

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

2  
3 **ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS***  
4 ***REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**  
5 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.**  
6

7 The Texas Workforce Commission (Commission) adopts amendments to the following sections  
8 of Chapter 807, relating to Career Schools and Colleges *without* changes, as published in the  
9 October 14, 2011, issue of the *Texas Register* (36 TexReg 6890):

- 10
- 11 Subchapter A. General Provisions, §807.2
- 12 Subchapter D. Representatives, §807.51
- 13 Subchapter F. Instructors, §807.82
- 14 Subchapter H. Courses of Instruction, §807.134
- 15 Subchapter N. Cancellation and Refund Policy, §§807.261 , 807.262, and 807.264
- 16 Subchapter P. Complaints, §807.302
- 17

18 The Commission adopts amendments to the following section of Chapter 807, relating to Career  
19 Schools and Colleges *with* changes, as published in the October 14, 2011, issue of the *Texas*  
20 *Register* (36 TexReg 6890):

- 21
- 22 Subchapter N. Cancellation and Refund Policy, §807.263
- 23

24 The Commission adopts the following new sections of Chapter 807, relating to Career Schools  
25 and Colleges *without* changes, as published in the October 14, 2011, issue of the *Texas Register*  
26 (36 TexReg 6890):

- 27
- 28 Subchapter A. General Provisions, §807.8
- 29 Subchapter B. Certificates of Approval, §807.17
- 30 Subchapter D. Representatives, §807.54
- 31

32 The Commission adopts the following new section of Chapter 807, relating to Career Schools  
33 and Colleges *with* changes, as published in the October 14, 2011, issue of the *Texas Register* (36  
34 TexReg 6890):

- 35
- 36 Subchapter O. Records, §807.284
- 37

38 The Commission adopts the repeal of the following sections of Chapter 807, relating to Career  
39 Schools and Colleges *without* changes, as published in the October 14, 2011, issue of the *Texas*  
40 *Register* (36 TexReg 6890):

- 41
- 42 Subchapter B. Certificates of Approval, §807.17
- 43 Subchapter O. Records, §807.284
- 44

45 The Commission adopts the repeal of the following subchapters of Chapter 807, relating to  
46 Career Schools and Colleges, in their entirety *without* changes, as published in the October 14,  
47 2011, issue of the *Texas Register* (36 TexReg 6890):

1  
2 Subchapter S. Cease and Desist Orders, §§807.361 - 807.366  
3 Subchapter T. Career Schools Hearings, §§807.381 - 807.395

4  
5 The Commission adopts the following new subchapters of Chapter 807, relating to Career  
6 Schools and Colleges *without* changes, as published in the October 14, 2011, issue of the *Texas*  
7 *Register* (36 TexReg 6890):

8  
9 Subchapter S. Sanctions, §§807.351 - 807.353  
10 Subchapter T. Cease and Desist Orders, §§807.361 - 807.366  
11 Subchapter U. Career Schools Hearings, §807.381 and §§807.383 - 807.395

12  
13 PART I. PURPOSE, BACKGROUND, AND AUTHORITY

14 PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND  
15 RESPONSES

16  
17 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

18 Texas law charges the Commission with exercising jurisdiction and control of the oversight of  
19 career schools and colleges operating in Texas. The Commission's Career Schools and Colleges  
20 department (department) licenses and regulates most private postsecondary career schools and  
21 colleges that offer vocational training or continuing education to Texas residents. In Texas, the  
22 number of licensed career schools and colleges has grown from 418 schools on August 31, 2007,  
23 to 530 schools on May 31, 2011. In the three years between Fiscal Year 2007 (FY'07) and  
24 FY'10, the number of students enrolled in vocational programs has increased 33 percent.  
25 Consequently, the Commission currently regulates more than 500 career schools and colleges  
26 that provide vocational training to more than 180,000 students annually.

27  
28 Recent legislation has provided changes to regulatory requirements in several key areas. House  
29 Bill (HB) 736 requires improved and coordinated dissemination of online information regarding  
30 the operation and performance of career schools or colleges. House Bill 2784 strengthens refund  
31 provisions. In addition, HB 2538 specifies that student-level data is confidential and not subject  
32 to disclosure under Texas Government Code, Chapter 552. These rules implement these bills  
33 passed by the 82nd Texas Legislature, Regular Session (2011).

34  
35 Texas law requires the Commission to administer the provisions of Texas Education Code,  
36 Chapter 132, enforce minimum standards for initial and ongoing approval and regulation of  
37 career schools and colleges, and adopt policies and rules necessary for carrying out the  
38 responsibilities of Chapter 132. To fulfill this role, the Commission investigates complaints  
39 about schools, monitors schools to ensure regulatory compliance with statutory and rule  
40 requirements that serve as the basis for initial and ongoing approval of schools and programs,  
41 arranges for the disposition of students affected by a school closure, and administers the Tuition  
42 Trust Account to pay tuition refunds to students when a school closes. In carrying out its  
43 regulatory duties, the department seeks to:

44 --hold all businesses meeting the definition as a career school or college to meet consistent  
45 standards of quality, performance, and regulatory oversight;  
46 --provide consumer protection for Texas students; and

1 --ensure students receive quality training to meet the needs of Texas employers.

2  
3 To support the Commission's ability to effectively and efficiently protect students, regulate  
4 career schools and colleges, and meet employer needs, and to implement recent legislation, the  
5 Commission adopted amendments in several key areas. The amendments enumerate the  
6 Commission's expectations and use of its regulatory authority in areas where recent violations  
7 and possible abuses have been identified. In addition, the amendments are intended to increase  
8 the transparency of the regulatory requirements and the overall performance of career schools  
9 and colleges.

10  
11 Further, to support the Commission's ability to effectively and efficiently respond to the needs of  
12 schools, students, and consumers and to provide direction to career schools and colleges  
13 regulated by the Commission, the Chapter 807 amendments:

14  
15 --require training of registered representatives on key compliance topics, such as legal and  
16 ethical advertising, solicitation and enrollment of students as outlined in Texas Education Code,  
17 Chapter 132, Career Schools and Colleges (the Act), administrative rules, and Commission  
18 policies and procedures;

19  
20 --explain the consequences for violations of statute and rules by representatives, including  
21 assessment of sanctions up to and including revocation of approval to serve as a representative in  
22 Texas and establish a corrective action matrix for violations by representatives;

23  
24 --specify a student has the right to cancel enrollment and receive a full refund in certain  
25 circumstances;

26  
27 --specify that student refunds, where appropriate, may be triggered by a school's failure to  
28 substantively maintain compliance with the eligibility criteria specified in Texas Education Code  
29 §132.055(b);

30  
31 --require schools to provide a tour on or before the first scheduled class day;

32  
33 --modernize career school and college reporting by requiring electronic submission of all data  
34 and reports; clarify what data must be reported; specify what constitutes verifiable  
35 documentation; and add specific reference to the department's authority with regard to data  
36 monitoring and auditing;

37  
38 --specify the corrective actions to be taken if a career school program does not meet performance  
39 expectations;

40  
41 --allow for public dissemination of appropriate data reported by career schools and colleges,  
42 including student outcomes and regulatory and compliance information associated with a school  
43 regulated by the Commission;

44  
45 --clarify the complaint-handling process, including establishing a two-year time frame for filing  
46 a complaint;

1  
2 --specify that complaints must be filed within two years with an allowance for exceptions, and  
3 that there must be adequate information to support investigation;

4  
5 --develop a comprehensive strategy, in coordination with the Texas Higher Education  
6 Coordinating Board, to improve and coordinate dissemination of online information regarding  
7 the operation and performance of career schools or colleges (HB 736);

8  
9 --establish a penalty matrix for violations of career schools and colleges statutes and rules, with  
10 penalty amounts, not to exceed the \$1,000 statutory cap, based on the seriousness of the  
11 violation;

12  
13 --provide information regarding refunds, when they may be required, and how to find provisions  
14 in statute (HB 2784); and

15  
16 --specify that student-level data is confidential and not subject to disclosure under Texas  
17 Government Code, Chapter 552 (HB 2538).

18  
19 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND**  
20 **RESPONSES**

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

23  
24 **SUBCHAPTER A. GENERAL PROVISIONS**

25 **The Commission adopts the following amendments to Subchapter A:**

26  
27 **§807.2. Definitions**

28 New §807.2(8), formerly §807.382(1), defines "Agency" as the unit of state government  
29 established under Texas Labor Code, Chapter 301, that is presided over by the Commission and  
30 administered by the executive director to operate the integrated workforce development system  
31 and administer the unemployment compensation insurance program in this state as established  
32 under the Texas Unemployment Compensation Act, Texas Labor Code Annotated, Title 4,  
33 Subtitle A, as amended. The definition of Agency shall apply to all uses of the term in rules  
34 contained in this chapter.

35  
36 New §807.2(9), formerly §807.382(2), defines "appellant" as the party or the party's authorized  
37 hearing representative who files an appeal from an appealable determination or decision.

38  
39 New §807.2(12), formerly §807.382(3), defines "Commission" as the body of governance of the  
40 Texas Workforce Commission composed of three members appointed by the governor as  
41 established under Texas Labor Code §301.002 that includes one representative of labor, one  
42 representative of employers, and one representative of the public. The definition of Commission  
43 shall apply to all uses of the term in rules contained in this chapter.

44  
45 New §807.2(16), formerly §807.382(4), defines "date of notice" as the date the notice is  
46 received, unless good cause exists for the hearing officer to determine otherwise.

1  
2 New §807.2(17), formerly §807.382(5), defines "date of request of hearing" as the date on which  
3 the appellant or the hearing representative filed a written notice of appeal with the Agency by  
4 hand delivery, facsimile, or mail. If an appeal is mailed to the Agency, then the appeal is  
5 perfected as of the postmark date on the envelope containing the appeal request, unless good  
6 cause exists for the hearing officer to determine otherwise. If an appeal is delivered by hand or  
7 facsimile after 5:00 p.m., the date of request shall be the next day.

8  
9 New §807.2(21), formerly §807.2(16), defines "good reputation" and clarifies what is considered  
10 when determining whether school personnel meet the requirement to be of good reputation.

11  
12 New §807.2(22), formerly §807.382(6), defines "hearing" as an informal, orderly, and readily  
13 available proceeding held before an impartial hearing officer. A party or hearing representative  
14 may present evidence to show that the Agency's determination should be reversed, affirmed, or  
15 modified.

16  
17 New §807.2(23), formerly §807.382(7), defines "hearing officer" as an Agency employee  
18 designated to conduct impartial hearings and issue final administrative decisions.

19  
20 New §807.2(24), formerly §807.382(8), defines "hearing representative" as any individual  
21 authorized by a party to assist the party in presenting the party's appeal. A hearing representative  
22 may be legal counsel or another individual. Each party may have a hearing representative to  
23 assist in presenting the party's appeal.

24  
25 New §807.2(27), formerly §807.382(9), defines "party" as the person or entity with the right to  
26 participate in a hearing authorized in applicable statute or rule.

27  
28 New §807.2(29) defines "refund" as the completed payment of a refund such that the refund  
29 instrument has been negotiated or credited into the proper account(s).

30  
31 New §807.2(32) defines "sanctions" as administrative or civil actions, including, but not limited  
32 to, penalties, revocation of approvals, or cease and desist orders taken by the Agency against an  
33 entity in response to violations of the Act or this chapter.

34  
35 New §807.2(43) amends the definition of "tour" to specify that a tour is a "required" and "in-  
36 person" inspection of the facilities and equipment pertaining to a course of instruction.

37  
38 Certain paragraphs in this section have been renumbered to reflect additions or deletions.

39  
40 **§807.8. Confidentiality of Information**

41 New §807.8 stipulates that student-specific information obtained from or about any school by the  
42 Agency is confidential information and not releasable, and is not public information under Texas  
43 Government Code, Chapter 552; however, it may be compiled and reported to the public at a  
44 summary level that does not include personally identifiable information about a student or  
45 identify a student through combination with other publically available information. The passage  
46 of HB 2538 clearly enumerated that student-level data held by the Agency is confidential and not

1 subject to disclosure under Texas Government Code, Chapter 552.

2  
3  
4 **SUBCHAPTER B. CERTIFICATES OF APPROVAL**

5 **The Commission adopts the following amendments to Subchapter B:**

6  
7 **§807.17. Penalties and Sanctions Regarding Schools**

8 Section 807.17, relating to Penalties and Sanctions Regarding Schools, is repealed and the  
9 contents are relocated to new §807.352, relating to Sanctions.

10  
11 **§807.17. Unlicensed Schools**

12 New §807.17 states that if a career school or college, as defined in the Act, operates, solicits, or  
13 enrolls students for, or conducts any course of instruction before receiving a certificate of  
14 approval or an exemption from the Agency, the Agency may:

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

18  
19  
20 **SUBCHAPTER D. REPRESENTATIVES**

21 **The Commission adopts the following amendments to Subchapter D:**

22  
23 **§807.51. Representative Requirements**

24 Section 807.51(c) is amended to clarify that the release from obligations to which students are  
25 entitled if solicited or enrolled by an unregistered representative applies only to obligations to the  
26 school.

27  
28 New §807.51(d) states that the Agency shall require representatives registered with the Agency  
29 to take training that covers the Act and Commission rules relative to representatives, admissions,  
30 advertising, and any other topics as required by the Agency to support the legal and ethical  
31 solicitation and enrollment of students.

32  
33 **Comment:** One commenter stated that there should be a process by which entities that  
34 develop representative training can have it approved, thereby preventing delays by licensed  
35 schools in complying with §807.51(d).

36  
37 **Response:** The Commission is developing online training for representatives. A process  
38 will be established for approval of additional training options if determined necessary in the  
39 future.

40  
41 **§807.54. Representative Compliance**

42 New §807.54 provides, consistent with §132.059 and §132.151 of the Texas Education Code,  
43 that representatives may be held liable for violations of statute and Commission rules, policies,  
44 and procedures notwithstanding §807.51(b). Further, the section explains that such violations  
45 may result in sanctions up to and including revocation of the individual's status as an approved  
46 career school and college representative in Texas in accordance with the matrix of corrective

1 actions and violations, as identified in statute and rule, set forth in this section.  
2  
3

#### 4 **SUBCHAPTER F. INSTRUCTORS**

5 **The Commission adopts the following amendments to Subchapter F:**  
6

##### 7 **§807.82. Temporary Instructors**

8 Section 807.82(c) removes the term "penalties" and replaces it with the term "sanctions" to align  
9 with new §807.2(32), which includes penalties in the definition of sanctions.  
10

11 Section 807.82(f) removes the term "penalties" and replaces it with the term "sanctions" to align  
12 with new §807.2(32), which includes penalties in the definition of sanctions, and to clarify that  
13 sanctions and refunds can both be applied.  
14  
15

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

17 **The Commission adopts the following amendments to Subchapter H:**  
18

##### 19 **§807.134. Sanctions Relating to Courses of Instruction**

20 Section 807.134 replaces the title "Penalties Relating to Courses of Instruction" with "Sanctions  
21 Relating to Courses of Instruction," to align with new §807.2(32), which includes penalties in the  
22 definition of sanctions.  
23

24 Section 807.134(e)(3) clarifies that false, misleading, or deceptive advertising on a school's  
25 behalf includes using words that are "commonly associated with" a degree other than degrees  
26 approved by the Texas Higher Education Coordinating Board.  
27

28 **Comment:** One commenter expressed concern that both §807.134(e)(1) did not include a  
29 reference to materiality and suggested that as written, §807.134(e)(1) will have serious,  
30 unintended consequences, and §807.134(e)(2) will create stifling inflexibility.  
31

32 **Response:** The only amendments in these paragraphs are the replacement of the term  
33 "Commission" with "Agency" to more clearly distinguish between the functions of the three-  
34 member Commission and the Agency as an administrative body. With the exception of the  
35 noted change, the language in this paragraph has been in place since February 1991. The  
36 Commission also notes that the rule language is permissive, outlining potential cause for  
37 which the Agency "may" revoke approval.  
38  
39

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

41 **The Commission adopts the following amendments to Subchapter N:**  
42

##### 43 **§807.261. Requirement for Tour**

44 Section 807.261 replaces the title "Right to Cancel after Tour" with "Requirement for Tour" to  
45 more closely align with the contents of this section.  
46

1 New §807.261(a) adds that, notwithstanding subsection (b) of this section, schools are required  
2 to provide a tour on or before the first scheduled class day.

3  
4 Section 807.261(c) clarifies that students must sign and date an acknowledgement form  
5 certifying the completion of the tour.

6  
7 The section removes the requirement for a school to provide a potential student who was not  
8 given an opportunity to tour the school before signing an enrollment contract an additional three  
9 days, excluding Saturdays, Sundays, and legal holidays, following a tour to cancel enrollment  
10 and request a full refund and release from all obligations. New §807.261(a) clarifies that schools  
11 are required to provide a tour on or before the first scheduled class day.

12  
13 Certain subsections in this section have been relettered to reflect additions or deletions.

14  
15 **§807.262. Completion of Refund**

16 Section 807.262 replaces the title "Consummation of Refund" with "Completion of Refund" to  
17 provide more precise terminology.

18  
19 Section 807.262(a) - (c) also replaces the terms "consummation" and "consummate" with  
20 "completion" and "complete," respectively, to provide more precise terminology.

21  
22 **§807.263. Refund Requirements**

23 Section 807.263(a) sets forth the critical types of violations--mentioned elsewhere in this chapter  
24 but not previously detailed in this section, that entitle a student to a refund. Remittance of  
25 refunds does not limit a school's liability for other sanctions available to the Agency under the  
26 Act and Commission rules.

27  
28 Section 807.263(a)(1)(A) - (C) is reorganized, and states that students are entitled to a full refund  
29 for classes attended if the school does not provide a class with:

- 30 (A) an approved instructor;  
31 (B) an instructor for whom an application has been properly submitted to the Agency; or  
32 (C) a temporary instructor for whom the school submitted notice to the Agency.

33  
34 New §807.263(a)(2) - (6) adds that students are entitled to a full refund for classes attended if the  
35 school:

- 36 (2) fails to maintain the instructors, facilities, equipment, or courses of instruction on the basis  
37 of which Agency approval was issued or student enrollment was obtained or to submit  
38 substantive changes to the Agency for approval;  
39 (3) violates any provision of this chapter in the process of soliciting and enrolling the student;  
40 (4) fails to adhere to applicable academic, attendance, and refund policies that meet state  
41 requirements and apply to the course enrolled in, as published at the time of the student's  
42 enrollment in the course;  
43 (5) fails to make a good faith effort to furnish the student, upon satisfactory completion of the  
44 program, with a certificate of completion. A school may withhold the transcript or certificate  
45 until the student has paid outstanding financial obligations to the school. Documentation of  
46 a "good faith effort" is outlined in the rule; or



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

2  
3 New §807.263(b) clarifies that violations listed in subsection (a)(1) - (6) and that are subject to  
4 refund must be more than technical errors or nonsubstantial changes to a school's operations.

5  
6 Section 807.263(c) removes the phrase "a class has no instructor for" and replaces it with the  
7 phrase "any of the violations in subsection (a)(1) - (6) of this section" to specify that if the  
8 violations apply to more than one class period, students are entitled to a full refund for each such  
9 class attended.

10  
11 Section 807.263(f) specifies that for schools other than seminars, a student may cancel  
12 enrollment, request a full refund, and request a release from any obligations to the school within  
13 the first three scheduled class days.

14  
15 New §807.263(g) and (h) provide guidance on the calculation of refunds and where additional  
16 information may be obtained regarding refunds due to a student who withdraws or is  
17 discontinued from a program prior to completion. New subsection (g) clarifies the costs to be  
18 included in a full refund made in accordance with subsections (a) - (c) and (f). New subsection  
19 (h) states that the refund is calculated in accordance with the school's policy, which must be at  
20 least equivalent to the refund policy outlined in §132.061 and §132.0611 of the Act. The  
21 passage of HB 2784 revised the refund policy required for residence programs and synchronous  
22 distance education programs detailed in §132.061(4) of the Act. This policy is simpler to  
23 calculate and more advantageous to students than the previous policy, basing refunds on a  
24 straight proportion of the remaining portion of the clock hours for which the student has been  
25 charged, up to the point at which 75 percent of the period has been completed.

26  
27 **Comment:** One commenter expressed concern that §807.263(a)(2) would be unworkable as  
28 written because there is no provision for limiting the refund.

29  
30 **Response:** The Commission believes that "failure to maintain the instructors, facilities,  
31 equipment, or courses of instruction on the basis of which Agency approval was issued or  
32 student enrollment was obtained" is clearly based upon the school's statutory obligation  
33 under Texas Education Code §132.055(a) and §132.055(b)(1) - (3) to provide courses of  
34 sufficient quality, content, and length to achieve their stated objectives and to maintain  
35 compliance with these minimum standards of eligibility on an ongoing basis. The  
36 Commission adds new §807.263(b) to clarify that student refunds, where appropriate, may be  
37 triggered by a school's failure to submit to the Agency for approval, substantive revisions  
38 under the eligibility criteria specified in Texas Education Code §132.055(b); nonsubstantive  
39 changes would not support the requirement for a full refund. Commission rules clearly  
40 provide for changes to be made in school operations; however, substantive program revisions  
41 must be submitted for approval to ensure that the eligibility criteria specified in Texas  
42 Education Code §132.055(b) are satisfied. Failure to maintain these elements effectively  
43 constitutes misrepresentation to an enrolled student, which entitles those students to refunds  
44 in accordance with Texas Education Code §132.061(a)(2). This language is consistent with  
45 language throughout Commission rules, such as that set forth in §807.134(e)(2), which  
46 indicates this type of failure is a basis for program revocation, and in §807.134(b), which

1 refers to failure to maintain program quality in other contexts. Finally, a limit to refunds  
2 under this provision is set forth in §807.263(c), which states that refunds are applied based on  
3 the affected classes. The Commission's intent is to provide greater transparency for schools  
4 and students by clarifying schools' obligations.  
5

6 **Comments:** One commenter stated that there are occasions when the school mails a  
7 certificate of completion to a student, but it is returned because the student has relocated and  
8 not left a forwarding address. The commenter suggested that §807.263(a)(5) be modified to  
9 accept a "good faith effort" as compliance.  
10

11 Another commenter expressed concern that §807.263(a)(5) makes no reference to materiality  
12 and seems to imply that merely because a student has not been provided with his or her  
13 graduating credentials, a full refund would be due. The commenter indicated that schools  
14 should be given a reasonable amount of time to comply with a student's request for their  
15 graduating credential.  
16

17 **Response:** The Commission believes it is a school's obligation to make a good faith effort to  
18 furnish graduates with the student's certificate of completion, whether or not the student  
19 requests it. The Commission believes that the rule does not imply a particular time frame for  
20 providing a student with his or her graduation credential and that provision within a  
21 reasonable amount of time is implicit. The Commission also agrees that there will be  
22 occasions when a school is unable to locate the student and provide evidence that it furnished  
23 the student a certificate of completion. Therefore, the Commission amends §807.263(a)(5) to  
24 allow a school to provide alternative evidence to demonstrate compliance by maintaining one  
25 of the following acceptable documents in the student's file:

- 26 --An acknowledgement of receipt of certificate signed and dated by the student;
- 27 --Proof of a certified mailing to the student's last known address;
- 28 --Proof of a certified mailing to the student's permanent address, if different from the  
29 student's last known address; or
- 30 --Proof of a certified mailing to the address of the student's parent or legal guardian, if known  
31 and different from the student's last known or permanent addresses.  
32

33 **Comment:** One commenter expressed concern that §807.263(c) would entitle a student to a  
34 full refund for even a minor change from the basis of the original approval of the school.  
35

36 **Response:** As previously stated, the Commission believes that failure to maintain the  
37 instructors, facilities, equipment, or courses of instruction on the basis of which Agency  
38 approval was issued or student enrollment was obtained is clearly based upon the school's  
39 statutory obligation under Texas Education Code §132.055(a) and §132.055(b)(1) - (3) to  
40 provide courses of sufficient quality, content, and length to achieve their stated objectives.  
41 This in no way implies that a school must maintain the exact instructors, equipment, or  
42 curriculum in place at the time of original approval. The Commission adds new §807.263(b)  
43 to clearly provide that technical errors or nonsubstantive changes in operations would not  
44 require a refund; however, substantive program revisions must be submitted for approval to  
45 ensure that the eligibility criteria specified in Texas Education Code §132.055(b) are  
46 satisfied. Failure to maintain these elements effectively constitutes misrepresentation to

1 enrolled students, which entitles those students to refunds in accordance with Texas  
2 Education Code §132.061(a)(2). Again, §807.263(c) states that refunds are calculated based  
3 on the classes attended and determined to be in violation of the statute and rules.

4  
5 **Comment:** One commenter stated that in §807.263, no consideration is given to  
6 irretrievable materials and fees for services (such as testing) when stating that students are to  
7 receive a full refund.

8  
9 Another commenter stated that in §807.263(f), "full refund" should not include an  
10 application/enrollment fee or any supplies that have been delivered to the student, if billed  
11 separately from tuition.

12  
13 **Response:** The Commission agrees that clarification of the meaning of "full refund" as used  
14 in §807.263 is needed. Consistent with the refund provisions in Texas Education Code  
15 §132.061, the rule language is amended to add new §807.263(g) to indicate that a school may  
16 withhold from the full refund required by provisions in §807.263(a) - (c) and (f), any amount  
17 provided for in statute as retainable by the school pursuant to Texas Education Code  
18 §132.061. This includes for example, \$100 for residence programs or synchronous distance  
19 education under Texas Education Code §132.061(b)(4) or \$50 for asynchronous distance  
20 education under Texas Education Code §132.061(b)(11). Additionally, the Commission has  
21 determined that items of extra expense to the student, as referred to in Texas Education Code  
22 §132.061(b)(6), are reasonable and not included within the "full refund" requirement so long  
23 as these items are necessary for the student's participation for the portion of the program  
24 attended, and comply with the requirements in Texas Education Code §132.061(6) that they  
25 be separately stated in data furnished to the student prior to enrollment. Any items of extra  
26 expense not required for the portion of the program attended must be included in the refund.

27  
28 Certain subsections in this section have been relettered to reflect additions or deletions.

29  
30 **§807.264. Penalties Relating to Refunds**

31 Section 807.264 removes the term "consummated" and replaces it with "completed" to provide  
32 more precise terminology.

33  
34  
35 **SUBCHAPTER O. RECORDS**

36 **The Commission adopts the following amendments to Subchapter O:**

37  
38 **§807.284. Employment Records**

39 Section 807.284 is repealed. It contains out-of-date references and lacks information on a  
40 number of issues important to the reporting of data by schools to the Agency and the Agency's  
41 use and reporting of the data.

42  
43 **§807.284. Reporting**

44 New §807.284 sets forth the data reporting requirements and report formats necessary for the  
45 Agency to administer the Act and this chapter. The language provides direction and allows for  
46 better information to the public and the Agency. It also provides flexibility to accommodate

1 future changes in technology. Some of the provisions contained in new §807.284 are in response  
2 to the passage of HB 736.

3  
4 New §807.284(a) requires schools to report to the Agency, as directed, the facts and information  
5 about their programs and operations deemed necessary for the proper administration of the Act  
6 and any rules adopted under the Act.

7  
8 New §807.284(a)(1)(A) - (C) specifies that the data to be reported by a school shall include  
9 student enrollment information for all programs; completion, employment, and job placement  
10 information for all programs approved for an occupational objective; and any other information  
11 that is required.

12  
13 New §807.284(a)(2) requires schools to submit the required data to the Agency on or before the  
14 specified date.

15  
16 New §807.284(a)(3) mandates that schools shall provide the data in an electronic format  
17 prescribed by the Agency unless a different format is approved in writing by the Agency.

18  
19 New §807.284(a)(4) allows that, when good cause is shown, the Agency may extend the  
20 deadline for submission of the data required under this section; however, the extension shall be  
21 effective only if authorized in writing.

22  
23 New §807.284(a)(5) states that the Agency may require schools to store on file the verifiable  
24 documentation supporting the data reported and make it available to the Agency upon request.

25  
26 New §807.284(b) states that the Agency shall develop data monitoring and audit protocols for  
27 the data reported under subsection (a) of this section for use in assessing the accuracy of the  
28 information.

29  
30 New §807.284(c) states that the Agency may impose penalties or sanction, or both, for failure to  
31 submit data under subsection (a) of this section by the due dates required, or for submission of  
32 data that is shown to contain inaccuracies.

33  
34 New §807.284(d) establishes the corrective actions that will be taken for career school programs  
35 that do not meet the minimum employment rate as referenced in §807.131(b).

36  
37 New §807.284(d)(1) states that a program that does not meet the minimum employment rate for  
38 the first year will be required to develop and submit a performance improvement plan that is  
39 determined acceptable by the Agency.

40  
41 New §807.284(d)(2) states that a program that does not meet the minimum employment rate for  
42 the second consecutive year, but has shown at least a 50% improvement from the previous year  
43 and toward the minimum employment rate, will be required to submit modifications to the  
44 performance improvement plan that are determined acceptable by the Agency. For example, in  
45 order to fall in this category, a program reporting a 20% employment rate in year one must report  
46 at least a 40% employment rate in the subsequent year if the employment minimum is 60%.

1  
2 New §807.284(d)(3)(A) - (B) states that a program that does not meet the minimum employment  
3 rate for the second consecutive year and that has not shown at least a 50% improvement toward  
4 the minimum employment rate will result in conditions placed on the school's certificate that  
5 require submission of a modified performance improvement plan and the suspension of new  
6 enrollment of students in the program who are funded by Local Workforce Development Board—  
7 allocated funds. Thus, if the program described in subsection (d)(2) did not meet at least a 40%  
8 employment rate, the program would fall in this corrective action category.

9  
10 New §807.284(d)(4) states that the Agency will revoke its approval of a program that does not  
11 meet the minimum employment rate for three consecutive years.

12  
13 New §807.284(e)(1) - (2) provides that the Agency shall publish on its website information  
14 compiled from:

- 15 (1) data reported under subsection (a) of this section; and  
16 (2) any other information about schools and programs that is deemed appropriate and useful to  
17 the public and that:  
18 (A) assists a person in deciding whether to enroll in a school or in identifying or choosing  
19 which postsecondary institution, school, or college to attend; and  
20 (B) addresses regulatory compliance and performance of schools.

21  
22 New §807.284(e)(3) provides that the Agency, to the extent practical, shall present the published  
23 information in a manner that is consistent among institutions, schools, and colleges; easy to  
24 understand; and accessible to the public.

25  
26 Certain subparagraphs in this section have been relettered to reflect additions or deletions.

27  
28 **Comment:** One commenter stated that §807.284(d)(2) would have the unintended  
29 consequence of punishing higher-performing programs and recommended modifying the  
30 language to require a 10% increase in performance.

31  
32 **Response:** The Commission agrees that this rule could be clarified to better explain the  
33 graduated corrective actions designed to achieve performance expectations. The rule is  
34 intended to require all schools not meeting the performance minimum to achieve the  
35 established minimum within no more than two years; schools with lower reported  
36 performance will have more ground to cover, but all schools are held to the same minimum  
37 standard. As stated herein, the 50% improvement toward the minimum employment rate  
38 refers to an improvement of 50% of the difference between the reported rate and the  
39 minimum employment rate in effect for the reporting year. Hence, a program with a 20%  
40 employment rate in year one must achieve at least a 40% employment rate in the subsequent  
41 year if the employment minimum is 60% . However, the Commission amends the rule to  
42 more clearly state the requirements in §807.284(d)(2) and (3) by adding that improvement of  
43 at least 50% "of the difference between the reported rate and the minimum employment rate"  
44 must be shown.

1 **SUBCHAPTER P. COMPLAINTS**

2 **The Commission adopts the following amendments to Subchapter P:**

3  
4 **§807.302. Complaints and Investigations**

5 New §807.302(a) ensures that the Agency shall investigate or refer to other authorities with  
6 jurisdiction to investigate all complaints received about licensed and unlicensed schools.

7  
8 Section 807.302(b) removes the phrase "may investigate a complaint about a school." New  
9 §807.302(a) clarifies the Commission's intent to respond to complaints about licensed and  
10 unlicensed schools.

11  
12 Section 807.302(b)(5) adds "the feasibility of investigations" as a factor the Agency may  
13 consider in determining the extent of investigation needed.

14  
15 Section 807.302(c) adds language addressing the adequacy of information about a violation that  
16 may be required in order to initiate a complaint investigation. It also stipulates that,  
17 notwithstanding subsection (a) of this section, anonymous complaints will not be investigated,  
18 but rather reviewed for potential action.

19  
20 New §807.302(d) stipulates that a complaint is timely if it has been filed with the Agency while a  
21 student who files the complaint is enrolled or within two years of the date the student withdraws,  
22 terminates, or graduates from the program that is the subject of the complaint unless good cause  
23 exists. Good cause includes, but is not limited to, fraud.

24  
25 Certain subsections and paragraphs in this section have been relettered and renumbered to reflect  
26 additions or deletions.

27  
28 **Comment:** One commenter expressed support for the amendments in §807.302(c) and (d).

29  
30 **Response:** The Commission appreciates the comment.

31  
32  
33 **SUBCHAPTER S. SANCTIONS**

34 **The Commission adopts new Subchapter S:**

35  
36 New Subchapter S centralizes the rules regarding sanctions. Specifically, the new subchapter  
37 addresses the requirements for notice and administration of sanctions, sanctions for violations,  
38 and the assessment of administrative penalties in accordance with a matrix contained in the rule.

39  
40 **§807.351. Notice and Administration of Sanctions**

41 New §807.351(a) clarifies the Agency's authority under §132.152 of the Act to impose  
42 administrative penalties or other sanctions on an entity for violations of §132.151 of the Act or  
43 this chapter.

44  
45 New §807.351(b) provides that the Agency shall serve notice of a sanction, with determination  
46 of the violation on which it is based, by both U.S. mail and certified mail, return receipt

1 requested, mailed to the owner's address of record as listed on the application for certificate of  
2 approval. Notice is presumed received five days from the date it is mailed by the Agency unless  
3 there is other evidence of receipt.

4  
5 New §807.351(c)(1) - (3) stipulates that in imposing administrative penalties or other sanctions,  
6 the Agency shall consider all the factors that it deems relevant, including, but not limited to, the  
7 following:

- 8 (1) The amount of administrative penalty or level of sanction necessary to ensure immediate and  
9 continued compliance with statutes and regulations;
- 10 (2) The conduct of the entity in taking all reasonable steps or procedures necessary and  
11 appropriate to comply with statutes and regulations and to correct the violation; and
- 12 (3) The entity's prior violations of statutes, regulations, or orders administered, adopted, or  
13 issued by the Commission.

14  
15 New §807.351(d) provides that notwithstanding subsections (a) - (c) of this section, the  
16 Commission shall order refunds pursuant to applicable statute and rules.

### 17 **§807.352. Sanctions**

18  
19 New §807.352(a)(1) - (17) retains the provisions of repealed §807.17, and sets forth sanctions for  
20 violations, which may include:

- 21 (1) administrative penalties outlined in §807.353;
- 22 (2) collecting a late renewal fee from the school;
- 23 (3) denying the school's application for a certificate of approval;
- 24 (4) revoking the school's certificate of approval;
- 25 (5) placing conditions on the school's certificate of approval;
- 26 (6) suspending the admission of students to the school or a program;
- 27 (7) denying a program approval;
- 28 (8) revoking a program approval;
- 29 (9) denying or revoking approval of an owner, school director, instructor, or other staff member  
30 whose approval may be required;
- 31 (10) denying, suspending, or revoking the registration of the school's representatives;
- 32 (11) assessing a late refund penalty;
- 33 (12) charging the school an investigation fee to resolve a complaint against the school;
- 34 (13) charging the school interest and penalties on late payments of fee installments;
- 35 (14) applying for an injunction against the school;
- 36 (15) asking the Attorney General to collect a civil penalty from any person who violates the Act  
37 or this chapter;
- 38 (16) ordering a peer review of the school; and
- 39 (17) issuing a cease and desist order to an unlicensed school.

40  
41 New §807.352(b) stipulates that notwithstanding subsection (a)(1) - (17) of this section, the  
42 Agency shall order refunds pursuant to applicable statutes and rules.

### 43 **§807.353. Administrative Penalties**

44  
45 Section 132.152 of the Texas Education Code authorizes the Commission to assess an  
46 administrative penalty in an amount not to exceed \$1,000 and requires the Commission to

1 consider the seriousness of the violation in determining the amount of the penalty. Consistent  
2 with this authority and direction, requirements for assessing administrative penalties for  
3 violations are established, including the use of a penalty matrix, which establishes penalty  
4 amounts for violations of career schools and colleges statutes and rules, based on the seriousness  
5 of the violation and potential harm to consumers, up to the \$1,000 statutory cap. Consideration  
6 is given to the number of instances of violations and whether a violation is a repeat violation.  
7

8 New §807.353(a) - (e) details requirements for assessing administrative penalties for violations:

- 9 (a) Unless otherwise provided by statute, an administrative penalty shall not exceed \$1,000 for  
10 each instance of a violation.  
11 (b) The administrative penalty for repeat violations shall be up to the maximum penalty amount  
12 of \$1,000 per violation.  
13 (c) The total amount of an administrative penalty shall be calculated as the product of the  
14 penalty dollar amount and the number of instances of violation.  
15 (d) The assessment of an administrative penalty shall not preclude the Agency from  
16 administering other sanctions, up to and including revocation of a school's certificate of  
17 approval.  
18 (e) The Agency shall, for purposes of determining and assessing an administrative penalty, use  
19 the penalty matrix set out in this section, which assigns a penalty for violations identified in  
20 statute and rule, based on the seriousness of the violation or the potential to cause harm to  
21 consumers. The absence of a listing for a specific violation in the matrix does not preclude  
22 the Agency from assessing an administrative penalty.  
23

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

25 **The Commission adopts the repeal of Subchapter S in its entirety.** The contents of this  
26 subchapter are adopted as new Subchapter T.  
27

28 §807.361. Statement of Charges and Notice of Hearing on Cease and Desist Orders

29 §807.362. Contents of Statement of Charges and Notice of Hearing

30 §807.363. Service of Statement and Charges and Hearing Notice for the Issuance of Cease and  
31 Desist Orders

32 §807.364. Ex Parte Consultations

33 §807.365. Hearing Decision and Final Review by the Commission

34 §807.366. Cease and Desist Order  
35  
36  
37

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

39 **The Commission adopts the repeal of Subchapter T in its entirety.** Section 807.382,  
40 Definitions, is adopted as new in §807.2; the remaining sections are adopted as new Subchapter  
41 U.  
42

43 §807.381. Purpose

44 §807.382. Definitions

45 §807.383. Information on Right of Appeal

46 §807.384. Request for Hearing



- 1 §807.385. Setting of Hearing
- 2 §807.386. Hearing Officer Independence and Impartiality
- 3 §807.387. Hearing Procedures
- 4 §807.388. Postponements, Continuances, and Withdrawals
- 5 §807.389. Evidence
- 6 §807.390. Ex Parte Communications
- 7 §807.391. Change in Determination
- 8 §807.392. Hearing Decision
- 9 §807.393. Motion for Reopening
- 10 §807.394. Motion for Rehearing
- 11 §807.395. Finality of Decision

12  
13 To consolidate the definitions in this chapter in one section, §807.382, Definitions, is adopted as  
14 new in §807.2, as follows:

- 15 Section 807.382(1), the definition of "Agency," is new §807.2(8).
- 16 Section 807.382(2), the definition of "appellant," is new §807.2(9).
- 17 Section 807.382(3), the definition of "Commission," is new §807.2(12).
- 18 Section 807.382(4), the definition of "date of notice," is new §807.2(16).
- 19 Section 807.382(5), the definition of "date of request of hearing," is new §807.2(17).
- 20 Section 807.382(6), the definition of "hearing," is new §807.2(22).
- 21 Section 807.382(7), the definition of "hearing officer," is new §807.2(23).
- 22 Section 807.382(8), the definition of "hearing representative," is new §807.2(24).
- 23 Section 807.382(9), the definition of "party," is new §807.2(28).

24  
25

## 26 **SUBCHAPTER T. CEASE AND DESIST ORDERS**

27 **The Commission adopts new Subchapter T as follows:**

28

29 New Subchapter T, regarding Cease and Desist Orders, retains the provisions of repealed  
30 Subchapter S, Cease and Desist Orders, in its entirety:

- 31 §807.361. Statement of Charges and Notice of Hearing on Cease and Desist Orders
- 32 §807.362. Contents of Statement of Charges and Notice of Hearing
- 33 §807.363. Service of Statement and Charges and Hearing Notice for the Issuance of Cease and  
34 Desist Orders
- 35 §807.364. Ex Parte Consultations
- 36 §807.365. Hearing Decision and Final Review by the Commission
- 37 §807.366. Cease and Desist Order

38

39 The subchapter is relettered to accommodate the insertion of new Subchapter S, Sanctions.

40

41

## 42 **SUBCHAPTER U. CAREER SCHOOLS HEARINGS**

43 **The Commission adopts new Subchapter U as follows:**

44

45 New Subchapter U, regarding Career Schools Hearings, retains the following sections of  
46 repealed Subchapter T, Career Schools Hearings, in their entirety:

- 1 §807.381. Purpose
- 2 §807.383. Information on Right of Appeal
- 3 §807.384. Request for Hearing
- 4 §807.385. Setting of Hearing
- 5 §807.386. Hearing Officer Independence and Impartiality
- 6 §807.387. Hearing Procedures
- 7 §807.388. Postponements, Continuances, and Withdrawals
- 8 §807.389. Evidence
- 9 §807.390. Ex Parte Communications
- 10 §807.391. Change in Determination
- 11 §807.392. Hearing Decision
- 12 §807.393. Motion for Reopening
- 13 §807.394. Motion for Rehearing
- 14 §807.395. Finality of Decision

15  
16 The subchapter is relettered to accommodate the insertion of new Subchapter S, Sanctions.

17  
18 Comments were received from:  
19 --Career Colleges & Schools of Texas  
20 --Career Point College

21  
22 The Agency hereby certifies that the adoption has been reviewed by legal counsel and found to  
23 be within the Agency's legal authority to adopt.

24  
25 The rules are adopted under Texas Labor Code §301.0015 and §302.002(d), which provide the  
26 Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it  
27 deems necessary for the effective administration of Agency services and activities.

28  
29 The adopted rules affect Title 4, Texas Labor Code, particularly Chapters 301 and 302, as well as  
30 Texas Education Code, Chapter 132.

31  
32

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

2  
3                   **SUBCHAPTER A. GENERAL PROVISIONS**

4  
5                   **§807.2. Definitions.**

6  
7                   In addition to the definitions contained in §800.2 of this title, the following words and  
8                   terms, when used in this chapter, shall have the following meanings unless the context  
9                   clearly indicates otherwise.

- 10  
11                   (1)   Academic quarter--A period of instruction that includes at least ten weeks of  
12                   instruction, unless otherwise approved by the Agency.  
13  
14                   (2)   Academic semester--A period of instruction that includes at least 15 weeks of  
15                   instruction, unless otherwise approved by the Agency.  
16  
17                   (3)   Academic term--An academic quarter, academic semester, or other progress  
18                   evaluation period.  
19  
20                   (4)   Academically related activity--An exam, tutorial, computer-assisted  
21                   instruction, academic counseling, academic advisement, turning in a class  
22                   assignment, or attending a study group that is assigned by the institution, or  
23                   other activity as determined by the Agency.  
24  
25                   (5)   Accountant--An independent certified public accountant properly registered  
26                   with the appropriate state board of accountancy.  
27  
28                   (6)   Act--Texas Education Code, Chapter 132, Career Schools and Colleges.  
29  
30                   (7)   Advertising--Any affirmative act designed to call attention to a school or  
31                   program for the purpose of encouraging enrollment.  
32  
33                   (8)   Agency--The unit of state government established under Texas Labor Code,  
34                   Chapter 301, that is presided over by the Commission and administered by the  
35                   executive director to operate the integrated workforce development system and  
36                   administer the unemployment compensation insurance program in this state as  
37                   established under the Texas Unemployment Compensation Act, Texas Labor  
38                   Code Annotated, Title 4, Subtitle A, as amended. The definition of Agency  
39                   shall apply to all uses of the term in rules contained in this chapter.  
40  
41                   (9)   Appellant--The party or the party's authorized hearing representative who files  
42                   an appeal from an appealable determination or decision.  
43  
44                   (10) Asynchronous distance education--Distance education training that the Agency  
45                   determines is not synchronous.  
46

- 1 (11) Class or course--An identifiable unit of instruction that is part of a program of  
2 instruction.  
3
- 4 (12) Commission--The body of governance of the Texas Workforce Commission  
5 composed of three members appointed by the governor as established under  
6 Texas Labor Code §301.002 that includes one representative of labor, one  
7 representative of employers, and one representative of the public. The  
8 definition of Commission shall apply to all uses of the term in rules contained  
9 in this subchapter.  
10
- 11 (13) Coordinating Board--The Texas Higher Education Coordinating Board.  
12
- 13 (14) Course of instruction--A program or seminar.  
14
- 15 (15) Course time--A course or class period that is:  
16
- 17 (A) a 50-minute to 60-minute lecture, recitation, or class, including a  
18 laboratory class or shop training, in a 60-minute period;  
19
  - 20 (B) a 50-minute to 60-minute internship in a 60-minute period; or  
21
  - 22 (C) 60 minutes of preparation in asynchronous distance education.  
23
- 24 (16) Date of notice--The date the notice is received, unless good cause exists for the  
25 hearing officer to determine otherwise.  
26
- 27 (17) Date of request of hearing--The date on which the appellant or the hearing  
28 representative filed a written notice of appeal with the Agency by hand  
29 delivery, facsimile, or mail. If an appeal is mailed to the Agency, then the  
30 appeal is perfected as of the postmark date on the envelope containing the  
31 appeal request unless good cause exists for the hearing officer to determine  
32 otherwise. If an appeal is delivered by hand or facsimile after 5:00 p.m., the  
33 date of request shall be the next day.  
34
- 35 (18) Distance education course--Either a seminar or a program that is offered to  
36 non-residence school students via correspondence or other media from a  
37 remote site on a self-paced schedule, excluding programs using interactive  
38 instruction.  
39
- 40 (19) Distance education school--A school that offers only distance education  
41 courses.  
42
- 43 (20) Employment--A graduating or graduate student's employment in the same or  
44 substantially similar occupation for which the student was trained.  
45
- 46 (21) Good reputation--The possession of honesty and truthfulness, trustworthiness

1 and reliability, and a professional commitment to the educational process and  
2 the training or preparing of a person for a field of endeavor in a business, trade,  
3 technical, or industrial occupation, as well as the condition of being regarded  
4 as possessing such qualities. In determining whether a person is of good  
5 reputation, the Agency is not limited to the following acts or omissions. The  
6 Agency may consider similar acts or omissions and rehabilitation efforts in  
7 response to prior convictions in making its determination. A person is  
8 considered to be of good reputation if the person:

- 9
- 10 (A) has never been convicted of a felony or any other crime that would  
11 constitute risk of harm to the school or students as determined by the  
12 Agency;
  - 13
  - 14 (B) has not been successfully sued for fraud or deceptive trade practices, or  
15 breach of contract, within the last 10 years;
  - 16
  - 17 (C) does not own or administer a school currently in violation of legal  
18 requirements, has never owned or administered a school with repeated  
19 violations, and has never owned or administered a school that closed  
20 with violations including, but not limited to, unpaid refunds; or  
21
  - 22 (D) has not knowingly falsified or withheld information from the Agency.  
23
- 24 (22) Hearing--An informal, orderly, and readily available proceeding held before an  
25 impartial hearing officer. A party or hearing representative may present  
26 evidence to show that the Agency's determination should be reversed,  
27 affirmed, or modified.  
28
- 29 (23) Hearing officer--An Agency employee designated to conduct impartial  
30 hearings and issue final administrative decisions.  
31
- 32 (24) Hearing representative--Any individual authorized by a party to assist the party  
33 in presenting the party's appeal. A hearing representative may be legal counsel  
34 or another individual. Each party may have a hearing representative to assist  
35 in presenting the party's appeal.  
36
- 37 (25) Job placement--An affirmative effort by the school to assist the student in  
38 obtaining employment in the same or substantially similar stated occupation  
39 for which the student was trained.  
40
- 41 (26) Master student registration list--A comprehensive list with an entry made for  
42 any person who signs an enrollment agreement, makes a payment to attend the  
43 school, or attends a class. The entry shall be made on the date the first of these  
44 events occurs.  
45
- 46 (27) Party--The person or entity with the right to participate in a hearing authorized

1 in applicable statute or rule.

- 2
- 3 (28) Program or program of instruction--A postsecondary program of organized  
4 instruction or study that may lead to an academic, professional, or vocational  
5 degree, certificate, or other recognized educational credential.  
6
- 7 (29) Refund--The completed payment of a refund such that the refund instrument  
8 has been negotiated or credited into the proper account(s).  
9
- 10 (30) Reimbursement contract basis--A school operating, or proposing to operate,  
11 under a contract with a state or federal entity in which the school receives  
12 payment upon completion of the training.  
13
- 14 (31) Residence school--A school that offers at least one program that includes  
15 classroom instruction or synchronous distance education.  
16
- 17 (32) Sanctions--Administrative or civil actions, including, but not limited to,  
18 penalties, revocation of approvals, or cease and desist orders taken by the  
19 Agency against an entity in response to violations of the Act or this chapter.  
20
- 21 (33) School--A "career school or career college," as defined in the Act, that  
22 includes each location where courses of instruction shall be offered.  
23
- 24 (34) Secondary education--Successful completion of public, private, or home  
25 schooling at the high school level or obtainment of a recognized high school  
26 equivalency credential.  
27
- 28 (35) Seminar--A course of instruction that enhances a student's career, as opposed  
29 to a program that teaches skills and fundamental knowledge required for a  
30 stated occupation. A seminar may include a workshop, an introduction to an  
31 occupation or cluster of occupations, a short course that teaches part of the  
32 skills and knowledge for a particular occupation, language training, continuing  
33 professional education, and review for postsecondary examination.  
34
- 35 (36) Seminar school--A school that offers only seminars.  
36
- 37 (37) Small school--A "small career school or college" as defined in the Act.  
38
- 39 (38) Stated occupation--An occupation for which a program is offered that:  
40
- 41 (A) is recognized by a state or federal law or by a state or federal agency as  
42 existing or emerging;  
43
- 44 (B) is in demand; and  
45
- 46 (C) requires training to achieve entry-level proficiencies.

- 1  
2 (39) Student--Any individual solicited, enrolled, or trained in Texas by a school.  
3  
4 (40) Suspension of enrollments--A sanction that requires the school to suspend  
5 enrollments, re-enrollments, advertising, and solicitation, and to cease, in any  
6 way, advising prospective students, either directly or indirectly, of the  
7 available courses of instruction.  
8  
9 (41) Synchronous distance education--The Agency may determine distance  
10 education to be synchronous under the following conditions:  
11  
12 (A) The training is conducted simultaneously in real time, or the training is  
13 conducted so that the manner of delivery ensures that even if the  
14 instructor and student are separated by time, the course time of  
15 instruction that the student experiences can be determined; and  
16  
17 (B) There is consistent interaction between the student(s) and the instructor  
18 on a schedule that includes a definite time for completion of the program  
19 and periodic verifiable student completion/performance measures that  
20 allow the application of the progress standards of Subchapter L and  
21 attendance standards of Subchapter M of this chapter.  
22  
23 (42) Title IV school--A career school or college that participates in student financial  
24 aid programs under Title IV, Higher Education Act of 1965 (20 U.S.C. Section  
25 1070 et seq.).  
26  
27 (43) Tour--A required, in-person inspection of the facilities and equipment  
28 pertaining to a course of instruction.  
29  
30 (44) Week--Seven consecutive calendar days.  
31

32 **§807.8. Confidentiality of Information.**  
33

34 All student-specific information obtained from or about any school by the Agency,  
35 including, but not limited to, data submitted under §807.284(a), is confidential  
36 information and not releasable, and is not public information under Texas Government  
37 Code, Chapter 552, but may be compiled and reported to the public at a summary level of  
38 information that does not include the personally identifiable information of any student or  
39 allow for the identification of any student through combination with other publically  
40 available information.  
41

1 **SUBCHAPTER B. CERTIFICATES OF APPROVAL**

2  
3  
4  
5  
6  
7  
8  
9  
10  
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**§807.17. Unlicensed Schools.**

If a career school or college, as defined in the Act, operates, solicits, or enrolls students, or conducts any course of instruction before receiving a certificate of approval or an exemption from the Agency, the Agency may:

- (1) assess a penalty;
- (2) require full refunds to all students; or
- (3) issue a cease and desist order.

**SUBCHAPTER D. REPRESENTATIVES**

**§807.51. Representative Requirements.**

- (a) The school shall apply annually to register representatives on forms provided by the Agency 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 to the school. Any contract signed by a prospective student as a result of solicitation or enrollment by an unregistered representative is null and void and unenforceable.
- (d) Representatives shall participate in training approved by the Agency that covers the Act and Commission rules relative to representatives, admissions, advertising, and any other topics as required by the Agency to support the legal and ethical solicitation and enrollment of students.

**§807.54. Representative Compliance.**

The Agency may hold representatives liable for violations of statute, Commission rules, policies, and procedures notwithstanding §807.51(b) of this subchapter. Violations may result in sanctions up to and including revocation of approval to serve as a representative in Texas, in accordance with the matrix below:

<b>GRADUATED CORRECTIVE ACTIONS</b>	
	<i>Sanction to Representative</i> (to serve as a representative in a school licensed in Texas)



Initial Violation	Conditional registration and retraining
Multiple Violations	Suspension of registration and retraining
Repeat Violation	Revocation or denial of registration
Felony Conviction	Denial, suspension, or revocation of registration
<b>VIOLATIONS</b>	
<b><i>Representative Approval</i></b>	
Soliciting or enrolling students without registration as a representative	
Failure to provide required or accurate information in the representative registration application	
Soliciting or enrolling students for multiple schools, without agreement of all school owners	
Soliciting or enrolling students without taking required training	
<b><i>Representative Behavior</i></b>	
Misrepresentation of the school's programs	
Providing incomplete or inaccurate information about the school (such as employment outcomes, extent of transferability of credits)	
Discrediting other schools	
Soliciting students in disallowed locations	
Soliciting or enrolling students into unapproved programs	
Offering students financial inducements to enroll	
Coercing students to enroll	
Administering entrance tests	
Advising students on financial aid	
Soliciting as, or on behalf of, an employment agency	
Failing to invite students to tour the school's facility and inspect the equipment	
Violating any other provision of statute or rule relating to career schools and colleges	

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**SUBCHAPTER F. INSTRUCTORS**

**§807.82. Temporary Instructors.**

- (a) The Agency 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 Agency.
- (b) In such circumstances, the school shall provide written notice to the Agency 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;

1 (3) the name of the temporary instructor; and

2  
3 (4) the reason for the temporary instructor.

4  
5 (c) Failure to properly notify the Agency shall result in sanctions for the use of an  
6 unapproved instructor.

7  
8 (d) The temporary instructor shall have practical experience or education in the course  
9 area to be taught, and shall not have been previously disapproved to teach the class.

10  
11 (e) There shall be no more than one temporary instructor per grading period in an  
12 individual class, unless specifically approved in advance by the Agency.

13  
14 (f) Failure to comply with this section shall result in sanctions, a full refund to all  
15 students attending such classes, or both.

16  
17 **Subchapter H. COURSES OF INSTRUCTION**

18  
19 **§807.134. Sanctions Relating to Courses of Instruction.**

20  
21 (a) If an approved course of instruction is discontinued for any reason, the Agency shall  
22 be notified within 72 hours of discontinuance and furnished with the names and  
23 addresses of any students who were prevented from completion of the course of  
24 instruction due to discontinuance. Should the school fail to make arrangements  
25 satisfactory to the students and the Agency for the completion of the course of  
26 instruction, the full amount of all tuition and fees paid by the students are then due  
27 and refundable. Any course of instruction discontinued will be removed from the list  
28 of approved courses of instruction.

29  
30 (b) The Agency may suspend enrollments in a particular course of instruction at any  
31 time the Commission finds cause. For purposes of this subsection, cause includes,  
32 but is not limited to:

33  
34 (1) inadequate instruction;

35  
36 (2) unapproved or inadequate curriculum;

37  
38 (3) inadequate equipment; or

39  
40 (4) inadequate facilities.

41  
42 (c) If a school begins teaching a course of instruction or revised course of instruction  
43 that has not been approved by the Agency, the Agency may require the school to  
44 refund to the enrolled students all or a portion of the tuition fees.

45  
46 (d) If upon review and consideration of an original, renewal, or revised application for

1 course of instruction approval, the Agency determines that the applicant fails to meet  
2 the requirements in the Act or this chapter, the Agency shall notify the school,  
3 setting forth in writing the reasons for the denial. This may include summaries of  
4 peer evaluations from both educators and employers offering similar courses of  
5 instruction.  
6

7 (e) The Agency may revoke approval of a school's course of instruction at any time the  
8 Agency finds cause. For purposes of this subsection, cause includes, but is not  
9 limited to:

10  
11 (1) any statement contained in the application for the course of instruction  
12 approval which is untrue;

13  
14 (2) the school's failure to maintain the instructors, facilities, equipment, or courses  
15 of instruction, or course of instruction outcomes on the basis of which approval  
16 was issued;

17  
18 (3) advertising made on behalf of the school which is false, misleading, or  
19 deceptive, including those that use the words commonly associated with a  
20 degree other than those approved by the Coordinating Board;

21  
22 (4) courses of instruction without clearly stated limited transferability if there are  
23 no articulation agreements with other postsecondary institutions in the same  
24 geographic area;

25  
26 (5) courses of instruction for which financial aid is advertised but is not available;

27  
28 (6) repeated violations by the school that negatively impact the quality of a  
29 particular course of instruction; or

30  
31 (7) violations by the school of any applicable provision of the Act or this chapter.  
32

33 (f) A school whose course of instruction approval is denied or revoked shall have the  
34 right to appeal. The Agency will conduct hearings in accordance with Agency  
35 policies and procedures applicable to the appeal.  
36

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

### 38 **§807.261. Requirement for Tour.**

39  
40 (a) Notwithstanding subsection (b) of this section, schools are required to provide a tour  
41 on or before the first scheduled class day.  
42

43  
44 (b) Distance education, combination distance education-residence, and seminars are not  
45 required to provide the student a tour.  
46

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

4 **§807.262. Completion of Refund.**  
5

- 6 (a) A school shall document refunds by written record indicating the date of the refund  
7 transaction, the name of the student receiving the refund, the total amount refunded,  
8 and the specific reason for the refund. Proof of completion shall be on file within  
9 120 days of the effective date of termination and shall include:

- 10  
11 (1) copies of both sides of the cancelled check;  
12  
13 (2) printed proof of completed transaction of electronic funds transfer or other  
14 similar electronic means; or  
15  
16 (3) documentation of an awarded credit to a credit card or other similar account.  
17

- 18 (b) To ensure a school's good faith effort to timely complete a refund owed directly to a  
19 student, the student's file shall contain evidence of the following proof of a certified  
20 mailing of the refund to the:

- 21  
22 (1) student's last known address;  
23  
24 (2) student's permanent address, if different from the student's last known address;  
25 or  
26  
27 (3) address of the student's parent or legal guardian, if different from the student's  
28 last known and permanent addresses.  
29

- 30 (c) If after making a good faith effort to timely complete a refund, the school is unable  
31 to complete the refund, the school shall forward to the Agency the appropriate refund  
32 amount and any pertinent student information to assist the Agency in locating the  
33 student.  
34

35 **§807.263. Refund Requirements.**  
36

- 37 (a) Students are entitled to a full refund for classes attended if the school:

- 38  
39 (1) does not provide a class with:  
40  
41 (A) an approved instructor;  
42  
43 (B) an instructor for whom an application has been properly submitted to the  
44 Agency; or  
45

- 1 (C) a temporary instructor for whom the school submitted notice to the  
2 Agency;  
3
- 4 (2) fails to maintain the instructors, facilities, equipment, or courses of instruction  
5 on the basis of which Agency approval was issued or student enrollment was  
6 obtained, or to submit timely requests for approval of substantive changes  
7 thereto;  
8
- 9 (3) violates any provision of this chapter in the process of soliciting and enrolling  
10 the student;  
11
- 12 (4) fails to adhere to applicable academic, attendance, and refund policies that  
13 meet state requirements and apply to the course enrolled in, as published at the  
14 time of the student's enrollment in the course;  
15
- 16 (5) fails to undertake a good faith effort to furnish the student, upon satisfactory  
17 completion of the program, with a certificate of completion. A school may  
18 withhold the transcript or certificate until the student has paid outstanding  
19 financial obligations to the school. Evidence of a good faith effort shall be  
20 maintained in the student's file in one of the following forms:  
21
- 22 (A) An acknowledgement of receipt of certificate signed and dated by the  
23 student;  
24
- 25 (B) Proof of a certified mailing to the student's last known address;  
26
- 27 (C) Proof of a certified mailing to the student's permanent address, if  
28 different from the student's last known address; or  
29
- 30 (D) Proof of a certified mailing to the address of the student's parent or legal  
31 guardian, if known and different from the student's last known or  
32 permanent addresses; or  
33
- 34 (6) does not have course approval or the required certificate of approval from the  
35 Agency.  
36
- 37 (b) To be considered a violation subject to refund under subsection (a)(1) - (6) of this  
38 section, a school's action shall be determined to be more than a technical error or a  
39 nonsubstantive change in operations.  
40
- 41 (c) If any of the violations in subsection (a)(1) - (6) of this section apply to more than  
42 one class period, students are entitled to a full refund for each such class attended.  
43
- 44 (d) The length of a program, for purposes of calculating refunds owed, is the shortest  
45 scheduled time period in which the program may be completed by continuous  
46 attendance of a full-time student.

- 1  
2 (e) A non-Title IV school, or a Title IV school voluntarily taking attendance, shall  
3 calculate refunds for students based upon scheduled hours of classes through the last  
4 date of attendance. A Title IV school shall calculate refunds for students based upon  
5 scheduled hours of classes through the last documented day of an academically  
6 related activity. Neither type of school shall count leaves of absence, suspensions,  
7 school holidays, days when classes are not offered, and summer vacations for  
8 purposes of calculating a student's refund.  
9
- 10 (f) For all schools other than seminars, a student may cancel enrollment, request a full  
11 refund, and request a release from any obligations to the school within the first three  
12 scheduled class days.  
13
- 14 (g) A school may withhold from the full refund required by subsections (a) - (c) and (f)  
15 of this section any amount provided for in statute as retainable by the school  
16 pursuant to Texas Education Code §132.061. More specifically, the school may  
17 withhold items of extra expense to the student referenced in §132.061(b)(6), as long  
18 as they are necessary for the portion of the program attended and are separately  
19 stated in the enrollment agreement. Any items of extra expense not required for the  
20 portion of the program attended must be included in the refund.  
21
- 22 (h) Students are entitled to a refund paid in accordance with the school's policy, which  
23 must provide for refunds at least equivalent to the provisions in §132.061 and  
24 §132.0611 of the Act, if students withdraw or are discontinued from a program prior  
25 to completion.  
26

27 **§807.264. Penalties Relating to Refunds.**  
28

- 29 (a) A penalty shall be paid on any refund not completed in a timely manner as required  
30 by the Act. The penalty assessment shall begin on the first day following the  
31 expiration of the statutorily defined refund period and end on the day preceding the  
32 date the refund is completed.  
33
- 34 (b) Penalties assessed on late refunds for grants shall be paid to the tuition trust account  
35 if the amount is \$15 or less. Any other penalty assessed on a school's late payment  
36 of student refunds shall be disbursed in the following order of priority:  
37
- 38 (1) to the student's account at a lending institution for the balance of principal and  
39 interest on the student loan;
  - 40
  - 41 (2) to the student for tuition and fees paid directly by the student; and  
42
  - 43 (3) to the tuition trust account for any remaining balance of assessed penalty.  
44
- 45 (c) If the Agency determines that the method used by the school to calculate refunds is  
46 in error or the school does not routinely pay refunds within the time required by the

1 Act, the school shall submit an audited report conducted by an accountant of the  
2 refunds due former students that includes any penalty due as specified in the Act.  
3 An audit opinion letter shall accompany a schedule of student refunds due, which  
4 discloses the following information for the four years prior to the date of the  
5 Agency's request:  
6

- 7 (1) student information, including name, address, and Social Security number;
- 8
- 9 (2) pertinent dates, including last date of attendance and date of termination; and
- 10
- 11 (3) refund information, including amount of refund with principal, penalty, and  
12 any balance due separately stated, payee, and date and check number of  
13 payment if payment has been made.  
14

## 15 **SUBCHAPTER O. RECORDS**

### 16 **§807.284. Reporting.**

- 17 (a) Schools shall report to the Agency, as directed, the facts and information about their  
18 programs and operations deemed necessary for the proper administration of the Act  
19 and any rules adopted under the Act.  
20
- 21 (1) The data to be reported by a school shall include:  
22
- 23 (A) student enrollment information for all programs;
- 24
- 25 (B) completion, employment, and job placement information for all programs  
26 approved for an occupational objective; and  
27
- 28 (C) any other required information.  
29
- 30 (2) The school shall submit the required data to the Agency on or before the  
31 specified date.  
32
- 33 (3) The school shall provide the data in an electronic format prescribed by the  
34 Agency unless a different format is approved in writing by the Agency.  
35
- 36 (4) When good cause is shown, the Agency may extend the deadline for  
37 submission of the data required under this section; however, the extension shall  
38 be effective only if authorized in writing.  
39
- 40 (5) The Agency may require schools to maintain on file the verifiable  
41 documentation supporting the data reported and make it available to the  
42 Agency upon request.  
43  
44  
45

- 1 (b) The Agency shall develop and apply data monitoring and audit protocols for the data  
2 reported under subsection (a) of this section, in a manner sufficient to reasonably  
3 determine the accuracy of the reported information.  
4
- 5 (c) The Agency may impose penalties or sanctions, or both, for failure to submit data  
6 under subsection (a) of this section by the due dates required, or for submission of  
7 data that is shown to contain inaccuracies.  
8
- 9 (d) For any programs not meeting a minimum employment rate for program graduates  
10 in jobs related to the stated occupation, as referenced in §807.131(b), the following  
11 graduated corrective actions will be taken:  
12
- 13 (1) For a program not meeting the minimum employment rate for the first year, the  
14 school will be required to develop and submit a performance improvement  
15 plan acceptable to the Agency;  
16
- 17 (2) For a program not meeting the minimum employment rate for the second  
18 consecutive year, but showing improvement of at least 50% of the difference  
19 between the reported rate and the minimum employment rate of the previous  
20 year, the school will be required to reexamine and submit modifications to the  
21 performance improvement plan acceptable to the Agency;  
22
- 23 (3) For a program not meeting the minimum employment rate for the second  
24 consecutive year and not showing improvement of at least 50% of the  
25 difference between the reported rate and the minimum employment rate of the  
26 previous year, conditions will be placed on the school's certificate, which  
27 include:  
28 (A) modification of the performance improvement plan; and  
29  
30 (B) suspension of new enrollment of students funded with Local Workforce  
31 Development Board–allocated funds in the program; and  
32
- 33 (4) For a program not meeting the minimum employment rate for the third  
34 consecutive year, the Agency will revoke approval of the program.  
35
- 36 (e) The Agency shall publish on its website information compiled from:  
37
- 38 (1) data reported under subsection (a) of this section; and  
39
- 40 (2) any other information collected about schools and programs deemed  
41 appropriate and useful to the public, which:  
42
- 43 (A) assists a person in deciding whether to enroll in a school or in identifying  
44 or choosing which postsecondary institution, school, or college to attend;  
45 and



1  
2 (B) addresses regulatory compliance and performance of schools.

- 3  
4 (3) The Agency, to the extent practical, shall present the published information in  
5 a manner that is consistent among institutions, schools, and colleges; easy to  
6 understand; and accessible to the public.  
7

8 **SUBCHAPTER P. COMPLAINTS**

9  
10 **§807.302. Complaints and Investigations.**

- 11  
12 (a) The Agency shall investigate or refer to other authorities with jurisdiction to  
13 investigate, as appropriate, all complaints received about a school, whether licensed  
14 or unlicensed.  
15  
16 (b) The Agency may determine the extent of investigation needed by considering  
17 various factors, such as:  
18  
19 (1) the seriousness of the alleged violation;  
20  
21 (2) the source of the complaint;  
22  
23 (3) the school's history of compliance and complaints;  
24  
25 (4) the timeliness of the complaint;  
26  
27 (5) the feasibility of investigations; and  
28  
29 (6) any other reasonable matter deemed appropriate.  
30  
31 (c) The Agency may require adequate documentation or other evidence of the violation  
32 before initiating a complaint investigation. Notwithstanding subsection (a) of this  
33 section, anonymous complaints will not be investigated but will be reviewed to  
34 identify any action needed.  
35  
36 (d) Unless good cause is shown, a complaint is timely only if it is filed with the Agency  
37 while the student who files the complaint is enrolled or within two years of the date  
38 the student withdraws, terminates, or graduates from the program that is the subject  
39 of the complaint. Good cause includes, but is not limited to, fraud.  
40  
41 (e) The investigation fee authorized by the Act is based on a per site visit. The school  
42 director shall be notified that an on-site visit was conducted when the investigation  
43 results in assessment of a fee.  
44

1     **SUBCHAPTER S. SANCTIONS**

2  
3     **§807.351. Notice and Administration of Sanctions.**

- 4
- 5     (a) Pursuant to its authority under §132.152 of the Act, the Agency may impose  
6         administrative penalties or other sanctions on an entity for violations of §132.151 of  
7         the Act or this chapter.
- 8
- 9     (b) The Agency shall serve notice of a sanction, with determination of the violation on  
10         which it is based, by both U.S. mail and certified mail, return receipt requested,  
11         mailed to the owner's address of record as listed on the application for certificate of  
12         approval. Unless there is other evidence of receipt, notice is presumed received five  
13         days from the date it is mailed by the Agency.
- 14
- 15     (c) In imposing administrative penalties or other sanctions, the Agency shall consider all  
16         the factors that it deems relevant, including, but not limited to, the following:
- 17
- 18         (1) The amount of administrative penalty or level of sanction necessary to ensure  
19             immediate and continued compliance with statutes and regulations;
- 20
- 21         (2) The conduct of the entity in taking all reasonable steps or procedures necessary  
22             and appropriate to comply with statutes and regulations and to correct the  
23             violation; and
- 24
- 25         (3) The entity's prior violations of statutes, regulations, or orders administered,  
26             adopted, or issued by the Commission.
- 27
- 28     (d) Notwithstanding subsections (a) - (c) of this section, the Agency shall order refunds  
29         pursuant to applicable statute and rules.

30  
31     **§807.352. Sanctions.**

- 32
- 33     (a) Sanctions may include:
- 34
- 35         (1) administrative penalties outlined in §807.353;
- 36
- 37         (2) collecting a late renewal fee from the school;
- 38
- 39         (3) denying the school's application for a certificate of approval;
- 40
- 41         (4) revoking the school's certificate of approval;
- 42
- 43         (5) placing conditions on the school's certificate of approval;
- 44
- 45         (6) suspending the admission of students to the school or a program;
- 46

- 1 (7) denying a program approval;  
2  
3 (8) revoking a program approval;  
4  
5 (9) denying or revoking approval of an owner, school director, instructor, or other  
6 staff member whose approval may be required;  
7  
8 (10) denying, suspending, or revoking the registration of the school's  
9 representatives;  
10  
11 (11) assessing a late refund penalty;  
12  
13 (12) charging the school an investigation fee to resolve a complaint against the  
14 school;  
15  
16 (13) charging the school interest and penalties on late payments of fee installments;  
17  
18 (14) applying for an injunction against the school;  
19  
20 (15) asking the attorney general to collect a civil penalty from any person who  
21 violates the Act or this chapter;  
22  
23 (16) ordering a peer review of the school; and  
24  
25 (17) issuing a cease and desist order to an unlicensed school.  
26  
27 (b) Notwithstanding subsection (a)(1) - (17) of this section, the Agency shall order  
28 refunds pursuant to violations of applicable statutes and rules.  
29

30 **§807.353. Administrative Penalties.**  
31

- 32 (a) Unless otherwise provided by statute, an administrative penalty shall not exceed  
33 \$1,000 for each instance of a violation.  
34  
35 (b) Regardless of the penalty amount for a particular violation contained in the penalty  
36 matrix, the administrative penalty for repeat violations shall be up to the maximum  
37 penalty amount of \$1,000 per violation.  
38  
39 (c) The total amount of an administrative penalty shall be calculated as the product of  
40 the penalty dollar amount and the number of instances of violation.  
41

- 1 (d) The assessment of an administrative penalty shall not preclude the Agency from  
 2 administering other sanctions, up to and including revocation of a school's certificate  
 3 of approval.  
 4
- 5 (e) For the purposes of determining and assessing an administrative penalty, the Agency  
 6 shall use the penalty matrix below. The absence of a particular violation from the  
 7 matrix shall not preclude the Agency from assessing an administrative penalty.  
 8

<b>Violation</b>	<b>Penalty</b>
Small school transitioning to a large school: <ul style="list-style-type: none"> <li>• Failure to notify Agency of the school's status change;</li> <li>• Failure to timely apply; or</li> <li>• Failure to remit increased fees.</li> </ul>	\$250
Failure to disclose tuition, fees, or other charges, including increases, to the Agency	\$250
Vacating the school facility without providing prior notification of a change of address	\$250
Failure to maintain records demonstrating compliance	\$250
Failure to provide complete and accurate information as required	\$250
Failure to ensure representatives have taken required training	\$500
Failure to provide instructors who meet necessary qualifications and notice requirements	\$500
Failure to make arrangements satisfactory to the Agency for the completion of a discontinued course of instruction	\$500
Failure to respond to requests or direction from the Agency	\$500
Making a false statement in an application to the Agency	\$500
Failure to maintain the instructors, facilities, equipment, or courses of instruction and outcomes on the basis of which approval was issued	\$500
Failure to disclose limitations on transferability of courses of instruction	\$500
Advertising the availability of financial aid for a program for which it is not available	\$500
Failure to establish that students met the approved admission requirements	\$750

Failure to submit the annual program completion, job placement, and employment data by the required due date	\$750
Failure to submit annual financial statements no later than 180 days from the close of the school's or college's fiscal year	\$750
Transfer of students from one school location to another school location, by an owner with multiple school locations	\$750
Suspension of all classes and dismissal of all students contrary to the school's class schedule as printed in the school catalog for reasons not approved by the Agency	\$750
Operating a school without a certificate	\$1,000
Teaching a course of instruction or revised course of instruction that has not been approved by the Agency	\$1,000
Using advertising that is false, misleading, or deceptive, including the misrepresentation of degrees other than those approved by the Coordinating Board	\$1,000
Failure to notify the Agency of the discontinuance of the course of instruction or the operation of a school or college within 72 hours of cessation of classes, and to make available accurate records as required	\$1,000
Solicitation of prospective students in violation of statutory and rule requirements	\$1,000
Misrepresentation	\$1,000
Failure to file a complete application for renewal at least 30 days before the expiration date of the certificate of approval	10% of renewal fee not less than \$200 and not more than \$1,000
Failure to pay any installment by the required due date	50% of the total amount of the fee
Paying refunds late	A rate established annually by the Commission

1

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

2  
3       **§807.361. Statement of Charges and Notice of Hearing on Cease and Desist Orders.**

4  
5       If the Agency believes a person is operating a career school or college without a  
6       certificate of approval in violation of §132.151 of the Act, the Agency may issue a  
7       statement of charges and notice of hearing to consider the issuance of a cease and desist  
8       order.

9  
10       **§807.362. Contents of Statement of Charges and Notice of Hearing.**

11  
12       The statement of charges and notice of hearing issued by the Agency shall contain the  
13       following information:

- 14  
15           (1) The name and last known address of the person against whom the order may be  
16           entered;
- 17  
18           (2) A short and plain statement of the reasons the Agency believes the person is  
19           operating a career school or college without a certificate of approval;
- 20  
21           (3) A copy of the Commission's Career Schools and Colleges rules, Title 40,  
22           Chapter 807 of the Texas Administrative Code; and
- 23  
24           (4) The date, time, and location of the hearing.

25  
26       **§807.363. Service of Statement and Charges and Hearing Notice for the Issuance of**  
27       **Cease and Desist Orders.**

28  
29       The statement of charges and notice of hearing to consider a cease and desist order shall  
30       be served by certified mail, return receipt requested, on the person against whom the  
31       order is entered. Notice is presumed received five days from the date it is mailed by the  
32       Agency.

33  
34       **§807.364. Ex Parte Consultations.**

- 35  
36           (a) A Commissioner or employee of the Agency assigned to render a decision or to  
37           make findings of fact and conclusions of law in a cease and desist proceeding shall  
38           not directly or indirectly communicate in connection with an issue of fact or law with  
39           the Commission, a person, a party, or a representative of those entities, except on  
40           notice and opportunity for each party to participate.
- 41  
42           (b) A Commissioner or employee of the Agency assigned to render a decision or to  
43           make findings of fact and conclusions of law in a cease and desist hearing may  
44           communicate ex parte with an Agency employee who has not participated in a  
45           hearing in the case for the purpose of using the special skills or knowledge of the  
46           Agency and its staff in evaluating the evidence.

- 1  
2 (c) This section shall be construed liberally to promote the effectiveness and efficiency  
3 of issuance of cease and desist orders.  
4

5 **§807.365. Hearing Decision and Final Review by the Commission.**  
6

- 7 (a) Within 10 days after the hearing is held, the hearing officer shall issue a written  
8 decision granting or denying the request for the issuance of a cease and desist order  
9 that includes findings of fact and conclusions of law. The hearing decision shall be  
10 mailed by certified mail, return receipt requested, and is presumed received five days  
11 from the date it is mailed. The hearing officer's decision becomes final the 15th day  
12 after receipt of the hearing decision unless an appeal is filed under subsection (b) of  
13 this section.  
14
- 15 (b) A party that is not satisfied with the decision of the hearing officer may file a written  
16 appeal of the decision to the Commission for a final review no later than the 15th day  
17 after receipt of the hearing decision. The written appeal shall contain the party's  
18 arguments as to why the decision of the hearing officer should be reversed. A party  
19 may request oral argument on the written appeal before the Commission. If oral  
20 argument is approved, each party or its hearing representative may present argument  
21 in support of its position.  
22
- 23 (c) Upon receipt of the written appeal of the hearing officer's decision, the Commission  
24 shall consider the appeal and issue a decision promptly. If in the written appeal, oral  
25 argument is requested by a party and approved, the Commission shall schedule and  
26 hold oral argument not later than 90 days of receipt of the written appeal. The  
27 Commission shall consider the appeal on the basis of the record made before the  
28 hearing officer. The decision of the Commission shall be mailed by certified mail,  
29 return receipt requested, and is presumed received five days from the date it is  
30 mailed.  
31

32 **§807.366. Cease and Desist Order.**  
33

- 34 (a) If the request for the issuance of a cease and desist order becomes final under the  
35 provisions of §807.365(a) or, if after an appeal the decision under §807.365(c)  
36 upholds the issuance of a cease and desist order by the Commission, the hearing  
37 officer shall issue a cease and desist order against the person who is found operating  
38 a career school or college without a certificate of approval in violation of §132.151  
39 of the Act.  
40
- 41 (b) The cease and desist order shall be delivered by certified mail, return receipt  
42 requested, and is presumed received five days from the date it is mailed.  
43
- 44 (c) From the date of receipt of the issuance of the cease and desist order, the person  
45 must completely cease and desist operating the career school or college.  
46

- 1 (d) The cease and desist order shall remain in effect until the person comes into  
2 complete compliance with the Act as determined by the Commission, or unless  
3 otherwise provided by the order of the Commission.  
4

5 **SUBCHAPTER U. CAREER SCHOOLS HEARINGS**  
6

7 **§807.381. Purpose.**  
8

9 This subchapter provides a hearing process to the extent authorized by the Act and the  
10 rules administered by the Agency.  
11

12 **§807.383. Information on Right of Appeal.**  
13

14 An issuer of a determination shall inform the career school applicant or any party directly  
15 aggrieved by the determination of the right to a hearing. The notice shall explain the  
16 procedure for an appeal, the party's right of appeal, and the right to be represented by  
17 others, including legal counsel.  
18

19 **§807.384. Request for Hearing.**  
20

- 21 (a) The party seeking review of a determination under this subchapter relating to career  
22 schools hearings shall request a hearing in writing within 15 days after receipt of the  
23 notice of determination.  
24  
25 (b) The request shall be addressed as provided in the determination and state the nature  
26 of the determination, the name and identifying information of the requesting party,  
27 and a request that the determination be reviewed.  
28  
29 (c) The request may include an explanation of why the determination should be  
30 changed; however, this is not a jurisdictional requirement.  
31

32 **§807.385. Setting of Hearing.**  
33

- 34 (a) Upon receipt of request for a hearing, the Agency shall promptly mail a notice of  
35 hearing that sets the hearing for a reasonable time and place within 30 days from  
36 receipt of the request for a hearing.  
37  
38 (b) The notice of hearing shall be in writing and include a:  
39  
40 (1) statement of the date, time, place, and nature of the hearing;  
41  
42 (2) statement of the legal authority under which the hearing is to be held; and  
43  
44 (3) short and plain statement of the issues to be considered during the hearing.  
45



- 1 (c) The notice of hearing shall be issued at least 10 days before the date of the hearing  
2 unless a shorter period is permitted by statute.  
3
- 4 (d) The hearing notice shall state whether the hearing shall be conducted by telephone or  
5 in-person. The hearing notice shall also include the location of an in-person hearing.  
6
- 7 (e) Parties needing special accommodations, including a bilingual or sign language  
8 interpreter, may request such before the setting of the hearing, if possible, or as soon  
9 as practical.

10  
11 **§807.386. Hearing Officer Independence and Impartiality.**  
12

- 13 (a) A hearing officer presiding over a hearing shall have all powers necessary and  
14 appropriate to conduct a full, fair, and impartial hearing. Hearing officers shall  
15 remain independent and impartial in all matters regarding the handling of any issues  
16 during the pendency of a case and in issuing their written decisions.  
17
- 18 (b) A hearing officer shall be disqualified if the hearing officer has a personal interest in  
19 the outcome of the appeal or if the hearing officer directly or indirectly participated  
20 in the determination on appeal. Any party may present facts to the Agency in  
21 support of a request to disqualify a hearing officer.  
22
- 23 (c) The hearing officer may withdraw from a hearing to avoid the appearance of  
24 impropriety or partiality.  
25
- 26 (d) Following any disqualification or withdrawal of a hearing officer, the Agency shall  
27 assign an alternate hearing officer to the case. The alternate hearing officer shall not  
28 be bound by any findings or conclusions made by the disqualified or withdrawn  
29 hearing officer.  
30

31 **§807.387. Hearing Procedures.**  
32

- 33 (a) The hearing shall be conducted in person in Austin, Texas, unless the parties agree to  
34 a telephonic hearing or request a different location.  
35
- 36 (b) The hearing shall be conducted informally and in such a manner as to ascertain the  
37 substantive rights of the parties. All issues relevant to the appeal shall be considered  
38 and addressed, and may include:  
39
- 40 (1) Presentation of Evidence. The parties to an appeal may present evidence that  
41 is material and relevant, as determined by the hearing officer. In conducting a  
42 hearing, the hearing officer shall actively develop the record on the relevant  
43 circumstances and facts to resolve all issues. To be considered as evidence in a  
44 decision, any document or physical evidence must be entered as an exhibit at  
45 the hearing. A party has the right to object to evidence offered at the hearing  
46 by the hearing officer or other parties.

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- (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.

18 (c) Records

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- (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.

34 **§807.388. Postponements, Continuances, and Withdrawals.**

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- (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.

1       **§807.389. Evidence.**  
2

- 3       (a) Evidence Generally. Evidence, including hearsay evidence, shall be admitted if it is  
4       relevant and if in the judgment of the hearing officer it is the kind of evidence on  
5       which reasonably prudent persons are accustomed to rely in the conduct of their  
6       affairs. However, the hearing officer may exclude evidence if its probative value is  
7       outweighed by the danger of unfair prejudice, by confusion of the issues, or by  
8       reasonable concern for undue delay, waste of time, or needless presentation of  
9       cumulative evidence.  
10
- 11       (b) Exchange of Exhibits. Any documentary evidence to be presented during a  
12       telephonic hearing shall be exchanged with all parties and a copy shall be provided  
13       to the hearing officer in advance of the hearing. Any documentary evidence to be  
14       presented at an in-person hearing shall be exchanged at the hearing.  
15
- 16       (c) Stipulations. The parties, with the consent of the hearing officer, may agree in  
17       writing to relevant facts. The hearing officer may decide the appeal based on such  
18       stipulations or, at the hearing officer's discretion, may set the appeal for hearing and  
19       take such further evidence as the hearing officer deems necessary.  
20
- 21       (d) Experts and Evaluations. If relevant and useful, testimony from an independent  
22       expert or a professional evaluation from a source satisfactory to the parties and the  
23       Agency may be ordered by hearing officers, on their own motion or at a party's  
24       request. The cost of any such expert or evaluation ordered by the hearing officer  
25       shall be borne equally by the parties.  
26
- 27       (e) Subpoenas.  
28
- 29       (1) The hearing officer may issue subpoenas to compel the attendance of witnesses  
30       and the production of records. A subpoena may be issued either at the request  
31       of a party or on the hearing officer's own motion.  
32
- 33       (2) A party requesting a subpoena shall state the nature of the information desired,  
34       including names of any witnesses and the records that the requestor feels are  
35       necessary for the proper presentation of the case.  
36
- 37       (3) The request shall be granted only to the extent the records or the testimony of  
38       the requested witnesses appears to be relevant to the issues on appeal.  
39
- 40       (4) A denial of a subpoena request shall be made in writing or on the record,  
41       stating the reasons for such denial.  
42

43       **§807.390. Ex Parte Communications.**  
44

- 45       (a) The hearing officer shall not participate in ex parte communications, directly or  
46       indirectly, in any matter in connection with any substantive issue, with any interested

1 person or party. Likewise, no person shall attempt to engage in ex parte  
2 communications with the hearing officer on behalf of any interested person or party.  
3

- 4 (b) If the hearing officer receives any such ex parte communication, the other parties  
5 shall be given an opportunity to review any such ex parte communication.  
6
- 7 (c) Nothing shall prevent the hearing officer from communicating with parties or their  
8 representatives about routine matters such as requests for continuances or  
9 opportunities to inspect the file.  
10
- 11 (d) The hearing officer may initiate communications with an impartial Agency  
12 employee who has not participated in a hearing or any determination in the case for  
13 the limited purpose of using the special skills or knowledge of the Agency and its  
14 staff in evaluating the evidence.  
15

16 **§807.391. Change in Determination.**  
17

18 The issuer of the determination may change the determination any time before the  
19 hearing officer issues the decision. Despite the issuer changing the determination, the  
20 parties may proceed with the hearing.  
21

22 **§807.392. Hearing Decision.**  
23

- 24 (a) Following the conclusion of the hearing, the hearing officer shall promptly prepare a  
25 written decision on behalf of the Agency.  
26
- 27 (b) The decision shall be based exclusively on the evidence of record in the hearing and  
28 on matters officially noticed in the hearing. The decision shall include:  
29
- 30 (1) a list of the individuals who appeared at the hearing;
  - 31
  - 32 (2) the findings of fact and conclusions of law reached on the issues; and  
33
  - 34 (3) the affirmation, reversal, or modification of the determination.  
35
- 36 (c) Unless a party files a timely motion for rehearing, the Agency may assume  
37 continuing jurisdiction to modify or correct a hearing decision until the expiration of  
38 30 calendar days from the mailing date of the hearing decision.  
39

40 **§807.393. Motion for Reopening.**  
41

- 42 (a) If a party does not appear for a hearing, the party may request the reopening of the  
43 hearing within 30 calendar days from the date the decision is mailed.  
44
- 45 (b) The motion for reopening shall be in writing and detail the reason for failing to  
46 appear at the hearing.

- 1  
2 (c) The Agency may schedule a hearing on whether to grant the reopening.  
3  
4 (d) The motion may be granted if the hearing officer determines that the party has shown  
5 good cause for failing to appear at the hearing.  
6

7 **§807.394. Motion for Rehearing.**  
8

- 9 (a) A party has 30 calendar days from the date the decision is mailed to file a motion for  
10 rehearing. A rehearing shall be granted only for the presentation of new evidence.  
11  
12 (b) A motion for rehearing shall be in writing and allege the new evidence to be  
13 considered. The party shall show a compelling reason why this evidence was not  
14 presented at the hearing.  
15  
16 (c) If the hearing officer determines that the alleged, new evidence warrants a rehearing,  
17 a hearing shall be scheduled at a reasonable time and place.  
18  
19 (d) The hearing officer shall issue a written decision in response to a timely filed motion  
20 for rehearing.  
21  
22 (e) The Agency may assume continuing jurisdiction to modify, correct, or reform a  
23 decision until the expiration of 30 calendar days from the date of mailing of the  
24 hearing decision.  
25

26 **§807.395. Finality of Decision.**  
27

- 28 (a) The decision of the hearing officer is the final decision of the Agency after the  
29 expiration of 30 calendar days from the mailing date of the decision unless within  
30 that time:  
31  
32 (1) a request for reopening is filed with the Agency;  
33  
34 (2) a request for rehearing is filed with the Agency; or  
35  
36 (3) the Agency assumes continuing jurisdiction to modify or correct the decision.  
37  
38 (b) Any decision issued in response to a request for reopening or rehearing or a  
39 modification or correction issued by the Agency shall be final on the expiration of 30  
40 calendar days from the mailing date of the decision, modification, or correction.  
41