

1 **CHAPTER 808. YOUTH DRIVER EDUCATION FUNDING PROGRAM**

2
3 **ADOPTED RULES TO BE PUBLISHED IN THE *TEXAS REGISTER*. THIS**
4 **DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT**
5 **TO FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF THE**
6 **SECRETARY OF STATE.**

7
8 **ON JUNE 28, 2022, THE TEXAS WORKFORCE COMMISSION ADOPTED THE**
9 **RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS***
10 ***REGISTER*.**

11
12 Publication Date of the Adoption in the *Texas Register*: **July 15, 2022**
13 The Rules are Effective: **July 18, 2022**

14
15 The Texas Workforce Commission (TWC) adopts new Chapter 808, relating to the Youth
16 Driver Education Funding Program, comprising the following subchapters:

- 17
18 Subchapter A. Youth Driver Education Funding Program Eligibility, §808.1
19 Subchapter B. Use of Youth Driver Education Funds, §808.21

20
21 New §808.1 is adopted *without changes* to the proposed text as published in the February
22 25, 2022, issue of the *Texas Register* (47 TexReg 893) and, therefore, the adopted rule
23 text will not be published. New §808.21 is adopted *with changes* to the proposed text as
24 published and the adopted rule text will be published.

25
26 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

27 The purpose of the Chapter 808 rules is to implement Senate Bill (SB) 2054 from the
28 87th Texas Legislature, Regular Session (2021). SB 2054 amended Texas Transportation
29 Code, Chapter 521, Subchapter H to add §521.168, Payment of Fees for Certain Foster
30 and Homeless Children and Youths, which states that unless prohibited by Texas
31 Transportation Code, §521.4265(c), TWC shall, upon request from an individual who
32 meets the eligibility criteria outlined in Texas Transportation Code, §521.168, pay the
33 fees associated with obtaining a driver's license imposed under Texas Transportation
34 Code, Chapter 521, Subchapter H, or Texas Education Code, Chapter 1001.

35
36 Texas Transportation Code, §521.168(a) lists the following criteria for eligible
37 individuals:

- 38 --Individuals eligible for a driver's license fee exemption under Texas Transportation
39 Code, §521.1811; or
40 --Individuals younger than 26 years of age who were or are:
41 --in the managing conservatorship of the Texas Department of Family and Protective
42 Services (DFPS) on the day before the individual's 18th birthday; or
43 --a homeless child or youth, as defined by 42 United States Code §11434a.

44
45 Texas Transportation Code, §521.168(b) stipulates that TWC shall establish a process by
46 which an eligible individual may apply to TWC for the payment of fees associated with

1 obtaining a driver's license imposed under Texas Transportation Code, Chapter 521,
2 Subchapter H, or Texas Education Code, Chapter 1001, and TWC pays those fees on the
3 eligible individual's behalf.

4
5 SB 2054 also amended Texas Transportation Code, § 521.4265(b) and (c) and added
6 § 521.4265(d). Texas Transportation Code, § 521.4265(b) and (c) states that these fees will
7 be paid for through the Texas Department of Public Safety's (DPS) identification fee
8 exemption account. Texas Transportation Code, § 521.4265(b) stipulates that DPS shall
9 request that the Texas Comptroller of Public Accounts transfer to TWC amounts
10 sufficient to cover the cost of implementing the Youth Driver Education Funding
11 Program under Texas Transportation Code, § 521.168, including amounts sufficient for
12 TWC's payment of fees to entities other than DPS.

13
14 Texas Transportation Code, § 521.4265(c)(1) states that fund transfers for the Youth
15 Driver Education Funding Program may not be requested if the balance of the account for
16 the fiscal year is less than three times the amount expended in the previous fiscal year for
17 fee waivers provided by Texas Transportation Code, § 521.1015(e) and § 521.1811.

18
19 Texas Transportation Code, § 521.4265(d) requires DPS, in consultation with TWC, to
20 establish rules for a process governing these fund transfers.

21 22 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

23 24 **SUBCHAPTER A. YOUTH DRIVER EDUCATION FUNDING PROGRAM** 25 **ELIGIBILITY**

26 TWC adopts new Subchapter A:

27 28 **§808.1. Eligible Population**

29 New §808.1 states that TWC shall pay the fees associated with obtaining a driver's
30 license imposed under Texas Transportation Code, Chapter 521, Subchapter H, or Texas
31 Education Code, Chapter 1001, for eligible individuals who meet the criteria listed in
32 Texas Transportation Code, § 521.168(a).

33 34 **SUBCHAPTER B. USE OF YOUTH DRIVER EDUCATION FUNDS**

35 TWC adopts new Subchapter B:

36 37 **§808.21. Verification Process**

38 New §808.21 describes the verification process by which eligible individuals may apply
39 to have fees associated with obtaining a driver's license--imposed under Texas
40 Transportation Code, Chapter 521, Subchapter H, or Texas Education Code, Chapter
41 1001--paid for through TWC's Youth Driver Education Funding Program. New §808.21
42 also describes how TWC will respond to individuals requesting payment who are
43 determined to be ineligible and provides steps required for driver education providers to
44 receive a fee payment.

1 TWC hereby certifies that the rules have been reviewed by legal counsel and found to be
2 within TWC's legal authority to adopt.

3
4 **PART III. PUBLIC COMMENTS**

5 The public comment period closed on March 28, 2022. TWC received comments from
6 DFPS and a joint comment from the coalition of youth advocates, which included
7 Partnerships for Children, Texas Appleseed, Texas Court Appointed Special Advocates,
8 Texas Foster Youth Justice Project, Texas Network of Youth Services, and two
9 individuals who advocate for foster youth.

10
11 **§808.1. Eligible Population**

12
13 **COMMENT:** The coalition recommended that the rule be revised to make clear that
14 behind-the-wheel training was available to participants 18 years of age and older.

15
16 **RESPONSE:** TWC does not plan to incorporate specific allowable costs within the rule
17 and will address these issues as part of the policy and processes to implement the rule.
18 TWC does plan to make the policy clear that behind-the-wheel training is allowable to all
19 participants who need it.

20
21 No changes were made in response to this comment.

22
23 **§808.21. Verification Process**

24
25 **COMMENT:** DFPS and the coalition requested that TWC provide a list of approved
26 driver education providers in Texas that meet all the requirements listed in §808.21(a).

27
28 **RESPONSE:** Due to the statewide nature of the program and considering that providers
29 continue to open and close and are not under obligation to provide any information to
30 TWC, TWC does not intend to keep a current list. TWC will use the Texas Department of
31 Licensing and Regulation list of licensed applications for its eligibility determinations
32 and recommends that applicants use the same list. Applicants are not expected to conduct
33 an eligibility check because TWC will confirm eligibility. TWC does not expect a
34 significant number of education providers to be ineligible based on research conducted.
35 Should an applicant propose an ineligible provider, TWC will provide a list of nearby
36 eligible providers.

37
38 No changes were made to the rule in response to this comment.

39
40 **COMMENT:** DFPS and the coalition recommended that TWC accept applications in
41 multiple digital formats, accept eligibility verification in multiple forms, and provide an
42 opportunity for the applicant to give an additional contact to receive information relating
43 to the application. Additionally, the coalition recommended that TWC provide a
44 confirmation of receipt along with a confirmation number to ease future inquiries.

1 **RESPONSE:** TWC intends to accept applications through a website, by email, and
2 through standard mail. Automatic confirmation will be given where feasible. TWC will
3 accept documents in any legally acceptable format and intends to accept commonly used
4 eligibility verification documents in addition to the form that TWC will develop and
5 make available. Should an applicant wish to provide a second contact person, the second
6 contact person will also be contacted.

7
8 The language in §808.21(b) is changed to clarify that submission can be made through
9 multiple methods.

10
11 **COMMENT:** DFPS requested that the signatory for the youth's eligibility be
12 automatically included in communication regarding the application if the applicant is
13 currently in foster care.

14
15 **RESPONSE:** TWC will include the designated case manager or any other appropriate
16 DFPS staff members in communication with those individuals currently in foster care.

17
18 No changes were made to the rule in response to this comment.

19
20 **COMMENT:** The coalition requested that TWC amend the rule to require contact with
21 the applicant in the event that TWC is unable to determine the individual's eligibility.

22
23 **RESPONSE:** TWC revised the language in §808.21(c) to clarify that TWC will make
24 reasonable efforts to contact any individual whose eligibility cannot be determined.

25
26 **COMMENT:** The coalition recommended that TWC include an explanation of why an
27 applicant is ineligible if an application is rejected.

28
29 **RESPONSE:** TWC intends to provide clear information on why an applicant is ineligible
30 if he or she is found to be so. Any applicant will be able to reapply to the program if
31 circumstances change or he or she is able to provide more accurate documentation.

32
33 No changes were made to the rule in response to this comment.

34
35 **COMMENT:** DFPS and the coalition asked for clarification on what specifically will be
36 paid for, a website clearly explaining payment procedures, and how payment and
37 enrollment will interact.

38
39 **RESPONSE:** TWC will provide a website with complete guidance for applicants, both
40 on what is eligible to be paid for and how payment procedures will work. TWC intends to
41 support youth even if enrollment requires simultaneous payment, the process for which
42 will be addressed in TWC policies.

43
44 The language in §808.21(e) is changed to clarify this intent.

1 **COMMENT:** DFPS requested that staff be familiar with situations that may prevent
2 participants in the program from completing an education program or test. The coalition
3 recommended that language pertaining to whether a youth "fails to attend" be omitted.

4
5 **RESPONSE:** TWC intends for staff overseeing this program to be familiar with the
6 challenges that participants may face. TWC also accepts a self-attestation of inability
7 from the participant to receive the waiver. The intention of the language is specifically to
8 avoid participants not completing a program or test, and not to assess their attendance.

9
10 The language in §808.21(f) is changed to clarify this intent.

11
12 **COMMENT:** The coalition requested that payment be streamlined, possibly by agreeing
13 to contract with specific providers.

14
15 **RESPONSE:** Due to the statewide nature of the program and considering that providers
16 continue to open and close and are not under obligation to provide any information to
17 TWC, TWC is not looking to select specific providers beyond the eligibility requirements
18 laid out in rule. TWC is concerned that any limitations might be more detrimental than
19 the benefits of the streamlining.

20
21 No changes were made to the rule in response to this comment.

22
23 **COMMENT:** The coalition suggested revisions to §808.21(i)(2) and (3) to address a
24 situation where an applicant mistakenly pays the provider prior to applying and ensure
25 that all fees can be refunded.

26
27 **RESPONSE:** TWC reviewed the language and feels that current language is sufficient to
28 ensure that all relevant payments are recaptured if appropriate. In cases in which a youth
29 has mistakenly paid the provider prior to the application's approval, TWC will work with
30 the youth and provider to resolve the situation, but the emphasis and primary structure of
31 this program is intended to be a direct payment from TWC to the education provider.
32 Additional documentation and the applicant's time will be required to address a
33 prepayment situation. TWC will make clear in all materials that applicants should not
34 make any payments to the provider, and if this prevents enrollment, TWC will work with
35 them to address the situation.

36
37 No changes were made to the rule in response to this comment.

38 39 **PART IV. STATUTORY AUTHORITY**

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

43
44 The new rules implement the changes made to the Texas Transportation Code, Chapter
45 521, by SB 2054, specifically the requirements of amended Texas Transportation Code,
46 §521.168(b).

1 **CHAPTER 808. YOUTH DRIVER EDUCATION FUNDING PROGRAM**

2
3 **SUBCHAPTER A. YOUTH DRIVER EDUCATION FUNDING PROGRAM**
4 **ELIGIBILITY**

5
6 **§808.1. Eligible Population.**

7
8 Unless prohibited under Texas Transportation Code, §521.4265(c), the Agency
9 shall, upon request from an individual who meets the eligibility criteria in this
10 section, pay the fees associated with obtaining a driver's license imposed under
11 Texas Transportation Code, Chapter 521, Subchapter H, or Texas Education
12 Code, Chapter 1001. Eligible individuals for the Youth Driver Education Funding
13 Program include individuals:

- 14
15 (1) eligible for a driver's license fee exemption under Texas Transportation
16 Code, §521.1811; or
17
18 (2) younger than 26 years of age who were or are:
19
20 (A) in the managing conservatorship of the Texas Department of
21 Family and Protective Services on the day before the individual's
22 18th birthday; or
23
24 (B) a homeless child or youth as defined by 42 United States Code
25 §11434a.
26

27 **SUBCHAPTER B. USE OF YOUTH DRIVER EDUCATION FUNDS**

28
29 **§808.21. Verification Process.**

- 30
31 (a) To receive a driver education fee waiver, an eligible individual must identify
32 a driver education provider with whom he or she intends to enroll that:
33
34 (1) is registered with the Texas Department of Licensing and Registration
35 as a certified Texas driver education provider;
36
37 (2) is a registered vendor in accordance with rules established by the
38 Agency and the Texas Comptroller of Public Accounts; and
39
40 (3) charges a rate that does not exceed twice the average rate of all other
41 certified Texas driver education providers within a 30-mile radius of
42 the selected certified Texas driver education provider's physical
43 location. For driver education providers providing online instruction,
44 their rate will be compared to the average rate for online driver
45 education instruction available in Texas.
46

- 1 (b) Once a driver education provider is selected, the eligible individual must visit
2 a website designated by the Agency to complete and submit via the website,
3 email, or mail, the Driver Education Waiver Request Form, which includes:
4
5 (1) individual eligibility verification; and
6
7 (2) Youth Driver Education Funding Program eligibility verification.
8
9 (c) Agency staff shall review the form within five business days of submission
10 and notify the requestor of the individual's eligibility status. If staff is unable
11 to determine eligibility, staff will make reasonable efforts to contact the
12 individual for further information.
13
14 (d) Once participant and Youth Driver Education Funding Program eligibility are
15 determined, Agency staff shall:
16
17 (1) for an eligible individual, submit a payment request on the individual's
18 behalf to the Agency's Finance Division; or
19
20 (2) for an ineligible individual, send a response to the individual alerting
21 them of their ineligibility.
22
23 (e) After an eligible participant has completed enrollment with the selected
24 provider, or submitted documentation that enrollment cannot be completed
25 without payment, the Agency's Finance Division shall review and process the
26 payment request in keeping with Agency policies and procedures regarding
27 fee payment, and if sufficient funds have been transferred from the Texas
28 Department of Public Safety (DPS) to the Agency. If enrollment is not
29 possible without payment, TWC will work with applicants to enroll them at
30 time of payment.
31
32 (f) An eligible participant who does not complete driver education or a test paid
33 for under this chapter must wait for a period of three months before they
34 enroll in a new course or test to be paid for by this chapter. An eligible
35 participant may have the required waiting period waived by providing a
36 written attestation describing the circumstances that prevented them from
37 attending or completing the driver education or test and explaining why they
38 assert the circumstances were outside their control.
39
40 (g) The Agency shall pay driver education providers for services provided to an
41 eligible individual from the fund after the individual's application receives
42 approval from the Agency, the driver's education provider submits required
43 payment documentation that is accurate and complete, and the individual
44 submits a completed driver education enrollment agreement.
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- (h) All Youth Driver Education Funding Program uses described in this chapter shall be monitored and reported on as required by the Texas Comptroller of Public Accounts, the Agency, and DPS.

- (i) Driver education providers shall repay to the Agency improper payments received or refunds due for driver education funded under this chapter in instances:
 - (1) involving fraud committed by the driver education provider;
 - (2) in which the provider was paid for driver education from another source;
 - (3) in which the provider did not deliver driver education; or
 - (4) in which a refund is due under Texas Education Code, Chapter 1001, Subchapter I.