

1 **CHAPTER 807. CAREER SCHOOLS AND COLLEGES**

2
3 **PROPOSED RULES TO BE PUBLISHED IN THE *TEXAS REGISTER*. THIS**
4 **DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO**
5 **FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF THE SECRETARY**
6 **OF STATE.**

7
8 The Texas Workforce Commission (TWC) proposes amendments to the following sections of
9 Chapter 807, relating to Career Schools and Colleges:

- 10 Subchapter A. General Provisions, §§807.1 - 807.3 and §§807.6 - 807.8
- 11 Subchapter B. Certificates of Approval, §§807.11 - 807.17
- 12 Subchapter C. Financial Requirements, §§807.31 - 807.35 and §807.37
- 13 Subchapter D. Representatives, §§807.51, 807.53, and 807.54
- 14 Subchapter E. School Director and Administrative Staff, §§807.62 - 807.64 and §807.66
- 15 Subchapter F. Instructors, §§807.81 - 807.84
- 16 Subchapter G. Staff Education Requirements, §807.101 and §807.102
- 17 Subchapter H. Courses of Instruction, §§807.121 - 807.123 and §§807.129 - 807.134
- 18 Subchapter I. Application Fees and Other Charges, §§807.151 - 807.153
- 19 Subchapter J. Advertising, §§807.171 - 807.173 and §807.175
- 20 Subchapter K. Admission, §§807.191 - 807.194, 806.196, and 807.197
- 21 Subchapter L. Progress Standards, §§807.221, 807.223, and 807.224
- 22 Subchapter M. Attendance Standards, §§807.241 - 807.245
- 23 Subchapter N. Cancellation and Refund Policy, §807.261 and §807.263
- 24 Subchapter O. Records, §§807.281 - 807.284
- 25 Subchapter P. Complaints, §807.301 and §807.302
- 26 Subchapter Q. Truck Driver Training Programs, §§807.321, 807.322, 807.324, and
- 27 807.325
- 28 Subchapter R. Closed Schools, §807.341 and §807.342
- 29 Subchapter S. Sanctions, §§807.351 - 807.353
- 30 Subchapter T. Cease and Desist Orders, §§807.362, 807.365, and 807.366
- 31 Subchapter U. Career Schools Hearings, §§807.385 - 807.387 and §807.395

32
33
34 TWC proposes the following new section to Chapter 807, relating to Career Schools and
35 Colleges:

- 36 Subchapter A. General Provisions, §807.5

37
38
39 TWC proposes the repeal of the following sections of Chapter 807, relating to Career Schools
40 and Colleges:

- 41 Subchapter H. Courses of Instruction, §§807.124 - 807.127
- 42 Subchapter J. Advertising, §807.176

1 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

2 Texas Education Code, Chapter 132, Career Schools and Colleges (the Act) charges TWC with
3 oversight of career schools and colleges operating in Texas. By TWC's authority under the Act
4 and TWC's Chapter 807 Career School and Colleges rules, the Career Schools and Colleges
5 (CSC) Program licenses and regulates private postsecondary schools that offer vocational
6 training to Texas residents. In this capacity, TWC currently regulates more than 600 schools,
7 consisting of approximately 4,000 courses of instruction that provide vocational training to more
8 than 146,000 students annually.

9
10 The purpose for the proposed amendments to Chapter 807 is based on a thorough review of
11 existing Chapter 807 rules, the Act, policy implementation, and application processing. The
12 amendments provide clarity and remove unnecessary regulation for CSC; ensure that students
13 seeking to further their education are provided clear information, receive timely refunds, as
14 appropriate, and have timely access to school outcome data; and streamline CSC Program
15 processes.

16
17 The amendments also implement House Bill (HB) 33, passed by the 87th Texas Legislature,
18 Regular Session (2021). HB 33 amended Texas Education Code, Chapter 132, relating to
19 measures facilitating the award of postsecondary course credit leading to workforce credentialing
20 based on military experience, education, and training.

21
22 Throughout Chapter 807, where appropriate, the term "Commission" is replaced with "Agency."
23 The Commission is the body of governance of the three Commissioners appointed by the
24 governor. The Agency is the unit of state government presided over by the Commission and
25 administered by the executive director.

26
27 The definitions for class, course, course of instruction, program, and program of instruction, are
28 proposed for amendment, and, therefore, where appropriate, the terms were changed to ensure
29 consistency of usage throughout Chapter 807.

30
31 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

32 (Note: Minor editorial changes are made that do not change the meaning of the rules and,
33 therefore, are not discussed in the Explanation of Individual Provisions.)

34
35 **SUBCHAPTER A. GENERAL PROVISIONS**

36 TWC proposes the following amendments to Subchapter A:

37
38 **§807.2. Definitions**

39 Section 807.2(12) is amended to include "course of instruction" and modify the definition to
40 include an identifiable unit of organized instruction to avoid confusion with a subject, which is
41 an element of a program or seminar.

42
43 Current §807.2(15) is removed because "course of instruction" is defined in amended
44 §807.2(12). The subsequent paragraphs are renumbered accordingly.

1 Renumbered §807.2(15) is amended to revise the definition term of "course time" to include
2 "course time hour." Also, "externship" is utilized in all CSC materials and replaces "internship"
3 in the definition to avoid confusion.

4
5 Renumbered §807.2(18) is amended to revise the definition of "distance education course" to
6 align with the definition of "distance education" in the statute. Additionally, the current
7 definition relates specifically to asynchronous education and is amended to include synchronous
8 education.

9
10 Renumbered §807.2(21) is amended to revise the definition of "good reputation" to restate with
11 potential disqualifiers instead of inversely worded with qualifiers.

12
13 Section 807.2(26) is added to define "hybrid program or blended program."

14
15 Section 807.2(27) is amended to revise the definition of "job placement" to provide clarity of
16 what constitutes placement.

17
18 Section 807.2(29) is added to define "military service."

19
20 Section 807.2(30) and (31) are added to define "owner" and "owner designee." The subsequent
21 paragraphs are renumbered accordingly.

22
23 Renumbered §807.2(33) is amended to remove the word "program" from the definition.

24
25 Section 807.2(39) is added to define "school authorized official" to reduce confusion of who is
26 authorized to sign official documents.

27
28 Renumbered §807.2(40) is amended to clarify the definition of "school." The addition of
29 "educational institution" and "training program" as synonyms for school is necessary to provide
30 definition to these terms used in statute without definition or clarification provided.

31
32 Renumbered §807.2(41) is amended to revise the definition of "secondary education" to further
33 define what constitutes that level of education.

34
35 Renumbered §807.2(42) is amended to clarify that "workshop" is a synonymous term for
36 "seminar."

37
38 Section 807.2(47) is added to define a "subject" to delineate its use from "class" for clarification.

39
40 **§807.3. Memorandum of Understanding for Regulation of Schools**

41 Section 807.3 is amended to revise the current name of "Texas Guaranteed Student Loan
42 Corporation" to "Trellis Company."

43
44 **§807.5. Suspensions**

45 New §807.5 is added to state the executive director's authority to suspend the operation of
46 provisions within Chapter 807 under certain circumstances.

1
2 **§807.6. Processing Periods**

3 Section 807.6 is amended to include "Application" in the section title and allow the program the
4 ability to modify processing times that are not required to be publicly identified by Texas
5 Government Code, §2005.003.
6

7 **§807.7. Exemptions**

8 Section 807.7(a) is amended to include program authority to approve, deny, or revoke
9 exemptions.
10

11 Section 807.7 is amended to remove subsections (b) and (c) as the language is redundant.
12

13 Relettered §807.7(b) is amended to reference the Act, as opposed to the vague reference to the
14 Texas Education Code.
15

16 New §807.7(c) is amended to remove extraneous language. Exemption criteria is addressed in
17 the Act.
18

19 **SUBCHAPTER B. CERTIFICATES OF APPROVAL**

20 TWC proposes the following amendments to Subchapter B:
21

22 **§807.11. Original Approvals**

23 Section 807.11(d)(1) is amended to revise the conditions of reapplication. To reapply, the
24 applicant must currently submit fees again and the section is amended to clarify that all fees are
25 due again.
26

27 **§807.12. Renewal**

28 Section 807.12(a)(2) and (b)(3) are amended to remove the reference to the fee for the tuition
29 trust account. The renewal fee paid by career schools and colleges is seamless in its application.
30

31 **§807.14. Locations**

32 Section 807.14(b)(2) is removed, because the itinerate program typically meet the criteria
33 outlined for seminars or short-term programs. The subsequent paragraphs are renumbered
34 accordingly.
35

36 **§807.15. Notification of Actions**

37 Section 807.15(c) is added to include the requirement for schools to notify TWC of mortgage
38 and/or lease lateness or defaults. This can be used by TWC as an indicator of possible closures.
39 The subsequent subsections are relettered accordingly.
40

41 Relettered §807.15(d) is amended to add the copy of the legal notice to the documents that need
42 to be included by the school with the notice.
43

44 **§807.16. Degrees**

45 Section 807.16(b) is amended to remove the reference that approval from the accreditor may be
46 required. Accreditor approval is a necessary element for review.

1
2 **§807.17. Unlicensed Schools**

3 Section 807.17 is amended to revise verbiage to clarify that TWC may take one or more of the
4 listed actions against schools that operate without a certificate of approval from TWC.

5
6 **SUBCHAPTER C. FINANCIAL REQUIREMENTS**

7 TWC proposes the following amendments to Subchapter C:
8

9 **§807.31. Definitions Relating to Financial Requirements**

10 Section 807.31(1) is added to define attest services. Attest services require specific licensure per
11 the Texas Public Accountancy Act. The subsequent paragraphs are renumbered accordingly.

12
13 Renumbered §807.31(5) is amended to remove the unnecessary element of the projection of
14 tuition and fees for the upcoming fiscal year from the definition of unearned tuition affidavit.

15
16 **§807.32. Financial Standards**

17 Section 807.32(a)(2) is removed because the requirement for a school to report unearned tuition
18 on its balance sheet is no longer needed. All school financial submissions will require a CSC-
19 048, which identifies unearned tuition. The subsequent paragraphs are renumbered accordingly.

20
21 Section 807.32(b) is amended to require both an unearned tuition affidavit and sworn statement
22 with any submission. Currently these are not required with audited or reviewed financials.

23
24 Section 807.32(c) is amended to modify the statement regarding preparation. The information for
25 the preparer is not needed, only for the certified public accountant (CPA) firm performing the
26 attest engagement.

27
28 Section 807.32(d) is added to include attest services to indicate legal requirements and address
29 the CPA being in jurisdictions other than Texas. The subsequent subsection is relettered
30 accordingly.

31
32 **§807.33. Financial Requirements for Original Approvals**

33 Section 807.33(a)(2) is amended to remove redundant language. Audits must be completed by a
34 CPA and in Texas, a firm license holder. Generally Accepted Accounting Principles or Generally
35 Accepted Auditing Standards require a CPA to complete a financial review.

36
37 Section 807.33(b) is amended to clarify that the intent is three full calendar months, not partial,
38 and to remove references to contract basis, as an evaluation of financial stability is necessary to
39 issue a Certificate of Approval (per §807.4(a)(3) and Texas Education Code, §132.055(b)(9)).

40
41 Section 807.33(b)(1) and (2) are amended to remove unnecessary details associated with
42 projected expenses. Expenses for the categories of salaries and lease payments for equipment are
43 sufficient to perform a review.
44

1 **§807.35. Financial Requirements for Renewal**

2 Section 807.35 is amended to revise the section title from "Financial Requirements for Renewal"
3 to "Financial Requirements for Annual Reporting" to clarify the requirement and to allow the
4 addition of language specific to revocations.

5
6 Section 807.35(a) and (b) are amended to clarify that the financial statements submitted must be
7 true and correct and to remove extraneous language as the standards have been identified in
8 §807.32.

9
10 Section 807.35(c) is amended to add language to clarify the requirement of federal tax return
11 documents to avoid confusion of schools submitting their Texas Franchise Tax reports.

12
13 Section 807.35(e) is added to clarify the outcome of not providing compliant financial statements
14 within 60 days of notice of deficiency. This will allow TWC to take administrative action
15 without delay.

16
17 **§807.37. Commission Ordered Audits**

18 Section 807.37(a)(1) and (2) is amended to clarify audit standards and language is added to
19 §807.37 regarding failure to provide TWC with Commission-ordered item(s).

20
21 **SUBCHAPTER D. REPRESENTATIVES**

22 TWC proposes the following amendments to Subchapter D:

23
24 **§807.51. Representative Requirements**

25 New §807.51(a) is added to include clarifications regarding individuals not required to register as
26 representatives given the nature of their ownership structure. The subsequent subsections are
27 relettered accordingly.

28
29 **§807.53. Representative Limitations**

30 Section 807.53(c)(1) is deleted to reduce the restriction on locations a representative is
31 authorized to solicit students. The subsequent paragraphs are renumbered accordingly.

32
33 Section 807.53(c) is amended to include courses in addition to programs.

34
35 Section 807.53(c)(11) is added to require students be advised of the policies and procedures
36 related to granting credit.

37
38 **§807.54. Representative Compliance**

39 Section 807.54 is amended to modify the matrix to align with the proposed changes in §807.53.

40
41 **SUBCHAPTER E. SCHOOL DIRECTOR AND ADMINISTRATIVE STAFF**

42 TWC proposes the following amendments to Subchapter E:

43
44 **§807.62. School Director Qualifications and Duties**

45 Section 807.62 is amended to add new subsection (a) to consolidate and clarify requirements for
46 small, and other than small, schools.

1
2 Current §807.62(a) and (b) are deleted based on consolidation under §807.62(a). The subsequent
3 subsections are relettered accordingly.
4

5 **§807.64. Director of Education Requirements**

6 Section 807.64(b)(2) is amended to modify "employment as a supervisor" to "supervisory
7 employment experience," which aligns with the expectations of an individual who is appointed
8 to a director position.
9

10 **§807.66. Director of Admissions Requirements**

11 Section 807.66(a) is amended to remove obsolete references. This provision was adopted in
12 2006, so any individual in this position in 2006 would have the necessary qualifications in 2020.
13

14 Section 807.66(b)(1) is amended to change "administrative experience" to "administration
15 experience" to align with intent.
16

17 **SUBCHAPTER F. INSTRUCTORS**

18 TWC proposes the following amendments to Subchapter F:
19

20 **§807.81. Instructor Qualifications**

21 Section 807.81(b) is amended to modify the requirement to indicate three full calendar months as
22 opposed to allowing partial months.
23

24 Section 807.81(b)(1)(A) - (D) and (2)(B) - (C), (d), and (e) are amended to indicate "subject"
25 instead of "class," and "subjects" instead of classes," to reflect the correct element of a program.
26

27 Additional amendments are proposed throughout to clarify subject, in lieu of course.
28

29 **§807.82. Temporary Instructors**

30 Section 807.82(a) is amended to indicate the maximum term of a temporary instructor is 90 days,
31 to match current practice.
32

33 Section 807.82(b)(1) is amended to change "class" to "subject(s)."
34

35 Section 807.82(b)(2) is deleted, removing the requirement to list the instructor. This information
36 is redundant. The subsequent paragraphs are renumbered accordingly.
37

38 Section 807.82(b)(4) is added to include any other information required by TWC.
39

40 Section 807.82(c) is deleted to remove notice of possible sanctions for using an unapproved
41 instructor since this is stated as part of the instructor application process. The subsequent
42 subsections are relettered.
43

44 Relettered §807.82(c) is amended to clarify subject, in lieu of course.
45

1 Relettered §807.82(d) is amended to clarify the period as an "academic term" and "subject" as
2 the appropriate element.

3
4 **§807.84. School Responsibilities Regarding Instructors**

5 Section 807.84(e) is added to stress refunds and administrative actions to be taken against a
6 school for utilizing an unapproved instructor.

7
8 **SUBCHAPTER G. STAFF EDUCATION REQUIREMENTS**

9 TWC proposes the following amendments to Subchapter G:

10
11 **§807.101. Initial Training**

12 Section 807.101(a) is amended to remove references to the Director's Resource Guide, as it is
13 obsolete.

14
15 Section 807.101(b) is amended to use three full calendar months instead of three months for
16 practicality.

17
18 **§807.102. Continuing Education**

19 Section 807.102(a) is amended to remove language relating to TWC approving the continuing
20 education providers, as this is not the practice. TWC's Career Schools and Colleges program will
21 continue to vet training (as per Texas Education Code, §132.0551(e)) and ensure that it is
22 relevant to the practice of higher education instruction and administration or the subject(s) being
23 taught, but TWC does not maintain a published list.

24
25 Section 807.102(b) is deleted since the language is redundant to what is stated in §807.102(a).
26 The subsequent subsections are relettered accordingly.

27
28 Section 807.102(c) is amended to remove "full-time instructor" because the continuing education
29 requirement for full-time instructors is different from the requirement for school directors and
30 directors of admission

31
32 **SUBCHAPTER H. COURSES OF INSTRUCTION**

33 TWC proposes the following amendments to Subchapter H:

34
35 **§807.121. Definitions Relating to Courses of Instruction**

36 Section 807.121(1) is amended to add language to clarify the role that externship plays in
37 classifying a program type.

38
39 Section 807.121(2) is amended to clarify that "lab" is a synonym for "laboratory experience."

40
41 Section 807.121(6) is amended to clarify terminology.

42
43 Section 807.121(7) is added to define "military service course credit directory."
44

1 **§807.122. General Information for Courses of Instruction**

2 Section 807.122(a) and (b) are amended to move language from §807.127(a) and (c) for better
3 alignment.

4
5 Section 807.122(c) is amended to move language from §807.124(a) for better alignment.

6
7 Section 807.122(d) is amended to move language from §807.125(a) for better alignment and
8 provide requirement to conform to legal standard.

9
10 Section 807.122(e) is amended to move language from §807.126(a) for better alignment.

11
12 Section 807.122(e)(7) is added to require the addition of criteria evaluating military service
13 experience, education, or training, for any course listed in the military service course credit
14 directory.

15
16 Section 807.122(f) is added to ensure TWC reviews course time and balances it against the
17 industry standard for each state occupation. The subsequent subsections are relettered
18 accordingly.

19
20 Relettered §807.122(n) is amended to modify the language to clarify that only a simple majority
21 of members can have no ownership or employment interest regarding the school.

22
23 **§807.123. Applications for Additional Courses of Instruction**

24 Section 807.123(b)(1) and (4) are deleted to remove abbreviated program application
25 requirements for duplicate programs and continuing professional education issues. The
26 subsequent paragraphs are renumbered accordingly.

27
28 **§807.124. Stated Occupation**

29 Section 807.124 is repealed. The requirements in §807.124 are outside the scope of program
30 capability. Elements of §807.124(a) have been moved to §807.122 in an effort to ensure students
31 are trained for a stated occupation.

32
33 **§807.125. Curriculum Content**

34 Section 807.125 is repealed to reduce duplicated language and unnecessary items. The language
35 in §807.125(a) is moved to §807.122 for better alignment.

36
37 **§807.126. Curriculum Length**

38 Section 807.126 is repealed and language in §807.126(a) is moved to §807.122 for better
39 alignment.

40
41 **§807.127. Program Title**

42 Section 807.127 is repealed and language in §807.127(a) and (c) is moved to §807.122 for better
43 alignment.

1 **§807.129. Facilities**

2 Section 807.129(b) is amended to clarify that the enrollment capacity is related to seats, as well
3 as workstations, in a lecture capacity.
4

5 **§807.131. School Responsibilities Relating to Courses of Instruction**

6 Section 807.131(b)(1) is amended to establish TWC determines what constitutes "reasonable."
7

8 Section 807.131(i) is amended to reflect basic recommendations and reduce language
9 complexity. There are not statutory guidelines on class size; rule language provides
10 recommendations based on training experiences.
11

12 **§807.132. Course of Instruction Revisions**

13 Section 807.132(c) is deleted. This is not something the program reviews or enforces and is just
14 extraneous language. Ultimately employment will be indicative of the alignment.
15

16 **SUBCHAPTER I. APPLICATION FEES AND OTHER CHARGES**

17 TWC proposes the following amendments to Subchapter I:
18

19 **§807.151. Fee Schedule**

20 Section 807.151(5), (9), (10), (11), and (13) are amended to modify language for clarity.
21

22 Section 807.151(8) is deleted. These changes do not require the reissuance of approval. The
23 subsequent paragraphs are renumbered accordingly.
24

25 Renumbered §807.151(10) is amended to remove the application fee for an administrative staff
26 member.
27

28 **§807.152. Renewal Fees**

29 Section 807.152(c) is amended to correct the terminology of the late renewal fee as identified in
30 statute.
31

32 **§807.153. Installment Payments**

33 Section 807.153(b)(3) is amended to specify that failure to meet an installment agreement may
34 result in revocation of the school's certificate of approval.
35

36 Section 807.153(c) is added to provide rule authority to take administrative action against a
37 school that has received a multi-year certificate for not submitting required renewal payments.
38

39 **SUBCHAPTER J. ADVERTISING**

40 TWC proposes the following amendments to Subchapter J:
41

42 **§807.171. General Information for Advertising**

43 Section 807.171(a) is amended to clarify that the intent is not limited only to deceptive
44 statements, but also misleading statements, concerning enrollment.
45

1 **§807.173. Advertisement Content**

2 Section 807.173 is amended to include "and Monitoring" in the section title to reflect TWC's
3 authority to monitor schools' advertising content.

4
5 Section 807.173(d) is amended to allow the use of the student's abbreviated name in
6 endorsements and to review schools to maintain records of the student endorsement.

7
8 Section 807.173(g) is added to allow TWC to order steps counteracting advertisement violations.

9
10 **§807.175. Catalog**

11 Section 807.175(a)(14), (b), (c), and (d) are amended to adjust language to align with other
12 changes in Chapter 807.

13
14 **§807.176. Advertisement Monitoring**

15 Section 807.176 is repealed to eliminate extraneous language. The language in §807.176(a) and
16 (b) are moved to §807.173 for better alignment.

17
18 **SUBCHAPTER K. ADMISSION**

19 TWC proposes the following amendments to Subchapter K:

20
21 **§807.191. General Information for Admission**

22 Section 807.191(a) and (b) are amended to clarify that specific admission requirements apply to
23 all schools.

24
25 **§807.192. Admission Requirements**

26 Section 807.192(a)(3) is amended to replace "certificate" with "nondegree" to encompass all
27 courses of instruction.

28
29 **§807.193. Receipt of Enrollment Policies**

30 Section 807.193(a) is amended to require all schools meeting criteria to use TWC-approved
31 document.

32
33 Section 807.193(b) is amended to update administrative requirements.

34
35 **§807.194. Enrollment Agreement**

36 Section 807.194(a) is deleted, which excludes seminar schools from being required to complete
37 enrollment agreements. The subsequent subsections are relettered accordingly.

38
39 Section 807.194(h) is deleted because it allows schools to submit abbreviated enrollment
40 agreements. Schools are required to submit all enrollment agreements to TWC for approval prior
41 to use.

42
43 **§807.196. Tuition and Fees**

44 Section 807.196(a) is amended to clarify the element to which the charge is related.

1 **§807.197. Admission Requirements for Degree Granting Schools**

2 Section 807.197(a) is amended to clarify that this restriction does not apply to TWC-approved
3 teach-outs.

4
5 **SUBCHAPTER M. ATTENDANCE STANDARDS**

6 TWC proposes the following amendments to Subchapter M:

7
8 **§807.243. Termination of Enrollment**

9 Section 807.243(b) is amended to clarify the amount of time associated with the academic term
10 and §807.243(c) is removed because it is no longer needed. The subsequent subsection is
11 relettered accordingly.

12
13 **§807.244. Make-up Work**

14 Section 807.244(a) is amended to clarify that work may be made up, the appropriate increments,
15 and note that the time itself cannot be made up.

16
17 **§807.245. Leaves of Absence**

18 Section 807.245(a) is amended to clarify that this is specific to the program length and not just
19 applicable to small schools.

20
21 Section 807.245(c) is amended to clarify the time period.

22
23 **SUBCHAPTER N. CANCELLATION AND REFUND POLICY**

24 TWC proposes the following amendments to Subchapter N:

25
26 **§807.261. Requirement for Tour**

27 Section 807.261(b) is amended to remove the exclusion for hybrid or blended programs.

28
29 Section 807.261(c) is amended to add the tour conditions for hybrid or blended programs.

30
31 **§807.263. Refund Requirements**

32 Section 807.263(a) is amended to clarify that refunds to students are contingent upon the
33 outcome of TWC's review of facts associated with the school's conduct and that TWC may order
34 full or partial refunds.

35
36 **SUBCHAPTER O. RECORDS**

37 TWC proposes the following amendments to Subchapter O:

38
39 **§807.282. Student Records**

40 Section 807.282(b) is added to require schools to maintain records electronically. The subsequent
41 subsections are relettered accordingly.

42
43 New §807.282(g) is added to address possible need for translation.

1 **§807.283. Attendance Record Keeping**

2 Current §807.283(a)(1) is deleted so that schools must maintain attendance records for all
3 programs. The subsequent paragraphs are renumbered accordingly.

4
5 Renumbered §807.283(a)(1) is amended to specify what information must be on school master
6 record of attendance.

7
8 Renumbered §807.283(a)(2) requiring attendance records is amended to include instructor name,
9 course name, date, class hours scheduled for each day and absence(s).

10
11 Section 807.283(b) is deleted to remove the attendance record keeping requirements for Title IV
12 schools. Verifiable academically related activity is already addressed in refunds. The subsequent
13 subsection is relettered accordingly.

14
15 **§807.284. Reporting**

16 Section 807.284(d) is amended to remove redundant language.

17
18 **SUBCHAPTER P. COMPLAINTS**

19 TWC proposes the following amendments to Subchapter P:

20
21 **§807.301. School Policy Regarding Complaints**

22 Section 807.301(a)(5)(C) is deleted to remove redundant guidance for addressing complaints.
23 The subsequent subparagraphs are relettered accordingly.

24
25 **§807.302. Complaints and Investigations**

26 Section 807.302(d) is amended to substitute course of instruction for program to clarify that
27 seminars are included and indicate that the investigation for a complaint not filed timely may be
28 declined.

29
30 **SUBCHAPTER Q. TRUCK DRIVER TRAINING PROGRAMS**

31 TWC proposes the following amendments to Subchapter Q:

32
33 **§807.321. General Information Regarding Truck Driver Training**

34 Section 807.321(b) is added to require all truck driver training programs to comply with
35 applicable requirements outlined in 49 Code of Federal Regulations Part 380.

36
37 **SUBCHAPTER R. CLOSED SCHOOLS**

38 TWC proposes the following amendments to Subchapter R:

39
40 **§807.341. School Closures**

41 Section 807.341(a) is added to establish the requirement for owners to notify TWC of pending
42 closure as soon as possible.

43
44 Section 807.341(b) is added to list information that a school must provide TWC upon
45 notification of closure.

1 Section 807.341(c) is added to grant TWC the ability to impose sanctions for schools failing to
2 comply with §807.341. The subsequent subsections are relettered accordingly.

3
4 **§807.342. Tuition Trust Account**

5 Section 807.342(e) is deleted, because it is part of the renewal amounts and not a line itemed fee.

6
7 **SUBCHAPTER S. SANCTIONS**

8 TWC proposes the following amendments to Subchapter S:

9
10 **§807.352. Sanctions**

11 Section 807.352 is amended to change references of program to course, which is inclusive of
12 programs and seminars.

13
14 Section 807.352(a)(2) is deleted because it is not a form of sanction, but a required element of
15 renewal, if applicable, per the Act. The subsequent paragraphs are renumbered accordingly.

16
17 Renumbered §807.352(a)(8) and (9) are amended to align with language from the Act and other
18 sections of Chapter 807.

19
20 **§807.353. Administrative Penalties**

21 The penalty matrix in §807.353 is amended to reflect addition of failure of notice as required per
22 §807.15; reduce the penalty, in conjunction with redefining an instance, for unlicensed
23 instructors as a deterrent; and include a penalty for failure to grant credit, when required.

24
25 **SUBCHAPTER U. CAREER SCHOOLS HEARINGS**

26 TWC proposes the following amendments to Subchapter U:

27
28 **§807.387. Hearing Procedures**

29 Section 807.387(a) is amended to change the default hearing format from in person to telephonically.

30
31 **PART III. IMPACT STATEMENTS**

32 Chris Nelson, Chief Financial Officer, determined that for each year of the first five years the
33 rules will be in effect, the following statements will apply:

34
35 There are no additional estimated costs to the state and to local governments expected as a result
36 of enforcing or administering the rules.

37
38 There are no estimated cost reductions to the state and to local governments as a result of
39 enforcing or administering the rules.

40
41 There are no estimated losses or increases in revenue to the state or to local governments as a
42 result of enforcing or administering the rules.

43
44 There are no foreseeable implications relating to costs or revenue of the state or local
45 governments as a result of enforcing or administering the rules.

1 There are no anticipated economic costs to individuals required to comply with the rules.

2
3 There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural
4 communities as a result of enforcing or administering the rules.

5
6 Based on the analyses required by Texas Government Code, §2001.024, TWC determined that
7 the requirement to repeal or amend a rule, as required by Texas Government Code, §2001.0045,
8 does not apply to this rulemaking.

9
10 Takings Impact Assessment

11 Under Texas Government Code, §2007.002(5), "taking" means a governmental action that
12 affects private real property, in whole or in part or temporarily or permanently, in a manner that
13 requires the governmental entity to compensate the private real property owner as provided by
14 the Fifth and Fourteenth Amendments to the United States Constitution or the Texas
15 Constitution, Article I, §17 or §19, or restricts or limits the owner's right to the property that
16 would otherwise exist in the absence of the governmental action, and is the producing cause of a
17 reduction of at least 25 percent in the market value of the affected private real property,
18 determined by comparing the market value of the property as if the governmental action is not in
19 effect and the market value of the property determined as if the governmental action is in effect.
20 TWC completed a Takings Impact Analysis for the proposed rulemaking action under Texas
21 Government Code, §2007.043. The primary purpose of this proposed rulemaking action, as
22 discussed elsewhere in this preamble, is to support TWC's ability to effectively and efficiently
23 protect students, regulate career schools and colleges, meet employer needs, and improve
24 consumer disclosures that allow informed choices. TWC proposes amendments in several key
25 areas. The amendments enumerate TWC's expectations and use of its regulatory authority in
26 areas in which recent violations and possible abuses have been identified. Additionally, the
27 amendments are intended to increase transparency of the regulatory requirements and the overall
28 performance of career schools and colleges.

29
30 The proposed rulemaking action will not create any additional burden on private real property or
31 affect private real property in a manner that would require compensation to private real property
32 owners under the United States Constitution or the Texas Constitution. The proposal also will
33 not affect private real property in a manner that restricts or limits an owner's right to the property
34 that would otherwise exist in the absence of the governmental action. Therefore, the proposed
35 rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

36
37 Government Growth Impact Statement

38 TWC determined that during the first five years the rules will be in effect, they will not:

- 39 --create or eliminate a government program;
40 --require the creation or elimination of employee positions;
41 --require an increase or decrease in future legislative appropriations to TWC;
42 --require an increase or decrease in fees paid to TWC;
43 --create a new regulation;
44 --expand, limit, or eliminate an existing regulation;
45 --change the number of individuals subject to the rules; and
46 --positively or adversely affect the state's economy.

1
2 Economic Impact Statement and Regulatory Flexibility Analysis

3 TWC determined that the rules will not have an adverse economic impact on small businesses or
4 rural communities, as the proposed rules place no requirements on small businesses or rural
5 communities.

6
7 Mariana Vega, Director, Labor Market Information, determined that there is not a significant
8 negative impact upon employment conditions in the state as a result of the rules.

9
10 Courtney Arbour, Director, Workforce Development Division, determined that for each year of
11 the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the
12 proposed rules will be to gain further efficiencies in the investigation of complaints, review of
13 policies and procedural systems of state agencies, and reporting of data to elected state
14 leadership and the public.

15
16 TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be
17 within TWC's legal authority to adopt.

18
19 **PART IV. COORDINATION ACTIVITIES**

20 In the development of these rules for publication and public comment, TWC sought the
21 involvement of Texas' 28 Local Workforce Development Boards (Boards). TWC provided the
22 policy concept regarding these rule amendments to the Boards for consideration and review on
23 February 8, 2022. TWC also conducted a conference call with Board executive directors and
24 Board staff on February 11, 2022, to discuss the policy concept. During the rulemaking process,
25 TWC considered all information gathered in order to develop rules that provide clear and concise
26 direction to all parties involved.

27
28 **PART V. PUBLIC COMMENT**

29 Comments on the proposed rules may be submitted to TWCPolicyComments@twc.texas.gov.
30 Comments must be received no later than August 29, 2022.

31
32 **PART VI. STATUTORY AUTHORITY**

33 The rules are proposed under Texas Education Code, Chapter 132 which provide TWC with the
34 authority to adopt, amend, or repeal such rules as it deems necessary for the effective
35 administration of TWC services and activities.

36
37 The proposed rules affect Title 3, Texas Education Code, particularly Chapter 132.
38

- 1 (8) Advertising--Any affirmative act designed to call attention to a school or
2 program for the purpose of encouraging enrollment.
3
- 4 (9) Agency--The unit of state government established under Texas Labor Code,
5 Chapter 301, that is presided over by the Commission and administered by the
6 executive director to operate the integrated workforce development system and
7 administer the unemployment compensation insurance program in this state as
8 established under the Texas Unemployment Compensation Act, Texas Labor
9 Code Annotated, Title 4, Subtitle A, as amended. The definition of Agency
10 ~~applies~~ shall apply to all uses of the term ~~in rules contained~~ in this chapter.
11
- 12 (10) Appellant--The party or the party's authorized hearing representative who files
13 an appeal from an appealable determination or decision.
14
- 15 (11) Asynchronous distance education--Distance education training that the Agency
16 determines is not synchronous.
17
- 18 (12) Class, course, or course of instruction--An identifiable unit of organized
19 instruction that is part of a program of instruction.
20
- 21 (13) Commission--The body of governance of the Texas Workforce Commission
22 composed of three members appointed by the governor as established under
23 Texas Labor Code, §301.002 that includes one representative of labor, one
24 representative of employers, and one representative of the public. The
25 definition of Commission ~~applies~~ shall apply to all uses of the term ~~in rules~~
26 ~~contained~~ in this ~~chapter~~ subchapter.
27
- 28 (14) Coordinating Board--The Texas Higher Education Coordinating Board.
29
- 30 ~~(15) Course of instruction--A program or seminar.~~
31
- 32 ~~(15)~~(16) Course time or course time hour--A ~~course or~~ class period that is:
33
- 34 (A) a 50-minute to 60-minute lecture, recitation, or class, including a
35 laboratory class or shop training, in a 60-minute period;
36
- 37 (B) a 50-minute to 60-minute externship ~~internship~~ in a 60-minute period; or
38
- 39 (C) 60 minutes of preparation in asynchronous distance education.
40
- 41 ~~(16)~~(17) Date of notice--The date the notice is mailed, unless good cause exists for
42 the hearing officer to determine otherwise.
43
- 44 ~~(17)~~(18) Date of request of hearing--The date on which the appellant or the hearing
45 representative filed a written notice of appeal with the Agency by hand
46 delivery, facsimile, or mail. If an appeal is mailed to the Agency, then the

1 appeal is perfected as of the postmark date on the envelope containing the
2 appeal request unless good cause exists for the hearing officer to determine
3 otherwise. If an appeal is delivered by hand or facsimile after 5:00 p.m., the
4 date of request shall be the next day.
5

6 ~~(18)(19)~~ Distance education course--Either a seminar or a program that is offered to
7 ~~nonresidence~~~~non-residence~~ school students delivered either synchronously or
8 asynchronously to the student~~via correspondence or other media~~ from a remote
9 site ~~on a self-paced schedule, excluding programs using interactive instruction.~~
10

11 ~~(19)(20)~~ Distance education school--A school that offers only distance education
12 courses.
13

14 ~~(20)(21)~~ Employment--A graduating or graduate student's employment in the same
15 or substantially similar occupation for which the student was trained.
16

17 ~~(21)(22)~~ Good reputation--The possession of honesty and truthfulness,
18 trustworthiness and reliability, and a professional commitment to the
19 educational process and the training or preparing of a person for a field of
20 endeavor in a business, trade, technical, or industrial occupation, as well as the
21 condition of being regarded as possessing such qualities. In determining
22 whether a person is of good reputation, the Agency is not limited to the
23 following acts or omissions. The Agency may consider similar acts or
24 omissions and rehabilitation efforts in response to prior convictions in making
25 its determination. A person may be~~is~~ considered to ~~lack~~~~be of~~ good reputation if
26 the person:
27

28 (A) has ~~never~~ been convicted of a felony or any other crime that would
29 constitute risk of harm to the school or students as determined by the
30 Agency;
31

32 (B) has ~~not~~ been successfully sued for fraud or deceptive trade practices, or
33 breach of contract, within the last 10 years;
34

35 (C) ~~owns~~~~does not own~~ or ~~administers~~~~administer~~ a school currently in
36 violation of legal requirements, has ~~never~~ owned or administered a
37 school with repeated violations, ~~or~~~~and~~ has ~~never~~ owned or administered
38 a school that closed with violations including, but not limited to, unpaid
39 refunds or administrative penalties; or
40

41 (D) has ~~not knowingly~~ falsified or withheld information from the Agency.
42

43 ~~(22)(23)~~ Hearing--An informal, orderly, and readily available proceeding held
44 before an impartial hearing officer. A party or hearing representative may
45 present evidence to show that the Agency's determination should be reversed,
46 affirmed, or modified.

1
2 ~~(23)~~(24) Hearing officer--An Agency employee designated to conduct impartial
3 hearings and issue final administrative decisions.

4
5 ~~(24)~~(25) Hearing representative--Any individual authorized by a party to assist the
6 party in presenting the party's appeal. A hearing representative may be legal
7 counsel or another individual. Each party may have a hearing representative to
8 assist in presenting the party's appeal.

9
10 ~~(25)~~(26) Human ~~trafficking~~Trafficking--The action or practice of illegally
11 transporting people for the purposes of forced labor or commercial sexual
12 exploitation, including all offenses referred to in Texas Penal Code, Chapter
13 20A ~~of the Texas Penal Code~~.

14
15 (26) Hybrid program or blended program--A program that has any combination of
16 residence and synchronous distance education offerings.

17
18 (27) Job placement--An ~~active~~affirmative effort by the school to assist the student
19 in obtaining employment in the same or substantially similar stated occupation
20 for which the student was trained. Active efforts include, but are not limited to,
21 the school:

22
23 (A) arranging an interview;

24
25 (B) contacting potential employers; and/or

26
27 (C) bringing potential employers to the school to assist the student.

28
29 (28) Master Student Registration List (MSRL)~~student registration list~~--A
30 comprehensive list with an entry made for any person who signs an enrollment
31 agreement, makes a payment to attend the school, or attends a class. The entry
32 shall be made on the date the first of these events occurs.

33
34 (29) Military service--Service as a member of the armed forces of the United States,
35 including service in the National Guard or Reserves.

36
37 (30) Owner--

38
39 (A) In the case of a career school or college owned by an individual or
40 married couple, that individual or married couple;

41
42 (B) In the case of a career school or college owned by a partnership, all full,
43 silent, and limited partners;

44
45 (C) In the case of a limited liability company, all members and managers;
46

1 (39) School authorized official--Any identified owner, director, or owner designee
2 of a school.

3
4 (40)(36) School, educational institution, or training program--A "career school or
5 career college," as defined in the Act, that includes each location where
6 courses of instruction shall be offered.

7
8 (41)(37) Secondary education--Successful completion of public, private, or home
9 schooling at the high school level or obtainment of a recognized high school
10 equivalency credential, recognized by an institution of higher education or a
11 private or independent institution of higher education, as defined by Texas
12 Education Code, §61.003.

13
14 (42)(38) Seminar or workshop--A type of program~~course of instruction~~ that
15 enhances a student's career, as opposed to a program that teaches the skills and
16 fundamental knowledge required for a stated occupation. A seminar may
17 include a workshop, an introduction to an occupation or cluster of occupations,
18 a short course that teaches part of the skills and knowledge for a particular
19 occupation, language training, continuing professional education, and review
20 for postsecondary examination.

21
22 (43)(39) Seminar school--A school that offers only seminars.

23
24 (44)(40) Small school--A "small career school or college" as defined in the Act.

25
26 (45)(41) Stated occupation--An occupation for which a program is offered that:

- 27
28 (A) is recognized by a state or federal law or by a state or federal agency as
29 existing or emerging;
30
31 (B) is in demand; and
32
33 (C) requires training to achieve entry-level proficiencies.

34
35 (46)(42) Student--Any individual solicited, enrolled, or trained in Texas by a
36 school.

37
38 (47) Subject--An identifiable unit of instruction or study that imparts specific
39 knowledge or skills, which is a subpart of a program or seminar.

40
41 (48)(43) Suspension of enrollments--A sanction that requires the school to suspend
42 enrollments, re-enrollments, advertising, and solicitation, and to cease, in any
43 way, advising prospective students, either directly or indirectly, of the
44 available courses of instruction.

1 (49)(44) Synchronous distance education--The Agency may determine distance
2 education to be synchronous under the following conditions:

3
4 (A) the training is conducted simultaneously in real time, or the training is
5 conducted so that the manner of delivery ensures that even if the
6 instructor and student are separated by time, the course time of
7 instruction that the student experiences can be determined; and

8
9 (B) there is consistent interaction between the student(s) and the instructor on
10 a schedule that includes a definite time for completion of the program
11 and periodic verifiable student completion/performance measures that
12 allow the application of the progress standards of Subchapter L [of this](#)
13 [chapter](#) and attendance standards of Subchapter M of this chapter.

14
15 (50)(45) Title IV school--A career school or college that participates in student
16 financial aid programs under Title IV, Higher Education Act of 1965 (20
17 [United States Code](#) ~~U.S.C.~~ Section 1070 et seq.).

18
19 (51)(46) Tour--A required, in-person inspection of the facilities and equipment
20 pertaining to a course of instruction.

21
22 (52)(47) Week--Seven consecutive calendar days.

23 24 **§807.3. Memorandum of Understanding for Regulation of Schools.**

25
26 The Act requires the ~~Agency Commission~~ to execute a memorandum of understanding
27 with [Trellis Company, formerly known as](#) the Texas Guaranteed Student Loan
28 Corporation, and each state agency regulating schools to reduce default rates at the
29 regulated schools and to improve the overall quality of the programs. Copies [of the](#)
30 [required memoranda of understanding shall be maintained and made](#) ~~are~~ available [upon](#)
31 [request at the Texas Workforce Commission, 101 East 15th Street, Austin, Texas 78778.](#)

32 33 **§807.5. Suspensions.**

34
35 [The executive director may suspend the operation of one or more of the provisions in this](#)
36 [chapter, not statutorily imposed, if he or she finds that a public emergency or imperative](#)
37 [public necessity exists, and that the suspension will best serve the public health, safety, or](#)
38 [welfare.](#)

39 40 **§807.6. Application Processing Periods.**

41
42 (a) The time periods for processing applications from schools, including small
43 businesses, for certificates of approval, ~~as well as approvals for representatives,~~
44 ~~school directors, and instructors,~~ shall be in accordance with the following time
45 periods:
46

1 (1) Initial notification of acceptance or return of original application, to include the
2 reason for the return is 10 days;~~The first period is the time from the receipt of an~~
3 ~~application to the date of the issuance of a written notice approving the application or~~
4 ~~outlining the reasons why the application is unacceptable. The time periods for each~~
5 ~~application are:~~
6

7 ~~(2)(A) original certificate of approval--90~~40 days;

8
9 ~~(3)(B) renewed certificate of approval--45 days from the expiration of the current~~
10 ~~certificate~~40 days;

11
12 ~~(C) change in ownership certificate of approval--40 days;~~

13
14 ~~(D) original representatives--21 days;~~

15
16 ~~(E) renewed representatives--21 days;~~

17
18 ~~(F) school directors and instructors (approval contingent on issuance of school's~~
19 ~~approval)--40 days; and~~

20
21 ~~(G) school directors and instructors (approval not contingent on issuance of school's~~
22 ~~approval)--55 days.~~

23
24 ~~(2) The second period is the time from receipt of the last item necessary to complete~~
25 ~~the application to the date of issuance of written notice approving or denying~~
26 ~~approval of the application. The time periods for each application are:~~
27

28 ~~(A) original certificate of approval--40 days;~~

29
30 ~~(B) renewed certificate of approval--40 days;~~

31
32 ~~(C) change in ownership certificate of approval--40 days;~~

33
34 ~~(D) original representative (approval contingent upon issuance of school's approval)--~~
35 ~~21 days;~~

36
37 ~~(E) original representative (approval not contingent upon issuance of school's~~
38 ~~approval)--21 days;~~

39
40 ~~(F) renewed representative (approval contingent upon issuance of school's approval)--~~
41 ~~21 days;~~

42
43 ~~(G) school directors and instructors (approval contingent on issuance of school's~~
44 ~~approval)--40 days; and~~
45

1 ~~(H) school directors and instructors (approval not contingent on issuance of school's~~
2 ~~approval)–55 days.~~

3
4 (b) In the event the application is not processed in the time periods as stated in this
5 section, the applicant has the right to request of the Commission full reimbursement
6 of all filing fees paid in that particular application process. If the Commission does
7 not agree that the established time periods have been violated or finds that good
8 cause existed for exceeding the established periods, the request will be denied. ~~Good~~
9 ~~cause for exceeding the period established is considered to exist if:~~

10
11 ~~(1) the number of applications for certificates of approval, representatives,~~
12 ~~school directors, or instructors as appropriate to be processed exceeds by~~
13 ~~15% or more the number processed in the same calendar quarter of the~~
14 ~~preceding year;~~

15
16 ~~(2) another public or private entity utilized in the application process caused~~
17 ~~the delay; or~~

18
19 ~~(3) other conditions exist that give good cause for exceeding the established~~
20 ~~periods.~~

21
22 ~~(c) If the request for full reimbursement authorized in this section is denied, the~~
23 ~~applicant may then request a hearing by appealing to the Commission for a~~
24 ~~resolution of the dispute. The appeal will be processed in the same manner as other~~
25 ~~appeals involving schools pursuant to the Act.~~

26
27 **§807.7. Exemptions.**

28
29 (a) A school seeking an exemption must~~may~~ apply for approval to the
30 Agency~~Commission for an exemption~~ under §132.002 or §132.003 of the Act~~Texas~~
31 Education Code.

32
33 ~~(b) The Commission shall grant the requested exemption if the Commission determines~~
34 ~~that the school meets the requirements for an exemption under §132.002 or §132.003~~
35 ~~of the Texas Education Code.~~

36
37 ~~(c) The Commission may deny or revoke an exemption in the same manner as a denial~~
38 ~~or revocation of a certificate of approval, if the Commission determines that the~~
39 ~~school does not meet the requirements for the exemption under §132.002 or~~
40 ~~§132.003 of the Texas Education Code.~~

41
42 ~~(b)(d)~~ A school may appeal the denial or revocation of an exemption in accordance with
43 the provisions of Subchapter D of the Act~~Texas Education Code~~.

44
45 (c) Schools shall be required to provide documentation and additional information, as
46 requested by the Agency, to facilitate the determination of whether a school meets

1 the requirements of an exemption set out in the Act. All requests for exemption must
2 provide:

3
4 (1) the school's legal name, physical address, telephone number, and website, if
5 applicable, along with the name and phone number of the ownership and
6 owner partners; and

7
8 (2) the name, objective, length, and cost of the course(s) offered.
9

10 ~~(e) A school applying for an exemption from the provisions of Texas Education Code~~
11 ~~§132.002(a)(6) must provide evidence that:~~

12
13 ~~(1) the school has a certificate of authorization from the Coordinating Board~~
14 ~~to grant baccalaureate or higher level degrees or a letter from the~~
15 ~~Coordinating Board indicating that Coordinating Board approval is not~~
16 ~~required;~~

17
18 ~~(2) the school is accredited by a Coordinating Board-recognized accrediting~~
19 ~~body;~~

20
21 ~~(3) the school is in good standing with the designated accrediting body and~~
22 ~~not subject to:~~

23
24 ~~(A) probation;~~

25
26 ~~(B) a directive to show cause as to why accreditation should not be revoked;~~
27 ~~or~~

28
29 ~~(C) any other action that, as defined by the accrediting agency, will prevent~~
30 ~~the school from seeking approval of its degree programs; and~~

31
32 ~~(4) at least a simple majority (51 percent) of credits earned in the~~
33 ~~educational programs of the school are transferable to educational~~
34 ~~programs that are:~~

35
36 ~~(A) at an equivalent or higher academic level (e.g., baccalaureate to~~
37 ~~baccalaureate or higher);~~

38
39 ~~(B) at a junior college, college, or university supported entirely or partly by~~
40 ~~taxation from a local or state source; and~~

41
42 ~~(C) within the same local/regional service area as the offered program, as~~
43 ~~determined by the Agency.~~
44

1 **§807.8. Confidentiality of Information.**
2

3 All student-specific information obtained from or about any school by the Agency,
4 including, but not limited to, data submitted under §807.284(a) of this chapter, is
5 confidential information and not releasable, and is not public information under Texas
6 Government Code, Chapter 552, but may be compiled and reported to the public at a
7 summary level of information that does not include the personally identifiable
8 information of any student or allow for the identification of any student through
9 combination with other publicly~~publically~~ available information.
10

11 **SUBCHAPTER B. CERTIFICATES OF APPROVAL**
12

13 **§807.11. Original Approvals.**
14

15 (a) A complete application for an original certificate of approval shall consist of the
16 following:
17

- 18 (1) a completed application form provided by the Agency~~Commission~~;
- 19
- 20 (2) complete and correct financial statements, as specified in this chapter,
21 demonstrating the school is financially stable and capable of fulfilling its
22 commitments for training;
- 23
- 24 (3) the application fee as specified in this chapter; and
- 25
- 26 (4) any other revisions or evidence necessary to bring the school's application for
27 approval to a current and accurate status as requested by the
28 Agency~~Commission~~.
- 29

30 (b) Schools shall fully satisfy the Agency application requirements within 90 days of
31 receipt of the original application, or else the application may be considered
32 withdrawn.
33

34 (c) If a school fails to respond to a request for additional information within 21 days, the
35 Agency~~Commission~~ may withdraw the application.
36

37 (d) To reapply, a school shall submit:
38

- 39 (1) a complete application as required in subsection (a) of this section, including
40 applicable fees; and
- 41
- 42 (2) an affidavit stating that the school will not reopen until it has been issued a
43 Certificate of Approval.
44

1 §807.12. Renewal.
2

3 (a) For small schools [holding a multiyear certificate](#), the certificate of approval shall be
4 renewed at least every three years, or more frequently as determined by the
5 [AgencyCommission](#). A complete application for renewal of a certificate of approval
6 shall consist of the following:
7

- 8 (1) complete and correct annual financial statements, as specified in this chapter,
9 demonstrating the school is financially stable and capable of fulfilling its
10 commitments for training;
11
12 (2) the renewal fee ~~and the fee for the tuition trust account, if applicable~~, specified
13 in this chapter; and
14
15 (3) any other revisions or evidence necessary to bring the school's application for
16 approval to a current and accurate status as requested by the
17 [AgencyCommission](#).
18

19 (b) For all other schools, the certificate of approval shall be renewed annually. A
20 complete application for renewal of a certificate of approval shall consist of the
21 following:
22

- 23 (1) a completed application for renewal form provided by the
24 [AgencyCommission](#);
25
26 (2) complete and correct annual financial statements for the most recent fiscal year
27 demonstrating the school is financially stable and capable of fulfilling its
28 commitments for training;
29
30 (3) the renewal fee ~~and the fee for the tuition trust account, if applicable~~, specified
31 by this chapter; and
32
33 (4) any other revisions or evidence necessary to bring the school's application for
34 approval to a current and accurate status as requested by the
35 [AgencyCommission](#).
36

37 (c) The effective, expiration, and issuance dates are indicated on the certificate of
38 approval. The [AgencyCommission](#) may reflect the date of renewal as the date
39 following the date of expiration of the prior certificate of approval, if the school
40 submitted a timely request for renewal and met all of the requirements contained in
41 this chapter for renewal.
42

43 (d) The complete renewal application shall be postmarked on or before the due date as
44 indicated in the Act.
45

1 **§807.13. Change in ownership.**
2

- 3 (a) The Agency~~Commission~~ may consider the addition or deletion of any person defined
4 as an owner under the Act as a change in school ownership. The school may notify
5 the Agency~~Commission~~ of the change in ownership a minimum of 45 days before
6 the change in ownership to request that the Agency~~Commission~~ in lieu of a full
7 application accept a partial application.
8
- 9 (b) The Agency~~Commission~~ may require submission of a full application for approval
10 for a change in ownership if:
11
- 12 (1) the Agency~~Commission~~ has a reasonable basis to believe the change in
13 ownership of the school may significantly affect the school's continued ability
14 to meet the criteria for approval; or
15
- 16 (2) the school fails to file notice of the change of ownership at least 45 days prior
17 to the ownership transfer.
18
- 19 (c) The Agency~~Commission~~ may require a partial application for approval for a change
20 in ownership if the Agency~~Commission~~ reasonably believes the change in ownership
21 will not significantly affect the school's continued ability to meet the criteria for
22 approval.
23
- 24 (d) The purchaser of a school shall accept responsibility for all refund liabilities.
25
- 26 (e) Management Agreements must be disclosed to the Agency~~Commission~~. Parties to a
27 management agreement shall be of good reputation and character.
28

29 **§807.14. Locations.**
30

- 31 (a) A school shall obtain a certificate of approval for each location where courses of
32 instruction will be offered, unless the school has a certificate of approval and meets
33 one of the exceptions in this section.
34
- 35 (b) The Agency~~Commission~~ may approve the following as exempt from applying for
36 approval for a new or additional location, if requested at least 30 days in advance:
37
- 38 (1) seminars, including preparation for licensing examinations, educational
39 institution entrance examinations, and reading improvement;
40
- 41 ~~(2) — classes in no more than one location at a time as an itinerant school;~~
42
- 43 (2)(3) classes at facilities used for additional classrooms for instructional services
44 only, which are within a one-mile radius of the main campus and are
45 dependent on the main campus for administration, supervision, fiscal control,
46 and student services; or

1
2 ~~(3)(4)~~ short-term programs. Short term programs:

3
4 (A) include course time of 200 hours or less of instruction; and

5
6 (B) are conducted with at least a 90-day interval between cessation of one
7 program and the beginning of the next.
8

9 (c) The school shall file an application for a certificate of approval to reflect a new or
10 additional location, including all documents deemed necessary by the
11 ~~Agency Commission~~, and the appropriate fee. The ~~Agency Commission~~ may issue the
12 certificate of approval after inspection of the new facilities.
13

14 (d) If the ~~Agency Commission~~ determines that a move of the school presents an
15 unreasonable transportation hardship which would prevent a student from
16 completing the training at the new location, the school shall provide a full refund of
17 all monies paid and a release from all obligations to the student.
18

19 **§807.15. Notification of Actions.**
20

21 (a) Unless otherwise instructed by the ~~Agency Commission~~, a school shall notify the
22 ~~Agency Commission~~ in writing of any legal action to which the school, any of its
23 owners, representatives, or management employees is a party.
24

25 (b) A school shall notify the ~~Agency Commission~~ in writing of any legal action
26 described in this section no later than five business days after the action is known to
27 be filed or the school, owner, representative, or management employee is served.
28

29 (c) An owner shall notify the Agency in writing no later than five business days of each
30 instance of:

31 (1) lease or mortgage default; or

32 (2) lease or mortgage payment(s) being past due greater than 30 days.
33

34
35
36 ~~(d)(e)~~ A school shall include, with the notice required in this section, a file-marked copy
37 of the legal notice, petition, complaint, or other legal instrument, including copies of
38 any judgments.
39

40 ~~(e)(d)~~ A school shall notify the ~~Agency Commission~~ in writing no later than five
41 business days after receiving notice of any change in accreditation status or Title IV
42 status, including but not limited to, Heightened Cash Monitoring 1 or 2, loss of
43 eligibility, composite score, 90/10 ratio or default rate problems, or other similar
44 changes.
45

1 §807.16. Degrees.
2

- 3 (a) For approval to grant degrees, the school shall make application to the Coordinating
4 Board.
5
6 (b) The ~~Agency~~Commission may recognize the approval to grant degrees upon receipt
7 of notice issued by the Coordinating Board ~~and~~~~Additional notice by~~ the school's
8 accreditor~~also may be required~~.
9

10 §807.17. Unlicensed Schools.
11

12 If a career school or college, as defined in the Act, operates, solicits, or enrolls students,
13 or conducts any course of instruction before receiving a certificate of approval or an
14 exemption from the Agency, the Agency may take one or more of the following actions:

- 15
16 (1) assess a penalty;
17
18 (2) require full refunds to all students; or
19
20 (3) issue a cease and desist order.
21

22 SUBCHAPTER C. FINANCIAL REQUIREMENTS
23

24 §807.31. Definitions Relating to Financial Requirements.
25

26 The following words and terms, when used in this subchapter, shall have the following
27 meanings unless the context clearly indicates otherwise.
28

- 29 (1) Attest services--An audit, review, compilation, or other assurance engagement
30 that must be performed in accordance with standards promulgated by the
31 American Institute of Certified Public Accountants or other Commission-
32 recognized accountancy organization.
33
34 (2)(1) GAAP--Generally Accepted Accounting Principles.
35
36 (3)(2) GAAS--Generally Accepted Auditing Standards.
37
38 (4)(3) Sworn statement--A notarized statement including the following language:
39 "I swear or affirm that the information in these statements is true and correct to
40 the best of my knowledge."
41
42 (5)(4) Unearned tuition affidavit--A statement of the highest amount of unearned
43 tuition at any time during the most recent fiscal year, ~~the projected highest~~
44 ~~unearned tuition at any time during the next fiscal year~~, and the gross amount
45 minus refunds of student tuition and fees earned during the fiscal year in all
46 courses~~programs~~ approved under the Act.

1
2 **§807.32. Financial Standards.**
3

- 4 (a) The balance sheet required in this subchapter shall, at a minimum, reflect the
5 following:
6
7 (1) positive equity or net worth balance;
8
9 ~~(2) unearned tuition as a current liability;~~
10
11 ~~(2)(3)~~ a current ratio of at least one-to-one; and
12
13 ~~(3)(4)~~ stockholder's equity or net worth exceeding the amount shown for goodwill,
14 if applicable, under assets in the balance sheet.
15
16 (b) ~~All financial statements~~~~Compilations~~ shall be accompanied by the unearned tuition
17 affidavit and owner's sworn statement certifying that the unearned tuition affidavit
18 and financial statements are true and correct.
19
20 (c) All financial statements shall ~~identify the name, license number, and licensing state~~
21 ~~of the accountant associated with the statements and~~ be prepared in accordance with
22 GAAP.
23
24 (d) All financial statement attest services shall be completed in accordance with GAAS,
25 or other standards promulgated by the American Institute of Certified Public
26 Accountants, as applicable, and comply with jurisdictional laws.
27
28 ~~(e)(d)~~ A school that maintains a financial responsibility composite score that meets the
29 general standards established in federal regulations by the United States~~U.S.~~
30 Department of Education for postsecondary institutions participating in student
31 financial assistance programs authorized under Title IV of the Higher Education Act
32 of 1965, as amended, shall be considered to have met the financial standards of this
33 subchapter. A school that qualifies under an alternative standard but not the general
34 standard of these federal regulations will not be considered to have met the financial
35 standards of this subchapter unless the school meets the other requirements stated in
36 this subchapter.
37

38 **§807.33. Financial Requirements for Original Approvals.**
39

- 40 (a) The prospective owner shall furnish the Agency~~Commission~~ with the following:
41
42 (1) for a school owned by a sole proprietor, a reviewed personal balance sheet
43 with notes that disclose the amount of payments for the next five years to meet
44 debt agreements as required by GAAP; or
45

1 (2) for all other ownership structures, an audited balance sheet consistent with
2 GAAP and GAAS ~~and certified by an accountant.~~

3
4 (b) The school shall submit a balance sheet, a list of the expected school-related
5 expenses for the first three full calendar months of operation of the school, and a
6 sworn statement signed by the owner affirming the availability of sufficient cash to
7 cover projected expenses at the date of licensure. ~~A school currently operating, or~~
8 ~~proposing to operate, on a reimbursement contract basis may request a waiver of this~~
9 ~~section from the Commission.~~ Projected expenses may include the following:

10
11 (1) employee salaries, ~~listed by position title,~~ including withholding,
12 unemployment taxes, and any other related expenses;

13
14 (2) lease payments for equipment ~~listed by the name of the equipment;~~

15
16 (3) lease payments for facilities;

17
18 (4) accounting, legal, and other specifically identified professional fees; and

19
20 (5) an estimate of other expenses such as advertising, travel, textbooks, office
21 supplies, classroom supplies, printing, telephone, utilities, taxes, and sales
22 commissions.

23
24 (c) The school shall submit a projection of the gross amount of tuition and fees to be
25 collected during each of the first two years of operation.

26
27 (d) The prospective owner shall also furnish such other evidence as may be deemed
28 appropriate by the Agency Commission to establish financial stability.

29
30 **§807.34. Financial Requirements for Changes in Ownership.**

31
32 Prior to a change in ownership of a school, the purchaser shall furnish the
33 Agency Commission a balance sheet meeting the requirements outlined in this subchapter
34 for original approvals, excluding the sufficient cash requirement for initial expenses. The
35 purchaser shall furnish any other evidence deemed appropriate by the
36 Agency Commission to establish financial stability.

37
38 **§807.35. Financial Requirements for Annual Reporting ~~Renewal.~~**

39
40 (a) A school shall submit annual financial statements as set forth in this section that
41 shall be:

42
43 (1) audited ~~by an accountant and consistent with GAAP;~~

44
45 (2) reviewed ~~by an accountant and consistent with GAAP~~ (except for the first
46 renewal, which must be audited or compiled); or

1
2 (3) compiled ~~by an accountant~~, containing ~~an unearned tuition affidavit and~~ at
3 least one note disclosing the current and long-term liabilities. This note shall be
4 similar to that required by GAAP for reviewed and audited statements.

5 Compiled statements are acceptable under the following conditions:

6
7 (A) the gross annual revenue from student tuition and fees, less refunds, is
8 less than or equal to \$100,000; ~~or~~;

9
10 (B) the ~~programs~~ ~~courses of instruction~~ are less than 30 consecutive calendar
11 days ~~one month~~ in length.

12
13 (b) Each school shall furnish true and correct financial statements ~~in association with an~~
14 ~~accountant~~ annually and not later than 180 days from the close of the school's fiscal
15 year. These statements shall include the following:

16
17 (1) balance sheet;

18
19 (2) statement of results of operation, which includes a statement of income and
20 retained earnings;

21
22 (3) statement of cash flows; and

23
24 (4) the gross amount minus refunds of annual student tuition and fees for each
25 school, separated from other revenues unrelated to training.

26
27 (c) A school with a gross annual revenue from student tuition and fees, less refunds, less
28 than or equal to \$100,000 may submit all of the following in lieu of the financial
29 statements required in this section:

30
31 (1) an unearned tuition affidavit;

32
33 (2) a copy of the annual federal income tax form(s) ~~form~~ filed specifically for the
34 business; and

35
36 (3) an owner's sworn statement certifying that the unearned tuition affidavit and
37 the copy of the annual federal income tax form(s) ~~form~~ are true and correct.

38
39 (d) A school that is a subsidiary of a corporation may submit, in lieu of the statements
40 required in this section, the annual audited financial statements of the parent
41 corporation provided that:

42
43 (1) said statements are accompanied by an audited list of any student tuition
44 refunds payable by the subsidiary school at the close of its fiscal year. The
45 statements shall also be accompanied by an owner's sworn statement reflecting

1 the gross amount minus refunds of student tuition and fees earned during the
2 fiscal year on all programs approved under the Act; and

- 3
4 (2) the parent corporation ensures that each student enrolled in the subsidiary
5 school receives either the training agreed upon or a refund as provided in the
6 Act; and submits either a certified resolution of its board of directors to this
7 effect or any other evidence as deemed appropriate by the ~~Agency Commission~~
8 to establish financial responsibility by the parent corporation.
9

10 (e) A school or college that fails to provide financial statements that comply with the
11 requirements in this section and the standards identified in §807.32 of this
12 subchapter, within 60 days of the date that they receive notice of any deficiencies,
13 may have their certificate of approval revoked.
14

15 **§807.37. ~~Agency Commission~~ Ordered Audits.**
16

17 If the ~~Agency Commission~~ determines that reasonable cause exists to question the validity
18 of any financial information submitted, or the financial stability of the school, the
19 ~~Agency Commission~~ may ~~order~~require at the school's expense:
20

- 21 (1) an audit of a school's financial statements in accordance with this subchapter;
22 ~~and school that has been certified by an accountant; or~~
23
24 (2) the owner to furnish any other evidence deemed appropriate by the
25 ~~Agency Commission~~ to establish financial stability. Failure of a career school
26 or college to provide compliant financial statements or other evidence required
27 by the Agency, by the date noted in such order, may result in revocation of its
28 certificate of approval.
29

30 **SUBCHAPTER D. REPRESENTATIVES**
31

32 **§807.51. Representative Requirements.**
33

34 (a) All school personnel soliciting or enrolling students must be registered as a
35 representative. This registration requirement does not apply to individuals owning
36 and operating a school in the capacity as a sole proprietor, joint venturer, or general
37 partner, due to their direct nature of ownership.
38

39 ~~(b)(a)~~ The school shall apply annually to register representatives on forms provided by
40 the Agency and with the appropriate fee.
41

42 ~~(c)(b)~~ A representative shall be of good reputation and under the control of the school
43 and is deemed to be the agent of the school. The school is responsible for any
44 representations or misrepresentations, expressed or implied, made by a
45 representative.
46

1 ~~(d)~~(e) Any student solicited or enrolled by an unregistered representative is entitled to a
2 refund of all monies paid and a release from all obligations to the school. Any
3 contract signed by a prospective student as a result of solicitation or enrollment by an
4 unregistered representative is null and void and unenforceable.
5

6 ~~(e)~~(d) Representatives shall participate in training approved by the Agency that covers
7 the Act and Commission rules relative to representatives, admissions, advertising,
8 and any other topics as required by the Agency to support the legal and ethical
9 solicitation and enrollment of students.
10

11 §807.53. Representative Limitations. 12

13 (a) The representative shall not begin solicitation of students until the school receives
14 notice of approval for the school and registration of the representative from the
15 ~~Agency~~Commission.
16

17 (b) Employees and other agents of recruiting firms shall not serve as representatives.
18

19 (c) A representative shall not:
20

21 ~~(1) — solicit in public places other than educational settings, job fairs, or organized~~
22 ~~meetings;~~
23

24 ~~(1)~~(2) offer as an inducement or enticement any material consideration to a
25 prospective student prior to enrollment, such as cash, food, housing, or gifts;
26

27 ~~(2)~~(3) administer the entrance test;
28

29 ~~(3)~~(4) advise students about financial aid, other than informing the students of the
30 general availability of financial aid;
31

32 ~~(4)~~(5) give false, misleading, or deceptive information about any aspect of the
33 school's operation, courses, programs, completion or employment rates,
34 examination success rates, job placement, or salary potential;
35

36 ~~(5)~~(6) concurrently solicit for or represent more than one school, unless the owner
37 of each school being represented is informed that the representative is also
38 soliciting for or representing other schools;
39

40 ~~(6)~~(7) engage in acts or practices that have a tendency to intimidate, coerce, or
41 mislead a prospective student into accepting an enrollment;
42

43 ~~(7)~~(8) represent that a school, course, or program has sponsorship, credentials,
44 approval, characteristics, credit transferability, uses, benefits, or qualities that it
45 does not have;
46

Soliciting or enrolling students into unapproved courses or programs
Soliciting students in disallowed locations
Soliciting or enrolling students into unapproved courses or programs
Offering students financial inducements to enroll
Coercing students to enroll
Administering entrance tests
Advising students on financial aid
Soliciting as, or on behalf of, an employment agency
Failing to invite students to tour the school's facility and inspect the equipment
Omitting advising students on the school's policies and procedures regarding granting of credit
Violating any other provision of statute or rule relating to career schools and colleges

1
2 **SUBCHAPTER E. SCHOOL DIRECTOR AND ADMINISTRATIVE STAFF**

3
4 **§807.62. School Director Qualifications and Duties.**

5
6 [\(a\) A school director shall be of good reputation. A school director of a small school must have at minimum one year of administration or management experience. A school director of other than a small school must have at minimum five years of administration or management experience or at least two years of experience as a director of a career school or college. An equivalent duration of higher education, college or university, may be substituted, year for year, for administration or management experience.](#)

7
8
9
10
11
12
13
14 ~~(a) A school director of a small school shall have administrative or management experience and shall be of good reputation.~~

15
16
17 ~~(b) A school director of other than a small school shall be of good reputation and have a total of five years of administrative or management experience. An equivalent duration of higher education, college or university, may be substituted for each year of experience.~~

18
19
20
21
22 ~~(b)(e)~~ The school shall obtain [Agency Commission](#) approval for the school director before employment of the school director.

23
24
25 ~~(c)(d)~~ The school director is responsible for the courses of instruction, organization of classes, designation of a liaison for [Agency Commission](#) compliance visits, maintenance of the school facilities and proper administrative records, and all other matters related to the administration of the school, as determined by the [Agency Commission](#).

26
27
28
29
30
31 ~~(d)(e)~~ The [Agency Commission](#) may require the school director to attend additional training to continue approved director status if a school has more than one substantiated complaint from students during a one-year period. If the school has

1 repeat violations from a previous year under the same director, the
2 Agency Commission may revoke the approval of the school director.

3
4 ~~(e)~~ The school director shall:

- 5
6 (1) ensure that all facilities, including housing endorsed by the school, comply
7 with local, city, county, municipal, state, and federal regulations such as, but
8 not limited to, fire, building, and sanitation codes; and
9
10 (2) inspect facilities, including housing, before endorsement.

11
12 **§807.63. Acting School Director.**

13
14 (a) The Agency Commission may allow a school to designate an acting school director
15 for a period not to exceed 90 days or as otherwise approved by the
16 Agency Commission, who is:

- 17
18 (1) a currently approved school director at another location with the same owner to
19 facilitate the approval process at a new location;
20
21 (2) a new school director pending approval by the Agency Commission; or
22
23 (3) required by an emergency as determined by the Agency Commission.

24
25 (b) The school shall provide written notice to the Agency Commission, delivered by the
26 end of the first day following the appointment of the acting school director.
27

28 **§807.64. Director of Education Requirements.**

29
30 (a) A school may have a director of education.

31
32 (b) If the school employs a director of education, the director shall meet the same
33 qualifications as an instructor and, in addition, shall have:

- 34
35 (1) one year of employment as a postsecondary instructor;
36
37 (2) one year of supervisory employment ~~experience as a supervisor~~; and
38
39 (3) a bachelor's degree, appropriate for the skills required, as determined by the
40 Agency Commission.
41

42 **§807.66. Director of Admissions Requirements.**

43
44 (a) A school may have a director of admissions. ~~An individual employed by a school as a~~
45 ~~director of admissions prior to the effective date of this section is not subject to~~
46 ~~§807.66(b)(1) and §807.66(b)(2).~~

1
2 (b) If the school employs a director of admissions, the director shall be of good
3 reputation and, in addition, shall have:

4
5 (1) one year of management or administration~~administrative~~ experience; and

6
7 (2) one year of admissions experience.
8

9 **SUBCHAPTER F. INSTRUCTORS**

10 **§807.81. Instructor Qualifications.**

11
12
13 (a) The instructor shall be of good reputation and shall not be a current student in the
14 same or similar course of instruction, as determined by the Agency, in which the
15 instructor teaches.

16
17 (b) Instructors shall possess and affirm on forms provided by the Agency that the
18 instructor has one of the following qualifications that applies to the subject~~course~~
19 area to be taught. In such cases where the practical experience is gained on a
20 seasonal basis as an industry standard, the season of at least three full calendar
21 months of experience shall be considered as one year of experience.

22
23 (1) The instructor has a master's degree or higher that:

24
25 (A) includes satisfactory completion of six semester credit hours or eight
26 quarter credit hours in the subject~~class~~ to be taught;

27
28 (B) includes satisfactory completion of three semester credit hours or four
29 quarter credit hours in the subject~~course~~ area and one year of related
30 practical experience within the ten years immediately preceding
31 employment by the school, if the subject~~class~~ to be taught is in a
32 technical field;

33
34 (C) includes satisfactory completion of three semester credit hours, or four
35 quarter credit hours in the subject~~course~~ area to be taught, if the
36 subject~~class~~ to be taught is in a nontechnical~~non-technical~~ field; or

37
38 (D) is supplemented by one year of related practical experience in the
39 subject~~class~~ to be taught within the ten years immediately preceding
40 employment by the school, if the subject~~class~~ to be taught is in a
41 nontechnical~~non-technical~~ field.
42

43 (2) The instructor has a bachelor's degree that:

44
45 (A) includes satisfactory completion of nine semester hours or 12 quarter
46 hours related to the subject~~course~~ area to be taught;

- 1
- 2 (B) includes satisfactory completion of six semester credit hours or eight
- 3 quarter credit hours in the subject~~course~~ area to be taught and one year of
- 4 related practical experience within the ten years immediately preceding
- 5 employment by the school, if the subject~~class~~ to be taught is in a
- 6 technical field;
- 7
- 8 (C) includes satisfactory completion of three semester credit hours or four
- 9 quarter credit hours in the subject~~course~~ area and one year of related
- 10 practical experience within the ten years immediately preceding
- 11 employment by the school, if the subject~~class~~ to be taught is in a
- 12 nontechnical~~non-technical~~ field; or
- 13
- 14 (D) is supplemented by two years of related practical experience within the
- 15 ten years immediately preceding employment by the school.
- 16
- 17 (3) The instructor has an associate~~associate's~~ degree that:
- 18
- 19 (A) includes satisfactory completion of nine semester credit hours or 12
- 20 quarter hours in the subject~~course~~ area to be taught and two years of
- 21 related practical experience within the ten years immediately preceding
- 22 employment by the school; or
- 23
- 24 (B) is supplemented by three years of related practical experience within the
- 25 ten years immediately preceding employment by the school.
- 26
- 27 (4) The instructor has a secondary education that includes a certificate of
- 28 completion from a recognized postsecondary school for a program with course
- 29 time of at least 900 hours in a relevant course area and four years of related
- 30 practical experience within the ten years immediately preceding employment
- 31 by the school; or
- 32
- 33 (5) The instructor has proof of satisfactory completion of secondary education and
- 34 five years of related practical experience within the ten years immediately
- 35 preceding employment by the school.
- 36
- 37 (c) In addition to the other applicable requirements for instructors, including the good
- 38 reputation requirement, the following qualifications apply to the specific instructors
- 39 listed in this subsection.
- 40
- 41 (1) The Agency~~Commission~~ requires that a court reporting instructor of only
- 42 machine shorthand theory and speedbuilding shall have:
- 43
- 44 (A) an associate~~associate's~~ degree or higher and certificate of completion of
- 45 machine shorthand theory requirements in an accredited court reporting
- 46 program;

- 1
- 2 (B) an ~~associate~~ ~~associate's~~ degree in court reporting from any state-
- 3 recognized school;
- 4
- 5 (C) a Registered Professional Reporter or Certified Shorthand Reporter
- 6 certification from any state; or
- 7
- 8 (D) a certificate of completion of a court reporting program from a state-
- 9 certified school.
- 10
- 11 (2) The ~~Agency~~ ~~Commission~~ requires that a court procedures and technology
- 12 instructor shall have:
- 13
- 14 (A) a Registered Professional Reporter or Certified Shorthand Reporter
- 15 certification; and
- 16
- 17 (B) one year of court reporting experience.
- 18
- 19 (3) The ~~Agency~~ ~~Commission~~ requires that a modeling instructor shall have, at a
- 20 minimum:
- 21
- 22 (A) a secondary education and certificate of completion from a modeling
- 23 program of at least 45 hours of course time from a state recognized
- 24 school and at least five verifiable paid modeling jobs completed within
- 25 the past five years; or
- 26
- 27 (B) a secondary education and at least ten verifiable paid modeling jobs
- 28 completed within the past five years.
- 29
- 30 (4) The ~~Agency~~ ~~Commission~~ requires that a truck driving instructor shall have, at a
- 31 minimum:
- 32
- 33 (A) a secondary education;
- 34
- 35 (B) certified proof of successful completion of course time of 40 hours in
- 36 safety education and driver training as required by this chapter; and
- 37
- 38 (C) three years of full-time tractor trailer driving experience within the ten
- 39 years immediately preceding employment by the school.
- 40
- 41 (5) The ~~Agency~~ ~~Commission~~ requires that a bartending instructor shall be certified
- 42 by the Texas Alcoholic Beverage Commission as having completed the
- 43 required seller training program.
- 44
- 45 (d) The director shall ensure that an instructor applicant demonstrates sufficient
- 46 language proficiency to teach the class for which the instructor is applying to teach.

- 1
2 (e) For those instructors who return to the school prior to one full year of absence, and
3 who will be teaching the same subjects~~classes~~ as previously approved, the school
4 shall document the leave and reinstatement dates in the instructor's personnel file.
5 When an instructor begins teaching new subjects~~classes~~ or the absence was more
6 than one year, the school shall submit a new application to the Agency~~Commission~~.

7
8 **§807.82. Temporary Instructors.**
9

- 10 (a) The Agency may allow a school to use a previously unapproved instructor to teach
11 temporarily for a period not to exceed 90 days~~reasonable amount of time in the case~~
12 ~~of an emergency, as determined by the Agency.~~

- 13
14 (b) In such circumstances, the school shall provide written notice to the Agency
15 delivered no later than the first day the temporary instructor begins teaching. The
16 notice shall include:

17
18 (1) the subject(s)~~class~~ to be taught;

19
20 ~~(2) the name of the approved instructor;~~

21
22 ~~(2)(3)~~ the name of the temporary instructor; ~~and~~

23
24 ~~(3)(4)~~ the reason for the temporary instructor; and

25
26 (4) any other information as required by the Agency.

27
28 ~~(e) Failure to properly notify the Agency shall result in sanctions for the use of an~~
29 ~~unapproved instructor.~~

30
31 ~~(c)(d)~~ The temporary instructor shall have sufficient practical experience or education in
32 the subject~~course~~ area to be taught; and shall not have been previously disapproved
33 to teach the class.

34
35 ~~(d)(e)~~ There shall be no more than one temporary instructor per academic term~~grading~~
36 ~~period~~ in an individual subject~~class~~, unless specifically approved in advance by the
37 Agency.

38
39 ~~(e)(f)~~ Failure to comply with this section may~~shall~~ result in sanctions, a full refund to
40 all students attending such classes, or both.

41
42 **§807.83. Instructor Application.**
43

- 44 (a) A school that has been licensed for at least one year and is accredited by an agency
45 recognized by the United States~~U. S.~~ Secretary of Education is not required to submit
46 instructor applications to the Agency~~Commission~~ for approval. Documentation that

1 the instructor meets the requirements of this chapter must be kept on file at the
2 school and available for review immediately upon request.

- 3
- 4 (b) The school shall file an application for approval of an instructor on forms provided
5 by the [AgencyCommission](#) in accordance with the following criteria and ensure that
6 the instructor is of good reputation.
- 7
- 8 (1) The application shall be postmarked within five calendar days of employment
9 as an instructor subject to the conditions outlined in this subchapter. A school
10 may employ an instructor pending approval by the [AgencyCommission](#).
- 11
- 12 (2) Depending upon the qualifications indicated on the application, the application
13 shall include one or more of the following:
- 14
- 15 (A) a legible copy of the postsecondary certificate or degree, or a transcript
16 indicating appropriate coursework completed, as applicable;
- 17
- 18 (B) proof of a current occupational license; and
- 19
- 20 (C) proof of secondary education.
- 21
- 22 (c) A school with degree programs shall ensure that instructors are of good reputation
23 and meet all the qualifications required by the Coordinating Board.
- 24
- 25 (d) The [AgencyCommission](#) may approve a variance from the specific qualifications
26 contained in §807.81 of this subchapter with sufficient justification and an assurance
27 that the program quality will not be lessened.
- 28
- 29 (e) The [AgencyCommission](#) may consider current approvals of instructors by other
30 Texas state agencies responsible for approval and regulation of the program, or any
31 professional certifications held by the instructor when submitted with the
32 [Agency'sCommission's](#) instructor application. The [AgencyCommission](#) will accept
33 notification, in lieu of a new instructor application, for any instructor that has a
34 current approval by the [AgencyCommission](#) to teach the same classes at other
35 schools that have the same owners.
- 36
- 37 (f) The [AgencyCommission](#) may require the school director of an accredited school to
38 file applications for instructors if there have been two substantiated complaints
39 regarding instructors in the previous year, or if the school is unable to produce, when
40 requested, documentation that all instructors meet the requirements of this
41 subchapter.
- 42
- 43 (g) The [AgencyCommission](#) may require a school director to submit and receive
44 approvals for instructor applications in advance of employing the instructors for a
45 period of one year if the school has had three instructor applications finally
46 disapproved within the previous two years.

1
2 **§807.84. School Responsibilities Regarding Instructors.**
3

- 4 (a) The school shall ensure that an appropriate number of instructors, as determined by
5 the [Agency Commission](#), have proper licensure or certificates required for the stated
6 occupation's objective. The holder of the license or certificate shall actively
7 participate in [course program](#) development and revisions.
8
9 (b) The school shall ensure continuity of instruction through reasonable retention of
10 instructors to provide students with a quality education.
11
12 (c) The school director or director of education shall formally evaluate each instructor in
13 writing at least annually, subject to review by the [Agency Commission](#).
14
15 (d) The school director or director of education shall ensure that students are allowed the
16 opportunity to formally evaluate each instructor, [including temporary instructors](#), in
17 writing at least annually and incorporate said evaluation in the instructor's overall
18 evaluation. These student evaluations are subject to review by the
19 [Agency Commission](#).
20
21 (e) The school shall ensure that classes are taught only by approved instructors. Failure
22 to meet this requirement may entitle students to a refund and may subject the school
23 to sanctions.
24

25 **SUBCHAPTER G. STAFF EDUCATION REQUIREMENTS**
26

27 **§807.101. Initial Training.**
28

- 29 (a) A school director shall ~~complete the online training contained in the Director's~~
30 ~~Resource Guide or attend a Commission-sponsored workshop and~~ demonstrate a
31 proficiency of the knowledge required to operate a school before final
32 [Agency Commission](#) approval may be granted. ~~The Commission may require a~~
33 ~~school director to retrain in order to maintain skills and continue as an approved~~
34 ~~school director.~~
35
36 (b) The school shall provide in-service training within the first three [full calendar](#)
37 months of teaching to those instructors hired lacking teaching experience. In-service
38 training includes planned professional development opportunities that enable
39 inexperienced instructors to learn and develop effective teaching strategies and skills.
40 Topics shall include competency-based training, instructional methods, adult
41 learning styles, and student learning and skills assessment. Competency-based
42 training specifies the skills and skill levels required to complete a training program,
43 develops and organizes teaching and learning methods to enable students to achieve
44 the identified skills and levels of proficiency, and uses criterion-referenced
45 evaluation to measure achievement.
46

1 §807.102. Continuing Education.

2
3 (a) ~~Except for exempt providers as defined in the Act, providers shall submit an~~
4 ~~application for approval of continuing education training.~~ In selecting ~~approving~~
5 continuing education training, the school ~~Commission~~ shall consider the factors set
6 out in §132.0551 of the Act. A school's selection of a continuing education provider
7 is subject to approval by the Agency.

8
9 ~~(b) If a continuing education training provider submits an application for approval prior~~
10 ~~to September 1, 2006, and the application and courses are approved, all training~~
11 ~~conducted on or after January 1, 2006, will be considered as approved continuing~~
12 ~~education if the training is determined by the Commission to be substantially similar~~
13 ~~to the application.~~

14
15 ~~(b)~~(e) The school shall implement, maintain, and update annually a written plan for staff
16 development, which includes at a minimum, continuing education, staff meetings,
17 attendance at trade and professional conferences, and observation of, or participation
18 in, on-the-job activities.

19
20 ~~(c)~~(d) Each school director, ~~full-time instructor,~~ and director of admissions shall
21 complete a minimum of six hours of course time of continuing education applicable
22 to the position within 12 months of employment in the position and each calendar
23 year thereafter.

24
25 ~~(d)~~(e) The school shall provide and document in-service training that provides updates
26 on skills, knowledge, and technology required by business and industry for those
27 instructors who have taught for two years, ~~but have not gained relevant work~~
28 ~~experience during the two-year period.~~

29
30 SUBCHAPTER H. PROGRAMS ~~COURSES~~ OF INSTRUCTION

31
32 §807.121. Definitions Relating to Programs ~~Courses~~ of Instruction.

33
34 The following words and terms, when used in this subchapter, shall have the following
35 meanings unless the context clearly indicates otherwise.

- 36
37 (1) Externship--Practical, program-related, off-campus training under direct or
38 indirect instructor supervision, with a preplanned outline of experiences and
39 competencies. For purposes of determining whether a program is residence,
40 distance education, or a hybrid combination, the externship component will not
41 be a determining factor.
42
43 (2) Laboratory experience or lab--A specific experience of observation,
44 experimentation, practice, study, technical investigation, analysis, and practical
45 application of theory or verbal instruction involving hands-on supervised study
46 in a selected vocation or course ~~class~~.

- 1
- 2 (3) Lecture--A presentation of theories, concepts, procedures, or information about
- 3 a particular subject~~class~~.
- 4
- 5 (4) New program--A program:
- 6
- 7 (A) not previously offered;
- 8
- 9 (B) previously offered and then discontinued;
- 10
- 11 (C) with a revised objective such that the program provides preparation for
- 12 different jobs than those for which the program was originally approved
- 13 (examples: legal secretary to paralegal; dental technician to medical
- 14 technician; computer operator to computer programmer); or
- 15
- 16 (D) with a 25 percent or more change within a 12-month period to the total
- 17 number of hours, content, or lessons (examples: course time from 1,000
- 18 hours to 750, 600 hours to 900, 20 lessons to 30, 60 semester credit
- 19 hours to 80).
- 20
- 21 (5) New seminar--A seminar:
- 22
- 23 (A) not previously offered;
- 24
- 25 (B) previously offered and then discontinued;
- 26
- 27 (C) with a revised objective; or
- 28
- 29 (D) with a 25 percent or more change in a 12-month period to the total
- 30 number of hours of the approved seminar.
- 31
- 32 (6) Revised program or seminar--Revisions include changes in admission
- 33 requirements, title, class title, objective description (but not the detailed
- 34 objective), ~~class~~ course time hours or credit hours, or class hours of lecture,
- 35 laboratory, or externship. School calendars, class schedules, Scheduling and
- 36 price changes are catalog changes, not revisions.
- 37
- 38 (7) Military service course credit directory--The Agency-published list of any
- 39 course types, with Classification for Instructional Program Codes (CIP codes),
- 40 that are identified by the Agency and the relevant military experience,
- 41 education, or training that may align with those programs or courses.
- 42

43 **§807.122. General Information for Programs~~Courses~~ of Instruction.**

- 44
- 45 (a) Each program of instruction submitted for approval shall be identified by a title.
- 46

1 (b) The Agency will not approve false, misleading, or deceptive titles.

2
3 (c) The school shall ensure that each program prepares the student for the stated
4 occupation.

5
6 (d) The school shall identify a demonstrable occupational demand for the stated
7 occupation. The Agency may consider the following in evaluating the school's
8 statement of occupational demand:

9
10 (1) publications of established relevant occupational associations;

11
12 (2) targeted occupation lists of Local Workforce Development Boards, if approved
13 by the Agency, or other local or state entities;

14
15 (3) references to advertisements in media for employment;

16
17 (4) occupation employment rate of students;

18
19 (5) percentage of graduating students who have previously completed the same or
20 a substantially similar program and who have obtained employment in the
21 same or substantially similar stated occupation for which they have been
22 trained;

23
24 (6) relative supply and demand for the stated occupation, including letters from
25 potential employers that describe their need for trained employees; or

26
27 (7) reports or publications relating to the specific occupational demand.

28
29 (e) The school shall:

30
31 (1) ensure the program and stated occupation comply with statutory and regulatory
32 requirements of the State of Texas, as well as codes adopted by the local
33 municipality or other authority having jurisdiction where the school is located,
34 and statutory and regulatory requirements of the location of the school, if it is
35 located out of state.

36
37 (2) provide competency-based programs;

38
39 (3) assess skills using primarily performance-based methods;

40
41 (4) use instructional media, methods, and materials appropriate for the program
42 content and students' knowledge and abilities;

43
44 (5) offer programs in a logical sequence of knowledge and skills;
45

1 (6) if deemed appropriate by the Agency, provide an externship or a simulation of
2 the workplace for the program; and

3
4 (7) for any course listed in the military service course credit directory, provide
5 credit to a student toward any course time required for the program of study or
6 course for skills obtained by the student through military experience,
7 education, or training, unless the school or college can demonstrate that those
8 skills are not appropriately aligned with the program of study or course. This
9 requirement prevails regardless of a course requiring Agency approval or
10 having obtained accreditor approval.

11
12 (f) Each program submitted for approval shall identify the courses and course time
13 hours allocated to that program. A program of a disproportionate length reasonable
14 to prepare the student for the stated occupation, as determined by the Agency, shall
15 not be approved.

16
17 (g)(a) A school shall not apply for approval of a program that is substantially similar to
18 a discontinued or revoked program, unless the application for approval is submitted
19 at least one year after the date of discontinuation or revocation, and:

20
21 (1) the school's approved programs are all meeting the employment rate as
22 referenced in §807.131(b) of this subchapter, at the time of application; and

23
24 (2) the school submits a reimplementation plan to the Agency.

25
26 (h)(b) A school is not required to submit applications for additional courses of
27 instruction or for course revisions to the Agency~~Commission~~ for approval, if the
28 school:

29
30 (1) has been licensed for at least one year under the current ownership;

31
32 (2) is accredited by an agency recognized by the United States~~U.S.~~ Secretary of
33 Education; and

34
35 (3) is in good standing with its designated accrediting agency and not subject to:

36 (A) probation;

37 (B) a directive to show cause as to why accreditation should not be revoked;
38 or

39 (C) any other action, as defined by the accrediting agency, that would
40 otherwise prevent the school from seeking approval to add or revise a
41 course of instruction.
42
43
44
45

1 (i)(e) Upon receipt of the approval of the course of instruction from the accrediting
2 agency, the school shall provide a copy to the [Agency Commission](#).

3
4 (j)(d) The [Agency Commission](#) may require the school director of an accredited school
5 to file applications for nondegree programs if there have been two substantiated
6 complaints regarding [courses/programs](#) in the previous year.

7
8 (k)(e) A school submitting applications for approval of seminars shall use abbreviated
9 forms provided by the [Agency Commission](#).

10
11 (l)(f) No ~~class or~~ program shall be approved by the [Agency Commission](#) unless the
12 school demonstrates that the program's quality, content, and length reasonably and
13 adequately imparts the job skills and knowledge necessary for the student to obtain
14 employment in the stated occupation.

15
16 (m)(g) A school may not solicit students, otherwise advertise, or conduct classes for a
17 course of instruction prior to the [Agency's Commission's](#) approval of the course of
18 instruction. Any such activity by the school, prior to the [Agency's Commission's](#)
19 approval of the course of instruction, shall constitute a misrepresentation by the
20 school and shall entitle each student in the course of instruction to a full refund of all
21 tuition and fees paid by the student and release from all obligations.

22
23 (n)(h) The school shall establish and maintain a formal advisory committee of at least
24 five members, unless the [Agency Commission](#) approves a lesser number of persons in
25 advance, for each type of program with course time in excess of 200 hours in length.
26 [A simple majority of the members of the advisory committee shall not have an](#)
27 [ownership or financial interest in the school, nor shall they be employees of the](#)
28 [school.](#) At least annually, the committee shall evaluate the curriculum, instructional
29 materials and media, equipment, and facilities to ensure they meet the needs of the
30 job market. The school shall have written documentation of the evaluation available
31 for review by the [Agency Commission](#). If the school does not follow an advisory
32 committee recommendation, the school shall maintain written documentation of the
33 justification for not following the recommendation.

34
35 (o)(i) If the applicant requests approval to measure courses of instruction in credit hours,
36 the following conversion table shall be used.

37
38 (1) One academic quarter credit hour equals a minimum course time of:

39
40 (A) 10 hours of classroom lecture;

41
42 (B) 20 hours of laboratory experience; or

43
44 (C) 30 hours of externship.
45

- 1 (2) One academic semester credit hour ~~equals~~~~is equal to~~ a minimum course time
 2 of:
 3
 4 (A) 15 hours of classroom lecture;
 5
 6 (B) 30 hours of laboratory experience; or
 7
 8 (C) 45 hours of externship.
 9
 10 (3) The school shall calculate lecture, laboratory, and externship credit hour
 11 conversions individually for each ~~course~~~~class~~, rounding down to the nearest
 12 half credit hour. The school shall add the total for the credit hours for lecture,
 13 laboratory, and externship to determine the total credit hours for a class.
 14

15 **§807.123. Applications for Additional ~~Programs~~~~Courses~~ of Instruction.**
 16

- 17 (a) A school applying for approval of an additional ~~program~~~~course~~ of instruction, after
 18 receiving an original certificate of approval, shall submit a complete application that
 19 includes:
 20
 21 (1) the appropriate fee;
 22
 23 (2) a completed application for approval on forms provided by the
 24 ~~Agency~~~~Commission~~; and
 25
 26 (3) any other revisions or evidence as requested by the ~~Agency~~~~Commission~~.
 27
 28 (b) The ~~Agency~~~~Commission~~ may require an abbreviated program application if:
 29
 30 ~~(1) the school has the exact program approved at another location;~~
 31
 32 ~~(1)(2)~~ the program objective changes; or
 33
 34 ~~(2)(3)~~ the program length changes 25 percent~~25%~~ or more; ~~or~~
 35
 36 ~~(4) the school's completion and employment rates are exemplary, as~~
 37 ~~determined by the Commission.~~
 38
 39 (c) The ~~Agency~~~~Commission~~ may deny an application for approval of an additional
 40 ~~program~~~~course~~ of instruction if the school is not in full compliance with the Act or
 41 this chapter.
 42

43 **~~§807.124. Stated Occupation.~~**
 44

- 45 ~~(a) The school shall ensure that each program prepares the student for the stated~~
 46 ~~occupation.~~

1
2 ~~(b) The school shall demonstrate that a student who successfully completes the~~
3 ~~program is more likely to be employed in the stated occupation than an~~
4 ~~individual who does not complete the program, all other things being equal.~~

5
6 ~~(c) The school shall identify a demonstrable occupational demand for the stated~~
7 ~~occupation. The Commission may consider the following in evaluating the~~
8 ~~school's statement of occupational demand:~~

9
10 ~~(1) publications of established relevant occupational associations;~~

11
12 ~~(2) targeted occupation lists of boards, if approved by the Commission, or other~~
13 ~~local or state entities;~~

14
15 ~~(3) references to advertisements in media for employment;~~

16
17 ~~(4) occupation employment rate of students;~~

18
19 ~~(5) percentage of graduating students who have previously completed the same or~~
20 ~~substantially similar program and who have obtained employment in the same~~
21 ~~or substantially similar stated occupation for which they have been trained;~~

22
23 ~~(6) relative supply and demand for the stated occupation, including letters from~~
24 ~~potential employers that describe their need for trained employees; and~~

25
26 ~~(7) reports or publications relating to the specific occupational demand.~~

27
28 **~~§807.125. Curriculum Content.~~**

29
30 ~~(a) The school shall:~~

31
32 ~~(1) provide competency-based programs;~~

33
34 ~~(2) assess skills using primarily performance-based methods;~~

35
36 ~~(3) use instructional media, methods, and materials appropriate for the program~~
37 ~~content and students' knowledge and abilities;~~

38
39 ~~(4) offer programs in a logical sequence of knowledge and skills; and~~

40
41 ~~(5) if deemed appropriate by the Commission, provide an externship or a~~
42 ~~simulation of the workplace for the program.~~

43
44 ~~(b) Each class in the program shall teach the practical skills and knowledge required for~~
45 ~~employment in the stated occupation. The proportion of lecture, laboratory, and~~

1 externship hours for each class and for the program shall be reasonable for the skills
2 and knowledge to be learned for the stated occupation.

3
4 ~~(c) The Commission may use or validate existing skill standards or competencies, or~~
5 ~~develop statewide skill standards with the assistance of industry, schools, and other~~
6 ~~relevant entities as determined by the Commission.~~

7
8 **§807.126. Curriculum Length.**

9
10 ~~(a) Each class submitted for approval shall identify the course time or credit hours~~
11 ~~allocated to that class. A class or program that exceeds a length reasonable to prepare~~
12 ~~the student for the stated occupation shall not be approved.~~

13
14 ~~(b) The Commission may establish minimum and maximum program lengths for stated~~
15 ~~occupations consistent with the intent of the Act.~~

16
17 **§807.127. Program Title.**

18
19 ~~(a) Each program submitted for approval shall be identified by a title.~~

20
21 ~~(b) The title shall clearly identify the stated occupation and shall be a title commonly~~
22 ~~used by business or industry.~~

23
24 ~~(c) The Commission shall not approve false, misleading, or deceptive program titles.~~

25
26 **§807.129. Facilities.**

27
28 (a) In determining adequate space for lecture and laboratory experiences, the
29 Agency Commission shall consider that the amount of lecture and laboratory space
30 meets the use requirements of the maximum number of current students in class with
31 appropriate seating facilities and/or workstations, as needed by the activity patterns
32 of the program.

33
34 (b) Enrollment shall not exceed the design characteristics of the available seating and/or
35 workstations.

36
37 **§807.130. Admission Requirements Relating to Programs ~~Courses~~ of Instruction.**

38
39 (a) The school shall submit, for approval by the Agency Commission, its admission
40 requirements for each program ~~course~~ of instruction with justification for the
41 requirements.

42
43 (b) The school shall ensure that the student demonstrates to the school sufficient
44 proficiency in the language of instruction to successfully complete the
45 program ~~training course~~ of instruction.

1 §807.131. School Responsibilities Relating to ~~Programs~~Courses of Instruction.

- 2
- 3 (a) As a condition of program approval or renewal, the school shall identify any portion
- 4 of instruction that is self-paced, conducted by distance education, or not conducted in
- 5 English.
- 6
- 7 (b) To maintain program approval, the school shall demonstrate the following:
- 8
- 9 (1) a reasonable student completion rate, as determined by the Agency, for each
- 10 program; and
- 11
- 12 (2) a minimum employment rate, as established by the Commission, for program
- 13 graduates in jobs related to the stated occupation.
- 14
- 15 (c) When a school is approved to offer a program, the school shall maintain sufficient
- 16 instructors to teach all subjects for completing the program during the length of time
- 17 stipulated in the school catalog, regardless of the size of the class.
- 18
- 19 (d) The school shall schedule classes so that students will be able to complete the
- 20 program during the length of time stipulated in the school catalog.
- 21
- 22 (e) The school shall ensure that students receive the lecture and laboratory experience
- 23 hours with sufficient instructors and scheduling. An instructor may not be
- 24 simultaneously supervising a laboratory experience and a lecture even if they are in
- 25 the same room.
- 26
- 27 (f) A school shall provide course outlines to students at the beginning of each subject
- 28 which lists students' performance objectives, references and resources, and a general
- 29 content outline for the subject.
- 30
- 31 (g) A school shall have and use lesson plans for all subjects.
- 32
- 33 (h) A school may not use classes from one or more approved programs to create a new
- 34 program and award a certificate of completion without prior approval.
- 35
- 36 (i) The student-to-instructor ratio shall be sufficient for students to learn, practice, and
- 37 demonstrate the necessary knowledge and skills. These ratios may be varied at the
- 38 discretion of the Agency Commission to conform to conditions in an individual
- 39 school. The recommended following student-instructor ratio per class does not
- 40 exceed~~ratios may be acceptable for single classes:~~
- 41
- 42 (1) lectures~~business lecture or laboratory~~--30 to one;
- 43
- 44 ~~(2) technical, vocational, or allied health lecture 30 to one;~~
- 45

1 (2)(3) ~~lab~~technical lab (examples: computer programming, data
2 processing, electronics)--20 to one; and

3
4 (4) ~~vocational lab (examples: auto mechanics, air conditioning and refrigeration,~~
5 ~~drafting)--20 to one; and~~

6
7 (3)(5) intensive language instruction (beginning)--15 to one; (intermediate to
8 advanced)--20 to one.

9
10 **§807.132. ProgramCourse of Instruction Revisions.**

- 11
12 (a) The school shall submit a revised programcourse of instruction application for any
13 proposed changes in the programcourse of instruction that shall be reflected in the
14 school catalog's course of instruction information.
15
16 (b) The school shall receive approval of proposed programcourse of instruction
17 revisions in writing from the AgencyCommission before implementing the revisions.
18
19 ~~(c) The school shall work closely with employers in its job market to ensure that the~~
20 ~~course of instruction meets employers' needs.~~

21
22 **§807.133. Program Requirements for Degree Granting Schools.**

23
24 A school shall provide evidence to the AgencyCommission that they are authorized by
25 the Coordinating Board to offer degree programs.

26
27 **§807.134. Sanctions Relating to ProgramsCourses of Instruction.**

- 28
29 (a) If an approved programcourse of instruction is discontinued for any reason, the
30 school shall notify the Agency ~~shall be notified~~ within 72 hours of discontinuance
31 and furnished with the names and addresses of any students who were prevented
32 from completion of the programcourse of instruction due to discontinuance. Should
33 the school fail to make arrangements satisfactory to the students and the Agency for
34 the completion of the programcourse of instruction, the full amount of all tuition and
35 fees paid by the students are then due and refundable. Any programcourse of
36 instruction discontinued will be removed from the list of approved programscourses
37 of instruction.
38
39 (b) The Agency may suspend enrollments in a particular programcourse of instruction at
40 any time the AgencyCommission finds cause. For purposes of this subsection, cause
41 includes, but is not limited to:
42
43 (1) inadequate instruction;
44
45 (2) unapproved or inadequate curriculum;

1 (3) inadequate equipment; or

2
3 (4) inadequate facilities.

4
5 (c) If a school begins teaching a program~~course~~ of instruction or revised program~~course~~
6 of instruction that has not been approved by the Agency, the Agency may require the
7 school to refund to the enrolled students all or a portion of the tuition fees.

8
9 (d) If upon review and consideration of an original, renewal, or revised application for
10 program~~course~~ of instruction approval, the Agency determines that the applicant fails
11 to meet the requirements in the Act or this chapter, the Agency ~~will~~shall notify the
12 school, setting forth in writing the reasons for the denial. This may include
13 summaries of peer evaluations from both educators and employers offering similar
14 programs~~courses~~ of instruction.

15
16 (e) The Agency may revoke approval of a school's program~~course~~ of instruction at any
17 time the Agency finds cause. For purposes of this subsection, cause includes, but is
18 not limited to:

19
20 (1) any statement contained in the application for the program~~course~~ of instruction
21 approval which is untrue;

22
23 (2) the school's failure to maintain the instructors, facilities, equipment, or
24 programs~~courses~~ of instruction, or program~~course~~ of instruction outcomes on
25 the basis of which approval was issued;

26
27 (3) advertising made on behalf of the school which is false, misleading, or
28 deceptive, including those that use the words commonly associated with a
29 degree other than those approved by the Coordinating Board;

30
31 (4) programs~~courses~~ of instruction without clearly stated limited transferability if
32 there are no articulation agreements with other postsecondary institutions in
33 the same geographic area;

34
35 (5) programs~~courses~~ of instruction for which financial aid is advertised but is not
36 available;

37
38 (6) repeated violations by the school that negatively impact the quality of a
39 particular program~~course~~ of instruction; or

40
41 (7) violations by the school of any applicable provision of the Act or this chapter.

42
43 (f) A school whose program~~course~~ of instruction approval is denied or revoked shall
44 have the right to appeal. The Agency will conduct hearings in accordance with
45 Agency policies and procedures applicable to the appeal.

1 SUBCHAPTER I. APPLICATION FEES AND OTHER CHARGES

2
3 §807.151. Fee Schedule.

4
5 The ~~Agency~~Commission shall collect fees according to the following schedule.

- 6 (1) The initial fee for a certificate of approval for a small school is \$1,001.
- 7 (2) The initial fee for any other school is \$3,000.
- 8 (3) In the event of a change in ownership of the school, the new owner shall pay
- 9 the same fee as that charged for an initial fee for a school.
- 10 (4) The initial registration fee for a representative is \$90.
- 11 (5) The annual registration renewal fee for a representative is \$45.
- 12 (6) The fee for a change of name of the school or owner is \$150.
- 13 (7) The fee for a change of address of a school is \$270.
- 14 ~~(8) The fee for a change in the name or address of a representative or a change of~~
- 15 ~~the name or address of a school that causes the reissuance of the notice of~~
- 16 ~~permitted representative is \$15.~~
- 17 ~~(8)(9) The application fee for a course of instruction that is an additional program~~
- 18 ~~is \$225.~~
- 19 ~~(9)(10) The application fee for an additional a course of instruction that is seminar~~
- 20 ~~program is \$35.~~
- 21 ~~(10)(11) The application fee for a school director, administrative staff member, or~~
- 22 ~~instructor is \$20.~~
- 23 ~~(11)(12) The fee for an inspection of classroom facilities that are separate from the~~
- 24 ~~main campus is \$375.~~
- 25 ~~(12)(13) The fee for an on-site investigation of a complaint against a school is \$600,~~
- 26 ~~if assessed.~~

27
28
29
30
31
32
33
34
35
36
37
38
39
40
41 §807.152. Renewal Fees.

- 42 (a) For small schools, if a certificate of approval is issued for three years~~more than one~~
- 43 ~~year~~, the renewal fee is \$1,001, which may be paid with \$501 the first year and \$250
- 44 on the anniversary date of the certificate for each subsequent year.
- 45
- 46

- 1 (b) For all other schools, the renewal fee is based on the gross amount minus refunds of
2 annual student tuition and fees. The Commission will establish the renewal fee on an
3 annual basis, based upon the cost of administration of the chapter. The renewal fee
4 will be set in accordance with the provisions of §132.201 of the ~~Act~~Texas Education
5 ~~Code~~.
- 6
- 7 (c) For all schools, the ~~Agency Commission~~ shall assess a late renewal fee~~penalty~~ of 10
8 percent~~10%~~ of the renewal fee, not less than \$200 ~~or more than \$1,000~~, if the school
9 fails to file a complete application for renewal at least 30 days before the expiration
10 date of the certificate of approval.

11 §807.153. Installment Payments.

- 12
- 13
- 14 (a) With the exception of the renewal installment schedule for small schools, a school
15 may elect to pay any single fee in excess of \$1,000 by quarterly installment. A
16 service charge of 10 percent~~10%~~ of the fee shall be added, and the total divided into
17 equal quarterly installment payments. The first payment shall be due on the date the
18 fee is due. The successive payments shall be due in 90-day increments.
- 19
- 20 (b) Failure to pay any installment by the due date may result in one or more of the
21 following:
- 22
- 23 (1) a penalty being assessed in the amount of 50 percent~~50%~~ of the total amount of
24 the fee;
- 25
- 26 (2) full payment of the penalty and outstanding balance due within 30 days; or
- 27
- 28 (3) revocation of the school's certificate of approval~~suspension of participation in~~
29 ~~the installment payment plan for the next renewal period.~~
- 30
- 31 (c) For a small school that has a multiyear term, if the appropriate payment is not
32 received by the anniversary date of the certificate of approval, the school shall, in
33 addition to the required fee, pay a penalty of \$200 within 20 days or the school's
34 certificate of approval may be revoked.

35 SUBCHAPTER J. ADVERTISING

36 807.171. General Information for Advertising.

- 37
- 38
- 39
- 40 (a) A school shall not make deceptive or misleading statements in attempting to enroll
41 students.
- 42
- 43 (b) The ~~Agency Commission~~ may require a school to furnish proof to the
44 Agency Commission of any of its advertising claims, when requested.
- 45

1 **§807.172. Advertisement Method.**
2

- 3 (a) A school may advertise for prospective students under "instruction," "education,"
4 "training," or a similarly titled classification.
5
- 6 (b) A school shall not be advertised under any "help wanted," "employment," or similar
7 classification.
8
- 9 (c) No school advertisements shall use the word "wanted," "help wanted," or "trainee,"
10 either in the headline or the body of the advertisement, nor shall any advertisement
11 indicate, in any manner, that the school has or knows of employment of any nature
12 available to prospective students; only "placement assistance," if offered, may be
13 advertised.
14
- 15 (d) A school shall not use terms to describe the significance of the approval that specify
16 or connote greater approval. Terms that schools may not use to connote greater
17 approval by the [Agency Commission](#) include, but are not limited to, "accredited,"
18 "supervised," "endorsed," and "recommended." A school shall not use the words
19 "guarantee," "guaranteed," or "free" unless approved in writing by the
20 [Agency Commission](#).
21
- 22 (e) Any advertisement that includes a reference to awarding of credit hours shall include
23 the statement, "limited transferability." Where a school has an arrangement with a
24 college or university to accept transfer hours, such information may be advertised,
25 but any limitations shall be included in the advertisement.
26

27 **§807.173. Advertisement Content and Monitoring.**
28

- 29 (a) Advertisement content shall include, and clearly indicate, the full and correct name
30 of the school and its address, including city, as they appear on the certificate of
31 approval.
32
- 33 (b) Advertisements shall not include:
34
- 35 (1) statements that the school or its programs are accredited unless the
36 accreditation is that of an agency recognized by the United States Department
37 of Education;
38
- 39 (2) statements that the school or its courses of instruction have been approved
40 unless the approval can be substantiated by an appropriate certificate of
41 approval issued by an agency of the state or federal government; or
42
- 43 (3) representation of the school as an employment agency under the same name, or
44 a confusingly similar name, or at the same location of the school.
45

1 (c) A school holding a franchise to offer specialized programs or classes not available to
2 other schools shall not advertise such programs in such a manner as to diminish the
3 value and scope of programs offered by other schools not holding such a franchise.
4 Advertising of special classes or programs offered under a franchise shall be limited
5 to the classes or programs offered.
6

7 (d) A school shall not use endorsements, commendations, or recommendations by
8 students in favor of a school except with the consent of the student and without any
9 offer of financial or other material compensation. Endorsements shall bear the
10 student's legal or professional name ~~of the student~~. A school may abbreviate the
11 student's name if requested by the student. The school shall maintain a written record
12 of the endorsement, including the full legal name and contact information for the
13 student, associated with any advertisements referenced in this section.
14

15 (e) A school shall not use a photograph, cut, engraving, illustration or graphic in
16 advertising in such a manner as to:

17 (1) convey a false impression of size, importance, or location of the school,
18 equipment, or facilities associated with the school, or
19

20 (2) circumvent any of the requirements of this chapter regarding written or oral
21 statements.
22

23 (f) Every advertisement must clearly indicate that training is being offered, and shall
24 not, either by actual statement, omission, or intimation, imply that prospective
25 employees are being sought.
26

27 (g) The Agency may order corrective action to counteract the effect of advertising in
28 violation of the Act or this chapter, including:
29

30 (1) retraction by the school of such advertising claims published in the same
31 manner as the claims themselves;
32

33 (2) a prohibition against the use of an automatic forwarding message; and
34

35 (3) submission of all advertisements to the Agency for pre-approval at least 30
36 days before proposed submission of the advertisements to the advertising
37 medium.
38

39
40 **§807.175. Catalog.**

41 (a) The catalog shall include the following:
42

43 (1) table of contents or index;
44

45 (2) name and complete street address of the school;
46

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- (3) volume number, date of publication, and effective dates;
 - (4) history of any accreditations or approvals, including statement of approval and regulation by the [Agency Commission](#);
 - (5) description of space, facilities, and equipment;
 - (6) list of all trustees, directors, officers of the corporation, and owners;
 - (7) list of management staff and faculty, including education relating to the areas of instruction;
 - (8) tuition, fees, other charges, and applicable scholarship terms;
 - (9) school calendar;
 - (10) school hours of operation and class schedule, including the amount of time allocated for breaks and mealtimes;
 - (11) policies regarding enrollment, including entrance requirements, previous education credit, cancellation and refund, progress, attendance, leave of absence, and conduct;
 - (12) ~~veterans administration~~ refund policy [as required by the United States Department of Veterans Affairs](#), if applicable;
 - (13) description of ~~programs~~[courses of instruction](#), including the number of ~~hours of course time~~ [hours](#) of a seminar, ~~class or course~~[seminar topic](#), lecture, lab, and externship, as well as credit hours in each class [or course](#), if applicable;
 - (14) description of each [subject](#)~~class~~;
 - (15) description of the grading policy, including requirements for graduation;
 - (16) description of placement assistance, if available;
 - (17) statement of policies regarding grievances; and
 - (18) a statement signed by the owner or director indicating that all of the information contained in the catalog is true and correct.
- (b) Any [courses](#)~~classes~~ defined as self-paced shall be noted as such in the catalog.
- (c) In addition to the information contained in subsections (a) and (b) [of this section](#)~~above~~, the catalog for a school that charges tuition and fees for a residence

1 program or a synchronous distance education course based on more than one
2 academic term~~period~~ shall also include a complete description of the following:

- 3
4 (1) the number of periods of time and the course time scheduled in each
5 term~~period~~;
- 6
7 (2) the amount of tuition charged for each term~~period~~;
- 8
9 (3) the type and amount of fees charged for each term~~period~~; and
- 10
11 (4) any other charges for each term~~period~~.

12
13 (d) All changes to the catalog shall be disclosed to the Agency, using forms provided by
14 the Agency. Failure to disclose changes may result in ~~penalties and sanctions,~~
15 ~~including refunds.~~

16
17 **~~§807.176. Advertisement Monitoring.~~**

18
19 ~~(a) The Commission may order corrective action to counteract the effect of advertising in~~
20 ~~violation of the Act or rules, including:~~

21
22 ~~(1) retraction by the school of such advertising claims published in the same~~
23 ~~manner as the claims themselves; and~~

24
25 ~~(2) cancellation of telephone numbers without an automatic forwarding message.~~

26
27 ~~(b) As corrective action for violations of the Act or rules, the Commission may require~~
28 ~~schools to submit all advertisements to the Commission for pre-approval at least 30~~
29 ~~days before proposed submission of the advertisements to the advertising medium.~~

30
31 ~~(c) Nothing in these guidelines shall prohibit release of information to students as~~
32 ~~required by a state or federal agency.~~

33
34 **SUBCHAPTER K. ADMISSION**

35
36 **§807.191. General Information for Admission.**

37
38 (a) The Agency~~Commission~~ may approve specific admission requirements for seminars
39 and small schools.

40
41 (b) Programs~~Small schools with programs~~ with course time of 40 hours or less,
42 individual class offerings, and seminars are not required to grant credit for previous
43 education and training, unless the course type is listed in the military service course
44 credit directory.

- 1 (c) The school shall make appropriate adjustments to the program length and price
2 based upon credit granted for previous education and training, where warranted.
3
4 (d) For a school having specific term-beginning dates, a school may not start students
5 after the third day of classes during any given term, except in those cases where
6 appropriate credit for previous education and training has been given according to
7 the Act and this chapter.
8
9 (e) A continuously enrolled student has the right to graduate under the academic
10 requirements stated in the catalog in effect at the time of the student's enrollment.
11

12 **§807.192. Admission Requirements.**
13

- 14 (a) The school shall require for admission into its programs proof of one of the
15 following:
16
17 (1) secondary education;
18
19 (2) successful completion or the equivalent of one full-time academic semester (12
20 academic semester hours) or academic quarter (18 academic quarter hours) at
21 an accredited college, university, or other postsecondary school; or
22
23 (3) for ~~nondegree certificate~~ programs only, proven ability-to-benefit by obtaining
24 a satisfactory score on the approved entrance test.
25
26 (b) Entrance test requirements shall be in accordance with the following provisions.
27
28 (1) Any entrance test shall be a nationally recognized standardized test or a
29 nonstandardized test developed by the appropriate industry and approved by
30 the ~~Agency~~ Commission. A nonstandardized test shall be validated by a
31 qualified third party, such as an expert in tests and measurements, for both
32 appropriateness and the specific score level required for admission into the
33 program. The name of the test and its publisher, any time limitations, a
34 minimum acceptable score, and an explanation of score meanings, as
35 referenced in the test material, shall be provided to the student prior to
36 ~~taking with a copy of the test, if the test is not already on file with the~~
37 Commission.
38
39 (2) If multiple opportunities are allowed for retaking the same entrance test, such
40 students shall wait a minimum of five calendar days prior to retaking the test.
41 A student may take a second entrance test on the same day provided a
42 substantially different test is administered. This shall be stated in the
43 admissions policy published in the school catalog.
44
45 (3) A representative is not allowed to administer the test, nor is anyone allowed to
46 assist the student in answering the questions.

1
2 (4) If the entrance test reveals the student to be ineligible as an ability-to-benefit
3 student, the student may be enrolled as a remedial student. The school shall
4 have an evaluation procedure approved by the Agency Commission to
5 determine remedial needs and to determine when the required level of
6 remediation has been reached. The school shall also have a remediation plan
7 for such students consisting of classes approved by the Agency Commission as
8 a part of the program. The students may be charged for the remedial portion of
9 the program on an hourly pro rata basis, but the student is not obligated for the
10 tuition and fees of the program until the entrance requirements are met.

11
12 (c) Evidence shall be maintained in each student's file to show the admissions
13 requirements have been met. A full refund of all monies paid and a full release from
14 all obligations may shall be due, as determined by the Agency Commission, to any
15 student for whom the school cannot establish that the admission requirements were
16 met.

17
18 **§807.193. Receipt of Enrollment Policies.**

- 19
20 (a) For all enrollments ~~other than for seminars, individual classes, and small schools~~
21 ~~with programs of course time of 40 hours or less~~, each school shall use the form
22 provided by the Agency Commission to verify the prospective student's receipt of the
23 information required in this section.
- 24
25 (b) Unless otherwise required in this chapter, prior to enrollment the school shall furnish
26 the following to each prospective student:
- 27
28 (1) a school catalog ~~and program outline~~, unless the prospective student enrolls in
29 a seminar;
- 30
31 (2) a schedule of tuition, fees, and other charges;
- 32
33 (3) the cancellation and refund policy;
- 34
35 (4) the progress and grievance policies and, for non-Title IV schools, attendance
36 policies;
- 37
38 (5) the rules of operation and conduct;
- 39
40 (6) if available, the average starting salary per pay period and annually for the
41 prospective student's stated occupation, and information regarding the number
42 of job openings in the program objective field in a specified area within the last
43 calendar year ~~12 months~~, including the name of the information source;
- 44
45 (7) the regulations pertaining to incomplete grades;
- 46

- 1 (8) written and verbal information regarding loans and grants and their
2 differences, if the school participates in a loan or grant program;
3
4 (9) the requirements, if any, for any state or national licensing, certifications, or
5 registrations;
6
7 (10) the exam passage rates for programs that prepare students for state licensing,
8 certification, or registration exams;
9
10 (11) the job placement and employment data for the stated occupation as required in
11 this chapter; and
12
13 (12) notice of all policies related to program interruption prior to completion and
14 written information informing the student that if the student withdraws, it is the
15 student's responsibility to inform the school or college.
16
17 (c) Any school that refers to the awarding of credit hours shall explain to each student
18 during the enrollment process that transferability of such hours may be limited. Each
19 student shall sign a statement indicating such an explanation has been provided.
20
21 (d) Should a school have an articulation agreement with an accredited college or
22 university, or other postsecondary school, such information shall be provided to the
23 student, including any known agreement limitations. Such schools shall also provide
24 a list of known Texas postsecondary schools that accept any or all of the credit hours
25 so earned.
26
27 (e) Students shall acknowledge receipt of each piece of information or documentation as
28 set forth in this section by initialing each page and providing a complete signature at
29 the end of the receipt of the enrollment policy form.
30
31 (f) A copy of the receipt of the enrollment policies form shall be given to the student
32 and a copy maintained as a part of the student's files.
33

34 **§807.194. Enrollment Agreement.**
35

- 36 ~~(a) — A school does not need an enrollment agreement to enroll a student in a seminar~~
37 ~~that will be completed within three consecutive calendar days.~~
38
39 (a)(b) For distance education schools, the enrollment agreement shall specify the
40 amount of time allotted to the student to complete the program.
41
42 (b)(e) A school shall submit an enrollment agreement to the Agency ~~Commission~~ for
43 approval.
44
45 (c)(d) A school shall use only an approved enrollment agreement to enroll students.
46

1 (d)(e) The executed enrollment agreement shall include, but is not limited to, the
2 following:

- 3
- 4 (1) full and correct name and location of the school;
- 5
- 6 (2) program title, tuition, fees, reasonable estimate cost of books and supplies, any
7 other expenses, total cost of the program, items subject to cost change, method
8 of payment and payment schedule, disclosure statement if interest is charged
9 on more than three payments, and detachable buyer's right to cancel if
10 enrollment is procured off campus;
- 11
- 12 (3) date training is to begin and program length;
- 13
- 14 (4) name, address, and signature of the student;
- 15
- 16 (5) student's ~~email~~ ~~e-mail~~ address if any part of the instruction or academically
17 related activity is ~~web based~~ ~~Web-based~~;
- 18
- 19 (6) statement by the school that the student will receive a copy of the school
20 enrollment agreement and catalog at the time of signing by the student;
- 21
- 22 (7) cancellation and refund policy; and
- 23
- 24 (8) a Federal Trade Commission statement for holder in due course, unless no
25 loans, grants, or installment payments are involved.
- 26

27 (e)(f) The school shall provide a notice of cancellation, attached to the enrollment
28 agreement, for any student enrolled off the school premises. The notice shall:

- 29
- 30 (1) ~~include at least two copies~~ ~~be in duplicate~~;
- 31
- 32 (2) be easily detachable;
- 33
- 34 (3) be printed in boldface type, with a minimum font of 10 point;
- 35
- 36 (4) contain the date of the enrollment agreement, name and address of school,
37 the date on which the statutory 72-hour cancellation privilege will expire,
38 and any other provisions as determined by the ~~Agency~~ ~~Commission~~;
- 39
- 40 (5) be printed in the same language as used in the enrollment agreement; and
- 41
- 42 (6) be in such a form that can be used by the student to notify the school of
43 the student's desire to cancel by dating, signing, and mailing or otherwise
44 delivering the form to the school's address shown.
- 45

1 (f)(g) A copy of the enrollment agreement form shall be given to the student and a copy
2 maintained as a part of the student's file.
3

4 ~~(h) The Commission may permit a school to submit an abbreviated enrollment~~
5 ~~agreement for students enrolled on a reimbursement contract basis.~~
6

7 **§807.196. Tuition and Fees.**

8

9 (a) A school shall disclose to potential students all tuition, fees, and other charges, and
10 state such information in the school's application for a certificate of approval. The
11 school may not use an estimated tuition amount, nor may the school increase the
12 student's tuition if the student remains continuously enrolled and completes the
13 training as approved at the time of admission. If the school charges to repeat
14 ~~courses~~ classes, the amount of the charges must be disclosed to the student.
15

16 (b) A school shall make available for review by the Agency ~~Commission~~ upon request:
17

18 (1) a description of the methods of payment that are available to enrolling
19 students;
20

21 (2) the names and addresses of lending institutions used by the school for student
22 tuition loans; and
23

24 (3) the true annual percentage rate and any other fees or charges associated with
25 student tuition loans.
26

27 (c) A school shall refund or forfeit any tuition, fees, or other charges not previously
28 disclosed to the Agency ~~Commission~~.
29

30 (d) A school may offer scholarships providing the terms of scholarships are disclosed to
31 the Agency ~~Commission~~.
32

33 (e) The school shall maintain, in a permanent format that is acceptable and readily
34 accessible to the Agency ~~Commission~~, a record of any funds received from, or on
35 behalf of, the student. A school shall clearly identify the payor, the type of funding,
36 and the reason for the charges. These records shall be posted and kept current.
37

38 (f) A school shall issue written receipts of any charges or payments to the student and
39 maintain such records for review upon request by the Agency ~~Commission~~. Each
40 separately charged item shall be clearly itemized on a student-signed receipt.
41

42 **§807.197. Admission Requirements for Degree Granting Schools.**

43

44 (a) Students who transfer from other postsecondary schools shall complete at least 20
45 academic semester hours or 30 academic quarter hours in residency at the school that

1 will grant the degree. This does not apply to transfers within the same school system
2 [or teach-outs approved by the Agency.](#)

3
4 (b) A school shall allow students attending at the time a school becomes a degree
5 granting school to earn a degree, providing the student:

6
7 (1) meets all the prerequisites for acceptance into the degree program; and

8
9 (2) satisfactorily completes all courses or equivalent courses of the degree
10 program.

11
12 (c) Former students shall meet all the prerequisites for acceptance into the degree
13 program and shall satisfactorily complete all courses or equivalent courses in the
14 approved degree program to qualify for a degree.

15
16 **SUBCHAPTER L. PROGRESS STANDARDS**

17
18 **§807.221. General Requirements for Progress Standards.**

19
20 (a) The [Agency Commission](#) may approve specific progress standards for self-paced,
21 competency-based programs.

22
23 (b) Seminars, because of their nature and duration, are not required to have progress
24 standards.

25
26 (c) The progress evaluation records shall be of the type and nature to reflect whether the
27 student is making satisfactory progress to the point of being able to complete all
28 subject matter within the allotted time provided in the course curriculum.

29
30 (d) The school shall submit its policies pertaining to incomplete grades to the
31 [Agency Commission](#) for approval and publish those policies in the school's catalog.
32 The policies shall address the possibility of the classes being discontinued when the
33 student returns and clarify options available to that student pursuant to the Act.

34
35 (e) Approved court reporting program students may receive one grade of "IP" (in
36 progress) in any speedbuilding class if they have not achieved the required speed at
37 the end of the grading period.

38
39 **§807.223. Progress Requirements for Asynchronous Distance Education Schools.**

40
41 (a) Asynchronous distance education schools shall evaluate progress as the school
42 receives each lesson assignment. The school shall maintain the record of progress on
43 forms approved by the [Agency Commission](#). Forms shall include:

44
45 (1) the date course materials are mailed to the student;

- (2) the date the lesson assignment is received from the student;
- (3) the grade on a per-lesson basis;
- (4) the instructor's name;
- (5) the date graded assignments are returned to the student; and
- (6) the final grade for the program with completion date indicated.

(b) If at the end of the time period specified in the enrollment agreement, the student has not completed the program, the student's enrollment shall be terminated.

§807.224. Progress Requirements for Degree Granting Schools.

For a school offering degree programs, the progress standards shall include the following:

- (1) a student progress evaluation every academic semester, academic quarter, or at least every eight weeks in other academic term~~block-time~~ programs;
- (2) a minimum grade point average for graduation from all degree programs of 2.0 based on a 4.0 scale, and that a student achieves~~achieve~~ a passing grade in all required courses~~classes~~;
- (3) a probationary period of one academic semester, academic quarter, or approved grading period following the end of the academic semester, academic quarter, or approved grading period in which the student's grades become unsatisfactory; and
- (4) provisions for termination at the end of not more than two consecutive probationary periods if the student's cumulative grade point average does not improve to the level required for graduation.

SUBCHAPTER M. ATTENDANCE STANDARDS

§807.241. General Requirements for Attendance.

- (a) Seminar programs that begin and end on the same~~during one~~ day are not required to maintain an attendance policy.
- (b) Title IV schools are not required to take attendance.
- (c) The Agency~~Commission~~ may approve specific attendance requirements for self-paced, competency-based programs.

- 1 (d) No provision in this subchapter shall require a school to terminate the enrollment of
2 a student for lack of attendance at a point at which a refund would not be due.
3
- 4 (e) A school shall charge for a full day of absence when the student fails to attend all of
5 the scheduled classes on that day. The school shall charge for a partial day of
6 absence for any period of absence during the day.
7
- 8 (f) A school shall not consider school holidays, such as summer vacation and Christmas
9 holidays, ~~and so forth~~~~ete.~~, as days of absence.
10

11 **§807.242. Attendance Requirements for Degree Granting Schools.**

12

- 13 (a) The following requirements are for non-Title IV schools and Title IV schools that
14 voluntarily take attendance.
15
- 16 (b) For a school offering degree programs, the attendance standards shall include the
17 following:
18
- 19 (1) provisions for termination or probation during the next academic quarter,
20 academic semester, or approved term when a student is absent for more than
21 ~~20 percent~~~~20%~~ of the scheduled course time hours during an academic quarter,
22 academic semester, or approved term;
23
- 24 (2) provisions for termination when a student is absent for more than ~~20~~
25 ~~percent~~~~20%~~ of the scheduled course time hours during the probationary
26 academic quarter, academic semester, or approved term; and
27
- 28 (3) provisions for termination prior to the last quarter, when a student is absent in
29 excess of 10 consecutive school days or ~~20 percent~~~~20%~~ of the total course time
30 hours in the course, whichever occurs first.
31

32 **§807.243. Termination of Enrollment.**

33

- 34 (a) A school shall terminate the enrollment of a student who accumulates the lesser of
35 the following amounts of absences:
36
- 37 (1) more than 10 consecutive school days;
38
- 39 (2) more than ~~20 percent~~~~20%~~ of the total course time hours in a program with
40 course time of more than 200 hours;
41
- 42 (3) more than ~~25 percent~~~~25%~~ of the total course time hours in a program or
43 individual ~~course~~~~class~~ with course time of 41 to 200 hours;
44
- 45 (4) more than ~~25 percent~~~~25%~~ of the total course time hours for seminars,
46 individual ~~courses~~~~classes~~, or programs with course time of 40 hours or less; or

1
2 (5) any number of days if the student fails to return as scheduled from an approved
3 leave of absence.

4
5 (b) A Title IV school that does not voluntarily take attendance shall terminate the
6 enrollment of a student if the student's participation in an academically related
7 activity cannot be documented:

8
9 (1) at the end of the first calendar week of the academic term;

10
11 (2) at the end of the first four calendar weeks~~month~~ of the academic term;

12
13 (3) at the midpoint of each academic term; and

14
15 (4) at the end of each academic term.

16
17 ~~(e) For purposes of this section, "month" is defined as four weeks.~~

18
19 ~~(c)~~(d) Students whose enrollments are terminated for violation of the attendance policy
20 may not reenroll before the start of the next progress evaluation period. This
21 provision does not circumvent the approved refund policy.

22
23 **§807.244. Make-up Work.**

24
25 (a) No more than 5 percent~~5%~~ of the total course time hours for a program, rounded
26 down to the closest one-half hour increment, may be made up. Attendance course
27 time hours, for purposes of Subchapters M - O of this chapter, may not be made up.

28
29 (b) The school shall submit make-up work policies to the Agency~~Commission~~ for
30 approval.

31
32 (c) Make-up work shall:

33
34 (1) be supervised by an instructor approved for the class being made up;

35
36 (2) require the student to demonstrate substantially the same level of knowledge or
37 competence expected of a student who attended the scheduled class session;

38
39 (3) be completed within two weeks of the end of the grading period during which
40 the absence occurred;

41
42 (4) be documented by the school as being completed, recording the date, time,
43 duration of the make-up session, and the name of the supervising instructor;
44 and

45
46 (5) be signed and dated by the student to acknowledge the make-up session.

1
2 **§807.245. Leaves of Absence.**
3

- 4 (a) Seminars, ~~and small schools with~~ programs, and individual subjects with course
5 ~~time~~ of 40 hours or ~~fewer~~ shall not grant leaves of absence.
6
7 (b) A school director may grant a leave of absence after determining that good cause is
8 shown.
9
10 (c) Except as provided in subsection (d) of this section, in a 12-month ~~calendar~~ period, a
11 student may have no more than two leaves of absence. For a program with course
12 time of 200 hours or less, a student may be on leave of absence for a total of 30
13 calendar days. For programs with course time of more than 200 hours, a student may
14 be on leave of absence for a total of 60 calendar days.
15
16 (d) Programs with a course time of more than 600 hours, and that are eligible for Title
17 IV funding, may have a leave of absence policy consistent with the United
18 States ~~U.S.~~ Department of Education policy at 34 Code of Federal Regulations ~~C.F.R.~~
19 §668.22(d).
20
21 (e) School attendance records shall clearly define the dates of the leave of absence. A
22 written statement as to why the leave of absence was granted, signed by both the
23 student and the school director indicating approval, shall be placed in the student's
24 permanent file.
25
26 (f) In addition to the requirements concerning leaves of absence in this subchapter, a
27 school offering degree programs that schedules their courses on an academic quarter
28 or academic semester basis may include in their attendance policies provisions for
29 summer leaves of absence. These leaves of absence shall not exceed the lesser of 120
30 days or the interval between the end of the spring academic quarter or academic
31 semester and the start of the fall academic quarter or academic semester.
32

33 **SUBCHAPTER N. CANCELLATION AND REFUND POLICY**
34

35 **§807.261. Requirement for Tour.**
36

- 37 (a) Schools ~~Notwithstanding subsection (b) of this section, schools~~ are required to
38 provide a tour on or before the first scheduled class day.
39
40 (b) Notwithstanding subsection (a) of this section, distance ~~Distance~~ education programs;
41 ~~combination distance education residence;~~ and seminars are not required to provide
42 the student a tour.
43
44 (c) Students enrolled in a hybrid or blended program are required to be provided a tour
45 on or before the first scheduled class day.
46

1 ~~(d)~~(e) The student shall sign and date an acknowledgement form certifying the
2 completion of the tour.
3

4 **§807.263. Refund Requirements.**
5

6 (a) The Agency, after considering the specific facts associated with a school's conduct,
7 may order ~~Students are entitled to~~ a full or partial refund to affected students for
8 ~~classes attended~~ if the school:
9

- 10 (1) does not provide a class with:
11 (A) an approved instructor;
12 (B) an instructor for whom an application has been properly submitted to the
13 Agency; or
14 (C) a temporary instructor for whom the school submitted notice to the
15 Agency;
16
17 (2) fails to maintain the instructors, facilities, equipment, or courses of instruction
18 on the basis of which Agency approval was issued or student enrollment was
19 obtained, or to submit timely requests for approval of substantive changes
20 thereto;
21
22 (3) violates any provision of this chapter in the process of soliciting and enrolling
23 the student;
24
25 (4) fails to adhere to applicable academic, attendance, and refund policies that
26 meet state requirements and apply to the course enrolled in, as published at the
27 time of the student's enrollment in the course;
28
29 (5) fails to undertake a good faith effort to furnish the student, upon satisfactory
30 completion of the program, with a certificate of completion. A school may
31 withhold the transcript or certificate until the student has paid outstanding
32 financial obligations to the school. Evidence of a good faith effort shall be
33 maintained in the student's file in one of the following forms:
34 (A) An acknowledgement of receipt of certificate signed and dated by the
35 student;
36 (B) Proof of a certified mailing to the student's last known address;
37 (C) Proof of a certified mailing to the student's permanent address, if
38 different from the student's last known address; or
39
40
41
42
43
44
45

1 (D) Proof of a certified mailing to the address of the student's parent or legal
2 guardian, if known and different from the student's last known or
3 permanent addresses; or
4

5 (6) does not have course approval or the required certificate of approval from the
6 Agency.
7

8 (b) To be considered a violation subject to refund under subsection (a)(1) - (6) of this
9 section, a school's action shall be determined to be more than a technical error or a
10 nonsubstantive change in operations.
11

12 (c) If any of the violations in subsection (a)(1) - (6) of this section apply to more than
13 one class period, students are entitled to a full refund for each such class attended.
14

15 (d) The length of a program, for purposes of calculating refunds owed, is the shortest
16 scheduled time period in which the program may be completed by continuous
17 attendance of a full-time student.
18

19 (e) A non-Title IV school, or a Title IV school voluntarily taking attendance, shall
20 calculate refunds for students based upon scheduled hours of classes through the last
21 date of attendance. A Title IV school shall calculate refunds for students based upon
22 scheduled hours of classes through the last documented day of an academically
23 related activity. Neither type of school shall count leaves of absence, suspensions,
24 school holidays, days when classes are not offered, and summer vacations for
25 purposes of calculating a student's refund.
26

27 (f) For all ~~programs~~~~schools~~ other than seminars, a student may cancel enrollment,
28 request a full refund, and request a release from any obligations to the school within
29 the first three scheduled class days.
30

31 (g) A school may withhold from the ~~full~~ refund required by subsections (a) - (c) and (f)
32 of this section any amount ~~provided for in statute~~ as retainable by the school
33 pursuant to ~~Texas Education Code~~ §132.061 of the Act. More specifically, the school
34 may withhold items of extra expense to the student referenced in §132.061(b)(6) of
35 the Act, as long as they are necessary for the portion of the program attended and are
36 separately stated in the enrollment agreement. Any items of extra expense not
37 required for the portion of the program attended must be included in the refund.
38

39 (h) Students are entitled to a refund paid in accordance with the school's policy, which
40 must provide for refunds at least equivalent to the provisions in §132.061 and
41 §132.0611 of the Act, if students withdraw or are discontinued from a program prior
42 to completion.
43

1 **SUBCHAPTER O. RECORDS**

2
3 **§807.281. General Information for Records.**

4
5 (a) A school shall permanently maintain a master student registration list (MSRL). If the
6 school maintains the MSRL in electronic form, the school must be able to produce a
7 printed copy immediately upon request. The MSRL must contain at least the
8 following information:

- 9
10 (1) date of applicable entry;
11
12 (2) name of student;
13
14 (3) address of student including city, state, and zip code;
15
16 (4) telephone number;
17
18 (5) social security number;
19
20 (6) date of birth; and
21
22 (7) name of program.

23
24 (b) A school shall maintain current records and necessary data (physical or electronic)
25 for each student required to be on the master student registration list to show
26 compliance with the Act and this chapter. These records shall be:

- 27
28 (1) maintained on-site;
29
30 (2) protected against damage, loss (for example~~e.g.~~, fire, water, theft, tampering),
31 or misuse; and
32
33 (3) made available to the Agency~~Commission~~ for inspection upon request.

34
35 (c) If applicable, the school shall maintain and ensure that copies of the accreditation
36 authorization and letter of eligibility from the United States Department of Education
37 are available for Agency~~Commission~~ review.

38
39 (d) Degree granting schools shall maintain a copy of the certificate of authorization
40 from the Coordinating Board for each authorized degree program.

41
42 (e) The Agency~~Commission~~ may conduct unannounced compliance inspections.

43
44 (f) A school shall maintain complete records of all advertising, sales, and enrollment
45 materials used by or on behalf of the school for a five-year period. Materials
46 maintained shall include, but not be limited to, direct mail pieces, brochures, printed

1 literature, films, leaflets, handbills, fliers, video and audiotapes disseminated through
2 the broadcast media, materials disseminated through the print media or Internet, and
3 sales and recruitment manuals used to instruct sales personnel.
4

5 **§807.282. Student Records.**
6

7 (a) A school shall permanently maintain student transcripts of academic records. A
8 school shall provide such transcripts to students and prospective employers at a
9 reasonable charge if the student has fulfilled the financial obligation to the school
10 and is neither in default nor owes a refund to any federal or state student financial aid
11 program.
12

13 (b) Transcripts of academic records, student payment ledgers, and enrollment
14 agreements must be maintained in electronic format or converted to electronic format
15 within 12 months of their creation or revision. A scanned copy of original paper
16 transcripts is an acceptable electronic format for transcripts of academic records.
17

18 (c)(b) A school shall retain financial records in accordance with federal retention
19 requirements.
20

21 (d)(e) A school shall retain all student records for at least a five-year period and these
22 records shall include:
23

- 24 (1) a written record of previous education and training on a form provided by the
25 AgencyCommission; and
26
27 (2) official transcripts from all previous postsecondary schools attended by the
28 student.
29

30 (e)(d) The school director shall implement and maintain reasonable procedures,
31 including taking any appropriate corrective action, to protect from improper use or
32 disclosure of any sensitive personal information collected or maintained by the
33 school.
34

35 (f)(e) A school shall destroy or arrange for the destruction of sensitive personal
36 information within the school's custody or control, after any required retention
37 periods, by:
38

- 39 (1) shredding;
40
41 (2) permanently removing or deleting electronic records; or
42
43 (3) otherwise modifying the sensitive personal information in the records to make
44 the information unreadable or indecipherable through any means; or
45

- 1 (4) destroying the information in accordance with any other more restrictive law
2 or regulation the school is required to follow.
3

4 (g) All records created and maintained in languages other than English are subject to
5 translation by the Agency.
6

7 **§807.283. Attendance Record Keeping.**

- 8
9 (a) The following requirements are for non-Title IV schools:

10
11 ~~(1) A school offering seminars or other programs where students do not change~~
12 ~~instructors during the school day is not required to maintain a separate master~~
13 ~~record of attendance.~~
14

15 (1)(2) A school shall maintain a master record of attendance on each student that
16 clearly indicates the name of the program, program begin and end dates, dates
17 of attendance, and the scheduled hours each day~~number of scheduled hours~~
18 ~~each day and the hours of absence.~~
19

20 (2)(3) Each instructor shall maintain a record of attendance, which shall ~~indicate a~~
21 ~~positive~~ record the instructor's name, program name, subject name, date,
22 number of scheduled hours for that date, and the hours of absence~~of each~~
23 ~~student's attendance.~~ Entries in the record of attendance shall be made in ink or
24 other permanent medium, including other permanent computer records, and
25 shall not be changed ~~in a manner that precludes reading the original entry.~~
26

- 27 ~~(b) The following requirements are for Title IV schools:~~
28

29 ~~(1) The school shall maintain a form signed and dated by the student to document~~
30 ~~the student's participation in an academically related activity. An e-mail sent~~
31 ~~from the student's e-mail account listed on the enrollment agreement fulfills~~
32 ~~this requirement.~~
33

34 ~~(2) The school shall maintain a master record for each student that clearly~~
35 ~~indicates the student's class schedule as well as the number of scheduled hours~~
36 ~~for each class day. For synchronous distance education students, the record~~
37 ~~shall indicate the number of scheduled hours for each week.~~
38

- 39 (b)(e) Nothing in this chapter prevents a Title IV school from voluntarily using
40 attendance as a manner of fulfilling the requirements of this chapter.
41

42 **§807.284. Reporting.**

- 43
44 (a) Schools shall report to the Agency, as directed, the facts and information about their
45 programs and operations deemed necessary for the proper administration of the Act
46 and any rules adopted under the Act.

- 1
- 2 (1) The data to be reported by a school shall include:
- 3
- 4 (A) student enrollment information for all programs;
- 5
- 6 (B) completion, employment, and job placement information for all
- 7 programs approved for an occupational objective; and
- 8
- 9 (C) any other required information.
- 10
- 11 (2) The school shall submit the required data to the Agency on or before the
- 12 specified date.
- 13
- 14 (3) The school shall provide the data in an electronic format prescribed by the
- 15 Agency unless a different format is approved in writing by the Agency.
- 16
- 17 (4) When good cause is shown, the Agency may extend the deadline for
- 18 submission of the data required under this section; however, the extension shall
- 19 be effective only if authorized in writing.
- 20
- 21 (5) The Agency may require schools to maintain on file the verifiable
- 22 documentation supporting the data reported and make it available to the
- 23 Agency upon request.
- 24
- 25 (b) The Agency ~~will~~ shall develop and apply data monitoring and audit protocols for the
- 26 data reported under subsection (a) of this section, in a manner sufficient to
- 27 reasonably determine the accuracy of the reported information.
- 28
- 29 (c) The Agency may impose penalties or sanctions, or both, for failure to submit data
- 30 under subsection (a) of this section by the due dates required, or for submission of
- 31 data that is shown to contain inaccuracies.
- 32
- 33 (d) For any programs not meeting a minimum employment rate ~~for program graduates~~
- 34 ~~in jobs related to the stated occupation, as referenced in §807.131(b)~~, the following
- 35 graduated corrective actions will be taken:
- 36
- 37 (1) For a program not meeting the minimum employment rate for the first year, the
- 38 school will be required to develop and submit a performance improvement plan
- 39 acceptable to the Agency;
- 40
- 41 (2) For a program not meeting the minimum employment rate for the second
- 42 consecutive year, but showing improvement of at least ~~50 percent~~ 50% of the
- 43 difference between the reported rate and the minimum employment rate of the
- 44 previous year, the school will be required to reexamine and submit
- 45 modifications to the performance improvement plan acceptable to the Agency;
- 46

1 (3) For a program not meeting the minimum employment rate for the second
2 consecutive year and not showing improvement of at least ~~50 percent~~50% of the
3 difference between the reported rate and the minimum employment rate of the
4 previous year, conditions will be placed on the school's certificate, which
5 include:

6
7 (A) modification of the performance improvement plan; and

8
9 (B) suspension of new enrollment of students funded with Local Workforce
10 Development Board-allocated funds in the program; and

11
12 (4) For a program not meeting the minimum employment rate for the third
13 consecutive year, the Agency will revoke approval of the program.

14
15 (e) The Agency ~~will~~shall publish on its website information compiled from:

16
17 (1) data reported under subsection (a) of this section; and

18
19 (2) any other information collected about schools and programs deemed
20 appropriate and useful to the public, which:

21
22 (A) assists a person in deciding whether to enroll in a school or in identifying
23 or choosing which postsecondary institution, school, or college to attend;
24 and

25
26 (B) addresses regulatory compliance and performance of schools.

27
28 (3) The Agency, to the extent practical, shall present the published information in
29 a manner that is consistent among institutions, schools, and colleges; easy to
30 understand; and accessible to the public.

31
32 **SUBCHAPTER P. COMPLAINTS**

33
34 **§807.301. School Policy Regarding Complaints.**

35
36 The school shall:

37
38 (1) submit a written grievance procedure designed to resolve disputes between
39 current and former students and the school for ~~Agency~~Commission approval;

40
41 (2) provide a copy of the grievance procedure to each student and maintain proof
42 of such delivery;

43
44 (3) maintain records regarding grievance filings and resolutions;

45
46 (4) diligently work to resolve all complaints at the local school level; and

1
2 (5) post a visible notice on the school's ~~website~~^{Web site} and centrally located at or
3 near the school's main entrance; in at least one of the student common areas
4 (~~for example~~^{e.g.}, the student cafeteria and/or breakroom); in places where
5 student solicitation, financial aid assistance, and enrollment activities take
6 place; and other locations as necessary to respond to problems with career
7 school rule compliance, which states that:

8
9 (A) the school has a certificate of approval from the Agency, and
10 provides the Agency-assigned school number;

11
12 (B) the school's programs are approved by the Agency and may also be
13 approved by other state agencies or accrediting bodies, and provides
14 the name of any accrediting body and state agency, as applicable;

15
16 ~~(C) students must address their concerns about an educational program~~
17 ~~by following the school's grievance process outlined in the school~~
18 ~~catalog;~~

19
20 ~~(C)~~^(D) students who are dissatisfied with the school's response to their
21 complaints can file a formal complaint with the Agency, as well as
22 with the school's accrediting body, if applicable; and

23
24 ~~(D)~~^(E) additional information on complaint procedures is located on the
25 Agency's Career Schools and Colleges ~~website~~^{Web site}.

26
27 **§807.302. Complaints and Investigations.**

28
29 (a) The Agency ~~may~~^{shall} investigate or refer to other authorities with jurisdiction to
30 investigate, as appropriate, all complaints received about a school, whether licensed
31 or unlicensed.

32
33 (b) The Agency may determine the extent of investigation needed by considering various
34 factors, such as:

35
36 (1) the seriousness of the alleged violation;

37
38 (2) the source of the complaint;

39
40 (3) the school's history of compliance and complaints;

41
42 (4) the timeliness of the complaint;

43
44 (5) the feasibility of investigations; and

45
46 (6) any other reasonable matter deemed appropriate.

- 1
2 (c) The Agency may require adequate documentation or other evidence of the violation
3 before initiating a complaint investigation. Notwithstanding subsection (a) of this
4 section, anonymous complaints will not be investigated but will be reviewed to
5 identify any action needed.
6
7 (d) Unless good cause is shown, a complaint is timely only if it is filed with the Agency
8 while the student who files the complaint is enrolled or within two years of the date
9 the student withdraws, terminates, or graduates from the ~~course~~program that is the
10 subject of the complaint. Good cause includes, but is not limited to, fraud. If a
11 complaint is not timely, the Agency may decline to investigate it.
12
13 (e) The investigation fee authorized by the Act is based on a per site visit. The school
14 director shall be notified that an on-site visit was conducted when the investigation
15 results in assessment of a fee.
16

17 SUBCHAPTER Q. TRUCK DRIVER TRAINING PROGRAMS

18 §807.321. General Information Regarding Truck Driver Training.

- 19
20
21 (a) A school providing truck driver training shall ensure that the truck driver instructors
22 complete a truck driver instructor development course with at least 40 hours of course
23 time.
24
25 (b) All truck driver training programs shall comply with applicable requirements
26 outlined in 49 Code of Federal Regulations Part 380, its successors, and any other
27 applicable legal requirements, and must be listed on the Federal Motor Carrier Safety
28 Administration registry, called the Training Provider Registry.
29

30 §807.322. Truck Driver Instructor Development Course.

- 31
32 (a) A school shall apply to the ~~Agency~~Commission for approval to provide a truck
33 driver instructor development course.
34
35 (b) The instructor development course shall consist of 40 hours of course time, which
36 includes at least the following topics.
37
38 (1) Five hours shall cover techniques of instruction including: qualities of a
39 competent instructor, the learning process, methods of teaching, development
40 of efficient teaching habits, demonstration teaching, the use of instruction
41 material and training aids, course preparation, lesson plans, testing and
42 evaluation, and the duration and frequency of lessons.
43
44 (2) Two hours shall cover personality factors affecting the driver and pedestrian
45 including: natural abilities; senses; mind and nerves; bones and muscles;
46 knowledge of vehicle, road, traffic, and self; attitudes and emotions; reaction

1 time; and reactions to alcohol, carbon monoxide, over-the-counter drugs,
2 prescription drugs, illegal drugs, heart ailments, epilepsy, diabetes, insanity,
3 exhaustion, tension, and monotony.

4
5 (3) Six hours shall cover state laws as located in the Texas Motor Vehicle Law
6 book relating to the operation of motor vehicles including: driver's license,
7 vehicle registration, certificate of title, operation of vehicles, uniform act,
8 miscellaneous offenses, and safety responsibility.

9
10 (4) Eight hours shall cover driving procedures including: handling--city, rural,
11 night, mountain, and freeway driving; fog, rain, sandstorms, and other
12 hazardous weather conditions; road hazards and recovery procedures for slick
13 roads; blowout hazards and running off the road; traffic signs, markings, and
14 signals; use of rearview mirrors; vehicle braking and stopping distances;
15 following distances; right-of-way, when and how to yield it; vehicle
16 acceleration and deceleration; yielding right-of-way to emergency vehicles;
17 driver signals; proper passing procedures; procedures and problems for passing
18 on two and three-lane roadways; and super-size motorized equipment.

19
20 (5) Three hours shall cover physical forces affecting the motor vehicle in motion
21 including: forces of gravity; friction; acceleration, mass, and force; inertia and
22 centrifugal force; kinetic energy and momentum; kinetic energy and braking;
23 and horsepower and acceleration.

24
25 (6) Two hours shall cover highway characteristics including: primary, secondary,
26 expressway, freeway, farm or ranch road, two-way two-lane, two-way three-
27 lane, two-way multilane, two-way multilane divided, one-way multilane,
28 parking, and traffic controls. Traffic control topics consist of the following:

29
30 (A) sign topics including shape, color, location and importance;

31
32 (B) traffic marking topics including center and lane lines, no passing zone,
33 transition markings, turn lane marking, stop lines, crosswalk lines, [and so](#)
34 [forthete](#).; and

35
36 (C) signal topics including classification, location, type, timing.

37
38 (7) Two hours shall cover automobile systems and maintenance including:
39 electrical system--generator, alternator, battery, lighting, and electric-powered
40 equipment; cooling system--lubrication and fuel systems; power train--engine,
41 transmission, and differential; brake system--wheels and tires, caster, camber,
42 toe-in, balance, inflation, tire condition, and care; exhaust system; instruments
43 and gauges; compartment adjustments--seat, ventilation, mirrors, headrests,
44 seat belts, and shoulder harness; starting the engine and warm-up procedures;
45 safety devices--door locks, headrests; and miscellaneous features--windshield
46 wipers, heater, and defroster.

- 1
2 (8) Two hours shall cover behind-the-wheel elementary lessons with
3 demonstration in an appropriate vehicle and practice to be performed in the
4 presence of the instructor including: starting; steering; stopping; shifting gears;
5 backing; turning--right and left; and parking and starting on grade.
6
7 (9) Six hours shall cover behind-the-wheel driving safety lessons with
8 demonstration in an appropriate vehicle and practice to be performed in the
9 presence of the instructor including: developing good seeing habits; speed
10 control; safe following; lane driving and lane changing; intersections and right-
11 of-way; proper signaling; correct turn procedures; detecting of and handling
12 problems--vehicle, cycle, pedestrian; freeway driving--ramp use, entering,
13 exiting, lane use, emergency stopping; parking procedures; entering traffic
14 from parked position; and night driving.
15
16 (10) Two hours shall cover school and instructor approval requirements including
17 the following: school approval requirements, instructor approval requirements,
18 classroom and automotive equipment requirements, required student records,
19 contract requirements, and department of instructors.
20
21 (11) Two hours shall cover specialized training regarding the following: students
22 with physical, mental, or emotional handicaps; illiterate students; non-English-
23 speaking students; and habitual violators and problem drivers.
24

25 **§807.324. Motor Vehicle Insurance.**

26
27 A school providing truck driver training shall ensure that:

- 28
29 (1) a current list of vehicles used in truck driver training is filed with the
30 [Agency Commission](#) on a form provided by the [Agency Commission](#);
31
32 (2) an insurance certificate accompanies each motor vehicle used in training and is
33 filed with the [Agency Commission](#) on or before the date the school files an
34 original or renewal application for approval of the program with the
35 [Agency Commission](#);
36
37 (3) an insuring company or carrier issues an insurance certificate on a form
38 furnished by the [Agency Commission](#) directly to the [Agency Commission](#),
39 which states the insurance company or carrier has issued a policy or policies of
40 insurance, and the amounts of insurance for each vehicle listed on the list of
41 vehicles used in truck driver training;
42
43 (4) a written notice is provided to the [Agency Commission](#) by registered or
44 certified mail at least 10 days prior to the expiration date of insurance coverage
45 of a listed vehicle; and
46

- 1 (5) a copy of the written notice of cancellation of insurance on any listed vehicle is
2 provided to the [Agency Commission](#) by registered or certified mail
3 immediately upon receipt of notice by the school.
4

5 **§807.325. Prohibited Activities Regarding Truck Driver Training.**
6

7 (a) A school, a trainer of truck driver instructors, or a truck driver instructor shall not:
8

- 9 (1) allow an instructor to give instruction or allow a student to secure instruction
10 in the classroom or in a motor vehicle if that instructor or student is using or
11 exhibits any evidence or effect of an alcoholic beverage, controlled substance,
12 or other such impairment;
13
14 (2) permit a student to operate a motor vehicle without a valid driver's license or
15 instruction permit in the student's possession during behind-the-wheel
16 instruction;
17
18 (3) permit more than a ratio of four students per vehicle and three vehicles per
19 instructor on truck driving ranges;
20
21 (4) permit more than four students per vehicle per instructor during street
22 instruction for truck driver training; or
23
24 (5) advertise or otherwise state or imply that a driver's license or permit is
25 guaranteed or assured to any student or individual who may take or complete
26 any instruction or course of instruction, enroll, or otherwise receive instruction
27 in any truck driver training school.
28

29 (b) The [Agency Commission](#) may suspend, revoke, or refuse to renew approval of a truck
30 driver instructor or a trainer of truck driver instructors, upon determining that the
31 applicant or instructor has been:
32

- 33 (1) convicted under the laws of this state, another state, or the United States of any
34 felony; of an offense of criminally negligent homicide committed as a result of
35 the person's operation of a motor vehicle; of an offense involving driving while
36 intoxicated or under the influence; or of an offense involving tampering with a
37 governmental record; or
38
39 (2) found incompetent or is incompetent to:
40
41 (A) safely operate a motor vehicle; or
42
43 (B) properly conduct classroom or behind-the-wheel instruction.
44

1 SUBCHAPTER R. CLOSED SCHOOLS

2
3 §807.341. School Closures.

4
5 (a) Owners with knowledge of a school's impending closure shall notify the Agency as
6 soon as possible or practical.

7
8 (b) Prior to closure a school must:

9
10 (1) contact the Agency regarding a school survey visit and the process required to
11 close out the school records;

12
13 (2) complete any closure documents required by the Agency;

14
15 (3) provide information on any teach out plans or arrangements; and

16
17 (4) complete any other requirements deemed necessary by the Agency for an
18 orderly closure.

19
20 (c) The Agency may impose penalties, sanctions, or both on an owner, as defined by
21 §807.2(30) of this chapter, or on a person associated with a school closure for a
22 school's failure to comply with proper closure procedures.

23
24 (d)(a) The Agency~~Commission~~ may declare a school to be closed when:

25
26 (1) written notification is received by the Agency~~Commission~~ from the school
27 owner stating the school will close;

28
29 (2) Agency~~Commission~~ determines that the school facility has been vacated
30 without prior notification of a change of address given to the
31 Agency~~Commission~~;

32
33 (3) an owner with multiple school locations transfers all students from one school
34 location to another school location;

35
36 (4) the school dismisses all students, contrary to the school's class schedule as
37 printed in the school catalog; or

38
39 (5) the school fails to maintain the faculty, facilities, equipment, or courses of
40 instruction on the basis for which approval was issued.

41
42 (e)(b) After the Agency~~Commission~~ determines that a school will close or is closed, the
43 Agency~~Commission~~ will attempt to notify students concerning their options to
44 accept a teach-out or to receive a proportional tuition refund based on available
45 funds. Notification to students may include constructive notice in news media,
46 student meetings, or mailings to students.

1
2 (f)(e) Each teach-out requires approval of the Agency Commission to determine whether
3 the course of instruction is available, reasonable, and comparable with the course of
4 instruction of the closed school. The teach-out is subject to the following conditions:
5

- 6 (1) Transfers of students from a closed school to another school under the same
7 ownership shall not constitute a teach-out.
8
9 (2) In order to be eligible for a teach-out, students shall submit a signed statement
10 of acceptance to the teach-out school by the deadline as established by the
11 Agency Commission.
12 (3) The school offering the teach-out shall give credit for all comparable training
13 received at the closed school, as determined by the Agency Commission.
14

15 **§807.342. Tuition Trust Account.**
16

- 17 (a) In a year in which the Agency Commission determines it is necessary to charge a fee
18 under §132.2415(b) of the Act, each school shall make a payment to the tuition trust
19 account at the time the school renewal fee is paid.
20
21 (b) The amount in the tuition trust account, as provided in the Act, is an accrued
22 balance. The accrued balance is the cash balance of the tuition trust account less the
23 sum of the accrued liabilities from unpaid student refunds and teach-out claims.
24
25 (c) Disbursements shall be made from the tuition trust account for student refunds and
26 reimbursable teach-out expenses incurred during each 12-month period ending
27 August 31, and shall be:
28
29 (1) made first for student refunds in accordance with §132.2415(d) of the Act and
30 §807.262 of this chapter;
31
32 (2) calculated after refunds or discharges from other funding sources have been
33 determined;
34
35 (3) disbursed to other funding sources from any amount remaining under the
36 limitation of §132.242(e) of the Act; and
37
38 (4) disbursed for reimbursable teach-out expenses based upon remaining funds in
39 the account.
40
41 (d) Following the graduation or termination of the students from the teach-out school,
42 the teach-out school shall determine actual expenses and submit a claim for
43 reimbursement to the Agency Commission on or before the date provided in the
44 application packet. The teach-out school shall:
45

- 1 (1) not claim expenses for facilities, equipment, utilities, or other items which
2 were owned, rented, used, or otherwise obligated by the school prior to the
3 ~~Agency's~~ ~~Commission's~~ approval of the teach-out program, even though such
4 items may be used for the teach-out program;
- 5
6 (2) be limited to expenses for tuition and fees that are ~~nonrecoverable~~ ~~non-~~
7 ~~recoverable~~ from all financial resources, including grants and loans; and
8
- 9 (3) ensure that the sum of the tuition and fees paid to the student's account at the
10 closed school and the teach-out school is the lesser amount the student would
11 have been charged for the complete program at the closed school or the teach-
12 out school.

13
14 ~~(e) For schools in their first two years of operation that have not been required to furnish~~
15 ~~financial statements to comply with §807.35(b), the payment to the tuition trust~~
16 ~~account shall be calculated at the rate determined by the Commission using the~~
17 ~~projected gross amount of tuition and fees, as required in §807.33(e), to be charged~~
18 ~~by the school for the year in which the payment is collected. Once the school has~~
19 ~~submitted the actual amount of tuition and fees collected by the school in compliance~~
20 ~~with §807.35(b), the Commission shall reconcile the projected and actual amounts of~~
21 ~~tuition and fees collected. Upon reconciliation, the Commission shall determine if~~
22 ~~the school is entitled to a refund or must pay an additional amount to the tuition trust~~
23 ~~account.~~

24 25 SUBCHAPTER S. SANCTIONS

26 27 §807.351. Notice and Administration of Sanctions.

- 28
29 (a) Pursuant to its authority under §132.152 of the Act, the Agency may impose
30 administrative penalties or other sanctions on an entity for violations of §132.151 of
31 the Act or this chapter.
32
- 33 (b) The Agency ~~will~~ ~~shall~~ serve notice of a sanction, with determination of the violation
34 on which it is based, by both ~~email~~ ~~U.S. mail~~ and certified mail, return receipt
35 requested, mailed to the owner's address of record as listed on the application for
36 certificate of approval. Unless there is other evidence of receipt, notice is presumed
37 received five days from the date it is mailed by the Agency.
38
- 39 (c) In imposing administrative penalties or other sanctions, the Agency ~~may~~ ~~shall~~
40 consider all the factors that it deems relevant, including, but not limited to, the
41 following:
42
43 (1) The amount of administrative penalty or level of sanction necessary to ensure
44 immediate and continued compliance with statutes and regulations;
45

- 1 (2) The conduct of the entity in taking all reasonable steps or procedures necessary
2 and appropriate to comply with statutes and regulations and to correct the
3 violation; and
4
5 (3) The entity's prior violations of statutes, regulations, or orders administered,
6 adopted, or issued by the ~~Agency Commission~~.
7
8 (d) Notwithstanding subsections (a) - (c) of this section, the Agency ~~may~~**shall** order
9 refunds pursuant to applicable statute and rules.
10

11 **§807.352. Sanctions.**
12

13 (a) Sanctions may include:
14

- 15 (1) administrative penalties outlined in §807.353 of this subchapter;
16
17 ~~(2) —collecting a late renewal fee from the school;~~
18
19 ~~(2)(3)~~ denying the school's application for a certificate of approval;
20
21 ~~(3)(4)~~ revoking the school's certificate of approval;
22
23 ~~(4)(5)~~ placing conditions on the school's certificate of approval;
24
25 ~~(5)(6)~~ suspending the admission of students to the school or a program;
26
27 ~~(6)(7)~~ denying a program approval;
28
29 ~~(7)(8)~~ revoking a program approval;
30
31 ~~(8)(9)~~ ~~disapproving~~denying or revoking approval of an owner, school director,
32 instructor, or other staff member whose approval may be required;
33
34 ~~(9)(10)~~ denying, suspending, placing condition on, or revoking the registration of
35 the school's representatives;
36
37 ~~(10)(11)~~ assessing a late refund penalty;
38
39 ~~(11)(12)~~ charging the school an investigation fee to resolve a complaint against the
40 school;
41
42 ~~(12)(13)~~ charging the school interest and penalties on late payments of fee
43 installments;
44
45 ~~(13)(14)~~ applying for an injunction against the school;
46

Violation	First Offense: Penalty	Repeat Offenses: Penalty	Definition of Instance
Failure to provide the Agency notice of a change of address prior to permanently vacating the school facility	\$250	Second Offense: \$500 Subsequent Offenses: \$1,000	Per violation
Failure to maintain records demonstrating compliance with requirements of statute or rule	\$250	Second Offense: \$500 Subsequent Offenses: \$1,000	Per record or student record
Failure to properly destroy or arrange for the destruction of sensitive personal information in the school's custody or control	\$250	Second Offense: \$500 Subsequent Offenses: \$1,000	Per student affected
Failure to protect student records against damage, loss, or misuse	\$250	Second Offense: \$500 Subsequent Offenses: \$1,000	Per record or student record
Failure to provide complete and accurate information as required by the Agency	\$250	Second Offense: \$500 Subsequent Offenses: \$1,000	Per violation
<u>Failure to provide an instructor who meets necessary qualifications and whose application was submitted within required time frames</u>	<u>\$250</u>	<u>Second Offense: \$500 Subsequent Offenses: \$1,000</u>	<u>Per instructor, per course</u>
Failure to ensure a staff member has taken required training and been approved by the Agency	\$500	Subsequent Offenses: \$1,000	Per staff member
Failure to provide an instructor who meets necessary qualifications and whose application was submitted within required time frames	\$500	Subsequent Offenses: \$1,000	Per instructor
Failure to provide an instructor who meets necessary qualifications and whose application was submitted within required time frames	\$500	Subsequent Offenses: \$1,000	Per instructor

Violation	First Offense: Penalty	Repeat Offenses: Penalty	Definition of Instance
Failure to make arrangements satisfactory to the Agency for the completion of a discontinued program <u>course of instruction</u>	\$500	Subsequent Offenses: \$1,000	Per program <u>course of instruction</u>
Making a false statement in an application to the Agency	\$500	Subsequent Offenses: \$1,000	Per violation
Failure to maintain the instructors, facilities, equipment, or programs <u>courses of instruction</u> and outcomes on the basis of which approval was issued	\$500	Subsequent Offenses: \$1,000	Per program <u>course of instruction</u>
Failure to disclose limitations on transferability of courses of instruction to a prospective student	\$500	Subsequent Offenses: \$1,000	Per student affected
Advertising that financial aid is available or advertising that financial aid may be available for a program for which it is not available	\$500	Subsequent Offenses: \$1,000	Per student affected
Failure to establish that a student met the approved admission requirements when the student was enrolled	\$750	Subsequent Offenses: \$1,000	Per student affected
Failure to submit the annual program completion, job placement, and employment data required by the Agency by the required due date	\$750	Subsequent Offenses: \$1,000	Per school
Failure to submit annual financial statements no later than 180 days from the close of the school's or college's fiscal year	\$750	Subsequent Offenses: \$1,000	Per school
Transfer of all students from one school location to another school location, by an owner with multiple school locations, without Agency approval	\$750	Subsequent Offenses: \$1,000	Per violation

Violation	First Offense: Penalty	Repeat Offenses: Penalty	Definition of Instance
Dismissal of all students contrary to the school's class schedule as printed in the school catalog for reasons not approved by the Agency	\$750	Subsequent Offenses: \$1,000	Per dismissal event
Failure to notify the Agency in writing of any legal actions or any change in accreditation status or Title IV status	\$750	Subsequent Offenses: \$1,000	Per action
Operating a school without a certificate of approval	\$1,000	Subsequent Offenses: \$1,000	Per school, per program
Teaching a program course of instruction or revised program course of instruction that has not been approved by the Agency	\$1,000	Subsequent Offenses: \$1,000	Per program course of instruction
Using advertising that is false, misleading, or deceptive, including the misrepresentation of degrees other than those approved by the Coordinating Board	\$1,000	Subsequent Offenses: \$1,000	Per student affected
Failure to notify the Agency of the discontinuance of the program course of instruction or the operation of a school or college within 72 hours of cessation of classes, and to make available accurate records as required	\$1,000	Subsequent Offenses: \$1,000	Per program course of instruction
Solicitation of a prospective student in violation of statutory and rule requirements	\$1,000	Subsequent Offenses: \$1,000	Per student affected
Any misrepresentation	\$1,000	Subsequent Offenses: \$1,000	Per misrepresentation
Failure to grant appropriate credit, both in time and monetarily, to any student based on the required evaluation of prior experience, education, or training	\$1,000	Subsequent Offenses: \$1,000	Per student affected

Violation	First Offense: Penalty	Repeat Offenses: Penalty	Definition of Instance
Failure to pay any fee or penalty installment by the required due date	50% of the total amount of the fee	50% of the total amount of the fee	Per failure
Paying a refund late	A rate established annually by the Commission	A rate established annually by the Commission	Per refund, per day

1
2 **SUBCHAPTER T. CEASE AND DESIST ORDERS**

3
4 **§807.362. Contents of Statement of Charges and Notice of Hearing.**

5
6 The statement of charges and notice of hearing issued by the Agency ~~will~~[shall](#) contain the
7 following information:

- 8
9 (1) The name and last known address of the person against whom the order may
10 be entered;
11
12 (2) A short and plain statement of the reasons the Agency believes the person is
13 operating a career school or college without a certificate of approval; and
14
15 (3) The date, time, and location of the hearing.
16

17 **§807.365. Hearing Decision and Final Review by the [Agency](#)~~Commission~~.**

- 18
19 (a) Within 10 days after the hearing is held, the hearing officer shall issue a written
20 decision granting or denying the request for the issuance of a cease and desist order
21 that includes findings of fact and conclusions of law. The hearing decision shall be
22 mailed by certified mail, return receipt requested, and is presumed received five days
23 from the date it is mailed. The hearing officer's decision becomes final the 15th day
24 after receipt of the hearing decision unless an appeal is filed under subsection (b) of
25 this section.
26
27 (b) A party that is not satisfied with the decision of the hearing officer may file a written
28 appeal of the decision to the [Agency](#)~~Commission~~ for a final review no later than the
29 15th day after receipt of the hearing decision. The written appeal shall contain the
30 party's arguments as to why the decision of the hearing officer should be reversed.
31
32 (c) Upon receipt of the written appeal of the hearing officer's decision, the
33 [Agency](#)~~Commission~~ shall consider the appeal and issue a decision promptly. The
34 [Agency](#)~~Commission~~ shall consider the appeal on the basis of the record made before
35 the hearing officer. The decision of the [Agency](#)~~Commission~~ shall be mailed by

1 certified mail, return receipt requested, and is presumed received five days from the
2 date it is mailed.

3
4 **§807.366. Cease and Desist Order.**
5

- 6 (a) If the request for the issuance of a cease and desist order becomes final under the
7 provisions of §807.365(a) of this subchapter or, if after an appeal the decision under
8 §807.365(c) of this subchapter upholds the issuance of a cease and desist order by
9 the AgencyCommission, the hearing officer shall issue a cease and desist order
10 against the person who is found operating a career school or college without a
11 certificate of approval in violation of §132.151 of the Act.
12
13 (b) The cease and desist order shall be delivered by certified mail, return receipt
14 requested, and is presumed received five days from the date it is mailed.
15
16 (c) From the date of receipt of the issuance of the cease and desist order, the person
17 must completely cease and desist operating the career school or college.
18
19 (d) The cease and desist order shall remain in effect until the person comes into complete
20 compliance with the Act as determined by the AgencyCommission, or unless
21 otherwise provided by the order of the AgencyCommission.
22

23 **SUBCHAPTER U. CAREER SCHOOLS HEARINGS**
24

25 **§807.385. Setting of Hearing.**
26

- 27 (a) Upon receipt of request for a hearing, the Agency ~~will~~shall promptly mail a notice of
28 hearing that sets the hearing for a reasonable time and place within 30 days from
29 receipt of the request for a hearing.
30
31 (b) The notice of hearing shall be in writing and include a:
32
33 (1) statement of the date, time, place, and nature of the hearing;
34
35 (2) statement of the legal authority under which the hearing is to be held; and
36
37 (3) short and plain statement of the issues to be considered during the hearing.
38
39 (c) The notice of hearing shall be issued at least 10 days before the date of the hearing
40 unless a shorter period is permitted by statute.
41
42 (d) The hearing notice shall state whether the hearing shall be conducted by telephone or
43 in-person. The hearing notice shall also include the location of an in-person hearing.
44

- 1 (e) Parties needing special accommodations, including a bilingual or sign language
2 interpreter, may request such before the setting of the hearing, if possible, or as soon
3 as practical.
4

5 **§807.386. Hearing Officer Independence and Impartiality.**
6

- 7 (a) A hearing officer presiding over a hearing shall have all powers necessary and
8 appropriate to conduct a full, fair, and impartial hearing. Hearing officers shall
9 remain independent and impartial in all matters regarding the handling of any issues
10 during the pendency of a case and in issuing their written decisions.
11
12 (b) A hearing officer shall be disqualified if the hearing officer has a personal interest in
13 the outcome of the appeal or if the hearing officer directly or indirectly participated
14 in the determination on appeal. Any party may present facts to the Agency in support
15 of a request to disqualify a hearing officer.
16
17 (c) The hearing officer may withdraw from a hearing to avoid the appearance of
18 impropriety or partiality.
19
20 (d) Following any disqualification or withdrawal of a hearing officer, the Agency
21 ~~will~~ shall assign an alternate hearing officer to the case. The alternate hearing officer
22 shall not be bound by any findings or conclusions made by the disqualified or
23 withdrawn hearing officer.
24

25 **§807.387. Hearing Procedures.**
26

- 27 (a) The hearing shall be conducted ~~telephonically in person in Austin, Texas,~~ unless an
28 in-person hearing is requested and the hearing officer deems an in-person hearing
29 appropriate or the hearing officer determines that another method of conducting the
30 hearing is appropriate~~the parties agree to a telephonic hearing or request a different~~
31 ~~location.~~
32
33 (b) The hearing shall be conducted informally and in such a manner as to ascertain the
34 substantive rights of the parties. All issues relevant to the appeal shall be considered
35 and addressed, and may include:
36
37 (1) Presentation of Evidence. The parties to an appeal may present evidence that is
38 material and relevant, as determined by the hearing officer. In conducting a
39 hearing, the hearing officer shall actively develop the record on the relevant
40 circumstances and facts to resolve all issues. To be considered as evidence in a
41 decision, any document or physical evidence must be entered as an exhibit at
42 the hearing. A party has the right to object to evidence offered at the hearing
43 by the hearing officer or other parties.
44
45 (2) Examination of Parties and Witnesses. After placing the witnesses under oath,
46 the hearing officer shall examine parties and any witnesses and shall allow

1 cross-examination to the extent the hearing officer deems necessary to afford
2 the parties due process.

3
4 (3) Additional Evidence. The hearing officer, with or without notice to any of the
5 parties, may take additional evidence as deemed necessary, provided that a
6 party shall be given an opportunity to rebut the evidence if it is to be used
7 against the party's interest.

8
9 (4) Appropriate Hearing Behavior. All parties shall conduct themselves in an
10 appropriate manner. The hearing officer may expel any individual or party who
11 fails to correct behavior the hearing officer identifies as disruptive. After
12 expulsion, the hearing officer may proceed with the hearing and render a
13 decision.

14
15 (c) Records.

16
17 (1) The hearing record shall include the audio recording of the proceeding and any
18 other relevant evidence relied on by the hearing officer, including documents
19 and other physical evidence entered as exhibits.

20
21 (2) The hearing record shall be maintained in accordance with federal and state
22 law.

23
24 (3) Confidentiality of information contained in the hearing record shall be
25 maintained in accordance with federal and state law.

26
27 (4) Upon request, a party has the right to obtain a copy of the hearing record at no
28 charge. However, a party requesting a transcript of the hearing record shall pay
29 the costs of the transcription.

30
31 **§807.395. Finality of Decision.**

32
33 (a) The decision of the hearing officer is the final decision of the Agency after the
34 expiration of 30 calendar days from the mailing date of the decision unless within
35 that time:

36
37 (1) a request for reopening is filed with the Agency;

38
39 (2) a request for rehearing is filed with the Agency; or

40
41 (3) the Agency assumes continuing jurisdiction to modify or correct the decision.

42
43 (b) Any decision issued in response to a request for reopening or rehearing or a
44 modification or correction issued by the Agency ~~becomes~~ ~~shall be~~ final on the
45 expiration of 30 calendar days from the mailing date of the decision, modification, or
46 correction.