

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

2  
3 **PROPOSED 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.**  
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7 **ON AUGUST 9, 2016,** THE TEXAS WORKFORCE COMMISSION PROPOSED THE  
8 BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

9  
10 Estimated Publication Date of the Proposal in the *Texas Register*: **August 26, 2016**  
11 Estimated End of Comment Period: **September 26, 2016**  
12

13 The Commission proposes amendments to the following sections of Chapter 807, relating to  
14 Career Schools and Colleges:  
15

- 16 Subchapter A. General Provisions, §807.2 and §807.7
- 17 Subchapter B. Certificates of Approval, §807.11 and §807.15
- 18 Subchapter E. School Director and Administrative Staff, §807.62
- 19 Subchapter H. Courses of Instruction, §807.122
- 20 Subchapter J. Advertising, §807.175
- 21 Subchapter N. Cancellation and Refund Policy, §807.262 and §807.264
- 22 Subchapter O. Records, §807.281 and §807.282
- 23 Subchapter R. Closed Schools, §807.342
- 24 Subchapter S. Sanctions, §807.353
- 25 Subchapter T. Cease and Desist Orders, §807.362 and §807.365

26  
27 The Commission proposes the repeal of the following section of Chapter 807, relating to Career  
28 Schools and Colleges:  
29

- 30 Subchapter A. General Provisions, §807.5 Exemptions

31  
32 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**  
33 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**  
34 **PART III. IMPACT STATEMENTS**  
35 **PART IV. COORDINATION ACTIVITIES**  
36

37 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

38 Texas law charges the Agency with exercising jurisdiction and control of the oversight of career  
39 schools and colleges operating in Texas. The Agency's Career Schools and Colleges department  
40 (CSC) licenses and regulates most private postsecondary career schools and colleges that offer  
41 vocational training or continuing education to Texas residents. The Agency currently regulates  
42 more than 560 career schools and colleges, which provide training to more than 160,000 students  
43 annually.  
44

45 Senate Bill (SB) 563, passed by the 82nd Texas Legislature, Regular Session (2011), required  
46 the Agency to establish a pilot program to improve the efficiency and quality of Agency

1 operations while reducing costs, and to adopt a structured approach for identifying the wasteful  
2 use of state resources and improving Agency processes. These proposed rules reflect  
3 improvements to regulations and efficiency resulting from implementation of the bill.

4  
5 Texas law requires the Agency to administer the provisions of Texas Education Code, Chapter  
6 132, enforce minimum standards for approval and regulation of career schools and colleges, and  
7 adopt policies and rules necessary for carrying out the responsibilities of Chapter 132. To fulfill  
8 this role, the Agency investigates complaints about schools, monitors schools to ensure  
9 regulatory compliance, arranges for the disposition of students affected by a school closure, and  
10 administers the tuition trust account to pay tuition refunds to students when a school closes. In  
11 carrying out its regulatory duties, CSC seeks to:

- 12 --hold all businesses meeting the definition of a career school or college to consistent standards
- 13 of quality, performance, and regulatory oversight;
- 14 --provide consumer protection for Texas students; and
- 15 --ensure students receive quality training that meets the needs of Texas employers.

16  
17 To support the Agency's ability to effectively and efficiently protect students, regulate career  
18 schools and colleges, and meet employer needs, and to improve consumer disclosures that allow  
19 informed choices, the Commission proposes amendments in several key areas. The amendments  
20 enumerate the Commission's expectations and use of its regulatory authority in areas in which  
21 recent violations and possible abuses have been identified. Additionally, the amendments are  
22 intended to increase transparency of regulatory requirements and the overall performance of  
23 career schools and colleges.

24  
25 Further, to support effective and efficient Agency response to the needs of schools, students, and  
26 consumers, and to provide direction to career schools and colleges regulated by the Agency, the  
27 Chapter 807 amendments:

- 28 --add definitions for "response deadline" and "address of record" and amend the definition of
- 29 "date of notice";
- 30 --removing a requirement for a school to receive an exemption;
- 31 --modify the exemption requirements for accredited, degree-granting career schools and
- 32 colleges;
- 33 --consolidate the exemption requirements into one section;
- 34 --shorten the time for a career school or college to receive an original license;
- 35 --require career schools and colleges to notify the Agency of changes in accreditation and Title
- 36 IV status;
- 37 --remove a duplicative requirement for school directors;
- 38 --require schools whose program approval was revoked for failing to meet the minimum
- 39 employment rate for three consecutive years to wait a minimum of one year and submit a
- 40 reimplementation plan before reapplying for approval of the program;
- 41 --require schools that charge tuition and fees based on more than one period to fully disclose
- 42 information to students that will allow them to understand the charges;
- 43 --emphasize that schools must disclose all catalog changes and that there are sanctions for failure
- 44 to comply;
- 45 --clarify the order of refunds paid by schools;

- 1 --add Local Workforce Development Boards (Boards) as possible recipients of refunds and any
- 2 associated penalties paid by schools for late refunds;
- 3 --change the requirement for an audit based on incorrect calculation of refunds or for late
- 4 payment to an agreed-upon procedures engagement;
- 5 --require schools to protect student records, whether physical or electronic, from damage, loss, or
- 6 misuse;
- 7 --require schools to properly maintain and dispose of student information and records;
- 8 --clarify the method and order of refunds paid from the tuition trust account;
- 9 --amend the penalty matrix to define what constitutes an instance;
- 10 --remove the provision for oral argument while preserving the right of written appeal; and
- 11 --remove the requirement to send a copy of CSC rules with the statement of charges in a cease
- 12 and desist notice.

13

## 14 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

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

17

18 Texas Government Code §2001.039 requires that every four years each state agency review and  
19 consider for readoption, revision, or repeal each rule adopted by that agency. The Commission  
20 has conducted a rule review of Chapter 807, Career Schools and Colleges, and proposes the  
21 following amendments:

22

### 23 **SUBCHAPTER A. GENERAL PROVISIONS**

24 **The Commission proposes the following amendments to Subchapter A:**

25

#### 26 **§807.2. Definitions**

27

28 New §807.2(7) is added to create a definition for "address of record" that requires each career  
29 school or college to establish a distribution list e-mail address of record that consistently  
30 maintains a minimum of two current subscribers, with the format of the address to be  
31 "School#Director@xdomain," e.g., S1111Director@gmail.com.

32

33 Creating a definition for "address of record" to require an Internet presence reflects the current  
34 best practice among career schools and colleges. Moreover, modernizing the address of record  
35 for career schools and colleges ensures a consistent point of contact for notice, both for students  
36 and for the Agency, regardless of a school's choice to physically relocate.

37

38 Section 807.2(16) is amended to change the definition of "Date of Notice" from the date the  
39 Agency receives the notice to the date it is mailed, which accords with the definition in statute  
40 and simplifies establishing the date. Existing §807.2(16) is also renumbered to §807.2(17) to  
41 accommodate the addition of new definitions within this section.

42

43 New §807.2(33) is added to create a definition for "response deadline," clarifying that deadlines  
44 that fall on a weekend, an official state holiday, a state holiday for which minimal staffing is  
45 required, or a federal holiday are extended one working day.

46

1 This addition reflects typical Agency practice and will ensure consistent interpretation regarding  
2 timely filing, both for career schools and colleges and for Agency staff.

3  
4 **§807.5. Exemptions**

5 The Commission proposes the repeal of §807.5 in its entirety. The contents of this section will  
6 be included in a proposed amendment to §807.7(e).

7  
8 **807.7. Exemptions**

9 Section 807.7(a)(c) and (d) are amended to delete "or educational institution" from the phrase  
10 "school or educational institution," to conform with existing definitions.

11  
12 New §807.7(e) is moved from previous §807.5(2) - (5) and relettered.

13  
14 **SUBCHAPTER B. CERTIFICATES OF APPROVAL**

15 **The Commission proposes the following amendments to Subchapter B:**

16  
17 **§807.11. Original Approvals**

18 Section 807.11(b) is amended to reduce processing time frames from 180 days to 90 days.

19  
20 Section 807.11(c) is amended to reduce response time frames from 30 days to 21 days.

21  
22 In undergoing a Rapid Process Improvement (RPI) review, CSC streamlined critical application  
23 review processes, thereby reducing the time required for Agency staff to fully process an original  
24 application. The RPI review also identified process efficiencies that allowed for a reduction in  
25 response time frames from career schools and colleges.

26  
27 **§807.15. Notification of Legal Actions**

28 Section 807.15 is amended to read "Notification of Actions" from "Notification of Legal  
29 Action."

30  
31 Updating the title of §807.15 reflects the need to broaden the terminology to include other  
32 critical notification requirements. Restricting notification solely to legal actions overlooked  
33 critical changes to schools' eligibility-related requirements and operational status. Such changes  
34 are discussed in more detail in proposed new §807.15(d).

35  
36 Section 807.15 is amended to add subsection (d), to require schools to report, in writing and  
37 within five days, any change in accreditation status or Title IV status, e.g., Heightened Cash  
38 Monitoring 1 or 2, loss of eligibility, composite score, 90/10 ratio or default rate problems, or  
39 other similar changes.

40  
41 Any change to a school's accreditation status or Title IV status is critical knowledge for  
42 consumers, as such changes can affect transferability of credits and the ability to secure federal  
43 student loans.

44  
45 **SUBCHAPTER E. SCHOOL DIRECTOR AND ADMINISTRATIVE STAFF**

46 **The Commission proposes the following amendments to Subchapter E:**

1  
2 **§807.62. School Director Qualifications and Duties**

3 Section 807.62(e) is removed; subsequent subsections are relettered to reflect the removal of this  
4 subsection.

5  
6 The requirement for the school director to sign and agree to the terms of the Director's Statement  
7 found in §807.62(e) is no longer needed. RPI review identified the form as a redundant requirement.

8 **SUBCHAPTER H. COURSES OF INSTRUCTION**

9 **The Commission proposes the following amendments to Subchapter H:**

10  
11 **§807.122. General Information for Courses of Instruction.**

12 Section 807.122 is amended to add the following language:

13 (a) A school shall not apply for approval of a program that is substantially similar to a  
14 discontinued or revoked program, unless the application for approval is submitted at least one  
15 year after the date of discontinuation or revocation, and:

16 (1) the school's approved programs are all meeting the employment rate as referenced in  
17 §807.131(b), at the time of application; and

18 (2) the school submits a reimplementation plan to the Agency.

19  
20 A school whose remaining programs all meet the minimum rate at the time of application and which  
21 provides an implementation plan for a revoked program, may reapply for approval after the one-year  
22 period. Programs found to be substantially similar to a revoked program would also be subject to the  
23 same requirements.

24  
25 Subsequent subsections are relettered to reflect additions.

26  
27 **SUBCHAPTER J. ADVERTISING**

28 **The Commission proposes the following amendments to Subchapter J:**

29  
30 **§807.175. Catalog**

31 New §807.175(c) is added to require a school catalog to include specific information about  
32 tuition and fees calculations based on one or more period of time, e.g., semester, quarter.

33  
34 Requiring schools that charge tuition and fees based on one or more period to completely  
35 disclose information to students allowing them to understand the charges and ensuring full  
36 disclosure to students, parents, and other funding sources. Further, the basis of a school's  
37 charges is established clearly, both for students and the Agency, should issues arise, including,  
38 but not limited to, calculation of refunds.

39  
40 New §807.175(d) is added to require schools to disclose all changes and to advise schools that  
41 there are sanctions for failing to comply.

42  
43 This language is designed to ensure that schools keep their policies current, both for students and  
44 for the Agency, and to emphasize the importance of prompt notification of changes to such  
45 policies.

1 **SUBCHAPTER N. CANCELLATION AND REFUND POLICY**

2 **The Commission proposes the following amendments to Subchapter N:**

3  
4 **§807.262. Completion of Refund**

5 New §807.262(d) is added to delineate the proper recipients of refunds and to establish that  
6 refunds will be paid in the following order: 1) any federal loans; 2) any private loans; 3) credit card  
7 or cash payments made by the student; and 4) other funding sources, including Boards. Clarifying  
8 who can receive refunds and the order in which refunds are made are critical to ensuring proper and  
9 timely distribution of any refunds.

10  
11 Current Agency rules do not delineate the recipients or the order of refunds to students by  
12 schools. In addition to direct payment from a student, payment may be made on behalf of a student  
13 by a bank or other lending institution, or by federal entities. A student's tuition may also be paid  
14 directly to a school by an employer or by another funding source, including Boards. The proposed  
15 language is added to clarify the order in which refunds will be made to various funding sources and  
16 that, when payment is not made by a student but is made on the student's behalf, that funding source  
17 is entitled to recover any refund, as appropriate.

18  
19 **§807.264. Penalties Relating to Refunds**

20 Current §807.264(b) is amended to remove the provision that any late refunds for grants \$15 or  
21 less are to be paid to the tuition trust account (TTA).

22  
23 This language is intended to clarify Agency practice.

24  
25 New §807.264(b)(3) adds new language, including adding Boards as potential recipients in the  
26 payment of penalties for late refunds.

27  
28 This new language is added to align with new §807.262(d) to ensure that Boards are treated  
29 equivalently to students paying for themselves.

30  
31 As a Board pays for the education or training services on behalf of an individual, the Board is entitled  
32 to receive any penalties relating to a recovered refund, as appropriate.

33  
34 Section 807.264(c) is amended to require schools to submit an agreed-upon procedures  
35 engagement when the Agency determines the method used to calculate refunds is in error or the  
36 school does not pay refunds within the specified time limit. This language is added to increase  
37 the reliability of schools' refund calculations.

38  
39 Section 807.264 is further amended by adding subsection (d) listing the requirements of the  
40 opinion letter, deleting the requirement for an audited report, and instead requiring an agreed-upon  
41 procedures engagement that requires an independent CPA to examine all files for students who did  
42 not complete a course of study to determine compliance with the most restrictive of: 1) the Act; 2)  
43 this chapter; or 3) the school catalog current at the time of the student's enrollment.

1 **SUBCHAPTER O. RECORDS**

2 **The Commission proposes the following amendments to Subchapter O:**

3  
4 **§807.281. General Information for Records**

5 Section 807.281(b) is amended to clarify that records may be electronic; to add that records must be  
6 protected against damage, loss, or misuse; and to direct that records be available to the Commission  
7 for inspection.

8  
9 Updating this rule will ensure that the Agency can protect student records, whether retained in hard  
10 copy or electronic copy.

11  
12 **§807.282. Student Records**

13 Section 807.282's title is amended to read "Student Information and Records."

14  
15 Updating the title of §807.282 reflects a broader terminology that includes other information in  
16 addition to what is statutorily defined as student records.

17  
18 New §807.282(d) and (e) are added to provide detail regarding appropriate methods of record  
19 maintenance and destruction to improve accountability and protection of students' sensitive personal  
20 information and provide clarity regarding minimum record destruction standards to enhance  
21 objective evaluation of compliance.

22  
23 **SUBCHAPTER R. CLOSED SCHOOLS**

24 **The Commission proposes the following amendments to Subchapter R:**

25  
26 **§807.342. Tuition Trust Account**

27 Section 807.342(c) is amended to clarify that discharges will be determined before making refunds  
28 and that other funding sources are only refunded if an amount remains after the Commission has  
29 attempted to provide full refunds to students.

30  
31 This wording change is designed to ensure that all outstanding liabilities are accounted for, thereby  
32 maximizing the effectiveness of the tuition trust account.

33  
34 **SUBCHAPTER S. SANCTIONS**

35 **The Commission proposes the following amendments to Subchapter S:**

36  
37 **§807.353. Administrative Penalties**

38 Section 807.353(e) is amended to define violation and repeat offense penalties. The violation for  
39 failure to respond to an Agency request is repealed, as no scenario exists in which a school  
40 would not have already received a penalty for the violation that occurred when the school failed  
41 to respond.

42  
43 Amended §807.353(e) includes a definition of "Instance" when referring to each violation and  
44 adds new violations for protection and disposal of sensitive student personal information.

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

2 **The Commission proposes the following amendments to Subchapter T:**

3  
4 **§807.362. Contents of Statement of Charges and Notice of Hearing**

5 Section 807.362 is amended to remove the requirement to send a copy of the CSC rules with the  
6 statement of charges for a cease and desist notice.

7  
8 Sending a hard copy of rules is not a statutory requirement, adds costs, and is unnecessary, given  
9 that all rules are accessible and up to date on the Agency website.

10  
11 **§807.365. Hearing Decision and Final Review by the Commission.**

12 Section 807.365 is amended to eliminate the provision for oral argument, while preserving the  
13 right of written appeal to the Commission.

14  
15 Oral argument before the Commission is not a statutory requirement and creates conflict with the  
16 requirement that the Commission's decision be made on the basis of the record of the hearing  
17 officer.

18  
19 **PART III. IMPACT STATEMENTS**

20 Randy Townsend, Chief Financial Officer, has determined that for each year of the first five  
21 years the rules will be in effect, the following statements will apply:

22  
23 There are no additional estimated costs to the state and to local governments expected as a result  
24 of enforcing or administering the rules.

25  
26 There are no estimated cost reductions to the state and to local governments as a result of  
27 enforcing or administering the rules.

28  
29 There are no estimated losses or increases in revenue to the state or to local governments as a  
30 result of enforcing or administering the rules.

31  
32 There are no foreseeable implications relating to costs or revenue of the state or local  
33 governments as a result of enforcing or administering the rules.

34  
35 There are no anticipated economic costs to persons required to comply with the rules.

36  
37 There is no anticipated adverse economic impact on small businesses or microbusinesses as a  
38 result of enforcing or administering the rules.

39  
40 **Economic Impact Statement and Regulatory Flexibility Analysis**

41 The Agency has determined that the proposed rules will not have an adverse economic impact on  
42 small businesses as these proposed rules place no requirements on small businesses.

43  
44 Doyle Fuchs, Director of Labor Market and Career Information, has determined that there is no  
45 significant negative impact upon employment conditions in the state as a result of the rules.



1 Reagan Miller, Director, Workforce Development Division, has determined that for each year of  
2 the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the  
3 proposed rules will be to gain further efficiencies in the investigation of complaints, reviews of  
4 policies and procedural systems of state agencies and reporting of data to elected state leadership  
5 and the public.

6  
7 The Agency hereby certifies that the proposal has been reviewed by legal counsel and found to  
8 be within the Agency's legal authority to adopt.

9  
10 **PART IV. COORDINATION ACTIVITIES**

11 In the development of these rules for publication and public comment, the Commission sought  
12 the involvement of Texas' 28 Boards. The Commission provided the concept paper regarding  
13 these rule amendments to the Boards for consideration and review on June 9, 2016. The  
14 Commission also conducted a conference call with Board executive directors and Board staff on  
15 June 10, 2016, to discuss the concept paper. During the rulemaking process, the Commission  
16 considered all information gathered in order to develop rules that provide clear and concise  
17 direction to all parties involved.

18  
19 Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce  
20 Policy and Service Delivery, attn: Workforce Editing, 101 East 15th Street, Room 440T, Austin,  
21 Texas 78778; faxed to (512) 475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us.  
22 Comments must be received or postmarked no later than 30 days from the date this proposal is  
23 published in the *Texas Register*.

24  
25 The rules are proposed 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 proposed rules affect Texas Government Code, Chapter 552.  
30



1           (10)(9) Appellant--The party or the party's authorized hearing representative who  
2           files an appeal from an appealable determination or decision.

3  
4           (11)(40) Asynchronous distance education--Distance education training that the  
5           Agency determines is not synchronous.

6  
7           (12)(44) Class or course--An identifiable unit of instruction that is part of a program  
8           of instruction.

9  
10          (13)(42) Commission--The body of governance of the Texas Workforce  
11          Commission composed of three members appointed by the governor as  
12          established under Texas Labor Code §301.002 that includes one representative  
13          of labor, one representative of employers, and one representative of the public.  
14          The definition of Commission shall apply to all uses of the term in rules  
15          contained in this subchapter.

16  
17          (14)(43) Coordinating Board--The Texas Higher Education Coordinating Board.

18  
19          (15)(44) Course of instruction--A program or seminar.

20  
21          (16)(45) Course time--A course or class period that is:

- 22  
23           (A) a 50-minute to 60-minute lecture, recitation, or class, including a  
24           laboratory class or shop training, in a 60-minute period;  
25  
26           (B) a 50-minute to 60-minute internship in a 60-minute period; or  
27  
28           (C) 60 minutes of preparation in asynchronous distance education.

29  
30          (17)(46) Date of notice--The date the notice is mailed~~received~~, unless good cause  
31          exists for the hearing officer to determine otherwise.

32  
33          (18)(47) Date of request of hearing--The date on which the appellant or the hearing  
34          representative filed a written notice of appeal with the Agency by hand  
35          delivery, facsimile, or mail. If an appeal is mailed to the Agency, then the  
36          appeal is perfected as of the postmark date on the envelope containing the  
37          appeal request unless good cause exists for the hearing officer to determine  
38          otherwise. If an appeal is delivered by hand or facsimile after 5:00 p.m., the  
39          date of request shall be the next day.

40  
41          (19)(48) Distance education course--Either a seminar or a program that is offered to  
42          non-residence school students via correspondence or other media from a  
43          remote site on a self-paced schedule, excluding programs using interactive  
44          instruction.

1            ~~(20)~~~~(19)~~ Distance education school--A school that offers only distance education  
2            courses.

3  
4            ~~(21)~~~~(20)~~ Employment--A graduating or graduate student's employment in the same  
5            or substantially similar occupation for which the student was trained.

6  
7            ~~(22)~~~~(21)~~ Good reputation--The possession of honesty and truthfulness,  
8            trustworthiness and reliability, and a professional commitment to the  
9            educational process and the training or preparing of a person for a field of  
10           endeavor in a business, trade, technical, or industrial occupation, as well as the  
11           condition of being regarded as possessing such qualities. In determining  
12           whether a person is of good reputation, the Agency is not limited to the  
13           following acts or omissions. The Agency may consider similar acts or  
14           omissions and rehabilitation efforts in response to prior convictions in making  
15           its determination. A person is considered to be of good reputation if the person:

16  
17            (A) has never been convicted of a felony or any other crime that would  
18            constitute risk of harm to the school or students as determined by the  
19            Agency;

20  
21            (B) has not been successfully sued for fraud or deceptive trade practices, or  
22            breach of contract, within the last 10 years;

23  
24            (C) does not own or administer a school currently in violation of legal  
25            requirements, has never owned or administered a school with repeated  
26            violations, and has never owned or administered a school that closed  
27            with violations including, but not limited to, unpaid refunds; or

28  
29            (D) has not knowingly falsified or withheld information from the Agency.

30  
31            ~~(23)~~~~(22)~~ Hearing--An informal, orderly, and readily available proceeding held  
32            before an impartial hearing officer. A party or hearing representative may  
33            present evidence to show that the Agency's determination should be reversed,  
34            affirmed, or modified.

35  
36            ~~(24)~~~~(23)~~ Hearing officer--An Agency employee designated to conduct impartial  
37            hearings and issue final administrative decisions.

38  
39            ~~(25)~~~~(24)~~ Hearing representative--Any individual authorized by a party to assist the  
40            party in presenting the party's appeal. A hearing representative may be legal  
41            counsel or another individual. Each party may have a hearing representative to  
42            assist in presenting the party's appeal.

43  
44            ~~(26)~~~~(25)~~ Job placement--An affirmative effort by the school to assist the student in  
45            obtaining employment in the same or substantially similar stated occupation  
46            for which the student was trained.

1  
2 (27)(26) Master student registration list--A comprehensive list with an entry made  
3 for any person who signs an enrollment agreement, makes a payment to attend  
4 the school, or attends a class. The entry shall be made on the date the first of  
5 these events occurs.

6  
7 (28)(27) Party--The person or entity with the right to participate in a hearing  
8 authorized in applicable statute or rule.

9  
10 (29)(28) Program or program of instruction--A postsecondary program of organized  
11 instruction or study that may lead to an academic, professional, or vocational  
12 degree, certificate, or other recognized educational credential.

13  
14 (30)(29) Refund--The completed payment of a refund such that the refund  
15 instrument has been negotiated or credited into the proper account(s).

16  
17 (31)(30) Reimbursement contract basis--A school operating, or proposing to  
18 operate, under a contract with a state or federal entity in which the school  
19 receives payment upon completion of the training.

20  
21 (32)(31) Residence school--A school that offers at least one program that includes  
22 classroom instruction or synchronous distance education.

23  
24 (33) Response deadline--Deadlines that fall on a weekend, an official state holiday,  
25 a state holiday for which minimal staffing is required, or a federal holiday are  
26 extended one working day.

27  
28 (34)(32) Sanctions--Administrative or civil actions, including, but not limited to,  
29 penalties, revocation of approvals, or cease and desist orders taken by the  
30 Agency against an entity in response to violations of the Act or this chapter.

31  
32 (35)(33) School--A "career school or career college," as defined in the Act, that  
33 includes each location where courses of instruction shall be offered.

34  
35 (36)(34) Secondary education--Successful completion of public, private, or home  
36 schooling at the high school level or obtainment of a recognized high school  
37 equivalency credential.

38  
39 (37)(35) Seminar--A course of instruction that enhances a student's career, as  
40 opposed to a program that teaches skills and fundamental knowledge required  
41 for a stated occupation. A seminar may include a workshop, an introduction to  
42 an occupation or cluster of occupations, a short course that teaches part of the  
43 skills and knowledge for a particular occupation, language training, continuing  
44 professional education, and review for postsecondary examination.

45  
46 (38)(36) Seminar school--A school that offers only seminars.

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(39)~~(37)~~ Small school--A "small career school or college" as defined in the Act.

(40)~~(38)~~ 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.

(41)~~(39)~~ Student--Any individual solicited, enrolled, or trained in Texas by a school.

(42)~~(40)~~ 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.

(43)~~(41)~~ 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.

(44)~~(42)~~ 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.).

(45)~~(43)~~ Tour--A required, in-person inspection of the facilities and equipment pertaining to a course of instruction.

(46)~~(44)~~ Week--Seven consecutive calendar days.

1        **~~§807.5. Exemptions.~~**

2  
3        ~~Texas Education Code §132.002(d) requires that a career school or college application~~  
4        ~~for an exemption from the provisions of Texas Education Code §132.002(a)(6) must~~  
5        ~~provide evidence that:~~

6  
7            ~~(1) the school or college has been licensed for at least one year;~~

8  
9            ~~(2) the school or college has a certificate of authorization from the Coordinating~~  
10          ~~Board to grant baccalaureate or higher level degrees or a letter from the~~  
11          ~~Coordinating Board indicating the Coordinating Board approval is not~~  
12          ~~required;~~

13  
14          ~~(3) the school or college is accredited by a Coordinating Board recognized~~  
15          ~~accrediting body;~~

16  
17          ~~(4) the school or college is in good standing with the designated accrediting body~~  
18          ~~and not subject to:~~

19  
20            ~~(A) probation;~~

21  
22            ~~(B) a directive to show cause as to why accreditation should not be revoked;~~  
23            ~~or~~

24  
25            ~~(C) any other action that, as defined by the accrediting agency, will prevent~~  
26            ~~the school from seeking approval of its degree programs; and~~

27  
28          ~~(5) at least a simple majority (51 percent) of credits earned in the educational~~  
29          ~~programs of the school or college are transferable to educational programs that~~  
30          ~~are:~~

31  
32            ~~(A) at an equivalent or higher academic level (e.g., baccalaureate to~~  
33            ~~baccalaureate or higher);~~

34  
35            ~~(B) at a junior college, college, or university supported entirely or partly by~~  
36            ~~taxation from a local or state source; and~~

37  
38            ~~(C) within the same local/regional service area as the offered program, as~~  
39            ~~determined by the Agency.~~

1       **§807.7. Exemptions.**  
2

3       (a) A school ~~or educational institution~~ may apply to the Commission for an exemption  
4       under §132.002 or §132.003 of the Texas Education Code.  
5

6       (b) The Commission shall grant the requested exemption if the Commission determines  
7       that the school ~~or educational institution~~ meets the requirements for an exemption  
8       under §132.002 or §132.003 of the Texas Education Code.  
9

10       (c) The Commission may deny or revoke an exemption in the same manner as a denial  
11       or revocation of a certificate of approval, if the Commission determines that the  
12       school ~~or educational institution~~ does not meet the requirements for the exemption  
13       under §132.002 or §132.003 of the Texas Education Code.  
14

15       (d) A school ~~or educational institution~~ may appeal the denial or revocation of an  
16       exemption in accordance with the provisions of Subchapter D of the Texas  
17       Education Code.  
18

19       (e) A school applying for an exemption from the provisions of Texas Education Code  
20       §132.002(a)(6) must provide evidence that:  
21

22       (1) the school has a certificate of authorization from the Coordinating Board to grant  
23       baccalaureate or higher-level degrees or a letter from the Coordinating Board  
24       indicating that Coordinating Board approval is not required;  
25

26       (2) the school is accredited by a Coordinating Board--recognized accrediting body;  
27

28       (3) the school is in good standing with the designated accrediting body and not  
29       subject to:  
30

31       (A) probation;  
32

33       (B) a directive to show cause as to why accreditation should not be revoked; or  
34

35       (C) any other action that, as defined by the accrediting agency, will prevent the  
36       school from seeking approval of its degree programs; and  
37

38       (4) at least a simple majority (51 percent) of credits earned in the educational  
39       programs of the school are transferable to educational programs that are:  
40

41       (A) at an equivalent or higher academic level (e.g., baccalaureate to  
42       baccalaureate or higher);  
43



1 (B) at a junior college, college, or university supported entirely or partly by  
2 taxation from a local or state source; and

3  
4 (C) within the same local/regional service area as the offered program, as  
5 determined by the Agency.

6  
7 **SUBCHAPTER B. CERTIFICATES OF APPROVAL**

8  
9 **§807.11. Original Approvals.**

10  
11 (a) A complete application for an original certificate of approval shall consist of the  
12 following:

13  
14 (1) a completed application form provided by the Commission;

15  
16 (2) complete and correct financial statements, as specified in this chapter,  
17 demonstrating the school is financially stable and capable of fulfilling its  
18 commitments for training;

19  
20 (3) the application fee as specified in this chapter; and

21  
22 (4) any other revisions or evidence necessary to bring the school's application for  
23 approval to a current and accurate status as requested by the Commission.

24  
25 (b) Schools shall fully satisfy the Agency application requirements within ~~90~~<sup>180</sup> days of  
26 receipt of the original application or the application may be considered ~~withdrawn~~.

27  
28 (c) If a school fails to respond to a request for additional information within ~~21~~<sup>30</sup> days,  
29 the Commission may withdraw the application.

30  
31 (d) To reapply, a school shall submit:

32  
33 (1) a complete application as required in subsection (a) of this section; and

34  
35 (2) an affidavit stating that the school will not reopen until it has been issued a  
36 Certificate of Approval.

37  
38 **§807.15. Notification of ~~Legal~~ Actions.**

39  
40 (a) Unless otherwise instructed by the Commission, a school shall notify the  
41 Commission in writing of any legal action to which the school, any of its owners,  
42 representatives, or management employees is a party.

43  
44 (b) A school shall notify the Commission in writing of any legal action described in this  
45 section no later than five business days after the action is known to be filed or the  
46 school, owner, representative, or management employee is served.

1  
2 (c) A school shall include, with the notice required in this section, a file-marked copy of  
3 the petition, complaint, or other legal instrument, including copies of any judgments.

4  
5 (d) A school shall notify the Commission in writing no later than five business days  
6 after receiving notice of any change in accreditation status or Title IV status,  
7 including but not limited to, Heightened Cash Monitoring 1 or 2, loss of eligibility,  
8 composite score, 90/10 ratio or default rate problems, or other similar changes.

9  
10 **SUBCHAPTER E. SCHOOL DIRECTOR AND ADMINISTRATIVE STAFF**

11  
12 **§807.62. School Director Qualifications and Duties.**

13  
14 (a) A school director of a small school shall have administrative or management  
15 experience and shall be of good reputation.

16  
17 (b) A school director of other than a small school shall be of good reputation and have a  
18 total of five years of administrative or management experience. An equivalent  
19 duration of higher education, college or university, may be substituted for each year  
20 of experience.

21  
22 (c) The school shall obtain Commission approval for the school director before  
23 employment of the school director.

24  
25 (d) The school director is responsible for the courses of instruction, organization of  
26 classes, designation of a liaison for Commission compliance visits, maintenance of  
27 the school facilities and proper administrative records, and all other matters related to  
28 the administration of the school, as determined by the Commission.

29  
30 ~~(e) The school director shall sign and agree to the terms of the Director's Statement.~~

31  
32 ~~(e)~~(f) The Commission may require the school director to attend additional training to  
33 continue approved director status if a school has more than one substantiated  
34 complaint from students during a one-year period. If the school has repeat violations  
35 from a previous year under the same director, the Commission may revoke the  
36 approval of the school director.

37  
38 ~~(f)~~(g) The school director shall:

39  
40 (1) ensure that all facilities, including housing endorsed by the school, comply  
41 with local, city, county, municipal, state, and federal regulations such as, but  
42 not limited to, fire, building, and sanitation codes; and

43  
44 (2) inspect facilities, including housing, before endorsement.  
45  
46

1 SUBCHAPTER H. COURSES OF INSTRUCTION

2  
3 §807.122. General Information for Courses of Instruction.

4  
5 (a) A school shall not apply for approval of a program that is substantially similar to a  
6 discontinued or revoked program, unless the application for approval is submitted at  
7 least one year after the date of discontinuation or revocation, and:

8  
9 (1) the school's approved programs are all meeting the employment rate as  
10 referenced in §807.131(b), at the time of application; and

11  
12 (2) the school submits a reimplementation plan to the Agency.

13  
14 ~~(b)(a)~~ A school is not required to submit applications for additional courses of  
15 instruction or for course revisions to the Commission for approval, if the school:

- 16  
17 (1) has been licensed for at least one year under the current ownership;  
18  
19 (2) is accredited by an agency recognized by the U.S. Secretary of Education; and  
20  
21 (3) is in good standing with its designated accrediting agency and not subject to:  
22  
23 (A) probation;  
24  
25 (B) a directive to show cause as to why accreditation should not be revoked;  
26 or  
27  
28 (C) any other action, as defined by the accrediting agency, that would  
29 otherwise prevent the school from seeking approval to add or revise a  
30 course of instruction.

31  
32 ~~(c)(b)~~ Upon receipt of the approval of the course of instruction from the accrediting  
33 agency, the school shall provide a copy to the Commission.

34  
35 ~~(d)(e)~~ The Commission may require the school director of an accredited school to file  
36 applications for nondegree programs if there have been two substantiated complaints  
37 regarding programs in the previous year.

38  
39 ~~(e)(d)~~ A school submitting applications for approval of seminars shall use abbreviated  
40 forms provided by the Commission.

41  
42 ~~(f)(e)~~ No class or program shall be approved by the Commission unless the school  
43 demonstrates that the program's quality, content, and length reasonably and  
44 adequately imparts the job skills and knowledge necessary for the student to obtain  
45 employment in the stated occupation.

1  
2 ~~(g)~~ (f) A school may not solicit students, otherwise advertise, or conduct classes for a  
3 course of instruction prior to the Commission's approval of the course of instruction.  
4 Any such activity by the school, prior to the Commission's approval of the course of  
5 instruction, shall constitute a misrepresentation by the school and shall entitle each  
6 student in the course of instruction to a full refund of all tuition and fees paid by the  
7 student and release from all obligations.

8  
9 ~~(h)~~ (g) The school shall establish and maintain a formal advisory committee of at least  
10 five members, unless the Commission approves a lesser number of persons in  
11 advance, for each type of program with course time in excess of 200 hours in length.  
12 At least annually, the committee shall evaluate the curriculum, instructional  
13 materials and media, equipment, and facilities to ensure they meet the needs of the  
14 job market. The school shall have written documentation of the evaluation available  
15 for review by the Commission. If the school does not follow an advisory committee  
16 recommendation, the school shall maintain written documentation of the justification  
17 for not following the recommendation.

18  
19 ~~(i)~~ (h) If the applicant requests approval to measure courses of instruction in credit hours,  
20 the following conversion table shall be used.

- 21  
22 (1) One academic quarter credit hour equals a minimum course time of:  
23  
24 (A) 10 hours of classroom lecture;  
25  
26 (B) 20 hours of laboratory experience; or  
27  
28 (C) 30 hours of externship.  
29  
30 (2) One academic semester credit hour is equal to a minimum course time of:  
31  
32 (A) 15 hours of classroom lecture;  
33  
34 (B) 30 hours of laboratory experience; or  
35  
36 (C) 45 hours of externship.  
37  
38 (3) The school shall calculate lecture, laboratory, and externship credit hour  
39 conversions individually for each class, rounding down to the nearest half  
40 credit hour. The school shall add the total for the credit hours for lecture,  
41 laboratory, and externship to determine the total credit hours for a class.  
42

1           **SUBCHAPTER J. ADVERTISING**

2  
3           **§807.175. Catalog.**

- 4  
5           (a) The catalog shall include the following:
- 6  
7           (1) table of contents or index;
  - 8  
9           (2) name and complete street address of the school;
  - 10  
11           (3) volume number, date of publication, and effective dates;
  - 12  
13           (4) history of any accreditations or approvals, including statement of approval and  
14 regulation by the Commission;
  - 15  
16           (5) description of space, facilities, and equipment;
  - 17  
18           (6) list of all trustees, directors, officers of the corporation, and owners;
  - 19  
20           (7) list of management staff and faculty, including education relating to the areas  
21 of instruction;
  - 22  
23           (8) tuition, fees, other charges, and applicable scholarship terms;
  - 24  
25           (9) school calendar;
  - 26  
27           (10) school hours of operation and class schedule, including the amount of time  
28 allocated for breaks and mealtimes;
  - 29  
30           (11) policies regarding enrollment, including entrance requirements, previous  
31 education credit, cancellation and refund, progress, attendance, leave of  
32 absence, and conduct;
  - 33  
34           (12) veterans administration refund policy, if applicable;
  - 35  
36           (13) description of courses of instruction, including the number of hours of course  
37 time of a seminar, seminar topic, lecture, lab, and externship, as well as credit  
38 hours in each class, if applicable;
  - 39  
40           (14) description of each class;
  - 41  
42           (15) description of the grading policy, including requirements for graduation;
  - 43  
44           (16) description of placement assistance, if available;
  - 45  
46           (17) statement of polices regarding grievances; and

1  
2 (18) a statement signed by the owner or director indicating that all of the  
3 information contained in the catalog is true and correct.

4  
5 (b) Any classes defined as self-paced shall be noted as such in the catalog.  
6

7 (c) In addition to the information contained in subsections (a) and (b) above, the catalog  
8 for a school that charges tuition and fees for a residence program or a synchronous  
9 distance education course based on more than one period shall also include a  
10 complete description of the following:  
11

12 (1) the number of periods of time and the course time scheduled in each period;  
13

14 (2) the amount of tuition charged for each period;  
15

16 (3) the type and amount of fees charged for each period; and  
17

18 (4) any other charges for each period.  
19

20 (d) All changes to the catalog shall be disclosed to the Agency, using forms provided by  
21 the Agency. Failure to disclose changes may result in penalties and sanctions,  
22 including refunds.  
23

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

### 25 **§807.262. Completion of Refund.**

26 (a) A school shall document refunds by written record indicating the date of the refund  
27 transaction, the name of the student receiving the refund, the total amount refunded,  
28 and the specific reason for the refund. Proof of completion shall be on file within  
29 120 days of the effective date of termination and shall include:  
30

31 (1) copies of both sides of the cancelled check;  
32

33 (2) printed proof of completed transaction of electronic funds transfer or other  
34 similar electronic means; or  
35

36 (3) documentation of an awarded credit to a credit card or other similar account.  
37

38 (b) To ensure a school's good faith effort to timely complete a refund owed directly to a  
39 student, the student's file shall contain evidence of the following proof of a certified  
40 mailing of the refund to the:  
41

42 (1) student's last known address;  
43  
44  
45

1 (2) student's permanent address, if different from the student's last known address;  
2 or

3  
4 (3) address of the student's parent or legal guardian, if different from the student's  
5 last known and permanent addresses.  
6

7 (c) If after making a good faith effort to timely complete a refund, the school is unable  
8 to complete the refund, the school shall forward to the Agency the appropriate refund  
9 amount and any pertinent student information to assist the Agency in locating the  
10 student.  
11

12 (d) Unless otherwise required by another law, refunds will be made in the following  
13 order:

14  
15 (1) on behalf of the student to federal loans used to pay tuition and fees;

16  
17 (2) on behalf of the student to private loans used to pay tuition and fees;

18  
19 (3) to the student for personal loans, including credit card debt, and cash used to  
20 pay tuition and fees; and

21  
22 (4) to other funding sources, including Boards, to reimburse payments for tuition  
23 and fees.

24  
25 **§807.264. Penalties Relating to Refunds.**

26  
27 (a) A penalty shall be paid on any refund not completed in a timely manner as required  
28 by the Act. The penalty assessment shall begin on the first day following the  
29 expiration of the statutorily defined refund period and end on the day preceding the  
30 date the refund is completed.  
31

32 (b) ~~Penalties assessed on late refunds for grants shall be paid to the tuition trust account~~  
33 ~~if the amount is \$15 or less.~~ Any other penalty assessed on a school's late payment  
34 of student refunds shall be disbursed in the following order of priority:  
35

36 (1) to the student's account at a lending institution for the balance of principal and  
37 interest on the student loan;

38  
39 (2) to the student for tuition and fees paid directly by the student; ~~and~~

40  
41 (3) to a Board for tuition and fees paid by the Board; and

42  
43 (4)~~(3)~~ to the tuition trust account for any remaining balance of assessed penalty.  
44

1 (c) If the Agency determines that the method used by the school to calculate refunds is  
2 in error or the school does not routinely pay refunds within the time required by the  
3 Act, the school shall submit an agreed-upon procedures engagement ~~audited report~~  
4 conducted by an independent CPA. The CPA shall examine all files for ~~accountant~~  
5 ~~of the refunds due former~~ students that who did not complete a course of study, to  
6 determine compliance with the most restrictive of: ~~includes any penalty due as~~  
7 ~~specified in the Act. An audit opinion letter shall accompany a schedule of student~~  
8 ~~refunds due, which discloses the following information for the four years prior to the~~  
9 ~~date of the Agency's request:~~

- 10
- 11 (1) ~~student information, including name, address, and Social Security number;~~ the  
12 Act;
- 13
- 14 (2) ~~pertinent dates, including last date of attendance and date of termination; and~~  
15 this chapter; or
- 16
- 17 (3) ~~refund information, including amount of refund with principal, penalty, and~~  
18 ~~any balance due separately stated, payee, and date and check number of~~  
19 ~~payment if payment has been made;~~ the school catalog current on the date of  
20 the student's enrollment.

21

22 (d) An opinion letter shall accompany a schedule of student refunds due, disclosing the  
23 following information for the four years prior to the date of the Agency's request:

- 24
- 25 (1) student information, including name, address, and Social Security number;
- 26
- 27 (2) pertinent dates, including recorded last date of attendance, date of termination,  
28 and, if necessary, recalculated last date of attendance;
- 29
- 30 (3) recorded refund information, including amount of refund with principal,  
31 penalty, and any balance due stated separately; payee; date and check number  
32 of payment if payment has been made; any of the same categories of  
33 information resulting from recalculations; and
- 34
- 35 (4) other information requested by the Agency to demonstrate compliance.
- 36
- 37



1 **SUBCHAPTER O. RECORDS.**

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**§807.281. General Information for Records.**

(a) A school shall permanently maintain a master student registration list (MSRL). If the school maintains the MSRL in electronic form, the school must be able to produce a printed copy immediately upon request. The MSRL must contain at least the following information:

- (1) date of applicable entry;
- (2) name of student;
- (3) address of student including city, state, and zip code;
- (4) telephone number;
- (5) social security number;
- (6) date of birth; and
- (7) name of program.

(b) A school shall maintain current records and necessary data (physical or electronic) for each student required to be on the master student registration list to show compliance with the Act and this chapter. These records shall be:

- (1) maintained on-site;
- (2) protected against damage, loss (e.g., fire, water, theft, tampering), or misuse;  
and
- (3)(2) made available to the Commission for inspection upon request.

(c) If applicable, the school shall maintain and ensure that copies of the accreditation authorization and letter of eligibility from the United States Department of Education are available for Commission review.

(d) Degree granting schools shall maintain a copy of the certificate of authorization from the Coordinating Board for each authorized degree program.

(e) The Commission may conduct unannounced compliance inspections.

(f) A school shall maintain complete records of all advertising, sales, and enrollment materials used by or on behalf of the school for a five-year period. Materials maintained shall include, but not be limited to, direct mail pieces, brochures, printed

1 literature, films, leaflets, handbills, fliers, video and audiotapes disseminated through  
2 the broadcast media, materials disseminated through the print media or Internet, and  
3 sales and recruitment manuals used to instruct sales personnel.  
4

5 **§807.282. Student Information and Records.**

6 (a) A school shall permanently maintain student transcripts of academic records. A  
7 school shall provide such transcripts to students and prospective employers at a  
8 reasonable charge if the student has fulfilled the financial obligation to the school  
9 and is neither in default nor owes a refund to any federal or state student financial  
10 aid program.

11  
12 (b) A school shall retain financial records in accordance with federal retention  
13 requirements.

14  
15 (c) A school shall retain all student records for at least a five-year period and these  
16 records shall include:

17  
18 (1) a written record of previous education and training on a form provided by the  
19 Commission; and

20  
21 (2) official transcripts from all previous postsecondary schools attended by the  
22 student.

23  
24 (d) The school director shall implement and maintain reasonable procedures, including  
25 taking any appropriate corrective action, to protect from improper use or disclosure  
26 of any sensitive personal information collected or maintained by the school.

27  
28 (e) A school shall destroy or arrange for the destruction of sensitive personal  
29 information within the school's custody or control, after any required retention  
30 periods, by:

31  
32 (1) shredding;

33  
34 (2) permanently removing or deleting electronic records; or

35  
36 (3) otherwise modifying the sensitive personal information in the records to make  
37 the information unreadable or indecipherable through any means; or

38  
39 (4) destroying the information in accordance with any other more restrictive law or  
40 regulation the school is required to follow.

1 SUBCHAPTER R. CLOSED SCHOOLS

2  
3 §807.342. Tuition Trust Account.

- 4
- 5 (a) In a year in which the Commission determines it is necessary to charge a fee under
- 6 §132.2415(b) of the Act, each school shall make a payment to the tuition trust
- 7 account at the time the school renewal fee is paid.
- 8
- 9 (b) The amount in the tuition trust account, as provided in the Act, is an accrued
- 10 balance. The accrued balance is the cash balance of the tuition trust account less the
- 11 sum of the accrued liabilities from unpaid student refunds and teach-out claims.
- 12
- 13 (c) Disbursements shall be made from the tuition trust account for student refunds and
- 14 reimbursable teach-out expenses incurred during each 12-month period ending
- 15 August 31, and shall be:
- 16
- 17 (1) made first for student refunds in accordance with §132.2415(d) of the Act and
- 18 §807.262 of this chapter;
- 19
- 20 (2) calculated after refunds or discharges from other funding sources have been
- 21 determined;
- 22
- 23 (3) disbursed to other funding sources from any amount remaining under the
- 24 limitation of §132.242(e) of the Act; and
- 25
- 26 (4)(2) disbursed for reimbursable teach-out expenses based upon remaining funds
- 27 in the account~~and~~.
- 28
- 29 ~~(3) — calculated after other funding sources have been determined.~~
- 30
- 31 (d) Following the graduation or termination of the students from the teach-out school,
- 32 the teach-out school shall determine actual expenses and submit a claim for
- 33 reimbursement to the Commission on or before the date provided in the application
- 34 packet. The teach-out school shall:
- 35
- 36 (1) not claim expenses for facilities, equipment, utilities, or other items which
- 37 were owned, rented, used, or otherwise obligated by the school prior to the
- 38 Commission's approval of the teach-out program, even though such items may
- 39 be used for the teach-out program;
- 40
- 41 (2) be limited to expenses for tuition and fees that are non-recoverable from all
- 42 financial resources, including grants and loans; and
- 43
- 44 (3) ensure that the sum of the tuition and fees paid to the student's account at the
- 45 closed school and the teach-out school is the lesser amount the student would

1 have been charged for the complete program at the closed school or the teach-  
2 out school.

- 3
- 4 (e) For schools in their first two years of operation that have not been required to furnish  
5 financial statements to comply with §807.35(b), the payment to the tuition trust  
6 account shall be calculated at the rate determined by the Commission using the  
7 projected gross amount of tuition and fees, as required in §807.33(c), to be charged  
8 by the school for the year in which the payment is collected. Once the school has  
9 submitted the actual amount of tuition and fees collected by the school in compliance  
10 with §807.35(b), the Commission shall reconcile the projected and actual amounts of  
11 tuition and fees collected. Upon reconciliation, the Commission shall determine if  
12 the school is entitled to a refund or must pay an additional amount to the tuition trust  
13 account.

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15 **SUBCHAPTERS. SANCTIONS**

16

17 **§807.353. Administrative Penalties.**

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- 19 (a) An administrative penalty shall not exceed the amount specified in Texas Education  
20 Code §132.152 for each instance of a violation and shall be assessed in accordance  
21 with that section.
- 22
- 23 (b) The administrative penalty is calculated based on a penalty dollar amount and the  
24 number of instances of violation.
- 25
- 26 (c) A violation is considered a repeat violation only where notice of a violation or an  
27 administrative penalty has been issued previously for that same violation.
- 28
- 29 (d) The assessment of an administrative penalty shall not preclude the Agency from  
30 administering other sanctions, up to and including revocation of a school's certificate  
31 of approval.
- 32
- 33 (e) The following penalty matrix is for determining and assessing an administrative  
34 penalty. The absence of a particular violation from the matrix shall not preclude the  
35 Agency from assessing an administrative penalty.
- 36

Violation	First Offense: Penalty	Repeat Offenses: Penalty	<u>Definition of Instance</u>
<p><u>Failure of a small school transitioning to a large school to notify the Agency of status change, timely apply, or remit increased fees</u></p> <p><del>Small school transitioning to a large school:</del></p> <ul style="list-style-type: none"> <li><del>• Failure to notify Agency of the school's status change;</del></li> <li><del>• Failure to timely apply; or</del></li> <li><del>Failure to remit increased fees.</del></li> </ul>	\$250	<p><del>Second Offense: \$500</del></p> <p><del>Third and Subsequent Offenses: \$1,000</del></p> <p><u>NA</u></p>	<u>Per violation</u>
<p><u>Failure to disclose to the Agency changes in tuition, fees, or other charges</u></p> <p><del>Failure to disclose tuition, fees, or other charges, including increases, to the Agency</del></p>	\$250	<p>Second Offense: \$500</p> <p><del>Third and</del> Subsequent Offenses: \$1,000</p>	<u>Per violation</u>
<p><u>Failure to provide the Agency notice of a change of address prior to permanently vacating the school facility</u></p> <p><del>Vacating the school facility without providing prior notification to the Agency of a change of address</del></p>	\$250	<p>Second Offense: \$500</p> <p><del>Third and</del> Subsequent Offenses: \$1,000</p>	<u>Per violation</u>
<p>Failure to maintain records demonstrating compliance with requirements of statute or rule</p>	\$250	<p>Second Offense: \$500</p> <p><del>Third and</del> Subsequent Offenses: \$1,000</p>	<u>Per record or student record</u>
<p><u>Failure to properly destroy or arrange for the destruction of sensitive personal information in the school's custody or control</u></p>	<u>\$250</u>	<p><u>Second Offense: \$500</u></p> <p><u>Subsequent Offenses: \$1,000</u></p>	<u>Per student affected</u>
<p><u>Failure to protect student records against damage, loss, or misuse</u></p>	<u>\$250</u>	<p><u>Second Offense: \$500</u></p> <p><u>Subsequent Offenses: \$1,000</u></p>	<u>Per record or student record</u>
<p>Failure to provide complete and accurate information as required by the Agency</p>	\$250	<p>Second Offense: \$500</p> <p><del>Third and</del> Subsequent Offenses: \$1,000</p>	<u>Per violation</u>
<p>Failure to ensure a staff member has taken required training <u>and been</u> approved by the Agency</p>	\$500	<p><del>Second and</del> Subsequent Offenses: \$1,000</p>	<u>Per staff member</u>

Failure to provide an instructor who meets necessary qualifications and whose application was submitted within required time frames	\$500	<del>Second and</del> Subsequent Offenses: \$1,000	<u>Per instructor</u>
Failure to make arrangements satisfactory to the Agency for the completion of a discontinued course of instruction	\$500	<del>Second and</del> Subsequent Offenses: \$1,000	<u>Per course of instruction</u>
<del>Failure to respond to a request or direction from the Agency</del>	<del>\$500</del>	<del>Second and Subsequent Offenses: \$1,000</del>	
Making a false statement in an application to the Agency	\$500	<del>Second and</del> Subsequent Offenses: \$1,000	<u>Per violation</u>
Failure to maintain the <del>schools</del> instructors, facilities, equipment, or courses of instruction and outcomes on the basis of which approval was issued	\$500	<del>Second and</del> Subsequent Offenses: \$1,000	<u>Per course of instruction</u>
Failure to disclose limitations on transferability of courses of instruction to a prospective student	\$500	<del>Second and</del> Subsequent Offenses: \$1,000	<u>Per student affected</u>
Advertising that financial aid is available or advertising that financial aid may be available for a program for which it is not available	\$500	<del>Second and</del> Subsequent Offenses: \$1,000	<u>Per student affected</u>
Failure to establish that a student met the approved admission requirements when the student was enrolled	\$750	<del>Second and</del> Subsequent Offenses: \$1,000	<u>Per student affected</u>
Failure to submit the annual program completion, job placement, and employment data required by the Agency by the required due date	\$750	<del>Second and</del> Subsequent Offenses: \$1,000	<u>Per school</u>
Failure to submit annual financial statements no later than 180 days from the close of the school's or college's fiscal year	\$750	<del>Second and</del> Subsequent Offenses: \$1,000	<u>Per school</u>
Transfer of all students from one school location to another school location, by an owner with multiple school locations, without Agency approval	\$750	<del>Second and</del> Subsequent Offenses: \$1,000	<u>Per violation</u>
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	<del>Second and</del> Subsequent Offenses: \$1,000	<u>Per dismissal event</u>
Operating a school without a certificate of approval	\$1,000	<del>Second and</del> Subsequent Offenses: \$1,000	<u>Per school</u>

Teaching a course of instruction or revised course of instruction that has not been approved by the Agency	\$1,000	<del>Second and</del> Subsequent Offenses: \$1,000	<a href="#">Per course of instruction</a>
Using advertising that is false, misleading, or deceptive, including the misrepresentation of degrees other than those approved by the Coordinating Board	\$1,000	<del>Second and</del> Subsequent Offenses: \$1,000	<a href="#">Per student affected</a>
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	<del>Second and</del> Subsequent Offenses: \$1,000	<a href="#">Per course of instruction</a>
Solicitation of a prospective student in violation of statutory and rule requirements	\$1,000	<del>Second and</del> Subsequent Offenses: \$1,000	<a href="#">Per student affected</a>
Any misrepresentation	\$1,000	<del>Second and</del> Subsequent Offenses: \$1,000	<a href="#">Per misrepresentation</a>
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	<del>Second and</del> Subsequent Offenses: 10% of renewal fee, not less than \$200 and not more than \$1,000	<a href="#">Per application</a>
Failure to pay any fee or penalty installment by the required due date	50% of the total amount of the fee	50% of the total amount of the fee	<a href="#">Per failure</a>
Paying a refund late	A rate established annually by the Commission	A rate established annually by the Commission-	<a href="#">Per refund</a>

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

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

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

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

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

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