

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

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

7  
8 The Texas Workforce Commission (TWC) adopts new Chapter 808, relating to the Youth  
9 Driver Education Funding Program, comprising the following subchapters:

10  
11 Subchapter A. Youth Driver Education Funding Program Eligibility, §808.1

12 Subchapter B. Use of Youth Driver Education Funds, §808.21

13  
14 New §808.1 is adopted *without changes* to the proposed text as published in the February  
15 25, 2022, issue of the *Texas Register* (47 TexReg 893) and, therefore, the adopted rule  
16 text will not be published. New §808.21 is adopted *with changes* to the proposed text as  
17 published and the adopted rule text will be published.

18  
19 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

20 The purpose of the Chapter 808 rules is to implement Senate Bill (SB) 2054 from the  
21 87th Texas Legislature, Regular Session (2021). SB 2054 amended Texas Transportation  
22 Code, Chapter 521, Subchapter H to add §521.168, Payment of Fees for Certain Foster  
23 and Homeless Children and Youths, which states that unless prohibited by Texas  
24 Transportation Code, §521.4265(c), TWC shall, upon request from an individual who  
25 meets the eligibility criteria outlined in Texas Transportation Code, §521.168, pay the  
26 fees associated with obtaining a driver's license imposed under Texas Transportation  
27 Code, Chapter 521, Subchapter H, or Texas Education Code, Chapter 1001.

28  
29 Texas Transportation Code, §521.168(a) lists the following criteria for eligible  
30 individuals:

31 --Individuals eligible for a driver's license fee exemption under Texas Transportation  
32 Code, §521.1811; or

33 --Individuals younger than 26 years of age who were or are:

34 --in the managing conservatorship of the Texas Department of Family and Protective  
35 Services (DFPS) on the day before the individual's 18th birthday; or

36 --a homeless child or youth, as defined by 42 United States Code §11434a.

37  
38 Texas Transportation Code, §521.168(b) stipulates that TWC shall establish a process by  
39 which an eligible individual may apply to TWC for the payment of fees associated with  
40 obtaining a driver's license imposed under Texas Transportation Code, Chapter 521,  
41 Subchapter H, or Texas Education Code, Chapter 1001, and TWC pays those fees on the  
42 eligible individual's behalf.

43  
44 SB 2054 also amended Texas Transportation Code, §521.4265(b) and (c) and added  
45 §521.4265(d). Texas Transportation Code, §521.4265(b) and (c) states that these fees will  
46 be paid for through the Texas Department of Public Safety's (DPS) identification fee

1 exemption account. Texas Transportation Code, §521.4265(b) stipulates that DPS shall  
2 request that the Texas Comptroller of Public Accounts transfer to TWC amounts  
3 sufficient to cover the cost of implementing the Youth Driver Education Funding  
4 Program under Texas Transportation Code, §521.168, including amounts sufficient for  
5 TWC's payment of fees to entities other than DPS.

6  
7 Texas Transportation Code, §521.4265(c)(1) states that fund transfers for the Youth  
8 Driver Education Funding Program may not be requested if the balance of the account for  
9 the fiscal year is less than three times the amount expended in the previous fiscal year for  
10 fee waivers provided by Texas Transportation Code, §521.1015(e) and §521.1811.

11  
12 Texas Transportation Code, §521.4265(d) requires DPS, in consultation with TWC, to  
13 establish rules for a process governing these fund transfers.

## 14 15 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

### 16 17 **SUBCHAPTER A. YOUTH DRIVER EDUCATION FUNDING PROGRAM** 18 **ELIGIBILITY**

19 TWC adopts new Subchapter A:

#### 20 21 **§808.1. Eligible Population**

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

### 26 27 **SUBCHAPTER B. USE OF YOUTH DRIVER EDUCATION FUNDS**

28 TWC adopts new Subchapter B:

#### 29 30 **§808.21. Verification Process**

31 New §808.21 describes the verification process by which eligible individuals may apply  
32 to have fees associated with obtaining a driver's license--imposed under Texas  
33 Transportation Code, Chapter 521, Subchapter H, or Texas Education Code, Chapter  
34 1001--paid for through TWC's Youth Driver Education Funding Program. New §808.21  
35 also describes how TWC will respond to individuals requesting payment who are  
36 determined to be ineligible and provides steps required for driver education providers to  
37 receive a fee payment.

38  
39 TWC hereby certifies that the rules have been reviewed by legal counsel and found to be  
40 within TWC's legal authority to adopt.

## 41 42 **PART III. PUBLIC COMMENTS**

43 The public comment period closed on March 28, 2022. TWC received comments from  
44 DFPS and a joint comment from the coalition of youth advocates, which included  
45 Partnerships for Children, Texas Appleseed, Texas Court Appointed Special Advocates,

1 Texas Foster Youth Justice Project, Texas Network of Youth Services, and two  
2 individuals who advocate for foster youth.

3  
4 **§808.1. Eligible Population**

5  
6 **COMMENT:** The coalition recommended that the rule be revised to make clear that  
7 behind-the-wheel training was available to participants 18 years of age and older.

8  
9 **RESPONSE:** TWC does not plan to incorporate specific allowable costs within the rule  
10 and will address these issues as part of the policy and processes to implement the rule.  
11 TWC does plan to make the policy clear that behind-the-wheel training is allowable to all  
12 participants who need it.

13  
14 No changes were made in response to this comment.

15  
16 **§808.21. Verification Process**

17  
18 **COMMENT:** DFPS and the coalition requested that TWC provide a list of approved  
19 driver education providers in Texas that meet all the requirements listed in §808.21(a).

20  
21 **RESPONSE:** Due to the statewide nature of the program and considering that providers  
22 continue to open and close and are not under obligation to provide any information to  
23 TWC, TWC does not intend to keep a current list. TWC will use the Texas Department of  
24 Licensing and Regulation list of licensed applications for its eligibility determinations  
25 and recommends that applicants use the same list. Applicants are not expected to conduct  
26 an eligibility check because TWC will confirm eligibility. TWC does not expect a  
27 significant number of education providers to be ineligible based on research conducted.  
28 Should an applicant propose an ineligible provider, TWC will provide a list of nearby  
29 eligible providers.

30  
31 No changes were made to the rule in response to this comment.

32  
33 **COMMENT:** DFPS and the coalition recommended that TWC accept applications in  
34 multiple digital formats, accept eligibility verification in multiple forms, and provide an  
35 opportunity for the applicant to give an additional contact to receive information relating  
36 to the application. Additionally, the coalition recommended that TWC provide a  
37 confirmation of receipt along with a confirmation number to ease future inquiries.

38  
39 **RESPONSE:** TWC intends to accept applications through a website, by email, and  
40 through standard mail. Automatic confirmation will be given where feasible. TWC will  
41 accept documents in any legally acceptable format and intends to accept commonly used  
42 eligibility verification documents in addition to the form that TWC will develop and  
43 make available. Should an applicant wish to provide a second contact person, the second  
44 contact person will also be contacted.

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

3  
4 **COMMENT:** DFPS requested that the signatory for the youth's eligibility be  
5 automatically included in communication regarding the application if the applicant is  
6 currently in foster care.

7  
8 **RESPONSE:** TWC will include the designated case manager or any other appropriate  
9 DFPS staff members in communication with those individuals currently in foster care.

10  
11 No changes were made to the rule in response to this comment.

12  
13 **COMMENT:** The coalition requested that TWC amend the rule to require contact with  
14 the applicant in the event that TWC is unable to determine the individual's eligibility.

15  
16 **RESPONSE:** TWC revised the language in §808.21(c) to clarify that TWC will make  
17 reasonable efforts to contact any individual whose eligibility cannot be determined.

18  
19 **COMMENT:** The coalition recommended that TWC include an explanation of why an  
20 applicant is ineligible if an application is rejected.

21  
22 **RESPONSE:** TWC intends to provide clear information on why an applicant is ineligible  
23 if he or she is found to be so. Any applicant will be able to reapply to the program if  
24 circumstances change or he or she is able to provide more accurate documentation.

25  
26 No changes were made to the rule in response to this comment.

27  
28 **COMMENT:** DFPS and the coalition asked for clarification on what specifically will be  
29 paid for, a website clearly explaining payment procedures, and how payment and  
30 enrollment will interact.

31  
32 **RESPONSE:** TWC will provide a website with complete guidance for applicants, both  
33 on what is eligible to be paid for and how payment procedures will work. TWC intends to  
34 support youth even if enrollment requires simultaneous payment, the process for which  
35 will be addressed in TWC policies.

36  
37 The language in §808.21(e) is changed to clarify this intent.

38  
39 **COMMENT:** DFPS requested that staff be familiar with situations that may prevent  
40 participants in the program from completing an education program or test. The coalition  
41 recommended that language pertaining to whether a youth "fails to attend" be omitted.

42  
43 **RESPONSE:** TWC intends for staff overseeing this program to be familiar with the  
44 challenges that participants may face. TWC also accepts a self-attestation of inability  
45 from the participant to receive the waiver. The intention of the language is specifically to  
46 avoid participants not completing a program or test, and not to assess their attendance.

1  
2 The language in §808.21(f) is changed to clarify this intent.

3  
4 **COMMENT:** The coalition requested that payment be streamlined, possibly by agreeing  
5 to contract with specific providers.

6  
7 **RESPONSE:** Due to the statewide nature of the program and considering that providers  
8 continue to open and close and are not under obligation to provide any information to  
9 TWC, TWC is not looking to select specific providers beyond the eligibility requirements  
10 laid out in rule. TWC is concerned that any limitations might be more detrimental than  
11 the benefits of the streamlining.

12  
13 No changes were made to the rule in response to this comment.

14  
15 **COMMENT:** The coalition suggested revisions to §808.21(i)(2) and (3) to address a  
16 situation where an applicant mistakenly pays the provider prior to applying and ensure  
17 that all fees can be refunded.

18  
19 **RESPONSE:** TWC reviewed the language and feels that current language is sufficient to  
20 ensure that all relevant payments are recaptured if appropriate. In cases in which a youth  
21 has mistakenly paid the provider prior to the application's approval, TWC will work with  
22 the youth and provider to resolve the situation, but the emphasis and primary structure of  
23 this program is intended to be a direct payment from TWC to the education provider.  
24 Additional documentation and the applicant's time will be required to address a  
25 prepayment situation. TWC will make clear in all materials that applicants should not  
26 make any payments to the provider, and if this prevents enrollment, TWC will work with  
27 them to address the situation.

28  
29 No changes were made to the rule in response to this comment.

30  
31 **PART IV. STATUTORY AUTHORITY**

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

35  
36 The new rules implement the changes made to the Texas Transportation Code, Chapter  
37 521, by SB 2054, specifically the requirements of amended Texas Transportation Code,  
38 §521.168(b).

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

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

5  
6                   **§808.1. Eligible Population.**

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

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

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

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

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

1 (b) Once a driver education provider is selected, the eligible individual must visit  
2 a website designated by the Agency to complete and submit ~~via the website,~~  
3 ~~email, or mail,~~ the Driver Education Waiver Request Form, which includes:

4  
5 (1) individual eligibility verification; and

6  
7 (2) Youth Driver Education Funding Program eligibility verification.

8  
9 (c) Agency staff shall review the form within five business days of submission  
10 and notify the requestor of the individual's eligibility status. If staff is unable  
11 to determine eligibility, staff ~~will make reasonable efforts to~~ ~~may~~ contact the  
12 individual for further information.

13  
14 (d) Once participant and Youth Driver Education Funding Program eligibility are  
15 determined, Agency staff shall:

16  
17 (1) for an eligible individual, submit a payment request on the individual's  
18 behalf to the Agency's Finance Division; or

19  
20 (2) for an ineligible individual, send a response to the individual alerting  
21 them of their ineligibility.

22  
23 (e) After an eligible participant has completed enrollment with the selected  
24 provider, ~~or submitted documentation that enrollment cannot be completed~~  
25 ~~without payment,~~ the Agency's Finance Division shall review and process the  
26 payment request in keeping with Agency policies and procedures regarding  
27 fee payment, and if sufficient funds have been transferred from the Texas  
28 Department of Public Safety (DPS) to the Agency. ~~If enrollment is not~~  
29 ~~possible without payment, TWC will work with applicants to enroll them at~~  
30 ~~time of payment.~~

31  
32 (f) An eligible participant who ~~does not fails to attend or~~ complete driver  
33 education or a test paid for under this chapter must wait for a period of three  
34 months before they enroll in a new course or test to be paid for by this  
35 chapter. An eligible participant may have the required waiting period waived  
36 by providing a written attestation describing the circumstances that prevented  
37 them from attending or completing the driver education or test and  
38 explaining why they assert the circumstances were outside their control.

39  
40 (g) The Agency shall pay driver education providers for services provided to an  
41 eligible individual from the fund after the individual's application receives  
42 approval from the Agency, the driver's education provider submits required  
43 payment documentation that is accurate and complete, and the individual  
44 submits a completed driver education enrollment agreement.

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(h) All Youth Driver Education Funding Program uses described in this chapter shall be monitored and reported on as required by the Texas Comptroller of Public Accounts, the Agency, and DPS.

(i) Driver education providers shall repay to the Agency improper payments received or refunds due for driver education funded under this chapter in instances:

(1) involving fraud committed by the driver education provider;

(2) in which the provider was paid for driver education from another source;

(3) in which the provider did not deliver driver education; or

(4) in which a refund is due under Texas Education Code, Chapter 1001, Subchapter I.