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**XX.**

**TEXAS WORKFORCE COMMISSION**

The rules are adopted under Texas Labor Code §§301.0015 and 302.002(d), which provide the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

## Chapter 807. CAREER SCHOOLS AND COLLEGES

### SUBCHAPTER A. GENERAL PROVISIONS

#### §807.1. Title and Purpose.

- (a) These rules may be cited as the Career Schools and Colleges rules.
- (b) The purpose of these rules is to implement and interpret the provisions of the Texas Education Code, Chapter 132, Career Schools and Colleges. The Commission shall evaluate each school according to the standards of practice set forth in the Act and this chapter. The Commission will provide assistance, whenever possible, in complying with this chapter.

*The provisions of this §807.1 adopted to be effective April 26, 2004, as published in the Texas Register, April 23, 2004, 29 TexReg 3970.*

#### §807.2. Definitions.

In addition to the definitions contained in §800.2 of this title, the following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

- (1) Academic quarter -- A period of instruction that includes at least ten weeks of instruction, unless otherwise approved by the Commission.
- (2) Academic semester -- A period of instruction that includes at least 15 weeks of instruction, unless otherwise approved by the Commission.
- (3) Academic term -- An academic quarter, academic semester, or other progress evaluation period.
- (4) Academically related activity -- An exam, tutorial, computer-assisted instruction, academic counseling, academic advisement, turning in a class assignment, or attending a study group that is assigned by the institution, or other activity as determined by the Commission.
- (5) Accountant -- An independent certified public accountant properly registered with the appropriate state board of accountancy.
- (6) Act -- Texas Education Code, Chapter 132, Career Schools and Colleges.
- (7) Advertising -- Any affirmative act designed to call attention to a school or program for the purpose of encouraging enrollment.
- (8) Asynchronous distance education -- Distance education training that the Commission determines is not synchronous.
- (9) Class or course -- An identifiable unit of instruction that is part of a program of instruction.
- (10) Coordinating Board -- The Texas Higher Education Coordinating Board.
- (11) Course of instruction -- A program or seminar.
- (12) Course time -- A course or class period that is:
  - (A) a 50-minute to 60-minute lecture, recitation, or class, including a laboratory class or shop training, in a 60-minute period;
  - (B) a 50-minute to 60-minute internship in a 60-minute period; or
  - (C) 60 minutes of preparation in asynchronous distance education.

- (13) Distance education course -- Either a seminar or a program that is offered to non-residence school students via correspondence or other media from a remote site on a self-paced schedule, excluding programs using interactive instruction.
- (14) Distance education school -- A school that offers only distance education courses.
- (15) Employment -- A graduating or graduate student's employment in the same or substantially similar occupation for which the student was trained.
- (16) Good reputation -- A person is considered to be of good reputation if the person:
  - (A) has never been convicted of a felony related to the operation of a school, and the person has been rehabilitated, including completion of parole or probation, from any other convictions that would constitute risk of harm to the school or students as determined by the Commission;
  - (B) has never been successfully sued for fraud or deceptive trade practices within the last 10 years;
  - (C) does not own a school currently in violation of legal requirements, has never owned a school with repeated violations, and has never owned a school that closed with violations including, but not limited to, unpaid refunds; and
  - (D) has not knowingly falsified or withheld information from the Commission.
- (17) Job placement -- An affirmative effort by the school to assist the student in obtaining employment in the same or substantially similar stated occupation for which the student was trained.
- (18) Master student registration list -- A comprehensive list with an entry made for any person who signs an enrollment agreement, makes a payment to attend the school, or attends a class. The entry shall be made on the date the first of these events occurs.
- (19) Program or program of instruction -- A postsecondary program of organized instruction or study that may lead to an academic, professional, or vocational degree, certificate, or other recognized educational credential.
- (20) Reimbursement contract basis -- A school operating, or proposing to operate, under a contract with a state or federal entity in which the school receives payment upon completion of the training.
- (21) Residence school -- A school that offers at least one program that includes classroom instruction or synchronous distance education.
- (22) School -- A "career school or career college," as defined in the Act, that includes each location where courses of instruction shall be offered.
- (23) Secondary education -- Successful completion of public, private, or home schooling at the high school level or obtainment of a recognized high school equivalency credential.
- (24) Seminar -- A course of instruction that enhances a student's career, as opposed to a program that teaches skills and fundamental knowledge required for a stated occupation. A seminar may include a workshop, an introduction to an occupation or cluster of occupations, a short course that teaches part of the skills and knowledge for a particular occupation, language training, continuing professional education, and review for postsecondary examination.
- (25) Seminar school -- A school that offers only seminars.
- (26) Small school -- A "small career school or college" as defined in the Act.

- (27) Stated occupation -- An occupation for which a program is offered that:
- (A) is recognized by a state or federal law or by a state or federal agency as existing or emerging;
  - (B) is in demand; and
  - (C) requires training to achieve entry-level proficiencies.
- (28) Student -- Any individual solicited, enrolled, or trained in Texas by a school.
- (29) Suspension of enrollments -- A Commission sanction that requires the school to suspend enrollments, re-enrollments, advertising, and solicitation, and to cease, in any way, advising prospective students, either directly or indirectly, of the available courses of instruction.
- (30) Synchronous distance education -- The Commission may determine distance education to be synchronous under the following conditions:
- (A) The training is conducted simultaneously in real time, or the training is conducted so that the manner of delivery ensures that even if the instructor and student are separated by time, the course time of instruction that the student experiences can be determined; and
  - (B) There is consistent interaction between the student(s) and the instructor on a schedule that includes a definite time for completion of the program and periodic verifiable student completion/performance measures that allow the application of the progress standards of Subchapter L and attendance standards of Subchapter M of this chapter.
- (31) Title IV school -- A career school or college that participates in student financial aid programs under Title IV, Higher Education Act of 1965 (20 U.S.C. Section 1070 et seq.).
- (32) Tour -- An inspection of the facilities and equipment pertaining to a course of instruction.
- (33) Week -- Seven consecutive calendar days.

*The provisions of this §807.2 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.3. Memorandum of Understanding for Regulation of Schools.**

The Act requires the Commission to execute a memorandum of understanding with the Texas Guaranteed Student Loan Corporation and each state agency regulating schools to reduce default rates at the regulated schools and to improve the overall quality of the programs. Said memorandum of understanding is set out at 40 TAC §800.205. Copies are available at the Texas Workforce Commission, 101 East 15th Street, Room 614, Austin, Texas 78778.

*The provisions of this §807.3 adopted to be effective August 16, 1998, as published in the Texas Register, August 14, 1998, 23 TexReg 8479.*

### **§807.4. Waivers.**

- (a) Upon a showing of extreme extenuating circumstances, a school governed by this chapter may request a waiver from one or more requirements of this chapter. The Commission shall grant a waiver only upon a specific finding of good cause establishing that:
  - (1) the imposition of the rule requirement from which the waiver is sought would cause undue economic hardship to the school and have a negative impact on the ability of the school to provide the students with the skills and knowledge required for employment;

- (2) the quality of education shall in no way be diminished or sacrificed by the granting of the waiver; and
  - (3) the granting of the waiver will in no way limit the statutorily required application approval criteria contained in §132.055 of the Act.
- (b) The Commission may revoke a waiver in the same manner as a revocation of a certificate of approval, if the Commission determines that the criteria contained in this section for a waiver no longer exists.
- (c) A school may appeal a requested waiver denial or revocation in accordance with the provisions of Subchapter D of the Act.

*The provisions of this §807.4 adopted to be effective August 16, 1998, as published in the Texas Register, August 14, 1998, 23 TexReg 8479.*

### **§807.6. Processing Periods.**

- (a) The time periods for processing applications from schools, including small businesses, for certificates of approval, as well as approvals for representatives, school directors, and instructors, shall be in accordance with the following time periods.
- (1) The first period is the time from the receipt of an application to the date of the issuance of a written notice approving the application or outlining the reasons why the application is unacceptable. The time periods for each application are:
- (A) original certificate of approval - 40 days;
  - (B) renewed certificate of approval - 40 days;
  - (C) change in ownership certificate of approval - 40 days;
  - (D) original representatives - 21 days;
  - (E) renewed representatives - 21 days;
  - (F) school directors and instructors (approval contingent on issuance of school's approval) - 40 days; and
  - (G) school directors and instructors (approval not contingent on issuance of school's approval) - 55 days.
- (2) The second period is the time from receipt of the last item necessary to complete the application to the date of issuance of written notice approving or denying approval of the application. The time periods for each application are:
- (A) original certificate of approval - 40 days;
  - (B) renewed certificate of approval - 40 days;
  - (C) change in ownership certificate of approval - 40 days;
  - (D) original representative (approval contingent upon issuance of school's approval) - 21 days;
  - (E) original representative (approval not contingent upon issuance of school's approval) - 21 days;
  - (F) renewed representative (approval contingent upon issuance of school's approval) - 21 days;



- (G) school directors and instructors (approval contingent on issuance of school's approval) - 40 days; and
  - (H) school directors and instructors (approval not contingent on issuance of school's approval) - 55 days.
- (b) In the event the application is not processed in the time periods as stated in this section, the applicant has the right to request of the Commission full reimbursement of all filing fees paid in that particular application process. If the Commission does not agree that the established time periods have been violated or finds that good cause existed for exceeding the established periods, the request will be denied. Good cause for exceeding the period established is considered to exist if:
- (1) the number of applications for certificates of approval, representatives, school directors, or instructors as appropriate to be processed exceeds by 15% or more the number processed in the same calendar quarter of the preceding year;
  - (2) another public or private entity utilized in the application process caused the delay; or
  - (3) other conditions exist that give good cause for exceeding the established periods.
- (c) If the request for full reimbursement authorized in this section is denied, the applicant may then request a hearing by appealing to the Commission for a resolution of the dispute. The appeal will be processed in the same manner as other appeals involving schools pursuant to the Act.

*The provisions of this §807.6 adopted to be effective August 16, 1998, as published in the Texas Register, August 14, 1998, 23 TexReg 8479.*

### **§807.7. Exemptions.**

- (a) A school or educational institution may apply to the Commission for an exemption under §132.002 or §132.003 of the Texas Education Code.
- (b) The Commission shall grant the requested exemption if the Commission determines that the school or educational institution meets the requirements for an exemption under §132.002 or §132.003 of the Texas Education Code.
- (c) The Commission may deny or revoke an exemption in the same manner as a denial or revocation of a certificate of approval, if the Commission determines that the school or educational institution does not meet the requirements for the exemption under §132.002 or §132.003 of the Texas Education Code.
- (d) A school or educational institution may appeal the denial or revocation of an exemption in accordance with the provisions of Subchapter D of the Texas Education Code.

*The provisions of this new §807.7 adopted to be effective September 17, 2007, as published in the Texas Register, September 14, 2007, 32 TexReg 6378.*

## **SUBCHAPTER B. CERTIFICATES OF APPROVAL**

### **§807.11. Original approvals.**

A complete application for an original certificate of approval shall consist of the following:

- (1) a completed application form provided by the Commission;

- (2) complete and correct financial statements, as specified in this chapter, demonstrating the school is financially stable and capable of fulfilling its commitments for training;
- (3) the application fee as specified in this chapter; and
- (4) any other revisions or evidence necessary to bring the school's application for approval to a current and accurate status as requested by the Commission.

*The provisions of this §807.11 adopted to be effective April 26, 2004, as published in the Texas Register, April 23, 2004, 29 TexReg 3970.*

### **§807.12. Renewal.**

- (a) For small schools, the certificate of approval shall be renewed at least every three years, or more frequently as determined by the Commission. A complete application for renewal of a certificate of approval shall consist of the following:
  - (1) complete and correct annual financial statements, as specified in this chapter, demonstrating the school is financially stable and capable of fulfilling its commitments for training;
  - (2) the renewal fee and the fee for the tuition trust account, if applicable, specified in this chapter; and
  - (3) any other revisions or evidence necessary to bring the school's application for approval to a current and accurate status as requested by the Commission.
- (b) For all other schools, the certificate of approval shall be renewed annually. A complete application for renewal of a certificate of approval shall consist of the following:
  - (1) a completed application for renewal form provided by the Commission;
  - (2) complete and correct annual financial statements for the most recent fiscal year demonstrating the school is financially stable and capable of fulfilling its commitments for training;
  - (3) the renewal fee and the fee for the tuition trust account, if applicable, specified by this chapter; and
  - (4) any other revisions or evidence necessary to bring the school's application for approval to a current and accurate status as requested by the Commission.
- (c) The effective, expiration, and issuance dates are indicated on the certificate of approval. The Commission may reflect the date of renewal as the date following the date of expiration of the prior certificate of approval, if the school submitted a timely request for renewal and met all of the requirements contained in this chapter for renewal.
- (d) The complete renewal application shall be postmarked on or before the due date as indicated in the Act.

*The provisions of this §807.12 adopted to be effective April 26, 2004, as published in the Texas Register, April 23, 2004, 29 TexReg 3970.*

### **§807.13. Change in ownership.**

- (a) The Commission may consider the addition or deletion of any person defined as an owner under the Act as a change in school ownership. The school may notify the Commission of the change in ownership a minimum of 45 days before the change in ownership to request that the Commission in lieu of a full application accept a partial application.

- (b) The Commission may require submission of a full application for approval for a change in ownership if:
  - (1) the Commission has a reasonable basis to believe the change in ownership of the school may significantly affect the school's continued ability to meet the criteria for approval; or
  - (2) the school fails to file notice of the change of ownership at least 45 days prior to the ownership transfer.
- (c) The Commission may require a partial application for approval for a change in ownership if the Commission reasonably believes the change in ownership will not significantly affect the school's continued ability to meet the criteria for approval.
- (d) The purchaser of a school shall accept responsibility for all refund liabilities.
- (e) Management Agreements must be disclosed to the Commission. Parties to a management agreement shall be of good reputation and character.

*The provisions of this §807.13 adopted to be effective February 24, 2003, as published in the Texas Register, February 21, 2003, 28 TexReg 1651.*

#### **§807.14. Locations.**

- (a) A school shall obtain a certificate of approval for each location where courses of instruction will be offered, unless the school has a certificate of approval and meets one of the exceptions in this section.
- (b) The Commission may approve the following as exempt from applying for approval for a new or additional location, if requested at least 30 days in advance:
  - (1) seminars, including preparation for licensing examinations, educational institution entrance examinations, and reading improvement;
  - (2) classes in no more than one location at a time as an itinerant school;
  - (3) classes at facilities used for additional classrooms for instructional services only, which are within a one-mile radius of the main campus and are dependent on the main campus for administration, supervision, fiscal control, and student services; or
  - (4) short-term programs. Short term programs:
    - (A) include course time of 200 hours or less of instruction; and
    - (B) are conducted with at least a 90-day interval between cessation of one program and the beginning of the next.
- (c) The school shall file an application for a certificate of approval to reflect a new or additional location, including all documents deemed necessary by the Commission, and the appropriate fee. The Commission may issue the certificate of approval after inspection of the new facilities.
- (d) If the Commission determines that a move of the school presents an unreasonable transportation hardship which would prevent a student from completing the training at the new location, the school shall provide a full refund of all monies paid and a release from all obligations to the student.

*The provisions of this §807.14 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.15. Notification of Legal Action.**

- (a) Unless otherwise instructed by the Commission, a school shall notify the Commission in writing of any legal action to which the school, any of its owners, representatives, or management employees is a party.
- (b) A school shall notify the Commission in writing of any legal action described in this section no later than five business days after the action is known to be filed or the school, owner, representative, or management employee is served.
- (c) A school shall include, with the notice required in this section, a file-marked copy of the petition, complaint, or other legal instrument, including copies of any judgments.

*The provisions of this §807.15 adopted to be effective August 16, 1998, as published in the Texas Register, August 14, 1998, 23 TexReg 8479.*

### **§807.16. Associate Degrees.**

- (a) If a school desires authorization to grant associate degrees, the school shall make application to the Coordinating Board.
- (b) The Commission may recognize the authorization to grant degrees upon receipt of a copy of the letter of authorization issued by the Coordinating Board.

*The provisions of this §807.16 adopted to be effective April 26, 2004, as published in the Texas Register, April 23, 2004, 29 TexReg 3970.*

### **§807.17. Penalties and Sanctions Regarding Schools.**

The Commission may impose penalties or sanctions for violations of the Act or this chapter, including:

- (1) collecting a late renewal fee from the school;
- (2) denying the school's application for a certificate of approval;
- (3) revoking the school's certificate of approval;
- (4) placing restrictions on the school's certificate of approval;
- (5) denying, suspending, or revoking the registration of the school's representatives;
- (6) collecting a late refund penalty from the school;
- (7) assessing an administrative penalty;
- (8) applying for an injunction against the school;
- (9) asking the Attorney General to collect a civil penalty from any person who violates the Act or this chapter;
- (10) ordering a peer review of the school;
- (11) revoking a program approval;
- (12) denying a program approval;
- (13) requiring full or partial refunds to students for program violations or deficiencies;
- (14) suspending the admission of students to the school;
- (15) charging the school an investigation fee to resolve a complaint against the school; and
- (16) charging the school interest and penalties on late payments of fee installments.

*The provisions of this §807.17 adopted to be effective April 26, 2004, as published in the Texas Register, April 23, 2004, 29 TexReg 3970.*

## **SUBCHAPTER C. FINANCIAL REQUIREMENTS**

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

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

- (1) GAAP -- Generally Accepted Accounting Principles.
- (2) GAAS -- Generally Accepted Auditing Standards.
- (3) Sworn statement -- A notarized statement including the following language: "I swear or affirm that the information in these statements is true and correct to the best of my knowledge."
- (4) Unearned tuition affidavit -- A statement of the highest amount of unearned tuition at any time during the most recent fiscal year, the projected highest unearned tuition at any time during the next fiscal year, and the gross amount minus refunds of student tuition and fees earned during the fiscal year in all programs approved under the Act.

*The provisions of this §807.31 adopted to be effective April 26, 2004, as published in the Texas Register, April 23, 2004, 29 TexReg 3970.*

### **§807.32. Financial Standards.**

- (a) The balance sheet required in this subchapter shall reflect the following:
  - (1) positive equity or net worth balance;
  - (2) unearned tuition as a current liability;
  - (3) a current ratio of at least one-to-one; and
  - (4) stockholder's equity or net worth exceeding the amount shown for goodwill, if applicable, under assets in the balance sheet.
- (b) Compilations shall be accompanied by the owner's sworn statement.
- (c) All financial statements shall identify the name, license number, and licensing state of the accountant associated with the statements and be in accordance with GAAP.
- (d) A school that maintains a financial responsibility composite score that meets the general standards established in federal regulations by the U.S. Department of Education for postsecondary institutions participating in student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended, shall be considered to have met the financial standards of this subchapter. A school that qualifies under an alternative standard but not the general standard of these federal regulations will not be considered to have met the financial standards of this subchapter unless the school meets the other requirements stated in this subchapter.

*The provisions of this §807.32 adopted to be effective February 24, 2003, as published in the Texas Register, February 21, 2003, 28 TexReg 1651.*

### **§807.33. Financial Requirements for Original Approvals.**

- (a) The prospective owner shall furnish the Commission with the following:

- (1) for a school owned by a sole proprietor, a reviewed personal balance sheet with notes that disclose the amount of payments for the next five years to meet debt agreements as required by GAAP; or
  - (2) for all other ownership structures, an audited balance sheet consistent with GAAP and GAAS and certified by an accountant.
- (b) The school shall submit a balance sheet, a list of the expected school-related expenses for the first three months of operation of the school, and a sworn statement signed by the owner affirming the availability of sufficient cash to cover projected expenses at the date of licensure. A school currently operating, or proposing to operate, on a reimbursement contract basis may request a waiver of this section from the Commission. Projected expenses may include the following:
- (1) employee salaries, listed by position title, including withholding, unemployment taxes, and any other related expenses;
  - (2) lease payments for equipment listed by the name of the equipment;
  - (3) lease payments for facilities;
  - (4) accounting, legal, and other specifically identified professional fees; and
  - (5) an estimate of other expenses such as advertising, travel, textbooks, office supplies, classroom supplies, printing, telephone, utilities, taxes, and sales commissions.
- (c) The school shall submit a projection of the gross amount of tuition and fees to be collected during each of the first two years of operation.
- (d) The prospective owner shall also furnish such other evidence as may be deemed appropriate by the Commission to establish financial stability.

*The provisions of this §807.33 adopted to be effective April 26, 2004, as published in the Texas Register, April 23, 2004, 29 TexReg 3970.*

#### **§807.34. Financial Requirements for Changes in Ownership.**

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

*The provisions of this §807.34 adopted to be effective August 16, 1998, as published in the Texas Register, August 14, 1998, 23 TexReg 8479.*

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

- (a) A school shall submit annual financial statements as set forth in this section that shall be:
- (1) audited by an accountant and consistent with GAAP;
  - (2) reviewed by an accountant and consistent with GAAP (except for the first renewal, which must be audited or compiled); or
  - (3) compiled by an accountant, containing an unearned tuition affidavit and at least one note disclosing the current and long-term liabilities. This note shall be similar to that required by GAAP for reviewed and audited statements. Compiled statements are acceptable under the following conditions:

- (A) the gross annual revenue from student tuition and fees, less refunds, is less than or equal to \$100,000, or;
  - (B) the courses of instruction are less than one month in length.
- (b) Each school shall furnish financial statements in association with an accountant annually and not later than 180 days from the close of the school's fiscal year. These statements shall include the following:
- (1) balance sheet;
  - (2) statement of results of operation, which includes a statement of income and retained earnings;
  - (3) statement of cash flows; and
  - (4) the gross amount minus refunds of annual student tuition and fees for each school, separated from other revenues unrelated to training.
- (c) A school with a gross annual revenue from student tuition and fees, less refunds, less than or equal to \$100,000 may submit all of the following in lieu of the financial statements required in this section:
- (1) an unearned tuition affidavit;
  - (2) a copy of the annual income tax form filed specifically for the business; and
  - (3) an owner's sworn statement certifying that the unearned tuition affidavit and the copy of the annual income tax form are true and correct.
- (d) A school that is a subsidiary of a corporation may submit, in lieu of the statements required in this section, the annual audited financial statements of the parent corporation provided that:
- (1) said statements are accompanied by an audited list of any student tuition refunds payable by the subsidiary school at the close of its fiscal year. The statements shall also be accompanied by an owner's sworn statement reflecting the gross amount minus refunds of student tuition and fees earned during the fiscal year on all programs approved under the Act; and
  - (2) the parent corporation ensures that each student enrolled in the subsidiary school receives either the training agreed upon or a refund as provided in the Act, and submits either a certified resolution of its board of directors to this effect or any other evidence as deemed appropriate by the Commission to establish financial responsibility by the parent corporation.

*The provisions of this §807.35 adopted to be effective April 26, 2004, as published in the Texas Register, April 23, 2004, 29 TexReg 3970.*

### **§807.36. Interim Financial Statements.**

If a school chooses to submit interim financial statements in addition to the annual financial statements to establish financial stability, those interim statements shall meet the minimum requirements of this subchapter.

*The provisions of this §807.36 adopted to be effective August 16, 1998, as published in the Texas Register, August 14, 1998, 23 TexReg 8479.*

### **§807.37. Commission Ordered Audits.**

If the Commission determines that reasonable cause exists to question the validity of any financial information submitted, or the financial stability of the school, the Commission may require at the school's expense:

- (1) an audit of a school that has been certified by an accountant; or
- (2) the owner to furnish any other evidence deemed appropriate by the Commission to establish financial stability.

*The provisions of this §807.37 adopted to be effective August 16, 1998, as published in the Texas Register, August 14, 1998, 23 TexReg 8479.*

## **SUBCHAPTER D. REPRESENTATIVES**

### **§807.51. Representative Requirements.**

- (a) The school shall apply annually to register representatives on forms provided by the Commission and with the appropriate fee.
- (b) A representative shall be of good reputation and under the control of the school and is deemed to be the agent of the school. The school is responsible for any representations or misrepresentations, expressed or implied, made by a representative.
- (c) Any student solicited or enrolled by an unregistered representative is entitled to a refund of all monies paid and a release from all obligations. Any contract signed by a prospective student as a result of solicitation or enrollment by an unregistered representative is null and void and unenforceable.

*The provisions of this §807.51 adopted to be effective August 16, 1998, as published in the Texas Register, August 14, 1998, 23 TexReg 8479.*

### **§807.52. Representative Standards.**

A representative shall:

- (1) have sufficient knowledge of the school to provide complete and accurate information regarding the school to prospective students;
- (2) refer questions about financial aid and entrance testing to the appropriate school officials; and
- (3) invite the student applicant to tour the school's facilities, inspect equipment, and speak with students.

*The provisions of this §807.52 adopted to be effective August 16, 1998, as published in the Texas Register, August 14, 1998, 23 TexReg 8479.*

### **§807.53. Representative Limitations.**

- (a) The representative shall not begin solicitation of students until the school receives notice of approval for the school and registration of the representative from the Commission.
- (b) Employees and other agents of recruiting firms shall not serve as representatives.
- (c) A representative shall not:
  - (1) solicit in public places other than educational settings, job fairs, or organized meetings;



- (2) offer as an inducement or enticement any material consideration to a prospective student prior to enrollment, such as cash, food, housing, or gifts;
- (3) administer the entrance test;
- (4) advise students about financial aid, other than informing the students of the general availability of financial aid;
- (5) give false, misleading, or deceptive information about any aspect of the school's operation, programs, completion or employment rates, examination success rates, job placement, or salary potential;
- (6) concurrently solicit for or represent more than one school, unless the owner of each school being represented is informed that the representative is also soliciting for or representing other schools;
- (7) engage in acts or practices that have a tendency to intimidate, coerce, or mislead a prospective student into accepting an enrollment;
- (8) represent that a school or program has sponsorship, credentials, approval, characteristics, credit transferability, uses, benefits, or qualities that it does not have;
- (9) discredit another school or its programs by false or misleading representation of facts;
- (10) solicit enrollments in a program that has not been approved by the Commission;
- (11) solicit students for a school through an employment agency; or
- (12) violate any legal requirement or prohibition contained in the Act or this chapter.

*The provisions of this §807.53 adopted to be effective August 16, 1998, as published in the Texas Register, August 14, 1998, 23 TexReg 8479.*

## **SUBCHAPTER E. SCHOOL DIRECTOR AND ADMINISTRATIVE STAFF**

### **§807.61. School Director Requirements.**

- (a) Each school shall designate one person as the school director.
- (b) A person may not concurrently serve as a school director for more than one school.
- (c) A school director must be physically present at the school's location for a majority of the time the school is open for regular operation.

*The provisions of this §807.61 adopted to be effective April 26, 2004, as published in the Texas Register, April 23, 2004, 29 TexReg 3970.*

### **§807.62. School Director Qualifications and Duties.**

- (a) A school director of a small school shall have administrative or management experience and shall be of good reputation.
- (b) A school director of other than a small school shall be of good reputation and have a total of five years of administrative or management experience. An equivalent duration of higher education, college or university, may be substituted for each year of experience.
- (c) The school shall obtain Commission approval for the school director before employment of the school director.

- (d) The school director is responsible for the courses of instruction, organization of classes, designation of a liaison for Commission compliance visits, maintenance of the school facilities and proper administrative records, and all other matters related to the administration of the school, as determined by the Commission.
- (e) The school director shall sign and agree to the terms of the Director's Statement.
- (f) The Commission may require the school director to attend additional training to continue approved director status if a school has more than one substantiated complaint from students during a one-year period. If the school has repeat violations from a previous year under the same director, the Commission may revoke the approval of the school director.
- (g) The school director shall:
  - (1) ensure that all facilities, including housing endorsed by the school, comply with local, city, county, municipal, state, and federal regulations such as, but not limited to, fire, building, and sanitation codes; and
  - (2) inspect facilities, including housing, before endorsement.

*The provisions of this §807.62 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

**§807.63. Acting School Director.**

- (a) The Commission may allow a school to designate an acting school director for a period not to exceed 90 days or as otherwise approved by the Commission, who is:
  - (1) a currently approved school director at another location with the same owner to facilitate the approval process at a new location;
  - (2) a new school director pending approval by the Commission; or
  - (3) required by an emergency as determined by the Commission.
- (b) The school shall provide written notice to the Commission, delivered by the end of the first day following the appointment of the acting school director.

*The provisions of this §807.63 adopted to be effective August 16, 1998, as published in the Texas Register, August 14, 1998, 23 TexReg 8479.*

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

- (a) A school may have a director of education.
- (b) If the school employs a director of education, the director shall meet the same qualifications as an instructor and, in addition, shall have:
  - (1) one year of employment as a postsecondary instructor;
  - (2) one year of employment as a supervisor; and
  - (3) a bachelor's degree, appropriate for the skills required, as determined by the Commission.

*The provisions of this §807.64 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.65. Director of Degree Programs Requirements.**

- (a) A school with a degree program shall have a director of the degree programs as required by the Coordinating Board.
- (b) A director of degree programs shall be of good reputation.

*The provisions of this §807.65 adopted to be effective April 26, 2004, as published in the Texas Register, April 23, 2004, 29 TexReg 3970.*

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

- (a) A school may have a director of admissions. An individual employed by a school as a director of admissions prior to the effective date of this section is not subject to §807.66(b)(1) and §807.66(b)(2).
- (b) If the school employs a director of admissions, the director shall be of good reputation and, in addition, shall have:
  - (1) one year of management or administrative experience; and
  - (2) one year of admissions experience.

## **SUBCHAPTER F. INSTRUCTORS**

### **§807.81. Instructor Qualifications.**

- (a) The instructor shall be of good reputation and shall not be a current student in the same or similar program, as determined by the Commission, in which the instructor teaches.
- (b) Instructors shall possess and affirm on forms provided by the Commission that the instructor has one of the following qualifications that applies to the course area to be taught. In such cases where the practical experience is gained on a seasonal basis as an industry standard, the season of at least three months of experience shall be considered as one year of experience.
  - (1) The instructor has a master's degree or higher that:
    - (A) includes satisfactory completion of six semester credit hours or eight quarter credit hours in the class to be taught;
    - (B) includes satisfactory completion of three semester credit hours or four quarter credit hours in the course area and one year of related practical experience within the ten years immediately preceding employment by the school, if the class to be taught is in a technical field;
    - (C) includes satisfactory completion of three semester credit hours, or four quarter credit hours in the course area to be taught, if the class to be taught is in a non-technical field; or
    - (D) includes one year of related practical experience in the class to be taught within the ten years immediately preceding employment by the school, if the class to be taught is in a non-technical field.
  - (2) The instructor has a bachelor's degree that:
    - (A) includes nine semester hours or 12 quarter hours related to the course area to be taught;
    - (B) includes satisfactory completion of six semester credit hours or eight quarter credit hours in the course area to be taught and one year of related practical experience within

- the ten years immediately preceding employment by the school, if the class to be taught is in a technical field;
- (C) includes satisfactory completion of three semester credit hours or four quarter credit hours in the course area and one year of related practical experience within the ten years immediately preceding employment by the school, if the class to be taught is in a non-technical field; or
  - (D) includes two years of related practical experience within the ten years immediately preceding employment by the school.
- (3) The instructor has an associate's degree that:
- (A) includes satisfactory completion of nine semester credit hours or 12 quarter hours in the course area to be taught and two years of related practical experience within the ten years immediately preceding employment by the school; or
  - (B) includes three years of related practical experience within the ten years immediately preceding employment by the school.
- (4) The instructor has a secondary education if it includes a certificate of completion from a recognized postsecondary school for a program with course time of at least 900 hours in a relevant course area and four years of related practical experience within the ten years immediately preceding employment by the school; or
- (5) The instructor has proof of satisfactory completion of secondary education if accompanied by five years of related practical experience within the ten years immediately preceding employment by the school.
- (c) In addition to the other applicable requirements for instructors, including the good reputation requirement, the following qualifications apply to the specific instructors listed in this subsection.
- (1) The Commission requires that a court reporting instructor of only machine shorthand theory and speedbuilding shall have:
- (A) an associate's degree or higher and certificate of completion of machine shorthand theory requirements in an accredited court reporting program;
  - (B) an associate's degree in court reporting from any state-recognized school;
  - (C) a Registered Professional Reporter or Certified Shorthand Reporter certification from any state; or
  - (D) a certificate of completion of a court reporting program from a state-certified school.
- (2) The Commission requires that a court procedures and technology instructor shall have:
- (A) a Registered Professional Reporter or Certified Shorthand Reporter certification; and
  - (B) one year of court reporting experience.
- (3) The Commission requires that a modeling instructor shall have, at a minimum:
- (A) a secondary education and certificate of completion from a modeling program of at least 45 hours of course time from a state recognized school and at least five verifiable paid modeling jobs completed within the past five years; or
  - (B) a secondary education and at least ten verifiable paid modeling jobs completed within the past five years.
- (4) The Commission requires that a truck driving instructor shall have, at a minimum:

- (A) a secondary education;
  - (B) certified proof of successful completion of course time of 40 hours in safety education and driver training as required by this chapter; and
  - (C) three years of full-time tractor trailer driving experience within the ten years immediately preceding employment by the school.
- (5) The Commission requires that a bartending instructor shall be certified by the Texas Alcoholic Beverage Commission as having completed the required awareness course.
- (d) The director shall ensure that an instructor applicant demonstrates sufficient language to teach the class for which the instructor is applying to teach.
- (e) For those instructors who return to the school prior to one full year of absence, and who will be teaching the same classes as previously approved, the school shall document the leave and reinstatement dates in the instructor's personnel file. When an instructor begins teaching new classes or the absence was more than one year, the school shall submit a new application to the Commission.

*The provisions of this §807.81 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.82. Temporary Instructors.**

- (a) The Commission may allow a school to use a previously unapproved instructor to teach temporarily for a reasonable amount of time in the case of an emergency, as determined by the Commission.
- (b) In such circumstances, the school shall provide written notice to the Commission delivered no later than the first day the temporary instructor begins teaching. The notice shall include:
- (1) the class to be taught;
  - (2) the name of the approved instructor;
  - (3) the name of the temporary instructor; and
  - (4) the reason for the temporary instructor.
- (c) Failure to properly notify the Commission shall result in penalties for the use of an unapproved instructor.
- (d) The temporary instructor shall have practical experience or education in the course area to be taught, and shall not have been previously disapproved to teach the class.
- (e) There shall be no more than one temporary instructor per grading period in an individual class, unless specifically approved in advance by the Commission.
- (f) Failure to comply with this section shall result in penalties, up to and including, a full refund to all students attending such classes.

*The provisions of this §807.82 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.83. Instructor Application.**

- (a) A school that has been licensed for at least one year and is accredited by an agency recognized by the U.S. Secretary of Education is not required to submit instructor applications to the

Commission for approval. Documentation that the instructor meets the requirements of this chapter must be kept on file at the school and available for review immediately upon request.

- (b) The school shall file an application for approval of an instructor on forms provided by the Commission in accordance with the following criteria and ensure that the instructor is of good reputation.
  - (1) The application shall be postmarked within five calendar days of employment as an instructor subject to the conditions outlined in this subchapter. A school may employ an instructor pending approval by the Commission.
  - (2) Depending upon the qualifications indicated on the application, the application shall include one or more of the following:
    - (A) a legible copy of the postsecondary certificate or degree, or a transcript indicating appropriate coursework completed, as applicable;
    - (B) proof of a current occupational license; and
    - (C) proof of secondary education.
- (c) A school with degree programs shall ensure that instructors are of good reputation and meet all the qualifications required by the Coordinating Board.
- (d) The Commission may approve a variance from the specific qualifications contained in §807.81 of this subchapter with sufficient justification and an assurance that the program quality will not be lessened.
- (e) The Commission may consider current approvals of instructors by other Texas state agencies responsible for approval and regulation of the program, or any professional certifications held by the instructor when submitted with the Commission's instructor application. The Commission will accept notification, in lieu of a new instructor application, for any instructor that has a current approval by the Commission to teach the same classes at other schools that have the same owners.
- (f) The Commission may require the school director of an accredited school to file applications for instructors if there have been two substantiated complaints regarding instructors in the previous year, or if the school is unable to produce, when requested, documentation that all instructors meet the requirements of this subchapter.
- (g) The Commission may require a school director to submit and receive approvals for instructor applications in advance of employing the instructors for a period of one year if the school has had three instructor applications finally disapproved within the previous two years.

*The provisions of this §807.83 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

#### **§807.84. School Responsibilities Regarding Instructors.**

- (a) The school shall ensure that an appropriate number of instructors, as determined by the Commission, have proper licensure or certificates required for the stated occupation's objective. The holder of the license or certificate shall actively participate in program development and revisions.
- (b) The school shall ensure continuity of instruction through reasonable retention of instructors to provide students with a quality education.
- (c) The school director or director of education shall formally evaluate each instructor in writing at least annually, subject to review by the Commission.

- (d) The school director or director of education shall ensure that students are allowed the opportunity to formally evaluate each instructor in writing at least annually and incorporate said evaluation in the instructor's overall evaluation. These student evaluations are subject to review by the Commission.

*The provisions of this §807.84 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

## **SUBCHAPTER G. STAFF EDUCATION REQUIREMENTS**

### **§807.101. Initial Training.**

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

*The provisions of this §807.101 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.102. Continuing Education.**

- (a) Except for exempt providers as defined in the Act, providers shall submit an application for approval of continuing education training. In approving continuing education training, the Commission shall consider the factors set out in §132.0551 of the Act.
- (b) If a continuing education training provider submits an application for approval prior to September 1, 2006, and the application and courses are approved, all training conducted on or after January 1, 2006, will be considered as approved continuing education if the training is determined by the Commission to be substantially similar to the application.
- (c) The school shall implement, maintain, and update annually a written plan for staff development, which includes at a minimum, continuing education, staff meetings, attendance at trade and professional conferences, and observation of, or participation in, on-the-job activities.
- (d) Each school director, full-time instructor, and director of admissions shall complete a minimum of six hours of course time of continuing education applicable to the position within 12 months of employment in the position and each calendar year thereafter.
- (e) The school shall provide and document in-service training that provides updates on skills, knowledge, and technology required by business and industry for those instructors who have taught for two years, but have not gained relevant work experience during the two-year period.

*The provisions of this §807.102 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.103. Record Keeping.**

The school shall:

- (1) maintain records of any continuing education or training received by its officials or personnel indicating for which position the training was received;
- (2) maintain records of any continuing education or training for officials or personnel for five years; and
- (3) retain the records on the premises of the school or college so the records are immediately available for review.

*The provisions of this §807.103 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

## **SUBCHAPTER H. COURSES OF INSTRUCTION**

### **§807.121. Definitions Relating to Courses of Instruction.**

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

- (1) Externship -- Practical, program-related, off-campus training under direct or indirect instructor supervision, with a preplanned outline of experiences and competencies.
- (2) Laboratory experience -- A specific experience of observation, experimentation, practice, study, technical investigation, analysis, and practical application of theory or verbal instruction involving hands-on supervised study in a selected vocation or class.
- (3) Lecture -- A presentation of theories, concepts, procedures, or information about a particular class.
- (4) New program -- A program:
  - (A) not previously offered;
  - (B) previously offered and then discontinued;
  - (C) with a revised objective such that the program provides preparation for different jobs than those for which the program was originally approved (examples: legal secretary to paralegal; dental technician to medical technician; computer operator to computer programmer); or
  - (D) with a 25 percent or more change within a 12-month period to the total number of hours, content, or lessons (examples: course time from 1,000 hours to 750, 600 hours to 900, 20 lessons to 30, 60 semester credit hours to 80).
- (5) New seminar -- A seminar:
  - (A) not previously offered;
  - (B) previously offered and then discontinued;
  - (C) with a revised objective; or
  - (D) with a 25 percent or more change in a 12-month period to the total number of hours of the approved seminar.
- (6) Revised program or seminar -- Revisions include changes in admission requirements, title, class title, objective description (but not the detailed objective), class course time or credit



hours, or class hours of lecture, laboratory, or externship. Scheduling and price changes are catalog changes, not revisions.

*The provisions of this §807.121 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

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

- (a) A school submitting applications for approval of seminars shall use abbreviated forms provided by the Commission.
- (b) No class or program shall be approved by the Commission unless the school demonstrates that the program's quality, content, and length reasonably and adequately imparts the job skills and knowledge necessary for the student to obtain employment in the stated occupation.
- (c) A school may not solicit students, otherwise advertise, or conduct classes for a course of instruction prior to the Commission's approval of the course of instruction. Any such activity by the school, prior to the Commission's approval of the course of instruction, shall constitute a misrepresentation by the school and shall entitle each student in the course of instruction to a full refund of all tuition and fees paid by the student and release from all obligations.
- (d) The school shall establish and maintain a formal advisory committee of at least five members, unless the Commission approves a lesser number of persons in advance, for each type of program with course time in excess of 200 hours in length. At least annually, the committee shall evaluate the curriculum, instructional materials and media, equipment, and facilities to ensure they meet the needs of the job market. The school shall have written documentation of the evaluation available for review by the Commission. If the school does not follow an advisory committee recommendation, the school shall maintain written documentation of the justification for not following the recommendation.
- (e) If the applicant requests approval to measure programs in credit hours, the following conversion table shall be used.
  - (1) One academic quarter credit hour equals a minimum course time of:
    - (A) 10 hours of classroom lecture;
    - (B) 20 hours of laboratory experience; or
    - (C) 30 hours of externship.
  - (2) One academic semester credit hour is equal to a minimum course time of:
    - (A) 15 hours of classroom lecture;
    - (B) 30 hours of laboratory experience; or
    - (C) 45 hours of externship.
  - (3) The school shall calculate lecture, laboratory, and externship credit hour conversions individually for each class, rounding down to the nearest half credit hour. The school shall add the total for the credit hours for lecture, laboratory, and externship to determine the total credit hours for a class.

*The provisions of this §807.122 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.123. Applications for Additional Courses of Instruction.**

- (a) A school applying for approval of an additional course of instruction, after receiving an original certificate of approval, shall submit a complete application that includes:
  - (1) the appropriate fee;
  - (2) a completed application for approval on forms provided by the Commission; and
  - (3) any other revisions or evidence as requested by the Commission.
- (b) The Commission may require an abbreviated program application if:
  - (1) the school has the exact program approved at another location;
  - (2) the program objective changes;
  - (3) the program length changes 25% or more; or
  - (4) the school's completion and employment rates are exemplary, as determined by the Commission.
- (c) The Commission may deny an application for approval of an additional course of instruction if the school is not in full compliance with the Act or this chapter.

*The provisions of this §807.123 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.124. Stated Occupation.**

- (a) The school shall ensure that each program prepares the student for the stated occupation.
- (b) The school shall demonstrate that a student who successfully completes the program is more likely to be employed in the stated occupation than an individual who does not complete the program, all other things being equal.
- (c) The school shall identify a demonstrable occupational demand for the stated occupation. The Commission may consider the following in evaluating the school's statement of occupational demand:
  - (1) publications of established relevant occupational associations;
  - (2) targeted occupation lists of boards, if approved by the Commission, or other local or state entities;
  - (3) references to advertisements in media for employment;
  - (4) occupation employment rate of students;
  - (5) percentage of graduating students who have previously completed the same or substantially similar program and who have obtained employment in the same or substantially similar stated occupation for which they have been trained;
  - (6) relative supply and demand for the stated occupation, including letters from potential employers that describe their need for trained employees; and
  - (7) reports or publications relating to the specific occupational demand.

*The provisions of this §807.124 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.125. Curriculum Content.**

- (a) The school shall:
  - (1) provide competency-based programs;
  - (2) assess skills using primarily performance-based methods;
  - (3) use instructional media, methods, and materials appropriate for the program content and students' knowledge and abilities;
  - (4) offer programs in a logical sequence of knowledge and skills; and
  - (5) if deemed appropriate by the Commission, provide an externship or a simulation of the workplace for the program.
- (b) Each class in the program shall teach the practical skills and knowledge required for employment in the stated occupation. The proportion of lecture, laboratory, and externship hours for each class and for the program shall be reasonable for the skills and knowledge to be learned for the stated occupation.
- (c) The Commission may use or validate existing skill standards or competencies, or develop statewide skill standards with the assistance of industry, schools, and other relevant entities as determined by the Commission.

*The provisions of this §807.125 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.126. Curriculum Length.**

- (a) Each class submitted for approval shall identify the course time or credit hours allocated to that class. A class or program that exceeds a length reasonable to prepare the student for the stated occupation shall not be approved.
- (b) The Commission may establish minimum and maximum program lengths for stated occupations consistent with the intent of the Act.

*The provisions of this §807.126 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.127. Program Title.**

- (a) Each program submitted for approval shall be identified by a title.
- (b) The title shall clearly identify the stated occupation and shall be a title commonly used by business or industry.
- (c) The Commission shall not approve false, misleading, or deceptive program titles.

*The provisions of this §807.127 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.128. Equipment.**

- (a) Equipment required for instruction shall be comparable to that commonly found in the stated occupation.
- (b) The school shall remove equipment not in working order from the instructional area, mark it as out-of-order, or properly identify it as awaiting repair.

- (c) The school shall provide equipment of sufficient quality and quantity to meet the maximum use requirements of the current students, as demanded by the activity patterns of the training program.

*The provisions of this §807.128 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.129. Facilities.**

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

- (b) Enrollment shall not exceed the design characteristics of the available workstations.

*The provisions of this §807.129 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.130. Admission Requirements Relating to Programs.**

- (a) The school shall submit, for approval by the Commission, its admission requirements for each program with justification for the requirements.
- (b) The school shall ensure that the student demonstrates to the school sufficient proficiency in the language of instruction to successfully complete the training program.

*The provisions of this §807.130 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.131. School Responsibilities Regarding Programs.**

- (a) As a condition of program approval or renewal, the school shall identify any portion of instruction that is self-paced or not conducted in English.
- (b) To maintain program approval, the school shall demonstrate the following:
  - (1) a reasonable student completion rate for each program; and
  - (2) a minimum employment rate for program graduates in jobs related to the stated occupation.
- (c) When a school is approved to offer a program, the school shall maintain sufficient instructors to teach all subjects for completing the program during the length of time stipulated in the school catalog, regardless of the size of the class.
- (d) The school shall schedule classes so that students will be able to complete the program during the length of time stipulated in the school catalog.
- (e) The school shall ensure that students receive the lecture and laboratory experience hours with sufficient instructors and scheduling. An instructor may not be simultaneously supervising a laboratory experience and a lecture even if they are in the same room.
- (f) A school shall provide course outlines to students at the beginning of each subject which lists students' performance objectives, references and resources, and a general content outline for the subject.
- (g) A school shall have and use lesson plans for all subjects.
- (h) A school may not use classes from one or more approved programs to create a new program and award a certificate of completion without prior approval.

- (i) The student-to-instructor ratio shall be sufficient for students to learn, practice, and demonstrate the necessary knowledge and skills. These ratios may be varied at the discretion of the Commission to conform to conditions in an individual school. The following student-instructor ratios may be acceptable for single classes:
  - (1) business lecture or laboratory--30 to one;
  - (2) technical, vocational, or allied health lecture--30 to one;
  - (3) technical lab (examples: computer programming, data processing, electronics)--20 to one;
  - (4) vocational lab (examples: auto mechanics, air conditioning and refrigeration, drafting)--20 to one; and
  - (5) intensive language instruction (beginning)--15 to one; (intermediate to advanced)--20 to one.

*The provisions of this §807.131 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.132. Program Revisions.**

- (a) The school shall submit a revised program application for any proposed changes in the program that shall be reflected in the school catalog's program information.
- (b) The school shall receive approval of proposed program revisions in writing from the Commission before implementing the revisions.
- (c) The school shall work closely with employers in its job market to ensure that the program meets employers' needs.

*The provisions of this §807.132 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.133. Program Requirements for Degree Granting Schools.**

A school shall provide evidence to the Commission that they are authorized by the Coordinating Board to offer degree programs.

*The provisions of this §807.133 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.134. Penalties Relating to Courses of Instruction.**

- (a) If an approved course of instruction is discontinued for any reason, the Commission shall be notified within 72 hours of discontinuance and furnished with the names and addresses of any students who were prevented from completion of the course of instruction due to discontinuance. Should the school fail to make arrangements satisfactory to the students and the Commission for the completion of the course of instruction, the full amount of all tuition and fees paid by the students are then due and refundable. Any course of instruction discontinued will be removed from the list of approved courses of instruction.
- (b) The Commission may suspend enrollments in a particular course of instruction at any time the Commission finds cause. For purposes of this subsection, cause includes, but is not limited to:
  - (1) inadequate instruction;
  - (2) unapproved or inadequate curriculum;

- (3) inadequate equipment; or
- (4) inadequate facilities.
- (c) If a school begins teaching a course of instruction or revised course of instruction that has not been approved by the Commission, the Commission may require the school to refund to the enrolled students all or a portion of the tuition fees.
- (d) If upon review and consideration of an original, renewal, or revised application for course of instruction approval, the Commission determines that the applicant fails to meet the requirements in the Act or this chapter, the Commission shall notify the school, setting forth in writing the reasons for the denial. This may include summaries of peer evaluations from both educators and employers offering similar courses of instruction.
- (e) The Commission may revoke approval of a school's course of instruction at any time the Commission finds cause. For purposes of this subsection, cause includes, but is not limited to:
  - (1) any statement contained in the application for the course of instruction approval which is untrue;
  - (2) the school's failure to maintain the instructors, facilities, equipment, or courses of instruction, or course of instruction outcomes on the basis of which approval was issued;
  - (3) advertising made on behalf of the school which is false, misleading, or deceptive, including those that use the word "associate" to describe a degree other than those approved by the Coordinating Board;
  - (4) courses of instruction without clearly stated limited transferability if there are no articulation agreements with other postsecondary institutions in the same geographic area;
  - (5) courses of instruction for which financial aid is advertised but is not available;
  - (6) repeated violations by the school that negatively impact the quality of a particular course of instruction; or
  - (7) violations by the school of any applicable provision of the Act or this chapter.
- (f) A school whose course of instruction approval is denied or revoked shall have the right to appeal. The Commission will conduct hearings in accordance with Commission policies and procedures applicable to the appeal.

*The provisions of this §807.134 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

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

### **§807.151. Fee Schedule.**

The Commission shall collect fees according to the following schedule.

- (1) The initial fee for a certificate of approval for a small school is \$1,001.
- (2) The initial fee for any other school is \$3,000.
- (3) In the event of a change in ownership of the school, the new owner shall pay the same fee as that charged for an initial fee for a school.
- (4) The initial registration fee for a representative is \$90.
- (5) The annual renewal fee for a representative is \$45.

- (6) The fee for a change of name of the school or owner is \$150.
- (7) The fee for a change of address of a school is \$270.
- (8) The fee for a change in the name or address of a representative or a change of the name or address of a school that causes the reissuance of the notice of permitted representative is \$15.
- (9) The application fee for a course of instruction that is an additional program is \$225.
- (10) The application fee for a course of instruction that is a seminar program is \$35.
- (11) The application fee for a school director, administrative staff member, or instructor is \$20.
- (12) The fee for an inspection of classroom facilities that are separate from the main campus is \$375.
- (13) The fee for an investigation of a complaint against a school is \$400, if assessed.

*The provisions of this §807.151 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.152. Renewal Fees.**

- (a) For small schools, if a certificate of approval is issued for more than one year, the renewal fee is \$1,001, which may be paid with \$501 the first year and \$250 on the anniversary date of the certificate for each subsequent year.
- (b) For all other schools, the renewal fee is based on the gross amount minus refunds of annual student tuition and fees. The Commission will establish the renewal fee on an annual basis, based upon the cost of administration of the chapter. The renewal fee will be set in accordance with the provisions of §132.201 of the Texas Education Code.
- (c) For all schools, the Commission shall assess a penalty of 10% of the renewal fee, not less than \$200 or more than \$1,000, if the school fails to file a complete application for renewal at least 30 days before the expiration date of the certificate of approval.

*The provisions of this §807.152 adopted to be effective September 17, 2007, as published in the Texas Register, September 14, 2007, 32 TexReg 6378.*

### **§807.153. Installment Payments.**

- (a) With the exception of the renewal installment schedule for small schools, a school may elect to pay any single fee in excess of \$1,000 by quarterly installment. A service charge of 10% of the fee shall be added, and the total divided into equal quarterly installment payments. The first payment shall be due on the date the fee is due. The successive payments shall be due in 90-day increments.
- (b) Failure to pay any installment by the due date may result in one or more of the following:
  - (1) a penalty being assessed in the amount of 50% of the total amount of the fee;
  - (2) full payment of the penalty and outstanding balance due within 30 days; or
  - (3) suspension of participation in the installment payment plan for the next renewal period.

*The provisions of this §807.153 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

## **SUBCHAPTER J. ADVERTISING**

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

- (a) A school shall not make deceptive statements in attempting to enroll students.
- (b) The Commission may require a school to furnish proof to the Commission of any of its advertising claims, when requested.

*The provisions of this §807.171 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.172. Advertisement Method.**

- (a) A school may advertise for prospective students under "instruction," "education," "training," or a similarly titled classification.
- (b) A school shall not be advertised under any "help wanted," "employment," or similar classification.
- (c) No school advertisements shall use the word "wanted," "help wanted," or "trainee," either in the headline or the body of the advertisement, nor shall any advertisement indicate, in any manner, that the school has or knows of employment of any nature available to prospective students; only "placement assistance," if offered, may be advertised.
- (d) A school shall not use terms to describe the significance of the approval that specify or connote greater approval. Terms that schools may not use to connote greater approval by the Commission include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended." A school shall not use the words "guarantee," "guaranteed," or "free" unless approved in writing by the Commission.
- (e) Any advertisement that includes a reference to awarding of credit hours shall include the statement, "limited transferability." Where a school has an arrangement with a college or university to accept transfer hours, such information may be advertised, but any limitations shall be included in the advertisement.

*The provisions of this §807.172 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.173. Advertisement Content.**

- (a) Advertisement content shall include, and clearly indicate, the full and correct name of the school and its address, including city, as they appear on the certificate of approval.
- (b) Advertisements shall not include:
  - (1) statements that the school or its programs are accredited unless the accreditation is that of an agency recognized by the United States Department of Education;
  - (2) statements that the school or its courses of instruction have been approved unless the approval can be substantiated by an appropriate certificate of approval issued by an agency of the state or federal government; or
  - (3) representation of the school as an employment agency under the same name, or a confusingly similar name, or at the same location of the school.
- (c) A school holding a franchise to offer specialized programs or classes not available to other schools shall not advertise such programs in such a manner as to diminish the value and scope of



programs offered by other schools not holding such a franchise. Advertising of special classes or programs offered under a franchise shall be limited to the classes or programs offered.

- (d) A school shall not use endorsements, commendations, or recommendations by students in favor of a school except with the consent of the student and without any offer of financial or other material compensation. Endorsements shall bear the legal or professional name of the student.
- (e) A school shall not use a photograph, cut, engraving, illustration or graphic in advertising in such a manner as to:
  - (1) convey a false impression of size, importance, or location of the school, equipment, or facilities associated with the school, or
  - (2) circumvent any of the requirements of this chapter regarding written or oral statements.
- (f) Every advertisement must clearly indicate that training is being offered, and shall not, either by actual statement, omission, or intimation, imply that prospective employees are being sought.

*The provisions of this §807.173 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

#### **§807.174. Financial Incentives.**

- (a) Advertisements shall not:
  - (1) state that students shall be guaranteed employment while enrolled in the school;
  - (2) state that employment shall be guaranteed for students after graduation; or
  - (3) misrepresent opportunities for employment upon completion of any program.
- (b) Advertisements shall not contain dollar amounts as representative or indicative of the earning potential of graduates unless those dollar amounts have been published by the United States Department of Labor. This provision shall not be construed as prohibiting the school from providing earning potential to the student individually on the student's receipt of enrollment policies or other such Commission-approved document.
- (c) Advertisements for student tuition loans shall:
  - (1) contain the language "financial aid available, if qualified"; and
  - (2) appear in type no larger than the font used for the name of the school and in similar color and style.
- (d) Advertising of student tuition loans as described in this section does not preclude disclosure of the school's eligibility under the various state and federal loan programs.

*The provisions of this §807.174 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

#### **§807.175. Catalog.**

- (a) The catalog shall include the following:
  - (1) table of contents or index;
  - (2) name and complete street address of the school;
  - (3) volume number, date of publication, and effective dates;

- (4) history of any accreditations or approvals, including statement of approval and regulation by the Commission;
- (5) description of space, facilities, and equipment;
- (6) list of all trustees, directors, officers of the corporation, and owners;
- (7) list of management staff and faculty, including education relating to the areas of instruction;
- (8) tuition, fees, other charges, and applicable scholarship terms;
- (9) school calendar;
- (10) school hours of operation and class schedule, including the amount of time allocated for breaks and mealtimes;
- (11) policies regarding enrollment, including entrance requirements, previous education credit, cancellation and refund, progress, attendance, leave of absence, and conduct;
- (12) veterans administration refund policy, if applicable;
- (13) description of courses of instruction, including the number of hours of course time of a seminar, seminar topic, lecture, lab, and externship, as well as credit hours in each class, if applicable;
- (14) description of each class;
- (15) description of the grading policy, including requirements for graduation;
- (16) description of placement assistance, if available;
- (17) statement of policies regarding grievances; and
- (18) a statement signed by the owner or director indicating that all of the information contained in the catalog is true and correct.

(b) Any classes defined as self-paced shall be noted as such in the catalog.

*The provisions of this §807.175 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

#### **§807.176. Advertisement Monitoring.**

- (a) The Commission may order corrective action to counteract the effect of advertising in violation of the Act or rules, including:
  - (1) retraction by the school of such advertising claims published in the same manner as the claims themselves; and
  - (2) cancellation of telephone numbers without an automatic forwarding message.
- (b) As corrective action for violations of the Act or rules, the Commission may require schools to submit all advertisements to the Commission for pre-approval at least 30 days before proposed submission of the advertisements to the advertising medium.
- (c) Nothing in these guidelines shall prohibit release of information to students as required by a state or federal agency.

*The provisions of this §807.176 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

## SUBCHAPTER K. ADMISSION

### §807.191. General Information for Admission.

- (a) The Commission may approve specific admission requirements for seminars and small schools.
- (b) Small schools with programs with course time of 40 hours or less, individual class offerings, and seminars are not required to grant credit for previous education and training.
- (c) The school shall make appropriate adjustments to the program length and price based upon credit granted for previous education and training, where warranted.
- (d) For a school having specific term-beginning dates, a school may not start students after the third day of classes during any given term, except in those cases where appropriate credit for previous education and training has been given according to the Act and this chapter.
- (e) A continuously enrolled student has the right to graduate under the academic requirements stated in the catalog in effect at the time of the student's enrollment.

*The provisions of this §807.191 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### §807.192. Admission Requirements.

- (a) The school shall require for admission into its programs proof of one of the following:
  - (1) secondary education;
  - (2) successful completion or the equivalent of one full-time academic semester (12 academic semester hours) or academic quarter (18 academic quarter hours) at an accredited college, university, or other postsecondary school; or
  - (3) for certificate programs only, proven ability-to-benefit by obtaining a satisfactory score on the approved entrance test.
- (b) Entrance test requirements shall be in accordance with the following provisions.
  - (1) Any entrance test shall be a nationally recognized standardized test or a nonstandardized test developed by the appropriate industry and approved by the Commission. A nonstandardized test shall be validated by a qualified third party, such as an expert in tests and measurements, for both appropriateness and the specific score level required for admission into the program. The name of the test and its publisher, any time limitations, a minimum acceptable score, and an explanation of score meanings, as referenced in the test material, shall be provided to the student with a copy of the test, if the test is not already on file with the Commission.
  - (2) If multiple opportunities are allowed for retaking the same entrance test, such students shall wait a minimum of five calendar days prior to retaking the test. A student may take a second entrance test on the same day provided a substantially different test is administered. This shall be stated in the admissions policy published in the school catalog.
  - (3) A representative is not allowed to administer the test, nor is anyone allowed to assist the student in answering the questions.
  - (4) If the entrance test reveals the student to be ineligible as an ability-to-benefit student, the student may be enrolled as a remedial student. The school shall have an evaluation procedure approved by the Commission to determine remedial needs and to determine when the required level of remediation has been reached. The school shall also have a remediation plan for such students consisting of classes approved by the Commission as a part of the

program. The students may be charged for the remedial portion of the program on an hourly pro rata basis, but the student is not obligated for the tuition and fees of the program until the entrance requirements are met.

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

*The provisions of this §807.192 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.193. Receipt of Enrollment Policies.**

- (a) For all enrollments other than for seminars, individual classes, and small schools with programs of course time of 40 hours or less, each school shall use a form provided by the Commission to verify the prospective student's receipt of the information required in this section.
- (b) Unless otherwise required in this chapter, prior to enrollment the school shall furnish the following to each prospective student:
  - (1) a school catalog and program outline, unless the prospective student enrolls in a seminar;
  - (2) a schedule of tuition, fees, and other charges;
  - (3) the cancellation and refund policy;
  - (4) the progress and grievance policies and, for non-Title IV schools, attendance policies;
  - (5) the rules of operation and conduct;
  - (6) if available, the average starting salary per pay period and annually for the prospective student's stated occupation, and information regarding the number of job openings in the program objective field in a specified area within the last 12 months, including the name of the information source;
  - (7) the regulations pertaining to incomplete grades;
  - (8) written and verbal information regarding loans and grants and their differences, if the school participates in a loan or grant program;
  - (9) the requirements, if any, for any state or national licensing, certifications, or registrations;
  - (10) the exam passage rates for programs that prepare students for state licensing, certification, or registration exams;
  - (11) the job placement and employment data for the stated occupation as required in this chapter; and
  - (12) notice of all policies related to program interruption prior to completion and written information informing the student that if the student withdraws, it is the student's responsibility to inform the school or college.
- (c) Any school that refers to the awarding of credit hours shall explain to each student during the enrollment process that transferability of such hours may be limited. Each student shall sign a statement indicating such an explanation has been provided.
- (d) Should a school have an articulation agreement with an accredited college or university, or other postsecondary school, such information shall be provided to the student, including any known

agreement limitations. Such schools shall also provide a list of known Texas postsecondary schools that accept any or all of the credit hours so earned.

- (e) Students shall acknowledge receipt of each piece of information or documentation as set forth in this section by initialing each page and providing a complete signature at the end of the receipt of the enrollment policy form.
- (f) A copy of the receipt of the enrollment policies form shall be given to the student and a copy maintained as a part of the student's files.

*The provisions of this §807.193 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

#### **§807.194. Enrollment Agreement.**

- (a) A school does not need an enrollment agreement to enroll a student in a seminar that will be completed within three consecutive calendar days.
- (b) For distance education schools, the enrollment agreement shall specify the amount of time allotted to the student to complete the program.
- (c) A school shall submit an enrollment agreement to the Commission for approval.
- (d) A school shall use only an approved enrollment agreement to enroll students.
- (e) The executed enrollment agreement shall include, but is not limited to, the following:
  - (1) full and correct name and location of the school;
  - (2) program title, tuition, fees, reasonable estimate cost of books and supplies, any other expenses, total cost of the program, items subject to cost change, method of payment and payment schedule, disclosure statement if interest is charged on more than three payments, and detachable buyer's right to cancel if enrollment is procured off campus;
  - (3) date training is to begin and program length;
  - (4) name, address, and signature of the student;
  - (5) student's e-mail address if any part of the instruction or academically related activity is Web based;
  - (6) statement by the school that the student will receive a copy of the school enrollment agreement and catalog at the time of signing by the student;
  - (7) cancellation and refund policy; and
  - (8) a Federal Trade Commission statement for holder in due course, unless no loans, grants, or installment payments are involved.
- (f) The school shall provide a notice of cancellation, attached to the enrollment agreement, for any student enrolled off the school premises. The notice shall:
  - (1) be in duplicate;
  - (2) be easily detachable;
  - (3) be printed in boldface type, with a minimum font of 10 point;
  - (4) contain the date of the enrollment agreement, name and address of school, the date on which the statutory 72-hour cancellation privilege will expire, and any other provisions as determined by the Commission;

- (5) be printed in the same language as used in the enrollment agreement; and
- (6) be in such a form that can be used by the student to notify the school of the student's desire to cancel by dating, signing, and mailing or otherwise delivering the form to the school's address shown.
- (g) A copy of the enrollment agreement form shall be given to the student and a copy maintained as a part of the student's file.
- (h) The Commission may permit a school to submit an abbreviated enrollment agreement for students enrolled on a reimbursement contract basis.

*The provisions of this §807.194 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.195. Conduct Policy.**

The school shall submit for approval a copy of the rules and regulations pertaining to conduct, which shall include statements regarding:

- (1) conditions for dismissal; and
- (2) conditions for reenrollment of those students dismissed for violating the conduct policy.

*The provisions of this §807.195 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.196. Tuition and Fees.**

- (a) A school shall disclose to potential students all tuition, fees, and other charges, and state such information in the school's application for a certificate of approval. The school may not use an estimated tuition amount, nor may the school increase the student's tuition if the student remains continuously enrolled and completes the training as approved at the time of admission. If the school charges to repeat classes, the amount of the charges must be disclosed to the student.
- (b) A school shall make available for review by the Commission upon request:
  - (1) a description of the methods of payment that are available to enrolling students;
  - (2) the names and addresses of lending institutions used by the school for student tuition loans; and
  - (3) the true annual percentage rate and any other fees or charges associated with student tuition loans.
- (c) A school shall refund or forfeit any tuition, fees, or other charges not previously disclosed to the Commission.
- (d) A school may offer scholarships providing the terms of scholarships are disclosed to the Commission.
- (e) The school shall maintain, in a permanent format that is acceptable and readily accessible to the Commission, a record of any funds received from, or on behalf of, the student. A school shall clearly identify the payor, the type of funding, and the reason for the charges. These records shall be posted and kept current.
- (f) A school shall issue written receipts of any charges or payments to the student and maintain such records for review upon request by the Commission. Each separately charged item shall be clearly itemized on a student-signed receipt.

*The provisions of this §807.196 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

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

- (a) Students who transfer from other postsecondary schools shall complete at least 20 academic semester hours or 30 academic quarter hours in residency at the school that will grant the degree. This does not apply to transfers within the same school system.
- (b) A school shall allow students attending at the time a school becomes a degree granting school to earn a degree, providing the student:
  - (1) meets all the prerequisites for acceptance into the degree program; and
  - (2) satisfactorily completes all courses or equivalent courses of the degree program.
- (c) Former students shall meet all the prerequisites for acceptance into the degree program and shall satisfactorily complete all courses or equivalent courses in the approved degree program to qualify for a degree.

*The provisions of this §807.197 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **SUBCHAPTER L. PROGRESS STANDARDS**

#### **§807.221. General Requirements for Progress Standards.**

- (a) The Commission may approve specific progress standards for self-paced, competency-based programs.
- (b) Seminars, because of their nature and duration, are not required to have progress standards.
- (c) The progress evaluation records shall be of the type and nature to reflect whether the student is making satisfactory progress to the point of being able to complete all subject matter within the allotted time provided in the course curriculum.
- (d) The school shall submit its policies pertaining to incomplete grades to the Commission for approval and publish those policies in the school's catalog. The policies shall address the possibility of the classes being discontinued when the student returns and clarify options available to that student pursuant to the Act.
- (e) Approved court reporting program students may receive one grade of "IP" (in progress) in any speedbuilding class if they have not achieved the required speed at the end of the grading period.

*The provisions of this §807.221 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

#### **§807.222. Progress Requirements for Residence Schools.**

- (a) For programs with course time of 40 hours or less, the school is only required to give a final exam at the end of the program to determine whether the student has sufficient knowledge to warrant a certificate of completion, in lieu of a progress evaluation.
- (b) For programs with course time of 41 to 200 hours, the school shall record a student's grades at the midpoint and end of each progress evaluation period. A student not making satisfactory progress at the midpoint shall be placed on academic probation for the remainder of the progress evaluation period. If the student does not achieve satisfactory progress by the end of the probationary period, the student's enrollment shall be terminated.

- (c) For schools approved on a course time basis and offering programs in excess of 200 hours, the school shall evaluate progress at least every eight weeks. A school approved on a credit hour basis shall evaluate progress at the midpoint and end-of-term for academic semester or academic quarter or at least every eight weeks. For programs with course time in excess of 200 hours, the following shall apply.
  - (1) The school shall place a student making unsatisfactory progress for the program at the end of a progress evaluation period on academic probation for the next progress evaluation period. If the student on academic probation achieves satisfactory progress for the subsequent progress evaluation period, but does not achieve the required grades to meet overall satisfactory progress for the program, the student may be continued on academic probation for one more progress evaluation period.
  - (2) If a student on academic probation fails to achieve satisfactory progress for the first probationary progress evaluation period, the student's enrollment shall be terminated.
  - (3) The enrollment of a student who fails to achieve overall satisfactory progress for the program at the end of two successive probationary progress evaluation periods shall be terminated.
- (d) When a student is placed on academic probation, the school shall counsel the student prior to the student returning to class. The date, action taken, and terms of probation shall be clearly indicated in the student's permanent file.
- (e) The school may allow a student whose enrollment was terminated for unsatisfactory progress to reenroll after a minimum of one progress evaluation period. Such reenrollment does not circumvent the approved refund policy.
- (f) The school shall place a student who returns after their enrollment was terminated for unsatisfactory progress on academic probation for the next grading period. The school shall advise the student of this action and document the student's file accordingly. If the student does not demonstrate satisfactory progress at the end of this probationary period, that student's enrollment shall be terminated.

*The provisions of this §807.222 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.223. Progress Requirements for Distance Education Schools.**

- (a) Distance education schools shall evaluate progress as the school receives each lesson assignment. The school shall maintain the record of progress on forms approved by the Commission. Forms shall include:
  - (1) the date course materials are mailed to the student;
  - (2) the date the lesson assignment is received from the student;
  - (3) the grade on a per-lesson basis;
  - (4) the instructor's name;
  - (5) the date graded assignments are returned to the student; and
  - (6) the final grade for the program with completion date indicated.
- (b) If at the end of the time period specified in the enrollment agreement, the student has not completed the program, the student's enrollment shall be terminated.

*The provisions of this §807.223 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*



### **§807.224. Progress Requirements for Degree Granting Schools.**

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

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

*The provisions of this §807.224 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

## **SUBCHAPTER M. ATTENDANCE STANDARDS**

### **§807.241. General Requirements for Attendance.**

- (a) Seminar programs that begin and end during one day are not required to maintain an attendance policy.
- (b) Title IV schools are not required to take attendance.
- (c) The Commission may approve specific attendance requirements for self-paced, competency-based programs.
- (d) No provision in this subchapter shall require a school to terminate the enrollment of a student for lack of attendance at a point at which a refund would not be due.
- (e) A school shall charge for a full day of absence when the student fails to attend all of the scheduled classes on that day. The school shall charge for a partial day of absence for any period of absence during the day.
- (f) A school shall not consider school holidays, such as summer vacation and Christmas holidays, etc., as days of absence.

*The provisions of this §807.241 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

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

- (a) The following requirements are for non-Title IV schools and Title IV schools that voluntarily take attendance.
- (b) For a school offering degree programs, the attendance standards shall include the following:
  - (1) provisions for termination or probation during the next academic quarter, academic semester, or approved term when a student is absent for more than 20% of the scheduled course time hours during an academic quarter, academic semester, or approved term;

- (2) provisions for termination when a student is absent for more than 20% of the scheduled course time hours during the probationary academic quarter, academic semester, or approved term; and
- (3) provisions for termination prior to the last quarter, when a student is absent in excess of 10 consecutive school days or 20% of the total course time hours in the course, whichever occurs first.

*The provisions of this §807.242 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.243. Termination of Enrollment.**

- (a) A school shall terminate the enrollment of a student who accumulates the lesser of the following amounts of absences:
  - (1) more than 10 consecutive school days;
  - (2) more than 20% of the total course time hours in a program with course time of more than 200 hours;
  - (3) more than 25% of the total course time hours in a program or individual class with course time of 41 to 200 hours;
  - (4) more than 25% of the total course time hours for seminars, individual classes, or programs with course time of 40 hours or less; or
  - (5) any number of days if the student fails to return as scheduled from an approved leave of absence.
- (b) A Title IV school that does not voluntarily take attendance shall terminate the enrollment of a student if the student's participation in an academically related activity cannot be documented:
  - (1) at the end of the first week of the academic term;
  - (2) at the end of the first month of the academic term;
  - (3) at the midpoint of each academic term; and
  - (4) at the end of each academic term.
- (c) For purposes of this section, "month" is defined as four weeks.
- (d) Students whose enrollments are terminated for violation of the attendance policy may not reenroll before the start of the next progress evaluation period. This provision does not circumvent the approved refund policy.

*The provisions of this §807.243 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.244. Make-up Work.**

- (a) No more than 5% of the total course time hours for a program may be made up.
- (b) The school shall submit make-up work policies to the Commission for approval.
- (c) Make-up work shall:
  - (1) be supervised by an instructor approved for the class being made up;

- (2) require the student to demonstrate substantially the same level of knowledge or competence expected of a student who attended the scheduled class session;
- (3) be completed within two weeks of the end of the grading period during which the absence occurred;
- (4) be documented by the school as being completed, recording the date, time, duration of the make-up session, and the name of the supervising instructor; and
- (5) be signed and dated by the student to acknowledge the make-up session.

*The provisions of this §807.244 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

#### **§807.245. Leaves of Absence.**

- (a) Seminars and small schools with programs with course time of 40 hours or less shall not grant leaves of absence.
- (b) A school director may grant a leave of absence after determining that good cause is shown.
- (c) In a 12-month calendar period, a student may have no more than two leaves of absence. For a program with course time of 200 hours or less, a student may be on leave of absence for a total of 30 calendar days. For programs with course time of more than 200 hours, a student may be on leave of absence for a total of 60 calendar days.
- (d) School attendance records shall clearly define the dates of the leave of absence. A written statement as to why the leave of absence was granted, signed by both the student and the school director indicating approval, shall be placed in the student's permanent file.
- (e) In addition to the requirements concerning leaves of absence in this subchapter, a school offering degree programs that schedules their courses on an academic quarter or academic semester basis may include in their attendance policies provisions for summer leaves of absence. These leaves of absence shall not exceed the lesser of 120 days or the interval between the end of the spring academic quarter or academic semester and the start of the fall academic quarter or academic semester.

*The provisions of this §807.245 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **SUBCHAPTER N. CANCELLATION AND REFUND POLICY**

#### **§807.261. Right to Cancel after Tour.**

- (a) Distance education, combination distance education-residence, and seminars are not required to provide the student a tour.
- (b) Any potential student who has not been provided the opportunity to tour the school facilities and inspect the equipment before signing an enrollment contract has an additional three days, excluding Saturdays, Sundays, and legal holidays, following a tour and inspection to cancel enrollment and request a full refund of any money paid to the school and release from all obligations. The student shall sign and date an acknowledgement form certifying the completion of the tour.

*The provisions of this §807.261 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.262. Consummation of Refund.**

- (a) A school shall document refunds by written record indicating the date of the refund transaction, the name of the student receiving the refund, the total amount refunded, and the specific reason for the refund. Proof of consummation shall be on file within 120 days of the effective date of termination and shall include:
  - (1) copies of both sides of the cancelled check;
  - (2) printed proof of completed transaction of electronic funds transfer or other similar electronic means; or
  - (3) documentation of an awarded credit to a credit card or other similar account.
- (b) To ensure a school's good faith effort to timely consummate a refund owed directly to a student, the student's file shall contain evidence of the following proof of a certified mailing of the refund to the:
  - (1) student's last known address;
  - (2) student's permanent address, if different from the student's last known address; or
  - (3) address of the student's parent or legal guardian, if different from the student's last known and permanent addresses.
- (c) If after making a good faith effort to timely consummate a refund, the school is unable to consummate the refund, the school shall forward to the Commission the appropriate refund amount and any pertinent student information to assist the Commission in locating the student.

*The provisions of this §807.262 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.263. Refund Requirements for Residence Schools.**

- (a) Students are entitled to a full refund for classes attended if the school does not provide a class with:
  - (1) an approved instructor;
  - (2) an instructor for whom an application has been properly submitted to the Commission; or
  - (3) a temporary instructor for whom the school submitted notice to the Commission.
- (b) If a class has no instructor for more than one class period, students are entitled to a full refund for each such class attended.
- (c) The length of a program, for purposes of calculating refunds owed, is the shortest scheduled time period in which the program may be completed by continuous attendance of a full-time student.
- (d) A non-Title IV school, or a Title IV school voluntarily taking attendance, shall calculate refunds for students based upon scheduled hours of classes through the last date of attendance. A Title IV school shall calculate refunds for students based upon scheduled hours of classes through the last documented day of an academically related activity. Neither type of school shall count leaves of absence, suspensions, school holidays, days when classes are not offered, and summer vacations for purposes of calculating a student's refund.
- (e) For all schools other than distance education, combination distance education-residence, and seminars, a student may cancel enrollment, request a full refund, and request a release from any obligations to the school within three days, excluding Saturdays, Sundays, and legal holidays following:

- (1) the first day of the student's scheduled classes if the student is not provided an opportunity to tour the school facilities, which includes inspection of equipment, before signing an enrollment contract; or
- (2) the day the tour of the school facilities, including inspection of the equipment, is completed, when provided before the first day of the student's scheduled classes.

*The provisions of this §807.263 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

#### **§807.264. Penalties Relating to Refunds.**

- (a) A penalty shall be paid on any refund not consummated in a timely manner as required by the Act. The penalty assessment shall begin on the first day following the expiration of the statutorily defined refund period and end on the day preceding the date the refund is consummated.
- (b) Penalties assessed on late refunds for grants shall be paid to the tuition trust account if the amount is \$15 or less. Any other penalty assessed on a school's late payment of student refunds shall be disbursed in the following order of priority:
  - (1) to the student's account at a lending institution for the balance of principal and interest on the student loan;
  - (2) to the student for tuition and fees paid directly by the student; and
  - (3) to the tuition trust account for any remaining balance of assessed penalty.
- (c) If the Commission determines that the method used by the school to calculate refunds is in error or the school does not routinely pay refunds within the time required by the Act, the school shall submit an audited report conducted by an accountant of the refunds due former students that includes any penalty due as specified in the Act. An audit opinion letter shall accompany a schedule of student refunds due, which discloses the following information for the four years prior to the date of the Commission's request:
  - (1) student information, including name, address, and social security number;
  - (2) pertinent dates, including last date of attendance and date of termination; and
  - (3) refund information, including amount of refund with principal, penalty, and any balance due separately stated, payee, and date and check number of payment if payment has been made.

*The provisions of this §807.264 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **SUBCHAPTER O. RECORDS.**

#### **§807.281. General Information for Records.**

- (a) A school shall permanently maintain a master student registration list (MSRL). If the school maintains the MSRL in electronic form, the school must be able to produce a printed copy immediately upon request. The MSRL must contain at least the following information:
  - (1) date of applicable entry;
  - (2) name of student;
  - (3) address of student, including city, state, and zip code;
  - (4) telephone number;

- (5) social security number;
  - (6) date of birth; and
  - (7) name of program.
- (b) A school shall maintain current records and necessary data for each student required to be on the master student registration list to show compliance with the Act and this chapter. These records shall be:
- (1) maintained on-site; and
  - (2) made available to the Commission for inspection.
- (c) If applicable, the school shall maintain and ensure that copies of the accreditation authorization and letter of eligibility from the United States Department of Education are available for Commission review.
- (d) Degree granting schools shall maintain a copy of the certificate of authorization from the Coordinating Board for each authorized degree program.
- (e) The Commission may conduct unannounced compliance inspections.
- (f) A school shall maintain complete records of all advertising, sales, and enrollment materials used by or on behalf of the school for a five-year period. Materials maintained shall include, but not be limited to, direct mail pieces, brochures, printed literature, films, leaflets, handbills, fliers, video and audiotapes disseminated through the broadcast media, materials disseminated through the print media or Internet, and sales and recruitment manuals used to instruct sales personnel.

*The provisions of this §807.281 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.282. Student Records.**

- (a) A school shall permanently maintain student transcripts of academic records. A school shall provide such transcripts to students and prospective employers at a reasonable charge if the student has fulfilled the financial obligation to the school and is neither in default nor owes a refund to any federal or state student financial aid program.
- (b) A school shall retain financial records in accordance with federal retention requirements.
- (c) A school shall retain all student records for at least a five-year period and these records shall include:
  - (1) a written record of previous education and training on a form provided by the Commission; and
  - (2) official transcripts from all previous postsecondary schools attended by the student.

*The provisions of this §807.282 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.283. Attendance Record Keeping.**

- (a) The following requirements are for non-Title IV schools:
  - (1) A school offering seminars or other programs where students do not change instructors during the school day is not required to maintain a separate master record of attendance.

- (2) A school shall maintain a master record of attendance on each student that clearly indicates the number of scheduled hours each day and the hours of absence.
  - (3) Each instructor shall maintain a record of attendance, which shall indicate a positive record of each student's attendance. Entries in the record of attendance shall be made in ink or other permanent medium, including other permanent computer records, and shall not be changed in a manner that precludes reading the original entry.
- (b) The following requirements are for Title IV schools:
- (1) The school shall maintain a form signed and dated by the student to document the student's participation in an academically related activity. An e-mail sent from the student's e-mail account listed on the enrollment agreement fulfills this requirement.
  - (2) The school shall maintain a master record for each student that clearly indicates the student's class schedule as well as the number of scheduled hours for each class day. For synchronous distance education students, the record shall indicate the number of scheduled hours for each week.
- (c) Nothing in this chapter prevents a Title IV school from voluntarily using attendance as a manner of fulfilling the requirements of this chapter.

*The provisions of this §807.283 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

#### **§807.284. Employment Records.**

- (a) A school offering programs approved for an occupational objective shall complete the labor market information survey on forms provided by the Commission and submit them on or before the date provided in the survey packet as requested by the Commission.
- (b) A school shall report program completion, job placement, and employment data on an annual basis in each program approved for an occupational objective.
  - (1) The school shall provide the data in a form acceptable to the Commission.
  - (2) Verifiable documentation shall be made available for review to support data reported. The documentation shall include the names of graduates and the names, addresses, and telephone numbers of their employers.

*The provisions of this §807.284 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **SUBCHAPTER P. COMPLAINTS**

#### **§807.301. School Policy Regarding Complaints.**

The school shall:

- (1) submit a written grievance procedure designed to resolve disputes between current and former students and the school for Commission approval;
- (2) provide a copy of the grievance procedure to each student and maintain proof of such delivery;
- (3) maintain records regarding grievance filings and resolutions; and
- (4) diligently work to resolve all complaints at the local school level.

*The provisions of this §807.301 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.302. Complaints and Investigations.**

- (a) The Commission may investigate a complaint about a school and may determine the extent of investigation needed by considering various factors, such as:
  - (1) the seriousness of the alleged violation;
  - (2) the source of the complaint;
  - (3) the school's history of compliance and complaints;
  - (4) the timeliness of the complaint; and
  - (5) any other reasonable matter deemed appropriate.
- (b) The Commission may require documentation or other evidence of the violation before initiating a complaint investigation.
- (c) The investigation fee authorized by the Act is based on a per site visit. The school director shall be notified that an on-site visit was conducted when the investigation results in assessment of a fee.

*The provisions of this §807.302 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

## **SUBCHAPTER Q. TRUCK DRIVER TRAINING PROGRAMS**

### **§807.321. General Information Regarding Truck Driver Training.**

A school providing truck driver training shall ensure that the truck driver instructors complete a truck driver instructor development course with at least 40 hours of course time.

*The provisions of this §807.321 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.322. Truck Driver Instructor Development Course.**

- (a) A school shall apply to the Commission for approval to provide a truck driver instructor development course.
- (b) The instructor development course shall consist of 40 hours of course time, which includes at least the following topics.
  - (1) Five hours shall cover techniques of instruction including: qualities of a competent instructor, the learning process, methods of teaching, development of efficient teaching habits, demonstration teaching, the use of instruction material and training aids, course preparation, lesson plans, testing and evaluation, and the duration and frequency of lessons.
  - (2) Two hours shall cover personality factors affecting the driver and pedestrian including: natural abilities; senses; mind and nerves; bones and muscles; knowledge of vehicle, road, traffic, and self; attitudes and emotions; reaction time; and reactions to alcohol, carbon monoxide, over-the-counter drugs, prescription drugs, illegal drugs, heart ailments, epilepsy, diabetes, insanity, exhaustion, tension, and monotony.



- (3) Six hours shall cover state laws as located in the Texas Motor Vehicle Law book relating to the operation of motor vehicles including: driver's license, vehicle registration, certificate of title, operation of vehicles, uniform act, miscellaneous offenses, and safety responsibility.
- (4) Eight hours shall cover driving procedures including: handling--city, rural, night, mountain, and freeway driving; fog, rain, sandstorms, and other hazardous weather conditions; road hazards and recovery procedures for slick roads; blowout hazards and running off the road; traffic signs, markings, and signals; use of rearview mirrors; vehicle braking and stopping distances; following distances; right-of-way, when and how to yield it; vehicle acceleration and deceleration; yielding right-of-way to emergency vehicles; driver signals; proper passing procedures; procedures and problems for passing on two and three-lane roadways; and super-size motorized equipment.
- (5) Three hours shall cover physical forces affecting the motor vehicle in motion including: forces of gravity; friction; acceleration, mass, and force; inertia and centrifugal force; kinetic energy and momentum; kinetic energy and braking; and horsepower and acceleration.
- (6) Two hours shall cover highway characteristics including: primary, secondary, expressway, freeway, farm or ranch road, two-way two-lane, two-way three-lane, two-way multilane, two-way multilane divided, one-way multilane, parking, and traffic controls. Traffic control topics consist of the following:
  - (A) sign topics including shape, color, location and importance;
  - (B) traffic marking topics including center and lane lines, no passing zone, transition markings, turn lane marking, stop lines, crosswalk lines, etc.; and
  - (C) signal topics including classification, location, type, timing.
- (7) Two hours shall cover automobile systems and maintenance including: electrical system--generator, alternator, battery, lighting, and electric-powered equipment; cooling system--lubrication and fuel systems; power train--engine, transmission, and differential; brake system--wheels and tires, caster, camber, toe-in, balance, inflation, tire condition, and care; exhaust system; instruments and gauges; compartment adjustments--seat, ventilation, mirrors, headrests, seat belts, and shoulder harness; starting the engine and warm-up procedures; safety devices--door locks, headrests; and miscellaneous features--windshield wipers, heater, and defroster.
- (8) Two hours shall cover behind-the-wheel elementary lessons with demonstration in an appropriate vehicle and practice to be performed in the presence of the instructor including: starting; steering; stopping; shifting gears; backing; turning--right and left; and parking and starting on grade.
- (9) Six hours shall cover behind-the-wheel driving safety lessons with demonstration in an appropriate vehicle and practice to be performed in the presence of the instructor including: developing good seeing habits; speed control; safe following; lane driving and lane changing; intersections and right-of-way; proper signaling; correct turn procedures; detecting of and handling problems--vehicle, cycle, pedestrian; freeway driving--ramp use, entering, exiting, lane use, emergency stopping; parking procedures; entering traffic from parked position; and night driving.
- (10) Two hours shall cover school and instructor approval requirements including the following: school approval requirements, instructor approval requirements, classroom and automotive equipment requirements, required student records, contract requirements, and department of instructors.

- (11) Two hours shall cover specialized training regarding the following: students with physical, mental, or emotional handicaps; illiterate students; non-English-speaking students; and habitual violators and problem drivers.

*The provisions of this §807.322 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.323. Behind-the-Wheel Instruction.**

A school providing behind-the-wheel instruction shall ensure that the instruction includes:

- (1) actual driving practice while the motor vehicle is in motion;
- (2) no more than four persons, excluding the instructor, occupying any motor vehicle during the behind-the-wheel instruction;
- (3) notice in all contracts and advertisements of behind-the-wheel instruction being conducted with groups of students, if applicable; and
- (4) credit toward satisfying minimum standards for behind-the-wheel instruction for only actual time spent behind the wheel in vehicle operation.

*The provisions of this §807.323 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.324. Motor Vehicle Insurance.**

A school providing truck driver training shall ensure that:

- (1) a current list of vehicles used in truck driver training is filed with the Commission on a form provided by the Commission;
- (2) an insurance certificate accompanies each motor vehicle used in training and is filed with the Commission on or before the date the school files an original or renewal application for approval of the program with the Commission;
- (3) an insuring company or carrier issues an insurance certificate on a form furnished by the Commission directly to the Commission, which states the insurance company or carrier has issued a policy or policies of insurance, and the amounts of insurance for each vehicle listed on the list of vehicles used in truck driver training;
- (4) a written notice is provided to the Commission by registered or certified mail at least 10 days prior to the expiration date of insurance coverage of a listed vehicle; and
- (5) a copy of the written notice of cancellation of insurance on any listed vehicle is provided to the Commission by registered or certified mail immediately upon receipt of notice by the school.

*The provisions of this §807.324 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.325. Prohibited Activities Regarding Truck Driver Training.**

- (a) A school, a trainer of truck driver instructors, or a truck driver instructor shall not:
  - (1) allow an instructor to give instruction or allow a student to receive instruction in the classroom or in a motor vehicle if that instructor or student is using or exhibits any evidence or effect of an alcoholic beverage, controlled substance, or other such impairment;

- (2) permit a student to operate a motor vehicle without a valid driver's license or instruction permit in the student's possession during behind-the-wheel instruction;
  - (3) permit more than a ratio of four students per vehicle and three vehicles per instructor on truck driving ranges;
  - (4) permit more than four students per vehicle per instructor during street instruction for truck driver training; or
  - (5) advertise or otherwise state or imply that a driver's license or permit is guaranteed or assured to any student or individual who may take or complete any instruction or course of instruction, enroll, or otherwise receive instruction in any truck driver training school.
- (b) The Commission may suspend, revoke, or refuse to renew approval of a truck driver instructor or a trainer of truck driver instructors, upon determining that the applicant or instructor has been:
- (1) convicted under the laws of this state, another state, or the United States of any felony; of an offense of criminally negligent homicide committed as a result of the person's operation of a motor vehicle; of an offense involving driving while intoxicated or under the influence; or of an offense involving tampering with a governmental record; or
  - (2) found incompetent or is incompetent to:
    - (A) safely operate a motor vehicle; or
    - (B) properly conduct classroom or behind-the-wheel instruction.

*The provisions of this §807.325 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

## **SUBCHAPTER R. CLOSED SCHOOLS**

### **§807.341. School Closures.**

- (a) The Commission may declare a school to be closed when:
  - (1) written notification is received by the Commission from the school owner stating the school will close;
  - (2) Commission determines that the school facility has been vacated without prior notification of a change of address given to the Commission;
  - (3) an owner with multiple school locations transfers all students from one school location to another school location;
  - (4) the school dismisses all students, contrary to the school's class schedule as printed in the school catalog; or
  - (5) the school fails to maintain the faculty, facilities, equipment, or courses of instruction on the basis for which approval was issued.
- (b) After the Commission determines that a school will close or is closed, the Commission will attempt to notify students concerning their options to accept a teach-out or to receive a proportional tuition refund based on available funds. Notification to students may include constructive notice in news media, student meetings, or mailings to students.
- (c) Each teach-out requires approval of the Commission to determine whether the course of instruction is available, reasonable, and comparable with the course of instruction of the closed school. The teach-out is subject to the following conditions:

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

*The provisions of this §807.341 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

#### **§807.342. Tuition Trust Account.**

- (a) In a year in which the Commission determines it is necessary to charge a fee under §132.2415(b) of the Act, each school shall make a payment to the tuition trust account at the time the school renewal fee is paid.
- (b) The amount in the tuition trust account, as provided in the Act, is an accrued balance. The accrued balance is the cash balance of the tuition trust account less the sum of the accrued liabilities from unpaid student refunds and teach-out claims.
- (c) Disbursements shall be made from the tuition trust account for student refunds and reimbursable teach-out expenses incurred during each 12-month period ending August 31, and shall be:
  - (1) made first for student refunds in accordance with §132.2415(d) of the Act;
  - (2) disbursed for reimbursable teach-out expenses based upon remaining funds; and
  - (3) calculated after other funding sources have been determined.
- (d) Following the graduation or termination of the students from the teach-out school, the teach-out school shall determine actual expenses and submit a claim for reimbursement to the Commission on or before the date provided in the application packet. The teach-out school shall:
  - (1) not claim expenses for facilities, equipment, utilities, or other items which were owned, rented, used, or otherwise obligated by the school prior to the Commission's approval of the teach-out program, even though such items may be used for the teach-out program;
  - (2) be limited to expenses for tuition and fees that are non-recoverable from all financial resources, including grants and loans; and
  - (3) ensure that the sum of the tuition and fees paid to the student's account at the closed school and the teach-out school is the lesser amount the student would have been charged for the complete program at the closed school or the teach-out school.
- (e) For schools in their first two years of operation that have not been required to furnish financial statements to comply with §807.35(b), the payment to the tuition trust account shall be calculated at the rate determined by the Commission using the projected gross amount of tuition and fees, as required in §807.33(c), to be charged by the school for the year in which the payment is collected. Once the school has submitted the actual amount of tuition and fees collected by the school in compliance with §807.35(b), the Commission shall reconcile the projected and actual amounts of tuition and fees collected. Upon reconciliation, the Commission shall determine if the school is entitled to a refund or must pay an additional amount to the tuition trust account.

*The provisions of this §807.342 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

## **SUBCHAPTER S. CEASE AND DESIST ORDERS**

### **§807.361. Statement of Charges and Notice of Hearing on Cease and Desist Orders.**

If the Agency believes a person is operating a career school or college without a certificate of approval in violation of §132.151 of the Act, the Agency may issue a statement of charges and notice of hearing to consider the issuance of a cease and desist order.

*The provisions of this §807.361 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.362. Contents of Statement of Charges and Notice of Hearing.**

The statement of charges and notice of hearing issued by the Agency shall contain the following information:

- (1) The name and last known address of the person against whom the order may be entered;
- (2) A short and plain statement of the reasons the Agency believes the person is operating a career school or college without a certificate of approval;
- (3) A copy of the Commission's Career Schools and Colleges rules, Title 40, Chapter 807 of the Texas Administrative Code; and
- (4) The date, time, and location of the hearing.

*The provisions of this §807.362 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.363. Service of Statement and Charges and Hearing Notice for the Issuance of Cease and Desist Orders.**

The statement of charges and notice of hearing to consider a cease and desist order shall be served by certified mail, return receipt requested, on the person against whom the order is entered. Notice is presumed received five days from the date it is mailed by the Agency.

*The provisions of this §807.363 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.364. Ex Parte Consultations.**

- (a) A Commissioner or employee of the Agency assigned to render a decision or to make findings of fact and conclusions of law in a cease and desist proceeding shall not directly or indirectly communicate in connection with an issue of fact or law with the Commission, a person, a party, or a representative of those entities, except on notice and opportunity for each party to participate.
- (b) A Commissioner or employee of the Agency assigned to render a decision or to make findings of fact and conclusions of law in a cease and desist hearing may communicate ex parte with an Agency employee who has not participated in a hearing in the case for the purpose of using the special skills or knowledge of the agency and its staff in evaluating the evidence.
- (c) This section shall be construed liberally to promote the effectiveness and efficiency of issuance of cease and desist orders.

*The provisions of this §807.364 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.365. Hearing Decision and Final Review by the Commission.**

- (a) Within 10 days after the hearing is held, the hearing officer shall issue a written decision granting or denying the request for the issuance of a cease and desist order that includes findings of fact and conclusions of law. The hearing decision shall be mailed by certified mail, return receipt requested, and is presumed received five days from the date it is mailed. The hearing officer's decision becomes final the 15th day after receipt of the hearing decision unless an appeal is filed under subsection (b) of this section.
- (b) A party that is not satisfied with the decision of the hearing officer may file a written appeal of the decision to the Commission for a final review no later than the 15th day after receipt of the hearing decision. The written appeal shall contain the party's arguments as to why the decision of the hearing officer should be reversed. A party may request oral argument on the written appeal before the Commission. If oral argument is approved, each party or its hearing representative may present argument in support of its position.
- (c) Upon receipt of the written appeal of the hearing officer's decision, the Commission shall consider the appeal and issue a decision promptly. If in the written appeal, oral argument is requested by a party and approved, the Commission shall schedule and hold oral argument not later than 90 days of receipt of the written appeal. The Commission shall consider the appeal on the basis of the record made before the hearing officer. The decision of the Commission shall be mailed by certified mail, return receipt requested, and is presumed received 5 days from the date it is mailed.

*The provisions of this §807.365 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

### **§807.366. Cease and Desist Order.**

- (a) If the request for the issuance of a cease and desist order becomes final under the provisions of §807.365(a) or, if after an appeal the decision under §807.365(c) upholds the issuance of a cease and desist order by the Commission, the hearing officer shall issue a cease and desist order against the person that is found operating a career school or college without a certificate of approval in violation of §132.151 of the Act.
- (b) The cease and desist order shall be delivered by certified mail, return receipt requested, and is presumed received five days from the date it is mailed.
- (c) From the date of receipt of the issuance of the cease and desist order, the person must completely cease and desist operating the career school or college.
- (d) The cease and desist order shall remain in effect until the person comes into complete compliance with the Act as determined by the Commission, or unless otherwise provided by the order of the Commission.

*The provisions of this §807.366 adopted to be effective August 28, 2006, as published in the Texas Register, August 25, 2006, 31 TexReg 6803.*

## **SUBCHAPTER T. CAREER SCHOOLS HEARINGS**

### **§807.381. Purpose.**

This subchapter provides a hearing process to the extent authorized by Chapter 132 of the Texas Education Code and the rules administered by the Agency.

*The provisions of this §807.381 adopted to be effective November 26, 2007, as published in the Texas Register, November 23, 2007, 32TexReg 8538.*

## **§807.382. Definitions.**

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

- (1) Agency -- The unit of state government established under Texas Labor Code Chapter 301 that is presided over by the Commission and administered by the Executive Director to operate the integrated workforce development system and administer the unemployment compensation insurance program in this state as established under the Texas Unemployment Compensation Act, Texas Labor Code Annotated, Title 4, Subtitle A, as amended. The definition of "Agency" shall apply to all uses of the term in rules contained in this subchapter.
- (2) Appellant -- The party or the party's authorized hearing representative who files an appeal from an appealable determination or decision.
- (3) Commission -- The body of governance of the Texas Workforce Commission composed of three members appointed by the Governor as established under Texas Labor Code §301.002 that includes one representative of labor, one representative of employers, and one representative of the public. The definition of "Commission" shall apply to all uses of the term in rules contained in this subchapter.
- (4) Date of notice -- The date the notice is received, unless good cause exists for the hearing officer to determine otherwise.
- (5) Date of request of hearing -- The date on which the appellant or the hearing representative filed a written notice of appeal with the Agency by hand delivery, facsimile, or mail. If an appeal is mailed to the Agency, then the appeal is perfected as of the postmark date on the envelope containing the appeal request unless good cause exists for the hearing officer to determine otherwise. If an appeal is delivered by hand or facsimile after 5 p.m., the date of request shall be the next day.
- (6) Hearing -- An informal, orderly, and readily available proceeding held before an impartial hearing officer. A party or hearing representative may present evidence to show that the Agency's determination should be reversed, affirmed, or modified.
- (7) Hearing officer -- An Agency employee designated to conduct impartial hearings and issue final administrative decisions.
- (8) Hearing representative -- Any individual authorized by a party to assist the party in presenting the party's appeal. A hearing representative may be legal counsel or another individual. Each party may have a hearing representative to assist in presenting the party's appeal.
- (9) Party -- The person or entity with the right to participate in a hearing authorized in applicable statute or rule.

*The provisions of this §807.382 adopted to be effective November 26, 2007, as published in the Texas Register, November 23, 2007, 32TexReg 8538.*

## **§807.383. Information on Right of Appeal.**

An issuer of a determination shall inform the career school applicant or any party directly aggrieved by the determination of the right to a hearing. The notice shall explain the procedure for an appeal, the party's right of appeal, and the right to be represented by others, including legal counsel.

*The provisions of this §807.383 adopted to be effective November 26, 2007, as published in the Texas Register, November 23, 2007, 32TexReg 8538.*

### **§807.384. Request for Hearing.**

- (a) The party seeking review of a determination under this subchapter relating to career schools hearings shall request a hearing in writing within 15 days after receipt of the notice of determination.
- (b) The request shall be addressed as provided in the determination and state the nature of the determination, the name and identifying information of the requesting party, and a request that the determination be reviewed.
- (c) The request may include an explanation of why the determination should be changed; however, this is not a jurisdictional requirement.

*The provisions of this §807.384 adopted to be effective November 26, 2007, as published in the Texas Register, November 23, 2007, 32TexReg 8538.*

### **§807.385. Setting of Hearing.**

- (a) Upon receipt of request for a hearing, the Agency shall promptly mail a notice of hearing that sets the hearing for a reasonable time and place within 30 days from receipt of the request for a hearing.
- (b) The notice of hearing shall be in writing and include a:
  - (1) statement of the date, time, place, and nature of the hearing;
  - (2) statement of the legal authority under which the hearing is to be held; and
  - (3) short and plain statement of the issues to be considered during the hearing.
- (c) The notice of hearing shall be issued at least 10 days before the date of the hearing unless a shorter period is permitted by statute.
- (d) The hearing notice shall state whether the hearing shall be conducted by telephone or in-person. The hearing notice shall also include the location of an in-person hearing.
- (e) Parties needing special accommodations, including a bilingual or sign language interpreter, may request such before the setting of the hearing, if possible, or as soon as practical.

*The provisions of this §807.385 adopted to be effective November 26, 2007, as published in the Texas Register, November 23, 2007, 32TexReg 8538.*

### **§807.386. Hearing Officer Independence and Impartiality.**

- (a) A hearing officer presiding over a hearing shall have all powers necessary and appropriate to conduct a full, fair, and impartial hearing. Hearing officers shall remain independent and impartial in all matters regarding the handling of any issues during the pendency of a case and in issuing their written decisions.
- (b) A hearing officer shall be disqualified if the hearing officer has a personal interest in the outcome of the appeal or if the hearing officer directly or indirectly participated in the determination on appeal. Any party may present facts to the Agency in support of a request to disqualify a hearing officer.
- (c) The hearing officer may withdraw from a hearing to avoid the appearance of impropriety or partiality.



- (d) Following any disqualification or withdrawal of a hearing officer, the Agency shall assign an alternate hearing officer to the case. The alternate hearing officer shall not be bound by any findings or conclusions made by the disqualified or withdrawn hearing officer.

*The provisions of this §807.386 adopted to be effective November 26, 2007, as published in the Texas Register, November 23, 2007, 32TexReg 8538.*

### **§807.387. Hearing Procedures.**

- (a) The hearing shall be conducted in person in Austin, Texas, unless the parties agree to a telephonic hearing or request a different location.
- (b) The hearing shall be conducted informally and in such a manner as to ascertain the substantive rights of the parties. All issues relevant to the appeal shall be considered and addressed, and may include:
  - (1) Presentation of Evidence. The parties to an appeal may present evidence that is material and relevant, as determined by the hearing officer. In conducting a hearing, the hearing officer shall actively develop the record on the relevant circumstances and facts to resolve all issues. To be considered as evidence in a decision, any document or physical evidence must be entered as an exhibit at the hearing. A party has the right to object to evidence offered at the hearing by the hearing officer or other parties.
  - (2) Examination of Parties and Witnesses. After placing the witnesses under oath, the hearing officer shall examine parties and any witnesses and shall allow cross-examination to the extent the hearing officer deems necessary to afford the parties due process.
  - (3) Additional Evidence. The hearing officer, with or without notice to any of the parties, may take additional evidence as deemed necessary, provided that a party shall be given an opportunity to rebut the evidence if it is to be used against the party's interest.
  - (4) Appropriate Hearing Behavior. All parties shall conduct themselves in an appropriate manner. The hearing officer may expel any individual or party who fails to correct behavior the hearing officer identifies as disruptive. After expulsion, the hearing officer may proceed with the hearing and render a decision.

#### **(c) Records**

- (1) The hearing record shall include the audio recording of the proceeding and any other relevant evidence relied on by the hearing officer, including documents and other physical evidence entered as exhibits.
- (2) The hearing record shall be maintained in accordance with federal and state law.
- (3) Confidentiality of information contained in the hearing record shall be maintained in accordance with federal and state law.
- (4) Upon request, a party has the right to obtain a copy of the hearing record at no charge. However, a party requesting a transcript of the hearing record shall pay the costs of the transcription.

*The provisions of this §807.387 adopted to be effective November 26, 2007, as published in the Texas Register, November 23, 2007, 32TexReg 8538.*

### **§807.388. Postponements, Continuances, and Withdrawals.**

- (a) The hearing officer may grant a postponement of a hearing for good cause at a party's request.

- (b) A continuance of a hearing may be ordered at the discretion of the hearing officer in order to consider additional, necessary evidence or for any other reason the hearing officer deems appropriate.
- (c) A party may withdraw an appeal at any time prior to the issuance of the final decision.

*The provisions of this §807.388 adopted to be effective November 26, 2007, as published in the Texas Register, November 23, 2007, 32TexReg 8538.*

### **§807.389. Evidence.**

- (a) Evidence Generally. Evidence, including hearsay evidence, shall be admitted if it is relevant and if in the judgment of the hearing officer it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. However, the hearing officer may exclude evidence if its probative value is outweighed by the danger of unfair prejudice, by confusion of the issues, or by reasonable concern for undue delay, waste of time, or needless presentation of cumulative evidence.
- (b) Exchange of Exhibits. Any documentary evidence to be presented during a telephonic hearing shall be exchanged with all parties and a copy shall be provided to the hearing officer in advance of the hearing. Any documentary evidence to be presented at an in-person hearing shall be exchanged at the hearing.
- (c) Stipulations. The parties, with the consent of the hearing officer, may agree in writing to relevant facts. The hearing officer may decide the appeal based on such stipulations or, at the hearing officer's discretion, may set the appeal for hearing and take such further evidence as the hearing officer deems necessary.
- (d) Experts and Evaluations. If relevant and useful, testimony from an independent expert or a professional evaluation from a source satisfactory to the parties and the Agency may be ordered by hearing officers, on their own motion or at a party's request. The cost of any such expert or evaluation ordered by the hearing officer shall be borne equally by the parties.
- (e) Subpoenas.
  - (1) The hearing officer may issue subpoenas to compel the attendance of witnesses and the production of records. A subpoena may be issued either at the request of a party or on the hearing officer's own motion.
  - (2) A party requesting a subpoena shall state the nature of the information desired, including names of any witnesses and the records that the requestor feels are necessary for the proper presentation of the case.
  - (3) The request shall be granted only to the extent the records or the testimony of the requested witnesses appears to be relevant to the issues on appeal.
  - (4) A denial of a subpoena request shall be made in writing or on the record, stating the reasons for such denial.

*The provisions of this §807.389 adopted to be effective November 26, 2007, as published in the Texas Register, November 23, 2007, 32TexReg 8538.*

### **§807.390. Ex Parte Communications.**

- (a) The hearing officer shall not participate in ex parte communications, directly or indirectly, in any matter in connection with any substantive issue, with any interested person or party. Likewise, no

person shall attempt to engage in ex parte communications with the hearing officer on behalf of any interested person or party.

- (b) If the hearing officer receives any such ex parte communication, the other parties shall be given an opportunity to review any such ex parte communication.
- (c) Nothing shall prevent the hearing officer from communicating with parties or their representatives about routine matters such as requests for continuances or opportunities to inspect the file.
- (d) The hearing officer may initiate communications with an impartial Agency employee who has not participated in a hearing or any determination in the case for the limited purpose of using the special skills or knowledge of the Agency and its staff in evaluating the evidence.

*The provisions of this §807.390 adopted to be effective November 26, 2007, as published in the Texas Register, November 23, 2007, 32TexReg 8538.*

### **§807.391. Change in Determination.**

The issuer of the determination may change the determination any time before the hearing officer issues the decision. Despite the issuer changing the determination, the parties may proceed with the hearing.

*The provisions of this §807.391 adopted to be effective November 26, 2007, as published in the Texas Register, November 23, 2007, 32TexReg 8538.*

### **§807.392. Hearing Decision.**

- (a) Following the conclusion of the hearing, the hearing officer shall promptly prepare a written decision on behalf of the Agency.
- (b) The decision shall be based exclusively on the evidence of record in the hearing and on matters officially noticed in the hearing. The decision shall include:
  - (1) a list of the individuals who appeared at the hearing;
  - (2) the findings of fact and conclusions of law reached on the issues; and
  - (3) the affirmation, reversal, or modification of the determination.
- (c) Unless a party files a timely motion for rehearing, the Agency may assume continuing jurisdiction to modify or correct a hearing decision until the expiration of 30 calendar days from the mailing date of the hearing decision.

*The provisions of this §807.392 adopted to be effective November 26, 2007, as published in the Texas Register, November 23, 2007, 32TexReg 8538.*

### **§807.393. Motion for Reopening.**

- (a) If a party does not appear for a hearing, the party may request the reopening of the hearing within 30 calendar days from the date the decision is mailed.
- (b) The motion for reopening shall be in writing and detail the reason for failing to appear at the hearing.
- (c) The Agency may schedule a hearing on whether to grant the reopening.
- (d) The motion may be granted if the hearing officer determines that the party has shown good cause for failing to appear at the hearing.

*The provisions of this §807.393 adopted to be effective November 26, 2007, as published in the Texas Register, November 23, 2007, 32TexReg 8538.*

**§807.394. Motion for Rehearing.**

- (a) A party has 30 calendar days from the date the decision is mailed to file a motion for rehearing. A rehearing shall be granted only for the presentation of new evidence.
- (b) A motion for rehearing shall be in writing and allege the new evidence to be considered. The party shall show a compelling reason why this evidence was not presented at the hearing.
- (c) If the hearing officer determines that the alleged, new evidence warrants a rehearing, a hearing shall be scheduled at a reasonable time and place.
- (d) The hearing officer shall issue a written decision in response to a timely filed motion for rehearing.
- (e) The Agency may assume continuing jurisdiction to modify, correct, or reform a decision until the expiration of 30 calendar days from the date of mailing of the hearing decision.

*The provisions of this §807.394 adopted to be effective November 26, 2007, as published in the Texas Register, November 23, 2007, 32TexReg 8538.*

**§807.395. Finality of Decision.**

- (a) The decision of the hearing officer is the final decision of the Agency after the expiration of 30 calendar days from the mailing date of the decision unless within that time:
  - (1) a request for reopening is filed with the Agency;
  - (2) a request for rehearing is filed with the Agency; or
  - (3) the Agency assumes continuing jurisdiction to modify or correct the decision.
- (b) Any decision issued in response to a request for reopening or rehearing or a modification or correction issued by the Agency shall be final on the expiration of 30 calendar days from the mailing date of the decision, modification, or correction.

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