, attractions, recreation events, and travel-related services.

(3) Culinary Arts begins with the fundamentals and principles of the art of cooking and the science of baking and includes management and production skills and techniques. Students can pursue a national sanitation certification or other appropriate industry certifications. This course is offered as a laboratory-based course.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) model effective oral and written communication;

(B) practice professional grooming and hygiene standards;

(C) exercise punctuality and time-management skills;

(D) demonstrate self-respect and respect for others;

(E) demonstrate effective teamwork and leadership; and

(F) employ initiative, adaptability, and problem-solving techniques in practical applications.

(2) The student applies advanced reading, writing, mathematics, and science skills for the food service industry. The student is expected to:

(A) compose industry appropriate documents such as purchasing specifications and purchase orders;

(B) comprehend a variety of texts such as operations and training manuals;

(C) calculate numerical concepts such as percentages and estimations in practical situations, including weight and measures;

(D) understand scientific principles used in culinary arts;

(E) read and comprehend standardized recipes;

(F) write and convert standardized recipes; and

(G) calculate and manage food costs.

(3) The student integrates listening, writing, and speaking skills using verbal and nonverbal communication to enhance operations, guest satisfaction, and professional development. The student is expected to:

(A) create formal or informal presentations;

(B) properly answer business phones;

(C) write instructions for a specific restaurant for a culinary procedure or the use of a piece of equipment; and

(D) attend and participate in an industry-focused staff meeting.

(4) The student demonstrates an understanding that personal success depends on personal effort. The student is expected to:

(A) demonstrate a proactive understanding of self-responsibility and self-management;

(B) explain the characteristics of personal values and principles;

(C) demonstrate positive attitudes and work habits;

(D) demonstrate exemplary appearance and personal hygiene; and

(E) identify and manage the effects of exercise, dietary habits, and emotional factors such as stress, fatigue, or anxiety on job performance.

(5) The student develops principles in time management, decision making, effective communication, and prioritization. The student is expected to:

- (A) apply effective practices for managing time and energy; and
- (B) analyze various steps in the decision-making process.

(6) The student researches, analyzes, and explores lifestyle and career goals. The student examines jobs available in the food service industry and accesses career opportunities. The student is expected to:

- (A) research the major job duties and qualifications for various positions in the food service industry to facilitate selection of career choices in culinary arts;
- (B) update a personal career portfolio;
- (C) demonstrate proper interview techniques; and
- (D) establish personal short- and long-term goals.

(7) The student understands factors that affect the food service industry. The student is expected to:

- (A) research how historical and current trends in society affect the food service industry;
- (B) identify global cultures and traditions related to food;
- (C) research famous chefs from history; and
- (D) summarize historical entrepreneurs who influenced food service in the United States.

(8) The student evaluates and determines equipment, ingredients, and procedures used in a professional food setting. The student is expected to:

- (A) identify and demonstrate the role of mise en place in the professional food service setting;
- (B) identify and use large and small equipment in a commercial kitchen;
- (C) develop and practice food production and presentation techniques;
- (D) identify and use the appropriate application of moist, dry, and combination cookery methods;
- (E) demonstrate the preparation skills of items commonly prepared in food service operations such as breakfast cookery, salads and dressings, soups and sandwiches, stocks and sauces, appetizers, seafood, poultry, meat, pastas and grains, and fruits and vegetables; and

(F) demonstrate baking techniques such as yeast breads and rolls, quick breads, and desserts.

(9) The student understands the various food service operations such as quick service, fast casual, casual, fine dining, institutional, and beverage service. The student is expected to:

- (A) explain quality customer service;
- (B) demonstrate types of table setting, dining, and service skills;

(C) differentiate between service styles; and

(D) compare and contrast the roles of the front of the house and the back of the house in the various food service operations.

(10) The student uses technology and computer applications to manage food service operations. The student is expected to:

- (A) use technology tools appropriate for the industry;
- (B) operate technology applications to perform workplace tasks;
- (C) explain and use point-of-sale systems in various food service operations;
- (D) demonstrate knowledge in computer programs used for food management;
- (E) evaluate information sources for culinary arts; and
- (F) interpret data such as spreadsheets, databases, and sales reports.

(11) The student demonstrates leadership, citizenship, and teamwork skills required for success. The student is expected to:

- (A) apply team-building skills;
- (B) apply decision-making and problem-solving skills;
- (C) determine leadership and teamwork qualities in creating a pleasant working atmosphere; and
- (D) participate in community leadership and teamwork opportunities to enhance professional skills.

(12) The student explains how employees, guests, and property are protected to minimize losses or liabilities. The student is expected to:

- (A) determine the basics of safety in culinary arts;
- (B) assess workplace conditions and identify safety hazards;
- (C) determine the basics of sanitation in a professional kitchen;
- (D) determine proper receiving, storage, and distribution techniques;
- (E) demonstrate proper cleaning of equipment and maintenance in the commercial kitchen;
- (F) assess food hazards and determine ways to prevent food hazards; and
- (G) prepare for a state or national food sanitation certification or other appropriate certifications.

(13) The student recognizes and models work ethics and legal responsibilities. The student is expected to:

- (A) understand and comply with laws and regulations specific to the food service industry; and
- (B) demonstrate a positive work ethic.

§130.255. *Advanced Culinary Arts (Two Credits), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Prerequisite: Culinary Arts. Students shall be awarded two credits for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant

technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Hospitality and Tourism Career Cluster focuses on the management, marketing, and operations of restaurants and other food/beverage services, lodging, attractions, recreation events, and travel-related services.

(3) Advanced Culinary Arts will extend content and enhance skills introduced in Culinary Arts by in-depth instruction of industry-driven standards in order to prepare students for success in higher education, certifications, and/or immediate employment.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

- (A) model effective oral and written communication;
- (B) practice professional grooming and hygiene standards;
- (C) exercise punctuality and time-management skills;
- (D) demonstrate self-respect and respect for others;
- (E) demonstrate effective teamwork and leadership;

and

(F) employ initiative, adaptability, and problem-solving techniques in practical applications.

(2) The student researches, analyzes, and designs a path to achieve career goals. The student examines jobs available in the food service industry and accesses career opportunities. The student is expected to:

- (A) demonstrate major duties and qualifications for all staff and managerial positions to facilitate selection of career choices in the food service industry;
- (B) model proper interview techniques;
- (C) critique personal and short-term goals; and
- (D) create and update a career portfolio.

(3) The student explains how employees, guests, and property are protected to minimize losses or liabilities. The student is expected to:

- (A) determine the basics of safety in culinary arts;
- (B) assess workplace conditions and identify safety hazards;
- (C) determine the basics of sanitation in a professional kitchen;
- (D) determine proper receiving, storage, and distribution techniques;

(E) explain and demonstrate proper cleaning of equipment and maintenance of the commercial kitchen;

(F) assess food hazards and determine ways to prevent food hazards; and

(G) prepare for a state or national food sanitation certification or other appropriate certifications.

(4) The student evaluates global cuisines, including the culture, history, and indigenous ingredients to create international recipes. The student is expected to:

(A) replicate advanced moist and dry cooking techniques from global cuisines such as American regional, Latin American, European, Mediterranean, Middle Eastern, and Asian;

(B) synthesize indigenous ingredients from global cuisine to create innovative dishes; and

(C) justify the connection of flavor, texture, visual appeal, taste, and customer satisfaction on product development.

(5) The student demonstrates an understanding of sustainability in the restaurant industry and its local and global effect. The student is expected to:

(A) evaluate practices for water and energy conservation across the food service industry;

(B) identify waste management options to promote sustainability; and

(C) evaluate current sustainable food practices.

(6) The student demonstrates comprehensive protein product knowledge as it relates to flavor, texture, visual appeal, taste, and customer satisfaction and establishes quality standards. The student is expected to:

(A) assess grading and classifications;

(B) identify primal, sub-primal, and retail cuts;

(C) demonstrate fabrication techniques on proteins;

(D) evaluate purchasing practices according to various food service operations;

(E) model appropriate cooking methods for proteins; and

(F) evaluate appropriate cooking methods in regard to various protein selections.

(7) The student demonstrates comprehensive fish and shellfish product knowledge as it relates to flavor, texture, visual appeal, taste, and customer satisfaction and establishes quality standards. The student is expected to:

(A) categorize classifications of fish and shellfish;

(B) evaluate factors that influence seafood purchasing such as freshness, flavor, sustainability, and market conditions;

(C) demonstrate the ability to clean and fabricate round, flat, fin fish, and shellfish;

(D) model appropriate cooking methods for fish and shellfish; and

(E) evaluate the effects of cooking methods on product presentation.

(8) The student demonstrates comprehensive knowledge of fruits, vegetables, grains, herbs, spices, and other dry goods as related to presentation, flavor, texture, visual appeal, taste, and customer satisfaction and establishes quality standards. The student is expected to:

- (A) compare types of commonly available produce;
- (B) identify factors contributing to cost and quality such as seasonality, market volatility, and transportation;
- (C) compare and contrast forms and use of produce such as fresh, frozen, canned, dried, and other classifications;
- (D) model appropriate cooking methods for produce; and
- (E) evaluate the effects of cooking methods on produce.

(9) The student understands advanced baking and pastry principles. The student is expected to:

- (A) use professional food preparation equipment such as commercial-grade mixers, food processors, and measuring tools;
- (B) apply proper measuring and scaling techniques; and
- (C) compose various plated desserts appropriate for various food service operations.

(10) The student demonstrates and practices the basic procedures for the production of yeast and quick bread products. The student is expected to:

- (A) differentiate how various types of bread crusts are created through fermentation, proofing, baking temperatures, and humidity;
- (B) prepare soft, hard, and artisanal breads through proper baking techniques; and
- (C) differentiate between quick breads such as muffins, scones, and biscuits.

(11) The student demonstrates and practices the basic procedures for the production of pastry crust, pastry dough, and cookie. The student is expected to:

- (A) compare different types of pastry crusts and usage in pies and tarts;
- (B) prepare pie fillings such as fruit, soft, and custard fillings;
- (C) prepare different types of pastry dough such as Pate a Choux, Pate Sucree, and laminated dough;
- (D) differentiate between various cookie preparation methods;
- (E) determine the causes of crispness, moistness, chewiness, and the spread of cookies; and
- (F) bake, cook, and store cookies properly.

(12) The student demonstrates and practices the basic procedures for the production of cakes, frostings, fillings, and icings. The student is expected to:

- (A) differentiate between cake preparation methods;
- (B) differentiate the functions of icings and determine appropriate application;
- (C) assemble and ice simple layer cakes, sheet cakes, and cupcakes;
- (D) demonstrate the ability to identify criteria for evaluation of cake products;
- (E) prepare various icings such as fondant, buttercreams, flat, royal, and glazes; and

(F) perform basic piping skills with a parchment cone and pastry bag with tips.

(13) The student demonstrates and practices the basic procedures for the production of custards, creams, and mousse. The student is expected to:

- (A) compose desserts such as ice creams, custards, mousse, and other desserts; and
- (B) identify the roles of desserts such as ice creams, custards, mousse, and other desserts.

(14) The student demonstrates and practices the basic procedures for the production of chocolate, sugars, confections, and sauces. The student is expected to:

- (A) differentiate between the types of advanced confections;
- (B) model methods of preparation in each type of confection;
- (C) use chocolate as a major ingredient in dessert or food production;
- (D) temper chocolate;
- (E) use tempered chocolate in dessert preparation;
- (F) cook sugar syrups to various stages of hardness;
- (G) prepare dessert sauces such as custard, chocolate, caramel, fruit fillings, and coulis; and
- (H) serve attractively plated desserts with appropriate sauces and garnishes.

(15) The student evaluates nutrition concepts as they affect health and wellness, marketing, and menu planning. The student is expected to:

- (A) analyze the role of carbohydrates, vitamins, minerals, proteins, and fats as they relate to food choices; and
- (B) research and develop menus for populations with dietary requirements or restrictions.

(16) The student analyzes the components of cost controls in a food service operation and develops a plan to manage cost. The student is expected to:

- (A) differentiate between the major costs in food service such as food, beverage, and labor costs;
- (B) validate the effect of controlling costs on the success of a food service operation;
- (C) compare and contrast the concept of fixed costs, variable costs, and controllable costs; and
- (D) compare and contrast the relationship between inventory management and cost control in food service operations.

§130.256. *Food Science (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisites: three units of science, including chemistry and biology. Recommended prerequisite: Principles of Hospitality and Tourism. Students must meet the 40% laboratory and fieldwork requirement. This course satisfies a high school science graduation requirement. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Hospitality and Tourism Career Cluster focuses on the management, marketing, and operations of restaurants and other food/beverage services, lodging, attractions, recreation events, and travel-related services.

(3) In Food Science students conduct laboratory and field investigations, use scientific methods during investigations, and make informed decisions using critical thinking and scientific problem solving. Food Science is the study of the nature of foods, the causes of deterioration, the principles underlying food processing, and the improvement of foods for the consuming public.

(4) Science, as defined by the National Academy of Sciences, is the "use of evidence to construct testable explanations and predictions of natural phenomena, as well as the knowledge generated through this process." This vast body of changing and increasing knowledge is described by physical, mathematical, and conceptual models. Students should know that some questions are outside the realm of science because they deal with phenomena that are not scientifically testable.

(5) Scientific inquiry is the planned and deliberate investigation of the natural world. Scientific methods of investigation are experimental, descriptive, or comparative. The method chosen should be appropriate to the question being asked.

(6) Scientific decision making is a way of answering questions about the natural world. Students should be able to distinguish between scientific decision-making methods (scientific methods) and ethical and social decisions that involve science (the application of scientific information).

(7) A system is a collection of cycles, structures, and processes that interact. All systems have basic properties that can be described in space, time, energy, and matter. Change and constancy occur in systems as patterns and can be observed, measured, and modeled. These patterns help to make predictions that can be scientifically tested. Students should analyze a system in terms of its components and how these components relate to each other, to the whole, and to the external environment.

(8) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(9) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) apply interpersonal communication skills in business and industry settings;

(B) explain and recognize the value of collaboration within the workplace;

(C) examine the importance of time management to succeed in the workforce;

(D) identify work ethics/professionalism in a job setting; and

(E) develop problem-solving and critical-thinking skills.

(2) The student, for at least 40% of instructional time, conducts laboratory and field investigations using safe, environmentally appropriate, and ethical practices. The student is expected to:

(A) demonstrate safe practices during laboratory and field investigations; and

(B) demonstrate an understanding of the use and conservation of resources and the proper disposal or recycling of materials.

(3) The student uses scientific methods and equipment during laboratory and field investigations. The student is expected to:

(A) know the definition of science and understand that it has limitations, as specified in subsection (b)(4) of this section;

(B) know that hypotheses are tentative and testable statements that must be capable of being supported or not supported by observational evidence. Hypotheses of durable explanatory power that have been tested over a wide variety of conditions are incorporated into theories;

(C) know scientific theories are based on natural and physical phenomena and are capable of being tested by multiple independent researchers. Unlike hypotheses, scientific theories are well-established and highly-reliable explanations, but they may be subject to change as new areas of science and new technologies are developed;

(D) distinguish between scientific hypotheses and scientific theories;

(E) plan and implement descriptive, comparative, and experimental investigations, including asking questions, formulating testable hypotheses, and selecting equipment and technology;

(F) collect and organize qualitative and quantitative data and make measurements with accuracy and precision using tools such as calculators, spreadsheet software, data-collecting probes, computers, standard laboratory glassware, microscopes, various prepared slides, stereoscopes, metric rulers, electronic balances, gel electrophoresis apparatuses, micropipettors, hand lenses, Celsius thermometers, hot plates, lab notebooks or journals, timing devices, cameras, Petri dishes, lab incubators, dissection equipment, meter sticks, and models, diagrams, or samples of biological specimens or structures;

(G) analyze, evaluate, make inferences, and predict trends from data; and

(H) communicate valid conclusions supported by the data through methods such as lab reports, labeled drawings, graphic organizers, journals, summaries, oral reports, and technology-based reports.

(4) The student uses critical thinking, scientific reasoning, and problem solving to make informed decisions within and outside the classroom. The student is expected to:

(A) in all fields of science, analyze, evaluate, and critique scientific explanations by using empirical evidence, logical reasoning, and experimental and observational testing, including examining all sides of scientific evidence of those scientific explanations, so as to encourage critical thinking by the student;

(B) communicate and apply scientific information extracted from various sources such as current events, news reports, published journal articles, and marketing materials;

(C) draw inferences based on data related to promotional materials for products and services;

(D) evaluate the impact of scientific research on society and the environment;

(E) evaluate models according to their limitations in representing biological objects or events; and

(F) research and describe the history of biology and contributions of scientists.

(5) The student analyzes the role of acids and bases in the food sciences. The student is expected to:

(A) evaluate physical and chemical properties of acids and bases; and

(B) analyze the relationship of pH to the properties, safety, and freshness of food.

(6) The student evaluates the principles of microbiology and food safety practices. The student is expected to:

(A) investigate the properties of microorganisms that cause food spoilage;

(B) compare food intoxication and food infection;

(C) examine methods to destroy or inactivate harmful pathogens in foods;

(D) compare beneficial and harmful microorganisms;

(E) analyze sanitary food-handling practices; and

(F) prepare for a state or national food manager's sanitation certification or alternative credential within the field of food science technology.

(7) The student examines the chemical properties of food. The student is expected to:

(A) describe elements, compounds, mixtures, and formulas related to food science;

(B) compare heterogeneous and homogeneous mixtures;

(C) use chemical symbols, formulas, and equations in food science; and

(D) analyze chemical and physical changes in food.

(8) The student analyzes solutions, colloids, solids, gels, foams, and emulsions in food science. The student is expected to:

(A) identify the solvent and solute in a given solution;

(B) compare unsaturated, saturated, and supersaturated solutions, including boiling and freezing points;

(C) calculate the concentration of a solution using mass percent;

(D) describe the properties of colloidal dispersions;

(E) investigate the relationships among the three parts of an emulsion; and

(F) create various food emulsions.

(9) The student analyzes the functions of enzymes in food science. The student is expected to:

(A) describe the role of enzymes as catalysts in chemical reactions of food;

(B) explain the relationship between an enzyme and a substrate;

(C) analyze the functions of enzymes in digestion, including the factors that influence enzyme activity; and

(D) analyze enzyme reactions in food preparation.

(10) The student evaluates the role of fermentation in food science. The student is expected to:

(A) analyze reasons food is fermented;

(B) assess the role of bacteria in food fermentation; and

(C) prepare various fermented food products.

(11) The student assesses the reaction of leavening agents in baked products. The student is expected to:

(A) identify various leavening agents and describe their role;

(B) analyze the role of acids as leavening agents;

(C) compare doughs and batters;

(D) conduct laboratory experiments with various leavening agents using the scientific processes; and

(E) create baked products using various leavening agents.

(12) The student explores the roles of food additives. The student is expected to:

(A) evaluate the various types of food additives such as incidental, intentional, natural, and artificial;

(B) investigate the various roles of food additives such as food preservation, nutritive value, and sensory characteristics; and

(C) research agencies involved in regulating food additives.

(13) The student analyzes the processes of energy production in food. The student is expected to:

(A) discuss molecular motion and temperature;

(B) examine heat transfer processes such as conduction, convection, and radiation;

(C) investigate the role of latent heat in phase changes in food production such as crystallization and condensation; and

(D) analyze rates of reaction using various temperatures.

(14) The student evaluates the properties of carbohydrates in food and their effects on food production. The student is expected to:

(A) discuss photosynthesis;

(B) identify the chemical structures of carbohydrates;

(C) describe the functions of carbohydrates in food production such as a caramelizing agent, crystallizing agent, and thickening agent;

(D) compare the structures of simple and complex carbohydrates and how these structures affect food production;

(E) describe various process such as gelatinization, retrogradation, and syneresis in food production; and

(F) create food products using simple and/or complex carbohydrates.

(15) The student evaluates the properties of fats in food and their effects on food production. The student is expected to:

(A) identify the chemical structure of saturated and unsaturated fats;

(B) compare the properties of saturated and unsaturated fats;

(C) examine the functions of fats in food production;

(D) explore methods for controlling fat oxidation;

(E) analyze the effects of temperature on fats in food preparation;

(F) conduct laboratory experiments using the scientific processes to explore the functions of fats in food production; and

(G) create food products using saturated and unsaturated fats.

(16) The student evaluates the properties of proteins and their effects on food production. The student is expected to:

(A) explain the processes of protein denaturation and coagulation;

(B) examine the functions of proteins in food productions such as emulsifiers, foams, and gluten formation;

(C) analyze the effect of temperature on protein in food production and storage;

(D) explore moist and dry heat methods for preparing protein rich foods; and

(E) create food products using protein.

(17) The student evaluates the properties of vitamins and minerals and their effects on food production. The student is expected to:

(A) discuss the functions of vitamins and minerals in food production;

(B) compare the effects of food production on water- and fat-soluble vitamins; and

(C) assess the interrelationships among vitamins and minerals in food production.

(18) The student evaluates the properties of water and their effects on food production. The student is expected to:

(A) identify the properties of water;

(B) compare the effects of hard and soft water on food production;

(C) analyze the phases of water and their effects on food production; and

(D) explain the functions of water in food production such as a heat medium and a solvent and create a food product.

(19) The student analyzes processes that destroy bacteria during food production. The student is expected to:

(A) examine the food irradiation process; and

(B) investigate the pasteurization process.

(20) The student examines packaging and labeling guidelines. The student is expected to:

(A) research federal food packaging guidelines;

(B) analyze components of appropriate commercial food containers;

(C) describe controlled-atmosphere packaging; and

(D) describe information required on a food label.

(21) The student analyzes food preservation processes. The student is expected to:

(A) describe reasons for food preservation;

(B) compare methods of dehydration and create a food product using dehydration;

(C) analyze various methods of personal and commercial food canning; and

(D) examine the various methods of personal and commercial food freezing.

§130.257. *Practicum in Culinary Arts (Two Credits), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisite: Culinary Arts. Students shall be awarded two credits for successful completion of this course. A student may repeat this course once for credit provided that the student is experiencing different aspects of the industry and demonstrating proficiency in additional and more advanced knowledge and skills.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Hospitality and Tourism Career Cluster focuses on the management, marketing, and operations of restaurants and other food/beverage services, lodging, attractions, recreation events, and travel-related services.

(3) Practicum in Culinary Arts is a unique practicum that provides occupationally specific opportunities for students to participate in a learning experience that combines classroom instruction with actual business and industry career experiences. Practicum in Culinary Arts integrates academic and career and technical education; provides more interdisciplinary instruction; and supports strong partnerships among schools, businesses, and community institutions with the goal of preparing students with a variety of skills in a fast-changing workplace.

(4) Students are taught employability skills to prepare for college and career success, which include job-specific skills applicable to their training plan, job interview techniques, communication skills, financial and budget activities, human relations, and portfolio development.

(5) Instructions may be delivered through school-based laboratory training or through work-based delivery arrangement such as cooperative education, mentoring, and job shadowing.

(6) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(7) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

- (A) model effective oral and written communication;
 - (B) practice professional grooming and hygiene standards;
 - (C) exercise punctuality and time-management skills;
 - (D) demonstrate self-respect and respect for others;
 - (E) demonstrate effective teamwork and leadership;
- and
- (F) employ initiative, adaptability, and problem-solving techniques in practical applications.

(2) The student uses employability skills to gain an entry-level job in a high-skill, high-wage, or high-demand field. The student is expected to:

- (A) identify employment opportunities;
- (B) demonstrate the application of essential workplace skills in the career acquisition process;
- (C) complete employment-related documents such as job applications, I-9 and W-4 forms, and job descriptions; and
- (D) demonstrate proper interview techniques in various situations.

(3) The student develops skills for success in the workplace. The student is expected to:

- (A) comprehend and model appropriate grooming and appearance for the workplace;
- (B) demonstrate dependability, punctuality, and initiative;
- (C) develop positive interpersonal skills, including respect for diversity;
- (D) demonstrate appropriate business and personal etiquette in the workplace;
- (E) exhibit productive work habits, ethical practices, and a positive attitude;
- (F) demonstrate knowledge of personal and occupational health and safety practices in the workplace;
- (G) demonstrate the ability to work with the other employees to support the organization and complete assigned tasks;
- (H) prioritize work to fulfill responsibilities and meet deadlines;
- (I) evaluate the relationship of good physical and mental health to job success and personal achievement;
- (J) demonstrate effective verbal, non-verbal, written, and electronic communication skills; and
- (K) apply effective listening skills used in the workplace.

(4) The student demonstrates work ethics, employer expectations, interaction with diverse populations, and communication skills in the workplace. The student is expected to:

- (A) relate how personal integrity affects human relations on the job;

(B) demonstrate characteristics of successful working relationships such as teamwork, conflict resolution, self-control, and the ability to accept criticism;

- (C) implement employer expectations;
- (D) demonstrate respect for the rights of others;
- (E) demonstrate ethical standards; and
- (F) comply with organizational policies.

(5) The student applies academics and job-readiness skills. The student is expected to:

- (A) apply mathematical skills to business transactions;
- (B) develop a personal budget based on career choice;
- (C) interpret data from documents such as tables, charts, and graphs to estimate and find solutions to problems; and
- (D) organize and compose workplace documents.

(6) The student applies ethical behavior standards and legal responsibilities within the workplace. The student is expected to:

- (A) compare workplace policies reflecting various business establishments;
- (B) apply responsible and ethical behavior;
- (C) summarize provisions of the Fair Labor Standards Act;
- (D) describe the consequences of breach of confidentiality; and
- (E) research and model laws related to culinary arts professions.

(7) The student applies the use of interpersonal skills to accomplish objectives. The student is expected to:

- (A) identify and practice effective interpersonal and team-building skills involving situations with coworkers, managers, and customers; and
- (B) apply leadership and career development skills through participation in activities such as career and technical student organizations.

(8) The student uses concepts and skills related to safety in the workplace. The student is expected to:

- (A) identify and apply safe working practices;
- (B) solve problems related to unsafe work practices and attitudes;
- (C) explain Occupational Safety and Health Administration regulations in the workplace;
- (D) analyze health and wellness practices that influence job performance; and
- (E) prepare for a state or national food sanitation certification or other appropriate certification.

(9) The student evaluates personal attitudes and work habits that support career retention and advancement. The student is expected to:

- (A) analyze the future employment outlook in the occupational area;
- (B) describe entrepreneurial opportunities in the area of culinary arts;

(C) evaluate nontraditional food service careers such as food photographer, food stylist, corporate research and development chef, food writer, and independent consultant;

(D) identify all of the aspects of a specific career path, including salary, skills level, and advancement opportunities;

(E) evaluate strategies for career retention and advancement in response to the changing hospitality industry;

(F) compare and contrast the rights and responsibilities of employers and employees; and

(G) determine effective money management and financial planning techniques.

(10) The student identifies skills and attributes necessary for professional advancement. The student is expected to:

(A) evaluate employment options, including salaries and benefits;

(B) determine factors that affect career choices such as personal interests, abilities, priorities, and family responsibilities;

(C) determine continuing education opportunities that enhance career advancement and promote lifelong learning; and

(D) demonstrate effective methods to secure, maintain, and terminate employment.

(11) The student demonstrates proper culinary techniques and knowledge of the professional kitchen. The student is expected to:

(A) use large and small equipment in a commercial kitchen;

(B) develop food production and presentation techniques;

(C) demonstrate moist, dry, and combination cookery methods;

(D) demonstrate food preparation skills used in commercial food service preparations such as breakfast cookery, salads and dressings, soups and sandwiches, stocks and sauces, appetizers, seafood, poultry cookery, meat cookery, pastas and grains, and fruits and vegetables;

(E) demonstrate baking techniques such as yeast breads and rolls, quick breads, and desserts;

(F) demonstrate proper receiving and storage techniques;

(G) demonstrate proper cleaning of equipment and maintenance of the commercial kitchen; and

(H) compare and contrast the pairing of cuisine and service styles in food service operations.

(12) The student determines how successful marketing impacts a food service operation. The student is expected to:

(A) explain marketing, product, service, presentation, and communication mixes;

(B) generate a marketing plan for multiple food service operations;

(C) evaluate the marketing plans based on various demographics;

(D) conduct market analysis and predict impact on current economy;

(E) identify marketing communication formats across multiple platforms; and

(F) design the menu as a marketing tool.

(13) The student documents technical knowledge and skills. The student is expected to:

(A) complete a professional career portfolio to include items such as an updated resume, documentation of technical skill competencies, licensures or certifications, recognitions, awards and scholarships, community service hours, participation in student and professional organizations, abstract of key points of the practicum, and practicum supervisor evaluations; and

(B) present the portfolio to interested stakeholders.

§130.259. *Hotel Management (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Principles of Hospitality and Tourism. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Hospitality and Tourism Career Cluster focuses on the management, marketing, and operations of restaurants and other food/beverage services, lodging, attractions, recreation events, and travel-related services.

(3) Hotel Management focuses on the knowledge and skills needed to pursue staff and management positions available in the hotel industry. This in-depth study of the lodging industry includes departments within a hotel such as front desk, food and beverage, housekeeping, maintenance, human resources, and accounting. This course will focus on, but not be limited to, professional communication, leadership, management, human resources, technology, and accounting.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) organize oral and written information;

(B) compose and present individually and in teams a variety of written documents such as agendas, thank you letters, presentations, and advertisements;

(C) calculate correctly using numerical concepts such as percentage and estimation in practical situations; and

(D) examine and apply how scientific principles are used in the hotel industry.

(2) The student uses verbal and nonverbal communication skills to create, express, and interpret information for providing a positive experience for guests and employees. The student is expected to:

(A) develop, deliver, and critique presentations;

(B) analyze various marketing strategies for a lodging property and available services;

(C) demonstrate proper techniques for using telecommunications equipment;

(D) interpret verbal and nonverbal cues to enhance communication with individuals such as coworkers, guests, and clients;

(E) locate written information used to communicate with individuals such as coworkers and guests;

(F) apply and model active listening skills to obtain and clarify information; and

(G) follow directions and procedures independently and in teams.

(3) The student solves problems independently and in teams using critical thinking, innovation, and creativity. The student is expected to:

(A) generate creative ideas to solve problems by brainstorming possible solutions;

(B) employ critical-thinking and interpersonal skills to resolve conflicts with individuals such as coworkers, employers, guests, and clients; and

(C) interpret and use industry standards for principles of budgeting and forecasting to maximize profit and growth.

(4) The student demonstrates an understanding that personal success depends on personal effort. The student is expected to:

(A) demonstrate an understanding of self-responsibility and self-management;

(B) identify and demonstrate both positive and negative work behaviors and personal qualities for employability; and

(C) evaluate the effects of health and wellness on employee performance.

(5) The student develops principles in time management, decision making, effective communication, and prioritization. The student is expected to:

(A) apply effective practices for managing time and energy;

(B) develop and implement stress-management techniques;

(C) assemble and analyze the various steps in the decision-making process; and

(D) evaluate the importance of balancing a career, family, and leisure activities and develop various techniques to reduce conflict.

(6) The student understands the importance of employability skills. The student is expected to:

(A) assemble the required training or education requirements that lead to an appropriate industry certification;

(B) comprehend and model skills related to seeking employment;

(C) assemble and/or update an electronic personal career portfolio;

(D) complete a job application in written and electronic format;

(E) examine and model proper interview techniques in applying for employment;

(F) complete required employment forms such as I-9, work visa, W-4, and licensures to meet employment requirements;

(G) research the local labor workforce market to determine opportunities for lodging employment;

(H) investigate professional lodging organizations and development training opportunities to keep current on relevant trends and information within the lodging industry; and

(I) create, design, and present lodging entrepreneurship opportunities.

(7) The student understands roles within teams, work units, departments, organizations, and the larger environment of the lodging industry. The student is expected to:

(A) identify lodging departments and distinguish among the duties and responsibilities within each department;

(B) implement quality-control standards and practices;

(C) compare and contrast duties and responsibilities from each department to the larger lodging environment, including food and beverage services;

(D) identify, compare, and contrast all types of lodging properties;

(E) compare and contrast lodging revenue and support centers;

(F) compare and contrast chain and franchise lodging properties;

(G) create, design, and present lodging entrepreneurship opportunities; and

(H) comprehend and model professional attire.

(8) The student uses information technology tools specific to lodging management to access, manage, integrate, and create information. The student is expected to:

(A) use information technology tools to evaluate lodging work responsibilities;

(B) evaluate technology tools to perform workplace tasks;

(C) understand and evaluate the hotel/guest cycle with applicable technology;

(D) prepare and present complex multimedia publications;

(E) demonstrate knowledge and use of point-of-sale systems;

(F) evaluate Internet resources for industry information; and

(G) evaluate current and emerging technologies to improve guest services.

(9) The student uses leadership and teamwork skills in collaborating with others to accomplish organizational goals and objectives. The student is expected to:

(A) differentiate types of effective leadership and management styles and select which management style is effective for the lodging industry;

- (B) apply team-building skills;
- (C) apply decision-making and problem-solving skills;
- (D) apply leadership and teamwork qualities in creating a pleasant working atmosphere; and
- (E) participate in community leadership and teamwork opportunities to enhance professional skills.

(10) The student understands the importance of health, safety, and environmental management systems in organizations and their importance to organizational performance and regulatory compliance. The student is expected to:

- (A) assess workplace conditions with regard to safety and health;
- (B) apply safety and sanitation standards common to the workplace;
- (C) analyze potential effects caused by common chemical and hazardous materials;
- (D) demonstrate first aid and cardiopulmonary resuscitation skills;
- (E) research sources of food-borne illness and determine ways to prevent them; and
- (F) evaluate the need for personal hygiene and correlate this to the importance of health, safety, and environmental management systems in the organization.

(11) The student knows and understands the importance of professional ethics and legal responsibilities within the lodging industry. The student is expected to:

- (A) demonstrate professional and ethical standards;
- (B) compare and contrast the rights of the innkeeper and the rights of the guest; and
- (C) interpret and explain written organizational policies and procedures to help employees perform their jobs.

(12) The student understands the knowledge and skills required for careers in the lodging industry. The student is expected to:

- (A) develop job-specific technical vocabulary;
- (B) explain procedures to meet guest needs, including guest registration, rate assignment, room assignment, and determination of payment methods;
- (C) differentiate the functions of meeting and event planning as it correlates to the individual lodging property; and
- (D) understand the importance of check-out procedures to ensure guest satisfaction and verify settlement of account.

§130.261. *Practicum in Hospitality Services (Two Credits), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Recommended prerequisite: Hospitality Services. Students shall be awarded two credits for successful completion of this course. A student may repeat this course once for credit provided that the student is experiencing different aspects of the industry and demonstrating proficiency in additional and more advanced knowledge and skills.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant

technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Hospitality and Tourism Career Cluster focuses on the management, marketing, and operations of restaurants and other food/beverage services, lodging, attractions, recreation events, and travel-related services.

(3) Practicum in Hospitality Services is a unique practicum experience to provide opportunities for students to participate in a learning experience that combines classroom instruction with actual business and industry career experiences. Practicum in Hospitality Services integrates academic and career and technical education; provides more interdisciplinary instruction; and supports strong partnerships among schools, businesses, and community institutions with the goal of preparing students with a variety of skills in a fast-changing workplace. Students are taught employability skills, including job-specific skills applicable to their training plan, job interview techniques, communication skills, financial and budget activities, human relations, and portfolio development. Practicum in Hospitality Services is relevant and rigorous, supports student attainment of academic and technical standards, and effectively prepares students for college and career success.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

- (A) research and produce a variety of relevant employment opportunities;
- (B) differentiate the essential workplace skills in the career acquisition process;
- (C) practice and complete employment-related documents such as job applications (written and electronic formats) and I-9 and W-4 forms;
- (D) model proper interview techniques in various situations;
- (E) formulate verbal, nonverbal, and written communication skills;
- (F) develop and properly use appropriate electronic communication tools; and
- (G) display effective listening skills used in the workplace.

(2) The student develops skills for success in the workplace. The student is expected to:

- (A) formulate and model appropriate grooming and appearance for the workplace;
- (B) model dependability, punctuality, and initiative;
- (C) display positive interpersonal skills such as respect for diversity;
- (D) differentiate types of diversity from both the employer and customer perspective;

(E) exhibit appropriate business and personal etiquette in the workplace;

(F) exhibit productive work habits, ethical practices, and a positive attitude;

(G) integrate knowledge of personal and occupational safety practices in the workplace;

(H) collaborate with others to support the organization and complete assigned tasks as a team;

(I) organize work to fulfill responsibilities and meet deadlines; and

(J) compare and contrast the relationship of good physical and mental health strategies for job success and work-life balance.

(3) The student compares and contrasts the importance of work ethics, employer expectations, interaction with diverse populations, and communication skills in the workplace. The student is expected to:

(A) defend personal integrity as it affects human relations on the job;

(B) study and develop characteristics of successful working relationships such as teamwork, conflict resolution, self-control, and ability to accept criticism;

(C) analyze and defend employer expectations;

(D) demonstrate respect for the rights of others;

(E) compare and contrast the hospitality code of ethics and ethical standards; and

(F) support organizational policies and procedures.

(4) The student applies academics with career-readiness skills. The student is expected to:

(A) apply mathematical skills to business transactions;

(B) interpret data from documents such as tables, charts, and graphs to estimate and find solutions to problems; and

(C) organize and compose workplace business documents.

(5) The student applies ethical behavior standards, safety procedures, and legal responsibilities within the workplace. The student is expected to:

(A) compare and contrast published workplace policies;

(B) apply responsible and ethical behavior;

(C) evaluate provisions of state and federal labor laws; and

(D) evaluate the employer's and employee's fiduciary responsibilities to customers such as breach of confidentiality, safety, and privacy.

(6) The student models strategies and technique to develop interpersonal skills. The student is expected to:

(A) model effective interpersonal and team-building skills involving situations with diverse individuals; and

(B) model leadership through participation in activities such as career and technical student organizations.

(7) The student evaluates advancement opportunities and career paths in the industry. The student is expected to:

(A) analyze future employment in occupational areas;

(B) develop an entrepreneurial opportunity in the hospitality services area;

(C) compare and contrast salaries, industry demands, and challenges for various jobs in hospitality services; and

(D) evaluate the changing global workplace and future trends using governmental and other resources.

(8) The student identifies skills and attributes necessary for professional advancement. The student is expected to:

(A) evaluate continuing education opportunities that enhance career advancement and promote lifelong learning; and

(B) formulate effective strategies to secure, maintain, and terminate employment.

(9) The student understands roles within teams, work units, departments, organizations, and the larger environment of the hospitality services industry. The student is expected to:

(A) explain the different types and functions of all departments such as food and beverage to understand their impact on customer service;

(B) illustrate proficiency with duties in each of the departments of a hotel or tourism venue;

(C) compare and contrast lodging properties;

(D) analyze the differences between chain and franchise lodging operations; and

(E) explore the job duties in travel and tourism, recreation, and amusement and attraction venues.

(10) The student understands the knowledge and skills required for careers in the lodging industry. The student is expected to:

(A) examine, understand, and articulate job-specific technical vocabulary;

(B) explain technical procedures needed to meet guest needs such as registration, rate assignment, room assignment, and determination of payment methods;

(C) research and create a meeting/event company;

(D) evaluate current and emerging technologies to improve guest services; and

(E) determine the correct procedures for the traditional hotel guest cycle.

(11) The student documents in manual and electronic format acquired technical knowledge and skills from coherent plan of study. The student is expected to:

(A) produce a professional portfolio to include information such as:

(i) a current resume;

(ii) official documentation of attainment of technical skill competencies;

(iii) recognitions, awards, and scholarships;

(iv) community service activities;

(v) student organization participation;

(vi) practicum supervisor evaluations;

(vii) letters of recommendation;

- (viii) cover letters;
 - (ix) documentation of preparation for state or national industry certification such as food sanitation certification; and
 - (x) any other supporting documents;
- (B) present the portfolio to interested stakeholders;
- (C) evaluate employment options, including salaries and benefits;
- (D) determine effective money management and financial planning techniques to manage:
- (i) insurance and benefits;
 - (ii) taxes;
 - (iii) retirement;
 - (iv) relocation costs;
 - (v) a budget;
 - (vi) housing costs; and
 - (vii) transportation costs; and
- (E) develop a personal budget based on career choice using effective money management and financial planning techniques.

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 J. HUMAN SERVICES

19 TAC §§130.271 - 130.284

STATUTORY AUTHORITY. The new sections are adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; §28.00222, which authorizes the SBOE to ensure that at least six advanced career and technology education or technology applications courses, including courses in personal financial literacy consistent with TEC, §28.0021, and in statistics, are approved to satisfy a fourth credit in mathematics required for high school graduation; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The new sections implement the Texas Education Code, §§7.102(c)(4), 28.002, 28.00222, and 28.025.

§130.272. *Principles of Human Services (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9-12. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Human Services Career Cluster focuses on preparing individuals for employment in career pathways that relate to families and human needs such as counseling and mental health services, family and community services, personal care services, and consumer services.

(3) Principles of Human Services is a laboratory course that will enable students to investigate careers in the Human Services Career Cluster, including counseling and mental health, early childhood development, family and community, personal care, and consumer services. Each student is expected to complete the knowledge and skills essential for success in high-skill, high-wage, or high-demand human services careers.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) apply interpersonal communication skills in business and industry settings;

(B) explain and recognize the value of collaboration within the workplace;

(C) examine the importance of time management to succeed in the workforce;

(D) identify work ethics/professionalism in a job setting; and

(E) develop problem-solving and critical-thinking skills.

(2) The student demonstrates personal characteristics for success in high-skill, high-wage, or high-demand careers. The student is expected to:

(A) explain and practice responsible decision making consistent with personal needs, wants, values, and priorities;

(B) develop measurable short- and long-term goals for personal and professional life;

(C) demonstrate personal-management skills needed for productivity;

(D) practice ethical and appropriate methods of conflict resolution;

(E) investigate the significance of grooming, appearance, and appropriate apparel selection in personal and professional settings;

(F) analyze the relationship of wellness to personal and professional productivity;

(G) determine personal and professional implications of substance abuse;

(H) demonstrate apparel maintenance and repair skills that enhance appearance in personal and professional settings;

(I) practice leadership skills such as participation in career and technical student organizations; and

(J) demonstrate effective communication skills.

(3) The student demonstrates the skills necessary to enhance personal and career effectiveness in consumer services. The student is expected to:

(A) apply the decision-making process in planning the allocation and use of finances;

(B) use technology to manage resources;

(C) examine sustainable consumer buying techniques that promote effective use of resources;

(D) describe rewards, demands, and future trends in consumer service careers; and

(E) identify employment and entrepreneurial opportunities and preparation requirements in the areas of personal interest.

(4) The student demonstrates the skills necessary to enhance personal and career effectiveness in counseling and mental health services. The student is expected to:

(A) identify types of crises;

(B) determine appropriate responses, management strategies, and available technology to meet individual and family needs;

(C) determine effects of crisis on individuals and families;

(D) predict crises typical of various stages of the life cycle;

(E) identify the contributing factors of stress and how those factors impact individuals and relationships;

(F) investigate causes, prevention, and treatment of domestic violence;

(G) describe rewards, demands, and future trends in counseling and mental health services; and

(H) identify employment and entrepreneurial opportunities and preparation requirements in the areas of personal interest.

(5) The student demonstrates the skills necessary to enhance personal and career effectiveness in early childhood development and services. The student is expected to:

(A) identify the basic needs of children;

(B) analyze the responsibilities of caregivers for promoting the safety and development of children;

(C) determine developmentally appropriate guidance techniques for children;

(D) investigate causes, preventions, and treatment of child abuse;

(E) describe rewards, demands, and future trends in early childhood development and services; and

(F) identify employment and entrepreneurial opportunities and preparation requirements in the areas of personal interest.

(6) The student demonstrates the skills necessary to enhance personal and career effectiveness in family and community services. The student is expected to:

(A) identify the basic functions of the family, including roles and responsibilities;

(B) investigate societal, cultural, demographic, and economic factors affecting the responsibilities of family members;

(C) analyze the multiple roles and responsibilities assumed by individuals within the family;

(D) investigate community service opportunities;

(E) analyze dietary practices across the life span;

(F) explain the impact of nutrition on development, wellness, and productivity over the life span;

(G) prepare nutritious snacks or meals that contribute to wellness and productivity through the life span;

(H) describe rewards, demands, and future trends in family and community services; and

(I) identify employment and entrepreneurial opportunities and preparation requirements in the areas of personal interest.

(7) The student demonstrates the skills necessary to enhance personal and career effectiveness in fashion design. The student is expected to:

(A) describe factors influencing apparel selection;

(B) analyze apparel selection practices that accommodate personal needs, including age, lifestyle, special needs, and career;

(C) interpret and use information on apparel care labels;

(D) demonstrate safety practices when using and caring for apparel construction tools and equipment;

(E) demonstrate simple clothing repair and alteration techniques;

(F) describe rewards, demands, and future trends in fashion design; and

(G) identify employment and entrepreneurial opportunities and preparation requirements in the areas of personal interest.

(8) The student demonstrates the skills necessary to enhance personal and career effectiveness in interior design. The student is expected to:

(A) describe priorities and needs that influence interior design decisions;

(B) identify the elements and principles of design used in interiors;

(C) describe safe use and care of interior furnishings and equipment;

(D) identify maintenance and safety practices that affect interiors;

(E) discuss cultural, demographic, societal, and economic factors that influence interior design trends;

(F) describe rewards, demands, and future trends in interior design; and

(G) identify employment and entrepreneurial opportunities and preparation requirements in the areas of personal interest.

(9) The student demonstrates the skills necessary to enhance personal and career effectiveness in personal care services. The student is expected to:

(A) explore new and emerging technologies that may affect personal care services;

(B) investigate the specific state requirements for licensure in personal care services;

(C) create records, including electronic records, of client services to retrieve personal care client information;

(D) examine different types of media to achieve maximum impact on targeted client populations;

(E) describe rewards, demands, and future trends in personal care services; and

(F) identify employment and entrepreneurial opportunities and preparation requirements in the areas of personal interest.

§130.273. *Dollars and Sense (One-Half Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Recommended prerequisite: Principles of Human Services. Students shall be awarded one-half credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Human Services Career Cluster focuses on preparing individuals for employment in career pathways that relate to families and human needs such as counseling and mental health services, family and community services, personal care services, and consumer services.

(3) Dollars and Sense focuses on consumer practices and responsibilities, money-management processes, decision-making skills, impact of technology, and preparation for human services careers.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) apply interpersonal communication skills in business and industry settings;

(B) explain and recognize the value of collaboration within the workplace;

(C) examine the importance of time management to succeed in the workforce;

(D) identify work ethics and professionalism in a job setting; and

(E) develop problem-solving and critical-thinking skills.

(2) The student demonstrates management of individual and family resources such as finances, food, clothing, shelter, health care, recreation, transportation, time, and human capital. The student is expected to:

(A) analyze the economic rights and responsibilities of individuals as consumers;

(B) apply management, planning skills, and processes to organize tasks and responsibilities;

(C) develop and apply multiple strategies for individuals and families to make choices to satisfy needs and wants;

(D) analyze the consequences of an economic decision made by an individual consumer such as the decisions to provide safe and nutritious food, clothing, housing, health care, recreation, and transportation; and

(E) analyze the impact of media and technological advances on family and consumer decisions.

(3) The student demonstrates management of financial resources to meet the goals of individuals and families across the life span. The student is expected to:

(A) evaluate the need for personal and family financial planning, including maintaining a budget, expense records, and economic self-sufficiency;

(B) compare types of loans available to consumers and distinguish criteria for becoming a low-risk borrower;

(C) connect mathematics to the understanding of interest, including avoiding and eliminating credit card debt;

(D) collect evidence and data related to implementing a savings program, the time value of money, and retirement planning;

(E) explore how to be a prudent investor in the stock market and other investment options;

(F) investigate the benefits of charitable giving;

(G) compare types of banks, credit unions, and virtual banks available to consumers and the benefits of maintaining financial accounts;

(H) demonstrate the ability to maintain financial records;

(I) investigate bankruptcy laws, including ways to avoid bankruptcy;

(J) apply management principles to decisions about insurance for individuals and families;

(K) evaluate personal and legal documents related to managing individual and family finances such as birth certificates, medical records, social security cards, financial records, and property records; and

(L) demonstrate the ability to use calculators, spreadsheets, computers, and software in data analysis relating to finance.

(4) The student demonstrates effective consumer skills related to housing needs. The student is expected to:

(A) explain consumer rights and responsibilities associated with renting or buying a home;

(B) analyze legal and financial aspects of purchasing and leasing housing; and

(C) propose money-management skills necessary to make the transition from renting to home ownership.

(5) The student analyzes the relationship of the environment to family and consumer resources. The student is expected to:

(A) analyze individual and family responsibilities in relation to environmental trends and issues;

(B) summarize environmental trends and issues affecting families and future generations;

(C) demonstrate behaviors that conserve, reuse, and recycle resources to maintain the environment; and

(D) explain governmental regulations for conserving natural resources.

(6) The student analyzes relationships between the economic system and consumer actions. The student is expected to:

(A) analyze economic effects of laws and regulations that pertain to consumers and providers of services; and

(B) identify types of taxes at the local, state, and national levels and the economic importance of each.

(7) The student identifies skills and attributes necessary for sustaining a chosen lifestyle. The student is expected to:

(A) evaluate and compare employment options, including salaries and benefits;

(B) compare rewards and demands for various levels of employment in a variety of careers;

(C) determine how interests, abilities, personal priorities, and family responsibilities affect career choices;

(D) determine continuing education opportunities that enhance career advancement and promote lifelong learning; and

(E) use presentation skills to communicate and apply knowledge of careers in consumer services.

(8) The student integrates knowledge, skills, and practices required for careers in consumer services. The student is expected to:

(A) explain the roles and functions of individuals engaged in consumer services careers;

(B) analyze opportunities for employment and entrepreneurial endeavors;

(C) summarize education and training requirements for consumer services careers; and

(D) investigate professional organizations for consumer services.

§130.274. *Lifetime Nutrition and Wellness (One-Half Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9-12. Recommended prerequisite: Principles of Human Services, Principles of Hospitality and Tourism, or Principles of Health Science. Students shall be awarded one-half credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Human Services Career Cluster focuses on preparing individuals for employment in career pathways that relate to families and human needs such as counseling and mental health services, family and community services, personal care services, and consumer services.

(3) Lifetime Nutrition and Wellness is a laboratory course that allows students to use principles of lifetime wellness and nutrition to help them make informed choices that promote wellness as well as pursue careers related to hospitality and tourism, education and training, human services, and health sciences.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) apply interpersonal communication skills in business and industry settings;

(B) explain and recognize the value of collaboration within the workplace;

(C) examine the importance of time management to succeed in the workforce;

(D) identify work ethics and professionalism in a job setting; and

(E) develop problem-solving and critical-thinking skills.

(2) The student understands the role of nutrients in the body. The student is expected to:

(A) classify nutrients and their functions and food sources and compare the nutritive value of various foods;

(B) assess the effects of nutritional intake on health, appearance, effective job performance, and personal life;

(C) analyze and apply various dietary guidelines throughout the life cycle, including pregnancy, infancy, childhood, and late adulthood; and

(D) compare personal food intake to recommended dietary guidelines.

(3) The student understands the principles of digestion and metabolism. The student is expected to:

(A) describe the processes of digestion and metabolism;

(B) calculate and explain basal and activity metabolisms and factors that affect each;

(C) apply knowledge of digestion and metabolism when making decisions related to food intake and physical fitness;

(D) locate community resources that promote physical activity and fitness; and

(E) explain the relationship of activity levels and caloric intake to health and wellness, including weight management.

(4) The student demonstrates knowledge of nutritionally balanced diets. The student is expected to:

(A) research the long-term effects of food choices;

(B) outline strategies for prevention, treatment, and management of diet-related diseases such as diabetes, hypertension, childhood obesity, anorexia, and bulimia;

(C) determine the effects of food allergies and intolerances on individual and family health;

(D) plan diets based on life cycle, activity level, nutritional needs, portion control, and food budget;

(E) develop examples of therapeutic diets;

(F) analyze advertising claims and fad diets with the recommendations of the Recommended Dietary Allowances;

(G) analyze current lifestyle habits that may increase health risks;

(H) identify community programs that provide nutrition and wellness services;

(I) examine the nutritional value of fast foods and convenience foods;

(J) read and interpret food labels;

(K) examine and explain nutritional serving sizes;

(L) compare organic and green food choices; and

(M) determine sustainable food choices and their impact on society.

(5) The student understands safety and sanitation. The student is expected to:

(A) demonstrate safe and sanitary practices in the use, care, and storage of food and equipment;

(B) explain types and prevention of food-borne illnesses; and

(C) practice appropriate dress and personal hygiene in food preparation.

(6) The student demonstrates knowledge of food-management principles. The student is expected to:

(A) read and comprehend standard recipes;

(B) correctly use standard measuring techniques and equipment;

(C) demonstrate correct food-preparation techniques, including nutrient retention;

(D) use food-buying strategies such as calculating food costs, planning food budgets, and creating grocery lists;

(E) demonstrate food-preparation techniques to reduce overall fat and calories;

(F) practice etiquette, food presentation, and table service appropriate for specific situations; and

(G) apply food-storage principles.

(7) The student demonstrates effective work habits. The student is expected to:

(A) participate as an effective team member by demonstrating cooperation and responsibility;

(B) apply effective practices for managing time and energy to complete tasks on time;

(C) practice problem solving using leadership and teamwork skills; and

(D) use presentation skills to communicate and apply knowledge about careers in consumer services.

(8) The student investigates careers in nutrition. The student is expected to:

(A) compare and contrast education or training needed for careers in nutrition;

(B) establish personal short- and long-term career goals;

(C) analyze entrepreneurial opportunities in nutrition; and

(D) apply a problem-solving approach to a business challenge or opportunity to improve sustainability efforts while maintaining or increasing profits and/or organizational health.

§130.276. Counseling and Mental Health (One Credit), Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 11 and 12. Recommended prerequisite: Principles of Human Services. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Human Services Career Cluster focuses on preparing individuals for employment in career pathways that relate to families and human needs such as counseling and mental health services, family and community services, personal care services, and consumer services.

(3) In Counseling and Mental Health, students model the knowledge and skills necessary to pursue a counseling and mental health career through simulated environments. Students are expected to apply knowledge of ethical and legal responsibilities, limitations, and the implications of their actions. Professional integrity in counseling and mental health care is dependent on acceptance of ethical and legal responsibilities.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards or employability skills as required by business and industry. The student is expected to:

(A) apply interpersonal communication skills in business and industry settings;

(B) explain and recognize the value of collaboration within the workplace;

(C) examine the importance of time management to succeed in the workforce;

(D) identify work ethics and professionalism in a job setting; and

(E) develop problem-solving and critical-thinking skills.

(2) The student applies mathematics, science, English language arts, and social studies in health science. The student is expected to:

(A) evaluate the use of verbal and nonverbal language in a variety of mental health situations;

(B) explain the nervous system of the human body;

(C) identify societal perspectives related to mental health;

(D) explain the physiological effects of stress and aging;

(E) distinguish the psychological aspects of health and wellness across the life span;

(F) identify socioeconomic factors that influence mental health and care;

(G) compare social services such as drug dependency rehabilitation centers; and

(H) differentiate maladaptive conditions such as paranoia, schizophrenia, and aggression.

(3) The student demonstrates verbal and nonverbal communication skills. The student is expected to:

(A) interpret verbal and nonverbal messages and adapt communication to the needs of the individual;

(B) demonstrate listening skills and techniques to minimize communication barriers; and

(C) implement communication skills that are responsive rather than reactive.

(4) The student researches career options and the preparation necessary for employment in mental health. The student is expected to:

(A) identify career opportunities related to mental health;

(B) research the role of the multidisciplinary team;

(C) justify the consequences of decisions;

(D) demonstrate techniques of peer mediation, problem solving, and negotiation;

(E) interpret, transcribe, and communicate mental health vocabulary; and

(F) investigate treatment options.

(5) The student models the ethical behavior standards and legal responsibilities related to mental health. The student is expected to:

(A) display ethical practices and the principles of confidentiality;

(B) research and describe legal aspects and issues of malpractice, negligence, and liability;

(C) examine a designated scope of practice of professionals;

(D) recognize client rights and choices and circumstances that alter client rights;

(E) dramatize case studies related to client rights and choices;

(F) review legislation that affects standards of client care; and

(G) describe regulatory agencies such as the Department of State Health Services and Department of Aging and Disability Services.

(6) The student maintains a safe environment to prevent hazardous situations. The student is expected to:

(A) recognize abusive situations;

(B) anticipate and adapt to changing situations;

(C) demonstrate appropriate actions in emergency situations; and

(D) practice personal and client safety.

(7) The student analyzes the technology related to information services. The student is expected to:

(A) review the processes for collection and dissemination of health care data;

(B) classify equipment used in the delivery of mental health services; and

(C) employ technology consistent with the student's level of training.

§130.278. *Child Guidance (Two Credits), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Principles of Human Services. Recommended prerequisite or corequisite: Child Development. Students shall be awarded two credits for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Human Services Career Cluster focuses on preparing individuals for employment in career pathways that relate to families and human needs such as counseling and mental health services, family and community services, personal care services, and consumer services.

(3) Child Guidance is a technical laboratory course that addresses the knowledge and skills related to child growth and guidance equipping students to develop positive relationships with children and effective caregiver skills. Students use these skills to promote the well-being and healthy development of children, strengthen a culturally diverse society, and pursue careers related to the care, guidance, and education of children, including those with special needs. Instruction may be delivered through school-based laboratory training

or through work-based delivery arrangements such as cooperative education, mentoring, and job shadowing.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) apply interpersonal communication skills in business and industry settings;

(B) explain and recognize the value of collaboration within the workplace;

(C) examine the importance of time management to succeed in the workforce;

(D) identify work ethics and professionalism in a job setting; and

(E) develop problem-solving and critical-thinking skills.

(2) The student practices ethical and legal responsibilities associated with providing child care services. The student is expected to:

(A) apply ethical codes of conduct in a child care setting;

(B) create coherent written communication between parents and child care staff;

(C) advocate for children when necessary;

(D) comply with laws and regulations related to child care services;

(E) determine potential uses and management of technology, media, and resources to foster healthy child development; and

(F) employ safeguards to prevent misuse and abuse of technology and media with children.

(3) The student analyzes child care options. The student is expected to:

(A) compare child care options for children of various ages;

(B) compare and contrast the financial considerations of child care options;

(C) examine criteria for selecting quality child care; and

(D) review minimum standards for licensing and regulations for center-based and home-based programs.

(4) The student analyzes responsibilities that promote health and wellness of children. The student is expected to:

(A) identify signs of good health and symptoms of illness in children;

(B) practice child guidance techniques that contribute to the health and wellness of children such as adequate rest, exercise, safety, and sanitation;

(C) apply procedures for creating safe environments for children;

(D) prepare nutritious snacks or meals for children following appropriate food guidelines; and

(E) use resources available for managing the health care of children.

(5) The student analyzes the effect of play in the development of children. The student is expected to:

(A) create examples of play that promote the physical, intellectual, emotional, and social development of children; and

(B) implement strategies to encourage constructive and creative play.

(6) The student applies appropriate guidance techniques for children of various ages and developmental levels. The student is expected to:

(A) discuss the various types of guidance and the effects on children;

(B) determine and apply appropriate guidance techniques; and

(C) distinguish between guidance techniques and abusive behavior.

(7) The student will implement appropriate strategies and practices for optimizing the development of infants, including those with special needs. The student is expected to:

(A) create and implement activities for the development of sensory skills;

(B) create and implement activities for the development of language skills;

(C) create and implement activities for the development of physical and motor skills; and

(D) create and implement activities for the development of social skills.

(8) The student will implement appropriate strategies and practices for optimizing the development of toddlers, including those with special needs. The student is expected to:

(A) create and implement lesson plans for the development of physical skills;

(B) create and implement lesson plans for the development of vocabulary and language skills;

(C) create and implement lesson plans for the development of appropriate mathematics skills; and

(D) create and implement lesson plans for the development of appropriate science skills.

(9) The student will implement appropriate strategies and practices for optimizing the development of preschool children, including those with special needs. The student is expected to:

(A) create and implement lesson plans for the development of physical skills;

(B) create and implement lesson plans for the development of reading and language skills;

(C) create and implement lesson plans for the development of appropriate mathematics and problem-solving skills; and

(D) create and implement lesson plans for the development of appropriate science skills.

(10) The student makes informed career decisions that reflect personal, family, and career goals. The student is expected to:

(A) analyze the impact of career decisions on care giving;

(B) propose short- and long-term career goals;

(C) assess personal interests, aptitudes, and abilities needed in the child care profession;

(D) exhibit employability skills such as communication, problem solving, leadership, teamwork, ethics, and technical skills;

(E) demonstrate effective verbal, nonverbal, written, and electronic communication skills;

(F) demonstrate skills and characteristics of leaders and effective team members; and

(G) evaluate employment and entrepreneurial opportunities and educational requirements for early childhood development and services.

§130.280. *Practicum in Human Services (Two Credits), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Students shall be awarded two credits for successful completion of this course. A student may repeat this course once for credit provided that the student is experiencing different aspects of the industry and demonstrating proficiency in additional and more advanced knowledge and skills.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Human Services Career Cluster focuses on preparing individuals for employment in career pathways that relate to families and human needs such as counseling and mental health services, family and community services, personal care services, and consumer services.

(3) Practicum in Human Services provides background knowledge and occupation-specific training that focuses on the development of consumer services, early childhood development and services, counseling and mental health services, and family and community-services careers. Content for Practicum in Human Services is designed to meet the occupational preparation needs and interests of students and should be based upon the knowledge and skills selected from two or more courses in a coherent sequence in the human services cluster.

(4) Instruction may be delivered through school-based laboratory training or through work-based delivery arrangements such as cooperative education, mentoring, and job shadowing.

(5) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(6) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) apply interpersonal communication skills in business and industry settings;

(B) explain and recognize the value of collaboration within the workplace;

(C) examine the importance of time management to succeed in the workforce;

(D) identify work ethics/professionalism in a job setting; and

(E) develop problem-solving and critical-thinking skills.

(2) The student analyzes career paths within the human services industries. The student is expected to:

(A) review careers within the Human Services Career Cluster;

(B) complete a resume;

(C) create, maintain, and present an employment portfolio with content such as licensures or certifications, samples of work, and evaluation from a supervisor for use during practicum experience in human services careers;

(D) demonstrate appropriate interviewing skills to seek employment or job shadowing experiences;

(E) analyze the effects of the human services industry on local, state, national, and global economies; and

(F) analyze the role of professional organizations in human-services professions.

(3) The student uses oral and written communication skills and solves problems using critical-thinking skills. The student is expected to:

(A) practice effective verbal, nonverbal, written, and electronic communication skills;

(B) use effective communication skills such as ability to empathize, motivate, listen attentively, and speak courteously and respectfully when working with clients;

(C) apply appropriate customer service techniques to complete transactions;

(D) investigate client resources and risk tolerance levels such as evaluating client resources versus cost, educating client about most beneficial choices, and recommending best products, plans, or services for the client; and

(E) consult with supervisor when needed to expedite solutions to client problems.

(4) The student uses business tools or procedures to create human services information and facilitate client interactions. The student is expected to:

(A) evaluate numerical information and perform complex calculations accurately;

(B) use appropriate electronic resources to access current information;

(C) use word-processing, database, spreadsheet, or presentation software to accurately prepare needed documents; and

(D) discuss and practice appropriate workplace communication etiquette.

(5) The student identifies how organizational systems affect performance and the quality of products and services. The student is expected to:

(A) examine global factors that affect the performance and quality of products and services in the industry;

(B) apply principles of planning, design, development, and evaluation to accomplish long-range goals; and

(C) implement quality-control systems and practices that ensure quality products and services.

(6) The student determines a healthy environment that inspires client confidence in services provided. The student is expected to:

(A) identify appropriate locations to safely offer human services;

(B) examine a functional work environment, equipment needs, and required utilities for offering human services;

(C) describe elements of a non-threatening workplace environment;

(D) identify appropriate social skills necessary for interacting with a diverse population;

(E) discuss and employ procedures necessary to provide emergency aid for workplace accidents; and

(F) explore components of a disaster and emergency response plan and use when directed.

(7) The student uses leadership and teamwork skills in collaborating with others. The student is expected to:

(A) collaborate with others to accomplish organizational goals and objectives;

(B) establish and maintain working relationships with all levels of personnel; and

(C) propose organizational priorities to ensure quality.

(8) The student describes and observes ethical and legal responsibilities associated with providing human services. The student is expected to:

(A) investigate situations requiring client advocacy and advocate when necessary;

(B) describe and practice ethical behaviors when working with human services clients; and

(C) comply with laws and regulations related to retail, governmental, or private services.

(9) The student selects and uses appropriate business procedures and equipment to produce satisfying client outcomes and business success. The student is expected to:

(A) manage funds using appropriate technology;

(B) place orders for customers and supplies using sound business practices;

(C) respond to client questions appropriately; and

(D) advise clients using appropriate and relevant information.

§130.281. *Principles of Cosmetology Design and Color Theory (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9 and 10. Recommended prerequisite: Principles of Human Services. Students may begin to earn Texas Department of Licensing and Regulation (TDLR) hours toward a Cosmetology Operator License. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Human Services Career Cluster focuses on preparing individuals for employment in career pathways that relate to families and human needs such as counseling and mental health services, family and community services, personal care services, and consumer services.

(3) In Principles of Cosmetology Design and Color Theory, students coordinate integration of academic, career, and technical knowledge and skills in this laboratory instructional sequence course designed to provide job-specific training for employment in cosmetology careers. Students will attain academic skills and knowledge as well as technical knowledge and skills related to cosmetology design and color theory. Students will develop knowledge and skills regarding various cosmetology design elements such as form, lines, texture, structure and illusion or depth as they relate to the art of cosmetology. Instruction includes sterilization and sanitation procedures, hair care, nail care, and skin care and meets the TDLR requirements for licensure upon passing the state examination. Analysis of career opportunities, license requirements, knowledge and skills expectations, and development of workplace skills are included.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) demonstrate professionalism in how to dress appropriately, speak politely, and conduct oneself in a manner appropriate for the profession and work site;

(B) employ the ability to be trustworthy by complying with an ethical course of action;

(C) comply with all applicable rules, laws, and regulations;

(D) use conflict-management skills to avoid potential or perceived conflict;

(E) investigate employment opportunities, including entrepreneurship;

(F) evaluate data or outcome of a broad range of personal care services;

(G) demonstrate effective oral and written communication skills with diverse individuals, including coworkers, management, and customers;

(H) develop skill in handling multiple tasks simultaneously such as prioritizing tasks, managing workflow under pressure, and completing work-related activities in a timely manner;

(I) exercise personal ownership over the quantity and quality of individual performance and team assignments; and

(J) employ leadership skills within a classroom or community setting to maintain positive relationships.

(2) The student applies academic skills to the field of cosmetology design and color theory. The student is expected to:

(A) recognize elements of hair design such as line, form, space, texture, and color;

(B) investigate and identify lines that create width and length;

(C) explain the position of diagonal and curved lines to emphasize or minimize facial features;

(D) identify different facial shapes and their importance to hair design;

(E) explore the significance and function of parallel lines in hair design;

(F) judge the relevance of contrasting and transitional lines in hair design;

(G) explain the importance of knowledge of color theory as it applies to the cosmetology field;

(H) document the scope of client services affected by basic color theory such as artificial hair color services, facial makeup application, eyebrow color, and eyelash tint services;

(I) explain the theories of color illusion such as light and dark colors and tones that may create an illusion of more or less volume in the hair design;

(J) justify the selection of color process as it pertains to skin tone and eye color;

(K) create a logical structure for color; and

(L) make use of primary, secondary, and tertiary colors as they relate to the field of cosmetology.

(3) The student demonstrates knowledge of the rules and regulations established by the TDLR. The student is expected to:

(A) apply health and safety policies and procedures;

(B) recognize risks and potentially hazardous situations in compliance with the TDLR;

(C) navigate the TDLR website for exam eligibility, exam results, and student hours; and

(D) identify licensure and renewal requirements of the licensee or licensed cosmetology establishment or school.

(4) The student demonstrates proficiency in the use of tools, equipment, technologies, and materials used in color theory and elements of design in cosmetology. The student is expected to:

(A) create a digital portfolio of design elements that are relevant to the cosmetology field;

(B) use ergonomically designed equipment to promote professional efficiency;

(C) use available technology sources effective in a professional salon setting; and

(D) apply universal precautions in disposal of hazardous materials.

(5) The student applies the academic knowledge and practical skills to simulated and actual work situations. The student is expected to:

(A) apply client consultation skills to guide individuals in recognizing concerns and making informed decisions;

(B) document client satisfaction with procedures and products to facilitate ease of consultation in future appointments;

(C) locate and compare vendors to maximize benefits for personal care clients, businesses, or organizations;

(D) demonstrate understanding and proficiency working with complementary colors;

(E) execute application procedure of artificial hair color such as virgin tint to darken, bleach retouch, virgin tint to lighten, and dimensional color services such as cap highlighting, foil highlighting, and low-lighting;

(F) explore the use of different types of hair colors such as demi-permanent color, permanent color, semi-permanent color, temporary color, toners, and fillers;

(G) make use of products designed to increase the vibrancy of a color formula or to neutralize unwanted tones such as concentrates, intensifiers, pigments, or drabbers; and

(H) use natural products to color the hair such as henna or vegetable dyes.

(6) The student analyzes career paths within the cosmetology industry. The student is expected to:

(A) explore marketing techniques when selecting and using multimedia to attract and retain clientele;

(B) formulate a salon service menu based upon current industry trends;

(C) consolidate various methods of obtaining feedback from clients to understand their expectations and promote high-quality standards;

(D) create an employment portfolio containing content such as certifications, samples of work, achievements, and supervisor or instructor evaluations; and

(E) analyze the role of professional organizations in cosmetology professions.

§130.283. *Cosmetology I (Two Credits), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10 and 11. Recommended prerequisite: Introduction to Cosmetology. Students shall be awarded two credits for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Human Services Career Cluster focuses on preparing individuals for employment in career pathways that relate to families and human needs such as counseling and mental health services, family and community services, personal care services, and consumer services.

(3) In Cosmetology I, students coordinate integration of academic, career, and technical knowledge and skills in this laboratory instructional sequence course designed to provide job-specific training for employment in cosmetology careers. Instruction includes sterilization and sanitation procedures, hair care, nail care, and skin care and meets the Texas Department of Licensing and Regulation (TDLR) requirements for licensure upon passing the state examination. Analysis of career opportunities, license requirements, knowledge and skills expectations, and development of workplace skills are included.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) demonstrate professionalism in how to dress appropriately, speak politely, and conduct oneself in a manner appropriate for the profession and work site;

(B) employ the ability to be trustworthy by complying with an ethical course of action;

(C) comply with all applicable rules, laws, and regulations;

(D) use conflict-management skills to avoid potential or perceived conflict;

(E) investigate employment opportunities, including entrepreneurship;

(F) evaluate data or outcome of a broad range of personal care services;

(G) demonstrate effective oral and written communication skills with diverse individuals, including coworkers, management, and customers;

(H) develop skill in handling multiple tasks simultaneously such as prioritizing tasks, managing workflow under pressure, and completing work-related activities in a timely manner;

(I) exercise personal ownership over the quantity and quality of individual performance and team assignment;

(J) employ leadership skills within a classroom or community setting to maintain positive relationships; and

(K) demonstrate knowledge of practical skills such as manicure, pedicure, or hairstyling.

(2) The student applies academic skills to the field of cosmetology. The student is expected to:

(A) explain the importance of anatomy and physiology to the cosmetology profession;

(B) identify body tissue, body systems, and their functions;

(C) explain the structure, composition, and growth of skin, nails, and hair;

(D) apply the principles of organic and inorganic chemistry;

(E) classify solutions, suspensions, and emulsions that may be used during cosmetology services;

(F) apply an understanding of pH and the pH scale to cosmetology services;

(G) explain the principles and practices of infection control, including bacterial disorders and diseases and viruses; and

(H) explore the nature of electricity by defining types of electric current and the electric modalities used in cosmetology.

(3) The student demonstrates knowledge of rules and regulations established by the TDLR. The student is expected to:

(A) apply health and safety policies and procedures;

(B) recognize risks and potentially hazardous situations in compliance with the TDLR;

(C) navigate the TDLR website for exam eligibility, exam results, and student hours; and

(D) identify licensure and renewal requirements of the licensee or licensed cosmetology establishment or school.

(4) The student demonstrates an understanding in the use of tools, equipment, technologies, and materials used in cosmetology. The student is expected to:

(A) employ safe and effective use of tools to enhance client services;

(B) use ergonomically designed equipment to promote professional efficiency;

(C) use available technology sources effective in a professional salon setting; and

(D) apply universal precautions in disposal of hazardous materials.

(5) The student applies the academic knowledge and practical skills to simulated and actual work situations. The student is expected to:

(A) apply client consultation skills to guide individuals in recognizing concerns and making informed decisions;

(B) document client satisfaction, procedures, and products to facilitate ease of consultation in future appointments;

(C) locate and compare vendors to maximize benefits for personal care clients, businesses, or organizations;

(D) demonstrate understanding and proficiency of basic haircuts such as zero degree, forty-five degree, ninety degree, and one hundred eighty degree;

(E) perform basic manicure, facial, and mock chemical service application as required for the state practical exam; and

(F) execute shampooing, permanent waving, curl demonstration, blow drying, and thermal curling service as required for the state practical exam.

§130.284. *Cosmetology II (Two Credits)*, Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisite: Cosmetology I. Students shall be awarded two credits for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Human Services Career Cluster focuses on preparing individuals for employment in career pathways that relate to families and human needs such as counseling and mental health services, family and community services, personal care services, and consumer services.

(3) In Cosmetology II, students will demonstrate proficiency in academic, technical, and practical knowledge and skills. The content is designed to provide the occupational skills required for licensure. Instruction includes advanced training in professional standards/employability skills; Texas Department of Licensing and Regulation (TDLR) rules and regulations; use of tools, equipment, technologies and materials; and practical skills.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) demonstrate professionalism in how to dress appropriately, speak politely, and conduct oneself in a manner appropriate for the profession and work site;

(B) employ the ability to be trustworthy by complying with an ethical course of action;

(C) comply with all applicable rules, laws, and regulations;

(D) use conflict-management skills to avoid potential or perceived conflict;

(E) investigate employment opportunities, including entrepreneurship;

(F) evaluate data or outcome of a broad range of personal care services;

(G) demonstrate effective oral and written communication skills with diverse individuals, including coworkers, management, and customers;

(H) develop skill in handling multiple tasks simultaneously such as prioritizing tasks, managing workflow under pressure, and completing work-related activities in a timely manner;

(I) exercise personal ownership over the quantity and quality of individual performance and team assignment;

(J) employ leadership skills within a classroom or community setting to maintain positive relationships; and

(K) demonstrate knowledge of practical skills such as manicure, pedicure, or hairstyling.

(2) The student applies academic skills to the field of cosmetology. The student is expected to:

(A) defend the importance of anatomy and physiology to the cosmetology profession;

(B) summarize the structure, composition, and growth of skin, nails, and hair;

(C) test the principles of organic and inorganic chemistry;

(D) evaluate solutions, suspensions, and emulsions that may be used during cosmetology services such as shampoos, conditioners, and nail care products;

(E) select chemical services to maintain a normal pH of hair and skin;

(F) describe the chemistry and main ingredients of nail enhancements such as polymer powder, monomer liquid, and ultraviolet (UV) gels and how they work;

(G) explain how to prepare the hair for application and removal of extensions such as human or artificial hair; and

(H) formulate a salon infection control plan to maintain health and safety of employees and clients.

(3) The student demonstrates knowledge of rules and regulations established by the TDLR. The student is expected to:

(A) apply health and safety policies and procedures;

(B) recognize risks, including potentially hazardous situations, in compliance with the TDLR;

(C) navigate the TDLR website for exam eligibility, exam results, and student hours; and

(D) identify licensure and renewal requirements of the licensee or licensed cosmetology establishment or school.

(4) The student demonstrates proficiency in the use of tools, equipment, technologies, and materials used in cosmetology. The student is expected to:

(A) employ safe and effective use of tools to enhance client services;

(B) use ergonomically designed equipment to promote professional efficiency;

(C) use available technology sources effectively in a professional salon setting;

(D) apply universal precautions in disposal of hazardous and non-hazardous materials; and

(E) formulate client services based on the correct quality and quantity of materials.

(5) The student applies the academic knowledge and practical skills to simulated and actual work situations. The student is expected to:

(A) appraise client desires to assist with formulation of personal care services;

(B) judge client satisfaction by recording solutions, procedures, and products to enhance future services and client interactions;

(C) use vendor resources to provide maximum benefit for clients, service providers, businesses, or organizations;

(D) demonstrate mastery of basic haircuts such as zero degree, forty-five degree, ninety degree, one hundred eighty degree, and men's clipper cut;

(E) display proficiency of a manicure, facial, and mock chemical service application as required for the state practical exam; and

(F) master the technique of shampooing, permanent waving, curl demonstration, blow drying, and thermal curling service as required for the state practical exam.

(6) The student analyzes career paths within the cosmetology industry. The student is expected to:

(A) explore marketing techniques when selecting and using multimedia to attract and retain clientele;

(B) formulate a salon service menu based upon current industry trends;

(C) consolidate various methods of obtaining feedback from clients to understand their expectations and promote high-quality standards;

(D) create an employment portfolio containing content such as certifications, samples of work, achievements, and supervisor or instructor evaluations; and

(E) analyze the role of professional organizations in cosmetology professions.

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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Texas Education Agency

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



SUBCHAPTER M. MANUFACTURING

19 TAC §§130.351 - 130.366

STATUTORY AUTHORITY. The new sections are adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; §28.00222, which authorizes the SBOE to ensure that at least six advanced career and technology education or technology applications courses, including courses in personal financial literacy consistent with TEC, §28.0021, and in statistics, are approved to satisfy a fourth credit in mathematics required for high school graduation; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The new sections implement the Texas Education Code, §§7.102(c)(4), 28.002, 28.00222, and 28.025.

§130.352. *Principles of Manufacturing (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9-12. Recommended prerequisite: Algebra I or Geometry. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Manufacturing Career Cluster focuses on planning, managing, and performing the processing of materials into intermediate or final products and related professional and technical support activities such as production planning and control, maintenance, and manufacturing/process engineering.

(3) In Principles of Manufacturing, students are introduced to knowledge and skills used in the proper application of principles of manufacturing. The study of manufacturing technology allows students to reinforce, apply, and transfer academic knowledge and skills to a variety of interesting and relevant activities. Students will gain an understanding of what employers require to gain and maintain employment in manufacturing careers.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify and comply with appropriate dress for manufacturing activities;

(B) demonstrate positive work behaviors and personal qualities such as punctuality;

(C) demonstrate the ability to work in teams such as developing work schedules and measuring team performance;

(D) demonstrate an understanding of employers' application and interview processes; and

(E) identify federal laws and rules applicable to the workplace and enforcement agencies such as the Equal Employment Opportunity Commission and the Occupational Safety and Health Administration (OSHA).

(2) The student applies manufacturing concepts to specific problems. The student is expected to:

(A) distinguish between disciplines such as engineering, science, manufacturing, and technology;

(B) use tools such as calculators and computers to solve problems; and

(C) use a variety of measuring instruments.

(3) The student applies communication, mathematics, and science knowledge and skills to manufacturing activities. The student is expected to:

- (A) demonstrate communication techniques consistent with industry standards;
- (B) locate relevant information needed to solve problems;
- (C) apply mathematics concepts to solve manufacturing problems;
- (D) analyze science principles used to solve problems; and
- (E) use the appropriate units of measure.

(4) The student manufactures products using the appropriate tools, equipment, machines, materials, and technical processes. The student is expected to:

(A) analyze the processes needed to complete a project such as initiate, plan, execute, monitor and control, and close; and

(B) use a variety of tools and equipment to produce an item.

(5) The student practices safe work habits. The student is expected to:

(A) master relevant safety tests based on OSHA guidelines and principles; and

(B) use Material Safety Data Sheets (MSDS) to analyze, store, and safely dispose of hazardous materials.

(6) The student describes the importance of maintenance. The student is expected to:

(A) perform maintenance on selected equipment; and

(B) analyze the results of improper maintenance.

(7) The student describes the factors that affect the evolution of technology. The student is expected to:

(A) analyze how changes in technology affect manufacturing practices;

(B) evaluate how the development of technology in manufacturing is influenced by past events;

(C) analyze the international effects of technology;

(D) demonstrate how advancements in technology have affected the field of engineering; and

(E) evaluate the factors that affect the implementation of new ideas.

(8) The student selects and reports on career opportunities, requirements, and expectations in manufacturing and technology. The student is expected to:

(A) investigate an area of interest in manufacturing;

(B) analyze the various specializations in manufacturing; and

(C) describe the functions of engineers, technologists, and technicians.

§130.353. *Diversified Manufacturing I (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Algebra I. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Manufacturing Career Cluster focuses on planning, managing, and performing the processing of materials into intermediate or final products and related professional and technical support activities such as production planning and control, maintenance, and manufacturing/process engineering.

(3) In Diversified Manufacturing I, students gain knowledge and skills in the application, design, production, and assessment of products, services, and systems and how those knowledge and skills are applied to manufacturing. The study of manufacturing systems allows students to reinforce, apply, and transfer academic knowledge and skills to a variety of interesting and relevant activities, problems, and settings in a manufacturing setting. Diversified Manufacturing I allows students the opportunity to understand the process of mass production by using a wide variety of materials and manufacturing techniques. Knowledge about career opportunities, requirements, and expectations and the development of skills prepare students for workplace success.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) demonstrate skills related to health and safety in the workplace as specified by appropriate governmental regulations;

(B) demonstrate the standards required in the workplace such as interviewing skills, flexibility, willingness to learn new skills and acquire knowledge, self-discipline, self-worth, positive attitude, and integrity in a work situation;

(C) use teamwork to solve problems;

(D) identify employers' work expectations; and

(E) use time-management techniques to develop work schedules.

(2) The student applies academic skills to the requirements of manufacturing. The student is expected to:

(A) demonstrate effective oral and written communication skills with individuals from varied cultures, including fellow workers, management, and customers;

(B) interpret engineering drawings, charts, diagrams, and welding symbols; and

(C) select algebraic and geometric principles and formulas required for precision measuring operations.

(3) The student differentiates between the technical concepts that form the knowledge and skills of manufacturing. The student is expected to:

(A) use tools and equipment commonly employed in manufacturing in a safe manner;

(B) demonstrate an understanding of the safety regulations for the different types of manufacturing equipment such as cutting, abrasive, boring, turning, shaping, and forming tools;

(C) execute procedures using the different types of manufacturing equipment such as cutting, abrasive, boring, turning, shaping, and forming tools;

(D) research the modern materials used in manufacturing; and

(E) perform varied measurements, including precision measurements.

(4) The student investigates emerging and innovative applications of technology in engineering. The student is expected to:

(A) report on innovative applications of technology in engineering;

(B) experiment with new technologies; and

(C) experiment with different manufacturing materials such as plastic, composites, fiberglass, stone, and wood.

(5) The student manufactures products or systems using the appropriate tools, equipment, machines, materials, and technical processes. The student is expected to:

(A) analyze the processes needed to complete a project such as initiate, plan, execute, monitor and control, and close; and

(B) use a variety of equipment and machines to produce an item to specification.

(6) The student practices safe work habits. The student is expected to:

(A) master safety tests developed from Occupational Safety and Health Administration regulations;

(B) analyze hazardous materials;

(C) dispose of hazardous materials safely; and

(D) store all materials correctly.

(7) The student participates in a mass manufacturing project. The student is expected to:

(A) participate in the manufacturing of a mass produced project; and

(B) develop a method to check and maintain quality control throughout the manufacturing process.

(8) The student identifies the factors that influence the cost of an item or service. The student is expected to:

(A) develop a budget for a project; and

(B) determine the most effective strategies to minimize costs.

(9) The student describes the relationship between manufacturing and marketing. The student is expected to:

(A) prepare a marketing plan for a product;

(B) analyze the effect of customer satisfaction on the image of a product; and

(C) analyze how customer demands influence the design of an object.

(10) The student applies communication, mathematics, and science knowledge and skills to manufacturing activities. The student is expected to:

(A) demonstrate communication techniques consistent with industry standards;

(B) locate relevant information needed to solve problems;

(C) apply mathematics concepts to solve manufacturing problems;

(D) analyze science principles used to solve problems; and

(E) use appropriate units of measure.

§130.354. *Diversified Manufacturing II (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisite: Diversified Manufacturing I. Recommended prerequisite: Algebra I. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Manufacturing Career Cluster focuses on planning, managing, and performing the processing of materials into intermediate or final products and related professional and technical support activities such as production planning and control, maintenance, and manufacturing/process engineering.

(3) In Diversified Manufacturing II, students will gain knowledge and skills in the application, design, production, and assessment of products, services, and systems and how those knowledge and skills are applied to manufacturing. The study of manufacturing systems allows students to reinforce, apply, and transfer academic knowledge and skills to a variety of interesting and relevant activities, problems, and settings in a manufacturing setting. Diversified Manufacturing II allows students the opportunity to understand the process of mass production by using a wide variety of materials and manufacturing techniques. Knowledge about career opportunities, requirements, and expectations and the development of skills prepare students for workplace success.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) demonstrate skills related to health and safety in the workplace as specified by appropriate governmental regulations;

(B) demonstrate the standards required in the workplace such as interviewing skills, flexibility, willingness to learn new skills and acquire knowledge, self-discipline, self-worth, positive attitude, and integrity in a work situation;

(C) use teamwork to solve problems;

- (D) identify employers' work expectations;
- (E) use time-management techniques to develop work schedules;
- (F) explore advanced knowledge and skills required for postsecondary education; and
- (G) identify employers' expectations to foster positive customer satisfaction.

(2) The student applies academic skills to the requirements of manufacturing. The student is expected to:

- (A) demonstrate effective oral and written communication skills with individuals from varied cultures, including fellow workers, management, and customers;
- (B) interpret engineering drawings, charts, diagrams, and welding symbols;
- (C) select algebraic and geometric principles and formulas required for precision measuring operations;
- (D) develop the information needed to mass produce a simple project such as flow charts, schedules, equipment lists, and material lists; and
- (E) explore the use of jigs and fixtures in mass production.

(3) The student differentiates among the technical concepts that form the knowledge and skills of manufacturing. The student is expected to:

- (A) use tools and equipment commonly employed in manufacturing in a safe manner;
- (B) adhere to safety regulations for the different types of manufacturing equipment such as cutting, abrasive, boring, turning, shaping, and forming tools;
- (C) execute procedures using the different types of manufacturing equipment such as cutting, abrasive, boring, turning, shaping, and forming tools;
- (D) perform varied measurements, including precision measurements;
- (E) design and develop the jigs and fixtures for a simple four (or fewer) part product; and
- (F) participate in the production run off of the product.

(4) The student learns skills in production and programming of computer numerical control (CNC) operations. The student is expected to:

- (A) develop a CNC program using a computer-aided manufacturing (CAM) program; and
- (B) execute the CNC program to machine a product or run a simulation of the program.

(5) The student investigates emerging and innovative applications of technology in manufacturing. The student is expected to:

- (A) research innovative technologies in manufacturing; and
- (B) experiment with different manufacturing materials such as plastic, composites, fiberglass, stone, and wood.

(6) The student manufactures products or systems using the appropriate tools, equipment, machines, materials, and technical processes. The student is expected to:

(A) analyze engineering properties such as the processes needed to complete a project;

(B) analyze the processes needed to complete a project such as initiate, plan, execute, monitor and control, and close; and

(C) use a variety of tools and equipment to produce a product to specification.

(7) The student practices safe work habits. The student is expected to:

(A) master safety tests based on Occupational Safety and Health Administration regulations;

(B) analyze hazardous materials;

(C) dispose of hazardous materials; and

(D) store all materials safely.

(8) The student participates in the manufacturing of a mass-produced product. The student is expected to:

(A) participate in the manufacturing of products; and

(B) develop a method to check and maintain quality control throughout the manufacturing process.

(9) The student identifies the factors that influence the cost of an item. The student is expected to:

(A) calculate costs associated with production of a mass-produced product; and

(B) re-examine the manufacturing process to maximize efficiency and minimize costs without compromising the integrity and marketability of the product.

(10) The student describes the relationship between manufacturing and marketing. The student is expected to:

(A) prepare a marketing plan for a product;

(B) analyze the effect of customer satisfaction on the image of a product; and

(C) analyze how customer demands influence the design of an object.

(11) The student applies communication, mathematics, and science knowledge and skills to manufacturing activities. The student is expected to:

(A) demonstrate communication techniques consistent with industry standards;

(B) locate relevant information needed to solve problems;

(C) apply mathematics concepts to solve manufacturing problems;

(D) analyze science principles used to solve problems; and

(E) use appropriate units of measure.

§130.355. Manufacturing Engineering Technology I (One Credit), Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Algebra I. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Manufacturing Career Cluster focuses on planning, managing, and performing the processing of materials into intermediate or final products and related professional and technical support activities such as production planning and control, maintenance, and manufacturing/process engineering.

(3) In Manufacturing Engineering Technology I, students will gain knowledge and skills in the application, design, production, and assessment of products, services, and systems and how those knowledge and skills are applied to manufacturing. Students will prepare for success in the global economy. The study of manufacturing engineering will allow students to reinforce, apply, and transfer academic knowledge and skills to a variety of interesting and relevant activities, problems, and settings in a manufacturing setting.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

- (A) describe how teams function;
- (B) explain employers' work expectations; and
- (C) demonstrate knowledge of the concepts and skills related to health and safety in the workplace as specified by appropriate governmental regulations.

(2) The student applies software skills to manufacturing. The student is expected to:

- (A) use computer-aided design (CAD) software to complete a design;
- (B) analyze the results of product testing in a simulated modeling environment; and
- (C) fabricate a prototype design of a mechanical part.

(3) The student gains skills in writing programmable logic controls so that a robot can work in coordination with a machine. The student is expected to:

- (A) use computer-integrated manufacturing techniques to simulate a manufacturing process; and
- (B) troubleshoot programmable logic circuit devices.

(4) The student performs functions and solves problems in the electricity and electronics field. The student is expected to:

- (A) research the use of control devices; and
- (B) demonstrate the use of control devices.

(5) The student learns skills in production and programming of computer numerical control (CNC) operations. The student is expected to:

- (A) design a product using computer-aided manufacturing (CAM) software for production on a CNC lathe;

- (B) produce a product on the CNC lathe or a simulation;
- (C) design a product using CAM software for production on a CNC mill;

and

- (D) produce a product on the CNC mill or a simulation;

(6) The student knows mechanical and fluid systems. The student is expected to:

- (A) identify, describe, and demonstrate the use of mechanical devices; and
- (B) identify, describe, and demonstrate the use of fluid devices.

(7) The student knows electrical and thermal systems. The student is expected to:

- (A) identify and describe electrical devices;
- (B) demonstrate the use of electrical devices; and
- (C) research the effects of heat energy and temperature on products.

(8) The student understands quality-control systems. The student is expected to:

- (A) research and recognize industrial standards such as International Standards Organization and Military Specifications;
- (B) explain attribute and Pareto charts; and
- (C) apply statistical process control.

§130.356. *Manufacturing Engineering Technology II (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisite: Manufacturing Engineering Technology I. Recommended prerequisite: Algebra II, Computer Science I, or Physics. This course satisfies a high school mathematics graduation requirement. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Manufacturing Career Cluster focuses on planning, managing, and performing the processing of materials into intermediate or final products and related professional and technical support activities such as production planning and control, maintenance, and manufacturing/process engineering.

(3) In Manufacturing Engineering Technology II, students will gain knowledge and skills in the application, design, production, and assessment of products, services, and systems and how those knowledge and skills are applied to manufacturing. The study of Manufacturing Engineering Technology II will allow students to reinforce, apply, and transfer academic knowledge and skills to a variety of interesting and relevant activities, problems, and settings.

(4) The process standards describe ways in which students are expected to engage in the content. The placement of the process standards at the beginning of the knowledge and skills listed for each grade and course is intentional. The process standards weave the other

knowledge and skills together so that students may be successful problem solvers and use mathematics efficiently and effectively in daily life. The process standards are integrated at every grade level and course. When possible, students will apply mathematics to problems arising in everyday life, society, and the workplace. Students will use a problem-solving model that incorporates analyzing given information, formulating a plan or strategy, determining a solution, justifying the solution, and evaluating the problem-solving process and the reasonableness of the solution. Students will select appropriate tools such as real objects, manipulatives, paper and pencil, and technology and techniques such as mental math, estimation, and number sense to solve problems. Students will effectively communicate mathematical ideas, reasoning, and their implications using multiple representations such as symbols, diagrams, graphs, and language. Students will use mathematical relationships to generate solutions and make connections and predictions. Students will analyze mathematical relationships to connect and communicate mathematical ideas. Students will display, explain, or justify mathematical ideas and arguments using precise mathematical language in written or oral communication.

(5) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(6) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) use teamwork to solve problems;

(B) demonstrate a work ethic that meets common employers' expectations;

(C) use time-management techniques to develop work schedules;

(D) describe how teams measure results;

(E) demonstrate the skills required in the workplace such as interviewing skills, flexibility, willingness to learn new skills and acquire knowledge, self-discipline, self-worth, positive attitude, and integrity in a work situation;

(F) communicate effectively with others in the workplace to clarify objectives; and

(G) apply skills related to health and safety in the workplace as specified by appropriate governmental regulations.

(2) The student uses mathematical processes to acquire and demonstrate mathematical understanding. The student is expected to:

(A) apply mathematics to problems arising in everyday life, society, and the workplace;

(B) use a problem-solving model that incorporates analyzing given information, formulating a plan or strategy, determining a solution, justifying the solution, and evaluating the problem-solving process and the reasonableness of the solution;

(C) select tools, including real objects, manipulatives, paper and pencil, and technology as appropriate, and techniques, including mental math, estimation, and number sense as appropriate, to solve problems;

(D) communicate mathematical ideas, reasoning, and their implications using multiple representations, including symbols, diagrams, graphs, and language as appropriate;

(E) create and use representations to organize, record, and communicate mathematical ideas;

(F) analyze mathematical relationships to connect and communicate mathematical ideas; and

(G) display, explain, and justify mathematical ideas and arguments using precise mathematical language in written or oral communication.

(3) The student applies design skills to manufacturing. The student is expected to:

(A) use computer-aided design (CAD) software to complete a design;

(B) analyze the results of product testing in a simulated modeling environment;

(C) fabricate a prototype design of a mechanical part; and

(D) use computer-integrated manufacturing techniques to simulate a manufacturing process.

(4) The student performs functions and solves problems in the electricity and electronics field. The student is expected to:

(A) develop solutions to use control devices; and

(B) troubleshoot control devices such as programmable logic circuit devices.

(5) The student learns skills in production and programming of computer numerical control (CNC) operations. The student is expected to:

(A) design a project using computer-aided manufacturing (CAM) software for a CNC lathe;

(B) produce a product on a CNC lathe or simulator;

(C) design a project using CAM software for a CNC mill;

(D) produce a product on a CNC mill or simulator; and

(E) complete data sheets for plan, do, check, and act forms and projects.

(6) The student demonstrates an understanding of mechanical and fluid systems. The student is expected to:

(A) use mechanical devices;

(B) use pneumatics devices; and

(C) use hydraulics devices.

(7) The student demonstrates an understanding of electrical and thermal systems. The student is expected to:

(A) use electrical controls;

(B) analyze the effects of heat energy and temperature on products; and

(C) develop an understanding of ventilation such as heating, air conditioning, and refrigeration.

(8) The student analyzes quality-control systems. The student is expected to:

(A) apply statistical process control;

(B) determine hardness values of different materials;
and

(C) analyze attribute and Pareto charts.

(9) The student develops a system using electrical controls and pneumatics or hydraulics devices. The student is expected to:

(A) design a system that incorporates electrical controls and either a pneumatic or hydraulic device;

(B) build a system that incorporates electrical controls and either a pneumatic or hydraulic device; and

(C) test and troubleshoot the system that incorporates electrical controls and either a pneumatic or hydraulic device.

§130.357. *Metal Fabrication and Machining I (Two Credits)*,
Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Algebra I or Geometry. Students shall be awarded two credits for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Manufacturing Career Cluster focuses on planning, managing, and performing the processing of materials into intermediate or final products and related professional and technical support activities such as production planning and control, maintenance, and manufacturing/process engineering.

(3) Metal Fabrication and Machining I provides the knowledge, skills, and certifications required for equal employment opportunities in the metal production industry. Students must have opportunities to reinforce, apply, and transfer knowledge and skills to a variety of settings and problems.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) demonstrate skills related to health and safety in the workplace as specified by appropriate governmental regulations;

(B) use teamwork to solve problems; and

(C) demonstrate the standards required in the workplace such as interviewing skills, flexibility, willingness to learn new skills and acquire knowledge, self-discipline, positive attitude, and integrity in a work situation.

(2) The student applies academic skills to the requirements of metal manufacturing. The student is expected to:

(A) demonstrate effective oral and written communication skills with individuals from varied cultures, including fellow workers, management, and customers;

(B) interpret engineering drawings, charts, diagrams, and welding symbols; and

(C) select algebraic and geometric principles and formulas required for precision measuring operations.

(3) The student differentiates the technical concepts that form the knowledge and skills of metal manufacturing. The student is expected to:

(A) analyze the resources found in *The Machinery's Handbook* as well as the specifications and codes written by the American Welding Society (AWS), Canadian Welding Bureau (CWB), American National Standards Institute (ANSI), and American Petroleum Institute (API);

(B) examine the theory of shielded metal arc welding and gas metal arc welding;

(C) examine the sheet metal industry; and

(D) examine the nomenclature of abrasive wheels.

(4) The student differentiates the function and application of the tools, equipment, technologies, and materials used in metal manufacturing. The student is expected to:

(A) use hand and power tools and equipment commonly employed in metal manufacturing; and

(B) dispose of environmentally hazardous materials used in metal manufacturing.

(5) The student applies the technical concepts and skills of the machining industry to simulated and actual work situations. The student is expected to:

(A) use various work mounting procedures on all appropriate machines;

(B) operate machine tools such as drill press, lathe, saw, grinders, and milling machines;

(C) execute lathe procedures such as cutting threads, turning tapers, drilling, reaming, polishing, knurling, and boring; and

(D) execute milling procedures such as milling flat surfaces, bevels, chamfers, grooves, and key-way seats needed to machine precision pieces.

(6) The student applies the technical concepts and skills of the welding industry to simulated and actual work situations. The student is expected to:

(A) perform cutting processes such as straight cuts, bevel cuts, and hole piercing with oxy-fuel and plasma;

(B) use the common types of electrodes with the shield metal arc welding process;

(C) practice using gas metal arc welding to weld in multiple positions to produce groove and fillet welds; and

(D) inspect groove and fillet welds to AWS, CWB, ANSI, and API codes.

(7) The student applies the technical concepts and skills of the sheet metal industry to simulate actual work situations. The student is expected to:

(A) use mathematics in precision measuring operations;
and

(B) interpret, engineering drawings, charts, and diagrams as related to the sheet metal industry.

(8) The student differentiates the concepts that form the technical knowledge and skills of sheet metal manufacturing. The student is expected to:

(A) analyze the types, sizes, and properties of sheet metal materials;

(B) analyze the fundamentals of oxy-fuel processes as related to sheet metal; and

(C) analyze the fundamentals of shielded metal arc welding and gas metal arc welding as related to sheet metal under various AWS codes.

(9) The student understands the function and application of the tools, equipment, technologies, and materials used in sheet metal manufacturing. The student is expected to:

(A) practice safe use of equipment; and

(B) dispose of hazardous materials used in sheet metal manufacturing.

(10) The student applies the knowledge and skills of sheet metal manufacturing in simulated and actual work situations. The student is expected to:

(A) draw simple metal layouts; and

(B) construct common sheet metal seams.

§130.358. *Metal Fabrication and Machining II (Two Credits), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisite: Metal Fabrication and Machining I. Recommended prerequisites: Geometry and Algebra II. Students shall be awarded two credits for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Manufacturing Career Cluster focuses on planning, managing, and performing the processing of materials into intermediate or final products and related professional and technical support activities such as production planning and control, maintenance, and manufacturing/process engineering.

(3) Metal Fabrication and Machining II builds on the knowledge, skills, and certifications students acquire in Metal Fabrication and Machining I. Students will develop advanced concepts and skills as related to personal and career development. This course integrates academic and technical knowledge and skills. Students will have opportunities to reinforce, apply, and transfer knowledge and skills to a variety of settings and problems.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) determine advanced knowledge and skills required to gain industry-recognized certifications;

(B) identify employers' work expectations;

(C) demonstrate the standards required in the workplace such as interviewing skills, flexibility, willingness to learn new skills and acquire knowledge, self-discipline, positive attitude, promptness, attendance, and integrity in a work situation;

(D) evaluate personal career goals;

(E) communicate effectively with others in the workplace to clarify objectives; and

(F) demonstrate skills related to health and safety in the workplace as specified by the Occupational Safety and Health Administration and other appropriate agencies.

(2) The student describes the importance of teamwork, leadership, integrity, honesty, work habits, and organizational skills. The student is expected to:

(A) use teamwork to solve problems;

(B) distinguish among team roles such as team leaders and team members;

(C) discuss Equal Employment Opportunity law in the workplace; and

(D) use time-management techniques to develop work schedules.

(3) The student applies advanced academic skills to the requirements of metal fabrication and machining. The student is expected to:

(A) demonstrate effective communication skills with individuals from varied cultures such as fellow workers, management, and customers;

(B) successfully complete work orders;

(C) estimate labor costs using various algebraic formulas;

(D) interpret advanced engineering drawings, charts, diagrams, and welding symbols; and

(E) demonstrate calculation of precision measuring operations using algebra, geometry, and trigonometry.

(4) The student knows the advanced concepts that form the technical knowledge and skills of metal fabrication and machining. The student is expected to:

(A) analyze the resources found in various manufacturing reference materials;

(B) demonstrate knowledge of the various welding processes;

(C) examine the sheet metal industry; and

(D) examine the advanced use of abrasives.

(5) The student knows the function and application of the tools, equipment, technologies, and materials used in metal fabrication and machining. The student is expected to:

(A) operate various welding machines, cutting equipment, and grinding equipment commonly employed in metal fabrication;

(B) demonstrate knowledge of computer numerical control (CNC) machines;

(C) demonstrate knowledge of the concepts of automated welding machines;

(D) demonstrate knowledge of emerging technologies that may affect metal manufacturing; and

(E) dispose of environmentally hazardous materials associated with and used in metal fabrication manufacturing.

(6) The student applies the advanced concepts and technical knowledge and skills of the machining industry to simulated and actual work situations. The student is expected to:

(A) use various work mounting procedures on appropriate machines;

(B) examine the cutting operations such as drill press, lathe, saw, grinders, and milling machines;

(C) execute lathe procedures such as cut threads, turn tapers, drills, reams, polishes, knurls, and bores;

(D) mill flat surfaces, bevels, chamfers, grooves, and key-seats; and

(E) machine precision pieces.

(7) The student applies the advanced concepts and technical knowledge and skills of the welding industry to simulated and actual work situations. The student is expected to:

(A) demonstrate cutting processes such as oxy-fuel and plasma;

(B) demonstrate the use of the common types of electrodes using the shielded metal arc welding process;

(C) use shielded metal arc welding, gas metal arc welding, and gas tungsten arc welding to weld fillet and groove welds using various positions; and

(D) inspect welds to the American Welding Society (AWS), Canadian Welding Bureau (CWB), American National Standards Institute (ANSI), and American Petroleum Institute (API) codes.

(8) The student applies the advanced concepts and technical knowledge and skills of the sheet metal industry to simulated and actual work situations. The student is expected to:

(A) estimate labor costs;

(B) use advanced mathematics in precision measuring operations; and

(C) interpret industrial standard blueprints, drawings, charts, and diagrams.

(9) The student knows the advanced concepts and technical knowledge and skills of sheet metal manufacturing. The student is expected to:

(A) analyze properties of sheet metal materials and fasteners;

(B) analyze oxy-fuel processes as related to sheet metal; and

(C) demonstrate knowledge of shielded metal arc welding, gas metal arc welding, and gas tungsten arc welding as related to sheet metal under AWS code.

(10) The student knows the function and application of the tools, equipment, technologies, and materials used in sheet metal. The student is expected to:

(A) use equipment commonly employed in sheet metal safely;

(B) dispose of environmentally hazardous materials used in sheet metal manufacturing properly; and

(C) demonstrate knowledge of emerging technologies that may affect sheet metal.

(11) The student applies the advanced concepts and technical skills in simulated and actual work situations. The student is expected to:

(A) draw advanced sheet metal layouts;

(B) construct sheet metal seams;

(C) construct transitions and offsets;

(D) use the gas tungsten arc welding process in sheet metal construction;

(E) apply the principles of sheet metal construction to the fabrication of various sheet metal products; and

(F) apply skills in sheet metal to career preparation learning experiences.

§130.359. *Precision Metal Manufacturing I (Two Credits), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisite: Principles of Manufacturing and completion of or concurrent enrollment in Algebra I or Geometry. Students shall be awarded two credits for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Manufacturing Career Cluster focuses on planning, managing, and performing the processing of materials into intermediate or final products and related professional and technical support activities such as production planning and control, maintenance, and manufacturing/process engineering.

(3) Precision Metal Manufacturing I will provide the knowledge, skills, and technologies required for employment in precision machining. While the course is designed to provide necessary skills in machining, it also provides a real-world foundation for any engineering discipline. This course may address a variety of materials such as plastics, ceramics, and wood in addition to metal. Students will develop knowledge of the concepts and skills related to precision metal manufacturing to apply them to personal and career development. This course supports integration of academic and technical knowledge and skills. Students will have opportunities to reinforce, apply, and transfer knowledge and skills to a variety of settings and problems. Knowledge about career opportunities, requirements, and expectations and the development of workplace skills prepare students for success. This course is designed to provide entry-level employment for the student or articulated credit integration into a community college and dual credit with a community college with completion of the advanced course.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) express ideas to others in a clear, concise, and effective manner through written and verbal communication;

(B) convey written information that is easily understandable to others;

(C) demonstrate acceptable work ethics in reporting for duty and performing assigned tasks as directed;

(D) conduct oneself in a manner acceptable for the profession and work site such as suitable dress and polite speech;

(E) choose the ethical course of action and comply with all applicable rules, laws, and regulations;

(F) review the fine, detailed aspects of both quantitative and qualitative work processes and end products;

(G) evaluate systems and operations; identify causes, problems, patterns, or issues; and explore workable solutions or remedies to improve situations;

(H) follow written and oral instructions and adhere to established business practices, policies, and procedures, including health and safety rules; and

(I) prioritize tasks, follow schedules, and work toward goal-relevant activities in an effective, efficient manner.

(2) The student explores the employability characteristics of a successful worker in the global economy. The student is expected to:

(A) determine academic knowledge and skills required for postsecondary education;

(B) identify employers' expectations to foster positive customer satisfaction;

(C) demonstrate the professional standards required in the workplace such as interviewing skills, flexibility, willingness to learn new skills and acquire knowledge, self-discipline, self-worth, positive attitude, and integrity in a work situation;

(D) evaluate personal career goals;

(E) communicate effectively with others in the workplace to clarify objectives; and

(F) demonstrate skills related to health and safety in the workplace as specified by appropriate governmental regulations.

(3) The student applies advanced academic skills to the requirements of precision metal manufacturing. The student is expected to:

(A) demonstrate technical writing skills related to writing requirements found in manufacturing;

(B) demonstrate mathematical skills such as algebra, geometry, trigonometry, statics, and conversion as applied to machining;

(C) interpret engineering drawings, including drawings using geometric dimensioning and tolerancing;

(D) describe orthographic and isometric views of three-dimensional figures;

(E) evaluate mathematics as it applies to precision machining operations; and

(F) discuss basic concepts of physics as applied to machining.

(4) The student recognizes the concepts and skills that form the technical knowledge required in precision machining. The student is expected to:

(A) examine the resources found in recognized manufacturing reference materials such as *The Machinery's Handbook*; and

(B) demonstrate knowledge of the uses of reference charts such as tap drill charts, drill size charts, and feed-speed charts.

(5) The student evaluates the function and application of the tools, equipment, technologies, and materials used in precision machining. The student is expected to:

(A) practice safety while running equipment commonly employed in machine shops;

(B) identify and properly dispose of environmentally hazardous materials used in machine shops;

(C) demonstrate knowledge of computer numerical control (CNC) operations;

(D) demonstrate knowledge of emerging technologies that may affect the machine shop;

(E) demonstrate knowledge of heating metals such as hardening, tempering, annealing, normalizing, and case hardening steel;

(F) apply technical knowledge and skills in a machine shop to career preparation experiences;

(G) identify basic metallic and non-metallic materials; and

(H) compare various abrasives for type, structure, bond, and use.

(6) The student employs skills necessary to perform bench work and layout. The student is expected to:

(A) use equipment commonly employed in bench work and layout in a safe manner;

(B) develop the ability to use a file to cut flats, angles, and radiuses;

(C) employ standard layout tools to transfer a part design to the actual part;

(D) perform center punching and hand drilling of holes using an electric or air hand drill;

(E) perform hand tapping of holes;

(F) perform hand reaming of holes using an electric or air hand drill;

(G) develop a detailed layout part such as the National Institute for Metalworking Skills (NIMS) Level 1 layout part;

(H) develop a detailed bench work part such as the NIMS Level 1 bench work part; and

(I) employ basic housekeeping skills as applied to a machine shop.

(7) The student employs skills necessary to perform precision measurement. The student is expected to:

(A) use equipment commonly used during precision measurement in a safe manner;

(B) write an inspection plan;

(C) identify and select the required measuring instrument(s) to conduct the required inspection procedure(s); and

(D) describe statistical process control.

(8) The student employs skills necessary to perform manual lathe work. The student is expected to:

(A) use equipment such as accessories commonly implemented on and around a lathe in a safe manner;

(B) analyze the advantages and disadvantages between a four-jaw independent chuck, a three-jaw universal chuck, and a collet workholding system;

(C) indicate a part in a four-jaw independent chuck within .003" total indicated runout (TIR) using a standard indicator;

(D) identify and describe the function of the components of a lathe;

(E) identify and use most accessories and tooling for turning operations;

(F) demonstrate the standard turning operations of boring, chamfering, cutting tapers, drilling, facing, grooving, knurling, polishing, threading, and turning on a manual lathe;

(G) write a detailed process plan for turning, including appropriate processes such as feeds, speeds, tool selection, and sequencing;

(H) develop a detailed turning part such as the NIMS Level 1 turning, chucking or turning between centers part; and

(I) employ basic preventative maintenance on the lathe.

(9) The student employs skills necessary to perform manual milling work. The student is expected to:

(A) use equipment commonly used with a milling machine in a safe manner;

(B) analyze the advantages and disadvantages of various work holding methods such as using a vise, clamping to a table, and clamping to an angle plate;

(C) contrast the various ancillary tools used on milling machines such as a rotary table, indexing head, and super spacer;

(D) identify or describe the function of the components of a milling machine;

(E) tram in the head of a vertical milling machine;

(F) locate and set a work piece in a milling vise employing a dial indicator;

(G) develop a square block in the milling machine to close tolerances;

(H) demonstrate various hole-making activities such as spot drilling, drilling, reaming, tapping, countersinking, and boring on the milling machine;

(I) demonstrate various milling activities such as climb milling, conventional milling, slotting, grooving, cutting angles, and chamfering;

(J) write a detailed process plan, including appropriate feeds, speeds, tool selection, work holding methods, and sequencing for milling;

(K) develop a detailed milling part such as the NIMS Level 1 milling part; and

(L) employ basic preventative maintenance on the milling machine.

(10) The student employs skills necessary to perform work on various support equipment commonly found in a machine shop. The student is expected to:

(A) use various support equipment commonly found in a machine shop in a safe manner;

(B) understand basic pedestal grinder functions such as wheel selection criteria and requirements;

(C) understand basic sawing functions such as band type, speed, and feeds for various types of material;

(D) understand basic drill press operations, including work holding, appropriate speeds, and feeds; and

(E) use proper safety procedures for surface grinding operations.

§130.360. *Precision Metal Manufacturing II (Two Credits), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisite: Precision Metal Manufacturing I. Recommended corequisite: Precision Metal Manufacturing II Lab. Students shall be awarded two credits for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Manufacturing Career Cluster focuses on planning, managing, and performing the processing of materials into intermediate or final products and related professional and technical support activities such as production planning and control, maintenance, and manufacturing/process engineering.

(3) Precision Metal Manufacturing II will provide students the knowledge, skills, and technologies required for employment in precision machining. While this course is designed to provide necessary skills in machining, it also provides a real-world foundation for any engineering discipline. This course addresses a variety of materials such as plastics, ceramics, and wood in addition to metal. Students will develop knowledge of the concepts and skills related to these systems to apply them to personal and career development. This course supports integration of academic and technical knowledge and skills. Students will have opportunities to reinforce, apply, and transfer knowledge and skills to a variety of settings and problems. Knowledge about career opportunities, requirements, and expectations and the development of workplace skills prepare students for success. This course is designed to provide entry-level employment for the student or articulated credit

integration into a community college and dual credit with a community college with completion of the advanced course.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) express ideas to others in a clear, concise, and effective manner through written and verbal communication;

(B) convey written information that is easily understandable to others;

(C) demonstrate acceptable work ethics in reporting for duty and performing assigned tasks as directed;

(D) conduct oneself in a manner acceptable for the profession and work site such as suitable dress and polite speech;

(E) comply with all applicable rules, laws, and regulations;

(F) review with a critical eye the fine, detailed aspects of both quantitative and qualitative work processes and end products;

(G) evaluate systems and operations; identify causes, problems, patterns, or issues; and explore workable solutions or remedies to improve situations;

(H) follow written and oral instructions and adhere to established business practices, policies, and procedures, including health and safety rules; and

(I) prioritize tasks, follow schedules, and tend to goal-relevant activities in a way that uses time in an effective, efficient manner.

(2) The student explores the employability characteristics of a successful worker in the global economy. The student is expected to:

(A) determine academic knowledge and skills required for postsecondary education;

(B) identify employers' expectations to foster positive customer satisfaction;

(C) demonstrate the standards required in the workplace such as interviewing skills, flexibility, willingness to learn new skills and acquire knowledge, self-discipline, self-worth, positive attitude, and integrity in a work situation;

(D) evaluate progress toward personal career goals;

(E) communicate effectively with others in the workplace to clarify objectives; and

(F) demonstrate skills related to health and safety in the workplace as specified by appropriate governmental regulations.

(3) The student applies the technical knowledge and skills of advanced precision metal manufacturing. The student is expected to:

(A) apply the technical aspects found in *The Machinery's Handbook* resource; and

(B) select appropriate resources from the Internet as applied to manufacturing.

(4) The student builds on the manual machining skills gained in Precision Metal Manufacturing I. The student is expected to:

(A) develop a detailed turning part such as the National Institute for Metalworking Skills (NIMS) Level 1 turning, chucking, or turning between centers part with zero defects (100% to the print) in a safe manner; and

(B) develop a detailed milling part such as the NIMS Level 1 milling part with zero defects (100% to the print) in a safe manner.

(5) The student learns about standard computer numerical control (CNC) machinery. The student is expected to:

(A) research the history of numerical control machines;

(B) distinguish among different types of CNC machines used in the industry;

(C) demonstrate safety rules for CNC operation;

(D) demonstrate the methods by which programs can be entered into a controller; and

(E) use appropriate machining terminology to enhance CNC vocabulary.

(6) The student appraises various CNC systems to differentiate the development and implementation of those systems. The student is expected to:

(A) examine the types of drive motors used on CNC machinery;

(B) explain the Cartesian coordinate system;

(C) differentiate between absolute and incremental positioning; and

(D) illustrate the difference between datum and delta dimensioning.

(7) The student learns the process planning and tool selection within a CNC lab environment. The student is expected to:

(A) develop a detailed process plan, including proper tool selection, feeds, and speeds, for the material being cut and finish specifications on the engineering drawing, logical sequence of operations, and appropriate inspection points;

(B) develop a logical sequence of operations and appropriate inspection points;

(C) demonstrate use of carbide inserts; and

(D) apply various carbide inserts by determining the correct type, grade, style, feed, and speed for the most common materials machined in a basic machine shop.

(8) The student evaluates tool changing and tool offset registers in the CNC lab environment. The student is expected to:

(A) perform various types of tool changes;

(B) demonstrate quick change tooling used on CNC milling machines;

(C) demonstrate appropriate tool storage;

(D) demonstrate the proper use of tool offset registers;

- (E) determine tool offset length; and
- (F) incorporate tool offsets for a set up.

(9) The student operates a CNC lathe. The student is expected to:

- (A) use equipment commonly associated with a CNC lathe in a safe manner;
- (B) recognize, name, and describe the function of the primary components of a CNC lathe;
- (C) perform preventative maintenance checks on a CNC lathe such as checking all fluid levels, system pressure, tooling wear, and component lubrication and cleaning;
- (D) test the coolant for proper density and adjust accordingly in order to reach the correct mixture;
- (E) perform a power up on a standard CNC lathe;
- (F) demonstrate the use of the jog controls on the operator panel to jog the lathe's axes;
- (G) demonstrate the ability to locate, assemble, and measure tooling according to work instructions and job documentation;
- (H) install tools and tool holders in the automatic tool changer locations according to work instructions and job documentation;
- (I) locate and set workpiece to zero on a CNC lathe;
- (J) set any required work offsets for the part to be machined after a basic tool setting process has been completed;
- (K) set the proper geometry/tool offsets for each tool in a standard tool setting process;
- (L) operate a CNC lathe in automatic mode; and
- (M) illustrate the proper power down process on a CNC lathe.

(10) The student operates a CNC mill. The student is expected to:

- (A) use equipment commonly found on and around a CNC mill in a safe manner;
- (B) recognize, name, and describe the function of the primary components of a CNC mill;
- (C) perform preventative maintenance checks on a CNC mill such as checking all fluid levels, system pressure, tooling wear, and component lubrication and cleaning;
- (D) test the coolant for proper density and adjust accordingly in order to reach the correct mixture;
- (E) perform a power up on a standard CNC mill;
- (F) demonstrate the use of the jog controls on the operator panel to jog the mill's axes;
- (G) demonstrate the ability to locate, assemble, and measure tooling using a presetter or other means according to work instructions and job documentation;
- (H) install tools and tool holders in the automatic tool changer locations according to work instructions and job documentation;
- (I) locate and set workpiece to zero on a CNC mill;

(J) set any required work offsets for the part to be machined after a basic tool setting process has been completed;

(K) set the proper geometry/tool offsets for each tool in a standard tool-setting process;

(L) operate a CNC mill in automatic mode; and

(M) illustrate the proper power down process on a CNC mill.

(11) The student learns to manually program a CNC lathe without the help of computer-aided design or manufacturing (CAD/CAM) software. The student is expected to:

- (A) calculate trigonometry to determine coordinates from technical drawings to cut arcs and angles;
- (B) use trigonometry for determining cutter offsets;
- (C) use appropriate mathematical skills to solve problems while programming a CNC lathe;
- (D) write a simple program to face and turn;
- (E) write a simple program to cut radiuses, angles, grooves, and threads;
- (F) write a program using cutter radius compensation;
- (G) write a program using canned cycles such as G71;

and

(H) write a program and produce a complex part such as a NIMS Level 1 CNC lathe part with zero defects.

(12) The student learns to manually program a CNC mill (without the help of CAD/CAM software). The student is expected to:

- (A) use trigonometry to determine coordinates from technical drawings to cut arcs and angles;
- (B) use trigonometry for determining cutter offsets;
- (C) use appropriate mathematical skills to solve problems while programming a CNC lathe;
- (D) write a simple program to perform hole operations;
- (E) write a simple program to cut radiuses and angles;
- (F) write a program using cutter radius compensation and ramping; and
- (G) write a program and produce a complex part such as a NIMS Level 1 CNC milling part with zero defects.

(13) The student develops a deeper understanding of quality control. The student is expected to:

- (A) evaluate engineering drawings using geometric dimensioning and tolerancing;
- (B) discuss the American Society of Mechanical Engineers (ASME) Y14.5M standard that defines geometric dimensioning and tolerancing; and
- (C) appraise various quality control/management programs.

§130.361. *Precision Metal Manufacturing II Lab (One Credit), Adopted 2015.*

(a) General requirements. This lab course is recommended for students in Grades 11 and 12. Prerequisite: Precision Metal Manufacturing I. Corequisite: Precision Metal Manufacturing II. This course must be taken concurrently with Precision Metal Manufacturing II and may not be taken as a stand-alone course. Districts are encouraged to

offer this lab in a consecutive block with Precision Metal Manufacturing II to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Manufacturing Career Cluster focuses on planning, managing, and performing the processing of materials into intermediate or final products and related professional and technical support activities such as production planning and control, maintenance, and manufacturing/process engineering.

(3) Precision Metal Manufacturing II Lab provides the knowledge, skills, and technologies required for employment in precision machining. While Precision Metal Manufacturing II Lab is designed to provide necessary skills in machining, it also provides a real-world foundation for any engineering discipline. This course may address a variety of materials such as plastics, ceramics, and wood in addition to metal. Students will develop knowledge of the concepts and skills related to these systems to apply them to personal and career development. This course supports integration of academic and technical knowledge and skills. Students will have opportunities to reinforce, apply, and transfer knowledge and skills to a variety of settings and problems. Knowledge about career opportunities, requirements, and expectations and the development of workplace skills prepare students for success. This course is designed to provide entry-level employment for the student or articulated credit integration into a community college and dual credit with a community college with completion of the advanced course.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) express ideas to others in a clear, concise, and effective manner through written and verbal communication;

(B) convey written information that is easily understandable to others;

(C) demonstrate acceptable work ethics in reporting for duty and performing assigned tasks as directed;

(D) conduct oneself in a manner acceptable for the profession and work site such as suitable dress and polite speech;

(E) choose the ethical course of action and comply with all applicable rules, laws, and regulations;

(F) review with a critical eye the fine, detailed aspects of both quantitative and qualitative work processes and end products;

(G) evaluate systems and operations; identify causes, problems, patterns, or issues; and explore workable solutions or remedies to improve situations;

(H) follow written and oral instructions and adhere to established business practices, policies, and procedures, including health and safety rules; and

(I) prioritize tasks, follow schedules, and work on goal-relevant activities in a way that uses time wisely in an effective, efficient manner.

(2) The student builds on the manual machining skills gained in Precision Metal Manufacturing I. The student is expected to:

(A) develop a detailed turning part such as the National Institute for Metalworking Skills (NIMS) Level 1 turning, chucking, or turning between centers part with zero defects (100% to the print) in a safe manner; and

(B) develop a detailed milling part such as the NIMS Level 1 milling part with zero defects (100% to the print) in a safe manner.

(3) The student evaluates tool changing and tool offset registers in a computer numerical control (CNC) lab environment. The student is expected to:

(A) perform various types of tool changes;

(B) demonstrate quick change tooling used on CNC milling machines;

(C) demonstrate appropriate tool storage;

(D) demonstrate the proper use of tool offset registers;

(E) determine tool offset length; and

(F) enter tool offsets for a set up.

(4) The student operates a CNC lathe. The student is expected to:

(A) use equipment commonly found on and around a CNC lathe in a safe manner;

(B) recognize, name, and describe the function of the primary components of a CNC lathe;

(C) perform preventative maintenance checks on a CNC lathe such as checking all fluid levels, system pressure, tooling wear, and component lubrication and cleaning;

(D) test the coolant for proper density and adjust accordingly in order to reach the correct mixture;

(E) perform a power up on a standard CNC lathe;

(F) demonstrate the use of the jog controls on the operator panel to jog the lathe's axes;

(G) demonstrate the ability to locate, assemble, and measure tooling according to work instructions and job documentation;

(H) install tools and tool holders in the automatic tool changer locations according to work instructions and job documentation;

(I) locate and set workpiece to zero on a CNC lathe;

(J) set any required work offsets for the part to be machined after a basic tool setting process has been completed;

(K) set the proper geometry/tool offsets for each tool in a standard tool setting process;

(L) operate a CNC lathe in automatic mode; and

(M) illustrate the proper power down process on a CNC lathe.

(5) The student operates a CNC mill. The student is expected to:

(A) use equipment commonly found on and around a CNC mill in a safe manner;

(B) recognize, name, and describe the function of the primary components of a CNC mill;

(C) perform preventative maintenance checks on a CNC mill such as checking all fluid levels, system pressure, tooling wear, and component lubrication and cleaning;

(D) test the coolant for proper density and adjust accordingly in order to reach the correct mixture;

(E) perform a power up on a standard CNC mill;

(F) demonstrate the use of the jog controls on the operator panel to jog the mill's axes;

(G) demonstrate the ability to locate, assemble, and measure tooling using a presetter or other means according to work instructions and job documentation;

(H) install tools and tool holders in the automatic tool changer locations according to work instructions and job documentation;

(I) locate and set workpiece to zero on a CNC mill;

(J) set any required work offsets for the part to be machined after a basic tool setting process has been completed;

(K) set the proper geometry/tool offsets for each tool in a standard tool setting process;

(L) operate a CNC mill in automatic mode; and

(M) illustrate the proper power down process on a CNC mill.

(6) The student learns to manually program a CNC lathe without the help of computer-aided design or manufacturing (CAD/CAM) software. The student is expected to:

(A) use trigonometry to determine coordinates from technical drawings to cut arcs and angles;

(B) use trigonometry for determining cutter offsets;

(C) use appropriate mathematical skills to solve problems while programming a CNC lathe;

(D) write a simple program to face and turn;

(E) write a simple program to cut radiuses, angles, grooves, and threads;

(F) write a program using cutter radius compensation;

(G) write a program using canned cycles such as G71; and

(H) write a program and produce a complex part such as a NIMS Level 1 CNC lathe part with zero defects.

(7) The student learns to manually program a CNC mill (without the help of CAD/CAM software). The student is expected to:

(A) use trigonometry to determine coordinates from technical drawings to cut arcs and angles;

(B) use trigonometry to determine cutter offsets;

(C) use appropriate mathematical skills to solve problems while programming a CNC lathe;

(D) write a simple program to perform hole operations;

(E) write a simple program to cut radiuses and angles;

(F) write a program using cutter radius compensation and ramping; and

(G) write a program and produce a complex part such as a NIMS Level 1 CNC milling part with zero defects.

§130.362. *Introduction to Welding (One Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9-12. Recommended prerequisite or corequisite: Algebra I. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Manufacturing Career Cluster focuses on planning, managing, and performing the processing of materials into intermediate or final products and related professional and technical support activities such as production planning and control, maintenance, and manufacturing/process engineering.

(3) Introduction to Welding will provide an introduction to welding technology with an emphasis on basic welding laboratory principles and operating procedures. Students will be introduced to the three basic welding processes. Topics include: industrial safety and health practices, hand tool and power machine use, measurement, laboratory operating procedures, welding power sources, welding career potentials, and introduction to welding codes and standards. Introduction to Welding will provide students with the knowledge, skills, and technologies required for employment in welding industries. Students will develop knowledge and skills related to welding and apply them to personal career development. This course supports integration of academic and technical knowledge and skills. Students will reinforce, apply, and transfer knowledge and skills to a variety of settings and problems. Knowledge about career opportunities, requirements, and expectations and the development of workplace skills will prepare students for future success.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) express ideas to others in a clear, concise, and effective manner through written and verbal communication;

(B) demonstrate acceptable work ethics in reporting for duty and performing assigned tasks as directed;

(C) conduct oneself in a manner acceptable for the profession and work site such as suitable dress and polite speech;

(D) choose ethical courses of action such as following applicable rules, laws, and regulations;

(E) review detailed aspects of both quantitative and qualitative work processes and end products;

(F) evaluate systems relative to causes, problems, and patterns to improve operational situations;

(G) adhere to business practices such as policies, procedures, and health and safety rules; and

(H) use time wisely by prioritizing tasks and following schedules in an efficient manner.

(2) The student explores the characteristics of a successful worker in the global economy. The student is expected to:

(A) determine academic knowledge and skills required for postsecondary education;

(B) identify employers' expectations to foster positive customer satisfaction;

(C) demonstrate the professional standards required in the workplace such as interviewing skills, flexibility, willingness to learn new skills and acquire knowledge, self-discipline, self-worth, positive attitude, and integrity in a work situation;

(D) evaluate progress toward personal career goals;

(E) communicate effectively with others in the workplace to clarify objectives; and

(F) apply knowledge and skills to health and safety in the workplace as specified by appropriate governmental regulations.

(3) The student evaluates the function and application of the tools, equipment, technologies, and materials used in welding. The student is expected to:

(A) employ welding equipment according to safety standards;

(B) identify and properly dispose of environmentally hazardous materials used in welding;

(C) explain the importance of recycling materials used in welding;

(D) choose appropriate personal protective equipment; and

(E) evaluate skills related to health and safety in the workplace as specified by appropriate governmental regulations.

(4) The student compares and contrasts welding joint design, material symbols, and welds. The student is expected to:

(A) demonstrate knowledge of welding sketches; and

(B) identify types of welds such as fillet, groove, spot, plug, and flanged.

(5) The student applies academic skills in relationship to welding. The student is expected to:

(A) demonstrate mathematical skills related to welding;

(B) demonstrate technical writing skills related to welding;

(C) apply accurate readings of measuring devices;

(D) accurately use appropriate tools to make measurements;

(E) solve problems using whole numbers, fractions, mixed numbers, and decimals;

(F) perform conversions between fractions and decimals; and

(G) perform conversions between standard units and metric units.

(6) The student applies the concepts and skills of welding projects. The student is expected to:

(A) explore careers in welding;

(B) understand welding codes such as American Petroleum Institute (API) 1104 and American Welding Society (AWS) D1.1;

(C) work independently to fabricate a variety of welded projects with minimal assistance; and

(D) work collaboratively with other students.

(7) The student performs oxy-fuel cutting processes on carbon steels. The student is expected to:

(A) use safe operating practices;

(B) perform safe handling of compressed gases;

(C) identify components of oxy-fuel gas cutting;

(D) demonstrate proper set-up procedures for the oxy-fuel process;

(E) identify the factors affecting the oxy-fuel cutting of base metals; and

(F) demonstrate proper cutting techniques such as piercing, straight line, and bevel;

(8) The student performs shielded metal arc welding principles and practices on metals. The student is expected to:

(A) use safe operating practices;

(B) demonstrate knowledge of welding currents;

(C) apply shielded metal arc welding principles;

(D) demonstrate proper set-up procedure for shielded metal arc welding;

(E) determine appropriate electrodes for base metal in shielded metal arc welding;

(F) perform fillet and groove welds in all positions; and

(G) prepare joints for welding.

(9) The student performs gas metal arc welding principles and practices. The student is expected to:

(A) use safe operating practices;

(B) apply gas metal arc welding principles;

(C) demonstrate proper set-up procedure for gas metal arc welding;

(D) use appropriate equipment setup for base metal in gas metal arc welding; and

(E) perform fillet and groove welds using gas metal arc welding with various metal transfer processes.

§130.363. *Welding I (Two Credits)*, Adopted 2015.

(a) General requirements. This course is recommended for students in Grades 10-12. Recommended prerequisites: Algebra I, Principles of Manufacturing, Introduction to Precision Metal Manu-

facturing, or Introduction to Welding. Students shall be awarded two credits for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Manufacturing Career Cluster focuses on planning, managing, and performing the processing of materials into intermediate or final products and related professional and technical support activities such as production planning and control, maintenance, and manufacturing/process engineering.

(3) Welding I provides the knowledge, skills, and technologies required for employment in metal technology systems. Students will develop knowledge and skills related to this system and apply them to personal career development. This course supports integration of academic and technical knowledge and skills. Students will reinforce, apply, and transfer knowledge and skills to a variety of settings and problems. Knowledge about career opportunities, requirements, and expectations and the development of workplace skills prepare students for future success.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) express ideas to others in a clear, concise, and effective manner through written and verbal communication;

(B) convey written information that is easily understandable to others;

(C) demonstrate acceptable work ethics in reporting for duty and performing assigned tasks as directed;

(D) conduct oneself in a manner acceptable for the profession and work site such as suitable dress and polite speech;

(E) choose the ethical course of action and comply with all applicable rules, laws, and regulations;

(F) review the fine, detailed aspects of both quantitative and qualitative work process and end products;

(G) evaluate systems and operations; identify causes, problems, patterns, or issues; and explore workable solutions or remedies to improve situations;

(H) follow written and oral instructions and adhere to established business practices, policies, and procedures, including health and safety rules; and

(I) prioritize tasks, follow schedules, and work on goal-relevant activities in a way that uses time wisely in an effective, efficient manner.

(2) The student explores the employability characteristics of a successful worker in the global economy. The student is expected to:

(A) explore academic knowledge and skills required for postsecondary education;

(B) identify employers' expectations to foster positive customer satisfaction;

(C) demonstrate the professional standards required in the workplace such as interviewing skills, flexibility, willingness to learn new skills and acquire knowledge, self-discipline, self-worth, positive attitude, and integrity in a work situation;

(D) evaluate personal career goals;

(E) communicate effectively with others in the workplace to clarify objectives; and

(F) demonstrate skills related to health and safety in the workplace as specified by appropriate governmental regulations.

(3) The student applies academic skills to the requirements of welding. The student is expected to:

(A) demonstrate effective communication skills with individuals from varied cultures such as fellow workers, management, and customers;

(B) demonstrate mathematical skills to estimate costs;

(C) demonstrate technical writing skills related to work orders;

(D) apply accurate readings of measuring devices;

(E) use appropriate tools to make accurate measurements;

(F) compute measurements such as area, surface area, volume, and perimeter;

(G) solve problems using whole numbers, fractions, mixed numbers, and decimals;

(H) use various methods, including a calculator, to perform computations;

(I) perform conversions between fractions and decimals;

(J) perform conversions between standards units and metric units;

(K) calculate and apply the functions of angles such as using the Pythagorean Theorem; and

(L) diagram the parts of a circle.

(4) The student evaluates the function and application of the tools, equipment, technologies, and materials used in welding. The student is expected to:

(A) operate welding equipment according to safety standards;

(B) identify and properly dispose of environmentally hazardous materials used in welding;

(C) explain the importance of recycling materials used in welding;

(D) choose appropriate personal protective equipment; and

(E) evaluate skills related to health and safety in the workplace as specified by appropriate governmental regulations.

(5) The student understands welding joint design, symbols, and welds. The student is expected to:

- (A) demonstrate knowledge of engineering drawings, charts, and diagrams;
 - (B) interpret orthographic and isometric views of three-dimensional figures;
 - (C) interpret engineering, drawings, charts, and diagrams;
 - (D) analyze components of the welding symbol;
 - (E) identify types of welding joints;
 - (F) identify positions of welding; and
 - (G) identify types of welds such as fillet, groove, spot, plug, and flanged.
- (6) The student analyzes the concepts and intricacies of inspections and related codes. The student is expected to:
- (A) explain weld inspection processes; and
 - (B) interpret welding codes.
- (7) The student analyzes oxy-fuel cutting processes on carbon steels. The student is expected to:
- (A) practice safe operating practices;
 - (B) perform safe handling of compressed gases;
 - (C) identify components of oxy-fuel gas cutting system;
 - (D) demonstrate proper set-up procedures for oxy-fuel cutting process;
 - (E) identify factors affecting oxy-fuel cutting of base metals;
 - (F) demonstrate proper cutting techniques such as piercing, straight line, and bevel;
 - (G) identify acceptable cuts; and
 - (H) evaluate alternative fuel gasses such as propane, propylene, and Chemtane 2®.
- (8) The student analyzes plasma arc cutting on metals. The student is expected to:
- (A) use safe operating practices;
 - (B) demonstrate knowledge of the theories of plasma arc cutting;
 - (C) apply safe handling of compressed air supply;
 - (D) identify components of plasma arc cutting;
 - (E) demonstrate correct set-up procedure for plasma arc cutting;
 - (F) define cutting terms; and
 - (G) perform straight line, piercing, bevels, and shape cuts.
- (9) The student analyzes shielded metal arc welding principles and practices on metals. The student is expected to:
- (A) use safe operating practices;
 - (B) analyze welding current relationships such as alternating current and direct current, heat transfer, and polarity;
 - (C) apply shielded metal arc welding principles;
 - (D) demonstrate proper set-up procedure for shielded metal arc welding;

- (E) explain the American Welding Society (AWS) identification system for shielded metal arc welding electrodes;
 - (F) determine appropriate electrodes for base metal in shielded metal arc welding; and
 - (G) perform multi-pass groove welds in all positions to the AWS Schools Excelling through National Skills Education standards.
- (10) The student analyzes gas metal arc welding principles and practices. The student is expected to:
- (A) use safe operating practices;
 - (B) explain the effects that weld angle, work angle, and electrode extension have on welds;
 - (C) apply gas metal arc welding principles;
 - (D) demonstrate proper set-up procedure for gas metal arc welding;
 - (E) explain the AWS identification system for gas metal arc welding filler metal;
 - (F) determine appropriate filler metal for base metal in gas metal arc welding; and
 - (G) perform fillet and groove welds in all positions.
- (11) The student analyzes flux cored arc welding principles and practices on metals. The student is expected to:
- (A) use safe operating practices;
 - (B) explain the effects that weld angle, work angle, and electrode extension have on welds;
 - (C) apply flux cored arc welding principles;
 - (D) demonstrate proper set-up procedure for flux cored arc welding;
 - (E) explain the AWS identification system for flux cored arc welding electrodes;
 - (F) determine appropriate filler metal for base metal in flux cored arc welding; and
 - (G) perform fillet and groove welds in all positions.
- (12) The student analyzes gas tungsten arc welding on metals. The student is expected to:
- (A) use safe operating practices;
 - (B) analyze electrical welding current relationships such as alternating current and direct current, heat transfer, and polarity;
 - (C) identify the common types of tungsten and filler metals according to the AWS identification system;
 - (D) demonstrate proper set-up procedure for gas tungsten arc welding;
 - (E) perform fillet and groove welds in all positions; and
 - (F) perform welds on metals such as carbon steel, stainless steel, and aluminum.

§130.364. *Welding II (Two Credits), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Prerequisite: Welding I. Recommended prerequisites: Algebra I or Geometry. Recommended corequisite:

Welding II Lab. Students shall be awarded two credits for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Manufacturing Career Cluster focuses on planning, managing, and performing the processing of materials into intermediate or final products and related professional and technical support activities such as production planning and control, maintenance, and manufacturing/process engineering.

(3) Welding II builds on the knowledge and skills developed in Welding I. Students will develop advanced welding concepts and skills as related to personal and career development. Students will integrate academic and technical knowledge and skills. Students will have opportunities to reinforce, apply, and transfer knowledge and skills to a variety of settings and problems.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) express ideas to others in a clear, concise, and effective manner through written and verbal communication;

(B) convey written information that is easily understandable to others;

(C) demonstrate acceptable work ethics in reporting for duty and performing assigned tasks as directed;

(D) conduct oneself in a manner acceptable for the profession and work site such as suitable dress and polite speech;

(E) choose the ethical course of action and comply with all applicable rules, laws, and regulations;

(F) review the fine, detailed aspects of both quantitative and qualitative work process and end products;

(G) evaluate systems and operations; identify causes, problems, patterns, or issues; and explore workable solutions or remedies to improve situations;

(H) follow written and oral instructions and adhere to established business practices, policies, and procedures, including health and safety rules;

(I) prioritize tasks, follow schedules, and work toward goal-relevant activities in an effective, efficient manner;

(J) analyze how teams function; and

(K) evaluate employers' work expectations to measure project success.

(2) The student explores the employability characteristics of a successful worker in the global economy. The student is expected to:

(A) determine academic knowledge and skills required for postsecondary education;

(B) identify employers' expectations to foster positive customer satisfaction;

(C) demonstrate the professional standards required in the workplace such as interviewing skills, flexibility, willingness to learn new skills and acquire knowledge, self-discipline, self-worth, positive attitude, and integrity in a work situation;

(D) evaluate progress toward personal career goals;

(E) communicate effectively with others in the workplace to clarify objectives; and

(F) apply knowledge and skills related to health and safety in the workplace as specified by appropriate governmental regulations.

(3) The student applies academic skills to the requirements of welding. The student is expected to:

(A) demonstrate mathematical skills to estimate costs;

(B) explain the impact of accurate readings of measuring devices on cost estimates;

(C) justify the selection of a tool to make accurate measurements;

(D) compute measurements such as area, surface area, volume, and perimeter;

(E) solve problems using whole numbers, fractions, mixed numbers, and decimals;

(F) apply right triangle relationships using the Pythagorean Theorem; and

(G) select a mathematical formula for estimation.

(4) The student knows the functions and applications of the tools, equipment, technologies, and materials used in welding. The student is expected to:

(A) use welding equipment according to safety standards;

(B) dispose of environmentally hazardous materials used in welding;

(C) explain the importance of recycling materials used in welding;

(D) evaluate the performance impact of emerging technologies in welding;

(E) use appropriate personal protective equipment to follow safety measures; and

(F) investigate the use of automated welding machines such as numerical control, computer numerical control, and robotics-controlled welding machines.

(5) The student illustrates welding joint design, symbols, and welds. The student is expected to:

(A) use knowledge of engineering drawings to complete an advanced project; and

(B) evaluate projects using engineering drawing specifications.

(6) The student applies the concepts and skills of welding to perform tasks. The student is expected to:

- (A) work independently in fabricating welded projects;
 - (B) work collaboratively with other students to complete a real-world application item; and
 - (C) troubleshoot equipment.
- (7) The student analyzes the concepts and intricacies of inspections related to welding codes. The student is expected to:
- (A) inspect the welding projects of team members;
 - (B) select codes for weld inspections; and
 - (C) critique and evaluate the weldments of team members.
- (8) The student performs advanced cutting processes on carbon steels. The student is expected to:
- (A) observe safe operating practices;
 - (B) apply safe handling of compressed gases; and
 - (C) perform cutting processes according to accepted welding standards.
- (9) The student performs shielded metal arc welding on metals. The student is expected to:
- (A) employ safe operating practices; and
 - (B) demonstrate skills required to make welds in all positions according to the American Welding Society (AWS) Schools Excelling through National Skills Education (SENSE) welding standards.
- (10) The student performs flux cored metal arc welding. The student is expected to:
- (A) use safe operating practices;
 - (B) perform fillet and groove welds; and
 - (C) perform welds in all appropriate positions according to the AWS SENSE welding standards.
- (11) The student performs gas tungsten arc welding on metals. The student is expected to:
- (A) employ safe operating practices;
 - (B) perform fillet and groove welds in all positions; and
 - (C) perform welds on metals such as carbon steel, stainless steel, pipe, and aluminum to the AWS SENSE welding standards.

§130.365. Welding II Lab (One Credit), Adopted 2015.

(a) General requirements. This lab course is recommended for students in Grades 11 and 12. Prerequisite: Welding I. Corequisite: Welding II. This course must be taken concurrently with Welding II and may not be taken as a stand-alone course. Districts are encouraged to offer this course in a consecutive block with Welding II to allow students sufficient time to master the content of both courses. Students shall be awarded one credit for successful completion of this course.

(b) Introduction.

- (1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.
- (2) The Manufacturing Career Cluster focuses on planning, managing, and performing the processing of materials into intermediate or final products and related professional and technical support activities such as production planning and control, maintenance, and manufacturing/process engineering.

(3) Welding II Lab provides an introduction to welding technology with an emphasis on basic welding laboratory principles and operating procedures. Topics include: industrial safety and health practices, hand tool and power machine use, measurement, laboratory operating procedures, welding power sources, welding career potentials, and introduction to welding codes and standards. This course provides knowledge, skills, and technologies required for employment in welding industries. Students will develop knowledge and skills related to this system and apply them to personal career development. This course supports integration of academic and technical knowledge and skills. Students will reinforce, apply, and transfer knowledge and skills to a variety of settings and problems. Knowledge about career opportunities, requirements, and expectations and the development of workplace skills prepare students for future success.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

- (A) express ideas to others in a clear, concise, and effective manner through written and verbal communication;
- (B) convey written information that is easily understandable to others;
- (C) demonstrate acceptable work ethics in reporting for duty and performing assigned tasks as directed;
- (D) conduct oneself in a manner acceptable for the profession and work site such as suitable dress and polite speech;
- (E) choose the ethical course of action and comply with all applicable rules, laws, and regulations;
- (F) review the fine, detailed aspects of both quantitative and qualitative work process and end products;
- (G) evaluate systems and operations; identify causes, problems, patterns, or issues; and explore workable solutions or remedies to improve situations;
- (H) follow written and oral instructions and adhere to established business practices, policies, and procedures, including health and safety rules; and

(I) prioritize tasks, follow schedules, and work toward goal-relevant activities in an effective, efficient manner.

(2) The student demonstrates the functions and applications of the tools, equipment, technologies, and metals used in code welding. The student is expected to:

- (A) use welding equipment according to safety standards;
- (B) identify and properly dispose of environmentally hazardous materials used in welding;
- (C) explain the importance of recycling materials used in welding; and
- (D) use appropriate personal protective equipment.

(3) The student applies the concepts and skills of welding of actual work situations. The student is expected to:

(A) work independently to fabricate welded projects with minimal assistance;

(B) work collaboratively with other students to complete relevant projects; and

(C) troubleshoot equipment.

(4) The student analyzes the concepts and intricacies of inspections and related codes. The student is expected to:

(A) explain weld inspection processes; and

(B) produce acceptable weldments to standards related to industry codes such as the American Welding Society (AWS), American National Standards Institute, and Canadian Welding Bureau.

(5) The student performs oxy-fuel cutting processes. The student is expected to:

(A) use safe operating practices;

(B) perform safe handling of compressed gases;

(C) assemble components involved in setting up for oxy-fuel gas cutting processes;

(D) demonstrate proper set-up for cutting techniques such as piercing, straight line, and bevel; and

(E) evaluate acceptable and unacceptable cuts.

(6) The student performs plasma arc cutting on metals. The student is expected to:

(A) use safe operating practices;

(B) explain the difference between safe and unsafe storage and handling of compressed gas supply;

(C) employ proper set-up procedures for plasma arc cutting; and

(D) demonstrate proper cutting techniques, including straight line, piercing, and bevels.

(7) The student performs shielded metal arc welding principles and practices on metals. The student is expected to:

(A) use safe operating practices;

(B) demonstrate shielded metal arc welding principles;

(C) demonstrate proper set-up procedures for shielded metal arc welding;

(D) select appropriate electrodes for base metal in shielded metal arc welding;

(E) perform welds such as fillet and groove according to the AWS Schools Excelling through National Skills Education (SENSE) welding standards;

(F) perform multiple pass welds;

(G) prepare joints for welding; and

(H) explain heating processes such as pre-heating and post-heating.

(8) The student demonstrates proper set-up procedure for gas metal arc welding. The student is expected to:

(A) use safe operating practices;

(B) demonstrate gas metal arc welding principles;

(C) demonstrate proper set-up for gas metal arc welding;

(D) select appropriate filler metals for base metal in gas metal arc welding; and

(E) perform fillet and groove welds in all positions according to the AWS SENSE welding standards.

(9) The student performs flux cored arc welding principles and practices on metals. The student is expected to:

(A) use safe operating practices;

(B) employ and appraise flux cored arc welding principles;

(C) demonstrate proper set-up procedures for flux cored arc welding;

(D) appraise appropriate filler metal for base metal in flux cored arc welding;

(E) perform fillet and groove welds; and

(F) perform welds in all appropriate positions according to the AWS SENSE welding standards.

(10) The student performs gas tungsten arc welding principles and practices on metals. The student is expected to:

(A) use safe operating practices;

(B) demonstrate gas tungsten arc welding principles;

(C) demonstrate proper set-up for gas tungsten arc welding;

(D) select appropriate use of filler metals for base metal in gas tungsten arc welding; and

(E) perform welds in all appropriate positions according to the AWS SENSE welding standards.

(11) The student performs weldment fabrications. The student is expected to:

(A) identify layout tools;

(B) perform a part layout on plate according to a blueprint;

(C) perform a layout of a pipe fitting according to a blueprint; and

(D) perform an assembly according to a blueprint.

§130.366. *Practicum in Manufacturing (Two Credits), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grade 12. The practicum course is a paid or unpaid capstone experience for students participating in a coherent sequence of career and technical education courses in the Manufacturing Career Cluster. Students shall be awarded two credits for successful completion of this course. A student may repeat this course once for credit provided that the student is experiencing different aspects of the industry and demonstrating proficiency in additional and more advanced knowledge and skills.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Manufacturing Career Cluster focuses on planning, managing, and performing the processing of materials into intermediate or final products and related professional and technical support activities such as production planning and control, maintenance, and manufacturing/process engineering.

(3) The Practicum in Manufacturing course is designed to give students supervised practical application of previously studied knowledge and skills. Practicum experiences can occur in a variety of locations appropriate to the nature and level of experience.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) identify and apply the employer's standard operating procedures;

(B) demonstrate positive work behaviors such as attitudes, punctuality, time management, initiative, and cooperation;

(C) communicate appropriately and accept constructive criticism;

(D) research and discuss business ethics;

(E) complete tasks such as quality products and services with the highest standards;

(F) model professional appearance such as dress, grooming, and personal protective equipment as appropriate; and

(G) comply with safety rules such as regulations to maintain safe working conditions and environments appropriate to the work setting.

(2) The student applies concepts of critical thinking and problem solving. The student is expected to:

(A) analyze elements of a problem;

(B) analyze information critically to determine its value; and

(C) conduct technical research to gather information for decision making.

(3) The student demonstrates leadership and teamwork skills in collaborating with others to accomplish goals and objectives. The student is expected to:

(A) analyze leadership characteristics such as trust, positive attitude, integrity, and willingness to accept key responsibilities in a work situation;

(B) demonstrate teamwork skills through working cooperatively with others to achieve tasks;

(C) demonstrate teamwork processes such as promoting team building, consensus, continuous improvement, respect for the opinions of others, cooperation, adaptability, and conflict resolution;

(D) demonstrate responsibility for organization tasks such as shared group and individual work tasks; and

(E) establish and maintain effective working relationships.

(4) The student demonstrates oral and written communication skills. The student is expected to:

(A) demonstrate the use of content such as technical concepts and vocabulary;

(B) employ verbal skills when obtaining and conveying information;

(C) use informational texts such as Internet websites and technical materials for occupational tasks;

(D) evaluate the reliability of information such as Internet websites, technical materials, and resources;

(E) interpret verbal and nonverbal cues and behaviors to enhance communication;

(F) apply active listening skills such as obtaining and clarifying the information; and

(G) use academic skills such as effective written and oral communication.

(5) The student demonstrates technical knowledge and skills required to pursue a career in the manufacturing cluster. The student is expected to:

(A) use information literacy skills such as accessing, evaluating, and disseminating information;

(B) describe information management;

(C) maintain records to facilitate ongoing business operations;

(D) develop goals;

(E) prioritize tasks;

(F) develop timelines using time-management skills;

(G) use project-management skills such as initiate, plan, execute, monitor and control, and close to improve workflow;

(H) evaluate proficiencies in technical skills; and

(I) accept critical feedback provided by the supervisor.

(6) The student documents technical knowledge and skills using a professional portfolio. The student is expected to:

(A) demonstrate growth of technical skill competencies;

(B) demonstrate technical knowledge and skills by completing activities such as earning licensures or certifications;

(C) develop an abstract of key points of the practicum;

(D) create a job-skills resume;

(E) collect representative work samples;

(F) maintain copies of evaluations from the practicum supervisor and/or industrial representative; and

(G) present the portfolio to interested stakeholders.

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 N. MARKETING

19 TAC §§130.381 - 130.387

STATUTORY AUTHORITY. The new sections are adopted under the Texas Education Code, §7.102(c)(4), which authorizes the SBOE to establish curriculum and graduation requirements; §28.002, which authorizes the SBOE to identify by rule the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials; §28.00222, which authorizes the SBOE to ensure that at least six advanced career and technology education or technology applications courses, including courses in personal financial literacy consistent with TEC, §28.0021, and in statistics, are approved to satisfy a fourth credit in mathematics required for high school graduation; and §28.025, which authorizes the SBOE to determine by rule curriculum requirements for the foundation high school program that are consistent with the required curriculum under §28.002.

CROSS REFERENCE TO STATUTE. The new sections implement the Texas Education Code, §§7.102(c)(4), 28.002, 28.00222, and 28.025.

§130.382. *Advertising (One-Half Credit), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 9-12. Recommended prerequisite: Principles of Business, Marketing, and Finance. Students shall be awarded one-half credit for successful completion of this course.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Marketing Career Cluster focuses on planning, managing, and performing marketing activities to reach organizational objectives.

(3) Advertising is designed as a comprehensive introduction to the principles and practices of advertising. Students will gain knowledge of techniques used in current advertising, including print, broadcast, and digital media. The course explores the social, cultural, ethical, and legal issues of advertising, historical influences, strategies, media decision processes as well as integrated marketing communications, and careers in advertising and sales promotion. The course provides an overview of how communication tools can be used to reach target audiences and increase consumer knowledge.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) communicate effectively with others using speaking, listening, and writing skills;

(B) demonstrate collaboration skills through teamwork;

(C) demonstrate professionalism by conducting oneself in a manner appropriate for the profession and workplace;

(D) demonstrate a positive, productive work ethic by performing assigned tasks as directed;

(E) show integrity by choosing the ethical course of action and complying with all applicable rules, laws, and regulations;

(F) demonstrate time-management skills by prioritizing tasks, following schedules, and tending to goal-relevant activities in a way that uses time wisely and optimizes efficiency and results; and

(G) demonstrate leadership skills, teamwork, and communication skills by participating in career and technical education courses.

(2) The student knows the importance of marketing as well as the functions of marketing. The student is expected to:

(A) recognize marketing functions and how they relate to advertising;

(B) explain how each component of the marketing mix contributes to successful advertising;

(C) identify the importance of target markets; and

(D) research trends affecting advertising marketing.

(3) The student knows the impact and value of diversity. The student is expected to:

(A) examine elements of culture and discuss the need for understanding cultural diversity; and

(B) identify how diversity affects advertising strategy.

(4) The student knows the nature and scope of advertising marketing. The student is expected to:

(A) demonstrate knowledge of the history of advertising as an industry and how it relates to today's marketplace;

(B) discuss major environmental influences that impact advertising;

(C) research the advantages and disadvantages of the types of advertising; and

(D) illustrate how international marketing affects the advertising industry.

(5) The student knows that advertising requires knowledge of demographics. The student is expected to:

(A) explain how the use of demographics has influenced the industry;

(B) differentiate between buying habits and buying preferences; and

(C) explain the impact of multiculturalism and multi-generationalism on advertising marketing activities.

(6) The student knows that a career in advertising requires knowledge of the industry. The student is expected to:

(A) research careers in the advertising industry;

(B) identify businesses related to advertising; and

(C) identify the role of professional organizations, trade associations, and labor unions in the advertising industry.

(7) The student understands the importance of selling in the advertising industry. The student is expected to:

(A) explain how selling contributes to the success of an advertising agency; and

(B) employ the steps of selling, including prospecting, pre-approach, approach, presentation, overcoming objections, close, and follow-up.

(8) The student evaluates and uses information resources to research careers in advertising and sales. The student is expected to:

(A) use multimedia resources such as the Internet to research careers in advertising and sales; and

(B) identify businesses related to advertising and sales.

(9) The student develops and delivers presentations using appropriate media to engage and inform audiences. The student is expected to:

(A) prepare oral presentations to provide information for specific purposes and audiences;

(B) identify and prepare support materials that will enhance an oral presentation; and

(C) deliver an oral presentation that sustains listener attention and interest.

(10) The student knows the marketing-information system. The student is expected to:

(A) explain characteristics and purposes of a marketing-information system;

(B) identify benefits and limitations of marketing research; and

(C) analyze data used to make accurate forecasts.

(11) The student knows pricing policies, objectives, and strategies. The student is expected to:

(A) compare and contrast pricing policies; and

(B) analyze the price of an advertising marketing product.

(12) The student knows the elements and processes of product planning. The student is expected to:

(A) describe stages of new-product planning;

(B) analyze product mix; and

(C) identify stages of the product life cycle for new or existing advertising marketing plans.

(13) The student knows that successful marketers must develop, implement, and evaluate a promotional plan. The student is expected to:

(A) identify components of the promotional mix such as advertising, visual merchandising, and personal selling;

(B) demonstrate visual merchandising techniques for advertising marketing goods, services, or ideas; and

(C) analyze a promotional plan for effectiveness.

(14) The student knows how technology affects advertising. The student is expected to:

(A) examine how social media contributes to advertising; and

(B) research the use of technology in advertising.

(15) The student understands how media planning should achieve marketing objectives. The student is expected to:

(A) compare and contrast the different forms of media; and

(B) distinguish between the four components of marketing, including paid, earned, shared, and owned (PESO).

§130.387. *Practicum in Marketing (Two Credits), Adopted 2015.*

(a) General requirements. This course is recommended for students in Grades 11 and 12. Recommended Prerequisite: Principles of Business, Marketing, and Finance. Students shall be awarded two credits for successful completion of this course. A student may repeat this course once for credit provided that the student is experiencing different aspects of the industry and demonstrating proficiency in additional and more advanced knowledge and skills.

(b) Introduction.

(1) Career and technical education instruction provides content aligned with challenging academic standards and relevant technical knowledge and skills for students to further their education and succeed in current or emerging professions.

(2) The Marketing Career Cluster focuses on planning, managing, and performing marketing activities to reach organizational objectives.

(3) Practicum in Marketing is a series of dynamic activities that focus on the customer to generate a profitable exchange. Students will gain knowledge and skills that help them to be proficient in one or more of the marketing functional areas associated with distribution, financing, marketing information management, pricing, product planning, promotion, purchasing, risk management, and selling skills. Students will integrate skills from academic subjects, information technology, interpersonal communication, and management training to make responsible decisions. The practicum course is a paid or unpaid experience for students participating in a coherent sequence of career and technical courses in marketing.

(4) Students are encouraged to participate in extended learning experiences such as career and technical student organizations and other leadership or extracurricular organizations.

(5) Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(c) Knowledge and skills.

(1) The student demonstrates professional standards/employability skills as required by business and industry. The student is expected to:

(A) communicate effectively with others using speaking, listening, and writing skills;

- (B) demonstrate collaboration skills through teamwork;
- (C) demonstrate professionalism by conducting oneself in a manner appropriate for the profession and workplace;
- (D) demonstrate a positive, productive work ethic by performing assigned tasks as directed;

(E) demonstrate integrity by choosing the ethical course of action and complying with all applicable rules, laws, and regulations;

(F) demonstrate time-management skills such as prioritizing tasks, following schedules, and tending to goal-relevant activities in ways that use time wisely and optimize efficiency and results; and

(G) demonstrate leadership skills by participating in activities such as career and technical education student organizations.

(2) The student knows the nature of business and shows its contribution to society. The student is expected to:

- (A) distinguish ways that businesses contribute to society;
- (B) explain the importance of social responsibility;
- (C) describe types of business activities;
- (D) explain the organizational design of businesses;
- (E) discuss the global environment in which businesses operate; and

(F) depict factors that affect the business environment and how businesses can respond.

(3) The student demonstrates the importance of marketing and the functions of marketing. The student is expected to:

- (A) explain the marketing concept; and
- (B) describe each marketing function and how it relates to the marketing concept.

(4) The student analyzes the marketing mix, which involves a combination of the decisions about product, price, place, promotion, and people. The student is expected to:

- (A) explain how each component of the marketing mix contributes to successful marketing; and
- (B) illustrate the importance of marketing strategies in the marketing mix.

(5) The student knows the concepts and strategies used to determine target markets and market identification. The student is expected to:

- (A) explain the importance of target markets;
- (B) compare and contrast advantages and disadvantages of market segmentation and mass marketing;
- (C) distinguish among geographic, demographic, psychographic, and behavioral segmentation; and
- (D) explain the nature of marketing planning.

(6) The student applies mathematical concepts in marketing. The student is expected to:

- (A) execute calculations involving money, time, space, materials, and data;

(B) interpret charts and graphs to make informed marketing decisions;

(C) use formulas and equations to determine price, profit, costs, and break-even point;

(D) perform mathematical operations;

(E) predict reasonable estimations;

(F) create mathematical models from real-life situations; and

(G) determine rate of change mathematically.

(7) The student knows how to use self-development techniques and interpersonal skills to accomplish marketing objectives. The student is expected to:

(A) identify and practice effective interpersonal and team-building skills involving situations with coworkers, managers, and customers;

(B) develop short- and long-term personal goals;

(C) identify and use time-management principles; and

(D) participate in leadership and career development activities.

(8) The student applies information technology as an effective marketing tool. The student is expected to:

(A) identify social media trends in marketing;

(B) identify ways that technology impacts business;

(C) apply web-search skills;

(D) demonstrate word-processing skills;

(E) use database applications; and

(F) execute spreadsheet applications.

(9) The student recognizes that careers are ever changing and require continual self-assessment, research, and preparation to develop and implement responsible decisions. The student is expected to:

(A) develop a working portfolio containing components such as resume, cover letter, thank you letter, references, letter of recommendation, and work samples;

(B) analyze personal social media accounts for potential employability; and

(C) demonstrate interview skills.

(10) The student knows the importance of emerging trends and technologies in marketing. The student is expected to:

(A) discuss trends affecting marketing; and

(B) research emerging technologies in marketing.

(11) The student knows the impact and value of diversity. The student is expected to:

(A) explain how diversity affects marketing; and

(B) probe the impact of multiculturalism and multigenerationalism on marketing activities.

(12) The student knows that marketing begins with a working knowledge of economic concepts. The student is expected to:

(A) discuss characteristics of economic goods and services;

- (B) identify economic needs and wants;
- (C) explain the concept of utility and cite examples of types of utility;
- (D) describe the function of prices in markets; and
- (E) clarify how the interaction of supply and demand affects price.

(13) The student knows that a nation's economic system is determined by what is produced, how it is produced, and how it is distributed. The student is expected to:

- (A) compare and contrast how economies answer basic economic questions;
- (B) explain why most economies are mixed; and
- (C) determine the relationship between government and business.

(14) The student knows that private enterprise is based on independent decisions by businesses and limited government involvement. The student is expected to:

- (A) determine characteristics of a private enterprise system;
- (B) explain the advantages and disadvantages of private enterprise; and
- (C) identify examples of competitive business situations such as price or nonprice competition.

(15) The student knows that economic factors such as gross domestic product, standard of living, consumer price index, and unemployment figures help influence a company's marketing strategies. The student is expected to:

- (A) identify economic measurements used to analyze an economy;
- (B) research how economic measures are used in a market economy;
- (C) describe the concept of price stability as an economic measure;
- (D) interpret the measure of consumer spending as an economic indicator;
- (E) examine the impact of a nation's unemployment rates; and
- (F) describe the economic impact of inflation on business.

(16) The student knows that changes in the economy include prosperity, recession, depression, and recovery and are collectively referred to as the business cycle. The student is expected to:

- (A) explain the concept of business cycles; and
- (B) describe the impact that phases of a business cycle have on the economy.

(17) The student knows that distribution systems facilitate the movement of products. The student is expected to:

- (A) understand channels of distribution;
- (B) identify physical distribution activities; and
- (C) examine costs associated with distribution.

(18) The student knows that marketers use investment and financial services to achieve goals and objectives. The student is expected to:

- (A) illustrate types of financial services; and
- (B) explain the purpose of a credit contract.

(19) The student knows the concept of pricing and strategies used in determining and adjusting price. The student is expected to:

- (A) state goals of pricing;
- (B) identify factors affecting pricing;
- (C) explain how pricing affects product, place, and promotion decisions;
- (D) compare and contrast pricing policies;
- (E) calculate a product's price;
- (F) describe the role of business ethics in pricing; and
- (G) analyze legal considerations for pricing.

(20) The student understands the promotional concepts and strategies needed to communicate information about products, services, images, and ideas to achieve a desired outcome. The student is expected to:

- (A) explain the communication processes as used in promotional activities;
- (B) evaluate types of promotion;
- (C) understand the concept of promotional mix;
- (D) define the role of promotion as a marketing function;
- (E) describe the use of business ethics in promotion;
- (F) explore the regulation of promotion;
- (G) explain the nature of direct marketing channels;
- (H) model communication channels used in sales promotion; and
- (I) describe communication channels used in public relations activities.

(21) The student knows that advertising is the paid form of nonpersonal communication about an identified sponsor's products. The student is expected to:

- (A) illustrate types of advertising media;
- (B) differentiate between product and institutional advertising; and
- (C) identify and evaluate elements of an advertisement.

(22) The student knows that business risk is the possibility of loss or failure. The student is expected to:

- (A) categorize business risks; and
- (B) interpret how various types of risks impact business activities.

(23) The student knows that marketers responsible for risk management follow a process to decide the best strategy to deal with each risk. The student is expected to:

- (A) evaluate security precautions; and

(B) demonstrate knowledge of safety precautions in the workplace.

(24) The student knows what influences customers before they make a purchase. The student is expected to:

(A) differentiate among a feature and a benefit;

(B) compare and contrast between consumer and organizational buying behavior;

(C) determine customer needs and wants;

(D) classify buying motives; and

(E) analyze how customers and organizations apply the decision-making process.

(25) The student knows how marketers use the selling process. The student is expected to:

(A) locate product information; and

(B) illustrate the sale process.

(26) The student understands the techniques and strategies used to foster positive, ongoing relationships with customers to enhance company image. The student is expected to:

(A) explain the nature of positive customer relations;

(B) describe a customer service mindset;

(C) explain the management role in customer relations;

(D) identify a company brand promise;

(E) explore ways of reinforcing company image through employee performance; and

(F) describe the use of technology in customer relationship management.

(27) The student understands a business's responsibility to know and abide by workplace laws, trade regulations, and ethical behavior that affect business operations. The student is expected to:

(A) apply ethics to demonstrate trustworthiness;

(B) explain the nature of business ethics;

(C) describe legal issues affecting businesses;

(D) defend the nature of human resources regulations;

(E) explain the nature of workplace regulations such as Occupational Safety and Health Administration and statutes such as the Americans with Disabilities Act;

(F) discuss employment relationships;

(G) illustrate the nature of trade regulations; and

(H) describe the impact of antitrust legislation.

(28) The student applies ethical reasoning to a variety of workplace situations in order to make ethical decisions. The student is expected to:

(A) evaluate alternative responses to workplace situations based on personal or professional ethical responsibilities;

(B) identify personal and long-term workplace consequences of unethical or illegal behaviors;

(C) investigate the most appropriate response to workplace situations based on legal and ethical considerations; and

(D) demonstrate responsible behavior, honesty, integrity, and ethical work habits.

(29) The student completes required training, education, and certification to prepare for employment in a particular career field. The student is expected to:

(A) identify training, education, and certification requirements for occupational choice; and

(B) participate in career-related training or degree programs.

(30) The student knows the elements and processes of product planning. The student is expected to:

(A) explain the nature and scope of product planning;

(B) relate product-mix strategies to meet customer expectations; and

(C) define the product life cycle.

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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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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Proposal publication date: March 13, 2015

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

TITLE 22. EXAMINING BOARDS

PART 36. COUNCIL ON SEX OFFENDER TREATMENT

CHAPTER 810. COUNCIL ON SEX OFFENDER TREATMENT

The Council on Sex Offender Treatment (council) adopts amendments to §§810.1 - 810.5, 810.8, 810.9, 810.31 - 810.34, 810.61 - 810.67, 810.91, 810.92 and 810.301 - 810.308 and the repeal of §810.68, relating to the council, and to the licensing and regulation of sex offender treatment providers. The amendment to §810.2 is adopted with changes to the proposed text as published in the May 8, 2015, issue of the *Texas Register* (40 TexReg 2481). The amendments to §§810.1, 810.3 - 810.5, 810.8, 810.9, 810.31 - 810.34, 810.61 - 810.67, 810.91, 810.92 and 810.301 - 810.308 and the repeal of §810.68 are adopted without changes and, therefore, the sections will not be republished.

BACKGROUND AND PURPOSE

The amendments to §810.3 implement Senate Bill 162 of the 83rd Legislature, Regular Session, 2013, which amended the Texas Occupations Code, Chapter 55, requiring the council, by rule, to set licensure requirements for military spouses and the eligibility requirements for certain licenses issued to applicants with military experience.

The amendments also clarify definitions, establish a new licensing structure with two types of licenses instead of three, and update and align the rules for sex offender treatment providers through simplified assessment and treatment standards.

The repeal of §810.68 removes unnecessary language to further align the rules with current sex offender treatment standards.

Government Code, §2001.039, requires that each state agency review and consider for re-adoption each rule adopted by that agency pursuant to Government Code, Chapter 2001 (Administrative Procedure Act). Sections 810.1 - 810.5, 810.8, 810.9, 810.31 - 810.34, 810.61 - 810.67, 810.91, 810.92 and 810.301 - 810.308 have been reviewed and the council has determined that reasons for adopting the sections continue to exist because rules on this subject are needed to administer the program effectively.

SECTION-BY-SECTION SUMMARY

The amendment to §810.1 clarifies the offenses of juveniles being assessed and treated.

The amendment to §810.2 clarifies definitions and adds a new definition for empirically supported approaches while removing definitions relating to the containment model. The term "advanced nurse practitioner" was corrected to "advanced practice registered nurse as a result of a comment."

The amendment to §810.3 adds licensed psychological associates to the eligible primary mental health licenses for licensed sex offender treatment provider to bring it into compliance with the existing statute, removes the provisional sex offender treatment provider license, and clarifies the requirements for only two licenses, affiliate sex offender treatment provider and licensed sex offender treatment provider. This change will allow all applicants who were formerly eligible for the provisional sex offender treatment provider license to be eligible for the affiliate sex offender treatment provider license. No other licensure requirements are affected by this change. The adopted amendment also sets licensure requirement procedures for military spouses and the eligibility requirements for certain licenses issued to applicants with military experience. Furthermore, it clarifies other minor issues in the rules relating to license requirements and clarifies that online hours are not acceptable for the 40 hours of continuing education training.

The amendment to §810.4 clarifies the rules, changes the maximum length of the initial licensing period from 30 months to 24 months, removes obsolete language regarding license renewal and expiration dates, increases the maximum number of continuing education hours that can be earned through presentations from 4 to 6, and removes the option to carry-over 3 victim hours to the next renewal period.

The amendment to §810.5 removes obsolete language including POSTP and clarifies the offenses of juveniles being treated.

The amendment to §810.8 clarifies the types of criminal history that would constitute grounds to deny or revoke a license.

The amendment to §810.9 contains a non-substantive change for clarity.

The amendment to §810.31 contains a non-substantive grammatical correction.

The amendment to §810.32 contains a non-substantive change for clarity.

The amendment to §810.33 adds a reference to the agency's records retention schedule to bring the section into compliance with current practice.

The amendment to §810.34 contains a non-substantive grammatical correction.

The amendment to §810.61 clarifies the offenses of juveniles.

The amendment to §810.62 clarifies assessment standards and removes obsolete language.

The amendment to §810.63 clarifies assessment standards for adult sex offenders and juveniles who commit sexual offenses and specifies that licensees may provide treatment to a client for whom they have conducted an assessment.

The amendment to §810.64 clarifies assessment and treatment standards for adult sex offenders and removes specifics that are already included in a comprehensive assessment.

The amendment to §810.65 clarifies assessment and treatment standards for juveniles who commit sexual offenses, including the elements required for a comprehensive assessment or treatment program.

The amendment to §810.66 removes language that prohibits female offenders from receiving treatment in the same group as male offenders.

The amendment to §810.67 changes language regarding group therapy for developmentally delayed clients so that groups should not be less than 60 minutes in length instead of 30 minutes and changes references from the containment model to empirically supported approaches.

The repeal of §810.68 removes all language detailing unnecessary specifics regarding issues to be addressed in treatment for adult and juvenile offenders.

The amendment to §810.91 removes a reference to "membership" which is inconsistent with licensure.

The amendment to §810.92 removes language relating to professional relationships and research and publications, clarifies language regarding how the licensee shall represent his/her professional background, training, and status, and changes references from the containment model to empirically supported approaches and treatment team.

The amendment to §810.301 contains a non-substantive change for clarity.

The amendment to §810.302 clarifies the definition of "register" relating to the early termination for certain persons' obligation to register.

The amendment to §810.303 contains a non-substantive grammatical correction.

The amendment to §810.304 contains a non-substantive grammatical correction.

The amendment to §810.305 contains a non-substantive change for clarity.

The amendment to §810.306 clarifies definitions relating the evaluation specialists who provide deregistration evaluation services in the early termination for certain persons' obligation to register process.

The amendment to §810.307 contains a non-substantive change for clarity.

The amendment to §810.308 contains a non-substantive change for clarity.

COMMENTS

The council has reviewed and accepted responses to the comments received regarding the proposed rules during the comment period. The council received comments from the Coalition for Nurses in Advanced Practice and one individual. The commenters were not against the rules in their entirety; however, the commenters suggested recommendations for change as discussed in the summary of comments.

COMMENT: One commenter expressed support for several of the proposed changes, including the wording change to "juveniles who commit sexual offenses," the removal of the references to the "containment model," and the elimination of other specifics regarding treatment.

RESPONSE: The council appreciated the comment. No change was made to the rules as a result of this comment.

COMMENT: One commenter requested that the wording in §810.2(a)(12) be modified to include the current term "advanced practice registered nurse" in place of "advanced nurse practitioner" to reflect current terminology in the statute as referenced in the Occupations Code, Chapter 301.

RESPONSE: The council agreed and has made the requested change to the rule text.

COMMENT: One commenter expressed confusion as to why §810.92(g)(2) was proposed for deletion.

RESPONSE: The council believes that the new language proposed for §810.92, which requires all public information and advertising by licensees to convey accurate information, is sufficient to avoid deception in establishing the licensee-client relationship. The council has also retained rule language at §810.92(a)(3) which requires licensees to "perform their professional duties with the highest level of integrity." No change was made to the rule as a result of the comment.

SUBCHAPTER A. LICENSED SEX OFFENDER TREATMENT PROVIDERS

22 TAC §§810.1 - 810.5, 810.8, 810.9

STATUTORY AUTHORITY

The amendments are adopted under Texas Occupations Code, §110.158, which authorizes the council to adopt rules necessary for the performance of its duties. Review of the rules implements Government Code, §2001.039.

§810.2. Definitions.

(a) General Definitions.

(1) Act--Texas Occupations Code, Chapter 110, relating to the Council on Sex Offender Treatment.

(2) Biennium--Every 2 years.

(3) Case Management--The coordination and implementation of activities directed toward supervising, treating, and managing the adult sex offender or juvenile who commit sexual offenses.

(4) Client(s)--Used interchangeably with adult sex offenders and juveniles who commit sexual offenses.

(5) Council--The Council on Sex Offender Treatment.

(6) Custodian--The adult who is responsible for an adult or child.

(7) Fiscal Year--September 1 through August 31.

(8) Guardian--The person who, under court order, is the guardian of the person of the adult or the child, or the public or private agency with whom the adult or juvenile has been placed by a court.

(9) HIPAA--Health Insurance Portability and Accountability Act, Title 45, Code of Federal Regulations (CFR), Parts 160 and 164.

(10) Juvenile Court--A court designated under the Family Code, Title 3, Juvenile Justice Code, §51.04, to exercise jurisdiction over the proceedings.

(11) Licensee--A treatment provider licensed by the council and who is recognized based on training and experience to provide assessment and treatment to adult sex offenders and/or juveniles who commit sexual offenses who have been convicted, adjudicated, deferred, or referred by a State agency or court.

(12) Mental Health or Medical License--A person licensed in Texas to practice as a physician, psychiatrist, psychologist, psychological associate, provisionally licensed psychologist, licensed professional counselor, licensed professional counselor intern, licensed marriage and family therapist, licensed marriage and family associate, licensed clinical social worker, licensed master social worker under a TSBSWE's approved clinical supervision plan, or advanced practice registered nurse recognized as a psychiatric clinical nurse specialist or psychiatric mental health nurse practitioner, and who provides the treatment of sex offenders and/or juveniles who commit sexual offenses.

(13) Reciprocity--The granting of an official license based on the current status of licensure in a different jurisdiction. Reciprocity is granted based on the formal written agreement between the council and regulatory body in the other jurisdiction.

(14) Reportable Conviction or Adjudication--A conviction or adjudication, regardless of the pendency of an appeal.

(15) TSBSWE--The Texas State Board of Social Work Examiners.

(b) Treatment Definitions.

(1) Ability to Give Consent--As stated in Penal Code, §1.07, "assent in fact whether expressed or not," and as recognized under Family Code, §2.102 and §2.103.

(2) Accountability--Accurate attributions of responsibility, without distortion, minimization, or denial.

(3) Adaptive Behavior--The effectiveness with which a person meets the standards of personal independence and social responsibility reasonably expected of the person's age, sex, and cultural group (Health and Safety Code, Chapter 614).

(4) Aversive Conditioning for Deviant Arousal--Behavioral techniques that involve pairing deviant sexual arousal with a noxious stimulus in order to modify deviant sexual arousal.

(5) Clarification--The process designed for the primary benefit of the victim, by which the adult sex offender or juvenile with sexual behavior problems clarifies that the responsibility for the assault/abuse resides with the adult offender or juvenile and addresses the harm done to the victim and the family.

(6) Collateral Victims--Relatives or other persons closely involved with the primary victim and client who are severely impacted emotionally or physically by the trauma suffered by the victim.

(7) Denial--The refusal or inability to acknowledge in whole or in part sexually deviant arousal, sexually deviant intent, and/or sexually deviant behavior.

(8) Deviant Sexual Arousal--A pattern of physiological sexual responses to inappropriate fantasies, thoughts, objects, animals, and/or persons that may or may not precede a sexual act.

(9) Deviant Sexual Behavior--A sexual act that meets one or more of the criteria defined by state law. This includes sexual arousal to or interest in prepubescent children, sexual violence, and hypersexuality.

(10) Developmental Disability--A severe and chronic disability that is attributable to a mental or physical impairment or a combination of physical and mental impairments, is manifested before age 22, is likely to continue indefinitely, and results in substantial functional limitations in three or more of the major life activities (Health and Safety Code, Chapter 614).

(11) Dynamic Risk Factors--Risk factors that can change over time and are important targets for treatment and supervision.

(12) Empathy--The ability to identify and understand another person's feelings, situation, or ideas.

(13) Empirically Supported Approaches--Treatment or therapeutic approaches and techniques that have been derived from and guided by peer-reviewed studies.

(14) Grooming--The process of desensitizing and manipulating the victim(s) and/or others for the purpose of gaining an opportunity to commit a sexually deviant act.

(15) Juvenile who commits sexual offenses--A person who at the time of the offense:

(A) is 10 years of age or older and under 17 years of age and who has been adjudicated of committing a sex crime under the laws of a state, the United States, the Uniform Code of Military Justice, or any foreign country laws; or

(B) is 17 years of age or older and on probation who has been adjudicated of committing a sex crime under the laws of a state, the United States, the Uniform Code of Military Justice, or any foreign country laws before becoming 17 years of age.

(16) Mental Illness--An illness, disease, or condition, other than epilepsy, senility, alcoholism, or mental deficiency, that substantially impairs a person's thoughts, perception of reality, emotional processes, or judgment, or grossly impairs behavior as demonstrated by recent disturbed behavior (Health and Safety Code, Chapter 571).

(17) Mental Retardation--A significantly sub-average general intellectual functioning that is concurrent with deficits in adaptive behavior and originates during the developmental period (Health and Safety Code, §591.003).

(18) Non-Deceptive Polygraph Examination Result--A non-deceptive polygraph examination result must include no significant criteria normally associated with deception to the relevant questions. The examinee's salience should be focused on the comparison questions. Examiners will utilize an accepted numerical scoring system to ensure a non-deceptive result.

(19) Offense Sequence--The specific sequence(s) of thoughts, feelings, behaviors, and events that may occur before, during, or after a sexual offense is committed.

(20) Penile Plethysmograph (PPG)--A diagnostic method to assess sexual arousal by measuring the blood flow (tumescence) to the penis during the presentation of sexual stimuli in a controlled set-

ting by providing the identification of a clients' physiological arousal in response to sexual stimuli (audio/visual).

(21) Polygraph (Clinical) Examination--The employment of any instrumentation complying with the required minimum standards of the Texas Polygraph Examiner's Act and used for the purpose of measuring the physiological changes associated with deception. The following are descriptions of the four general types of polygraphs utilized:

(A) Instant Sexual Offense Polygraph--addresses the offense of conviction in conjunction or adjudication with the official version;

(B) Sexual History Polygraph--addresses the complete sexual history of the client up to the instant offense;

(C) Maintenance Polygraph--addresses compliance with conditions of supervision and treatment; and

(D) Monitoring Polygraph--addresses whether the client has committed a "new" sexual offense.

(22) Polygraph Examiner--A person with a current license approved by the Texas Department of Licensing and Regulation and who meets minimum criteria to be listed by the Joint Polygraph Committee on Offender Testing (JPCOT) and/or the American Polygraph Association (APA) Post-Conviction Sex Offender Testing (PCSOT) Standards for polygraphing adult sex offenders and juveniles who commit sexual offenses.

(23) Reoffense Prevention Plan--A multilevel plan that assists the client in developing strategies to addresses the risk factors or precursors that have typically preceded sexual offenses.

(24) Safety Plan--A written document derived from the process of planning for community safety. The document identifies potential high-risk situation and addresses ways in which situations will be handled without the adult sex offender or juvenile placing others at risk.

(25) Sex Offender--A person who:

(A) is or has been convicted or adjudicated of a sex crime under the laws of the State of Texas, any other state or territory, or under federal law, including a conviction of a sex crime under the Uniform Code of Military Justice;

(B) is or has been awarded deferred adjudication for a sex crime under the laws of the State of Texas, any other state or territory, or under federal law; or

(C) is or has been convicted, adjudicated, or received deferred adjudication for a sexually motivated offense which involved the intent to arouse or gratify the sexual desire of any person immediately before, during, or immediately after the commission of an offense.

(26) Sex Offender Specific Treatment--Treatment modalities that are based on empirical research with regard to favorable treatment outcomes and are professionally accepted in the field of sex offender treatment and the treatment of juveniles who commit sexual offenses. Offense specific treatment means a long-term comprehensive set of planned treatment experiences and interventions that modify sexually deviant thoughts, fantasies, and behaviors and that utilize specific strategies to promote change and to reduce the chance of re-offending. Currently, the primary treatment modality is cognitive behavioral group treatment. Sex offender treatment does not include general rehabilitation or clinical services provided in a criminal justice or juvenile justice institution as a part of the mainstream adjunct treatment programs.

(27) Static Risk Factors--Risk factors that are unlikely to change over time.

(28) Sub-Average General Intellectual Functioning--The measured intelligence on standardized psychometric instruments of two or more standard deviations below the age-group mean for the tests used (Health and Safety Code, §591.003).

(29) Successful Completion of Sex Offender Specific Treatment--Shall be determined by licensees based upon an analysis of risk, needs and responsivity issues. Factors to be considered shall include but are not limited to admitting and accepting responsibility for all criminal behavior, demonstrating the ability to control deviant sexual arousal, understanding the sexual offense cycle, increase in pro-social behaviors, increase in appropriate support systems, improved social competency, compliance with supervision, compliance with court conditions, increased understanding of victimization, no deception indicated on exit polygraphs, no deception indicated on the sex history polygraph, approved safety plans, approved reoffense prevention plans, successful completion of adjunct treatments (for example: anger management, substance abuse, etc.), and the demonstrated integration and practical application of the skills presented in treatment. Each of these issues regarding successful completion of treatment shall be addressed unless precluded by §810.65 of this title (relating to the Assessment and Treatment of Juveniles Who Commit Sexual Offenses), §810.67 of this title (relating to the Assessment and Treatment Standards for Developmentally Delayed Clients).

(30) Visual Reaction Time (VRT)--The measurement of sexual interest based on the relative amount of time spent looking at visual stimuli.

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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Aaron Pierce
Acting Chairperson
Council on Sex Offender Treatment
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Proposal publication date: May 8, 2015
For further information, please call: (512) 776-6972



SUBCHAPTER B. CRIMINAL BACKGROUND CHECK

22 TAC §§810.31 - 810.34

STATUTORY AUTHORITY

The amendments are adopted under Texas Occupations Code, §110.158, which authorizes the council to adopt rules necessary for the performance of its duties. Review of the rules implements Government Code, §2001.039.

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 C. STANDARDS OF PRACTICE

22 TAC §§810.61 - 810.67

STATUTORY AUTHORITY

The amendments are adopted under Texas Occupations Code, §110.158, which authorizes the council to adopt rules necessary for the performance of its duties. Review of the rules implements Government Code, §2001.039.

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22 TAC §810.68

STATUTORY AUTHORITY

The repeal is adopted under Texas Occupations Code, §110.158, which authorizes the council to adopt rules necessary for the performance of its duties. Review of the rules implements Government Code, §2001.039.

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 D. CODE OF PROFESSIONAL ETHICS

22 TAC §§810.91, §810.92

STATUTORY AUTHORITY

The amendments are adopted under Texas Occupations Code, §110.158, which authorizes the council to adopt rules necessary for the performance of its duties. Review of the rules implements Government Code, §2001.039.

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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Acting Chairperson

Council on Sex Offender Treatment

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SUBCHAPTER L. EARLY TERMINATION
FOR CERTAIN PERSONS' OBLIGATION TO
REGISTER

22 TAC §§810.301 - 810.308

STATUTORY AUTHORITY

The amendments are adopted under Texas Occupations Code, §110.158, which authorizes the council to adopt rules necessary for the performance of its duties. Review of the rules implements Government Code, §2001.039.

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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Aaron Pierce

Acting Chairperson

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TEXAS DEPARTMENT OF INSURANCE

Notification Pursuant to the Insurance Code, Chapter 5,
Subchapter L

As required by the Insurance Code, Article 5.96 and 5.97, the *Texas Register* publishes notice of proposed actions by the Texas Department of Insurance. Notice of action proposed under Article 5.96 must be published in the *Texas Register* not later than the 30th day before the proposal is adopted. Notice of action proposed under Article 5.97 must be published in the *Texas Register* not later than the 10th day before the proposal is adopted. The Administrative Procedure Act, Government Code, Chapters 2001 and 2002, does not apply to department action under Articles 5.96 and 5.97.

The complete text of the proposal summarized here may be examined in the offices of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78701.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure Act.

Texas Department of Insurance

Proposed Action on Rules

Exempt Filing Notification under Texas Insurance Code Chapter 5, Subchapter L, Article 5.96 and Notice of Hearing

The staff of the Texas Department of Insurance filed Petition No. W-0915-04-I on August 25, 2015. The petition requests that the commissioner repeal the rules, factors, values, endorsements, and forms in the *Texas Retrospective Rating Plan Manual (Texas Retro Plan)* for new and renewal workers' compensation policies written on a retrospectively rated basis with effective dates on and after 12:01 a.m., January 1, 2017. The petition also requests that policies written on a retrospective basis with effective dates before January 1, 2017, under the *Texas Retro Plan* must use the *Texas Retro Plan* to make all retrospective adjustments for those policies.

Insurers will continue to have the options of using the National Council on Compensation Insurance *Retrospective Rating Plan Manual* after making a reference filing with TDI, or filing their own retrospective rating plans for use in Texas.

Insurance Code Articles 5.96 and 5.77, and §§1805.054, 1805.055, 2052.002, 2053.001, 2053.003, and 36.001 authorize staff to file this petition and the commissioner to take the requested action.

You may review a copy of the petition and exhibit on the TDI website at www.tdi.texas.gov/rules/2015/exrules.html, or in the Office of the Chief Clerk, Texas Department of Insurance, 333 Guadalupe Street,

Austin, Texas 78701. For further information, please contact the Office of the Chief Clerk by email at ChiefClerk@tdi.texas.gov or by phone at (512) 676-6585.

The commissioner has scheduled a hearing under Docket No. 2779 at 9:30 a.m., Central time, on October 22, 2015, in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe Street, Austin, Texas, to take action on the petition. To comment on the petition, please submit two copies of your comments to TDI by 5 p.m., Central time, on October 26 2015. Send one copy to the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104 or ChiefClerk@tdi.texas.gov. Send the other copy to Marilyn Hamilton, Mail Code 104-PC, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104 or Marilyn.Hamilton@tdi.texas.gov. You may also present comments at the hearing.

Article 5.96 of the Texas Insurance Code exempts action taken under this article from the requirements of the Administrative Procedure Act (Government Code, Title 10, Chapter 2001).

TRD-201503761

Sara Waitt
General Counsel
Texas Department of Insurance
Filed: September 14, 2015





REVIEW OF AGENCY RULES

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2)

notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Texas Education Agency

Title 19, Part 2

The State Board of Education (SBOE) proposes the review of 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, pursuant to the Texas Government Code, §2001.039. The rules being reviewed by the SBOE in 19 TAC Chapter 33 are organized under Subchapter A, State Board of Education Rules.

As required by the Texas Government Code, §2001.039, the SBOE will accept comments as to whether the reasons for adopting 19 TAC Chapter 33, Subchapter A, continue to exist. The comment period begins with the publication of this notice and must last a minimum of 30 days.

Comments or questions regarding this rule review may be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 475-1497. Comments may also be submitted electronically to rules@tea.texas.gov or faxed to (512) 463-5337.

TRD-201503783

Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: September 15, 2015



The Texas Education Agency (TEA) proposes the review of 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, pursuant to the Texas Government Code, §2001.039. The rules being reviewed by the TEA in 19 TAC Chapter 33 are organized under Subchapter AA, Commissioner's Rules.

As required by the Texas Government Code, §2001.039, the TEA will accept comments as to whether the reasons for adopting 19 TAC Chapter 33, Subchapter AA, continue to exist.

The public comment period on the review of 19 TAC Chapter 33, Subchapter AA, begins September 25, 2015, and ends October 26, 2015. Comments or questions regarding this rule review may be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 475-1497. Comments may also be submitted electronically to rules@tea.texas.gov or faxed to (512) 463-5337.

TRD-201503784

Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: September 15, 2015



The State Board of Education (SBOE) proposes the review of 19 TAC Chapter 157, Hearings and Appeals, pursuant to the Texas Government Code, §2001.039. The rules being reviewed by the SBOE in 19 TAC Chapter 157 are organized under the following subchapters: Subchapter A, General Provisions for Hearings Before the State Board of Education, and Subchapter D, Independent Hearing Examiners.

As required by the Texas Government Code, §2001.039, the SBOE will accept comments as to whether the reasons for adopting 19 TAC Chapter 157, Subchapters A and D, continue to exist. The comment period begins with the publication of this notice and must last a minimum of 30 days.

Comments or questions regarding this rule review may be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 475-1497. Comments may also be submitted electronically to rules@tea.texas.gov or faxed to (512) 463-5337.

TRD-201503785

Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: September 15, 2015



The Texas Education Agency (TEA) proposes the review of 19 TAC Chapter 157, Hearings and Appeals, pursuant to the Texas Government Code, §2001.039. The rules being reviewed by the TEA in 19 TAC Chapter 157 are organized under the following subchapters: Subchapter AA, General Provisions for Hearings Before the Commissioner of Education; Subchapter BB, Specific Appeals to the Commissioner; Subchapter CC, Hearings of Appeals Arising Under Federal Law and Regulations; Subchapter DD, Hearings Conducted by Independent Hearing Examiners; and Subchapter EE, Informal Review, Formal Review, and Review by State Office of Administrative Hearings.

As required by the Texas Government Code, §2001.039, the TEA will accept comments as to whether the reasons for adopting 19 TAC Chapter 157, Subchapters AA-EE, continue to exist.

The public comment period on the review of 19 TAC Chapter 157, Subchapters AA-EE, begins September 25, 2015, and ends October 26, 2015. Comments or questions regarding this rule review may be sub-

mitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494, (512) 475-1497. Comments may also be submitted electronically to rules@tea.texas.gov or faxed to (512) 463-5337.

TRD-201503786

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: September 15, 2015



Adopted Rule Reviews

Texas Board of Nursing

Title 22, Part 11

On July 29, 2015, in accordance with Government Code §2001.039, the Texas Board of Nursing (Board) filed a notice of intention to review and consider for re-adoption, re-adoption with amendments, or repeal, the following chapters contained in Title 22, Part 11, of the Texas Administrative Code, pursuant to the 2015 rule review plan adopted by the Board at its July 2015 meeting. The notice of proposed rule review was published in the August 7, 2015, issue of the *Texas Register* (40 TexReg 5069).

Chapter 211. General Provisions, §§211.1 - 211.9

Chapter 217. Licensure, Peer Assistance, and Practice, §§217.1 - 217.22

Chapter 219. Advanced Practice Nurse Education, §§219.1 - 219.13

The Board did not receive comment on the above rules. The Board has completed its review and has determined that the reasons for originally adopting the above rules continue to exist. The rules were also reviewed to determine whether they were obsolete, whether they reflected current legal and policy considerations and current procedures and practices of the Board, and whether they were in compliance with Texas Government Code Chapter 2001 (Texas Administrative Procedure Act). The Board finds that the rules are not obsolete, reflect current legal and policy considerations, current procedures and practices of the Board, and that the rules are in compliance with the Texas Administrative Procedure Act.

The Board readopts the rules in Chapter 211, Chapter 217, and Chapter 219 without changes, pursuant to the Texas Government Code §2001.039 and Texas Occupations Code §301.151, which authorizes the Board to adopt, enforce, and repeal rules consistent with its legislative authority under the Nursing Practice Act. This concludes the rule review of Chapters 211, 217, and 219 under the 2015 rule review plan adopted by the Board.

TRD-201503692

James W. Johnston

General Counsel

Texas Board of Nursing

Filed: September 11, 2015



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: 10 TAC §11.2

Deadline	Documentation Required
01/04/2016	Application Acceptance Period Begins.
01/08/2016	Pre-Application Final Delivery Date (including waiver requests).
03/01/2016	<p>Full Application Delivery Date (including Quantifiable Community Participation documentation; Environmental Site Assessments (ESAs), Property Condition Assessments (PCAs); Appraisals; Primary Market Area Map; Site Design and Development Feasibility Report; all Resolutions necessary under §11.3 of this chapter related to Housing De-Concentration Factors).</p> <p>Final Input from Elected Officials Delivery Date (including Resolution for Local Government Support pursuant to §11.9(d)(1) of this chapter and State Representative Input pursuant to §11.9(d)(5) of this chapter).</p>
04/01/2016	Market Analysis Delivery Date pursuant to §10.205 of this title.
Mid-May	Final Scoring Notices Issued for Majority of Applications Considered “Competitive.”
June	Release of Eligible Applications for Consideration for Award in July.
July	Final Awards.
Mid-August	Commitments are Issued.
11/01/2016	Carryover Documentation Delivery Date.
07/03/2017	10 Percent Test Documentation Delivery Date.
12/31/2018	Placement in Service.
Five (5) business days after the date on the Deficiency Notice (without incurring point loss)	Administrative Deficiency Response Deadline (unless an extension has been granted).

IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Texas State Affordable Housing Corporation

Notice of Public Hearing Regarding the Issuance of Bonds

Notice is hereby given of a public hearing to be held by the Texas State Affordable Housing Corporation (the "Issuer") at the office of the Issuer at 2200 East Martin Luther King Jr. Blvd., Austin, Texas 78702 on October 14, 2015, at 1:30 p.m. central time, on the proposed issuance by the Issuer of one or more series of multifamily housing revenue bonds (the "Bonds") to provide financing for the acquisition, renovation, rehabilitation and equipping of a multifamily housing project to be known as Woodside Village Apartments consisting of an apartment building or buildings containing approximately 92 units (the "Project"), as well as to fund any working capital for the Project, any reserve funds and costs of issuance for the Bonds. The Project will be located at 2020 Martin Luther King, Jr. Blvd., Palestine, Anderson County, Texas, and will be owned by DHI Woodside Apartments, LLC and its successors and assigns, and will be operated by US Residential Group, LLC. The maximum aggregate face amount of the Bonds to be issued with respect to the Project is \$7,000,000.

All interested persons are invited to attend the public hearing to express orally, or in writing, their views on the Project and the issuance of the Bonds. The Bonds shall not constitute or create an indebtedness, general or specific, or liability of the State of Texas, or any political subdivision thereof. The Bonds shall never constitute or create a charge against the credit or taxing power of the State of Texas, or any political subdivision thereof. Neither the State of Texas, nor any political subdivision thereof shall in any manner be liable for the payment of the principal of or interest on the Bonds or for the performance of any agreement or pledge of any kind which may be undertaken by the Issuer and no breach by the Issuer of any agreements will create any obligation upon the State of Texas, or any political subdivision thereof. Further information with respect to the proposed Bonds will be available at the hearing or upon written request prior thereto addressed to the Issuer at 2200 East Martin Luther King Jr. Boulevard, Austin, Texas 78702, Attention: David W. Danenfelzer; (512) 477-3562.

Individuals who require auxiliary aids in order to attend this meeting should contact Laura Ross, ADA Responsible Employee, at (512) 477-3560 at least two days before the meeting so that appropriate arrangements can be made.

Individuals may transmit written testimony or comments regarding the subject matter of this public hearing to David Danenfelzer at ddanenfelzer@tsahc.org.

David Danenfelzer

Manager of Development Finance Programs

Texas State Affordable Housing Corporation

2200 East Martin Luther King Jr. Boulevard

Austin, Texas 78702

TRD-201503768

David Long

President

Texas State Affordable Housing Corporation

Filed: September 15, 2015

Cancer Prevention and Research Institute of Texas

Cancer Prevention Promotion and Navigation to Clinical Services Request for Applications P-16-PN-2

This award mechanism seeks to fund projects that deliver public education and outreach and navigation to cancer screening and preventive services. The proposed project must assist participants in obtaining prevention interventions being promoted by providing navigation services. Award: Maximum of \$400,000; Maximum duration of 36 months.

A request for applications titled Cancer Prevention Promotion and Navigation to Clinical Services is available online at www.cprit.state.tx.us. Applications will be accepted beginning at 7:00 a.m. CST on September 24, 2015, and must be submitted via the CPRIT Application Receipt System (www.CPRITGrants.org). Only applications submitted at this portal will be considered eligible for evaluation. Applications are due on or before 3:00 p.m. CST on January 7, 2016. CPRIT will not accept late applications or applications that are not submitted via the portal.

TRD-201503655

Heidi McConnell

Chief Operating Officer

Cancer Prevention and Research Institute of Texas

Filed: September 10, 2015

Competitive Continuation/Expansion - Evidence-Based Cancer Prevention Services Request for Applications P-16-CCE-2

This award mechanism seeks to fund continuation or expansion of currently or previously funded projects that have demonstrated exemplary success, as evidenced by project results, outcomes and impact of the currently or previously funded project. The proposed project should closely follow the intent and core elements of the currently or previously funded project. Award: Maximum of \$1.5 M; Maximum duration of 36 months.

A request for applications titled Competitive Continuation/Expansion - Evidence-Based Cancer Prevention Services is available online at www.cprit.state.tx.us. Applications will be accepted beginning at 7:00 a.m. CST on September 24, 2015, and must be submitted via the CPRIT Application Receipt System (www.CPRITGrants.org). Only applications submitted at this portal will be considered eligible for evaluation. Applications are due on or before 3:00 p.m. CST on January 7, 2016. CPRIT will not accept late applications or applications that are not submitted via the portal.

TRD-201503652

Heidi McConnell
Chief Operating Officer
Cancer Prevention and Research Institute of Texas
Filed: September 10, 2015



Dissemination of CPRIT-Funded Cancer Prevention and Control Interventions Request for Applications P-16-DI-2

This award mechanism seeks to fund projects that will facilitate the dissemination and implementation of successful CPRIT-funded, evidence-based cancer prevention and control interventions across Texas. The proposed project should be in a position to develop one or more "products" based on the results of the CPRIT-funded intervention. The proposed project should also identify and assist others to prepare to implement the intervention and/or prepare for grant funding. Award: Maximum of \$300,000; Maximum duration of 24 months

A request for applications titled Dissemination of CPRIT funded Cancer Prevention and Control Interventions is available online at www.cprit.state.tx.us. Applications will be accepted beginning at 7:00 a.m. CST on September 24, 2015, and must be submitted via the CPRIT Application Receipt System (www.CPRITGrants.org). Only applications submitted at this portal will be considered eligible for evaluation. Applications are due on or before 3:00 p.m. CST on January 7, 2016. CPRIT will not accept late applications or applications that are not submitted via the portal.

TRD-201503650

Heidi McConnell
Chief Operating Officer
Cancer Prevention and Research Institute of Texas
Filed: September 10, 2015



Evidence-Based Cancer Prevention Services - Colorectal Cancer Prevention Coalition Request for Applications P-16-EBP-CRC-2

This award mechanism seeks to fund projects that will deliver a comprehensive and integrated colorectal cancer screening project that includes provision of screening, diagnostic, and navigation services in conjunction with outreach and education of the target population through a coalition of partners. The proposed project should be designed to reach and serve as many people as possible by its simultaneous implementation in multiple clinical sites. Award: No dollar limit; cost per person served must be well justified; Maximum duration of 36 months.

A request for applications titled Evidence-Based Cancer Prevention Services- Colorectal Cancer Prevention Coalition is available online at www.cprit.state.tx.us. Applications will be accepted beginning at 7:00 a.m. CST on September 24, 2015, and must be submitted via the CPRIT Application Receipt System (www.CPRITGrants.org). Only applications submitted at this portal will be considered eligible for evaluation. Applications are due on or before 3:00 p.m. CST on January 7, 2016. CPRIT will not accept late applications or applications that are not submitted via the portal.

TRD-201503654

Heidi McConnell
Chief Operating Officer
Cancer Prevention and Research Institute of Texas
Filed: September 10, 2015



Evidence-Based Cancer Prevention Services Request for Applications P-16-EBP-2

This award mechanism seeks to fund projects that will deliver evidence-based cancer prevention and control clinical services. Priority will be given to projects that propose to address CPRIT areas of emphasis and serve areas of the state not well addressed by current CPRIT funded projects. Award: Maximum of \$1.5M; Maximum duration of 36 months.

A request for applications titled Evidence-Based Cancer Prevention Services is available online at www.cprit.state.tx.us. Applications will be accepted beginning at 7:00 a.m. CST on September 24, 2015, and must be submitted via the CPRIT Application Receipt System (www.CPRITGrants.org). Only applications submitted at this portal will be considered eligible for evaluation. Applications are due on or before 3:00 p.m. CST on January 7, 2016. CPRIT will not accept late applications or applications that are not submitted via the portal.

TRD-201503653

Heidi McConnell
Chief Operating Officer
Cancer Prevention and Research Institute of Texas
Filed: September 10, 2015



Evidence-Based Cancer Prevention Services - See, Test & Treat® Program - Request for Applications P-16-EBP-STT-2

This award mechanism seeks to fund projects that will implement the College of American Pathologists (CAP) Foundation's See, Test & Treat programs for underserved populations in Texas. See, Test & Treat is a 1-day community-based cervical and breast cancer screening program organized by pathologists in partnership with medical facilities. Award: Maximum of \$25,000; Maximum duration of 12 months.

A request for applications titled Evidence-Based Cancer Prevention Services is available online at www.cprit.state.tx.us. Applications will be accepted beginning at 7:00 a.m. CST on September 24, 2015, and must be submitted via the CPRIT Application Receipt System (www.CPRITGrants.org). Only applications submitted at this portal will be considered eligible for evaluation. Applications are due on or before 3:00 p.m. CST on January 7, 2016. CPRIT will not accept late applications or applications that are not submitted via the portal.

TRD-201503656

Heidi McConnell
Chief Operating Officer
Cancer Prevention and Research Institute of Texas
Filed: September 10, 2015



Comptroller of Public Accounts

Certification of the Average Closing Price of Gas and Oil - August 2015

The Comptroller of Public Accounts, administering agency for the collection of the Crude Oil Production Tax, has determined, as required by Tax Code, §202.058, that the average taxable price of crude oil for reporting period August 2015 is \$42.56 per barrel for the three-month period beginning on May 1, 2015 and ending July 31, 2015. Therefore, pursuant to Tax Code, §202.058, crude oil produced during the month of August 2015 from a qualified low-producing oil lease is not eligible for a credit on the crude oil production tax imposed by Tax Code, Chapter 202.

The Comptroller of Public Accounts, administering agency for the collection of the Natural Gas Production Tax, has determined, as required by Tax Code, §201.059, that the average taxable price of gas for reporting period August 2015 is \$1.81 per mcf for the three-month period beginning on May 1, 2015 and ending July 31, 2015. Therefore, pursuant to Tax Code, §201.059, gas produced during the month of August 2015 from a qualified low-producing well is eligible for a 100% credit on the natural gas production tax imposed by Tax Code, Chapter 201.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of West Texas Intermediate crude oil for the month of August 2015 is \$42.89 per barrel. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall not exclude total revenue received from oil produced during the month of August 2015 from a qualified low-producing oil well.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code,

§171.1011(s), that the average closing price of gas for the month of August 2015 is \$2.75 per MMBtu. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall exclude total revenue received from gas produced during the month of August 2015 from a qualified low-producing gas well.

Inquiries should be submitted to Teresa G. Bostick, Director, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528.

TRD-201503689

Lita Gonzalez

General Counsel

Comptroller of Public Accounts

Filed: September 11, 2015



Local Sales Tax Rate Changes Effective October 1, 2015

The 1/4 percent city sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code will be abolished, effective September 30, 2015, in the cities listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Rocksprings (Edwards Co)	2069017	.015000	.077500
Ropesville (Hockley Co)	2110034	.015000	.077500
Stratford (Sherman Co)	2211014	.015000	.077500

The 1/2 percent city sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 505 of the Texas Local Government Code Type B Corporations (4B) will be abolished, effective September 30, 2015 in the city listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Gustine (Comanche Co)	2047032	.015000	.077500

An additional 1/4 percent city sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code will become effective October 1, 2015 in the cities listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Granger (Williamson Co)	2246040	.017500	.080000
White Deer (Carson Co)	2033029	.020000	.082500
Yorktown (DeWitt Co)	2062014	.015000	.077500

An additional 1/4 percent city sales and use tax for property tax relief will become effective October 1, 2015 in the cities listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Lake Dallas (Denton Co)	2061015	.020000	.082500
Sonora (Sutton Co)	2218017	.020000	.082500

An additional 1/2 percent city sales and use tax for property tax relief will become effective October 1, 2015 in the cities listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Granite Shoals (Burnet Co)	2027036	.017500	.080000
Reno (Parker Co)	2184062	.020000	.082500
Reno (Tarrant Co)	2184062	.015000	.077500
Sandy Oaks	2015263	.020000	.082500

An additional 3/8 percent city sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 504 of the Texas Local Government code, Type A Corporations (4A) will become effective October 1, 2015 in the city listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Southlake (Tarrant Co)	2220273	.020000	.082500
Southlake (Denton Co)	2220273	.020000	.082500

An additional 1/4 percent city sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 505 of the Texas Local Government code, Type B Corporations (4B) will become effective October 1, 2015 in the city listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Panhandle (Carson Co)	2033010	.020000	.082500

An additional 1/2 percent city sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 505 of the Texas Local Government code, Type B Corporations (4B) will become effective October 1, 2015 in the cities listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Combes (Cameron Co)	2031094	.020000	.082500
Deer Park (Harris Co)	2101268	.020000	.082500

The two 1/8 percent city sales and use taxes for Sports and Community Venue as permitted under Chapter 334 of the Texas Local Government Code will be abolished, effective September 30, 2015, and a 1/4 percent city sales and use tax for Sports and Community Venue as permitted under Chapter 334 of the Texas Local Government Code will become effective October 1, 2015 in the city listed below. There will be no change in the local rate or total rate.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Grand Prairie (Dallas Co)	2220013	.017500	.082500
Grand Prairie (Ellis Co)	2220013	.017500	.082500
Grand Prairie (Tarrant Co)	2220013	.017500	.082500

An additional one percent city sales and use tax that includes the adoption of a 1/4 percent sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code and adoption of an additional 1/4 percent city sales and use tax as permitted under Chapter 504 of the Texas Local Government Code, Type A Corporations (4A) plus an additional 1/2 percent as permitted under Chapter 505 of the Texas Local Government Code, Type B Corporations (4B) will become effective October 1, 2015 in the city listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Santa Rosa (Cameron Co)	2031030	.020000	.082500

The additional 1/2 percent sales and use tax for property tax relief will be reduced to 3/8 percent and the adoption of an additional 1/8 percent sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 505 of the Texas Local Government Code, Type B Corporation (4B) will become effective October 1, 2015 in the city listed below. There will be no change in the local rate or total rate.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Stephenville (Erath Co)	2072021	.020000	.082500

The 1/2 percent special purpose district sales and use tax will be reduced to 1/8 percent effective September 30, 2015 in the Special Purpose District listed below.

<u>SPD NAME</u>	<u>LOCAL CODE</u>	<u>NEW RATE</u>	<u>TOTAL RATE</u>
Southlake Crime Control District	5220594	.0012500	.082500

The following special purpose districts have consolidated into one and abolished tax in the other. The Montgomery County Emergency Services District No. 5 has abolished its special purpose district sales and use tax and has consolidated with the Montgomery County Emergency Services District No. 9. The 2 percent local sales and use tax

in Montgomery County Emergency Services District No. 5 will be abolished, effective September 30, 2015, and local sales tax should now be reported as follows in the Special Purpose District listed below.

<u>SPD NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Montgomery County Emergency Services District No. 5	5170656	.000000	SEE NOTE 1
Montgomery County Emergency Services District No. 9	5170585	.020000	SEE NOTE 1

A 1/4 percent special purpose district sales and use tax will become effective October 1, 2015 in the special purpose district listed below.

<u>SPD NAME</u>	<u>LOCAL CODE</u>	<u>NEW RATE</u>	<u>TOTAL RATE</u>
Combes Municipal Development District	5031511	.002500	SEE NOTE 2

A 1/2 percent special purpose district sales and use tax will become effective October 1, 2015 in the special purpose districts listed below.

<u>SPD NAME</u>	<u>LOCAL CODE</u>	<u>NEW RATE</u>	<u>TOTAL RATE</u>
Crane County Assistance District	5052506	.005000	SEE NOTE 3
Granger Municipal Development District	5246558	.005000	SEE NOTE 4

A one percent special purpose district sales and use tax will become effective October 1, 2015 in the special purpose district listed below.

<u>SPD NAME</u>	<u>LOCAL CODE</u>	<u>NEW RATE</u>	<u>TOTAL RATE</u>
Harris County Emergency Services District No. 16	5101927	.010000	SEE NOTE 5

A 1 1/2 percent special purpose district sales and use tax will become effective October 1, 2015 in the special purpose districts listed below.

<u>SPD NAME</u>	<u>LOCAL CODE</u>	<u>NEW RATE</u>	<u>TOTAL RATE</u>
Bexar County Emergency Services District No. 3	5015593	.015000	SEE NOTE 6
Caldwell Hays Emergency Services District No. 1-A	5028516	.015000	SEE NOTE 7
Travis County Emergency Services District No. 10	5227702	.015000	SEE NOTE 8
Walker County Emergency Services District No. 2	5236505	.015000	SEE NOTE 9

A two percent special purpose district sales and use tax will become effective October 1, 2015 in the special purpose districts listed below.

<u>SPD NAME</u>	<u>LOCAL CODE</u>	<u>NEW RATE</u>	<u>TOTAL RATE</u>
Burnet County Emergency Services District No. 4	5027544	.020000	SEE NOTE 10
Burnet County Emergency Services District No. 6	5027535	.020000	SEE NOTE 11

NOTE 1: The Montgomery County Emergency Services District No. 9 is located in the east central portion of Montgomery County. The unincorporated areas of Montgomery County in ZIP Codes 77301, 77302, 77306 and 77365 are partially located within the Montgomery County Emergency Services District No. 9. Effective October 1, 2015, the area formerly known as the Montgomery County Emergency Services District No. 5 became part of this district due to consolidation. Contact the district representative at 936-231-3527 for additional boundary information.

NOTE 2: The Combes Municipal Development District has the same boundaries as the Combes Extra-Territorial Jurisdiction which includes the city of Combes. Contact the district representative at 956-425-7131 for additional boundary information.

NOTE 3: The boundaries for the Crane County Assistance District are the same as the boundaries for Crane County.

NOTE 4: The boundaries for the Granger Municipal Development District are the same as the boundaries as the city of Granger.

NOTE 5: The Harris County Emergency Services District No. 16 is located in the north central portion of Harris County. The district's boundaries exclude areas of the district which are responsible for collecting and remitting sales and use tax to the city of Houston due to a strategic partnership agreement between a utility district and the city of Houston for the imposition of sales and use tax. The district is located entirely within the Houston MTA, which imposes a transit sales and use tax. The unincorporated areas of Harris County in ZIP Codes 77014, 77068, 77069, 77070, 77373, 77375, 77377, 77379 and 77429 are partially located in the Harris County Emergency Services District No. 16. Contact the district representative at 713-984-8222 for additional boundary information.

NOTE 6: The Bexar County Emergency Services District No. 3 is located in the northern portion of Bexar County. The district is located entirely within the San Antonio MTA, which has a transit sales and use tax. The district does not include any area within the city of San Antonio. The district excludes, for sales tax purposes, any area in the Cibolo Canyons Special Improvement District, which has a special purpose district sales and use tax. The unincorporated areas of Bexar County in ZIP codes 78163, 78258, 78259, 78260, 78261 and 78266 are partially located in the Bexar County Emergency Services District No. 3. Contact the district representative at 210-722-3498 for additional boundary information.

NOTE 7: The Caldwell Hays Emergency Services District No. 1-A is the unincorporated area of the original district excluding the area within the cities of Buda, Kyle, Lockhart, Mustang Ridge, Niederwald and Umland and the Kyle/Caldwell Hays Emergency Services District No. 1 Combined Area, which all have sales and use taxes. The unincorporated areas of Caldwell and Hays counties in ZIP Codes 78610, 78616, 78640, 78644 and 78656 are partially located within the Caldwell Hays Emergency Services District No. 1-A. Contact the district representative at 512-718-0282 for additional boundary information.

NOTE 8: The Travis County Emergency Services District No. 10 is located in the south-central portion of Travis County. The district is located within the Westbank Community Library District, which imposes a special purpose district sales and use tax. The district does not include any area within the city of Austin, the Austin MTA and the Austin/Westbank Community Library District Combined Area. The unincorporated areas of Travis County in ZIP Codes 78733 and 78746 are

partially located in the Travis County Emergency Services District No. 10. Contact the district representative at 512-263-7390 for additional boundary information.

NOTE 9: The Walker County Emergency Services District No. 2 is located in the southern portion of Walker County, which has a county sales and use tax. The district does not include any area within the city of Huntsville. The district excludes, for sales tax purposes any area in the city of New Waverly. The unincorporated areas of Walker County in ZIP Codes 77340 and 77358 are partially located within the Walker County Emergency Services District No. 2. Contact the district representative at 713-984-8222 for additional boundary information.

NOTE 10: The Burnet County Emergency Services District No. 4 is located in the east-central portion of Burnet County. The district excludes, for sales tax purposes, any area within the city of Bertram. The unincorporated areas of Burnet County in ZIP Code 78605 are partially located in the Burnet County Emergency Services District No. 4. Contact the district representative at 512-355-2717 for additional boundary information.

NOTE 11: The Burnet County Emergency Services District No. 6 is located in the southwestern portion of Burnet County. The district does not include any area within territorial limits and extraterritorial jurisdictions of the cities of Marble Falls and Meadowlakes. The unincorporated areas of Burnet County in ZIP Code 78654 are partially located in the Burnet County Emergency Services District No. 6. Contact the district representative at 830-637-7128 for additional boundary information.

TRD-201503690
Lita Gonzalez
General Counsel
Comptroller of Public Accounts
Filed: September 11, 2015



Notice of Request for Applications

Pursuant to Chapters 403, 447 and 2305, Texas Government Code; and the State Energy Plan ("SEP") and related legal authority and regulations, the Texas Comptroller of Public Accounts (Comptroller), State Energy Conservation Office ("SECO"), announces this Request for Applications (RFA #AF-G1-2015). SECO anticipates awarding up to \$600,000.00 in rebate funding and invites applications from eligible interested Texas Independent School Districts for rebate funds for the SECO Alternative Fuels Initiatives Program. Individual awards, if any, are not to exceed \$80,000.00. To be eligible, prospective applicants must be a Texas Independent School District ("ISD"). Comptroller reserves the right to award more than one rebate agreement under the terms of this RFA. If a rebate award is made under the terms of the RFA, selected applicants will be expected to begin performance of the rebate agreement on or about November 30, 2015, or as soon thereafter as practical.

Contact: For general questions about these instructions or the application form, please contact Joseph Madden, Assistant General Counsel, Contracts, Texas Comptroller of Public Accounts, at: 111 E. 17th St., Room 201, Austin, Texas 78774 ("Issuing Office") via email to contracts@cpa.texas.gov or fax to (512) 463-3669. This RFA will be published after 10:00 a.m. Central Time ("CT") on Friday, September 25, 2015, and posted on the Electronic State Business Daily ("ESBD") at: <http://esbd.cpa.state.tx.us> after 10:00 a.m. CT on Friday, September 25, 2015, and the SECO website at: <http://www.seco.cpa.state.tx.us/funding/> shortly thereafter.

Questions: All written inquiries and questions must be received in the Issuing Office no later than 2:00 p.m. CT on October 16, 2015. Prospective applicants are encouraged to send questions via email to contracts@cpa.texas.gov or fax to (512) 463-3669 to ensure timely receipt. On or about October 23, 2015, or as soon thereafter as practical, Comptroller expects to post responses to the questions received by the deadline on the ESBD.

Closing Date: Applications must be delivered to the Issuing Office to the attention of the Assistant General Counsel, Contracts, no later than 2:00 p.m. CT, on Friday, October 30, 2015. Comptroller will NOT accept applications submitted via fax or email. **Late applications will not be accepted or considered under any circumstances.**

Evaluation Criteria: Applications will be evaluated under the criteria outlined in the RFA. Comptroller reserves the right to accept or reject any or all applications submitted. Comptroller is not obligated to execute a contract on the basis of this notice or the distribution of any RFA. Comptroller shall not pay for any costs incurred by any entity in responding to this notice or to the RFA.

The anticipated schedule of events pertaining to this RFA is as follows: Issuance of RFA - September 25, 2015, after 10:00 a.m. CT; Questions Due - October 16, 2015, 2:00 p.m. CT; Official Responses to Questions posted - October 23, 2015; Applications Due - October 30, 2015, 2:00 p.m. CT; Rebate Agreement Execution - November 30, 2015, or as soon thereafter as practical; Commencement of Project - November 30, 2015, or as soon thereafter as practical.

TRD-201503780
Joseph Madden
Assistant General Counsel, Contracts
Comptroller of Public Accounts
Filed: September 15, 2015



Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003 and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 09/21/15 - 09/27/15 is 18% for Consumer¹/Agricultural/Commercial² credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 09/21/15 - 09/27/15 is 18% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

² Credit for business, commercial, investment or other similar purpose.

TRD-201503775

Leslie Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: September 15, 2015

Credit Union Department

Application to Expand Field of Membership

Notice is given that the following applications have been filed with the Credit Union Department (Department) and are under consideration:

An application was received from Texas Dow Employees Credit Union, Lake Jackson, Texas to expand its field of membership. The proposal would permit members of the University of Houston Alumni Association to be eligible for membership in the credit union.

An application was received from Union Square Credit Union, Wichita Falls, Texas to expand its field of membership. The proposal would permit persons who live, work, worship or attend school in Archer, Baylor, Clay, Wichita or Wilbarger Counties, Texas, or Cotton or Tillman Counties, Oklahoma, to be eligible for membership in the credit union.

An application was received from First Service Credit Union, Houston, Texas to expand its field of membership. The proposal would permit persons who live, work, attend school and business entities located within a 10-mile radius of the First Service Credit Union branch located at 8640 Spring Cypress Road, Spring, Texas 77379, 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-201503796

Harold E. Feeney

Commissioner

Credit Union Department

Filed: September 16, 2015

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

Neighborhood Credit Union, Dallas, Texas - See *Texas Register* issue dated April 24, 2015.

Public Employees Credit Union, Austin, Texas (Modified) - Persons who live, worship, attend school or work within a 10-mile radius of the Public Employees Credit Union office located at 15800 N. FM 620, Austin, Texas 78717.

InTouch Credit Union, Plano, Texas - See *Texas Register* issue dated July 24, 2015.

TRD-201503798

Harold E. Feeney

Commissioner

Credit Union Department

Filed: September 16, 2015

Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency, 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 October 26, 2015. 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 October 26, 2015. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission 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: Angel Campos; DOCKET NUMBER: 2015-1315-WOC-E; IDENTIFIER: RN108489709; LOCATION: Yorktown, DeWitt County; TYPE OF FACILITY: waste water treatment plant;

RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$175; ENFORCEMENT COORDINATOR: Rachel Bekowies, (512) 239-2608; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(2) COMPANY: APAC-TEXAS, Incorporated; DOCKET NUMBER: 2015-0896-EAQ-E; IDENTIFIER: RN104158605; LOCATION: Liberty Hill, Williamson County; TYPE OF FACILITY: construction material and transfer facility; RULES VIOLATED: 30 TAC §213.23(i) and Edwards Aquifer Contributing Zone Plan (CZP) Number 11-04010601 Standard Condition Number 3, by failing to obtain approval of a modification to an approved Edwards Aquifer CZP prior to constructing the modification; and 30 TAC §213.23(k)(1) and Edwards Aquifer CZP Number 11-10031501 Standard Condition Number 11, by failing to maintain permanent best management practices after construction; PENALTY: \$11,438; ENFORCEMENT COORDINATOR: Jennifer Graves, (956) 430-6023; REGIONAL OFFICE: 12100 Park 35 Circle, Building A, Austin, Texas 78753, (512) 339-2929.

(3) COMPANY: Cameo Homes, Incorporated; DOCKET NUMBER: 2015-0813-WQ-E; IDENTIFIER: RN108246596; LOCATION: Killeen, Bell County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater associated with construction activities under Texas Pollutant Discharge Elimination System General Permit Number TXR150000; PENALTY: \$4,659; ENFORCEMENT COORDINATOR: Katelyn Samples, (512) 239-4728; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(4) COMPANY: Chance Harlan Chambers; DOCKET NUMBER: 2015-0781-WOC-E; IDENTIFIER: RN106557358; LOCATION: Ingram, Kerr County; TYPE OF FACILITY: operator; RULES VIOLATED: 30 TAC §30.5(a) and §30.381(b), TWC, §37.003, and Texas Health and Safety Code, §341.034(b), by failing to obtain a valid water system operator's license prior to performing process control duties in production, treatment, and distribution of public drinking water; PENALTY: \$946; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(5) COMPANY: CONTINENTAL CREAM QUARRIES, LLC; DOCKET NUMBER: 2014-0952-MLM-E; IDENTIFIER: RN107247272; LOCATION: Liberty Hill, Williamson County; TYPE OF FACILITY: aggregate production operation (APO); RULES VIOLATED: 30 TAC §213.4(a)(1), by failing to obtain approval of an Edwards Aquifer Protection Plan prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone; 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization to discharge stormwater associated with industrial activities at the facility under Texas Pollutant Discharge Elimination System Multi-Sector General Permit Number TXR050000; and 30 TAC §342.25, by failing to register the site as an APO by October 30, 2012; PENALTY: \$50,000; ENFORCEMENT COORDINATOR: Heather Brister, (817) 588-5825; REGIONAL OFFICE: 12100 Park 35 Circle, Building A, Austin, Texas 78753, (512) 339-2929.

(6) COMPANY: Erna Frac Sand, L.C.; DOCKET NUMBER: 2015-0901-AIR-E; IDENTIFIER: RN105643027; LOCATION: Mason, Mason County; TYPE OF FACILITY: frac sand mine; RULES VIOLATED: 30 TAC §116.116(a)(1) and Texas Health and Safety Code, §382.085(b), by failing to comply with the representations with regard to construction plans and operation procedures in an application for a permit; PENALTY: \$1,000; ENFORCEMENT

COORDINATOR: Eduardo Heras, (512) 239-2422; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(7) COMPANY: Geviga, LLC; DOCKET NUMBER: 2015-0957-EAQ-E; IDENTIFIER: RN105835391; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: commercial development; RULES VIOLATED: 30 TAC §213.4(a)(1) and (j)(3), and Edwards Aquifer Protection Plan Number 13-09111001A, Standard Conditions Number 6, by failing to obtain approval of a modification to an approved Water Pollution Abatement Plan prior to initiating a regulated activity over the Edwards Aquifer Recharge Zone; PENALTY: \$1,250; ENFORCEMENT COORDINATOR: Jill Russell, (512) 239-4564; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(8) COMPANY: Juan J. Quiroz, Jr.; DOCKET NUMBER: 2015-1317-WOC-E; IDENTIFIER: RN106135676; LOCATION: Banquete, Nueces County; TYPE OF FACILITY: waste water treatment plant; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$175; ENFORCEMENT COORDINATOR: Rachel Bekowies, (512) 239-2608; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(9) COMPANY: Lion Elastomers LLC; DOCKET NUMBER: 2015-0945-AIR-E; IDENTIFIER: RN100224799; LOCATION: Port Neches, Jefferson County; TYPE OF FACILITY: styrene-butadiene rubber manufacturing plant; RULES VIOLATED: 30 TAC §116.115(c) and §122.143(4), Texas Health and Safety Code (THSC), §382.085(b), Federal Operating Permit (FOP) Number O1224, Special Terms and Conditions (STC) Number 13, and New Source Review Permit Number 9908, Special Conditions Number 1, by failing to prevent unauthorized emissions; and 30 TAC §101.201(a)(1)(B), THSC, §382.085(b), and FOP Number O1224, STC Number 2.F., by failing to submit the initial notification for a reportable emissions event within 24 hours of discovery; PENALTY: \$6,680; ENFORCEMENT COORDINATOR: Jessica Schildwacher, (512) 239-2617; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(10) COMPANY: Monarch Utilities I L.P.; DOCKET NUMBER: 2015-0962-PWS-E; IDENTIFIER: RN101376986; LOCATION: Pottsboro, Grayson County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes based on the locational running annual average; PENALTY: \$357; ENFORCEMENT COORDINATOR: Abigail Lindsey, (512) 239-2576; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(11) COMPANY: North Texas Municipal Water District; DOCKET NUMBER: 2014-1440-WQ-E; IDENTIFIER: RN102315579 (Facility Number 1) and RN101701332 (Facility Number 2); LOCATION: Wylie, Collin County (Facility Number 1) and Mesquite, Dallas County (Facility Number 2); TYPE OF FACILITY: surface water treatment facility (Facility Number 1) and wastewater treatment facility (Facility Number 2); RULES VIOLATED: TWC, §26.121(a)(1), by failing to prevent an unauthorized discharge into or adjacent to any water in the state (Facility Number 1); and TWC, §26.121(a)(1), 30 TAC §305.125(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010221001, Permit Conditions Number 2.g., by failing to prevent an unauthorized discharge of untreated wastewater into or adjacent to any water in the state (Facility Number 2); PENALTY: \$15,000; Supplemental Environmental Project offset amount of \$15,000; ENFORCEMENT COORDINATOR: Jill Russell,

(512) 239-4564; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(12) COMPANY: Plainview BioEnergy, LLC; DOCKET NUMBER: 2015-0624-IWD-E; IDENTIFIER: RN101983278; LOCATION: Plainview, Hale County; TYPE OF FACILITY: ethanol production via natural fermentation facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0004935000, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; and 30 TAC §§305.125(1) and (17), 319.1, and 319.7(a)(4), and TPDES Permit Number WQ0004935000, Monitoring and Reporting Requirements Number 1, by failing to include all effluent monitoring results on the discharge monitoring reports; PENALTY: \$15,960; Supplemental Environmental Project offset amount of \$6,384; ENFORCEMENT COORDINATOR: Jason Fraley, (512) 239-2552; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3421, (806) 796-7092.

(13) COMPANY: Sam R. Bownds; DOCKET NUMBER: 2015-1316-WOC-E; IDENTIFIER: RN103546313; LOCATION: Wichita Falls, Wichita County; TYPE OF FACILITY: customer service inspections; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$175; ENFORCEMENT COORDINATOR: Rachel Bekowies, (512) 239-2608; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(14) COMPANY: Texas Department of Transportation; DOCKET NUMBER: 2015-0846-PST-E; IDENTIFIER: RN102041316; LOCATION: Lubbock, Lubbock County; TYPE OF FACILITY: fleet refueling facility; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month; and 30 TAC §334.51(a)(6) and TWC, §26.3475(c)(2), by failing to maintain all spill prevention devices in good operating condition; PENALTY: \$4,688; Supplemental Environmental Project offset amount of \$3,751; ENFORCEMENT COORDINATOR: John Duncan, (512) 239-2720; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3421, (806) 796-7092.

(15) COMPANY: Texas Molecular Limited Partnership; DOCKET NUMBER: 2015-0958-AIR-E; IDENTIFIER: RN100209568; LOCATION: Deer Park, Harris County; TYPE OF FACILITY: waste disposal and chemical processing plant; RULES VIOLATED: 30 TAC §122.143(4) and §122.145(2)(A), Texas Health and Safety Code (THSC), §382.085(b), and Federal Operating Permit (FOP) Number O1603, General Terms and Conditions, by failing to report all instances of deviations; 30 TAC §122.121 and §122.210(a) and THSC, §382.054 and §382.085(b), by failing to obtain a revision to a FOP; and 30 TAC §117.310(f) and §122.143(4), THSC, §382.085(b), and FOP Number O1603, Special Terms and Conditions Number 1A, by failing to prevent the operation of engines for testing or maintenance during the restricted hours of operation; PENALTY: \$28,613; Supplemental Environmental Project offset amount of \$11,445; ENFORCEMENT COORDINATOR: Amancio R. Gutierrez, (512) 239-3921; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(16) COMPANY: The Texas Department of Transportation; DOCKET NUMBER: 2015-0618-PST-E; IDENTIFIER: RN103048914; LOCATION: San Benito, Cameron County; TYPE OF FACILITY: fleet refueling facility; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks (USTs) for releases at a frequency of at least once every month; 30 TAC §334.10(b)(1)(B), by failing to maintain UST records and make

them immediately available for inspection upon request by agency personnel; 30 TAC §334.8(c)(5)(C), by failing to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form; and 30 TAC §334.602(a)(4), by failing to post weather-resistant signage with emergency contact information on the dispensers for an unmanned facility; PENALTY: \$5,627; Supplemental Environmental Project offset amount of \$4,502; ENFORCEMENT COORDINATOR: John Duncan, (512) 239-2720; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(17) COMPANY: Total Petrochemicals & Refining USA, Incorporated; DOCKET NUMBER: 2015-0324-AIR-E; IDENTIFIER: RN102457520; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: petroleum refinery; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), Texas Health and Safety Code, §382.085(b), Federal Operating Permit Number O1267, Special Terms and Conditions Number 29, and New Source Review Permit Numbers 46396, PSDTX1073M1, and N044, Special Conditions Number 1, by failing to prevent unauthorized emissions; PENALTY: \$54,564; Supplemental Environmental Project offset amount of \$21,826; ENFORCEMENT COORDINATOR: Amancio R. Gutierrez, (512) 239-3921; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(18) COMPANY: Tx Xpress LLC dba Gas & Go 8; DOCKET NUMBER: 2015-0933-PST-E; IDENTIFIER: RN102431954; LOCATION: Abilene, Taylor County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(2) and TWC, §26.3475(a), by failing to provide release detection for the pressurized piping associated with the underground storage tank system; PENALTY: \$2,942; ENFORCEMENT COORDINATOR: Keith Frank, (512) 239-1203; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(19) COMPANY: ZANELLI FAMILY PARTNERSHIP, LIMITED; DOCKET NUMBER: 2015-0786-PWS-E; IDENTIFIER: RN107068876; LOCATION: Katy, Harris County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.109(c)(2)(A)(i) and Texas Health and Safety Code, §341.033(d), by failing to collect a routine distribution water sample for coliform analysis; 30 TAC §290.110(e)(4)(A) and (f)(3), by failing to submit a Disinfectant Level Quarterly Operating Report to the executive director each quarter by the tenth day of the month following the end of the quarter; and 30 TAC §290.117(c)(2)(A) and (i)(1), by failing to collect lead and copper samples at the required five sample sites, have the samples analyzed at a TCEQ approved laboratory, and submit the results to the executive director; PENALTY: \$2,039; ENFORCEMENT COORDINATOR: Ryan Byer, (512) 239-2571; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

TRD-201503767

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: September 15, 2015



Enforcement Orders

An agreed order was entered regarding ALAMO RECYCLE CENTERS LLC, Docket No. 2012-2270-MSW-E on September 8, 2015, assessing \$3,562 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting J. Amber Ahmed, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Trident Environmental Resource Consulting, LLC, Docket No. 2013-0871-MSW-E on September 8, 2015, assessing \$725 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting J. Amber Ahmed, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding NORTH VICTORIA UTILITIES, INC., Docket No. 2013-1695-PWS-E on September 8, 2015, assessing \$1,842 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Elizabeth Carroll Harkrider, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding JAN ENTERPRISES INC. dba Nikus Lucky Lady, Docket No. 2014-0481-PST-E on September 8, 2015, assessing \$6,699 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Joel Cordero, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding TEXAS FLUORESCENCE LABORATORIES, INC., Docket No. 2014-0654-IHW-E on September 8, 2015, assessing \$6,300 in administrative penalties with \$2,700 deferred.

Information concerning any aspect of this order may be obtained by contacting Elizabeth Lieberknecht, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Irma International, Inc. dba Irma's Travel Center, Docket No. 2014-0997-PST-E on September 8, 2015, assessing \$7,500 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jake Marx, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Justin Gray, Docket No. 2014-1275-MSW-E on September 8, 2015, assessing \$1,312 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tracy Chandler, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SAL Construction Management, LLC, Docket No. 2014-1382-WQ-E on September 8, 2015, assessing \$1,938 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting J. Amber Ahmed, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ZIGGY MART LLC, Docket No. 2014-1839-PST-E on September 8, 2015, assessing \$3,375 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jess Robinson, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CHCA West Houston, L.P. dba West Houston Medical Center, Docket No. 2015-0171-PST-E on September 8, 2015, assessing \$5,460 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tracy Chandler, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201503797
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: September 16, 2015



Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **October 26, 2015**. TWC, §7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239 3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711 3087 and must be **received by 5:00 p.m. on October 26, 2015**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, TWC, §7.075 provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: Marla Capital Corp., Inc. d/b/a Dairy Ashford Texaco; DOCKET NUMBER: 2015-0203-PST-E; TCEQ ID NUMBER: RN105927818; LOCATION: 3880 South Dairy Ashford Street, Houston, Harris County; TYPE OF FACILITY: underground storage tank system and a convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.72, by failing to report a suspected release to the TCEQ within 24 hours of discovery; and 30 TAC §334.74, by failing to investigate a suspected release of a regulated substance within 30 days of discovery; PENALTY: \$30,466; STAFF ATTORNEY: Colleen Lenahan, Litigation Division, MC 175, (512)

239-6909; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: Roy Robinson and Kathleen Robinson; DOCKET NUMBER: 2014-1037-MLM-E; TCEQ ID NUMBER: RN100873751; LOCATION: 2701 Avenue S, Texas City, Galveston County; TYPE OF FACILITY: dry material transportation facility; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization for the facility to discharge storm water associated with industrial activities under Texas Pollutant Discharge Elimination System Multi-Sector General Permit Number TXR050000; and TWC, §26.121(a)(1) and 30 TAC §335.4(1), by failing to prevent the discharge of industrial solid waste from the facility into or adjacent to water in the state; PENALTY: \$5,887; STAFF ATTORNEY: Tracy Chandler, Litigation Division, MC 175, (512) 239-0629; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(3) COMPANY: SPECIALTY COATINGS/FLUIDAIRE, INC.; DOCKET NUMBER: 2014-0147-IHW-E; TCEQ ID NUMBER: RN100602648; LOCATION: 1014 Commercial Boulevard North, Arlington, Tarrant County; TYPE OF FACILITY: industrial paint and coating manufacturing operation; RULES VIOLATED: 30 TAC §335.4, by failing to prevent the storage or disposal of industrial solid or hazardous waste in such a manner as to cause the discharge or imminent threat of discharge into waters in the state; and 30 TAC §§335.62, 335.503, and 335.504 and 40 Code of Federal Regulations §262.11, by failing to conduct waste determinations and waste classifications; PENALTY: \$27,000; STAFF ATTORNEY: Jennifer Cook, Litigation Division, MC 175, (512) 239-1873; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-201503777

Kathleen C. Decker
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: September 15, 2015



Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent an executive director's preliminary report and petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075 this notice of the proposed order and the opportunity to comment is 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 **October 26, 2015**. The commission will consider any written comments received and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO 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 DO is not required

to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on October 26, 2015**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075 provides that comments on the DOs shall be submitted to the commission in **writing**.

(1) COMPANY: Daniel Dennis Hartman d/b/a Northside Wastewater Systems; DOCKET NUMBER: 2015-0191-SLG-E; TCEQ ID NUMBER: RN105715874; LOCATION: 24703 Hardin Store Road, Magnolia, Montgomery County; TYPE OF FACILITY: unregistered sludge transporter business; RULES VIOLATED: 30 TAC §312.142(a) and (d), by failing to submit an application to renew a sludge transporter registration; 30 TAC §312.145(b)(4), by failing to submit to the executive director an annual summary report by July 1st of Respondent's activities for the previous period of June 1st- May 31st of each year; 30 TAC §312.145(a)(8), by failing to include the volume of the septic tank on the record of each individual collection and deposit; and 30 TAC §312.9, by failing to pay outstanding consolidated municipal transporter sludge fees; PENALTY: \$2,750; STAFF ATTORNEY: Jennifer Cook, Litigation Division, MC 175, (512) 239-1873; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: James E. Moore, Jr.; DOCKET NUMBER: 2015-0189-LII-E; TCEQ ID NUMBER: RN106315658; LOCATION: 304 Northington Street, Lampasas, Lampasas County; TYPE OF FACILITY: landscape irrigation business; RULES VIOLATED: 30 TAC §§344.35(d)(4), 344.50(b), and 344.51(d)(2), by failing to install an appropriate backflow prevention device for an irrigation system; 30 TAC §344.62(b)(2), (g), (l)(1), and (m)(4), by failing to comply with minimum design and installation requirements; and 30 TAC §344.38, by failing to provide the TCEQ with requested records within 10 business days of the request; PENALTY: \$2,221; STAFF ATTORNEY: Colleen Lenahan, Litigation Division, MC 175, (512) 239-6909; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(3) COMPANY: John Charles Whitworth d/b/a Johnny Whitworth Trucking; DOCKET NUMBER: 2015-0371-MSW-E; TCEQ ID NUMBER: RN107807018; LOCATION: approximately 0.1 miles north of the intersection of County Road 370 and United States Highway 377, London, Kimble County; TYPE OF FACILITY: carrier trucking operation; RULES VIOLATED: TWC, §26.266(a) and 30 TAC §327.5(a), by failing to immediately abate and contain a discharge or spill; PENALTY: \$1,250; STAFF ATTORNEY: Jennifer Cook, Litigation Division, MC 175, (512) 239-1873; REGIONAL OFFICE: San Angelo Regional Office, 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

TRD-201503776

Kathleen C. Decker
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: September 15, 2015



Notice of Public Hearing

Assessment of Administrative Penalties and Requiring Certain Actions of Lance Walker

SOAH Docket No. 582-16-0070

TCEQ Docket No. 2014-1885-MSW-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing at:

10:00 a.m. October 8, 2015

William P. Clements Building

300 West 15th Street, 4th Floor

Austin, Texas 78701

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed June 15, 2015 concerning assessing administrative penalties against and requiring certain actions of Lance Walker, for violations in Hidalgo County, Texas, of: 30 Tex. Admin. Code §330.15(c).

The hearing will allow Lance Walker, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford Lance Walker, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. Upon failure of Lance Walker to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes. Lance Walker, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code §7.054 and ch. 7, Tex. Health & Safety Code ch. 361 and 30 Tex. Admin. Code chs. 70 and 330; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Tex. Admin. Code §§70.108 and 70.109 and ch. 80, and 1 Tex. Admin. Code ch. 155.

Further information regarding this hearing may be obtained by contacting Tracy Chandler, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Vic McWherter, Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at <http://www.tceq.texas.gov/goto/eFilings> or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When

contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: September 11, 2015

TRD-201503715

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 14, 2015



Notice of Public Hearing

Assessment of Administrative Penalties and Requiring Certain Actions of LOKHAN, INC. dba Git It Kwik

SOAH Docket No. 582-16-0125

TCEQ Docket No. 2015-0552-PST-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing at:

10:00 a.m. October 8, 2015

William P. Clements Building

300 West 15th Street, 4th Floor

Austin, Texas 78701

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed July 10, 2015, concerning assessing administrative penalties against and requiring certain actions of LOKHAN, INC. d/b/a Git It Kwik, for violations in Hunt County, Texas, of: Texas Water Code §26.3475(a) and (c)(1), 30 Texas Administrative Code §334.50(b)(1)(A) and (b)(2), and Agreed Order 2013-1593-PST-E, Section IV.2.a.ii.

The hearing will allow LOKHAN, INC. d/b/a Git It Kwik, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford LOKHAN, INC. d/b/a Git It Kwik, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. Upon failure of LOKHAN, INC. d/b/a Git It Kwik to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes. LOKHAN, INC. d/b/a Git It Kwik, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Texas Water Code §7.054 and chs. 7 and 26 and 30 Texas Administrative Code chs. 70 and 334; Texas Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30

Texas Administrative Code §70.108 and §70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting Meaghan M. Bailey, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Vic McWherter, Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at <http://www.tceq.texas.gov/goto/eFilings> or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: September 11, 2015

TRD-201503716

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 14, 2015



Notice of Public Hearing

Assessment of Administrative Penalties and Requiring Certain Actions of NEWELL RECYCLING COMPANY OF EL PASO, L.P.

SOAH Docket No. 582-16-0071

TCEQ Docket No. 2013-1884-MSW-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing at:

10:00 a.m. October 8, 2015

William P. Clements Building

300 West 15th Street, 4th Floor

Austin, Texas 78701

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed June 25, 2015, concerning assessing administrative penalties against and requiring certain actions of NEWELL RECYCLING COMPANY OF EL PASO, L.P., for violations in El Paso County, Texas, of: 30 Texas Administrative Code §330.209(a) and TCEQ Agreed Order Docket No. 2011-1758-MLM-E, Ordering Provision Nos. 2.a.i., 2.b.i., 2.b.ii., 2.c.i., 2.d., and 2.f.

The hearing will allow NEWELL RECYCLING COMPANY OF EL PASO, L.P., the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount

of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford NEWELL RECYCLING COMPANY OF EL PASO, L.P., the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. Upon failure of NEWELL RECYCLING COMPANY OF EL PASO, L.P. to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes. NEWELL RECYCLING COMPANY OF EL PASO, L.P., the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Texas Water Code §7.054 and ch. 7, Texas Health & Safety Code ch. 361, and 30 Texas Administrative Code chs. 70 and 330; Texas Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §70.108 and §70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting David A. Terry, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Vic McWherter, Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at <http://www.tceq.texas.gov/goto/eFilings> or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: September 11, 2015

TRD-201503717

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 14, 2015



Notice of Public Hearing

Assessment of Administrative Penalties and Requiring Certain Actions of SAM LIM, INC. dba J & J Quickstop

SOAH Docket No. 582-16-0072

TCEQ Docket No. 2015-0204-PST-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative

Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing at:

10:00 a.m. October 8, 2015

William P. Clements Building

300 West 15th Street, 4th Floor

Austin, Texas 78701

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed July 28, 2015, concerning assessing administrative penalties against and requiring certain actions of SAM LIM, INC. dba J & J Quickstop, for violations in Tarrant County, Texas, of: 30 Texas Administrative Code §§334.10(b)(1)(B), 334.72, and 334.74.

The hearing will allow SAM LIM, INC. dba J & J Quickstop, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford SAM LIM, INC. dba J & J Quickstop, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. Upon failure of SAM LIM, INC. dba J & J Quickstop to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes. SAM LIM, INC. dba J & J Quickstop, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Texas Water Code §7.054 and Texas Water Code chs. 7 and 26 and 30 Texas Administrative Code chs. 70 and 334; Texas Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §70.108 and §70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting Ryan Rutledge, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Vic McWherter, Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at <http://www.tceq.texas.gov/goto/eFilings> or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: September 11, 2015

TRD-201503718

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 14, 2015



Notice of Public Hearing

Assessment of Administrative Penalties and Requiring Certain Actions of W B DIAMOND INVESTMENTS, INC dba Petro City

SOAH Docket No. 582-16-0100

TCEQ Docket No. 2015-0311-PST-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing at:

10:00 a.m. October 8, 2015

William P. Clements Building

300 West 15th Street, 4th Floor

Austin, Texas 78701

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed July 8, 2015, concerning assessing administrative penalties against and requiring certain actions of W B DIAMOND INVESTMENTS, INC d/b/a Petro City, for violations in Dallas County, Texas, of: Texas Water Code §26.3475(c)(1) and 30 Texas Administrative Code §334.50(b)(1)(A).

The hearing will allow W B DIAMOND INVESTMENTS, INC d/b/a Petro City, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford W B DIAMOND INVESTMENTS, INC d/b/a Petro City, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. Upon failure of W B DIAMOND INVESTMENTS, INC d/b/a Petro City to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes. W B DIAMOND INVESTMENTS, INC d/b/a Petro City, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Texas Water Code §7.054 and chs. 7 and 26 and 30 Texas Administrative Code chs. 70 and 334; Texas Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §70.108 and §70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting Jess Robinson, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by con-

tacting Vic McWherter, Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at <http://www.tceq.texas.gov/goto/eFilings> or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: September 11, 2015

TRD-201503719

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 14, 2015



Notice of Water Quality Application

The following notice was issued on September 11, 2015.

The following does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087 WITHIN (30) DAYS OF THE ISSUED DATE OF THE NOTICE.

INFORMATION SECTION

The Texas Commission on Environmental Quality has initiated a minor amendment of Texas Pollutant Discharge Elimination System Permit No. WQ0002317000 issued to the U.S. Department of the Navy, which operates the Naval Air Station Corpus Christi, an aircraft service and repair facility, to authorize correction of the monitoring frequency for ammonia nitrogen at Outfall 001. The existing permit authorizes the discharge of domestic wastewater, utility wastewater, wash water, stormwater, and previously monitored effluent (process wastewater, utility wastewater, and domestic wastewater via internal Outfall 101) at a daily average flow not to exceed 1,500,000 gallons per day via Outfall 001. The facility is located at 8851 Ocean Drive, at the Corpus Christi Naval Air Station, on the south side of Corpus Christi Bay between Oso Bay and Laguna Madre, on the north end of the Encinal Peninsula, and east of the City of Corpus Christi, Nueces County, Texas 78419.

If you need more information about these permit applications 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 web site at www.TCEQ.texas.gov. Si desea información en español, puede llamar al (800) 687-4040.

TRD-201503795

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 16, 2015



Texas Superfund Registry 2015

The Texas Commission on Environmental Quality (TCEQ or commission) is required under the Texas Solid Waste Disposal Act, Texas Health and Safety Code (THSC), Chapter 361 to identify, to the extent feasible, and evaluate facilities which may constitute an imminent and substantial endangerment to public health and safety or to the environment due to a release or threatened release of hazardous substances into the environment. The first registry identifying these sites was published on January 16, 1987, in the *Texas Register* (12 TexReg 205). In accordance with THSC, §361.181, the commission must update the state Superfund registry annually to add new facilities that have been proposed for listing in accordance with THSC, §361.184(a) and listed in accordance with THSC, §361.188(a)(1) (see also 30 Texas Administrative Code (TAC) §335.343) or to remove facilities that have been deleted in accordance with THSC, §361.189 (see also 30 TAC §335.344). The current notice also includes facilities where state Superfund action has ended, or where cleanup is being adequately addressed by other means.

In accordance with THSC, §361.188(a)(1), the state Superfund registry identifying those facilities that are listed and have been determined to pose an imminent and substantial endangerment in descending order of Hazard Ranking System (HRS) scores are as follows.

1. Col-Tex Refinery. Located on both sides of Business Interstate Highway 20 (United States Highway 80) in Colorado City, Mitchell County: tank farm and refinery.
2. First Quality Cylinders. Located at 931 West Laurel Street, San Antonio, Bexar County: aircraft cylinder rebuilder.
3. James Barr Facility. Located in the 3300 block of Industrial Drive, in the southern part of Pearland, Brazoria County: vacuum truck waste storage.
4. Pioneer Oil Refining Company. Located at 20280 South Payne Road, outside of Somerset, Bexar County: oil refinery.
5. Precision Machine and Supply. Located at 500 West Olive Street, Odessa, Ector County: chrome plating and machine shop.
6. Voda Petroleum Inc. Located approximately 1.25 miles west of the intersection of Farm-to-Market Road (FM) 2275 (George Richey Road) and FM 3272 (North White Oak Road), 2.6 miles north-northeast of Clarksville City, Gregg County: waste oil recycling.
7. Sonics International, Inc. Located north of Farm Road 101, approximately two miles west of Ranger, Eastland County: industrial waste injection wells.
8. Maintech International. Located at 8300 Old Ferry Road, Port Arthur, Jefferson County: chemical cleaning and equipment hydroblasting.
9. Federated Metals. Located at 9200 Market Street, Houston, Harris County: magnesium dross/sludge disposal, inactive landfill.
10. International Creosoting. Located at 1110 Pine Street, Beaumont, Jefferson County: wood treatment.
11. McBay Oil and Gas. Located approximately three miles northwest of Grapeland on Farm Road 1272, Houston County: oil refinery and oil reclamation plant.
12. Materials Recovery Enterprises (MRE). Located about four miles southwest of Ovalo, near United States Highway 83 and Farm Road 604, Taylor County: Class I industrial waste management.
13. American Zinc. Located approximately 3.5 miles north of Dumas on United States 287 and 5 miles east of Dumas on Farm Road 119: zinc smelter.

14. Toups. Located on the west side of Texas 326, 2.1 miles north of its intersection with Texas 105, in Sour Lake, Hardin County: fencepost treating and municipal waste.

15. Harris Sand Pits. Located at 23340 South Texas 16, approximately 10.5 miles south of San Antonio at Von Ormy, Bexar County: commercial sand and clay pit.

16. JCS Company. Located north of Phalba on County Road 2415, approximately 1.5 miles west of the intersection of County Road 2403 and Texas 198, Van Zandt County: lead-acid battery recycling.

17. Jerrell B. Thompson Battery. Located north of Phalba on County Road 2410, approximately one mile north of the intersection of County Road 2410 and Texas 198, Van Zandt County: lead-acid battery recycling.

18. Spector Salvage Yard. Located at Jackson Avenue and Tenth Street, Orange, Orange County: military surplus and chemical salvage yard.

19. Hayes-Sammons Warehouse. Located at Miller Avenue and East Eighth Street, Mission, Hidalgo County: commercial grade pesticide storage.

20. Jensen Drive Scrap. Located at 3603 Jensen Drive, Houston, Harris County: scrap salvage.

21. State Highway 123 PCE Plume. Located near the intersection of State Highway 123 and Interstate Highway 35 in San Marcos, Hays County: contaminated groundwater plume.

22. Baldwin Waste Oil Company. Located on County Road 44 approximately 0.1 mile west of its intersection with Farm Road 1889, Robstown, Nueces County: waste oil processing.

23. Hall Street. Located north of the intersection of 20th Street East with California Street, north of Dickinson, Galveston County: waste disposal and landfill/open field dumping.

24. Unnamed Plating. Located at 6816 - 6824 Industrial Avenue, El Paso, El Paso County: metals processing and recovery.

25. Tricon America, Inc. Located at 101 East Hampton Road, Crowley, Tarrant County: aluminum and zinc smelting and casting.

In accordance with THSC, §361.184(a), those facilities that may pose an imminent and substantial endangerment and that have been proposed to the state Superfund registry are set out in descending order of HRS scores as follows.

1. Kingsland. Located in the vicinity of the 2100 and 2400 blocks of Farm-to-Market Road 1431 in the community of Kingsland, Llano County: contaminated groundwater plume.

2. Rogers Delinted Cottonseed - Colorado City. Located near the intersection of Interstate Highway 20 and State Highway 208 in Colorado City, Mitchell County: cottonseed delinting, processing.

3. Camtraco Enterprises, Inc. Located at 18823 Amoco Drive in Pearland, Brazoria County: fuel storage/fuel blending/distillation.

4. Angus Road Groundwater Site. Located beneath the 4300 block of Angus Road, west of Odessa, Ector County: groundwater plume of unknown source.

5. Industrial Road/Industrial Metals. Located at 3000 Agnes Street in Corpus Christi, Nueces County: lead acid battery recycling and copper coil salvage.

6. Tenaha Wood Treating. Located at 275 County Road 4382, about a mile and a half south of the city limits and near the intersection of United States Highway 96 and County Road 4382, Tenaha, Shelby County: wood treatment.

7. Poly-Cycle Industries, Inc., Tecula. Located northeast of Tecula on the southeast corner of the intersection of Farm-to-Market Road 2064 and County Road 4216, Cherokee County: lead acid battery recycling.

8. Sherman Foundry. Located at 532 East King Street in south central Sherman, Grayson County: cast iron foundry.

9. Process Instrumentation and Electrical (PIE). Located at the northwest corner of 48th Street and Andrews Highway (Highway 385) in Odessa, Ector County: chromium plating.

10. EmChem Corporation. Located at 4308 Rice Dryer Road, Pearland, Brazoria County, Texas: glycol distillation.

11. Marshall Wood Preserving. Located at 2700 West Houston Street, Marshall, Harrison County: wood treatment.

12. Avinger Development Company (ADCO). Located on the south side of Texas State Highway 155, approximately 0.25 mile east of the intersection with State Highway 49, Avinger, Cass County: wood treatment.

13. Hu-Mar Chemicals. Located north of McGohtlin Road, between the old Southern Pacific Railroad tracks and 12th Street, Palacios, Matagorda County: pesticide and herbicide formulation.

14. Moss Lake Road Groundwater Site. Located approximately 0.25 mile north of the intersection of North Moss Lake Road and Interstate Highway 20, approximately four miles east of Big Spring, Howard County: groundwater plume of an unknown source.

15. Ballard Pits. Located at the end of Ballard Lane, west of its intersection with County Road 73, approximately 5.8 miles north of Robstown, Nueces County: disposal of oil field drilling muds and petroleum wastes.

16. Cass County Treating Company. Located at 304 Hall Street within the southeastern city limits of Linden, Cass County: wood treatment.

17. Tucker Oil Refinery/Clinton Manges Oil Refinery. Located on the east side of United States Highway 79 in the rural community of Tucker, Anderson County: oil refinery.

18. Bailey Metal Processors, Inc. Located one mile northwest of Brady on Highway 87, McCulloch County: scrap metal dealer, primarily conducting copper and lead reclamation.

19. City View Road Groundwater Plume. Located northwest of the intersection of Interstate Highway 20 and State Highway 158, Midland County: contaminated groundwater plume.

20. Mineral Wool Insulation Manufacturing Company. Located on Shaw Road at the northwest corner of the city limits of Rogers, Bell County: mineral wool manufacturing.

21. Scrub-A-Dubb Barrel Company. Located at 1102 North Ash Avenue and 1209 North Ash Avenue, Lubbock, Lubbock County: former drum cleaning and reconditioning business.

22. Woodward Industries, Inc. Located on County Road 816, about six miles north of the city of Nacogdoches, Nacogdoches County: wood treatment.

Since the last *Texas Register* publication of the state Superfund registry on September 26, 2014 (39 TexReg 7816), one additional site, Scrub-A-Dubb Barrel Company, was proposed to the state Superfund registry and the First Quality Cylinders site changed from its previously proposed status to its current listed status on the state Superfund registry. Also, the commission deleted the El Paso Plating Works site from the state Superfund program because it has been determined that due to the removal actions performed, the site no longer presents an endangerment to human health or the environment.

To date, 52 sites have been deleted from the state Superfund registry in accordance with THSC, §361.189 (see also 30 TAC §335.344):

Aluminum Finishing Company, Harris County; Archem Company/Thames Chelsea, Harris County; Aztec Ceramics, Bexar County; Aztec Mercury, Brazoria County; Barlow's Wills Point Plating, Van Zandt County; Bestplate, Inc., Dallas County; Butler Ranch, Karnes County; Cox Road Dump Site, Liberty County; Crim-Hammett, Rusk County; Dorchester Refining Company, Titus County; Double R Plating Company, Cass County; El Paso Plating Works, El Paso County; Force Road Oil, Brazoria County; Gulf Metals Industries, Harris County; Hagerson Road Drum, Fort Bend County; Harkey Road, Brazoria County; Hart Creosoting, Jasper County; Harvey Industries, Inc., Henderson County; Hicks Field Sewer Corp., Tarrant County; Hi-Yield, Hunt County; Higgins Wood Preserving, Angelina County; Houston Lead, Harris County; Houston Scrap, Harris County; J.C. Pennco Waste Oil Service, Bexar County; Kingsbury Metal Finishing, Guadalupe County; LaPata Oil Company, Harris County; Lyon Property, Kimble County; McNabb Flying Service, Brazoria County; Melton Kelly Property, Navarro County; Munoz Borrow Pits, Hidalgo County; Newton Wood Preserving, Newton County; Niagara Chemical, Cameron County; Old Lufkin Creosoting, Angelina County; Permian Chemical, Ector County; Phipps Plating, Bexar County; PIP Minerals, Liberty County; Poly-Cycle Industries, Ellis County; Poly-Cycle Industries, Jacksonville, Cherokee County; Rio Grande Refinery I, Hardin County; Rio Grande Refinery II, Hardin County; Rogers Delinted Cottonseed-Farmersville, Collin County; Sampson Horrice, Dallas County; SESCO, Tom Green County; Shelby Wood Specialty, Inc., Shelby County; Solvent Recovery Services, Fort Bend County; South Texas Solvents, Nueces County; State Marine, Jefferson County; Stoller Chemical Company, Hale County; Texas American Oil, Ellis County; Thompson Hayward Chemical, Knox County; Waste Oil Tank Services, Harris County; and Wortham Lead Salvage, Henderson County.

The Lindsay Post Company Site, located in Alto, Cherokee County, was removed from inclusion on the registry as a site that was proposed for listing in the January 22, 1988, issue of the *Texas Register* (13 TexReg 427).

Agency records for these sites may be accessible for viewing or copying by contacting the TCEQ Central File Room (CFR) Customer Service Center, Building E, North Entrance, at 12100 Park 35 Circle, Austin, Texas 78753, phone number (512) 239-2900, fax (512) 239-1850 or e-mail cfrreq@tceq.texas.gov. CFR Customer Service Center staff will assist with providing program area contacts for records not maintained in the Central File Room. Also, inquiries concerning the agency Superfund program records may be directed to Superfund staff at the Superfund toll free line (800) 633-9363 or e-mail superfund@tceq.texas.gov. Parking for mobility impaired persons is available on the east side of Building D, convenient to access ramps that are located between Buildings D and E. There is no charge for viewing the files; however, copying of file information is subject to payment of a fee.

TRD-201503766
Kathleen C. Decker
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: September 15, 2015

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Texas Health and Human Services Commission

Public Notice

The Texas Health and Human Services Commission (HHSC) announces its intent to submit an amendment to the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act. The proposed amendment is effective October 1, 2015.

The purpose of this amendment is to update the fee schedules in the current state plan by adjusting fees, rates, or charges for physical, occupational, and speech therapy for:

Early and Periodic Screening, Diagnosis, and Treatment Services (EPSDT);

Physicians and Other Practitioners; and

Home Health Services.

These rate actions comply with applicable adjustments in response to direction from the 2016-2017 General Appropriations Act (House Bill 1, 84th Leg., R.S., art. II, Rider 50, at II-96 to II-98 (Health and Human Services section, Health and Human Services)). Proposed rate adjustments were calculated based on an analysis of Medicaid fees paid by other states and previous Texas Medicaid payments for Medicaid-reimbursable therapy services. Where current Texas Medicaid rates exceed 150 percent of the median of other states' rates for the same service, a percentage reduction is applied in most cases. A small percentage reduction is also applied to Texas Medicaid rates that do not exceed 150 percent of the median of other states' rates for the same service and in cases where information on other states' rates is not available. All of the proposed adjustments are being made in accordance with 1 TAC §355.201.

The proposed amendment is estimated to result in an annual savings of \$116,894,686 for federal fiscal year (FFY) 2016, consisting of \$66,781,934 in federal funds and \$50,112,752 in state general revenue. For FFY 2017, the estimated annual savings is \$122,154,205, consisting of \$69,224,788 in federal funds and \$52,929,417 in state general revenue. For FFY 2018, the estimated annual savings is \$127,593,110 consisting of \$72,307,015 in federal funds and \$55,286,095 in state general revenue.

To obtain copies of the proposed amendment or to submit written comments, interested parties may contact Dan Huggins, Director of Rate Analysis for Acute Care Services, by mail at the Rate Analysis Department, Texas Health and Human Services Commission, P.O. Box 149030, H-400, Austin, Texas 78714-9030; by telephone at (512) 707-6071; by facsimile at (512) 730-7475; or by e-mail at dan.huggins@hhsc.state.tx.us. Copies of the proposal will also be made available for public review at the local offices of the Texas Department of Aging and Disability Services.

TRD-201503779
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Filed: September 15, 2015

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Public Notice

The Texas Health and Human Services Commission (HHSC) announces its intent to submit an amendment to the Texas State Plan for Medical Assistance under Title XIX of the Social Security Act. The proposed amendment is effective October 1, 2015.

The purpose of this amendment is to update the fee schedules in the current state plan by adjusting or implementing fees for:

Durable Medical Equipment, Prosthetics, Orthotics, and Supplies;

Early and Periodic Screening, Diagnosis, and Treatment Services (EPSDT);

Physicians and Other Practitioners; and

Clinical Laboratory Services

The purpose of these rate actions is to comply with federal common procedural mandates and to adjust reimbursements to comply with the State's methodology. These rate actions comply with applicable adjustments in response to direction from the Texas Legislature as set out in the 2012-2013 General Appropriations Act, effective September 1, 2011; the 2014-2015 General Appropriations Act, effective September 1, 2013; and the 2016-2017 General Appropriations Act, effective September 1, 2015. All of the proposed adjustments are being made in accordance with 1 TAC §355.201.

The proposed amendment is estimated to result in an annual cost of \$273,768 for federal fiscal year (FFY) 2016, consisting of \$156,404 in federal funds and \$117,364 in state general revenue. For FFY 2017, the estimated annual expenditure is \$319,597, consisting of \$181,116 in federal funds and \$138,481 in state general revenue. For FFY 2018, the estimated annual expenditure is \$334,363, consisting of \$189,484 in federal funds and \$144,879 in state general revenue.

To obtain copies of the proposed amendment or to submit written comments, interested parties may contact Dan Huggins, Director of Rate Analysis for Acute Care Services, by mail at the Rate Analysis Department, Texas Health and Human Services Commission, P.O. Box 149030, H-400, Austin, Texas 78714-9030; by telephone at (512) 707-6071; by facsimile at (512) 730-7475; or by e-mail at dan.huggins@hhsc.state.tx.us. Copies of the proposal will also be made available for public review at the local offices of the Texas Department of Aging and Disability Services.

TRD-201503781

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: September 15, 2015

Heart of Texas Council of Governments

Request for Proposal for Audit Services

The Heart of Texas Council of Governments (HOTCOG) is soliciting proposals for an audit of all grants and programs of the Council. This proposal will serve as a basis for a two-year period beginning October 1, 2014 through September 30, 2016. Contract term may be extended for up to three (3) years.

The audit must be conducted under the guidelines of generally accepted auditing standards and other guidelines as presented in HOTCOG's request for proposal. The proposals will be reviewed by HOTCOG and a contract will be awarded on the basis of the firm's experience, firm knowledge of the work to be performed, and the proposed audit cost by year. Small, female-owned and minority-owned firms are encouraged to submit.

Request for proposal packages may be obtained by contacting John C. Minnix, Director of Administration, HOTCOG, 1514 South New Road, Waco, Texas, 76711, (254) 292-1800 or at john.minnix@hot.cog.tx.us. All proposals must be received no later than 4:30 p.m. (Central Standard Time) on October 12, 2015. Proposals received after the specified date and time will not be considered.

TRD-201503691

Mary McDow

HR Manager

Heart of Texas Council of Governments

Filed: September 11, 2015

Texas Department of Insurance

Notice of Public Hearing

The commissioner of insurance will hold a public hearing under Docket No. 2780, at 10:30 a.m., on Thursday, October 8, 2015, in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe Street, Austin, Texas, to consider a petition by the Texas Windstorm Insurance Association (TWIA) related to the maximum limits of liability under windstorm and hail insurance policy coverage on residential dwellings and individually owned townhouses and associated contents; contents of apartments, condominiums, or townhouses; commercial structures and associated contents; and governmental structures and associated contents. The petition was submitted under Insurance Code §§2210.502 - 2210.504.

The petition does not affect TWIA's rates.

This notice is made under Insurance Code §2210.504(a), which requires that after notice and hearing, the commissioner by order shall approve, disapprove, or modify TWIA's proposed adjustments no later than 60 days after receipt by TDI of the TWIA petition. Texas Insurance Code Chapter 40 does not apply to this proceeding.

A copy of TWIA's petition is available for review online at <http://www.tdi.texas.gov/submissions/indextwia.html#limit> and in the Office of the Chief Clerk, MC 113-2A, Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas, 78701. To request a copy of the petition (Reference No. P-0815-03), contact Victoria Ortega at (512) 676-6584. For additional information, interested parties may contact J'ne Byckovski, chief actuary, by mail at MC 105-5F, Texas Department of Insurance, 333 Guadalupe, Austin, Texas 78701, or by phone at (512) 676-6694.

TRD-201503790

Sara Waitt

General Counsel

Texas Department of Insurance

Filed: September 16, 2015

Texas Lottery Commission

Scratch Ticket Game Number 1768 "High Roller"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 1768 is "HIGH ROLLER". The play style is "multiple games".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 1768 shall be \$5.00 per Ticket.

1.2 Definitions in Scratch Ticket Game No. 1768.

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: A CARD SYMBOL, K CARD SYMBOL, Q CARD SYMBOL, J CARD SYMBOL, 10 CARD SYMBOL, 9 CARD SYMBOL, 8 CARD SYMBOL, 7 CARD SYMBOL, 6 CARD SYMBOL, 5 CARD SYMBOL, 4 CARD SYMBOL, 3 CARD SYMBOL, 2 CARD SYMBOL, 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 1 DICE SYMBOL, 2 DICE SYMBOL, 3 DICE SYMBOL, 4 DICE SYMBOL, 5 DICE SYMBOL, 6 DICE SYMBOL, BANANA SYMBOL, BAR SYMBOL, BELL SYMBOL, KEY SYMBOL, DIAMOND SYMBOL, GRAPE SYMBOL, CROWN SYMBOL, PIGGY BANK SYMBOL, MELON SYMBOL, 7 SYMBOL, ORANGE

SYMBOL, POT OF GOLD SYMBOL, PINEAPPLE SYMBOL, HORSESHOE SYMBOL, EMERALD SYMBOL, CLOVER SYMBOL, GOLD SYMBOL, STAR SYMBOL, MONEYBAG SYMBOL, \$5.00, \$10.00, \$20.00, \$25.00, \$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. 1768 - 1.2D

PLAY SYMBOL	CAPTION
A CARD SYMBOL	ACE
K CARD SYMBOL	KNG
Q CARD SYMBOL	QUN
J CARD SYMBOL	JCK
10 CARD SYMBOL	TEN
9 CARD SYMBOL	NIN
8 CARD SYMBOL	EGT
7 CARD SYMBOL	SVN
6 CARD SYMBOL	SIX
5 CARD SYMBOL	FIV
4 CARD SYMBOL	FOR
3 CARD SYMBOL	THR
2 CARD SYMBOL	TWO
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
1 DICE SYMBOL	ONE
2 DICE SYMBOL	TWO
3 DICE SYMBOL	THR
4 DICE SYMBOL	FOR
5 DICE SYMBOL	FIV
6 DICE SYMBOL	SIX
BANANA SYMBOL	BANA
BAR SYMBOL	BAR
BELL SYMBOL	BELL
KEY SYMBOL	KEY
DIAMOND SYMBOL	DMD
GRAPE SYMBOL	GRPE
CROWN SYMBOL	CRN

PIGGY BANK SYMBOL	PBNK
MELON SYMBOL	MELN
7 SYMBOL	SEVN
ORANGE SYMBOL	ORNG
POT OF GOLD SYMBOL	PTGD
PINEAPPLE SYMBOL	PNAP
HORSESHOE SYMBOL	SHOE
EMERALD SYMBOL	EMRLD
CLOVER SYMBOL	CLVR
GOLD SYMBOL	GOLD
STAR SYMBOL	STAR
MONEYBAG SYMBOL	WIN\$
\$5.00	FIVE\$
\$10.00	TEN\$
\$20.00	TWENTY
\$25.00	TWY FIV
\$50.00	FIFTY
\$100	ONE HUND
\$500	FIV HUND
\$1,000	ONE THOU
\$100,000	HUN THOU

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. Low-Tier Prize - A prize of \$5.00, \$10.00 or \$20.00.

G. Mid-Tier Prize - A prize of \$25.00, \$50.00, \$100 or \$500.

H. High-Tier Prize - A prize of \$1,000 or \$100,000.

I. 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 Scratch Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

J. Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (1768), a seven (7) digit Pack number, and a three (3) digit Scratch Ticket number. Scratch Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 1768-0000001-001.

K. Pack - A Pack of the "HIGH ROLLER" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The Packs will alternate. One will show the front of Scratch Ticket 001 and back of 075 while the other fold will show the back of Scratch Ticket 001 and front of 075.

L. 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.

M. Scratch Game Ticket, Scratch Ticket or Ticket - Texas Lottery "HIGH ROLLER" Scratch Ticket Game No. 1768.

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, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "HIGH ROLLER" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 49 (forty-nine) Play Symbols. 2 OF A KIND: If a player reveals 2 matching cards Play Symbols, the player wins the PRIZE for this game. ROULETTE: If a player matches any of YOUR NUMBERS Play Symbols to the WINNING NUMBER Play Symbol, the player wins the prize for that number. 7-11: If the total of YOUR DICE is 7 or 11 in the same ROLL, the player wins the PRIZE for that ROLL. SLOTS: If a player reveals 3 matching Play Symbols in the same PULL, the player wins the PRIZE for that PULL. FAST \$50: If a player reveals a "MONEYBAG" Play Symbol, the player wins \$50 instantly. 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 49 (forty-nine) 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, Retailer Validation Code and Pack-Scratch 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, Retailer Validation Code and Pack-Scratch 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 49 (forty-nine) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Scratch 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 49 (forty-nine) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the 49 (forty-nine) 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 Pack-Scratch Ticket Number must be printed in the Pack-Scratch 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 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 in a Pack will not have matching play data, spot for spot.
- B. GENERAL: No more than four matching non-winning Prize Symbols on a Ticket.
- C. GENERAL: The top Prize Symbol will appear on every Ticket unless restricted by other parameters, play action or prize structure.
- D. ROULETTE: No matching non-winning YOUR NUMBERS Play Symbols.
- E. ROULETTE: No matching non-winning Prize Symbols in this game.
- F. 7-11: No matching non-winning ROLLS (in any order).
- G. 7-11: No matching non-winning Prize Symbols in this game.
- H. SLOTS: No matching non-winning PULLS (in any order).
- I. SLOTS: There will never be three matching non-winning Play Symbols in adjacent locations diagonally or in a column.
- J. SLOTS: No matching non-winning Prize Symbols in this game.
- K. FAST \$50: The "MONEYBAG" (WIN\$50) Play Symbol will only appear as dictated by the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "HIGH ROLLER" Scratch Ticket Game prize of \$5.00, \$10.00, \$20.00, \$25.00, \$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 \$25.00, \$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 "HIGH ROLLER" Scratch Ticket Game prize of \$1,000 or \$100,000, 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 "HIGH ROLLER" 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:

1. A sufficient amount from the winnings of a prize winner who has been finally determined to be:

a. 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;

b. in default on a loan made under Chapter 52, Education Code; or

c. in default on a loan guaranteed under Chapter 57, Education Code; and

2. delinquent child support payments from the winnings of a prize winner in the amount of the delinquency as 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 "HIGH ROLLER" 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 "HIGH ROLLER" 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 8,040,000 Scratch Tickets in Scratch Ticket Game No. 1768. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 1768 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5	857,600	9.38
\$10	643,200	12.50
\$20	321,600	25.00
\$25	107,200	75.00
\$50	78,725	102.13
\$100	16,616	483.87
\$500	2,010	4,000.00
\$1,000	402	20,000.00
\$100,000	5	1,608,000.00

*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 3.97. 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. 1768 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 Game 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. 1768, 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-201503782
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: September 15, 2015



Public Utility Commission of Texas

Notice of Application for Amendment to Designation as an Eligible Telecommunications Carrier and Amendment to Designation as an Eligible Telecommunications Provider

Notice is given to the public of an application filed with the Public Utility Commission of Texas on September 9, 2015, for amendment to designation as an eligible telecommunications provider (ETP) and amendment to designation as an eligible telecommunications carrier (ETC) pursuant to 16 Tex. Admin. Code §26.417 and §26.418, respectively.

Docket Title and Number: Application of Integrated Path Communications, LLC to Amend its Designation as an Eligible Telecommunications Carrier (ETC) and to Amend its Designation as an Eligible Telecommunications Provider (ETP). Docket Number 45135.

The Application: Integrated Path Communications, LLC (IPC) requests an amendment to its ETC and ETP designations that were granted in Docket No. 44519. Pursuant to 16 Tex. Admin. Code §26.418 and §26.417, the commission, designates qualifying common carriers as ETCs and ETPs for service areas designated by the commission. IPC is designated as an ETC and ETP in 417 wire centers in the non-rural incumbent local exchange carrier AT&T Texas service area. The company seeks to amend its ETC and ETP designations to include wire centers in the United Telephone Company of Texas, Inc. d/b/a CenturyLink and Central Telephone Company of Texas, Inc. d/b/a CenturyLink service areas. The list of wire centers in the designated area is attached to the application as Attachment B. The company holds Service Provider Certificate of Operating Authority Number 60898. Pursuant to 16 Tex. Admin. Code §26.417(f)(2)(A)(i) and §26.418 (h)(2)(A)(i), the effective date shall be no earlier than 30 days after completion of notice in the *Texas Register*; in this instance, the effective date is October 26, 2015.

Persons who wish to comment upon the action sought should notify the Public Utility Commission of Texas no later than October 15, 2015. Requests for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326 or you may call the Public Utility Commission's Customer Protection Division at (512) 936-7120 or toll-free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 45135.

TRD-201503799
 Adriana Gonzales
 Rules Coordinator
 Public Utility Commission of Texas
 Filed: September 16, 2015

◆ ◆ ◆
Notice of Application for Approval of a New Depreciation Rate

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on September 14, 2015, for approval of a new depreciation rate pursuant to §52.252 and §53.056, of the Public Utility Regulatory Act, Tex. Util. Code Ann. §§11.001 - 66.016 (West 2007 & Supp. 2014).

Docket Title and Number: Application of Brazoria Telephone Company for Approval of a New Depreciation Rate, Docket Number 45153.

The Application: Brazoria Telephone Company (Brazoria) filed an application to establish a new depreciation rate associated with new softswitch equipment currently in Account 2212.2, effective January 1, 2015. Brazoria proposed a new depreciation rate of 12.50% based upon an average remaining life of eight years.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All correspondence should refer to Docket Number 45153.

TRD-201503773
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: September 15, 2015

◆ ◆ ◆
Notice of Application for Designation as an Eligible Telecommunications Carrier and Eligible Telecommunications Provider

Notice is given to the public of an application filed with the Public Utility Commission of Texas on September 11, 2015 for designation as an eligible telecommunications provider (ETP) and eligible telecommunications carrier (ETC) pursuant to 16 Texas Administrative Code §26.417 and §26.418, respectively.

Docket Title and Number: Application of PRIDE Network, Inc. d/b/a NTS Communications for Designation as an Eligible Telecommunications Carrier (ETC) and Eligible Telecommunications Provider (ETP), Docket Number 45144.

The Application: The company requests ETC/ETP designation to be eligible for federal and state universal service funds to assist it in providing universal service in Texas. Pursuant to 16 Texas Administrative Code §26.418 and §26.417, the commission, designates qualifying common carriers as ETCs and ETPs for service areas designated by the commission. NTS Communications seeks ETC/ETP designation to serve the entire study area of Windstream Communications Southwest. The complete list of wire centers that will comprise the designated service area is contained in Attachment C to the application. The company holds Service Provider Certificate of Operating Authority Number 60844. The company has requested approval of the application to be effective no earlier than 30 days after completion of notice in the *Texas Register*; in this instance, the effective date is October 26, 2015.

Persons who wish to comment upon the action sought should notify the Public Utility Commission of Texas no later than October 15, 2015. Requests for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326 or you may call the Public Utility Commission's Customer Protection Di-

vision at (512) 936-7120 or toll-free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 45144.

TRD-201503800
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: September 16, 2015

◆ ◆ ◆
Notice of Application for Retail Electric Provider Certification

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on September 8, 2015, for a retail electric provider (REP) certificate, pursuant to Public Utility Regulatory Act (PURA) §39.352.

Docket Title and Number: Application of GEE Solutions, Inc. for a Retail Electric Provider Certificate; Docket Number 45128.

The Application: GEE Solutions, Inc. requests certification as an Option I retail electric provider to provide service throughout the entire State of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All inquiries should reference Docket Number 45128.

TRD-201503713
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: September 14, 2015

◆ ◆ ◆
Notice of Application for Retail Electric Provider Certification

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on September 4, 2015, for retail electric provider (REP) certification, pursuant to Public Utility Regulatory Act (PURA) §39.352.

Docket Title and Number: Application of Quest Distributors LLC for a Retail Electric Provider Certificate; Docket Number 45121.

The Application: Quest Distributors LLC requests certification as an Option I retail electric provider to provide service throughout the entire State of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All inquiries should reference Docket Number 45121.

TRD-201503714
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: September 14, 2015

Notice of Petition for Amendment to Sewer Certificate of Convenience and Necessity by Expedited Release

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) on September 10, 2015, of a petition to amend a certificate of convenience and necessity in Guadalupe County by expedited release.

Docket Style and Number: Petition of Jorge Maldonado, Sr. to Amend Guadalupe-Blanco River Authority's Certificate of Convenience and Necessity in Guadalupe County by Expedited Release, Docket No. 45142.

The Application: Jorge Maldonado, Sr. filed a petition for expedited release from Guadalupe-Blanco River Authority's sewer certificate of convenience and necessity No. 20892, in Guadalupe County pursuant to Texas Water Code §13.254(a-5) and 16 Texas Administrative Code §24.113(r).

Persons wishing to intervene or comment on the action sought should contact the commission no later than October 12, 2015, by mail at Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477. The deadline to intervene in this proceeding is October 12, 2015. Hearing and speech impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 45142.

TRD-201503763
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: September 14, 2015



Notice of Petition for Amendment to Sewer Certificate of Convenience and Necessity by Expedited Release

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) on September 10, 2015, of a petition to amend a certificate of convenience and necessity in Guadalupe County by expedited release.

Docket Style and Number: Petition of Mathom Ltd. to Amend Guadalupe-Blanco River Authority's Certificate of Convenience and Necessity in Guadalupe County by Expedited Release, Docket No. 45143.

The Application: Mathom Ltd. filed a petition for expedited release from Guadalupe-Blanco River Authority's sewer certificate of convenience and necessity No. 20892, in Guadalupe County pursuant to Tex. Water Code §13.254(a-5) and 16 Tex. Admin. Code §24.113(r).

Persons wishing to intervene or comment on the action sought should contact the commission no later than October 12, 2015, by mail at Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477. The deadline to intervene in this proceeding is October 12, 2015. Hearing and speech impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 45143.

TRD-201503764
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: September 14, 2015



Notice of Petition for Amendment to Water Certificate of Convenience and Necessity by Expedited Release

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) on September 8, 2015, of a petition to amend a certificate of convenience and necessity in Travis and Hays Counties by expedited release.

Docket Style and Number: Petition of Mary Louise Porter Bailey to Amend Woods of Bear Creek Water Company, Inc.'s Certificate of Convenience and Necessity in Travis and Hays Counties by Expedited Release, Docket No. 45127.

The Application: Mary Louise Porter Bailey filed a petition for expedited release from Woods of Bear Creek Water Supply Company, Inc.'s water certificate of convenience and necessity No. 11907, in Travis and Hays Counties pursuant to Tex. Water Code §13.254(a-5) and 16 Tex. Admin. Code §24.113(r).

Persons wishing to intervene or comment on the action sought should contact the commission no later than October 8, 2015, by mail at Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477. The deadline to intervene in this proceeding is October 8, 2015. Hearing and speech impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 45127.

TRD-201503647
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: September 9, 2015



Notice of Petition for Amendment to Water Certificate of Convenience and Necessity by Expedited Release

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) on September 2, 2015, of a petition to amend a certificate of convenience and necessity (CCN) by expedited release in Denton County.

Docket Style and Number: Petition of Smiley Road, Ltd. to Amend Aqua Texas, Inc.'s Certificate of Convenience and Necessity in Denton County by Expedited Release, Docket No. 45099.

The Application: Smiley Road, Ltd., filed with the commission an application for expedited release from Aqua Texas' water CCN No. 13201 pursuant to Tex. Water Code §13.254(a-5) and 16 Tex. Admin. Code §24.113(r).

Persons wishing to intervene or comment on the action sought should contact the commission no later than October 16, 2015, by mail at Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477. The deadline to intervene in this proceeding is October 16, 2015. Hearing and speech impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 45099.

TRD-201503648
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: September 9, 2015



Notice of Petition for Amendment to Water Certificate of Convenience and Necessity by Expedited Release

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) on September 2, 2015, of a petition to amend a certificate of convenience and necessity (CCN) by expedited release in Denton County.

Docket Style and Number: Petition of Smiley Road, Ltd. to Amend Aqua Texas, Inc.'s Certificate of Convenience and Necessity in Denton County by Expedited Release, Docket No. 45100.

The Application: Smiley Road, Ltd., filed with the commission an application for expedited release from Aqua Texas' water CCN No. 13201 pursuant to Tex. Water Code §13.254(a-5) and 16 Tex. Admin. Code §24.113(r).

Persons wishing to intervene or comment on the action sought should contact the commission no later than October 16, 2015, by mail at Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326 or by phone at (512) 936-7120 or toll-free at (888) 782-8477. The deadline to intervene in this proceeding is October 16, 2015. Hearing and speech impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 45100.

TRD-201503649
Adriana Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: September 9, 2015

Texas Department of Transportation

Public Hearing Notice - Statewide Transportation Improvement Program

The Texas Department of Transportation (department) will hold a public hearing on Tuesday, October 20, 2015 at 10:00 a.m. at 200 East Riverside Drive, Room 1A-2, in Austin, Texas to receive public comments on the September 2015 Out of Cycle Revisions to the Statewide Transportation Improvement Program (STIP) for FY 2015-2018.

The STIP reflects the federally funded transportation projects in the FY 2015-2018 Transportation Improvement Programs (TIPs) for each Metropolitan Planning Organization (MPO) in the state. The STIP includes both state and federally funded projects for the nonattainment areas of Beaumont, Dallas-Fort Worth, El Paso, and Houston. The STIP also contains information on federally funded projects in rural areas that are not included in any MPO area, and other statewide programs as listed.

Title 23, United States Code, §134 and §135 require each designated MPO and the state, respectively, to develop a TIP and STIP as a condition to securing federal funds for transportation projects under Title 23 or the Federal Transit Act (49 USC §5301, et seq.). Section 134 requires an MPO to develop its TIP in cooperation with the state and affected public transit operators and to provide an opportunity for interested parties to participate in the development of the program. Section 135 requires the state to develop a STIP for all areas of the state in cooperation with the designated MPOs and, with respect to non-metropolitan areas, in consultation with affected local officials, and further requires an opportunity for participation by interested parties as well as approval by the Governor or the Governor's designee.

A copy of the proposed September 2015 Out of Cycle Revisions to the FY 2015-2018 STIP will be available for review, at the time the notice of hearing is published, at each of the department's district offices,

at the department's Transportation Planning and Programming Division offices located in Building 118, Second Floor, 118 East Riverside Drive, Austin, Texas, or (512) 486-5033, and on the department's website at: <http://www.txdot.gov/government/programs/stips.html>

Persons wishing to speak at the hearing may register in advance by notifying Lori Morel, Transportation Planning and Programming Division, at (512) 486-5033 not later than Monday, October 19, 2015, or they may register at the hearing location beginning at 9:00 a.m. on the day of the hearing. Speakers will be taken in the order registered. Any interested person may appear and offer comments or testimony, either orally or in writing; however, questioning of witnesses will be reserved exclusively to the presiding authority as may be necessary to ensure a complete record. While any persons with pertinent comments or testimony will be granted an opportunity to present them during the course of the hearing, the presiding authority reserves the right to restrict testimony in terms of time or repetitive content. Groups, organizations, or associations should be represented by only one speaker. Speakers are requested to refrain from repeating previously presented testimony. Persons with disabilities who have special communication or accommodation needs or who plan to attend the hearing may contact the Transportation Planning and Programming Division, at 118 East Riverside Drive Austin, Texas 78704-1205, (512) 486-5053. Requests should be made no later than Monday, October 19, 2015. Every reasonable effort will be made to accommodate the needs.

Interested parties who are unable to attend the hearing may submit comments regarding the proposed September 2015 Out of Cycle Revisions to the FY 2015-2018 STIP to James W. Koch, P.E., Director of Transportation Planning and Programming, P.O. Box 149217, Austin, Texas 78714-9217. In order to be considered, all written comments must be received at the Transportation Planning and Programming office by 4:00 p.m. on Tuesday, October 27, 2015.

TRD-201503765
Joanne Wright
Deputy General Counsel
Texas Department of Transportation
Filed: September 14, 2015

Texas State University System

Request for Proposal

OFFICE OF THE CHANCELLOR

REQUEST FOR PROPOSALS FOR OUTSIDE CONSULTANT OR EXECUTIVE SEARCH FIRM

RFP No. 758-15-00034

RFP ISSUE DATE: September 25, 2015

PROPOSALS DUE: October 30, 2015 - 5:00 p.m. (C.S.T.)

PURPOSE

The Texas State University System ("System") Board of Regents ("Board") and Chancellor Brian McCall solicit responses to this Request for Proposals ("RFP") from consultants or executive search firms interested in advising and assisting the Chancellor and the Board (and their advisory search and selection committee) in their search for the next President of Lamar Institute of Technology. The consultant or search firm selected will be issued a contract to commence immediately and terminate upon the Board's appointment of the president.

This RFP provides the information necessary for respondents to prepare and submit their Proposals for consideration and initial ranking by the Owner. In the next step the Owner will determine an initial

ranking of the respondents. If the initial ranking of the respondents is reasonably conclusive, the Owner may make a "most qualified" selection based upon the Proposal only. If not, then the Owner may conduct interviews with a "short list" of respondents.

The Owner may select up to five (5) of the top ranked qualified respondents to participate in an interview with the Owner to confirm and clarify the proposal submitted and to answer additional questions. The Owner will then rank the interviewed respondents in order to determine a single most qualified respondent.

After selecting the most qualified respondent the Owner will negotiate the detailed professional services to be provided by the firm and a suitable fee for those services.

It is the policy of the System to make a good faith effort to include participation of Historically Underutilized Businesses (HUB) certified firms in its contracts. A "HUB" is a for profit business that meets the requirements of Texas Government Code, Chapter 2161 and administrative rules of the Texas Comptroller of Public Accounts in 34 TAC Chapter 20, Subchapter B.

THE UNIVERSITY

Lamar Institute of Technology, located in Beaumont, Texas enrolls about 3,044 students and offers more than 50 two year programs in fields that include allied health and sciences, business, industry and public service and safety.

THE SYSTEM

The System was created by the Texas Legislature in 1911; its institutional components include Lamar University, Sam Houston State University, Sul Ross State University (including Sul Ross State University - Rio Grande College), Texas State University- San Marcos, Lamar Institute of Technology, Lamar State College - Orange, and Lamar State College - Port Arthur. Together, System colleges and universities enroll over 83,000 students and employ 15,000 faculty and staff. The System is governed by a nine-member Board plus one non-voting student regent. Regents are appointed by the Governor with consent of the Senate for six-year, staggered terms. The student regent is appointed by the Governor for a one-year term. The Regents appoint the Chancellor who is Dr. Brian McCall. The Chancellor recommends the appointment of the President of Lamar Institute of Technology to the Board.

THE PRESIDENT

As the chief executive officer of Lamar Institute of Technology (LIT), the President's duties include, but are not necessarily limited to: developing and maintaining excellence and efficiency within the University including appropriate accreditations, making recommendations to the Chancellor and Board on matters that require Chancellor or Board approval, carrying out all Chancellor and Board directives, interpreting System policies to the faculty, staff and students, recommending appropriate budgets, fees, contracts, grants, and agreements to the Chancellor and Board, leading private fundraising for the University and recommending to the Chancellor and Board the appointment, promotion and tenure or dismissal of faculty and administrative officers.

SCOPE OF SERVICES

The Consultant shall advise and assist the Chancellor and the Board in conducting their academic search for the next President of Lamar Institute of Technology, performing the tasks necessary to engage the services of an exceptional chief executive officer, including but not necessarily limited to the following: organization of the search process; meeting with key stakeholders; analysis of needs; posting of announcements; recruitment of a qualified pool of applicants; screening candidates and sharing its evaluation of the same as requested by the Chancellor; setting up interviews of suitable candidates; facilitating the ap-

pointment process; working with the Board's advisory search committee and the Chancellor; and working with such persons that the Chancellor may direct.

CEO NOTICE OF NEED FOR SERVICES

As provided by Texas Government Code, Section 2254.028, the Chancellor of the system has concluded that consulting services are necessary for the reasons that follow. First, the President is a critical position because the President is charged with oversight of Lamar Institute of Technology. Second, everyone in the presidential or executive staff reports to the President. Third, it would be inappropriate for the incumbent President to assist in choosing his successor. Fourth, selecting a President is an infrequent occurrence. Therefore, securing the services of a knowledgeable, impartial and uninvolved outside consultant to assist the Chancellor and the Board in the search is essential to finding the quality individual needed to run a major institution in the System. Fifth, the System does not maintain staff with the expertise, staffing, and national network of contacts necessary for a successful search.

SCHEDULE OF EVENTS

The Board anticipates that this RFP process will proceed in accordance with the following schedule:

September 25, 2015 Request for Proposals Issued

October 30, 2015 Proposal Submission Due Date (5:00 p.m.)

November 18, 2015 Announcement of Selection

The Chancellor reserves the right to change this schedule. Notice of any changes will be posted on the System's website at www.tsus.edu and on the State Comptroller's website at:

<http://esbd.cpa.state.tx.us/>

FORM OF RESPONSE

1. Overview of the Firm

Provide a brief description of your firm, including the total number of consultants practicing in the higher education area; and the number of years the firm and the consultant to be assigned to this search have been engaged in such practice; and the scope and depth of knowledge of the firm and the consultant in Texas. Explain how your firm is organized and how its resources will be applied to the System's work.

2. Qualifications

Provide a brief narrative updating your firm's work since January 2009, assisting higher education clients with chief executive officer searches particularly in Texas.

3. Resumes

Provide *vitas* or resumes of those persons who would be assigned to advise and assist the Chancellor and the Board and indicate specifically the proposed role of each individual. The resumes must clearly specify the number of years the individual has provided executive search services in Texas or elsewhere, distinguishing when the individual has been the primary consultant in a search. Further, identify who would be assigned as the primary, day-to-day contact for this search.

4. Business Practices

Please briefly describe how the firm:

- a. Develops pools of candidates;
- b. Brings sitting presidents into the search while maintaining confidentiality;
- c. Works with search committees; and

d. Seeks to develop a diverse pool of candidates.

5. **Costs and Expenses**

Please describe the expected fees and costs of the search.

6. **Timelines**

Please describe the desired timelines for the search.

7. **References**

Please provide names, addresses, and phone numbers of three references.

PROPOSAL MODIFICATION

Any response to this RFP may be modified or withdrawn at any time prior to the proposal due date. No changes will be allowed after the expiration of the proposal due date. Prior to the proposal due date, the Board reserves the right to make amendments to the RFP by giving written notice to all firms who submitted RFP's as of the amendment date or posting notice thereof as indicated in the RFP Notice published on the at the State Comptroller's website at:

<http://esbd.cpa.state.tx.us/>

Respondents shall consider only those clarifications and interpretations that the Owner issues by addenda five (5) days prior to the submittal deadline. Interpretations or clarifications in any other form, including oral statements, will not be binding on the Owner and should not be relied on in preparing Qualifications.

POINT-OF-CONTACT

The Owner designates the following person as its representative and Point-of-Contact for this RFP. Respondents shall restrict all contact with the Owner and direct all questions regarding this RFP 758-15-00034 including questions regarding terms and conditions and technical specifications, to the Point-of-Contact person.

Perry Moore, Ph.D.

Vice Chancellor for Academic Affairs

Texas State University System

208 E. 10th Street, Suite 600

Thomas J. Rusk State Building

Austin, Texas 78701

Phone: (512) 463-1808

Email: perry.moore@tsus.edu

TIME SCHEDULE AND SUBMISSION DIRECTIONS

Proposals must be submitted by U.S. mail, enclosing five (5) copies to:

Brian McCall, Ph.D., Chancellor

Texas State University System

208 E. 10th Street, Suite 600

Thomas J. Rusk State Building

Austin, Texas 78701

In addition, proposers are asked to submit an electronic version of their proposal to perry.moore@tsus.edu.

When you submit your proposal by mail, mark the outside of the envelope or shipping container as "PROPOSAL-CONSULTING SERVICES" with the RFP No., a contact name, telephone number and email address. All proposals become the property of the System. Proposals

must set forth accurate and complete information as required by this RFP. Oral instructions or offers will not be considered.

CONTRACT FORMATION AND ADMINISTRATION

The Chancellor retains sole discretion, reserving the right to reject any and all responses to this RFP and to cancel the RFP if such is deemed to be in the best interests of the System or its component institutions. This RFP in no way constitutes a commitment by the Board to award a contract.

In accordance with Texas Government Code 2254, Subchapter B, the Chancellor will evaluate responses to this RFP to identify the firm he judges to be the best qualified for this search.

The Chancellor reserves the right to negotiate all elements of the contract and to approve all personnel assigned to the search.

Further, the Chancellor reserves the right to terminate the contract for any reason, subject to payment of earned fees and expenses accrued as of the date of termination.

COSTS INCURRED IN RESPONDING

All costs directly or indirectly related to preparation of a response to this RFP or any supplemental information required to clarify your original response shall be the sole responsibility of and shall be borne by your firm.

RELEASE OF INFORMATION AND OPEN RECORDS

Information submitted in response to this RFP shall not be released by the System during the proposal evaluation process. After the evaluation process is completed as determined by the Chancellor, all proposals and the information contained therein may be subject to public disclosure under the Texas Public Information Act, Government Code, Chapter 552.

TRD-201503829

Brian McCall

Chancellor

Texas State University System

Filed: September 16, 2015

Texas Veterans Commission

Texas Veterans Commission Accepting Membership Applications for Advisory Committees

The Texas Veterans Commission ("Commission") is accepting applications to fill membership vacancies on the following committees: Veterans Employment and Training Advisory Committee, Fund for Veterans' Assistance (FVA) Advisory Committee, Veterans Communication Advisory Committee, and Veterans County Service Officer Advisory Committee.

Each committee is composed of nine (9) members who are appointed by the Commission. The term of office for each member is two (2) years (staggered terms). Committees are required to meet at least four (4) times a year. The Fund for Veterans' Assistance Advisory Committee may meet as needed to make grant recommendations to the Commission. Committees generally meet at Commission headquarters in Austin, Texas or via telephone conference. Committee membership is voluntary, and the Commission is not currently authorized to reimburse members for their travel expenses.

Committees. Each advisory committee will review issues and provide advice to the Commission, as charged by the Commission.

Veterans Employment and Training Advisory Committee - Seeks the input of employers to better assist veterans in gaining successful employment and/or training.

Fund for Veterans' Assistance Advisory Committee - Evaluates grant applications and makes recommendations to the Commission.

Veterans Communication Advisory Committee - Develops recommendations to improve communications with veterans, their families, and the general public regarding the services provided by the Texas Veterans Commission and information on benefits and assistance available to veterans from federal, state, and private entities.

Veterans County Service Officer Advisory Committee - Develops recommendations to improve the support and training of Veterans County Service Officers and to increase coordination between Veterans County Service Officers and the Commission related to the statewide network of services being provided to veterans.

Qualifications for Membership. Veterans are strongly preferred. Applicants should identify how they meet these qualifications for each committee:

Veterans Employment and Training Advisory Committee - Individuals who are recognized authorities in the fields of business, employment, training, rehabilitation or labor or are nominated by veterans' organizations that have a national employment program.

Fund for Veterans' Assistance Advisory Committee - Representatives from veterans' organizations, non-profit or philanthropic organizations, veterans or family members of veterans, and other individuals with the experience and knowledge to assist the committee with achievement of its purpose. **NOTE:** FVA Advisory Committee members may not include officers, directors or employees of organizations or entities that have an open Fund for Veterans' Assistance grant during the member's tenure or that intend to submit an application for a Fund for Veterans' Assistance grant.

Veterans Communication Advisory Committee - Representatives from the communications industry, state agencies, the Texas National Guard, U.S. Armed Forces reserve components, and other individuals with the experience and knowledge to assist the committee with achievement of its purpose.

Veterans County Service Officer Advisory Committee - Current, former or retired Veterans County Service Officers, and may include represen-

tatives from veterans' organizations or other individuals with the experience and knowledge to assist the committee with achievement of its purpose.

Application for Membership. To apply for membership on a committee, please submit an online application through the Commission's website at <http://www.tvc.texas.gov/Advisory-Committees.aspx>.

Deadline for Application. Applications must be received by the Commission no later than 5:00 p.m. (Central Time), Wednesday, October 14, 2015, to be considered for membership on a committee.

TRD-201503802
Cruz Montemayor
Deputy Executive Director
Texas Veterans Commission
Filed: September 16, 2015

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Texas Water Development Board

Applications for September 2015

Pursuant to Texas Water Code §6.195, the Texas Water Development Board provides notice of the following applications:

Project ID #21755, a request from Caddo Lake Water Supply Corporation, P.O. Box 136, Karnack, Texas 75661-0136, received May 21, 2015, for a \$430,000 loan from the Texas Water Development Fund to finance the design and construction of two ground storage tanks.

Project ID #62679, a request from Harris County Municipal Utility District No. 148, c/o Strawn & Richardson, 6750 W. Loop S., Ste. 865, Bellaire, Texas 77401-4103, received May 20, 2015, for a \$1,100,000 loan from the Drinking Water State Revolving Fund to finance planning, design and construction cost for the rehabilitation and upgrading of an existing water distribution system.

TRD-201503762
Les Trobman
General Counsel
Texas Water Development Board
Filed: September 14, 2015



How to Use the Texas Register

Information Available: The 14 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.

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.

Review of Agency Rules - notices of state agency rules review.

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 40 (2015) is cited as follows: 40 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 "40 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 40 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
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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