

Chapter 7. DEGREE GRANTING COLLEGES AND UNIVERSITIES OTHER THAN  
TEXAS PUBLIC INSTITUTIONS

Subchapter A. General Provisions

7.3 Definitions.

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

- (1) Academic associate degree program--A grouping of courses designed to transfer to an upper-level baccalaureate program. This specifically refers to the associate of arts and the associate of science degrees.
- (2) Accreditation--The status of public recognition that a recognized accrediting agency grants to an educational institution.
- (3) Accrediting agency--A legal entity that conducts accreditation activities through voluntary peer review and makes decisions concerning the accreditation status of institutions.
- (4) Agent--A person employed by or representing a postsecondary educational institution in an official capacity within or without Texas who:
  - (A) solicits any Texas student for enrollment in the institution;
  - (B) solicits or accepts payment from any Texas student for any service offered by the institution; or
  - (C) while having a physical presence in Texas, solicits students or accepts payment from students who do not reside in Texas.
- (5) Alternative Certificate of Authority--A type of certificate of authority for approval of postsecondary institutions, with operations in the state of Texas, to confer degrees or courses applicable to degrees, or to solicit students for enrollment in institutions that confer degrees or courses applicable to degrees that is governed by flexible, streamlined procedures, emphasizing the importance of innovation, consumer choice, and measurable outcomes in the delivery of educational services.
- (6) Applied associate degree program--A grouping of courses designed to lead the individual directly to employment in a specific career and that includes at least fifteen (15) semester credit hours or twenty-three (23) quarter credit hours of general education courses. This specifically refers to the associate of applied arts and the associate of applied science degrees.
- (7) Associate degree program--A grouping of courses designed to lead the individual directly to employment in a specific career, or to transfer to an upper-level baccalaureate program. This specifically refers to the associate of arts, the associate of science, the associate of applied arts and the associate of applied science.

(8) Board--The Texas Higher Education Coordinating Board.

(9) Board staff--The staff of the Texas Higher Education Coordinating Board including the Commissioner of Higher Education and all employees who report to the Commissioner.

(10) Branch campus, extension center, or other off-campus unit--Any institution or part of an institution offering or proposing to offer away from the home campus more than occasional courses or courses leading to the granting of a degree without the necessity for courses to be taken at the main campus.

(11) Career school or college--Any business enterprise operated for a profit, or on a nonprofit basis, that maintains a place of business in the State of Texas or solicits business within the State of Texas, and that is not specifically exempted by Texas Education Code Section 132.002 or Section 7.4 of this chapter (relating to Obtaining a Certificate of Authorization or a Certificate of Authority to Operate in Texas), and:

(A) that offers or maintains a course or courses of instruction or study; or

(B) at which place of business such a course or courses of instruction or study is available through classroom instruction, by electronic media, by correspondence, or by some or all, to a person for the purpose of training or preparing the person for a field of endeavor in a business, trade, technical, or industrial occupation, or for career or personal improvement.

(12) Certificate of Approval--The Texas Workforce Commission's approval of career schools or colleges with operations in Texas to maintain, advertise, solicit for, or conduct any program of instruction in this state.

(13) Certificate of Authority--The Board's approval of postsecondary institutions, (other than exempt institutions) with operations in the state of Texas, to confer degrees or courses applicable to degrees, or to solicit students for enrollment in institutions that confer degrees or courses applicable to degrees.

(14) Certificate of Authorization--The Board's acknowledgment that an institution is qualified for an exemption from the regulations herein.

(15) Change of ownership or control--Any change in ownership or control of a career school or college or an agreement to transfer control of such institution.

(A) The ownership or control of a career school or college is considered to have changed:

(i) In the case of ownership by an individual, when more than fifty (50) percent of the institution has been sold or transferred;

(ii) In the case of ownership by a partnership or a corporation, when more than fifty (50) percent of the institution or of the owning partnership or corporation has been sold or transferred; or

(iii) When the board of directors, officers, shareholders, or similar governing body has been

changed to such an extent as to significantly alter the management and control of the institution.

(B) A change of ownership or control does not include a transfer that occurs as a result of the retirement or death of the owner if transfer is to a member of the owner's family who has been directly and constantly involved in the management of the institution for a minimum of two years preceding the transfer. For the purposes of this section, a member of the owner's family is a parent, sibling, spouse, or child; spouse's parent or sibling; or sibling's or child's spouse.

(16) Cited--Any reference to an institution in a negative finding or action by an accrediting agency.

(17) Classification of Instructional Programs (CIP) Code--The four (4)- or six (6)- digit code assigned to an approved degree program in accordance with the CIP manual published by the U. S. Department of Education, National Center for Education Statistics. CIP codes define the authorized teaching field of the specified degree program, based upon the occupation(s) for which the program is designed to prepare its graduates.

(18) Commissioner--The Commissioner of Higher Education.

(19) Concurrent instruction--Students enrolled in different classes, courses, and/or subjects being taught, monitored, or supervised simultaneously by a single faculty member.

(20) Degree--Any title or designation, mark, abbreviation, appellation, or series of letters or words, including "associate", "bachelor's", "master's", "doctor's" and their equivalents and foreign cognates, which signify, purport to signify, or are generally taken to signify satisfactory completion of the requirements of all or part of a program of study which is generally regarded and accepted as an academic degree-level program by accrediting agencies recognized by the Board.

(21) Educational or training establishment--An enterprise offering a course of instruction, education, or training that is not represented as being applicable to a degree.

(22) Exempt institution--An institution operating in Texas that is accredited by an agency recognized by the Board under Section 7.2 of this chapter (relating to Authority) or a career school or college that applies for and is declared exempt under this chapter, by the Texas Workforce Commission as described in Texas Education Code, Section 61.003(8), or Texas Education Code Chapter 132, respectively. Exempt institutions may still have to comply with certain Board rules.

(23) Fictitious degree--A counterfeit or forged degree or a degree that has been revoked.

(24) Fraudulent or substandard degree--A degree conferred by a person who, at the time the degree was conferred, was:

(A) operating in this state in violation of this chapter;

(B) not eligible to receive a certificate of authority under this chapter and was operating in

another state in violation of a law regulating the conferral of degrees in that state or in the state in which the degree recipient was residing or without accreditation by a recognized accrediting agency, if the degree is not approved through the review process described by Section 7.14 of this chapter (relating to Review and Use of Degrees from Institutions Not Eligible for Certificates of Authority); or

(C) not eligible to receive a certificate of authority under this chapter and was operating outside the United States, and whose degree the Board, through the review process described by Section 7.14 of this chapter, determines is not the equivalent of an accredited or authorized degree.

(25) Home campus--The headquarters of an institution, such location to be determined as a matter of fact by the Commissioner based upon consideration of information such as, but not limited to the following:

(A) where the institution is chartered;

(B) the site, campus or city where the principal or chief executive's offices are located;

(C) the site, campus or city where the institution conducts the preponderance of its instructional activities; and

(D) any other pertinent and material facts.

(26) Occasional courses--Courses offered not more than twice at any given location in the state.

(27) Out-of-state public postsecondary institution--Any senior college, university, technical institute, junior or community college, or the equivalent which is controlled by a public body organized outside the boundaries of the State of Texas.

(28) Person - Any individual, firm, partnership, association, corporation, enterprise, or other private entity or any combination thereof.

(29) Postsecondary educational institution--An educational institution which furnishes or offers to furnish courses of instruction in person, by electronic media, by correspondence, or by some means or all leading to a degree; provides or offers to provide credits alleged to be applicable to a degree; or represents that credits earned or granted are collegiate in nature, including describing them as "college-level," or at the level of any protected academic term.

(30) Private Postsecondary Educational Institution--An institution which:

(A) is not an institution of higher education as defined by Texas Education Code Section 61.003;

(B) is incorporated under the laws of this state, maintains a place of business in this state, has a representative present in this state, or solicits business in this state; and

(C) furnishes or offers to furnish courses of instruction in person, by electronic media, or by correspondence leading to a degree or providing credits alleged to be applied to a degree.

(31) Program or Program of study--Any course or grouping of courses which are represented as entitling a student to a degree or to credits applicable to a degree.

(32) Protected term--the term "college," "university," "school of medicine," "medical school," "health science center," "school of law," "law school," or "law center," its abbreviation, foreign cognate or equivalents.

(33) Recognized accrediting agency--Any accrediting agency the standards of accreditation or membership for which have been found by the Board to be sufficiently comprehensive and rigorous to qualify its institutional members for an exemption from the operation of this chapter.

(34) Representative--A person who acts on behalf of an institution regulated under this chapter. The term includes, without limitation, recruiters, agents, tutors, counselors, business agents, instructors, and any other instructional or support personnel.

(35) Required state or national licensure--the requirement for graduates of certain professional programs to obtain a license from state or national entities for entry-level practice.

#### 7.4. Obtaining a Certificate of Authorization or a Certificate of Authority to Operate in Texas

(a) An institution must request and be granted a certificate of authority, an alternative certificate of authority, or a certificate of authorization by the Commissioner before it can offer to award degrees or courses leading to degrees. The Commissioner may issue a certificate of authorization to grant degrees to an institution, upon the institution's request and demonstration that it qualifies for an exemption under this subsection. The exemptions provided by this subsection apply only to the degree level for which the programs or the institution is accredited or approved, as applicable, and if an institution offers to award a degree at a level for which it is not accredited or approved by the appropriate agency of the State of Texas, the exemption does not apply. Upon issuance of a certificate of authorization as an exempt institution, the provisions of this chapter, with the exception of Sections 7.15 - 7.17 of this chapter do not apply to following types of postsecondary institutions:

(1) Schools or colleges that do not award degrees or offer courses leading to degrees. However, such institutions are subject to the rules of the Texas Workforce Commission Pursuant to Chapter 132 of the Texas Education Code concerning career schools and colleges.

(2) A branch campus, extension center, or other off-campus unit operated by a private or independent Texas postsecondary institution as defined by Texas Education Code, Section 61.003.

(3) The home campus, headquarters, or Texas location(s) of an institution which have been fully accredited by a recognized accrediting agency.

(4) An institution or degree program that has received approval by an agency of the State of

Texas authorizing the graduates of the institution to take a state licensing examination administered by that agency. The granting of permission by a state agency to a graduate of an institution to take a licensing examination does not by itself constitute approval of the institution or degree program required for an exemption under this subsection.

(b) Institutions holding a Certificate of Approval from the Texas Workforce Commission to operate as a Career School or College and are not exempt under this chapter may be able to obtain a Certificate of Authority to award associate degrees under Section 7.9 of this chapter (relating to Certificate of Authority for Career Schools and Colleges). All other non-exempt institutions must use either Section 7.7 or Section 7.8.

(c) The home campus of an institution that is not exempt under the provisions of subsection (a) of this section may obtain a certificate of authority under either Section 7.7 of this chapter (relating to Certificate of Authority) or an alternative certificate of authority under Section 7.8 (relating to Alternative Certificates of Authority).

(d) Branch campuses of out-of-state public institutions must obtain a certificate of authority as outlined in Section 7.10 of this chapter (relating to Operation of Branch Campuses, Extension Centers, or Other Off-Campus Units by Exempt Institutions).

(e) Agents of an institution that is not exempt under the provisions of subsection (a) of this section, or operating with an alternative certificate of authority as provided by Section 7.8 of this chapter, must register with the Board as provided by Section 7.11 of this chapter (relating to Registration of Agents).

(f) A substantive change in the conditions under which an institution was granted a certificate of authority, an alternative certificate of authority or an exemption (certificate of authorization) must be reported in accordance with Section 7.12 of this chapter (relating to Occasional Courses, Changes of Level of Instruction, Changes of Ownership, and Other Substantive Changes). An accredited institution that is exempt under subsection (a)(3) of this section continues in that status so long as it maintains accreditation by a recognized accrediting agency.

(g) An institution offering only religious degrees may request a letter stating that the Board does not have oversight.

(h) Revocation of an exemption.

(1) If the Commissioner receives credible evidence that an institution is no longer qualified for an exemption, the institution shall be notified that its exempt status is revoked, and that the institution is subject to the requirements of Texas Education Code, Chapters 61 or 132 as appropriate, and this chapter.

(2) Upon receipt of the notice of revocation, the institution must cease granting or awarding degrees in Texas until it has either been granted a certificate of authority to grant degrees, or has received a determination that it did not lose its qualification for an exemption.

(3) Within ten (10) days of its receipt of the Commissioner's notice, the institution must

respond and offer proof of its continued qualification for the exemption.

(4) After reviewing the evidence, the Commissioner will issue a notice of determination, which in the case of an adverse determination, shall contain information regarding the reasons for the denial, and the institution's right to a hearing.

(5) If a determination under this section is adverse to an institution, it shall become final and binding unless, within forty-five (45) days of its receipt of the adverse determination, the institution invokes the administrative remedies contained in Chapter 1, subchapter B of this title (relating to Dispute Resolution).

## 7.5. Standards for Operation of Institutions

All institutions that operate within the State of Texas are expected to meet the following standards. Standard (2) relating to Qualifications of Institutional Officers and Standard (3) relating to policy making do not apply to branch campuses operating under Section 7.10 of this chapter (relating to Operation of Branch Campuses, Extension Centers or Other Off-Campus Units, Occasional Courses and Changes in Level). These standards will be enforced through the certificate of authority process or the alternative certificate of authority process. Standards addressing the same principles will be enforced by recognized accrediting agencies. Particular attention will be paid to the institution's commitment to education, responsiveness to recommendations and suggestions for improvement, and, in the case of a renewal of a certificate of authority, record of improvement and progress. These standards represent generally accepted administrative and academic practices and principles of accredited postsecondary institutions in Texas. Such practices and principles are generally set forth by institutional and specialized accrediting bodies and the academic and professional organizations.

(1) Legal Compliance. The institution shall be maintained and operated in compliance with all applicable ordinances and laws, including the rules and regulations adopted to administer those ordinances and laws. Career Schools and Colleges also shall demonstrate compliance with Texas Education Code, Chapter 132 by supplying a copy of a certificate of approval to operate a career school or college or a letter of exemption from the Texas Workforce Commission.

(2) Qualifications of Institutional Officers.

(A) The character, education, and experience in higher education of administrators, supervisors, counselors, agents, and other institutional officers shall reasonably ensure that the institution can maintain the standards of the Board and progress to accreditation within the time limits set by the Board.

(B) The chief academic officer shall hold an earned advanced degree appropriate for the mission of the institution, preferably, an earned doctorate awarded by an institution accredited by a recognized accrediting agency, and shall demonstrate sound aptitude for and experience with curriculum development and assessment; accreditation standards and processes as well as all relevant state regulations; leadership and development of faculty, including the promotion of scholarship, research, service, academic freedom and responsibility, and tenure (where applicable); and the promotion of student success.

(C) In the case of a renewal of a certificate of authority, the institutional officers also shall demonstrate a record of effective leadership in administering the institution.

(3) Governance. The institution shall have a system of governance that facilitates the accomplishment of the institution's mission and purposes, supports institutional effectiveness and integrity, and protects the interests of its constituents, including students, faculty and staff. If the institution has a governing board consisting of at least three (3) members, and that board focuses on the accomplishment of the institution's mission and purposes, supports institutional effectiveness and integrity, and protects the interests of its constituents, this standard will be considered as met. In the absence of such a governing board, the burden to establish appropriate safeguards within its system of governance and to demonstrate their effectiveness falls upon the institution.

(4) Distinction of Roles. The institution shall define the powers, duties and responsibilities of each element of the system of governance, to include the board of directors or trustees, the chief operating officer, president or director, the principal administrators, faculty, and students, if students participate in school governance

(5) Financial Resources and Stability. The institution shall have adequate financial resources and financial stability to provide education of good quality and to be able to fulfill its commitments to students. The institution shall have sufficient reserves, line of credit, or surety instrument so that, together with tuition and fees, it would be able to complete its educational obligations to currently enrolled students if it were unable to admit any new students.

(6) Financial Records. Financial records and reports of the institution shall be kept and made separate and distinct from those of any affiliated or sponsoring person or entity. Financial records and reports at a not-for-profit institution shall be kept in accordance with the guidelines of the National Association of College and University Business Officers as set forth in College and University Business Administration, (Sixth Edition), or such later editions as may be published. An annual independent audit of all fiscal accounts of the educational institution shall be authorized by the governing board and shall be performed by a properly authorized certified public accountant.

(7) Institutional Assessment. Continual and effective assessment, planning, and evaluation of all aspects of the institution shall be conducted to advance and improve the institution. These aspects include, but are not limited to, the academic program of teaching, research, and public service; administration; financial planning and control; student services; facilities and equipment, and auxiliary enterprises.

(8) Institutional Evaluation.

(A) The institution shall establish adequate procedures for planning and evaluation, define in measurable terms its expected educational results, and describe how those results will be achieved.

(B) For applied associate degree programs, the evaluation criteria shall include the following: mission, labor market need, curriculum, enrollment, graduates, student placement, follow-up results, ability to finance each program of study, facilities and equipment, instructional



practices, student services, public and private linkages, qualifications of faculty and administrative personnel, and success of its students.

(C) For applied associate degree programs relating to occupations where state or national licensure is required, graduates must pass the licensing examination at a rate acceptable to the related licensing agency.

(9) Administrative Resources. The institution has the administrative capacity to meet the daily needs of the administration, faculty and students, including facilities, laboratories, equipment, technology and learning resources that support the institution's mission and programs

(10) Student Admission and Remediation.

(A) Upon the admission of a student to any undergraduate program, the institution shall document the student's level of preparation to undertake college level work by obtaining proof of the student's high school graduation or General Educational Development (GED) certification. If a GED is presented, to be valid, the score must be at or above the passing level set by the Texas Education Agency. The academic skills of each entering student may be assessed with an instrument of the institution's choice. The institution may provide an effective program of remediation for students diagnosed with deficiencies in their preparation for collegiate study.

(B) Upon the admission of a student to any graduate program, the institution shall document that the student is prepared to undertake graduate-level work by obtaining proof that the student holds a baccalaureate degree from an institution accredited by a recognized accrediting agency, or an institution holding a certificate of authority to offer baccalaureate degrees under the provisions of this chapter, or a degree from a foreign institution equivalent to a baccalaureate degree from an accredited institution. The procedures used by the institution for establishing the equivalency of a foreign degree shall be consistent with the guidelines of the National Council on the Evaluation of Foreign Education Credentials or its successor.

(11) Faculty Qualifications. The character, education, and experience in higher education of the faculty shall be such as may reasonably ensure that the students will receive an education consistent with the objectives of the course or program of study.

(A) Each faculty member, except as provided by subparagraph (E) of this paragraph, teaching in an academic associate, applied associate leading to required state or national licensure, or baccalaureate level degree program shall have at least a master's degree from an institution accredited by a recognized agency with at least eighteen (18) graduate semester credit hours in the discipline, or closely related discipline, being taught.

(B) Each faculty member except, as provided by subparagraph (E) of this paragraph, teaching career and technical courses in an applied associate degree program, or career and technical courses that academic associate or baccalaureate students may choose to take, shall have at least an associate degree in the discipline being taught from an institution accredited by a recognized agency and at least three (3) years of full-time direct or closely related experience in the discipline being taught.

(C) Each faculty member, except as provided by subparagraph (E) of this paragraph, teaching

general education courses in an applied associate degree program shall have at least a baccalaureate degree from an institution accredited by a recognized accrediting agency with at least eighteen (18) graduate semester credit hours in the discipline, or closely related discipline, being taught.

(D) Except as provided by subparagraph (E) of this paragraph, graduate-level degree programs shall be taught by faculty holding doctorates, or other degrees generally recognized as the highest attainable in the discipline, or closely related discipline, awarded by institutions accredited by an agency recognized by the Board.

(E) With the approval of a majority of the institution's governing board, an individual with exceptional experience in the field of appointment, which may include direct and relevant work experience, professional licensure and certification, honors and awards, continuous documented excellence in teaching, or other demonstrated competencies and achievements, may serve as a faculty member without the degree credentials specified above. Such appointments shall be limited and the justification for each such appointment shall be fully documented. The Board may review the qualifications of the full complement of faculty providing instruction at the institution to verify that such appointments are justified.

(12) Faculty Size. There shall be a sufficient number of faculty holding full-time teaching appointments that are accessible to the students to ensure continuity and stability of the education program, adequate educational association between students and faculty and among the faculty members, and adequate opportunity for proper preparation for instruction and professional growth by faculty members. At the associate and baccalaureate levels, there shall be at least one (1) full-time faculty member in each program. At the graduate level, there shall be at least two (2) full-time faculty members in each program.

(13) Academic Freedom and Faculty Security. The institution shall adopt, adhere to, and distribute to all members of the faculty a statement of academic freedom assuring freedom in teaching, research, and publication. All policies and procedures concerning promotion, tenure, and non-renewal or termination of appointments, including for cause, shall be clearly stated and published in a faculty handbook, adhered to by the institution, and supplied to all faculty. The specific terms and conditions of employment of each faculty member shall be clearly described in a written document to be given to that faculty member, with a copy to be retained by the institution.

(14) Curriculum

(A) The quality, content, and sequence of each course, curriculum, or program of instruction, training, or study shall be appropriate to the purpose of the institution and shall be such that the institution may reasonably and adequately achieve the stated objectives of the course or program. Each program shall adequately cover the breadth of knowledge of the discipline taught and coursework must build on the knowledge of previous courses to increase the rigor of instruction and the learning of students in the discipline. A majority of the courses in the areas of specialization required for each degree program shall be offered in organized classes by the institution. An institution may offer for-credit coursework that does not directly relate to approved programs, provided that it does not exceed twenty-five (25) percent of all courses.

(B) Academic associate degrees must consist of at least sixty (60) semester credit hours and not more than sixty-six (66) semester credit hours or ninety (90) quarter credit hours and not more than ninety-nine (99) quarter credit hours. Applied associate degrees must consist of at least sixty (60) semester credit hours and not more than seventy-two (72) semester credit hours or ninety (90) quarter credit hours and not more than one hundred eight (108) quarter hours. A baccalaureate degree must consist of at least one hundred twenty (120) semester credit hours or one hundred eighty (180) quarter credit hours. A master's degree must consist of at least thirty (30) semester credit hours and not more than thirty-six (36) semester credit hours or forty-five (45) quarter credit hours and not more than fifty-four (54) quarter credit hours of graduate level work past the baccalaureate degree.

(C) Courses designed to correct deficiencies, remedial courses for associate and baccalaureate programs, and leveling courses for graduate programs, shall not count toward requirements for completion of the degree.

(D) The degree level, degree designation, and the designation of the major course of study shall be appropriate to the curriculum offered and shall be accurately listed on the student's diploma and transcript.

#### (15) General Education.

(A) Each academic associate degree program shall contain a general education component consisting of at least twenty (20) semester credit hours or thirty (30) quarter credit hours. Each applied associate degree program shall contain a general education component of at least fifteen (15) semester credit hours or twenty-three (23) quarter credit hours. Each baccalaureate degree program shall contain a general education component consisting of at least twenty-five (25) percent of the total hours required for graduation from the program.

(B) This component shall be drawn from each of the following areas: Humanities and Fine Arts, Social and Behavioral Sciences, and Natural Sciences and Mathematics. It shall include courses to develop skills in written and oral communication and basic computer instruction.

(C) The applicant institution may arrange to have all or part of the general education component taught by another institution, provided that:

(i) the applicant institution's faculty shall design the general education requirement;

(ii) there shall be a written agreement between the institutions specifying the applicant institutions' general education requirements and the manner in which they will be met by the providing institution; and

(iii) the providing institution shall be accredited by a recognized accrediting agency or hold a certificate of authority.

#### (16) Credit for Work Completed Outside a Collegiate Setting.

(A) An institution awarding collegiate credit for work completed outside a collegiate setting (outside a degree-granting institution accredited by a recognized agency) shall establish and

adhere to a systematic method for evaluating that work, shall award credit only in course content which falls within the authorized degree programs of the institution or, if by evaluative examination, falls within the standards for awarding credit by exam used by public universities in Texas, in an appropriate manner shall relate the credit to the student's current educational goals, and shall subject the institution's process and procedures for evaluating work completed outside a collegiate setting to ongoing review and evaluation by the institution's teaching faculty. To these ends, recognized evaluative examinations such as the Advanced Placement program (AP) or the College Level Examination Program (CLEP) may be used.

(B) No more than one half of the credit applied toward a student's associate or baccalaureate degree program may be based on work completed outside a collegiate setting. Those credits must be validated in the manner set forth in subparagraph (A) of this paragraph. No more than fifteen (15) semester credit hours or twenty-three (23) quarter credit hours of that credit may be awarded by means other than recognized evaluative examinations. No graduate credit for work completed outside a collegiate setting may be awarded. In no instance may credit be awarded for life experience per se or merely for years of service in a position or job.

(17) Learning Resources. The institution shall maintain and ensure that students have access to learning resources with a collection of books, publications, on-line materials and other resources and with staff, services, equipment, and facilities that are adequate and appropriate for the purposes and enrollment of the institution. Learning resources shall be current, well distributed among fields in which the institution offers instructions, cataloged, logically organized, and readily located. The institution shall maintain a continuous plan for learning resources development and support, including objectives and selections of materials. Current and formal written agreements with other institutions or with other entities may be used. Institutions offering graduate work shall provide access to learning resources that include basic reference and bibliographic works and major journals in each discipline in which the graduate program is offered. Applied associate degree programs shall provide adequate and appropriate resources for completion of course work.

(18) Facilities. The institution shall have adequate space, equipment, and instructional materials to provide education of good quality. Student housing owned, maintained, or approved by the institution, if any, shall be appropriate, safe, adequate, and in compliance with applicable state and local requirements.

(19) Academic Records. Adequate records of each student's academic performance shall be securely and permanently maintained by the institution.

(A) The records for each student shall contain:

(i) student contact and identification information, including address and telephone number;

(ii) records of admission documents, such as high school diploma or GED (if undergraduate) or undergraduate degree (if graduate);

(iii) records of all courses attempted, including grade; completion status of the student, including the diploma, degree or award conferred to the student; and

(iv) any other information typically contained in academic records.

(B) Two copies of said records shall be maintained in secure places.

(C) Transcripts shall be provided upon request by a student, subject to the institution's obligation, if any, to cooperate with the rules and regulations governing state and federally guaranteed student loans.

(20) Accurate and Fair Representation in Publications, Advertising, and Promotion.

(A) Neither the institution nor its agents or other representatives shall engage in advertising, recruiting, sales, collection, financial credit, or other practices of any type which are false, deceptive, misleading, or unfair. Likewise, all publications, by any medium, shall accurately and fairly represent the institution, its programs, available resources, tuition and fees, and requirements.

(B) The institution shall provide students, prospective students prior to enrollment, and other interested persons with a printed or electronically published catalog. Institutions relying on electronic catalogs must ensure the availability of archived editions in order to serve the needs of alumni and returning students. The catalog must contain, at minimum, the following information:

(i) the institution's mission;

(ii) a statement of admissions policies;

(iii) information describing the purpose, length, and objectives of the program or programs offered by the institution;

(iv) the schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study;

(v) cancellation and refund policies;

(vi) a definition of the unit of credit as it applies at the institution;

(vii) an explanation of satisfactory progress as it applies at the institution, including an explanation of the grading or marking system;

(viii) the institution's calendar, including the beginning and ending dates for each instructional term, holidays, and registration dates;

(ix) a complete listing of each regularly employed faculty member showing name, area of assignment, rank, and each earned degree held, including degree level, degree designation, and institution that awarded the degree;

(x) a complete listing of each administrator showing name, title, area of assignment, and each earned degree held, including degree level, degree designation, and institution that awarded

the degree;

(xi) a statement of legal control with the names of the trustees, directors, and officers of the corporation;

(xii) a complete listing of all scholarships offered, if any;

(xiii) a statement describing the nature and extent of available student services;

(xiv) complete and clearly stated information about the transferability of credit to other postsecondary institutions including two-year and four-year colleges and universities;

(xv) any such other material facts concerning the institution and the program or course of instruction as are reasonably likely to affect the decision of the student to enroll therein; and

(xvi) any disclosures specified by the Board or defined in Board rules. Institutions relying on electronic catalogs must ensure the availability of archived editions in order to serve the needs of alumni and returning students.

(C) The institution shall adopt, publish, and adhere to a fair and equitable cancellation and refund policy.

(D) The institution shall provide to each prospective student, newly-enrolled student, and returning student, complete and clearly presented information indicating the institution's current graduation rate by program and, if required by the Board, job placement rate by program for applied associate degree programs.

(E) Any special requirements or limitations of program offerings for the students at the Texas branch must be made explicit in writing. This may be accomplished by either a separate section in the catalog or a brochure separate from the catalog. However, if a brochure is produced, the student must also be given the regular catalog.

(F) Upon satisfactory completion of the program of study, the student shall be given appropriate educational credentials indicating the degree level, degree designation, and the designation of the major course of study, and a transcript accurately listing the information typically found on such a document, subject to institutions' obligation, if any, to enforce the rules and regulations governing state, and federally guaranteed student loans by temporarily withholding such credentials.

(21) Academic Advising and Counseling. The institution shall provide an effective program of academic advising for all students enrolled. The program shall include orientation to the academic program, academic counseling, career information and planning, placement assistance, and testing services.

(22) Student Rights and Responsibilities. The institution shall establish and adhere to a clear and fair policy regarding due process in disciplinary matters; outline the established grievance process of the institution, which shall indicate that students should follow this process and may contact the Board and/or Attorney General to file a complaint about the institution if all other

avenues have been exhausted, and publish these policies in a handbook, which shall include other rights and responsibilities of the students. This handbook shall be supplied in print or electronically to each student upon enrollment in the institution.

(23) Health and Safety. The institution shall provide an effective program of health and safety education reflecting the needs of the students. The program shall include information on emergency and safety procedures at the institution, including appropriate responses to illness, accident, fire, and crime.

(24) Learning Outcomes. An institution may deviate from Standard 11 (relating to Faculty Qualifications), Standard 12 (relating to Faculty Size), Standard 16 (relating to Credit for Work Completed Outside a Collegiate Setting), and Standard 17 (relating to Learning Resources), if there is an objective system of assessing learning outcomes in place for each part of the curriculum and the institution can demonstrate that appropriate learning outcomes are being achieved.

#### 7.6. Recognition of Accrediting Agencies

(a) The Texas Higher Education Coordinating Board may recognize accrediting agencies with a commitment to academic quality and student achievement that demonstrate, through an application process, compliance with the following criteria:

(1) Eligibility. The accrediting agency's application for recognition must demonstrate that the entity:

(A) Is recognized by the Secretary of Education of the United States Department of Education as an accrediting agency authorized to accredit educational institutions that offer the associate degree or higher. Demonstration of authorization shall include a clear description of the scope of recognized accreditation.

(B) Is applying for the same scope of recognition as that for which it is recognized by the Secretary of Education of the United States Department of Education;

(i) Using the U.S. Department of Education classification of instructional programs (CIP) code at the two-digit level, the applicant shall identify all fields of study in which institutions it accredits may offer degree programs.

(ii) Accrediting agencies shall, for each field of study in which an accredited institution may offer degree programs, specify the levels of degrees that may be awarded. Levels must be differentiated at least to the following, as defined in Section 7.3 of this chapter (relating to Definitions): applied associate degree, academic associate degree, baccalaureate degree, master's degree, first professional degree and doctoral degree.

(iii) Only institutions that qualify as eligible for United States Department of Education Title IV programs as a result of accreditation by the applicant agency will be considered exempt under Section 7.4 of this chapter (relating to Obtaining a Certificate of Authorization or a Certificate of Authority to Operate in Texas).

(C) Accredits institutions that have legal authority to confer postsecondary degrees as its primary activity;

(i) Accrediting agencies must show by listing all institutions accredited by the agency that either the majority of the accredited institutions have the legal authority to award postsecondary degrees or that it accredits at least fifty (50) institutions that have the legal authority to award postsecondary degrees.

(ii) An accrediting agency that accredits programs as well as institutions shall demonstrate that either it accredits more institutions than programs or that it has policies, procedures and staff sufficient to address institutional standards of quality in addition to program standards of quality.

(iii) Accrediting agencies must have standards that require all accredited institutions to comply with all applicable laws in the state and local jurisdiction in which they operate and that require accredited institutions to clearly and accurately communicate their accreditation status to the public.

(D) Requires an onsite review by a visiting team as part of initial and continuing accreditation of educational institutions;

(i) Each accrediting agency shall demonstrate, through its documented practices and/or its official policies, that it requires no fewer than three (3) members on a team when conducting initial and continuing accreditation visits, that none have a monetary or personal interest in the findings of the on-site review, and that all have professional experience that qualifies them to review the institution's compliance with the standards of the agency.

(ii) Accrediting agencies may conduct site visits for reasons other than initial and continuing accreditation with fewer team members.

(iii) Accrediting agencies shall provide a list of the visiting team members for the five (5) most recently completed on-site reviews. The list shall show name, employer, title of positions held with that employer and the standards for which the individual was responsible in that on-site review.

(E) Has policies or procedures that ensure the entity will promptly respond to requests for information from the Board; and

(i) Each accrediting agency shall provide the Board its official policy regarding disclosure of information about institutions that are or have been candidates for accreditation and are or have been accredited. Agencies shall provide to the Board, within ten (10) working days, any new information and any requested information about a Texas institution that would be available to the public under that official policy.

(ii) Each accrediting agency shall include in its standards for accreditation of Texas institutions that the institutions disclose publicly and to the Board the number of degrees awarded at each level each year and the number of students enrolled in the fall of each year.



(F) Has sufficient resources to carry out its functions.

(i) Accrediting agencies shall identify the number of on-site reviews conducted during the most recent twelve (12) month period, the number of staff members who participated in those on-site reviews and the maximum number of on-site reviews conducted by any individual staff member. If that maximum number exceeds thirty (30), the agency shall explain how it expects to carry out its function of enforcing its standards on Texas institutions.

(ii) Each accrediting agency shall provide evidence that its ratio of current assets to current liabilities equals or exceeds 1.2.

(iii) Each accrediting agency shall demonstrate that its fees are reasonable for the accreditation services provided.

(2) Recognition. To receive and maintain recognition from the Board, the accrediting agency must, in addition to the items listed in Section 7.6(1) of this chapter (relating to Recognition of Accrediting Agencies):

(A) Provide the Board with current standards used by the entity in initial and ongoing accreditation reviews of educational institutions and invite the Board to participate in such reviews;

(i) Accrediting agencies must have publicly disclosed standards that address at a minimum the following issues: student achievement in relation to the institution's mission; curricula; faculty; facilities, equipment and supplies; fiscal and administrative capacity; student support services; recruiting and admissions practices, academic calendars, catalogs, grading, etc.; measures of program length and objectives of the degrees or credentials offered; record of student complaints received by, or available to the agency; management and financial control.

(ii) In the application process, the accrediting agency must indicate how its standards address each of the quality assessment categories outlined in Section 7.6 (2)(A)(i) which represent the underlying principles described in the institutional standards of Section 7.5. Comparison of its standards with those of previously recognized accrediting agencies and with the standards in Section 7.5 of this Chapter (relating to Standards for Operation of Institutions) is encouraged as a means of indicating how its standards meet those principals.

(iii) Each accrediting agency shall provide its policy for periodic reviews. At a minimum, the accrediting agency must conduct on-site reviews at least every ten (10) years.

(iv) At least ten (10) working days before each schedule periodic on-site review of a Texas institution, accrediting agencies shall invite the Board staff to participate in the review. Such participation shall be at no expense to the institution or the accrediting agency.

(v) Within ten (10) working days of an official change in standards, the agency shall notify the Board of those changes.

(vi) By providing a copy of its publicly disclosed policies and procedures, each accrediting agency shall demonstrate that its initial and ongoing reviews and the resultant accreditation

decisions are fair and consistent with the available evidence.

(vii) Accrediting agencies that use an advisory body, similar to the Certification Advisory Council described in Section 7.7 (b) of this chapter (relating to Certificate of Authority), shall describe the advisory body's composition and authority. Accrediting agencies that do not use such a body shall describe the process used to ensure that the evidence obtained from reviews results in appropriate accreditation decisions.

(viii) The initial and ongoing reviews shall include an institutional self-evaluation process or a documented alternative process to promote continuous quality improvement.

(ix) Each accrediting agency shall have and publicly disclose its processes for appealing accreditation decisions.

(B) Provide the Board with written evidence of continuing recognition by the Secretary of Education of the United States Department of Education. Loss of recognition from the Secretary automatically results in loss of Board recognition at the same time. Written evidence may consist of a letter from the chief executive officer of the accrediting agency. Accrediting agencies shall submit the evidence annually prior to the anniversary date of the initial Board recognition.

(C) Provide a list of Texas educational institutions accredited by it; notify the Board in writing of any change to its list of Texas accredited institutions within ten (10) days of the change;

(D) Notify the Board of any investigated complaints concerning a Texas institution where the accrediting agency took official action on issues of non-compliance and the disposition of those complaints;

(E) Seek Board approval for any expansion of its recognized scope of accreditation authority; and

(F) Demonstrate that the ownership and control of the accrediting agency is sufficiently independent to insure that the accreditation process is conducted in the public interest.

(b) Other Information, Denial or Withdrawal of Recognition and Appeals.

(1) Once recognized, an accrediting agency retains that recognition unless and until the Board withdraws the recognition. Failure to comply with any requirements in this chapter will be grounds for the Board to consider withdrawing recognition.

(2) The Board may use information provided by parties other than the accrediting agency to assess the accrediting agency's commitment to academic quality and student achievement. The Board will consider any such information in an open, public meeting during which the accrediting agency may challenge the information.

(3) The Board will make any decision to deny recognition of an accrediting agency or to withdraw recognition from an accrediting agency in a public meeting.

(4) An accrediting agency that loses or voluntarily relinquishes its recognition must provide written notice via a traceable instrument simultaneously to the institutions in Texas over which the accrediting agency provides oversight, and to the Board. An institution operating in Texas as an exempt institution pursuant to Section 7.4 of this chapter (relating to Obtaining a Certificate of Authorization or a Certificate of Authority to Operate in Texas) when its recognized accrediting agency loses or voluntarily relinquishes its recognition must within thirty (30) days of the date of notification from the accrediting agency, notify Board staff as to whether it intends to:

(A) seek accreditation from another recognized accrediting agency;

(B) apply for a Certificate of Authority; or

(C) reach agreement with the Board on a schedule for ceasing its degree-granting authority in Texas.

(5) Once the institution notifies the Board of its decision, it will have ninety (90) days to begin implementation.

(6) An accrediting agency or institution affected by any final decision under this subchapter may appeal that decision as provided in Chapter 1, Subchapter B of this title (relating to Dispute Resolution).

#### 7.7. Certificate of Authority

(a) The Board may issue to a nonexempt institution a certificate of authority to grant a degree or degrees and to enroll students for courses which may be applicable toward a degree if the Board finds that the institution meets the standards set forth in Section 7.5 of this chapter (relating to Standards for Operation of Institutions).

(b) Certification Advisory Council.

(1) The Board shall appoint a certification advisory council to advise the Board on standards and procedures related to certification of private, nonexempt postsecondary educational institutions, to assist the Commissioner in the examination of individual applications for certificates of authority, and to perform other duties related to certification that the Board finds to be appropriate.

(2) The council shall consist of six members with experience in higher education, three of whom must be drawn from exempt private postsecondary institutions in Texas.

(3) The members shall be appointed for two year fixed and staggered terms.

(c) Fees.

(1) Certificates of Authority. Each biennium the Commissioner shall set the fee for initial and renewal applications for certificates of authority, which shall be equal to the average cost of evaluating the applications. The fee shall include the costs of travel, meals, and lodging of the

visiting team and the Commissioner, or the Commissioner's designated representatives, and consulting fees for the visiting team members, if an onsite review is conducted.

(2) Each biennium, the Commissioner shall also set the fees for amendments to certificates of authority; initial reviews of branch campuses or extension centers; site visits to branch campuses or extension centers; and certificates of registration of agents.

(3) The Commissioner shall report changes in the fees to the Board at a quarterly meeting.

(d) Board's review of applications.

(1) The Commissioner, or the Commissioner's designated representatives, and an ad hoc team of independent consultants, if the Commissioner finds that such a team would provide a benefit to the Board or to the institution, may visit the institution and conduct an onsite survey to evaluate the application for a certificate of authority. The visiting team will be composed of people who have experience and knowledge relating to postsecondary institutions.

(2) The visiting team will prepare a written report of its findings regarding the institution's ability to meet the standards for a certificate of authority. This report will be provided to the applicant institution, which shall have thirty (30) days within which to submit a written response.

(3) The certification advisory council will review the findings of the visiting team and the response of the institution and submit to the Commissioner a recommendation concerning the application.

(4) The Commissioner will forward to the Board the recommendation of the advisory council with his endorsement or with an alternative recommendation.

(5) Upon approval of the Board to award a certificate of authority to an institution, the Commissioner will act immediately to prepare and forward the certificate. It shall state, at a minimum, that the institution is authorized to grant certain degrees, the issue date, and the period for which the certificate is valid.

(6) If the Board denies an institution's application for a certificate of authority, or for renewal of its certificate of authority, the Commissioner shall notify the institution in writing of the denial and of the reasons for the denial.

(A) The institution will not be eligible to reapply for a period of one hundred eighty (180) days.

(B) Until the certificate of authority is reinstated, the institution may not grant degrees or receive payments from students for courses which may be applicable toward a degree.

(C) The subsequent application must show, in addition to all other requirements described herein, correction of the deficiencies which led to the denial.

(D) The period of time during which the institution does not hold a certificate of authority shall not be counted against the eight (8) year period within which the institution must achieve

accreditation from a recognized accrediting agency absent sufficient cause, as described in subsection (h) of this section; the time period begins to run again upon reinstatement.

(7) If a determination under this section is adverse to an institution, it shall become final and binding unless, within forty-five (45) days of its receipt of the adverse determination, the institution invokes the administrative remedies contained in Chapter 1, subchapter B of this title (relating to Dispute Resolution).

(e) Terms and limitations of a certificate of authority.

(1) The certificate of authority to grant degrees is valid for a period of two (2) years from the date of issuance.

(2) Certification by the State of Texas is not accreditation, but merely a protection of the public interest while the institution pursues accreditation from a recognized agency, within the time limitations expressed in subsection (h)(3) of this section. Therefore, the institution awarded a certificate of authority shall not use terms to interpret the significance of the certificate which specify, imply, or connote greater approval than simple permission to operate and grant certain specified degrees in Texas. Terms which may not be used include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended" by the State of Texas or agency thereof. Specific language prescribed by the Commissioner which explains the significance of the certificate of authority shall be included in all publications, advertisements, and other documents where certification and the accreditation status of the institution are mentioned.

(f) Eligibility to apply. The Board will accept applications for a certificate of authority only from those institutions:

(1) proposing to offer a degree or credit courses alleged to be applicable to a degree; and

(2) which have been in operation for a minimum of two years, or held an alternative certificate of authority for one year. As a minimum, "in operation" means to have assembled a governing board, developed policies, materials, and resources sufficient to satisfy the requirements for a certificate of authority, and either have enrolled students and conducted classes or accumulated sufficient financing to do so for at least one year upon certification based on reasonable estimates of projected enrollment and costs. Sufficient financing may be demonstrated by proof of an adequate surety bond, assignment of account, certificate of deposit, irrevocable letter of credit, or a properly executed participation contract with a private association, partnership, corporation, or other entity whose membership is comprised of postsecondary institutions, which is:

(A) In a form acceptable to the Board; and

(B) Conditioned to provide indemnification to any student or enrollee of the school or his/her parent or guardian determined by the Board to have suffered loss of prepaid tuition or any fees as a result of violation of any minimum standard or as a result of a holder of a certificate of authority ceasing operation, and provides evidence satisfactory to the Board of its financial ability to provide such indemnification and lists the amount of surety liability the guaranteeing entity will assume.

(g) Application for certificate of authority.

(1) Institutions seeking a certificate of authority are urged to contact Board staff before filing a formal application.

(2) Applications must be submitted with an original and four (4) copies and accompanied by the fee described in subsection (c) of this section.

(3) Documentary evidence of compliance with subsection (f)(2) of this section must be filed with the application.

(4) An institution must be fully operational as of the date of the on-site evaluation; i.e., it must have in-hand or under contract all the human, physical, administrative, and financial resources necessary to demonstrate its capability to meet the standards for nonexempt institutions. The conditions found at the institution as of the date of the on-site evaluation visit will provide the basis for the visiting team's evaluation and report, the certification advisory council's recommendation, the Commissioner's recommendation, and the Board's determination of the institution's qualifications for a certificate of authority.

(5) Evidence of approval from the Texas Workforce Commission must be submitted to the Board. The Board will not approve an application for a certificate of authority unless the Texas Workforce Commission has approved the institution to offer a course of instruction or has been issued an exemption.

(h) Renewal of certificate of authority.

(1) At least one hundred eighty (180) days, but no more than two hundred ten (210) days, prior to the expiration of the current certificate of authority, an institution, if it desires renewal, shall make application to the Board on forms provided upon request. Reports not previously submitted to the Board, related to the application for or renewal of accreditation by national or regional accrediting agencies shall be included. The renewal application shall be accompanied by the fee described in subsection (c) of this section.

(2) The application for renewal of the certificate of authority will be evaluated in the same manner as that prescribed for evaluation of an initial application, except that the evaluation will include the institution's record of improvement and progress toward accreditation.

(3) An institution may be granted consecutive certificates of authority for no longer than eight (8) years. Absent sufficient cause, at the end of the eight (8) years, the institution must be accredited by a recognized accrediting agency.

(4) Subject to the restrictions of paragraph (3) of this subsection, the Board shall renew the certificate if it finds that the institution has maintained all requisite standards.

(i) Amendments to a certificate of authority.

(1) An institution which wishes to amend an existing program of study to award a new or

different degree during the period of time covered by its current certificate may file an application for amendment, on forms provided by the Board upon request. An institution may begin operating such a program upon filing the application, and the application shall be deemed to be granted if not rejected by the Board within one hundred twenty (120) days.

(2) Applications for amendment shall be accompanied by the fee described in subsection (c) of this section.

(3) Unless the Board finds that the new program of study does not meet the required standards, the Board shall amend the institution's certificate accordingly.

(j) Authority to represent transferability of course credit. Any institution as defined in Section 7.3 of this chapter (relating to Definitions), whether it offers degrees or not, may solicit students for and enroll them in courses on the basis that such courses will be credited to a degree program offered by another institution, provided that:

(1) the other institution is named in such representation, and is accredited by a recognized accrediting agency or has a certificate of authority;

(2) the courses are identified for which credit is claimed to be applicable to the degree programs at the other institution; and

(3) the written agreement between the institution subject to these rules and the accredited institution is approved by both institutions' boards of trustees in writing, and is filed with the Board.

(k) Duty to report.

(1) Institutions holding a certificate of authority will be required to:

(A) furnish a list of their agents to the Board; and

(B) maintain records of students enrolled, credits awarded, and degrees awarded, in a manner specified by the Board.

(2) Any change in principal location, ownership, governance, administrative personnel, faculty, or facilities at the institution, or any other changes relevant to the Board's standards for certification, shall be reported to the Board within ten days of the change by the chief administrative officer of the institution in order for the Board staff to determine if such changes adversely affect the conditions under which the certificate was granted. For purposes of this provision, administrative personnel consist only of individuals in a leadership role that involves setting institutional policies. For purposes of this provision, facilities consist only of campuses taken as a unit. Notification is only required if an entire campus is closed. Changes in individual rooms and buildings, such as remodeling, need not be reported. For purposes of this provision, changes in the status of an individual faculty member, such as hours worked, courses taught, and responsibilities within a department, need not be reported. Only the addition or subtraction of a faculty member shall trigger notification.

(l) If an order, decision, or determination made pursuant to this section is adverse to an institution, the reasons therefore shall be detailed in a notice to the institution. The order, decision, or determination shall become final and binding unless, within forty-five (45) days of its receipt of the adverse order, decision, or determination, the institution invokes the administrative remedies contained in Chapter 1, subchapter B of this title (relating to Dispute Resolution).

## 7.8. Alternative Certificate of Authority

In lieu of the standard certification of authority requirements for institutions and their agents in Sections 7.7, 7.11, and 7.12 of this chapter, an institution may obtain an alternative certificate of authority to issue degrees as provided by this section. Alternative certificates of authority shall be issued by the Commissioner and are temporary, being valid for twelve (12) months, after which a regular certificate of authority shall be required. A site visit shall be conducted by Board staff during the initial twelve month period.

### (1) Surety Instrument Requirement

(A) At the time application is made for an alternative certificate of authority, or when new programs, stand-alone courses or continuing education courses are added, the applicant shall file with the Board a surety bond or surety alternative which meets the requirements set forth in these sections. Schools located in Texas shall file one bond or surety alternative covering the school and its agents.

(B) The amount of the bond or other allowable surety instrument submitted to the Board with an application for an alternative certificate of authority shall be equal to or greater than the cost of providing a refund, including administrative costs associated with processing claims, for the maximum prepaid, unearned tuition and fees of the school for a period or term during the applicable school year for which programs of instruction are offered, including, but not limited to, on a semester, quarter, monthly, or class basis; except that the period or term of greatest duration and expense shall be utilized for this computation where a school's year consists of one or more such periods or terms.

(C) A school, whose surety value is found by the Board to be insufficient to fund the unearned, prepaid tuition of enrolled students, shall be noncompliant with these sections, and, if, after ten (10) working days from the issuance of a notice of noncompliance, the school has not increased its surety to an acceptable level, it shall be subject to revocation or suspension of its alternative certificate of authority.

(D) Following the initial filing of the surety bond with the Board, the amount of the bond shall be recalculated annually based upon a reasonable estimate of the maximum prepaid, unearned tuition and fees received by the school for such period or term. In no case shall the amount of the bond be less than twenty-five thousand dollars (\$25,000).

(E) The institution shall include a proposal in the form of a letter signed by an authorized representative of the school showing in detail the calculations made pursuant to this section and explaining the method used for computing the amount of the bond or surety alternative.



(F) In order to be approved by the Board, a surety bond must be:

(i) executed by the applicant and by a surety company authorized to do business in Texas; and

(ii) in a form acceptable to the Board; and

(iii) conditioned to provide indemnification to any student or enrollee of an in-state or out-of-state school or his/her parent or guardian determined by the Board to have suffered a loss of tuition or any fees as a result of violation of any minimum standard or as a result of a holder of an Alternative Certificate of Authority ceasing operation; and

(iv) an original bond.

(G) In lieu of a surety bond, an applicant may file with the Board an assignment of savings account that:

(i) is in a form acceptable to the Board; and

(ii) is executed by the applicant; and

(iii) is executed by a state or federal savings and loan association, state bank or national bank whose accounts are insured by a federal depositor's corporation.

(H) In lieu of a surety bond, an applicant may file with the Board a certificate of deposit that:

(i) is issued by a state or federal savings and loan association, state bank or national bank whose accounts are insured by a federal depositor's corporation;

(ii) is either:

(I) Payable to the Board; or

(II) In the case of a negotiable certificate of deposit, is properly assigned without restriction to the Board; or

(III) In the case of a non-negotiable certificate of deposit, is assigned to the Board by assignment in a form satisfactory to the Board.

(I) In lieu of a surety bond, an applicant may file with the Board an irrevocable letter of credit that:

(i) is in a form acceptable to the Board; and

(ii) Conditioned to provide indemnification to any student or enrollee of the school or his/her parent or guardian determined by the Board to have suffered loss of tuition or any fees as a result of violation of any minimum standard or as a result of a holder of an alternative certificate of authority ceasing operation.

(J) In lieu of a surety bond, an applicant may file with the Board a properly executed participation contract with a private association, partnership, corporation or other entity whose membership is comprised of postsecondary institutions, which:

(i) Is in a form acceptable to the Board; and

(ii) Conditioned to provide indemnification to any student or enrollee of the school or his/her parent or guardian determined by the Board to have suffered loss of prepaid tuition or any fees as a result of violation of any minimum standard or as a result of a holder of an alternative certificate of authority ceasing operation, and provides evidence satisfactory to the Board of its financial ability to provide such indemnification and lists the amount of surety liability the alternative entity will assume.

(K) Whenever these sections require a document to be executed by an applicant the following shall prevail:

(i) If the applicant is a corporation, the document must be executed by the president of the corporation or persons designated by the corporate board.

(ii) If the applicant is a limited liability corporation the document must be executed by the members.

(iii) If the applicant is a partnership, the document must be executed by all general partners.

(iv) If the applicant is an individual, the document must be signed by the individual.

(v) If the applicant is a state agency, the document must be signed by the Director of that Department.

(vi) If the applicant is a local government, the document must be signed by the mayor or board president.

(L) Any bonding alternative entity must have independent financial resources necessary to meet the contractual obligation to the students of a failed member institution and resources equal to or exceeding the maximum bonds required of all single schools.

(M) A school applying for an alternative certificate of authority shall be exempt from the surety instrument requirement if it can demonstrate a United States Department of Education composite financial responsibility score of 1.5 or greater on its current financial statement; or if it can demonstrate a composite score between 1.1 and 1.4 on its current financial statement and has scored at least 1.5 on a financial statement in either of the prior two (2) years.

(2) Application and Statement. Institutions seeking an alternative certificate of authority are urged to obtain informal guidance from Board staff before filing a formal application. The Board will accept applications for an alternative certificate of authority only from those institutions proposing to offer a degree or credit courses alleged to be applicable to a degree.

(3) An institution seeking an alternative certificate of authority shall submit to the Board a

completed application, which must demonstrate it meets, or has the ability to meet, depending on circumstances, the standards set out in Section 7.5 of this chapter (relating to Standards for Operation of Institutions); a signed and dated affirmation statement, acknowledging compliance with certification criteria set forth in this section; and a notarized attestation statement signed by the chief executive officer or equivalent and evidence of approval from the Texas Workforce Commission. The Board will not approve an application for an Alternative Certificate of Authority unless the Texas Workforce Commission has approved the institution to offer a course of instruction or has been issued an exemption. The application form shall contain:

- (A) the name and address of the institution and its purpose;
  - (B) the names of the sponsors or owners of the institution;
  - (C) the regulations, rules, constitutions, bylaws, or other regulations established for the governance and operation of the institution;
  - (D) the names and addresses of the chief administrative officer, the principal administrators, and each member of the board of trustees or other governing board;
  - (E) The names of faculty who have been retained, their area(s) of teaching, and their degrees held;
  - (F) The types of degrees to be awarded and a list of courses that may be included in each degree program; and
  - (G) The location of any facilities maintained or being constructed and a list of potentially hazardous equipment which requires a federal or state government license to operate, if any has been acquired, that is to be used by students in the teaching process.
- (4) Institutions shall certify that they maintain a list of their agents as defined in Section 7.3 of this chapter (relating to Definitions) and have policies to ensure that their agents are of good character and provide accurate information to prospective students and their families, but such agents are not required to register with the Board or submit a fee.
- (5) Applications must be submitted with an original and four copies and accompanied by the required fee. Alternative certificate of authority fees shall be five hundred dollars (\$500) more than the fee for a regular certificate of authority, as established in Section 7.7(c).
- (6) Board's review of applications.
- (A) Within ninety (90) days of receipt of a complete application, Board staff will review said application and recommend to the Commissioner either approval or denial of the application.
  - (B) Within one hundred twenty (120) days of receipt of a complete application, the Commissioner shall either award a one-year certificate of authority or deny the application.
  - (C) If a determination under this section is adverse to an institution, it shall become final and binding unless, within forty-five (45) days of its receipt of the adverse determination, the

institution invokes the administrative remedies contained in Chapter 1, subchapter B of this title (relating to Dispute Resolution).

(7) Terms and limitations of an alternative certificate of authority.

(A) The alternative certificate of authority to grant degrees is valid for one (1) year from the date of issuance.

(B) The institution shall notify the Board at least ten (10) working days prior to the start of the first class of its first year schedule. Board staff shall visit the institution and interview both staff and students at least once during the first year.

(C) Certification by the State of Texas is not accreditation, but merely a protection of the public interest while the institution pursues accreditation from a recognized agency, within the time limitations expressed in Section 7.7(d)(6)(D) of this chapter (relating to Certificate of Authority). An institution awarded an alternative certificate of authority shall not use terms to interpret the significance of the certificate which specify, imply, or connote greater approval than simple permission to operate and grant degrees in Texas. Terms which may not be used include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended" by the State of Texas or agency thereof. Specific language prescribed by the Commissioner which explains the significance of the alternative certificate of authority shall be included in all publications, advertisements, and other documents where certification and the accreditation status of the institution are usually mentioned, including the institution's catalog and the home page of the institution's Internet website.

(D) The Commissioner may revoke an institution's alternative certificate of authority to grant degrees at any time if the Commissioner finds that:

(i) Any statement contained in an application for the certificate is untrue;

(ii) The institution has failed to maintain the standards of the Board, as described herein, on the basis of which the certificate was granted;

(iii) Advertising or representations made on behalf of the institution is deceptive or misleading;  
or

(iv) The institution has violated any provision of this chapter.

(8) Continuing operations after one year.

(A) At least one hundred eighty (180) days, but no more than two hundred ten (210) days, prior to the expiration of the current alternative certificate of authority, an institution, if it desires to continue operations, shall make application to the Board following the process in Section 7.7(h) of this chapter.

(B) The application will be evaluated in the same manner as that prescribed for evaluation of an initial application.

## 7.9. Certificate of Authority for Career Schools and Colleges

(a) A career school or college not otherwise exempt under Chapter 132 of the Texas Education Code or Section 7.4 of this chapter (relating to Obtaining a Certificate of Authorization or a Certificate of Authority to Operate in Texas) must have approval from the Board in order to grant associate of applied science or associate of applied arts degrees or to enroll students for courses that may be applicable toward those associate degrees. A career school or college that does not have approval to grant associate degrees must request approval from the Board in conjunction with an application for a new degree program as specified in subsection (h) of this section. If approved, the Board shall issue a certificate of authority.

(b) A career school or college may submit an application for a certificate of authority to grant degrees to the Board if it:

(1) has been legally operating, enrolling students, and conducting classes in Texas and has complied with state law as a non degree-granting institution for a minimum of two (2) years; or

(2) has been legally operating, enrolling students, and conducting classes in Texas and has complied with state law as a degree-granting institution and wishes to open a new campus; or

(3) has been legally operating as a degree-granting institution in another state for a minimum of four (4) years and can verify compliance with all applicable laws and rules in that state.

(c) Application for a Certificate of Authority.

(1) Letter of Intent. A career school or college seeking degree granting authority shall submit a letter of intent for a new program application as outlined in subsection (h) of this section

(2) Initial visit. A member of the Board staff shall visit the proposed school to verify compliance with Board standards and policies.

(3) Submission of the application for a certificate of authority, which shall include the following documentation:

(A) a description of the purpose of the institution;

(B) names of sponsors or owners of the institution;

(C) regulations, rules, constitutions, bylaws, or other regulations established for the governance and operation of the institution;

(D) the names and addresses of the chief administrative officer, the principal administrators, and each member of the board of trustees or other governing boards;

(E) a full description of the admission requirements;

(F) a description of the facilities, learning resources, and equipment utilized by the institution;

(G) evidence of approval from the Texas Workforce Commission. The Board will not approve an application for a Certificate of Authority unless the Texas Workforce Commission has approved the institution to offer a course of instruction or has been issued an exemption.

(H) the application for Approval of a New Workforce Program, as specified in subsection (h) of this section.

(4) Follow-up visit. A member of the Board staff may make a follow-up visit to the proposed site for the applicant school prior to implementation of the workforce education program(s).

(5) Fee. The applicant institution shall submit a fee as required under Section 7.7(c) of this chapter (relating to Certificate of Authority).

(d) Commissioner Action on an Application for a Certificate of Authority

(1) The Commissioner or his/her designee shall approve or disapprove the application for a certificate of authority. Approval of the application grants the career school or college the authority to award associate's degrees or to enroll students for courses that may be applicable toward an associate degree. Separate program approval shall be required for each associate degree program in accordance with this chapter.

(2) Approval for each specified associate degree program continues in effect unless the Commissioner withdraws or suspends the certificate of authority and/or approval for a specific program because of the institution's failure to comply with Board rules, regulations, and/or policies or because the Texas Workforce Commission revokes the institution's approval to operate. The certificate of authority remains the property of the Board; an institution shall return its certificate of authority in the event the Commissioner withdraws the certificate of authority, the institution voluntarily terminates all associate degree programs, or the institution closes.

(e) Career schools and colleges holding a certificate of authority to grant an associate degree shall make available, upon request by the Board, all accrediting agency reports and any findings and institutional responses to such reports and findings.

(f) If cited by an accreditor, a career school or college authorized to grant the associate degree shall, within 30 days of receipt of the accrediting agency's final report, provide the Board with a copy of the citation, the accreditor's final report, and a complete report of all subsequent actions by both the accreditor and the institution.

(g) A career school or college shall operate all associate degree programs in compliance with the standards of its institutional and/or program-level accreditation or with membership in a trade or professional association.

(h) New Program Application. Each career school or college wishing to offer a new associate degree program shall complete the following items and submit them to Board staff:

(1) Letter of Intent. The applicant school shall submit a letter of intent no less than 30 and not more than 180 days prior to the submission of the application for Approval of a New Workforce

Program.

(2) Application for Approval of a New Workforce Program. The chief executive officer and, if applicable, the governing board of the career school or college shall approve the application for Approval of a New Workforce Program. The applicant school shall ensure that Board staff receive the application for Approval of a New Workforce Program no less than three (3) calendar months prior to the intended implementation date or approval deadline for external accreditation, whichever occurs first.

(3) Statement of Assurances. The chief executive officer and, if applicable, the governing board of the career school or college shall approve the Statement of Assurances. The applicant school shall submit the Statement of Assurances with the application for Approval of a New Workforce Program. The following criteria are included in the Statement of Assurances:

(A) The institution has documented need for the proposed program based on national, regional, and/or local economic forecasts applicable to its target market area.

(B) The institution has identified sufficient employment opportunities within its target market area for the projected number of graduates, taking into consideration the numbers of graduates of similar programs within its target market area.

(C) Instruction in basic workforce skills has been integrated into the curriculum for the proposed program.

(D) Each program award offers at least one of the following: a capstone, an external learning experience, or eligibility to sit for a certification or licensure examination.

(E) All course and program prerequisites are identified on the proposed curriculum outline and included in the credit/contact hour totals for the program.

(F) An enrollment management plan for the program is in place.

(G) The program is consistent with all requirements from other registering, certifying, licensing, and/or accrediting authorities.

(H) An advisory committee composed of representatives from business and industry has been directly involved in the creation of the proposed program.

(I) Adequate funding is available to cover all program costs for the first three years.

(J) The institution is in good standing with its accreditor and the Texas Workforce Commission.

(K) The institution is not currently a defendant in a legal proceeding or has notified the Board according to provisions in this chapter.

(4) Fee. The applicant school shall submit the fee for an application for Approval of a New Workforce Education Program simultaneously with the application.

(i) New Program Approval. The Board staff shall review the application and accompanying documentation for satisfactory fulfillment of the new program requirements and procedures for a new certificate of authority and/or new workforce education program. The staff shall confer with the career school or college when additional information or clarification is needed.

(j) Board staff shall recommend schools and/or associate degree programs to the Commissioner for approval or disapproval or referral to the Board.

(k) The Board delegates to the Commissioner final approval authority for all schools and/or associate degree programs that meet Board policies for approval.

(l) The Commissioner shall forward a school and/or program application to the Board for consideration at an appropriate quarterly meeting if:

(1) the proposed program is the subject of an unresolved grievance or dispute between the institution and other colleges or universities; and/or

(2) the Commissioner has disapproved the proposed school and/or program and the institution has requested a Board review at the next quarterly Board meeting.

(m) A career school or college offering an associate degree program at multiple sites shall seek separate approval of each program of study for each site.

(n) The Commissioner shall automatically withdraw approval for any associate degree program not implemented in accordance with Board rules, regulations, and/or policies, and/or not implemented within eighteen (18) months of the date of approval.

(o) Program Revision. Each career school or college requesting a program revision shall submit a completed application for Program Revision.

(p) A career school or college may close a program voluntarily with the approval of the Commissioner or his designee.

(q) Concurrent instruction of students enrolled in an associate degree program or in any component of a degree program is prohibited. The following activities do not constitute concurrent instruction:

(1) voluntary participation in laboratory and/or skill-building activities outside of required lecture and laboratory class sessions;

(2) voluntary participation in study and/or review sessions outside of required lecture and laboratory class sessions;

(3) sitting for proctored examinations;

(4) field trips; or

(5) extracurricular activities.



(r) Institutional effectiveness. When applying for a certificate of authority to grant applied associate degrees and/or for a new applied associate degree program, the institution must demonstrate, for as long as the program(s) are operational, that:

- (1) it is in full compliance with all oversight, regulatory, and accrediting bodies' requirements;
- (2) it meets the following institutional effectiveness measures for each existing program for the last consecutive three-year period:

(A) for those occupations where state or national licensure, certification, or other credentialing examinations exist, at least ninety (90) percent of program graduates pass the credentialing examination; or

(B) if the pass rate for graduates from the applicant institution is no more than five (5) percent below the state or national average for the examination;

(C) a minimum of fifteen (15) students graduated over the course of the last three years;

(D) within one (1) year of graduation, at least seventy (70) percent of graduates are employed in the field for which they are trained, in full-time military service, or pursuing additional education. If the institution must include graduates who are pursuing additional education in order to meet the seventy (70) percent standard, the institution shall include a list of those graduates and official supporting documentation. Official documentation must be from the institution the student is attending. If the institution must include graduates who are full-time military in order to meet the seventy (70) percent standard, the institution shall include a list of those graduates and a copy of their military orders.

(3) For institutions located in Texas, agency staff shall use the data the institution reported to the Texas Workforce Commission for the most recent consecutive three (3) year period.

(4) For institutions located outside of Texas, the institution shall submit employment data for the institution according to the Texas Workforce commission definition of "employed" or "employment, and "completer" for the most recent consecutive three-year period.

(s) Associate of Occupational Studies (AOS) Degree. Texas has three career schools or colleges awarding the AOS degree: Universal Technical Institute, Southwest Institute of Technology, and Western Technical College. The AOS degree shall be awarded in only the following fields: automotive mechanics, diesel mechanics, refrigeration, electronics, and business. Each of the three Institutions may continue to award the AOS degree for those fields listed above and shall be restricted to those fields.

(1) The Board shall not consider new AOS degree programs in other fields from the three career schools or colleges.

(2) The Board shall not consider new AOS degree programs from any other career schools or colleges.

(3) A career school or college authorized to grant the AOS degree shall not represent such degree by using the terms "associate" or "associate's" without including the words "occupational studies." An institution authorized to grant the AOS degree shall not represent such degree as being the equivalent of the AAS or AAA degrees.

(t) Closure of a Career School or College

(1) The governing board, owner, or chief executive officer of a career school or college that plans to cease operation shall provide the Board with written notification of intent to close at least ninety (90) days prior to the planned closing date.

(2) If a career school or college closes unexpectedly, the governing board, owner, or chief executive officer of the school shall provide the Board with written notification immediately.

(3) If a career school or college closes or intends to close before all currently enrolled students have completed all requirements for graduation, the institution shall assure the continuity of students' education by entering into a teach-out agreement with another career school or college authorized by the Board to hold a Certificate of Authority according to this section, with a school accredited by a recognized accrediting agency, or with a public two-year college. The agreement shall be in writing, shall be subject to Board approval, shall contain provisions for student transfer, and shall specify the conditions for completion of degree requirements at the teach-out institution. The agreement shall also contain provisions for awarding degrees.

(4) The Certificate of Authority for a career school or college is automatically withdrawn when the institution closes. The Commissioner may grant to a career school or college that has a Certificate of Authority temporary approval to award a degree(s) in a program the institution does not have approval for in order to facilitate a formal agreement as outlined under this section.

(A) The curriculum and delivery shall be appropriate to accommodate the remaining students.

(B) No new students shall be allowed to enter the transferred degree program unless the new entity seeks and receives permanent approval for the program(s) from the Board.

#### 7.15. Data Reporting

The institutions shall provide to the Board annually, in a form established by the Board, student records of the type specified in Section 7.5(19) of this chapter (relating to Standards for Operation of Institutions).

#### 7.17. Prohibitions, Administrative Penalties, and Injunctions

(a) A person or institution may not:

(1) Grant, award, or offer to award a degree on behalf of a nonexempt institution unless the institution has been issued a certificate of authority, including an alternative certificate of authority, to grant the degree by the Board;

(2) Represent that credits earned or granted by that person or institution are applicable for credit toward a degree to be granted by some other person or institution except under conditions and in a manner specified under Section 7.7 of this chapter (relating to Certificate of Authority) and approved by the Board, or represent that credits earned or granted are collegiate in nature, including describing them as "college-level," or at the level of any protected academic term;

(3) Award or offer to award an honorary degree on behalf of a private postsecondary institution subject to the provisions of the chapter, unless the institution has been awarded a certificate of authority to award such a degree, or solicits another person to seek or accept an honorary degree and, further, unless the degree shall plainly state on its face that it is honorary;

(4) Use a protected term in the official name or title of a nonexempt private postsecondary institution or describe an institution using any of these terms or a term having a similar meaning, except as authorized by the Board, or solicit another person to seek a degree or to earn a credit that is offered by an institution or establishment that is using a term in violation of this section;

(5) Use a protected term in the official name or title of an educational or training establishment or describe an institution using any of these terms or a term having a similar meaning, or solicit another person to seek a degree or to earn a credit that is offered by an institution or establishment that is using a term in violation of this section;

(6) Act as an agent who solicits students for enrollment in a private postsecondary institution subject to the provisions of the chapter without a certificate of registration, if required by this chapter.

(7) Use or claim to hold a degree that the person knows is a fraudulent or substandard degree or is a fictitious degree:

(A) in a written or oral advertisement or other promotion of a business; or

(B) with the intent to:

(i) obtain employment;

(ii) obtain a license or certificate to practice a trade, profession, or occupation;

(iii) obtain a promotion, compensation or other benefit, or an increase in compensation or other benefit, in employment or in the practice of a trade, profession, or occupation;

(iv) obtain admission to an educational program in this state; or

(v) gain a position in government with authority over another person, regardless of whether the actor receives compensation for the position.

(b) Institutions Located on Federal Land in Texas. An institution that is operating on land in

Texas over which the federal government has exclusive jurisdiction shall limit the recruitment of students and advertising of the institution or its programs or courses to the confines of the federal land and to the military or civilian employees and their dependents who work or live on that land. The institution shall not enlist any agent, representative, or institution to recruit or to advertise by any medium, the institution or its programs or courses except on the federal land.

(c) A violation of this subsection may constitute a violation of the Texas Penal Code, Section 32.52. An offense under subsection (a)(1) - (6) of this section may be a Class A misdemeanor and an offense under subsection (a)(7) of this section may be a Class B misdemeanor.

(d) In the event any institution now or hereafter operating in this state proposes to discontinue its operation, the chief administrative officer, by whatever title designated, of said institution shall cause to be filed with the Board the original or legible true copies of all such academic records of said institution as may be specified by the Commissioner. Such records shall include, without limitation:

(1) such academic information as is customarily required by colleges when considering students for transfer or advanced study; and

(2) the academic records of each former student.

(e) In the event it appears to the Commissioner that any records of an institution that is discontinuing its operations are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the Board, the Commissioner may seek, on the Board's behalf, court authority to take possession of such records.

(f) The Board shall maintain or cause to be maintained a permanent file of such records coming into its possession.

(g) If a person or institution violates a provision of this chapter, the Commissioner may assess an administrative penalty against the person or institution as provided in this section.

(h) The Commissioner shall send written notice by certified mail to the person or institution charged with the violation. The notice shall state the facts on which the penalty is based, the amount of the penalty assessed, and the right of the person or institution to request a hearing.

(i) The Commissioner's assessment shall become final and binding unless, within forty-five (45) days of receipt of the notice of assessment, the person or institution invokes the administrative remedies contained in Chapter 1, Subchapter B of this title (relating to Dispute Resolution).

(j) If the person or institution does not pay the amount of the penalty within thirty (30) days of the date on which the assessment becomes final, the Commissioner may refer the matter to the attorney general for collection of the penalty, plus court costs and attorney fees.

(k) Any person or institution that is neither exempt nor the holder of a certificate of authority, including an alternative certificate of authority, to grant degrees, shall be assessed an administrative penalty of not less than \$1,000 or more than \$5,000 for, either individually or through an agent or representative:

- (1) conferring or offering to confer a degree;
  - (2) awarding or offering to award credits purported to be applicable toward a degree to be awarded by another person or institution (except under conditions and in a manner specified and approved by the Board);
  - (3) representing that any credits offered are collegiate in nature subject to the provisions of this chapter;
  - (4) each degree conferred without authority, and each person enrolled in a course or courses at the institution whose decision to enroll was influenced by the misrepresentations, constitutes a separate offense.
- (l) Any person or institution that violates subsection (a)(4) or (5) of this section shall be assessed an administrative penalty of not less than \$1,000 or more than \$3,000.
  - (m) Any agent who solicits students for enrollment in an institution subject to the provisions of the chapter without a certificate of registration shall be assessed an administrative penalty of not less than \$500 or more than \$1,000. Each student solicited without authority constitutes a separate offense.
  - (n) Any operations which are found to be in violation of the law shall be terminated.
  - (o) The Commissioner may report possible violations of this chapter to the attorney general. The attorney general, after investigation and consultation with the Board, shall bring suit to enjoin further violations.
  - (p) An action for an injunction under this section shall be brought in a district court in Travis County.
  - (q) A person who violates this chapter or a rule adopted under this chapter is liable for a civil penalty in addition to any injunctive relief or any other remedy allowed by law. A civil penalty may not exceed \$1,000 a day for each violation.
  - (r) The attorney general, at the request of the Board, shall bring a civil action to collect a civil penalty under this section.
  - (s) A person who violates this chapter commits a false, misleading, or deceptive act or practice within the meaning of the Texas Business & Commerce Code, Section 17.46.
  - (t) A public or private right or remedy under the Texas Business & Commerce Code, Section 17, may be used to enforce this section.