

**General Information Sheet on Career Schools and Colleges
with Selected Citations from
Title 3, Texas Education Code, Section 132**

This information sheet provides an introductory overview career schools and colleges and their licensure requirements in Texas. We recommend it as a starting point for answers to common questions about the regulation of career schools and colleges and for planning how to prepare to meet the requirements to operate a career school or college in Texas.

Texas career schools and colleges are regulated under career schools and colleges law (statute) at Title 3, Texas Education Code, Chapter 132, and career schools and colleges rules, at Title 40, Texas Administrative Code, Chapter 807. The statute is available online at <http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.132.htm> and the rules are at: <http://www.twc.state.tx.us/twcinfo/rules/ch807.pdf>.

All references in this document to “Sec. 132” refer to Chapter 132, Texas Education Code, and those to “Sec. 807” refer to Chapter 807, Texas Administrative Code.

1. Is your business a career school or college?

The vast majority of businesses in Texas that solicit business or provide postsecondary training classes in Texas or to Texans must have either a Certificate of Approval (“license”) or an exemption from regulation from the Texas Workforce Commission’s (TWC) Career Schools and Colleges department. Depending on your school’s particular circumstances, it may or may not fall under regulation. Any school or training program that meets the definition of a “career school or college” under Texas law must have either a TWC license or exemption to legally operate.

Sec. 132.001. Definitions

“Career school or college” means any business enterprise operated for a profit or on a nonprofit basis that maintains a place of business within this state or solicits business within this state, that is not specifically exempted by this chapter, and:

- (A) that offers or maintains a course or courses of instruction or study; or
- (B) at which place of business such a course or courses of instruction or study are available through classroom instruction or by distance education, or both, to a person for the purpose of training or preparing the person for a field of endeavor in a business, trade, technical, or industrial occupation, or for avocational or personal improvement.

2011 amendments to the Texas Education Code

The 82nd Legislature passed legislation that will **exclude** certain institutions or specific types of educational programs from the definition of the schools and colleges required to have either a license or exemption from the Agency prior to enrolling Texas residents. These include:

Effective June 17, 2011:

- Certain schools or training programs that offer only avocational or recreational instruction or teacher instruction for the following subjects:
 - (1) dance;
 - (2) music;
 - (3) martial arts;
 - (4) yoga;
 - (5) physical fitness;
 - (6) horseback riding;
 - (7) riflery or other weapon use;
 - (8) sewing, knitting or other needlecrafts; or
 - (9) sports.

Effective September 1, 2011:

- Certain out of state, degree granting schools that only offer distance education in Texas. Such schools must be:
 - (1) physically located in a state other than Texas;
 - (2) legally authorized by the state of its physical location to offer postsecondary education and award degrees;
 - (3) accredited by a regional or national accrediting organization recognized by the United States secretary of education under the Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.); and
 - (4) offer in Texas only postsecondary distance or correspondence programs of instruction.

These schools must post a conspicuous notice on the home page of their websites stating:

- (1) that the career school or college is not regulated in Texas under Chapter 132 of the Texas Education Code;
- (2) the name of any regulatory agencies that approve and regulate the school's programs in the state where the school is physically located and in which it has legal authorization to operate; and
- (3) how to file complaints or make other contact with applicable regulatory agencies.

- Training that is not postsecondary, that is, training that requires a student to have a high school diploma or high school equivalency certificate or requires that the person be beyond the age of compulsory education (18 years of age).
- Schools offering programs in yoga or in training persons to teach yoga are specifically excluded from the definition of postsecondary.

2. What does a school need to do if it does not meet the definition of “career school or college?”

An entity that does not meet the definition as a “career school or college” does not need to notify or file an application with TWC. However, other regulatory requirements may apply for those schools. For instance, the new exclusion for out-of-state schools offering online degree programs have a

statutory notification requirement. In addition, other agencies may have regulatory requirements that apply to the business entity.

3. Could your business be exempt?

Some schools may qualify for an exemption from career schools and colleges licensure. Texas Education Code §132.002 and §132.003 list 17 specific exemptions from regulation, which are not listed here due to length. Section 132.002(d) provides that a school or educational institution is exempt from regulation only if:

- (1) the owner of the school or educational institution:
 - (A) applies to the commission for an exemption under this section; and
 - (B) provides to the commission any information considered necessary by the commission to support the owner's application for an exemption; and
- (2) the commission declares that the school or educational institution is exempt after finding that the school or institution is a school or institution listed in Subsection (a).

If you feel that your business may qualify for an exemption, please consult Form PS-017, General Exemptions, which is available for download from TWC's *Career Schools and Colleges Forms* page at <http://www.twc.state.tx.us/svcs/propschools/propforms.html>.

To apply for an exemption, write a letter to the address given in Form PS-017 and provide the complete information requested for the specific exemption. There is no charge to request an exemption. After your request is reviewed, you will be notified as to whether your request was approved.

Some schools are exempt because they are approved and regulated by another state agency; these schools may not need to apply to TWC for an exemption. Common examples are cosmetology schools, which are approved and regulated by the [Texas Department of Licensing and Regulation](#), and driver safety and defensive driving schools, which are regulated by the [Driver Training Division](#) of the Texas Education Agency.

4. What must your business do to operate legally?

Any institution or educational program falling under the definition of a career school must have a Certificate of Approval, or an exemption if eligible, prior to advertising or operating. If your business clearly does not fall within the definition of a career school, no further action is required. However, inquiry to TWC Career Schools and Colleges to confirm whether or not a Certificate of Approval or an exemption is required is strongly encouraged, since operating without legal authorization can have significant ramifications. As illustrated in the citations from statute below, a school that operates illegally is subject to significant financial risks and enforcement actions, including to one or more of the following:

- a legal order to cease and desist immediately from operating illegally;
- administrative or civil penalties (fines); and

- the obligation to fully refund students because the school's educational contracts with them are not valid and therefore not enforceable.

Sec. 132.051. Certificate of Approval

- (a) A career school or college may not maintain, advertise, solicit for, or conduct any course of instruction in this state before the later of:
 - (1) the 30th day after the date the school or college applies for a certificate of approval under this chapter; or
 - (2) the date the school or college receives a certificate of approval from the commission.
- (b) Any contract entered into with any person for a course of instruction by or on behalf of any person operating any career school or college to which a certificate of approval has not been issued pursuant to this chapter is unenforceable in any action brought thereon. Any note, other instrument of indebtedness, or contract relating to payment for educational services obtained from a career school or college that does not hold a certificate of approval issued under this chapter is unenforceable in any action brought on the note, instrument, or contract.

Sec. 132.151. Prohibitions

A person may not:

- (1) operate a career school or college without a certificate of approval issued by the commission;
- (2) solicit prospective students for or on behalf of a career school or college without being registered as a representative of the career school or college as required by this chapter;
- (3) accept contracts or enrollment applications from a representative who is not bonded as required by this chapter;
- (4) utilize advertising designed to mislead or deceive prospective students;
- (5) fail to notify the commission of the discontinuance of the operation of any career school or college within 72 hours of cessation of classes and make available accurate records as required by this chapter;
- (6) fail to secure and file within 30 days an increased bond as required by this chapter;
- (7) negotiate any promissory instrument received as payment of tuition or other charge prior to completion of 75 percent of the course, provided that prior to such time, the instrument may be transferred by assignment to a purchaser who shall be subject to all the defenses available against the career school or college named as payee; or
- (8) violate any provision of this chapter.

Sec. 132.154. Injunctions

- (a) Whenever the commission has probable cause to believe that any career school or college has committed any acts that would be in violation of this chapter, the commission shall apply for an injunction restraining the commission of such acts.
- (b) An action for an injunction under this section shall be brought in Travis County.

Sec. 132.155. Civil Penalty

- (a) A person who violates this chapter or a rule adopted under this chapter is liable for a civil penalty in addition to any injunctive relief or other remedy provided by law. The civil penalty may not exceed \$1,000 a day for each violation.
- (b) The attorney general, at the request of the commission, may bring a civil action to collect a civil penalty under this section.

5. What is involved in obtaining a Certificate of Approval?

Statute requires that all of the following must occur before TWC can issue a Certificate of Approval:

- A complete application and fees must be submitted including all of the following key approvals.
- The courses of instruction must be submitted and approved.
- A School Director is required. The application for that individual must be approved. If there is a Director of Education, that individual must be approved.
- Applications for the school's instructors must be approved.
- Applications for representatives (the employees of the school that discuss the school with the public) must be approved.
- A school catalog, school advertising, and enrollment materials meeting information requirements must be approved.
- The facilities and equipment must be inspected and approved.
- Audited financial statements demonstrating adequate financial stability must be submitted and approved.

The approval process starts with your school's application. There are two different applications, one for "Residence" schools and the other for "Seminar" schools. A Residence school is one that offers at least one course which teaches skills and fundamental knowledge required for a specific occupation, and includes classroom instruction or synchronous distance education. A Seminar school is one that only offers seminars, which are courses that enhance a student's career, as opposed to a program that teaches fundamental skills and knowledge required for an occupation. A continuing education course will typically be a seminar. Because the distinctions between school types can be technical, please call the Career Schools and Colleges department at (512) 936-3100 to ensure that you know which application to use for the types of courses you intend to offer.

A career school or college may offer a degree approved by the Texas Higher Education Coordinating Board. If you are considering offering degree programs, you will need to contact the Academic Programs Division of the Texas Higher Education Coordinating Board, at 512.427.6238 to discuss their requirements. Any career school or college offering a degree program must apply to TWC as a Residence school.

All of information and forms required to obtain a Certificate of Approval are available at the TWC Career Schools and Colleges website at <http://csc/twc/state/tx/us>, from the "Considering Opening a Career School?" webpage: <http://www.twc.state.tx.us/svcs/propschools/considering->

[schools.html](http://www.twc.state.tx.us/svcs/propschools/propforms.html#newschool). A complete packet of both instructional and fillable forms, for both Residence and Seminar schools, are available by accessing the appropriate Packet / Table of Contents at <http://www.twc.state.tx.us/svcs/propschools/propforms.html#newschool>.

Once you have your application packet, please:

1. Thoroughly read through all of the information provided and ensure you understand all of the requirements.
2. Do not delay in key preparations, such as engaging a CPA licensed to practice in Texas, to assist you with assembling the required financial statements that demonstrate your school's financial capability to fulfill its commitments for training.
3. Prepare your complete application by completing all of the forms required or applicable to you and assembling all the requested information and documentation, along with the necessary fees.
4. Submit a complete application to TWC per the mailing instructions.

After we receive your application:

1. You can expect that we will reply to your submission in about 30 days. If the application is complete and there are no deficiencies, a Certificate of Approval will be provided at that time. However, the typical application requires corrections or additional information; our response will provide detailed feedback for you on what must be corrected or submitted.
2. After an application is submitted, it takes on average three to four months to complete the process and issue a Certificate of Approval. The process could be shorter, depending on how complete and correct your initial application submission is.
3. You must reply to requests from us for additional information by providing all responsive information within 30 days, or your application may be considered withdrawn.
4. You will have a maximum of 180 days to complete the process, after which your application may be considered withdrawn.
5. If you withdraw your application or it is considered withdrawn due to non-responsiveness by you, you can reapply at any time, but you will have to resubmit all of your materials and fees.
6. Once staff has confidence the application is sufficiently complete and correct, and we have received notice from you that the facilities and equipment are ready, we will schedule an initial site visit to inspect adequacy of facilities and equipment.

If you have questions, please email or call the Career Schools and Colleges department:

The Help Desk: career.schools@twc.state.tx.us
Career Schools and Colleges: (512) 936-3100

Periodically, we have to revise forms in order to address changing requirements. Before you submit your application, check our web site to ensure that you have the most current form. Please contact us if you filled out an earlier version of a form so that we can tell you whether or not we can accept it.

6. What are the costs of licensure?

The primary costs of licensure are the required fees and the cost of obtaining financial statements, if your business does not already have the type of financial statements required. Fees are due every year, and they vary depending on the school's circumstances.

Most schools applying for their first ("original") Certificate of Approval typically have total fees for the first year of licensure of about \$1,200. This amount may be slightly higher depending on the number of instructors and representatives the school hires. The average renewal fee for the second year is about \$500. By the following year, a school that can demonstrate that they meet the criteria for a small school by submitting appropriate financial documents can renew with a 3 year license, in which case the fee is \$501 the first year and \$250 in each of the following two years. There are some documents that schools must continue to submit on an annual basis, and any changes in programs, key staff, ownership, etc. must be provided to and approved by TWC.

As part of the original certificate application, specific financial statements must be submitted and must meet specific criteria to demonstrate financial stability. The financial documents that need to be submitted vary by the type of ownership of the school, but key items are a balance sheet prepared by an independent Certified Public Accountant (CPA) or Public Accountant (PA) and projections of expenses and income, which you may prepare. The balance sheet must show that the school's ratio of current assets to liabilities is no less than 1:1; the equity or net worth account must be positive; and there cannot be any past due liabilities. The balance sheet must reflect sufficient cash to pay all expenses for the first three months of operation or you must submit a sworn affidavit affirming the availability of sufficient cash to meet those projected expenses.

For more details, see Form PS-016, Evidence Necessary to Establish Financial Stability for a New School. We recommend that you engage an accountant early in the application process, providing them with this form, so that acceptable financial statements can be submitted as soon as possible with the complete application. Delayed financial statements are the most frequent cause of not being able to complete the application in a timely manner. Also, remember that the statements must be no more than four months old when submitted. We cannot recommend an accountant, but we do recommend that you shop around to obtain at least a couple of cost quotes before selecting an accountant.

7. Do I have to have a location and/or phone number when I submit the application?

No. You may submit the application without this information. However, many parts of the application are notarized documents. Therefore, to make changes to the application you either will have to come to our office and add the information where required on the application or resubmit the portions of the application that require the information.

8. Once I've submitted an application, can I advertise while I'm waiting for final approval and issuance of a Certificate of Approval?

No. Texas Education Code §132.051 states that a school may not maintain, advertise, solicit for, or conduct any course of instruction before it receives a Certificate of Approval. As detailed earlier in item 3, a school that operates illegally is subject to significant financial risks and enforcement actions,

9. Can a school receive a temporary approval while it is in the application process?

There is no provision in statute for temporary approval.

10. Where can I get more information?

The TWC Career Schools and Colleges Web page:

<http://csc.twc.state.tx.us>, particularly the:

“Considering Opening a Career School?” Web page:

<http://www.twc.state.tx.us/svcs/propschools/considering-schools.html>

New School Application Packet:

<http://www.twc.state.tx.us/svcs/propschools/propforms.html#newschool>

The Help Desk:

career.schools@twc.state.tx.us

Career Schools and Colleges Department:

(512) 936-3100.

*Thank you for your interest in providing educational opportunities
to the citizens of Texas.*