

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

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

7 **ON OCTOBER 25, 2016, THE TEXAS WORKFORCE COMMISSION ADOPTED THE**  
8 **BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.**  
9

10 Estimated date of publication in the *Texas Register*: **November 11, 2016**

11 The rules will take effect: **November 14, 2016**

12  
13 The Commission adopts amendments to the following sections of Chapter 807, relating to Career  
14 Schools and Colleges, *without* changes, as published in the August 9, 2016, issue of the Texas  
15 Register (41 TexReg 6462):  
16

17 Subchapter A. General Provisions, §807.2 and §807.7

18 Subchapter B. Certificates of Approval, §807.11 and §807.15

19 Subchapter E. School Director and Administrative Staff, §807.62

20 Subchapter H. Courses of Instruction, §807.122

21 Subchapter J. Advertising, §807.175

22 Subchapter N. Cancellation and Refund Policy, §807.262 and §807.264

23 Subchapter O. Records, §807.281 and §807.282

24 Subchapter R. Closed Schools, §807.342

25 Subchapter S. Sanctions, §807.353

26 Subchapter T. Cease and Desist Orders, §807.362 and §807.365  
27

28 The Commission adopts the repeal of the following section of Chapter 807, relating to Career  
29 Schools and Colleges, *without* changes, as published in the August 9, 2016, issue of the Texas  
30 Register (41 TexReg 6462):  
31

32 Subchapter A. General Provisions, §807.5 Exemptions  
33

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

35 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**  
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 rules reflect improvements to  
3 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 adopts 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 reoption, 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 adopts the

21 following amendments:

22

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

24 **The Commission adopts 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](mailto: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 **Comment:** One commenter opined that the proposed format,  
5 "School#Director@xdomain," would be inapplicable to schools with multiple locations  
6 and a corporate office separate from a campus. The commenter requested maintaining  
7 the current practice.

8  
9 **Response:** The current practice, in which each school identifies an e-mail address, has  
10 proven to be an unreliable method for contacting the schools. Many schools use an e-  
11 mail address specific to the school director. If the Agency has not been notified of that  
12 director's departure, which is often the case, the e-mail is not received. The Agency  
13 routinely corresponds with approximately 600 career schools, and with increasing use of  
14 e-mail, it is important for protection of the school's rights that the Agency has a  
15 dependable method of ensuring that e-mail is received and promptly read. The  
16 amendment would not only establish a standard address protocol, but also requires a  
17 minimum of two subscribers. One of these could be a corporate contact, or additional  
18 subscribers could be added.

19  
20 **Comment:** One commenter asked when the response period would start-- whether it  
21 would be when mailed, when received, or another time. The commenter further stated  
22 that responding to the Agency is an important matter.

23  
24 **Response:** The Agency will continue the current practice of stating the deadline for  
25 responding in the body of the notice, for example, "within 20 days of the date mailed."

### 26 27 **§807.5. Exemptions**

28 The Commission adopts the repeal of §807.5 in its entirety. The contents of this section will be  
29 included in an amendment to §807.7(e).

### 30 31 **807.7. Exemptions**

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

34  
35 New §807.7(e) is moved from previous §807.5(2) - (5) and relettered.

## 36 37 **SUBCHAPTER B. CERTIFICATES OF APPROVAL**

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

### 39 40 **§807.11. Original Approvals**

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

42  
43 Section 807.11(c) is amended to reduce response time frames from 30 days to 21 days.

44  
45 In undergoing a Rapid Process Improvement (RPI) review, CSC streamlined critical application  
46 review processes, thereby reducing the time required for Agency staff to fully process an original

1 application. The RPI review also identified process efficiencies that allowed for a reduction in  
2 response time frames from career schools and colleges.

3  
4 **Comment:** One commenter wished to extend appreciation for reduced time for approvals  
5 to allow career schools and colleges to continue to meet the demands of employers.

6  
7 **Response:** The Agency concurs and appreciates the expression of support.

8  
9 **§807.15. Notification of Legal Actions**

10 Section 807.15 is amended to read "Notification of Actions" from "Notification of Legal  
11 Action."

12  
13 Updating the title of §807.15 reflects the need to broaden the terminology to include other  
14 critical notification requirements. Restricting notification solely to legal actions overlooked  
15 critical changes to schools' eligibility-related requirements and operational status. Such changes  
16 are discussed in more detail in new §807.15(d).

17  
18 Section 807.15 is amended to add subsection (d), to require schools to report, in writing and  
19 within five days, any change in accreditation status or Title IV status, e.g., Heightened Cash  
20 Monitoring 1 or 2, loss of eligibility, composite score, 90/10 ratio or default rate problems, or  
21 other similar changes.

22  
23 Any change to a school's accreditation status or Title IV status is critical knowledge for  
24 consumers; as such changes can affect transferability of credits and the ability to secure federal  
25 student loans.

26  
27 **SUBCHAPTER E. SCHOOL DIRECTOR AND ADMINISTRATIVE STAFF**

28 **The Commission adopts the following amendments to Subchapter E:**

29  
30 **§807.62. School Director Qualifications and Duties**

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

33  
34 The requirement for the school director to sign and agree to the terms of the Director's Statement  
35 found in §807.62(e) is no longer needed. RPI review identified the form as a redundant requirement.

36  
37 **SUBCHAPTER H. COURSES OF INSTRUCTION**

38 **The Commission adopts the following amendments to Subchapter H:**

39  
40 **§807.122. General Information for Courses of Instruction.**

41 Section 807.122 is amended to add the following language:

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

45 (1) the school's approved programs are all meeting the employment rate as referenced in  
46 §807.131(b), at the time of application; and

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

2  
3 A school whose remaining programs all meet the minimum rate at the time of application and which  
4 provides an implementation plan for a revoked program, may reapply for approval after the one-year  
5 period. Programs found to be substantially similar to a revoked program would also be subject to the  
6 same requirements.

7  
8 Subsequent subsections are relettered to reflect additions.

9  
10 **Comment:** The commenter questioned the need for the additional requirements if the  
11 new program is not related to the discontinued or revoked program.

12  
13 **Response:** The Agency points out that the requirements only apply to a program that is  
14 substantially similar to a discontinued or revoked program, not to an unrelated program.

15  
16 **SUBCHAPTER J. ADVERTISING**

17 **The Commission adopts the following amendments to Subchapter J:**

18  
19 **§807.175. Catalog**

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

22  
23 Requiring schools that charge tuition and fees based on one or more period to completely  
24 disclose information to students allowing them to understand the charges and ensuring full  
25 disclosure to students, parents, and other funding sources. Further, the basis of a school's  
26 charges is established clearly, both for students and the Agency, should issues arise, including,  
27 but not limited to, calculation of refunds.

28  
29 New §807.175(d) is added to require schools to disclose all changes and to advise schools that  
30 there are sanctions for failing to comply.

31  
32 This language is designed to ensure that schools keep their policies current, both for students and  
33 for the Agency, and to emphasize the importance of prompt notification of changes to such  
34 policies.

35  
36 **SUBCHAPTER N. CANCELLATION AND REFUND POLICY**

37 **The Commission adopts the following amendments to Subchapter N:**

38  
39 **§807.262. Completion of Refund**

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

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

8  
9 **Comment:** One commenter was unsure of the meaning of the term "Board" and noted  
10 that it was not contained in the definitions.

11  
12 **Response:** This was not included because the term "Board" is defined in Texas  
13 Workforce Commission rule §800.2(4) as a Local Workforce Development Board,  
14 created pursuant to Texas Government Code §2308.253 and certified by the governor  
15 pursuant to Texas Government Code §2308.261. This includes such a Board when  
16 functioning as the Local Workforce Investment Board, including those functions required  
17 of a Youth Council. The definition of Board shall apply to all uses of the term in the rules  
18 contained in this part, or unless otherwise defined, relating to the Texas Workforce  
19 Commission, that are adopted after February 1, 2001.

#### 20 21 **§807.264. Penalties Relating to Refunds**

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

24  
25 This language is intended to clarify Agency practice.

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

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

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

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

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

1 **Comment:** One commenter stated that the new language in subsection (d) seems  
2 excessive and redundant to the current process and that they are not certain if these items  
3 would only be requested under penalty or as part of the initial information gathering of a  
4 refund dispute.

5  
6 **Response:** The information requested in subsection (d) is essentially the same  
7 information as currently requested in subsection (c), with clarification that if necessary,  
8 the same information will be required for recalculated refunds, with the addition of "other  
9 information requested by the Agency to demonstrate compliance" to ensure provision for  
10 unforeseen circumstances. The requirement was moved to provide clarity as part of the  
11 restructuring of the section. Subsection (c) clearly states that the information will only be  
12 required if the Agency determines that the method used by the school to calculate refunds  
13 is in error or that the school does not routinely pay refunds timely.

## 14 15 **SUBCHAPTER O. RECORDS**

### 16 **The Commission adopts the following amendments to Subchapter O:**

#### 17 18 **§807.281. General Information for Records**

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

22  
23 Updating this rule will ensure that the Agency can protect student records, whether retained in hard  
24 copy or electronic copy.

25  
26 **Comment:** One commenter stated that §807.281(b)(2) was vague and requested further  
27 explanation, and that without clarification the commenter would consider this to be an  
28 additional expense without guidance as to type of product or service. The commenter  
29 further stated that the accrediting bodies recognized by the USDOE [sic] have a standard  
30 that they would encourage duplicating.

31  
32 **Response:** The Agency reviewed the requirements of five of the accreditors recognized  
33 by the U.S. Department of Education that are most used by regulated schools before  
34 deciding on language. All five address protecting against the risk of loss; three address  
35 damage and give examples of fire, water, and theft; and three address forms of misuse.  
36 The accreditor whose standard most closely resembles the amendment is Accrediting  
37 Commission of Career Schools and Colleges, whose standard requires that "These  
38 records (physical or electronic) must be securely maintained and protected against  
39 damage or loss (e.g., fire, water, theft, tampering, etc.)."

#### 40 41 **§807.282. Student Records**

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

43  
44 Updating the title of §807.282 reflects a broader terminology that includes other information in  
45 addition to what is statutorily defined as student records.

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

5  
6 **SUBCHAPTER R. CLOSED SCHOOLS**

7 **The Commission adopts the following amendments to Subchapter R:**

8  
9 **§807.342. Tuition Trust Account**

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

13  
14 This wording change is designed to ensure that all outstanding liabilities are accounted for, thereby  
15 maximizing the effectiveness of the tuition trust account.

16  
17 **SUBCHAPTER S. SANCTIONS**

18 **The Commission adopts the following amendments to Subchapter S:**

19  
20 **§807.353. Administrative Penalties**

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

25  
26 Amended §807.353(e) includes a definition of "Instance" when referring to each violation and  
27 adds new violations for protection and disposal of sensitive student personal information.

28  
29 **SUBCHAPTER T. CEASE AND DESIST ORDERS**

30 **The Commission adopts the following amendments to Subchapter T:**

31  
32 **§807.362. Contents of Statement of Charges and Notice of Hearing**

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

35  
36 Sending a hard copy of rules is not a statutory requirement, adds costs, and is unnecessary, given  
37 that all rules are accessible and up to date on the Agency website.

38  
39 **§807.365. Hearing Decision and Final Review by the Commission.**

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

42  
43 Oral argument before the Commission is not a statutory requirement and creates conflict with the  
44 requirement that the Commission's decision be made on the basis of the record of the hearing  
45 officer.

1           **Comment:** One commenter was concerned to see the removal and elimination of the  
2 provision for "verbal response during the hearing decision and final review process."  
3

4           **Response:** This section only deals with cease and desist hearings involving unlicensed  
5 schools, and it does not affect the conduct of hearings held under Subchapter U, which  
6 governs the conduct of all other career school and college hearings, or the appeal rights of  
7 the parties. This section aligns the process with other similar Agency processes.  
8

9           **Comments were received from:**

10          Jerry Valdez, Executive Director, Career Colleges & Schools of Texas  
11

12          The Agency hereby certifies that the adoption has been reviewed by legal counsel and found to  
13 be within the Agency's legal authority to adopt.  
14

15          The rules are adopted under Texas Labor Code §301.0015 and §302.002(d), which provide the  
16 Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it  
17 deems necessary for the effective administration of Agency services and activities.  
18

19          The adopted rules affect Texas Government Code, Chapter 552.  
20

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

2  
3                   **SUBCHAPTER A. GENERAL PROVISIONS**

4  
5                   **§807.2. Definitions.**

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

- 10  
11                   (1)   Academic quarter--A period of instruction that includes at least ten weeks of  
12                   instruction, unless otherwise approved by the Agency.  
13  
14                   (2)   Academic semester--A period of instruction that includes at least 15 weeks of  
15                   instruction, unless otherwise approved by the Agency.  
16  
17                   (3)   Academic term--An academic quarter, academic semester, or other progress  
18                   evaluation period.  
19  
20                   (4)   Academically related activity--An exam, tutorial, computer-assisted  
21                   instruction, academic counseling, academic advisement, turning in a class  
22                   assignment, or attending a study group that is assigned by the institution, or  
23                   other activity as determined by the Agency.  
24  
25                   (5)   Accountant--An independent certified public accountant properly registered  
26                   with the appropriate state board of accountancy.  
27  
28                   (6)   Act--Texas Education Code, Chapter 132, Career Schools and Colleges.  
29  
30                   (7)   Address of record--In addition to the mailing address contained in the  
31                   application for a certificate of approval, each career school or college shall  
32                   establish an e-mail address of record for a distribution list that consistently  
33                   maintains a minimum of two current subscribers, with the format of the  
34                   address to be "School#Director@xdomain," e.g., S1111Director@gmail.com.  
35  
36                   (8)   Advertising--Any affirmative act designed to call attention to a school or  
37                   program for the purpose of encouraging enrollment.  
38  
39                   (9)   Agency--The unit of state government established under Texas Labor Code,  
40                   Chapter 301, that is presided over by the Commission and administered by the  
41                   executive director to operate the integrated workforce development system and  
42                   administer the unemployment compensation insurance program in this state as  
43                   established under the Texas Unemployment Compensation Act, Texas Labor  
44                   Code Annotated, Title 4, Subtitle A, as amended. The definition of Agency  
45                   shall apply to all uses of the term in rules contained in this chapter.  
46

- 1 (10) Appellant--The party or the party's authorized hearing representative who  
2 files an appeal from an appealable determination or decision.  
3
- 4 (11) Asynchronous distance education--Distance education training that the Agency  
5 determines is not synchronous.  
6
- 7 (12) Class or course--An identifiable unit of instruction that is part of a program of  
8 instruction.  
9
- 10 (13) Commission--The body of governance of the Texas Workforce Commission  
11 composed of three members appointed by the governor as established under  
12 Texas Labor Code §301.002 that includes one representative of labor, one  
13 representative of employers, and one representative of the public. The  
14 definition of Commission shall apply to all uses of the term in rules contained  
15 in this subchapter.  
16
- 17 (14) Coordinating Board--The Texas Higher Education Coordinating Board.  
18
- 19 (15) Course of instruction--A program or seminar.  
20
- 21 (16) 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) Date of notice--The date the notice is mailed, unless good cause exists for the  
31 hearing officer to determine otherwise.  
32
- 33 (18) 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) 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.  
45

- 1 (20) Distance education school--A school that offers only distance education  
2 courses.  
3
- 4 (21) Employment--A graduating or graduate student's employment in the same or  
5 substantially similar occupation for which the student was trained.  
6
- 7 (22) Good reputation--The possession of honesty and truthfulness, trustworthiness  
8 and reliability, and a professional commitment to the educational process and  
9 the training or preparing of a person for a field of endeavor in a business, trade,  
10 technical, or industrial occupation, as well as the condition of being regarded  
11 as possessing such qualities. In determining whether a person is of good  
12 reputation, the Agency is not limited to the following acts or omissions. The  
13 Agency may consider similar acts or omissions and rehabilitation efforts in  
14 response to prior convictions in making its determination. A person is  
15 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) Hearing--An informal, orderly, and readily available proceeding held before an  
32 impartial hearing officer. A party or hearing representative may present  
33 evidence to show that the Agency's determination should be reversed,  
34 affirmed, or modified.  
35
- 36 (24) Hearing officer--An Agency employee designated to conduct impartial  
37 hearings and issue final administrative decisions.  
38
- 39 (25) Hearing representative--Any individual authorized by a party to assist the party  
40 in presenting the party's appeal. A hearing representative may be legal counsel  
41 or another individual. Each party may have a hearing representative to assist in  
42 presenting the party's appeal.  
43
- 44 (26) 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.

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

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- (39) Small school--A "small career school or college" as defined in the Act.
- (40) 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) Student--Any individual solicited, enrolled, or trained in Texas by a school.
- (42) 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) 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) 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) Tour--A required, in-person inspection of the facilities and equipment pertaining to a course of instruction.
- (46) Week--Seven consecutive calendar days.

1       **§807.7. Exemptions.**  
2

- 3           (a) A school may apply to the Commission for an exemption under §132.002 or  
4           §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 meets the requirements for an exemption under §132.002 or §132.003  
8           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 does not meet the requirements for the exemption under §132.002 or  
13          §132.003 of the Texas Education Code.  
14
- 15          (d) A school may appeal the denial or revocation of an exemption in accordance with  
16          the provisions of Subchapter D of the Texas Education Code.  
17
- 18          (e) A school applying for an exemption from the provisions of Texas Education Code  
19          §132.002(a)(6) must provide evidence that:  
20
- 21               (1) the school has a certificate of authorization from the Coordinating Board to grant  
22               baccalaureate or higher-level degrees or a letter from the Coordinating Board  
23               indicating that Coordinating Board approval is not required;  
24
- 25               (2) the school is accredited by a Coordinating Board--recognized accrediting body;  
26
- 27               (3) the school is in good standing with the designated accrediting body and not  
28               subject to:  
29
- 30                       (A) probation;  
31
- 32                       (B) a directive to show cause as to why accreditation should not be revoked; or  
33
- 34                       (C) any other action that, as defined by the accrediting agency, will prevent the  
35                       school from seeking approval of its degree programs; and  
36
- 37               (4) at least a simple majority (51 percent) of credits earned in the educational  
38               programs of the school are transferable to educational programs that are:  
39
- 40                       (A) at an equivalent or higher academic level (e.g., baccalaureate to  
41                       baccalaureate or higher);  
42

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 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 days, the  
29 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 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  
31  
32 (e) 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) 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 school is not required to submit applications for additional courses of instruction  
15       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) 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) 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) A school submitting applications for approval of seminars shall use abbreviated  
40       forms provided by the Commission.

41  
42       (f) 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) 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) The school shall establish and maintain a formal advisory committee of at least five  
10 members, unless the Commission approves a lesser number of persons in advance,  
11 for each type of program with course time in excess of 200 hours in length. At least  
12 annually, the committee shall evaluate the curriculum, instructional materials and  
13 media, equipment, and facilities to ensure they meet the needs of the job market. The  
14 school shall have written documentation of the evaluation available for review by the  
15 Commission. If the school does not follow an advisory committee recommendation,  
16 the school shall maintain written documentation of the justification for not following  
17 the recommendation.  
18
- 19 (i) 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  
27 (a) A school shall document refunds by written record indicating the date of the refund  
28 transaction, the name of the student receiving the refund, the total amount refunded,  
29 and the specific reason for the refund. Proof of completion shall be on file within  
30 120 days of the effective date of termination and shall include:  
31

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

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

37  
38 (3) documentation of an awarded credit to a credit card or other similar account.  
39

40 (b) To ensure a school's good faith effort to timely complete a refund owed directly to a  
41 student, the student's file shall contain evidence of the following proof of a certified  
42 mailing of the refund to the:  
43

44 (1) student's last known address;  
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) Any penalty assessed on a school's late payment of student refunds shall be  
33 disbursed in the following order of priority:  
34  
35 (1) to the student's account at a lending institution for the balance of principal and  
36 interest on the student loan;  
37 (2) to the student for tuition and fees paid directly by the student;  
38  
39 (3) to a Board for tuition and fees paid by the Board; and  
40  
41 (4) to the tuition trust account for any remaining balance of assessed penalty.  
42  
43 (c) If the Agency determines that the method used by the school to calculate refunds is  
44 in error or the school does not routinely pay refunds within the time required by the

1 Act, the school shall submit an agreed-upon procedures engagement conducted by an  
2 independent CPA. The CPA shall examine all files for students who did not  
3 complete a course of study, to determine compliance with the most restrictive of:  
4

- 5 (1) the Act;
- 6
- 7 (2) this chapter; or
- 8
- 9 (3) the school catalog current on the date of the student's enrollment.

10  
11 (d) An opinion letter shall accompany a schedule of student refunds due, disclosing the  
12 following information for the four years prior to the date of the Agency's request:

- 13 (1) student information, including name, address, and Social Security number;
- 14
- 15
- 16 (2) pertinent dates, including recorded last date of attendance, date of termination,  
17 and, if necessary, recalculated last date of attendance;
- 18
- 19 (3) recorded refund information, including amount of refund with principal,  
20 penalty, and any balance due stated separately; payee; date and check number  
21 of payment if payment has been made; any of the same categories of  
22 information resulting from recalculations; and
- 23
- 24 (4) other information requested by the Agency to demonstrate compliance.

## 25 26 **SUBCHAPTER O. RECORDS.**

### 27 28 **§807.281. General Information for Records.**

29  
30 (a) A school shall permanently maintain a master student registration list (MSRL). If  
31 the school maintains the MSRL in electronic form, the school must be able to  
32 produce a printed copy immediately upon request. The MSRL must contain at least  
33 the following information:

- 34 (1) date of applicable entry;
- 35
- 36 (2) name of student;
- 37
- 38 (3) address of student including city, state, and zip code;
- 39
- 40 (4) telephone number;
- 41
- 42 (5) social security number;
- 43
- 44 (6) date of birth; and
- 45

1  
2 (7) name of program.  
3

4 (b) A school shall maintain current records and necessary data (physical or electronic)  
5 for each student required to be on the master student registration list to show  
6 compliance with the Act and this chapter. These records shall be:  
7

8 (1) maintained on-site;  
9

10 (2) protected against damage, loss (e.g., fire, water, theft, tampering), or misuse;  
11 and  
12

13 (3) made available to the Commission for inspection upon request.  
14

15 (c) If applicable, the school shall maintain and ensure that copies of the accreditation  
16 authorization and letter of eligibility from the United States Department of Education  
17 are available for Commission review.  
18

19 (d) Degree granting schools shall maintain a copy of the certificate of authorization  
20 from the Coordinating Board for each authorized degree program.  
21

22 (e) The Commission may conduct unannounced compliance inspections.  
23

24 (f) A school shall maintain complete records of all advertising, sales, and enrollment  
25 materials used by or on behalf of the school for a five-year period. Materials  
26 maintained shall include, but not be limited to, direct mail pieces, brochures, printed  
27 literature, films, leaflets, handbills, fliers, video and audiotapes disseminated through  
28 the broadcast media, materials disseminated through the print media or Internet, and  
29 sales and recruitment manuals used to instruct sales personnel.  
30

31 **§807.282. Student Information and Records.**

32 (a) A school shall permanently maintain student transcripts of academic records. A  
33 school shall provide such transcripts to students and prospective employers at a  
34 reasonable charge if the student has fulfilled the financial obligation to the school  
35 and is neither in default nor owes a refund to any federal or state student financial  
36 aid program.  
37

38 (b) A school shall retain financial records in accordance with federal retention  
39 requirements.  
40

41 (c) A school shall retain all student records for at least a five-year period and these  
42 records shall include:  
43

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

3  
4 (2) official transcripts from all previous postsecondary schools attended by the  
5 student.

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

9  
10 (e) A school shall destroy or arrange for the destruction of sensitive personal  
11 information within the school's custody or control, after any required retention  
12 periods, by:

13  
14 (1) shredding;

15  
16 (2) permanently removing or deleting electronic records; or

17  
18 (3) otherwise modifying the sensitive personal information in the records to make  
19 the information unreadable or indecipherable through any means; or

20  
21 (4) destroying the information in accordance with any other more restrictive law or  
22 regulation the school is required to follow.

23  
24 **SUBCHAPTER R. CLOSED SCHOOLS**

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

27  
28 (a) In a year in which the Commission determines it is necessary to charge a fee under  
29 §132.2415(b) of the Act, each school shall make a payment to the tuition trust  
30 account at the time the school renewal fee is paid.

31  
32 (b) The amount in the tuition trust account, as provided in the Act, is an accrued  
33 balance. The accrued balance is the cash balance of the tuition trust account less the  
34 sum of the accrued liabilities from unpaid student refunds and teach-out claims.

35  
36 (c) Disbursements shall be made from the tuition trust account for student refunds and  
37 reimbursable teach-out expenses incurred during each 12-month period ending  
38 August 31, and shall be:

39  
40 (1) made first for student refunds in accordance with §132.2415(d) of the Act and  
41 §807.262 of this chapter;

- (2) calculated after refunds or discharges from other funding sources have been determined;
- (3) disbursed to other funding sources from any amount remaining under the limitation of §132.242(e) of the Act; and
- (4) disbursed for reimbursable teach-out expenses based upon remaining funds in the account.

(d) Following the graduation or termination of the students from the teach-out school, the teach-out school shall determine actual expenses and submit a claim for reimbursement to the Commission on or before the date provided in the application packet. The teach-out school shall:

- (1) not claim expenses for facilities, equipment, utilities, or other items which were owned, rented, used, or otherwise obligated by the school prior to the Commission's approval of the teach-out program, even though such items may be used for the teach-out program;
- (2) be limited to expenses for tuition and fees that are non-recoverable from all financial resources, including grants and loans; and
- (3) ensure that the sum of the tuition and fees paid to the student's account at the closed school and the teach-out school is the lesser amount the student would have been charged for the complete program at the closed school or the teach-out school.

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

## **SUBCHAPTER S. SANCTIONS**

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

- (a) An administrative penalty shall not exceed the amount specified in Texas Education Code §132.152 for each instance of a violation and shall be assessed in accordance with that section.

- 1 (b) The administrative penalty is calculated based on a penalty dollar amount and the  
2 number of instances of violation.  
3
- 4 (c) A violation is considered a repeat violation only where notice of a violation or an  
5 administrative penalty has been issued previously for that same violation.  
6
- 7 (d) The assessment of an administrative penalty shall not preclude the Agency from  
8 administering other sanctions, up to and including revocation of a school's certificate  
9 of approval.  
10
- 11 (e) The following penalty matrix is for determining and assessing an administrative penalty.  
12 The absence of a particular violation from the matrix shall not preclude the Agency from  
13 assessing an administrative penalty.

<b>Violation</b>	<b>First Offense: Penalty</b>	<b>Repeat Offenses: Penalty</b>	<b>Definition of Instance</b>
Failure of a small school transitioning to a large school to notify the Agency of status change, timely apply, or remit increased fees	\$250	NA	Per violation
Failure to disclose to the Agency changes in tuition, fees, or other charges	\$250	Second Offense: \$500 Subsequent Offenses: \$1,000	Per violation
Failure to provide the Agency notice of a change of address prior to permanently vacating the school facility	\$250	Second Offense: \$500 Subsequent Offenses: \$1,000	Per violation
Failure to maintain records demonstrating compliance with requirements of statute or rule	\$250	Second Offense: \$500 Subsequent Offenses: \$1,000	Per record or student record
Failure to properly destroy or arrange for the destruction of sensitive personal information in the school's custody or control	\$250	Second Offense: \$500 Subsequent Offenses: \$1,000	Per student affected
Failure to protect student records against damage, loss, or misuse	\$250	Second Offense: \$500 Subsequent Offenses: \$1,000	Per record or student record
Failure to provide complete and accurate information as required by the Agency	\$250	Second Offense: \$500 Subsequent Offenses: \$1,000	Per violation
Failure to ensure a staff member has taken required training and been approved by the Agency	\$500	Subsequent Offenses: \$1,000	Per staff member
Failure to provide an instructor who meets necessary qualifications and whose application was submitted within required time frames	\$500	Subsequent Offenses: \$1,000	Per instructor

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

Using advertising that is false, misleading, or deceptive, including the misrepresentation of degrees other than those approved by the Coordinating Board	\$1,000	Subsequent Offenses: \$1,000	Per student affected
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	Subsequent Offenses: \$1,000	Per course of instruction
Solicitation of a prospective student in violation of statutory and rule requirements	\$1,000	Subsequent Offenses: \$1,000	Per student affected
Any misrepresentation	\$1,000	Subsequent Offenses: \$1,000	Per misrepresentation
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	Subsequent Offenses: 10% of renewal fee, not less than \$200 and not more than \$1,000	Per application
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	Per failure
Paying a refund late	A rate established annually by the Commission	A rate established annually by the Commission	Per refund

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

2  
3 **§807.362. Contents of Statement of Charges and Notice of Hearing.**

4  
5 The statement of charges and notice of hearing issued by the Agency shall contain the  
6 following information:

- 7  
8 (1) The name and last known address of the person against whom the order may  
9 be entered;
- 10  
11 (2) A short and plain statement of the reasons the Agency believes the person is  
12 operating a career school or college without a certificate of approval; and  
13  
14  
15 (3) The date, time, and location of the hearing.

16  
17 **§807.365. Hearing Decision and Final Review by the Commission.**

- 18  
19 (a) Within 10 days after the hearing is held, the hearing officer shall issue a written  
20 decision granting or denying the request for the issuance of a cease and desist order  
21 that includes findings of fact and conclusions of law. The hearing decision shall be  
22 mailed by certified mail, return receipt requested, and is presumed received five days  
23 from the date it is mailed. The hearing officer's decision becomes final the 15th day  
24 after receipt of the hearing decision unless an appeal is filed under subsection (b) of  
25 this section.
- 26  
27 (b) A party that is not satisfied with the decision of the hearing officer may file a written  
28 appeal of the decision to the Commission for a final review no later than the 15th day  
29 after receipt of the hearing decision. The written appeal shall contain the party's  
30 arguments as to why the decision of the hearing officer should be reversed.
- 31  
32 (c) Upon receipt of the written appeal of the hearing officer's decision, the Commission  
33 shall consider the appeal and issue a decision promptly. The Commission shall  
34 consider the appeal on the basis of the record made before the hearing officer. The  
35 decision of the Commission shall be mailed by certified mail, return receipt  
36 requested, and is presumed received five days from the date it is mailed.
- 37