

## **Chapter 807. CAREER SCHOOLS AND COLLEGES**

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

**ON AUGUST 28, 2007, THE TEXAS WORKFORCE COMMISSION ADOPTED THE BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.**

Estimated date of publication in the *Texas Register*: **September 14, 2007**

The rules will take effect: **September 17, 2007**

The Texas Workforce Commission (Commission) adopts the following new section to Chapter 807, relating to Career Schools and Colleges, *without changes*, as published in the June 22, 2007, issue of the *Texas Register* (32 TexReg 3840):

Subchapter A, General Provisions, §807.7

The Commission adopts amendments to the following section of Chapter 807, relating to Career Schools and Colleges, *without changes*, as published in the June 22, 2007, issue of the *Texas Register* (32 TexReg 3840):

Subchapter I, Application Fees and Other Charges, §807.152

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

**PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND RESPONSES**

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

The purpose of new §807.7, Exemptions, is to set forth a procedure for the Commission to grant exemptions and hear appeals regarding denied exemptions from the requirement for a certificate of approval. Texas Education Code, Chapter 132, provides a list of schools and courses of instruction that may be exempted from the requirements of the Texas Education Code and do not require a certificate of approval. The statute requires a school to apply to the Commission for approval of such an exemption. The new rule establishes a procedure for approving, denying, or revoking exemptions. In addition, the new rule sets forth a procedure for appealing the denial or revocation of an exemption in the same manner as the denial or revocation of a certificate of approval.

The purpose of amending §807.152 is to more closely track Texas Education Code, Chapter 132, and the flexibility it provides the Commission with regard to the range of renewal fees collected annually from career schools and colleges for purposes of program administration.

Currently, renewal fees are assessed by applying a percentage to the gross tuition and fees, excluding refunds, of a career school or college. Texas Education Code §132.201 provides that renewal fees may be set by the Commission in an amount "not to exceed 150 percent" of an amount that is determined by applying a percentage "not to exceed" 0.3%. The rule in its present form does not provide this full range of options and, as such, is more restrictive than the statute.

In adapting to circumstances, as currently, where the Commission may otherwise collect more in fees than necessary to administer Texas Education Code, Chapter 132; amending §807.152 to allow the Commission to annually establish the renewal fee percentage will provide the Commission flexibility in adapting to changing circumstances. The Commission anticipates that the result of this rule amendment, in the near term, will be a lower fee for many schools. Schools currently assessed the minimum fee will not see a reduction as the minimum does not change.

Conversely, by mirroring the provisions of Texas Education Code §132.201, the Commission will have the full range of rate-setting mechanisms to address any increased need for fee income. This change ensures that the collection of renewal fees for certification of career schools and colleges is appropriately set to sufficiently cover the costs of administering the chapter.

## **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND RESPONSES**

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

**The Commission adopts the following amendments to Subchapter A:**

#### **§807.7. Exemptions**

New §807.7(a) provides that a school or educational institution may apply to the Commission for an exemption under §132.002 or §132.003 of the Texas Education Code.

New §807.7(b) provides that the Commission must grant the requested exemption if the Commission determines that the school or educational institution meets the statutory requirements for an exemption under §132.002 or §132.003 of the Texas Education Code.

New §807.7(c) provides that the Commission may deny or revoke an exemption in the same manner as a denial or revocation of a certificate of approval, if the Commission determines that the school or educational institution does not meet the requirements for the exemption under §132.002 or §132.003 of the Texas Education Code.

New §807.7(d) provides that a school or educational institution may appeal the denial or revocation of an exemption in the same manner as for appealing the denial or revocation of a certificate of approval.

### **SUBCHAPTER I. APPLICATION FEES AND OTHER CHARGES**

**The Commission adopts the following amendments to Subchapter I:**

**§807.152. Renewal Fees**

Section 807.152 is amended to annually establish the renewal fee percentage, which will provide the Commission flexibility in ensuring that the collection of renewal fees for certification of career schools and colleges is in balance with the cost of administering Chapter 132 of the Texas Education Code. In adapting to circumstances, as currently, where the Commission may otherwise collect more in fees than necessary to administer Texas Education Code, Chapter 132, enactment of this amendment is anticipated, in the near term, to allow the Commission to lower the fees currently collected and more appropriately fund the program's administration.

**Comment:** The commenter agreed with establishing an annual renewal fee percentage affording the Agency flexibility in setting future renewal fees—including but not limited to lowering fees for many schools. However, the commenter stated that overages in collected fees should be appropriated and spent to better administer Texas Education Code, Chapter 132. The commenter also expressed concern in processing and disseminating certificates of renewal, representative approvals, new program (and other) applications, and addressing unlicensed school violations are not timely due to the limited number of staff. The commenter asked that the Agency be tasked with collecting enough fees to increase appropriations and spending the full measure of those appropriated dollars to better administer Texas Education Code, Chapter 132, by adding additional staff to the Career Schools and Colleges program.

**Response:** The Commission appreciates the commenter's support of an annual renewal fee that allows the Commission flexibility to adapt to changing circumstances. By amending §807.152 to establish an annual renewal fee rate, the Commission's intent is to avoid the overcollection of funds necessary to administer the Career Schools and Colleges program in order to provide appropriate services. The Commission believes the rule clearly sets forth a process that ensures the collection of renewal fees in balance with the cost of adequately administering Chapter 132. Further, the Commission recognizes the importance that staff plays in the ongoing success of the program. Staff makes every attempt at processing and disseminating all information in a timely manner. The Commission notes that the 80th Texas Legislature, Regular Session (2007) approved its Exceptional Item Appropriation request of General Revenue funding for the Fiscal Year 2008–2009 biennium, thereby increasing appropriations for two additional full-time equivalents for the Career Schools and Colleges program.

**COMMENTS WERE RECEIVED FROM:**

Skip Walls, Board Member and Texas Workforce Commission liaison for Career College and Schools of Texas

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

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

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

## **Chapter 807. CAREER SCHOOLS AND COLLEGES**

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

#### **§807.7. Exemptions.**

- (a) A school or educational institution may apply to the Commission for an exemption under §132.002 or §132.003 of the Texas Education Code.
- (b) The Commission shall grant the requested exemption if the Commission determines that the school or educational institution meets the requirements for an exemption under §132.002 or §132.003 of the Texas Education Code.
- (c) The Commission may deny or revoke an exemption in the same manner as a denial or revocation of a certificate of approval, if the Commission determines that the school or educational institution does not meet the requirements for the exemption under §132.002 or §132.003 of the Texas Education Code.
- (d) A school or educational institution may appeal the denial or revocation of an exemption in accordance with the provisions of Subchapter D of the Texas Education Code.

### **SUBCHAPTER I. APPLICATION FEES AND OTHER CHARGES**

#### **§807.152. Renewal Fees.**

- (a) For small schools, if a certificate of approval is issued for more than one year, the renewal fee is \$1,001, which may be paid with \$501 the first year and \$250 on the anniversary date of the certificate for each subsequent year.
- (b) For all other schools, the renewal fee is based on the gross amount minus refunds of annual student tuition and fees. The Commission will establish the renewal fee on an annual basis, based upon the cost of administration of the chapter. The renewal fee will be set in accordance with the provisions of §132.201 of the Texas Education Code.
- (c) For all schools, the Commission shall assess a penalty of 10% of the renewal fee, not less than \$200 or more than \$1,000, if the school fails to file a complete application for renewal at least 30 days before the expiration date of the certificate of approval.