

CHAPTER 807. CAREER SCHOOLS AND COLLEGES

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

ON **NOVEMBER 14, 2017**, THE TEXAS WORKFORCE COMMISSION ADOPTED THE BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated date of publication in the *Texas Register*: **December 1, 2017**

The rules will take effect: **December 4, 2017**

The Texas Workforce Commission (TWC) adopts adding the following new section to Chapter 807, relating to Career Schools and Colleges, *without* changes, as published in the September 8, 2017, issue of the *Texas Register* (42 TexReg 4592):

Subchapter Q. Truck Driver Training Programs, §807.326

TWC adopts amendments to the following section of Chapter 807, relating to Career Schools and Colleges, *without* changes, as published in the September 8, 2017, issue of the *Texas Register* (42 TexReg 4592):

Subchapter A. General Provisions, §807.2

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

Texas law charges TWC with exercising jurisdiction and control of the oversight of career schools and colleges operating in Texas. TWC's Career Schools and Colleges department (CSC) licenses and regulates nonexempt private postsecondary career schools and colleges that offer vocational training or continuing education to Texas residents. TWC currently regulates more than 560 career schools and colleges, which provide training to more than 160,000 students annually.

House Bill (HB) 29 and Senate Bill (SB) 128, passed by the 85th Texas Legislature, Regular Session (2017), enacted new Texas Education Code §132.006 to require each career school or college that offers a Commercial Driver's License (CDL) training program to include, as a part of that program, education and training on the recognition and prevention of human trafficking. These rules are adopted under Texas Education Code §132.006, which directs TWC to adopt rules to administer this new requirement and, in conjunction with the Office of the Attorney General, to establish the content of the required education and training. Additionally, Texas Labor Code §301.0015 and §302.002(d) provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities. The legislation requires TWC to adopt these rules no later than December 1, 2017.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

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

SUBCHAPTER A. GENERAL PROVISIONS

TWC adopts the following amendments to Subchapter A:

§807.2. Definitions

New §807.2(26) adds the definition of Human Trafficking to read: "the action or practice of illegally transporting people from one country or area to another, typically for the purposes of forced labor or commercial sexual exploitation, including all offenses referred to in Chapter 20A of the Texas Penal Code."

SUBCHAPTER Q. TRUCK DRIVER TRAINING PROGRAMS

TWC adopts the following amendments to Subchapter Q:

§807.326. Required Training for Students

New §807.326 is added to require Career Schools and Colleges that offer CDL training to include education and training on the recognition and prevention of human trafficking, the content of which is to be established by TWC and the Office of the Attorney General.

No comments were received.

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

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

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

CHAPTER 807. CAREER SCHOOLS AND COLLEGES

SUBCHAPTER A. GENERAL PROVISIONS

§807.2. Definitions.

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

- (1) Academic quarter--A period of instruction that includes at least ten weeks of instruction, unless otherwise approved by the Agency.
- (2) Academic semester--A period of instruction that includes at least 15 weeks of instruction, unless otherwise approved by the Agency.
- (3) Academic term--An academic quarter, academic semester, or other progress evaluation period.
- (4) Academically related activity--An exam, tutorial, computer-assisted instruction, academic counseling, academic advisement, turning in a class assignment, or attending a study group that is assigned by the institution, or other activity as determined by the Agency.
- (5) Accountant--An independent certified public accountant properly registered with the appropriate state board of accountancy.
- (6) Act--Texas Education Code, Chapter 132, Career Schools and Colleges.
- (7) Address of record--In addition to the mailing address contained in the application for a certificate of approval, each career school or college shall establish an e-mail address of record for a distribution list that consistently maintains a minimum of two current subscribers, with the format of the address to be "School#Director@xdomain," e.g., S1111Director@gmail.com.
- (8) Advertising--Any affirmative act designed to call attention to a school or program for the purpose of encouraging enrollment.
- (9) Agency--The unit of state government established under Texas Labor Code, Chapter 301, that is presided over by the Commission and administered by the executive director to operate the integrated workforce development system and administer the unemployment compensation insurance program in this state as established under the Texas Unemployment Compensation Act, Texas Labor Code Annotated, Title 4, Subtitle A, as amended. The definition of Agency shall apply to all uses of the term in rules contained in this chapter.

- (10) Appellant--The party or the party's authorized hearing representative who files an appeal from an appealable determination or decision.
- (11) Asynchronous distance education--Distance education training that the Agency determines is not synchronous.
- (12) Class or course--An identifiable unit of instruction that is part of a program of instruction.
- (13) Commission--The body of governance of the Texas Workforce Commission composed of three members appointed by the governor as established under Texas Labor Code §301.002 that includes one representative of labor, one representative of employers, and one representative of the public. The definition of Commission shall apply to all uses of the term in rules contained in this subchapter.
- (14) Coordinating Board--The Texas Higher Education Coordinating Board.
- (15) Course of instruction--A program or seminar.
- (16) Course time--A course or class period that is:
 - (A) a 50-minute to 60-minute lecture, recitation, or class, including a laboratory class or shop training, in a 60-minute period;
 - (B) a 50-minute to 60-minute internship in a 60-minute period; or
 - (C) 60 minutes of preparation in asynchronous distance education.
- (17) Date of notice--The date the notice is mailed, unless good cause exists for the hearing officer to determine otherwise.
- (18) Date of request of hearing--The date on which the appellant or the hearing representative filed a written notice of appeal with the Agency by hand delivery, facsimile, or mail. If an appeal is mailed to the Agency, then the appeal is perfected as of the postmark date on the envelope containing the appeal request unless good cause exists for the hearing officer to determine otherwise. If an appeal is delivered by hand or facsimile after 5:00 p.m., the date of request shall be the next day.
- (19) Distance education course--Either a seminar or a program that is offered to non-residence school students via correspondence or other media from a remote site on a self-paced schedule, excluding programs using interactive instruction.
- (20) Distance education school--A school that offers only distance education courses.

- (21) Employment--A graduating or graduate student's employment in the same or substantially similar occupation for which the student was trained.
- (22) Good reputation--The possession of honesty and truthfulness, trustworthiness and reliability, and a professional commitment to the educational process and the training or preparing of a person for a field of endeavor in a business, trade, technical, or industrial occupation, as well as the condition of being regarded as possessing such qualities. In determining whether a person is of good reputation, the Agency is not limited to the following acts or omissions. The Agency may consider similar acts or omissions and rehabilitation efforts in response to prior convictions in making its determination. A person is considered to be of good reputation if the person:
- (A) has never been convicted of a felony or any other crime that would constitute risk of harm to the school or students as determined by the Agency;
 - (B) has not been successfully sued for fraud or deceptive trade practices, or breach of contract, within the last 10 years;
 - (C) does not own or administer a school currently in violation of legal requirements, has never owned or administered a school with repeated violations, and has never owned or administered a school that closed with violations including, but not limited to, unpaid refunds; or
 - (D) has not knowingly falsified or withheld information from the Agency.
- (23) Hearing--An informal, orderly, and readily available proceeding held before an impartial hearing officer. A party or hearing representative may present evidence to show that the Agency's determination should be reversed, affirmed, or modified.
- (24) Hearing officer--An Agency employee designated to conduct impartial hearings and issue final administrative decisions.
- (25) Hearing representative--Any individual authorized by a party to assist the party in presenting the party's appeal. A hearing representative may be legal counsel or another individual. Each party may have a hearing representative to assist in presenting the party's appeal.
- (26) Human Trafficking--the action or practice of illegally transporting people for the purposes of forced labor or commercial sexual exploitation, including all offenses referred to in Chapter 20A of the Texas Penal Code.
- (27) Job placement--An affirmative effort by the school to assist the student in obtaining employment in the same or substantially similar stated occupation for which the student was trained.

- (28) Master student registration list--A comprehensive list with an entry made for any person who signs an enrollment agreement, makes a payment to attend the school, or attends a class. The entry shall be made on the date the first of these events occurs.
- (29) Party--The person or entity with the right to participate in a hearing authorized in applicable statute or rule.
- (30) Program or program of instruction--A postsecondary program of organized instruction or study that may lead to an academic, professional, or vocational degree, certificate, or other recognized educational credential.
- (31) Refund--The completed payment of a refund such that the refund instrument has been negotiated or credited into the proper account(s).
- (32) Reimbursement contract basis--A school operating, or proposing to operate, under a contract with a state or federal entity in which the school receives payment upon completion of the training.
- (33) Residence school--A school that offers at least one program that includes classroom instruction or synchronous distance education.
- (34) Response deadline--Deadlines that fall on a weekend, an official state holiday, a state holiday for which minimal staffing is required, or a federal holiday are extended one working day.
- (35) Sanctions--Administrative or civil actions, including, but not limited to, penalties, revocation of approvals, or cease and desist orders taken by the Agency against an entity in response to violations of the Act or this chapter.
- (36) School--A "career school or career college," as defined in the Act, that includes each location where courses of instruction shall be offered.
- (37) Secondary education--Successful completion of public, private, or home schooling at the high school level or obtainment of a recognized high school equivalency credential.
- (38) Seminar--A course of instruction that enhances a student's career, as opposed to a program that teaches skills and fundamental knowledge required for a stated occupation. A seminar may include a workshop, an introduction to an occupation or cluster of occupations, a short course that teaches part of the skills and knowledge for a particular occupation, language training, continuing professional education, and review for postsecondary examination.
- (39) Seminar school--A school that offers only seminars.
- (40) Small school--A "small career school or college" as defined in the Act.

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

SUBCHAPTER Q. TRUCK DRIVER TRAINING PROGRAMS

§807.326. Required Training for Students

All career schools and colleges Commercial Driver's License (CDL) training programs must include training on the recognition and prevention of human trafficking, the content of which is to be established by the Agency in collaboration with the Office of the Attorney General.