

TEXAS WORKFORCE COMMISSION

Career Schools and Colleges

General Exemptions

Chapter 132, Texas Education Code requires that almost all types of training be regulated. One form that this regulation takes is requiring the person(s) offering the training to obtain a certificate of approval (license). There are some exceptions to this requirement of regulation. These exceptions are called exemptions.

In order for a school or course to be granted an exemption, it must be shown that the school or course clearly and completely meets the provisions of one or more of the specific exemptions.

The criteria used to determine whether these provisions are clearly and completely met, and thus the training is exempt from regulations, are outlined below.

1. **Tax supported school or educational institution - Section 132.002(a)(1)**

To establish that your school is exempt under this section, please submit the following:

- a. Name, address, and telephone number (fax, e-mail address, and web site if applicable) of the school.
- b. Evidence that your school is supported by taxation. More than 50% of the school funds must be tax dollars from either a state or local source.
- c. List of course(s) offered.

2. **Non-profit schools owned, controlled, operated, and conducted by bona fide religious, denominational, eleemosynary, or similar public institutions exempt from property taxation - Section 132.002(a)(2)**

The following requirements must be met:

- a. The school must be nonprofit.
 - (1) If the school and owner are one and the same, please submit the following for the owner: Evidence of owner's nonprofit status with the Internal Revenue Service under *Section 501(c)(3)*. This may be a tax-exempt certificate.

A school is considered to be one and the same with the owner if the owner is responsible for all the school's liabilities and assets; the owner's tax return includes the school; all of the school's employees are paid by the owner; and the executive body of the owner run the organization's entire operation, including the school.

- (2) If the school is not one and the same with the owner, submit evidence of non-profit status for the school with the Internal Revenue Service under *Section 501(c)(3)* or the following for the school in the form of a notarized affidavit:
- (a) Financial statements, preferably audited, for the most recent fiscal year. These financial statements must be in a form consistent with generally accepted accounting principles and include a statement of financial position, statement of results of operation, and statement of changes in financial position. These financial statements must be prepared by a licensed, independent public accountant or certified public accountant registered with the State Board of Accountancy. Also, included with the financial statements must be a salary schedule that includes each employee's or officer's name, annual salary, and position with the organization.
 - (b) Describe any plan for the distribution of earnings or the sharing of income of the school.
 - (c) Describe the plan for distribution of the assets of the school upon dissolution.
 - (d) The following information should be submitted concerning course income and expenses:
 - (I) State the amount of tuition, fees, and other charges for each course of instruction.
 - (II) State the estimated cost per student for each course of instruction and provide a breakdown of expenses.
 - (III) If the cost per student is less than the amount of tuition, fees, and other charges collected for any course, an explanation must be provided for the excess charges.

b. The school must be owned, controlled, operated, and conducted by one of the following:

- (1) A bona fide religious or denominational institution.

Submit the following:

- (a) Notarized affidavit with the name of the religion or denomination and explanation of how it owns, controls, operates, and conducts the school.
- (b) By-laws and articles of incorporation if the institution is incorporated.

- (2) A bona fide eleemosynary institution.

Submit the following:

- (a) Notarized affidavit with the name of the eleemosynary institution and explanation of how it owns, controls, operates, and conducts the school

(facilities, faculty, subject matter, how tuition is paid). The affidavit must also include information to show that the institution was created for charitable and benevolent purposes, is nonprofit, and receives all or more than 50% of its sustaining funds from donations or gifts. The percentage of total funding that these donations and gifts constitute must be given. A tax-exempt certificate from the Internal Revenue Service may serve to show nonprofit status.

(b) State whether the Board of Directors receives any remuneration and include information about the fee schedule for instruction unless previously stated as required under 2a(2).

(c) By-laws and articles of incorporation if incorporated.

(3) A public institution similar to (1) or (2).

Submit the following:

(a) Notarized affidavit with the name of the institution and an explanation of how it owns, controls, operates, and conducts the school. The affidavit must also give reasons why you believe this institution to be public and similar to a religious, denominational, or eleemosynary institution.

(b) By-laws and articles of incorporation if incorporated and provide the appropriate information as requested under b(1) or (2).

c. The bona fide religious, denominational, eleemosynary or similar public institution must be exempt from property taxation.

Submit evidence of exemption from property taxation. If the institution does not own property, submit a notarized affidavit to that effect.

d. Submit name, address, and telephone number (fax number, e-mail address, and web site if applicable) of school.

e. Submit name, objective, length, and cost of course(s) offered.

f. Submit any printed materials distributed by the school such as a newsletter, brochure, catalog, or pamphlet, if any.

3. **School or course of purely avocational or recreational subjects - Section 132.002(a)(3)**

These courses have been determined by the Administrator to be purely avocational or recreational unless there is evidence to the contrary:

Dance	Rifle Ranges
Music	Sewing
Judo and Karate	Knitting
Physical Fitness	Sports or Athletics
Riding Academies	Swimming

Other programs must establish this standing by submitting the following:

- a. School name, address, and telephone number (fax number, e-mail address, and web site if applicable).
- b. Name, content, length, and cost of course(s) offered.
- c. Objective of course and an explanation of how the subjects are generally considered to be for avocational or recreational purposes.
- d. Types of students (examples: children 7-12, homemakers, teachers, general public, etc.).
- e. Copies of advertisements including yellow page ads. If you will not advertise, so state.

4. **Courses sponsored by an employer - Section 132.002(a)(4)**

A "sponsor" is a person or organization that pays for or plans and carries out a project or activity. (AG Opinion - JM 529)

To establish that your course is exempt under this section, please submit the following:

- a. Employer name, address, and telephone number (fax number, e-mail address, and web site if applicable).
- b. Name, objective, length, and cost of course(s) offered.
- c. A notarized affidavit from the school stating that no students other than employer-sponsored will be solicited or enrolled. Further, the employer will bear all the tuition costs and the employee will not be required to reimburse the employer by means of cash, production of work without pay, or any other means. The affidavit must include a list of the employers' names and addresses as well as the name and phone number of a contact person with each employer.
- d. Samples of newspaper and yellow page ads, brochures, and any other means of soliciting or advertising. If you will not advertise, so state.

5. **Courses sponsored by a trade, business, or professional organization for its members only - Section 132.002(a)(5)**

A "sponsor" is a person or organization that pays for or plans and carries out a project or activity. (AG Opinion - JM 529)

To establish that your course is exempt under this section, please submit the following:

- a. Sponsoring person or organization's name, address, and telephone number (fax number, e-mail address, and web site address if applicable).
- b. Name, objective, length, and cost of course(s) offered.

- c. Letter from each recognized trade, business, or professional organization that will sponsor students. This letter must include an explanation as to how the membership is closed. Membership is not closed if any member of the public can join. Such organization must provide other services and benefits to their members in addition to the educational instruction they offer. In addition, the organization may be asked to furnish the charter and by-laws.
- d. A notarized affidavit from school stating that no students other than members of the organization(s) referenced in subparagraph c. will be solicited or enrolled.
- e. Samples of newspapers and yellow page ads, brochures, and any other means of advertising. If you will not advertise, so state.

6. **Private colleges or universities that award a recognized baccalaureate, or higher degree, and that maintain and operate educational programs for which a majority of the credits given are transferable to a college, junior college, or university supported entirely or partly by taxation from either a local or state source - Section 132.002(a)(6)**

To establish that your school is exempt under this section, please submit the following:

- a. College or university name, address, and telephone number (fax number, e-mail address, and web site address if applicable).
- b. Name, objective, length, and cost of course(s) offered.
- c. Copy of the Certificate of Authority to issue baccalaureate or higher degrees from the Texas Higher Education Coordinating Board.
- d. Evidence that the majority of the credits are transferable to a college, junior college, or university supported entirely or partly by taxation from either a local or State source.

7. **Schools or courses which are otherwise regulated and approved under and pursuant to any other law or rulemaking process of this State or approved for continuing education credit, by an organization that accredits courses for the maintenance of a license, except as provided by Section 132.002, Subsection (c) - Section 132.002(a)(7)**

To establish that your school is exempt under this section, please submit the following:

- a. School name, address, and telephone number (fax, e-mail address, and web site if applicable).
- b. Name, objective, length, and cost of course(s) offered.
- c. Evidence for one of the following:
 - (1) Copy of certificate, license, letter or other document showing approval of your school/course under another law or rulemaking process of the State. Also submit the appropriate copy of the law or rule. Please know that we consider on-site inspections and the required maintenance of certain records to be an integral part of being regulated, or

- (2) Letter from organizations that accredit courses for the maintenance of a license stating that this course is approved for Continuing Education credit.
- d. Name, address, and phone number of the office enforcing the State law by which your school is regulated and approved.

8. **Aviation schools or instructors approved and supervised by the FAA - Section 132.002(a)(8)**

To establish that your school is exempt under this section, please submit the following:

- a. School name, address, and telephone number (fax number, e-mail address, and web site address if applicable).
- b. Name, objective, length, and cost of course(s) offered.
- c. A copy of the FAA Certificate for the course(s).

9. **A school that offers intensive review of a student's acquired education, training, or experience to prepare the student for an examination, other than a high school equivalency examination, that the student by law may not take unless the student has completed or substantially completed a particular degree program, or that the student is required to take as a precondition for enrollment in or admission to a particular degree - Section 132.002(a)(9)**

To establish an exemption under this section, please submit the following evidence that the courses provide intensive review to prepare students to achieve the necessary scores:

- a. For an examination required for a credential after students complete or substantially complete a particular degree program.
 - (1) Name of the examination for which review and preparation is offered.
 - (2) Name of degree program that was completed or substantially completed by the student.
 - (3) A description of the education, training, or experience that will be reviewed.
 - (4) Name, content, length, cost, and admissions requirements of the course(s) offered.
 - (5) Name, address, and telephone number (and web site if applicable) of the company offering the intensive review course(s).
 - (6) Copies of advertising for the course(s). If you will not advertise, so state.
- b. For an examination required for admission into an undergraduate or graduate degree program
 - (1) Name of the degree program admissions test for which review and preparation is offered.

- (2) Education, training, or experience that will be reviewed.
- (3) Name, content, length, cost, and admissions requirements of the course(s) offered.
- (4) Name, address, and telephone number (fax, e-mail address, and web site if applicable) of the company offering the intensive review course(s).
- (5) Copies of advertising for the course(s). If you will not advertise, so state.

10. **Private schools offering primary or secondary education - Section 132.002(a)(10)**

To establish that your school is exempt under this section, please submit the following:

- a. School name, address, and telephone number (fax number, e-mail address, and web site if applicable).
- b. A notarized affidavit stating that the school will offer only pre-k, kindergarten, elementary and secondary education, that satisfies compulsory attendance requirements of *Section 25.085 of the Texas Education Code* pursuant to *Section 25.086 (a)(1)* and will not offer a vocational training program or seminar.

11. **Course(s) of instruction offered by bona fide electrical trade associations - Section 132.002(a)(11)**

To establish that your school is exempt under this section, please submit the following:

- a. Name, content, length, and cost of course(s) offered.
- b. A notarized affidavit identifying the name of the Electrical Trade Association and explaining how it owns, controls, operates, and conducts the school.
- c. Certificate of Incorporation issued by the Secretary of State, Articles of Incorporation, by-laws of the association, requirements for membership, total number of the membership, names of the officers of the association, and services and benefits to the membership.
- d. Information explaining how the course(s) will:
 - (1) prepare students for electrical tests required for licensing, or
 - (2) provide continuing education to students for the renewal of electrical licenses.

12. **Courses offered by a nonprofit arts organization that has as its primary purpose the provision of instruction in the dramatic arts and the communications media to persons younger than nineteen (19) years of age - Section 132.002(a)(12)**

To establish that your organization is exempt under this section, please submit the following:

a. The school must be nonprofit.

- (1) If the school and owner are one and the same, please submit the following for the owner: Evidence of nonprofit status with the Internal Revenue Service under *Section 501(c)(3)*. This may be a tax-exempt certificate.

A school is considered to be one and the same with the owner if the owner is responsible for all the school's liabilities and assets; the owner's tax return includes the school; all of the school's employees are paid by the owner; and the executive body of the owner runs the organization's entire operation including the school.

- (2) If the school is not one and the same with the owner, submit evidence of nonprofit status for the school with the Internal Revenue Service under *Section 501(c)(3)* or the following for the school in the form of a notarized affidavit:

- (a) Financial statements, preferably audited, for the most recent fiscal year. These financial statements must be in a form consistent with generally accepted accounting principles and include a statement of financial position, statement of results of operation, and statement of changes in financial position. These financial statements must be prepared by a licensed, independent public accountant or certified public accountant registered with the State Board of Accountancy. Also, included with the financial statements must be a salary schedule that includes each employee's or officer's name, annual salary, and position with the organization.
- (b) Describe any plan for the distribution of earnings or the sharing of income of the school.
- (c) Describe the plan for distribution of the assets of the school upon dissolution.
- (d) The following information should be submitted concerning course income and expenses:
- (I) State the amount of tuition, fees, and other charges for each course of instruction.
- (II) State the estimated cost per student for each course of instruction and provide a breakdown of expenses.
- (III) If the cost per student is less than the amount of tuition, fees, and other charges collected for any course, an explanation must be provided for the excess charges.

- b. Letter from organization which explains how the training will be closed to those persons 19 years of age or older, to include: Articles, by-laws and information to substantiate the primary purpose of the organization as it relates to training in the dramatic arts and communications.
- c. Name, objective, length, and cost of course(s) offered.
- d. Copies of advertisements including yellow page ads. If you will not advertise, so state.

13. **A course conducted by a nonprofit association of air conditioning and refrigeration contractors approved by the Air Conditioning and Refrigeration Contractors Advisory Board to provide instruction for technical, business, or license examination preparation programs relating to air conditioning and refrigeration contracting, as that term is defined by the Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes) - Section 132.002(a)(13)**

To establish that your school is exempt under this section, please submit the following:

- a. Name, objective, length, and cost of course(s) offered.
- b. The association must be nonprofit.
 - (1) If the school and owner are one and the same, please submit the following for the owner: Evidence of nonprofit status with the Internal Revenue Service under *Section 501(c)(3)*. This may be a tax-exempt certificate.

A school is considered to be one and the same with the owner if the owner is responsible for all the school's liabilities and assets; the owner's tax return includes the school; all of the school's employees are paid by the owner; and the executive body of the owner runs the organization's entire operation including the school.

- (2) If the school is not one and the same with the owner, submit evidence of non-profit status for the school with the Internal Revenue Service under *Section 501(c)(3)* or the following for the school in the form of a notarized affidavit:
 - (a) Financial statements, preferably audited, for the most recent fiscal year. These financial statements must be in a form consistent with generally accepted accounting principles and include a statement of financial position, statement of results of operation, and statement of changes in financial position. These financial statements must be prepared by a licensed, independent public accountant or certified public accountant registered with the State Board of Accountancy. Also, included with the financial statements must be a salary schedule that includes each employee's or officer's name, annual salary, and position with the organization.
 - (b) Description of any plan for the distribution of earnings or the sharing of income of the school.
 - (c) Description of the plan for distribution of the assets of the school upon dissolution.

- (d) The following information should be submitted concerning course income and expenses:
 - (I) Name, content, and amount of tuition, fees, and other charges for each course offered.
 - (II) State the estimated cost per student for each course of instruction and provide a breakdown of expenses.
 - (III) If the cost per student is less than the amount of tuition, fees, and other charges collected for any course, an explanation must be provided for the excess charges.
- c. A notarized affidavit identifying the name of the Air Conditioning and Refrigeration Contractors Association that conducts the course or training program.
- d. Certificate of Incorporation issued by the Secretary of State, Articles of Incorporation, by-laws of the association, total number of the membership, names of the officers of the association, and services and benefits to the membership.
- e. Information explaining how the course(s) will:
 - (1) Prepare students for air conditioning and refrigeration tests required for licensing, or
 - (2) Provide continuing education to students for the renewal of air conditioning and refrigeration licenses.
- f. Copy of certificate, license, letter or other document showing approval of your course or training program by the Air Conditioning and Refrigeration Contractors Advisory Board.

14. **A course of instruction by a plumbing trade association to prepare students for a plumbing test or program required for licensing, certification, or endorsement or to provide continuing education approved by the Texas State Board of Plumbing Examiners - Section 132.002(a)(14)**

To establish that your course is exempt under this section, please submit the following:

- a. Name, content, length and cost of course(s) offered.
- b. A notarized affidavit identifying the name of the Plumbing Trade Association and explaining how it conducts the school/course.
- c. Certificate of Incorporation issued by the Secretary of State, Articles of Incorporation, by-laws of the association, total number of the membership, names of the officers of the association, and services and benefits to the membership.
- d. Information explaining how the course(s) will:
 - (1) prepare students for plumbing tests or a program required for licensing, certification, or endorsement, or
 - (2) provide continuing education to students for the renewal of plumbing licenses.

- e. Copy of certificate, license, letter or other document showing approval of your school/course by the Texas State Board of Plumbing Examiners.

15. **Courses of instruction in the use of hardware or software if the course is offered to purchasers of the hardware or software or to the purchaser's employee by a person who manufactures and sells, or develops and sells, the hardware or software, and if the seller is not primarily in the business of providing courses of instruction in the use of the hardware or software, as determined by the Commission - Section 132.002(a)(15)**

To establish that your school is exempt under this section, please submit the following:

- a. Name(s), objective, length, cost, and admissions requirements of course(s) offered.
- b. Name, address, and telephone number (fax number, e-mail address, and web site if applicable) of the company offering hardware or software training.
- c. Description of the primary business of the company offering hardware or software training, including copies of company documents detailing the company's primary business.
- d. Samples of newspaper and yellow page ads, brochures, and any other means of soliciting or advertising the hardware or software training.
- e. Name(s) of specific hardware or software manufactured or developed by the company that may be purchased from the company as a prerequisite for providing training.
- f. A copy of the sales contract for purchase of course instruction.

16. **Course or courses of special study or instruction financed or subsidized by local, state, or federal funds or by any person, firm, association, or agency other than the student involved, on a contract basis and having a closed enrollment - Section 132.002(b)**

To establish that your course is exempt under this section, please submit the following:

- a. Name of course(s)
- b. Explain how it is a course of special study. A course is special study if it was developed for the students served by the contract.
- c. Name, address, and telephone number of the sponsor providing funds for the course of special study.
- d. Source of all funds to be used to finance the education of the students.
- e. A brief explanation of the main points in the contract such as names of principals in contract, beginning and ending dates of schedule, types of students to be served, etc.
- f. Evidence that the enrollment is closed; i.e., eligibility requirements of students who can take the course.
- g. Addresses of sites where course(s) will be offered.

17. **Course Exemption: Development of Career Skills; Recreational or Avocational Subjects - Section 132.003**

A course or course of instruction is exempt from this chapter if it meets the following criteria:

- (1) It is a course or course of instruction that is 24 hours or less in length;
- (2) It is a course or course of instruction that costs less than \$500;
- (3) It is a course or course of instruction that is designed to teach one of the following:
 - (a) Knowledge or skills to maintain or enhance a person's competency or performance in a business, trade, or occupation; or
 - (b) Recreational or avocational subjects; and
- (4) It is a course or course of instruction in which there is not an award of any credits or units toward the completion of another course of instruction of more than 24 classroom hours, on completion of the course or course of instruction.

(A course or course of instruction is not exempt under this section if the course or course of instruction is designed to teach or is represented by the person offering the course or course of instruction as teaching knowledge of building, electrical, plumbing, mechanical, fire, or other similar technical codes applicable to the construction, remodeling, or repair of a home, building, or any other structure or improvement to real property in this state.)

Section 132.003

To establish that your school is exempt under this section, please submit the following:

- a. School name, address, and telephone number (fax number, e-mail address, and web site if applicable).
- b. Name, objective, length and cost of course(s) offered.
- c. Objective of course and an explanation of how the course is designed to teach knowledge or skills to maintain or enhance a person's competency or performance in a business, trade, or occupation.
- d. Sample of cancellation and refund policy that at a minimum provides a refund of the course fee to any person that:
 - (1) completes at least 8 hours or one-half of the course, whichever is less, and is dissatisfied with the course; and who requests a refund in writing, providing a

reasonable basis for their dissatisfaction, no later than the 14th day after the date the course is concluded; or

- (2) for a course in which the instructor or the instructor's qualifications are different from the instructor or the instructor's qualifications stated in any advertising, publicity, or solicitation for the course, notifies the school before the course begins that they elect not to attend and requests a refund. (A general refund policy that provides for a full refund of fees at any time before the course begins will satisfy the requirement of this subparagraph.)
- e. A notarized affidavit attesting to the following:
- (1) The school will provide a written description of the course content and refund policy to students no later than the 14th day before the date the course begins; and
 - (2) The school will not enroll students or accept applications for enrollment within 14 days of the course start date; or has another method to document that registrants have received a written description of the course content and any refund policy not later than the 14th day before the date the course begins; and
 - (3) For the three-year period following the date the course is concluded, the school will maintain records sufficient to identify the differences between advertised instructors and their qualifications and actual instructors and their qualifications; and
 - (4) For the three-year period following the date the course is concluded, the school will maintain a record of registrants' attendance, fees paid by registrants and any refunds paid to registrants; and
 - (5) The school will provide these records to the Commission upon request, if within the three-year record retention period.
- f. If enrollments are accepted within 14 days of the course start date, a complete description of the method that will document that registrants have received a written description of the course content and refund policy not later than the 14th day before the date the course begins.
- g. Complete physical address for location where records will be stored and information relating to records storage, to include: Name, address, and telephone number (fax number, and email address if applicable) of the contact person and the preferred method of contact.
- h. Samples of newspaper and yellow page ads, brochures, and any other means of soliciting or advertising. If you will not advertise, so state.

Upon receipt of the required documents, you will either be granted exempt status, be advised of the deficiencies in the application, or be denied exempt status and be advised of your right to appeal that decision.

If you have questions concerning this process, please contact the Career Schools and Colleges Section at (512) 936-3100.

The address is:

Texas Workforce Commission
Career Schools and Colleges, Room 104-T
101 East 15th Street
Austin, Texas 78778-0001
Attn: Unregistered Schools and Exemptions

Completed forms, inquiries, or corrections to the individual information contained in this form shall be sent to the TWC Career Schools and Colleges, 101 East 15th Street, Room 104T, Austin, Texas 78778-0001, (512) 936-3100. Individuals may receive and review information that TWC collects about the individual by emailing to open.records@twc.state.tx.us or writing to TWC Open Records, 101 E. 15th St., Rm. 266, Austin, TX 78778-0001.
