

**Texas Higher Education Coordinating Board
Professional Nursing Education Updates**

Summary of Request:

The purpose of this report is to update the Board on recent proposed rule revisions within the Texas Higher Education Coordinating Board (THECB) that may impact professional nursing education.

Historical Perspective/Background Information:

Prior to the Board's Sunset Review, § 215.3 *Professional Nursing Education, Program Development, Expansion and Closure*, outlined that the governing institution of a nursing education program making application for approval to the Board have accreditation by a *Board - recognized* accrediting body. Historically, the Board has recognized the Southern Association of Colleges and Schools (SACS) and other regionally accredited entities required by the THECB rules and policies. In addition, the majority of professional nursing programs in Texas have SACS accreditation.

During the 80th legislative session, HB 2426 Section 13 § 301.157 (b-1) clarified that:

The Board may not require accreditation of the governing institution of a school of nursing. The board shall accept the requirements established by the THECB for accrediting the governing institution of a school of nursing. The governing institution of a professional nursing school, not including a diploma program, must be accredited by an agency recognized by the THECB or hold a certificate of authority from the THECB under provisions leading to accreditation of the institution in due course.

In the December 21st edition of the Texas Register (see Attachment A) the THECB has published major revisions to Chapter 7. *Private and Out of State Public Post-Secondary Educational Institutions Operating in Texas*. It appears that these proposed rules may expand the number of accrediting bodies approved by THECB. At the time of this board mailing, staff have not had an opportunity to analyze the revisions to the proposed rules nor evaluate the impact of revisions on nursing education in Texas but will have more information at the January, 2008 Board meeting.

Staff Recommendations:

None. This report is an informational item.

Attachment A

TITLE 19. EDUCATION

1. Part 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

Chapter 7. PRIVATE AND OUT-OF-STATE PUBLIC POSTSECONDARY EDUCATIONAL INSTITUTIONS OPERATING IN TEXAS

Subchapter A. GENERAL PROVISIONS

19 TAC §§7.1 - 7.20

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Higher Education Coordinating Board (Coordinating Board, THECB, or Board) proposes the repeal of §§7.1 - 7.20, concerning Private and Out-of-State Public Postsecondary Educational Institutions Operating in Texas. Specifically, this repeal is proposed because new §§7.1 - 7.24 are proposed to replace the repealed sections.

William Franz, General Counsel, and Dr. Glenda Barron, Associate Commissioner, have determined that for each year of the first five years the repeal is in effect, there will not be any fiscal implications to state or local government as a result of enforcing or administering the repeal of the sections.

Mr. Franz and Dr. Barron have also determined that for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of administering the repeal of the sections will be the lowering of barriers to entry in Texas for Private and Out-of-State Public Postsecondary Educational Institutions while at the same time maintaining quality education standards. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the repeal as proposed, unless, in their discretion, they avail themselves of an alternate route to certification, in which case their costs are variable depending on the number of students in their programs. There is no impact on local employment.

Comments on the proposal may be submitted to William Franz, General Counsel, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under the Texas Education Code, Title 3, Chapter 61, Subchapter G, §§61.301 - 61.321, as amended, which provides the Coordinating Board with the authority to permit Private and Out-of-State Public Postsecondary Educational Institutions Operating in Texas to award degrees and which also provides the Board with authority to regulate the granting of degrees by Private and Out-of-State Public Post-Secondary Educational Institutions operating in Texas. William Franz, General Counsel, THECB, has reviewed the proposal and found it to be within the THECB's authority to adopt.

The repeal affects Texas Education Code, Title 3, Chapter 61, Subchapter G, as amended.

§7.1.Purpose.

§7.2.Authority.

§7.3.Definitions.

§7.4.Exemptions, Revocation of Exemptions, and Certificates of Authorization.

§7.5.Administrative Procedures Related to Certification of Nonexempt Institutions.

§7.6.Certificate of Authority--Eligibility, Applications, Renewals, and Amendments.

§7.7.Standards for Certificates of Authority.

§7.8.Certificate of Registration for Agents of Nonexempt Institutions.

§7.9.Operation of Branch Campuses, Extension Centers, or Other Off-Campus Units by Exempt Institutions.

§7.10.Occasional Courses, Changes of Level at Exempt Institutions, and Out-of-State Public Institutions.

§7.11.Revocation of Certificates of Nonexempt Institutions and Agents.

§7.12.Review and Use of Degrees from Institutions Not Eligible for Certificates of Authority.

§7.13.Information Provided to Protect Public from Fraudulent, Substandard, or Fictitious Degrees.

§7.14.Prohibitions.

§7.15.Duties upon Dissolution of an Institution.

§7.16.Procedures Related to the Assessment of Administrative Penalties.

§7.17.Administrative Penalties.

§7.18.Injunctions.

§7.19.Civil Penalties.

§7.20.Deceptive Trade Practices Act.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on December 11, 2007.

TRD-200706311

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: January 24, 2008

For further information, please call: (512) 427-6114

19 TAC §§7.1 - 7.24

The Texas Higher Education Coordinating Board (Coordinating Board, THECB, or Board) proposes new §§7.1 - 7.24, concerning Private and Out-of-State Public Postsecondary Educational Institutions Operating in Texas. Specifically, several new definitions, relating to recognition of accreditors and routes to alternative certification, have been added in §7.3. Current recognized accrediting agencies remain so and are embodied in §7.5. A new §7.4 is proposed as a means of recognizing accrediting agencies so long as they meet certain standards. Subsequent sections have been renumbered and clarifying amendments have been made to various rules, e.g., §§7.5 - 7.11. New §§7.22 - 7.24 establish alternative routes to certification in an effort to remove potential barriers to entities operating in Texas or desiring to do so while at the same time preserving quality education standards.

William Franz, General Counsel, and Dr. Glenda Barron, Associate Commissioner, have determined that for each year of the first five years the sections are in effect, there will not be any fiscal implications to state or local government as a result of enforcing or administering the rules.

Mr. Franz and Dr. Barron have also determined that for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of administering the sections will be the lowering of barriers to entry in Texas for Private and Out-of-State Public Postsecondary Educational Institutions while at the same time maintaining quality education standards. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the sections as proposed, unless, in their discretion, they avail themselves of an alternate route to certification, in which case their costs are variable depending on the number of students in their programs. There is no impact on local employment.

Comments on the proposal may be submitted to William Franz, General Counsel, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new sections are proposed under the Texas Education Code, Title 3, Chapter 61, Subchapter G, §§61.301 - 61.321, as amended, which provides the Coordinating Board with the authority to permit Private and Out-of-State Public Postsecondary Educational Institutions Operating in Texas to award degrees and which also provides the Board with authority to regulate the granting of degrees by Private and Out-of-State Public Post-Secondary Educational Institutions operating in Texas. William Franz, General Counsel, THECB, has reviewed the proposal and found it to be within the THECB's authority to adopt.

The new sections affect Texas Education Code, Title 3, Chapter 61, Subchapter G, as amended.

§7.1.Purpose.

This subchapter clarifies the standards and details the process by which nonexempt private postsecondary educational institutions may be granted by the Board a certificate of authority to offer degrees or to offer credits toward degrees and to use certain academic terms within the state. These rules proscribe certain behavior, and specify the sanctions that may be imposed for violations of the applicable rules and statutes.

§7.2.Authority.

These rules relate to the Texas Education Code, Chapter 61, Subchapter G, §§61.301 - 61.319 and Subchapter H, §§61.401 - 61.405, which regulates the awarding or offering of degrees, awarding or offering credit toward degrees, and the use of certain academic terms by private and out-of-state public postsecondary educational institutions.

§7.3.Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Accreditation--The status of public recognition that an accrediting agency grants to an educational institution.

(2) Accrediting agency--A legal entity that conducts accreditation activities through voluntary peer review and makes decisions concerning the accreditation status of institutions.

(3) Agent--A person employed by or representing a post-secondary educational institution within or without Texas who:

(A) solicits any Texas student for enrollment in the institution;

(B) solicits or accepts payment from any Texas student for any service offered by the institution; or

(C) while having a physical presence in Texas, solicits students or accepts payment from students who are without Texas.

(4) Alternative Certificate of Authority--A type of certificate of authority for approval of institutions of higher education, with operations in the state of Texas, to confer degrees or courses applicable to degrees, or to solicit students for enrollment in institutions that confer degrees or courses applicable to degrees that is governed by flexible, streamlined procedures, emphasizing the importance of innovation, consumer choice, and measurable outcomes in the delivery of educational services.

(5) Board--The Texas Higher Education Coordinating Board.

(6) Branch campus, extension center, or other off-campus unit--Any institution or part of an institution offering or proposing to offer away from the home campus more than occasional courses or courses leading to the granting of a degree without the necessity for courses to be taken at the main campus.

(7) Certificate of authority--The Board's approval of institutions of higher education (other than exempt institutions), with operations in the state of Texas, to confer degrees or courses applicable to degrees, or to solicit students for enrollment in institutions that confer degrees or courses applicable to degrees.

(8) Certificate of authorization--The Board's acknowledgment that an institution is qualified for an exemption from the regulations herein.

(9) Commissioner--The Commissioner of Higher Education.

(10) Degree--Any title or designation, mark, abbreviation, appellation, or series of letters or words,

including "associate", "bachelor's", "master's", "doctor's" and their equivalents and foreign cognates, which signify, purport to signify, or are generally taken to signify satisfactory completion of the requirements of all or part of a program of study which is generally regarded and accepted as an academic degree-level program by accrediting agencies recognized by the Board.

(11) Educational or training establishment--An enterprise offering a course of instruction, education, or training that the establishment does not represent to be applicable to a degree.

(12) Exempt institution--An institution that is accredited by an agency recognized by the Board under §7.5(a) of this title (relating to Recognized Accrediting Agencies, Exemptions, Revocation of Exemptions, and Certificates of Authorization) or an entity described in the Texas Education Code, §61.003(8).

(13) Fictitious degree--A counterfeit or forged degree or a degree that has been revoked.

(14) Fraudulent or substandard degree--A degree conferred by a person who, at the time the degree was conferred, was:

(A) operating in this state in violation of this subchapter;

(B) not eligible to receive a certificate of authority under this subchapter and was operating in another state in violation of a law regulating the conferral of degrees in that state or in the state in which the degree recipient was residing or without accreditation by a recognized accrediting agency, if the degree is not approved through the review process described by §7.13 of this title (relating to Review and Use of Degrees from Institutions Not Eligible for Certificates of Authority); or

(C) not eligible to receive a certificate of authority under this subchapter and was operating outside the United States, and whose degree the Board, through the review process described by §7.13 of this title, determines is not the equivalent of an accredited or authorized degree.

(15) Home campus--The headquarters of an institution, such location to be determined as a matter of fact by the Commissioner based upon consideration of information such as, but not limited to the following:

(A) where the institution is chartered;

(B) the site, campus or city where the principal or chief executive's offices are located;

(C) the site, campus or city where the institution conducts the preponderance of its instructional activities; and

(D) any other pertinent and material facts.

(16) Occasional courses--Courses offered not more than twice at any given location in the state.

(17) Out-of-state public institution of higher education--Any senior college, university, technical institute, junior or community college, or the equivalent which is controlled by a public body organized outside the boundaries of the State of Texas.

(18) Person--Any individual, firm, partnership, association, corporation, enterprise, or other private entity or any combination thereof.

(19) Private postsecondary educational institution or institution--An educational institution which:

(A) is not a public junior college, public senior college or university, medical or dental unit or other agency as defined in Texas Education Code §61.003;

(B) is incorporated under the laws of this state, or maintains a place of business in this state, or has an agent or representative present in this state, or solicits business in this state; and

(C) furnishes or offers to furnish courses of instruction in person, by electronic media, or by correspondence leading to a degree; provides or offers to provide credits alleged to be applicable to a degree; or represents that credits earned or granted are collegiate in nature, including describing them as "college-level," or at the level of any protected academic term.

(20) Program or Program of study--Any course or grouping of courses which are represented as entitling a student to a degree or to credits applicable to a degree.

(21) Protected term--the term "college," "university," "seminary," "school of medicine," "medical school," "health science center," "school of law," "law school," or "law center," its abbreviation, foreign cognate, or equivalents.

(22) Recognized accrediting agency--Any accrediting agency the standards of accreditation or membership for which have been found by the Board to be sufficiently comprehensive and rigorous to qualify its institutional members for an exemption from the operation of this chapter.

(23) Representative--A person who acts on behalf of an institution regulated under this subchapter. The term includes, without limitation, recruiters, agents, tutors, counselors, business agents, instructors, and any other instructional or support personnel.

(24) The subchapter--Texas Education Code, Title 3, Chapter 61, Subchapter G, as amended, having an effective date of June 21, 1975.

§7.4. Recognition of Accrediting Agencies.

The Texas Higher Education Coordinating Board may recognize accrediting agencies with a commitment to academic quality and student achievement that demonstrate, through an application process, compliance with the following criteria:

(1) Eligibility. The accrediting agency's application for recognition must demonstrate that the entity:

(A) Is recognized by the Secretary of Education of the United States Department of Education as an institutional accrediting agency authorized to accredit educational institutions that offer the associate degree or higher;

(B) Is applying for the same scope of recognition as that for which it is recognized by the Secretary of Education of the United States Department of Education;

(C) Accredits higher education institutions that have legal authority to confer higher education degrees;

(D) Requires an onsite review by a visiting team as part of initial and continuing accreditation of educational institutions;

(E) Has policies or procedures that ensure the entity will promptly respond to requests for information from the Board; and

(F) Has sufficient resources to carry out its functions.

(2) Continuing Recognition. To receive continuing recognition from the Board, the accrediting agency must:

(A) Provide the Board with current standards used by the entity in initial and ongoing accreditation reviews of educational institutions and invite the Board to participate in such reviews;

(B) Provide the Board with written evidence of continuing recognition by the Secretary of Education of the United States Department of Education. Loss of recognition from the Secretary automatically results in loss of Board recognition at the same time;

(C) Provide a list of Texas educational institutions accredited by it; notify the Board in writing of any change to its list of Texas accredited institutions within ten (10) days of the change;

(D) Notify the Board of any complaints concerning a Texas institution accredited by it and the disposition of those complaints; and

(E) Seek Board approval for any expansion of its recognized scope of accreditation authority.

§7.5. Recognized Accrediting Agencies, Exemptions, Revocation of Exemptions, and Certificates of Authorization.

(a) The provisions of this subchapter do not apply to:

(1) The home campus of an institution which is fully accredited by a recognized accrediting agency. For purposes of the exemption, the Board currently recognizes the following accrediting agencies: the Commission on Higher Education, Middle States Association of Colleges and Schools; the Commission on Institutions of Higher Education, New England Association of Schools and Colleges; the Commission on Institutions of Higher Education, North Central Association of Colleges and Schools; the Northwest Commission on Colleges and Universities, the Commission on Colleges, Southern Association of Colleges and Schools; the Accrediting Commission for Community and Junior Colleges and Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges; the Association of Biblical Higher Education (undergraduate only); and the Association of Theological Schools in the United States and Canada.

(2) A branch campus, extension center, or other off-campus unit operated by a private or independent institution of higher education as defined by Texas Education Code, §61.003.

(3) An institution or degree program that has received approval by an agency of the State of Texas authorizing the graduates of the institution to take a professional or vocational state licensing examination administered by that agency. The granting of permission by a state agency to a graduate of an institution to take a licensing examination does not by itself constitute approval of the institution or degree program required for an exemption under this subsection.

(b) The exemptions provided by subsection (a) of this section apply only to the degree level for which the programs or the institution is accredited or approved, as applicable, and if an institution offers to award a degree at a level for which it is not accredited or approved by the appropriate agency of the State of Texas, the exemption does not apply.

(c) The Commissioner may issue a certificate of authorization to grant degrees to an exempt institution, upon the institution's application and demonstration that it qualifies for an exemption

under subsection (a)(1) of this section, as limited by subsection (b) of this section.

(d) A new institution may not presume exempt status and offer to award degrees or courses leading to degrees until it has applied for and been granted a certificate of authorization by the Commissioner.

(e) An exempt institution continues in that status only so long as it maintains accreditation by a recognized accrediting agency or otherwise meets the provisions of subsection (a) of this section.

(f) Revocation of an exemption.

(1) If the Commissioner receives credible evidence that an institution is no longer qualified for an exemption, he shall notify the institution that its exempt status is revoked, and that the institution is subject to the requirements Chapter 61 of the Texas Education Code, and of this subchapter.

(2) Upon receipt of the notice of revocation, the institution must cease granting or awarding degrees in Texas until it has either been granted a certificate of authority to grant degrees, or has received a determination that it did not lose its qualification for an exemption.

(3) Within 10 days of its receipt of the Commissioner's notice, the institution must respond and offer proof of its continued qualification for the exemption.

(4) After reviewing the evidence, the Commissioner will issue a notice of determination, which in the case of an adverse determination, shall contain information regarding the reasons for the denial, and the institution's right to a hearing.

(5) If a determination under this section is adverse to an institution, it shall become final and binding unless, within 45 days of its receipt of the adverse determination, the institution invokes the administrative remedies contained in Chapter 1, Subchapter B of this title (relating to Hearings and Appeals).

§7.6. Administrative Procedures Related to Certification of Nonexempt Institutions.

(a) The Board may issue to a nonexempt institution a certificate of authority to grant a degree or degrees and to enroll students for courses which may be applicable toward a degree if the Board finds that the institution meets the standards established herein.

(b) Certification Advisory Council.

(1) The Board shall appoint a certification advisory council to advise the Board on standards and procedures related to certification of private, nonexempt postsecondary educational institutions, to assist the Commissioner in the examination of individual applications for certificates of authority, and to perform other duties related to certification that the Board finds to be appropriate.

(2) The council shall consist of six members with experience in higher education, three of whom must be drawn from exempt private institutions of higher education in Texas.

(3) The members shall be appointed for two year fixed and staggered terms.

(c) Fees.

(1) Certificates of Authority. Each biennium the Commissioner shall set the fee for initial and renewal applications for certificates of authority, which shall be equal to the average cost of

evaluating the applications. The fee shall include the costs of travel, meals, and lodging of the visiting team and the Commissioner, or the Commissioner's designated representatives, and consulting fees for the visiting team members, if an onsite review is conducted. For an additional fee not to exceed \$500, the Board shall provide review of applications within 120 days.

(2) Each biennium, the Commissioner shall also set the fees for amendments to certificates of authority; initial reviews of branch campuses or extension centers; site visits to branch campuses or extension centers; and certificates of registration of agents.

(3) The Commissioner shall report changes in the fees to the Board at a quarterly meeting.

(d) Board's review of applications.

(1) The Commissioner, or the Commissioner's designated representatives, and an ad hoc team of independent consultants, if the Commissioner finds that such a team would provide a benefit to the Board or to the institution, may visit the institution and conduct an onsite survey to evaluate the application for a certificate of authority. The visiting team will be composed of people who have experience and knowledge relating to institutions of higher education.

(2) The visiting team will prepare a written report of its findings regarding the institution's ability to meet the standards for a certificate of authority. This report will be provided to the applicant institution, which shall have 30 days within which to submit a written response.

(3) The certification advisory council will review the findings of the visiting team and the response of the institution and submit to the Commissioner a recommendation concerning the application.

(4) The Commissioner will forward to the Board the recommendation of the advisory council with his endorsement or with an alternate recommendation.

(5) Upon approval of the Board to award a certificate of authority to an institution, the Commissioner will act immediately to prepare and forward the certificate. It shall state, at a minimum, that the institution is authorized to grant certain degrees, the issue date, and the period for which the certificate is valid.

(6) If the Board denies an institution's application for a certificate of authority, or for renewal of its certificate of authority, the Commissioner shall notify the institution in writing of the denial and of the reasons for the denial.

(A) The institution will not be eligible to reapply for a period of 180 days.

(B) Until the certificate of authority is reinstated, the institution may not grant degrees or receive payments from students for courses which may be applicable toward a degree.

(C) The subsequent application must show, in addition to all other requirements described herein, correction of the deficiencies which led to the denial.

(D) The period of time during which the institution does not hold a certificate of authority shall not be counted against the 8-year period within which the institution must achieve accreditation from a recognized accrediting agency absent sufficient cause, as described in §7.7(c)(3) of this title (relating to Certificate of Authority--Eligibility, Applications, Renewals, and Amendments); the time period begins to run again upon reinstatement.

(7) If a determination under this section is adverse to an institution, it shall become final and binding unless, within 45 days of its receipt of the adverse determination, the institution invokes the administrative remedies contained in Chapter 1, Subchapter B of this title (relating to Hearings and Appeals).

(e) Terms and limitations of a certificate of authority.

(1) The certificate of authority to grant degrees is valid for a period of two years from the date of issuance.

(2) Certification by the State of Texas is not accreditation, but merely a protection of the public interest while the institution pursues accreditation from a recognized agency, within the time limitations expressed in §7.7(c)(3) of this title. Therefore, the institution awarded a certificate of authority shall not use terms to interpret the significance of the certificate which specify, imply, or connote greater approval than simple permission to operate and grant certain specified degrees in Texas. Terms which may not be used include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended" by the State of Texas or agency thereof. Specific language prescribed by the Commissioner which explains the significance of the certificate of authority shall be included in all publications, advertisements, and other documents where certification and the accreditation status of the institution are mentioned.

(f) Recognition of Accrediting Agencies. The Board recognizes accrediting agencies for purposes of this section provided they can demonstrate they meet the criteria listed below.

(1) The accrediting agency must be recognized by the Council for Higher Education Accreditation or its successor and by the United States Department of Education.

(2) The accrediting agency's standards must be at least as comprehensive and rigorous as the standards listed in §7.8 of this title (relating to Standards for Certificate of Authority) and be as rigorously applied.

§7.7. Certificate of Authority--Eligibility, Applications, Renewals, and Amendments.

(a) Eligibility to apply. The Board will accept applications for a certificate of authority only from those institutions:

(1) proposing to offer a degree or credit courses alleged to be applicable to a degree; and

(2) which have been in operation for a minimum of two years. As a minimum, "in operation" means to have assembled a governing board, developed policies, materials, and resources sufficient to satisfy the requirements for a certificate of authority, and either have enrolled students and conducted classes or accumulated sufficient financing to do so for at least one year upon certification based on reasonable estimates of projected enrollment and costs. Sufficient financing may be demonstrated by proof of an adequate surety bond, assignment of account, certificate of deposit, irrevocable letter of credit, or a properly executed participation contract with a private association, partnership, corporation, or other entity whose membership is comprised of higher education institutions, which is:

(A) In a form acceptable to the Board; and

(B) Conditioned to provide indemnification to any student or enrollee of the school or his/her parent or guardian determined by the Board to have suffered loss of prepaid tuition or any fees as a result

of violation of any minimum standard or as a result of a holder of a Certificate of Authority ceasing operation, and provides evidence satisfactory to the Board of its financial ability to provide such indemnification and lists the amount of surety liability the guaranteeing entity will assume.

(b) Application for certificate of authority.

(1) Institutions seeking a certificate of authority are urged to contact the Board's Institutional Certification Office before filing a formal application.

(2) Applications must be submitted with an original and four copies and accompanied by the fee described in §7.6(c) of this title (relating to Administrative Procedures Related to Certification of Nonexempt Institutions).

(3) Documentary evidence of compliance with subsection (a)(2) of this section must be filed with the application.

(4) An institution must be fully operational as of the date of the on-site evaluation; i.e., it must have in-hand or under contract all the human, physical, administrative, and financial resources necessary to demonstrate its capability to meet the standards for nonexempt institutions. The conditions found at the institution as of the date of the on-site evaluation visit will provide the basis for the visiting team's evaluation and report, the certification advisory council's recommendation, the Commissioner's recommendation, and the Board's determination of the institution's qualifications for a certificate of authority.

(c) Renewal of certificate of authority.

(1) At least 180 days, but no more than 210 days, prior to the expiration of the current certificate of authority, an institution, if it desires renewal, shall make application to the Board on forms provided upon request. Reports not previously submitted to the Board, related to the application for or renewal of accreditation by national or regional accrediting agencies shall be included. The renewal application shall be accompanied by the fee described in §7.6(c) of this title.

(2) The application for renewal of the certificate of authority will be evaluated in the same manner as that prescribed for evaluation of an initial application, except that the evaluation will include the institution's record of improvement and progress toward accreditation.

(3) An institution may be granted consecutive certificates of authority for no longer than eight years. Absent sufficient cause, at the end of the eight years, the institution must be accredited by a recognized accrediting agency.

(4) Subject to the restrictions of paragraph (3) of this subsection, the Board shall renew the certificate if it finds that the institution has maintained all requisite standards.

(5) The Board shall consider the application of any accreditation standard that prohibits accreditation of an institution solely on the basis of religious policies practiced by the institution as sufficient justification for extending the institution's eligibility for certification to grant degrees of a religious nature only, if the institution:

(A) has applied for and pursued accreditation in good faith;

(B) meets all other standards at the level of accreditation; and

(C) satisfies all other requirements of the Board.

(d) Amendments to a certificate of authority.

(1) An institution which wishes to amend an existing program of study to award a new or different degree during the period of time covered by its current certificate may file an application for amendment, on forms provided by the Board upon request. An institution may begin operating such a program upon filing the application, and the application shall be deemed to be granted if not rejected by the Board within 120 days.

(2) Applications for amendment shall be accompanied by the fee described in §7.6(c) of this title.

(3) Unless the Board finds that the new program of study does not meet the required standards, the Board shall amend the institution's certificate accordingly.

(e) Authority to represent transferability of course credit. Any institution as defined in §7.3 of this title (relating to Definitions), whether it offers degrees or not, may solicit students for and enroll them in courses on the basis that such courses will be credited to a degree program offered by another institution, provided that:

(1) the other institution is named in such representation, and is accredited by an accrediting agency listed in §7.5(a)(1) of this title (relating to Recognized Accrediting Agencies, Exemptions, Revocation of Exemptions, and Certificates of Authorization) or has a certificate of authority;

(2) the courses are identified for which credit is claimed to be applicable to the degree programs at the other institution; and

(3) the written agreement between the institution subject to these rules and the accredited institution is approved by both institutions' Boards of trustees in writing, and is filed with the Board.

(f) Duty to Report.

(1) Institutions holding a certificate of authority will be required to:

(A) furnish a list of their agents to the Board; and

(B) maintain records of students enrolled, credits awarded, and degrees awarded, in a manner specified by the Board.

(2) Any change in principal location, ownership, governance, administrative personnel, faculty, or facilities at the institution, or any other changes relevant to the Board's standards for certification, shall be reported to the Board within ten days of the change by the chief administrative officer of the institution in order for the Board to determine if such changes adversely affect the conditions under which the certificate was granted. For purposes of this provision, administrative personnel consists only of individuals in a leadership role that involves setting institutional policies. For purposes of this provision, facilities consist only of campuses taken as a unit. Notification is only required if an entire campus is closed. Changes in individual rooms and buildings, such as remodeling, need not be reported. For purposes of this provision, changes in the status of an individual faculty member, such as hours worked, courses taught, and responsibilities within a department, need not be reported. Only the addition or subtraction of a faculty member shall trigger notification.

(g) If an order, decision, or determination made pursuant to this section is adverse to an institution, the reasons therefore shall be detailed in a notice to the institution. The order, decision, or determination shall become final and binding unless, within 45 days of its receipt of the adverse order, decision, or determination, the institution invokes the administrative remedies contained in Chapter 1, Subchapter B of this title (relating to Hearings and Appeals).

§7.8. Standards for Certificates of Authority.

The decision to grant a certificate of authority to an institution will be based on its demonstrated compliance with the following standards. Particular attention will be paid to the institution's commitment to education, responsiveness to recommendations and suggestions for improvement, and, in the case of a renewal of a certificate of authority, record of improvement and progress. These standards represent generally accepted administrative and academic practices and principles of accredited institutions of higher education in Texas. Such practices and principles are generally set forth by regional and specialized accrediting bodies and the academic and professional societies which have established standards for their members' programs, such as the National Association of College and University Business Officers and the American Association of Collegiate Registrars and Admissions Officers.

(1) Legal Compliance. The institution shall be maintained and operated in compliance with all applicable ordinances and laws, including the rules and regulations adopted to administer those ordinances and laws. The institution shall demonstrate compliance with the Texas Education Code, Chapter 132 by supplying a copy of a certificate of approval to operate a career school or college school or a letter of exemption from the Texas Workforce Commission.

(2) Qualifications of Institutional Officers.

(A) The character, education, and experience in higher education of governing board members, administrators, supervisors, counselors, agents, and other institutional officers shall be such as may reasonably ensure that the institution can maintain the standards of the Board and progress to accreditation within the time limits set by the Board.

(B) The chief academic officer shall hold an earned doctorate awarded by an institution accredited by an agency recognized by the Board or from a foreign institution demonstrated to be equivalent to an accredited institution, and shall demonstrate sound aptitude for and experience with curriculum development and assessment; accreditation standards and processes as well as all relevant state regulations; leadership and development of faculty, including the promotion of scholarship, research, service, academic freedom and responsibility, and tenure (where applicable); and the promotion of student success.

(C) In the case of a renewal of a certificate of authority, the institutional officers also shall demonstrate a record of effective leadership in administering the institution.

(3) Governing Board. The institution shall have a governing board consisting of at least three members. The institution's governing board shall be an active policy-making body, focused on promoting the mission of the institution, and shall exercise its authority to ensure that the mission of the institution is carried out. Members of the Board shall represent the interests of the institution's constituencies of faculty, students, and supporters.

(4) Distinction of Roles. There shall be sufficient distinction among the roles and personnel of the governing Board of the institution, the administration, and faculty to ensure their appropriate

separation and independence.

(5) Financial Resources and Stability. The institution shall have adequate financial resources and financial stability to provide education of good quality and to be able to fulfill its commitments to students. The institution shall have sufficient reserves, line of credit, or surety instrument so that, together with tuition and fees, it would be able to complete its educational obligations to currently enrolled students if it were unable to admit any new students.

(6) Financial Records. Financial records and reports of the institution shall be kept and made separate and distinct from those of any affiliated or sponsoring person or entity. Financial records and reports at a not-for-profit institution shall be kept in accordance with the guidelines of the National Association of College and University Business Officers as set forth in College and University Business Administration (Sixth Edition), or such later editions as may be published. An annual independent audit of all fiscal accounts of the educational institution shall be authorized by the governing board and shall be performed by a properly authorized certified public accountant.

(7) Institutional Assessment. Continual and effective assessment, planning, and evaluation of all aspects of the institution shall be conducted to advance and improve the institution. These aspects include, but are not limited to, the academic program of teaching, research, and public service; administration; financial planning and control; student services; facilities and equipment, and auxiliary enterprises.

(8) Student Admission and Remediation.

(A) Upon the admission of a student to any undergraduate program, the institution shall document the student's level of preparation to undertake college level work by obtaining proof of the student's high school graduation or General Educational Development (GED) certification and by assessing the academic skills of each entering student with an instrument approved in §4.56 of this title (relating to Assessment Instruments), and otherwise complying with §§4.51 - 4.59 of this title (relating to the Texas Success Initiative). If a GED is presented, to be valid, the score must be at or above the passing level set by the Texas Education Agency. The institution shall provide an effective program of remediation for students diagnosed with deficiencies in their preparation for collegiate study.

(B) Upon the admission of a student to any graduate program, the institution shall document that the student is prepared to undertake graduate-level work by obtaining proof that the student holds a baccalaureate degree from an institution accredited by a recognized accrediting agency, or an institution holding a certificate of authority to offer baccalaureate degrees under the provisions of this chapter, or a degree from a foreign institution equivalent to a baccalaureate degree from an accredited institution. The procedures used by the institution for establishing the equivalency of a foreign degree shall be consistent with the guidelines of the National Council on the Evaluation of Foreign Education Credentials or its successor.

(9) Faculty Qualifications. The character, education, and experience in higher education of the faculty shall be such as may reasonably ensure that the students will receive an education consistent with the objectives of the course or program of study.

(A) Each faculty member teaching in an academic associate or baccalaureate level degree program shall have at least a master's degree from an institution accredited by a recognized agency with at least 18 graduate semester credit hours in the discipline, or closely related discipline, being taught.

(B) Each faculty member teaching technical or vocational courses in a vocational associate degree program, or technical and vocational courses that academic associate or baccalaureate students may choose to take, shall have at least an associate degree in the discipline being taught from an institution accredited by a recognized agency at least three years of full-time direct or closely related experience in the discipline being taught.

(C) Each faculty member teaching general education courses in a vocational associate degree program shall have at least a baccalaureate's degree from an institution accredited by a recognized accrediting agency with at least 18 graduate semester credit hours in the discipline, or closely related discipline, being taught.

(D) Graduate-level degree programs shall be taught by faculty holding doctorates, or other degrees generally recognized as the highest attainable in the discipline, or closely related discipline, awarded by institutions accredited by an agency recognized by the Board.

(E) With the approval of a majority of the institution's governing board, an individual with exceptional experience in the field of appointment, which may include direct and relevant work experience, professional licensure and certification, honors and awards, continuous documented excellence in teaching, or other demonstrated competencies and achievements, may serve as a faculty member without the degree credentials specified above. The justification for such appointment shall be fully documented. The Coordinating Board may review the qualifications of the full complement of faculty providing instruction at the institution to verify that such appointments are justified.

(10) Faculty Size. There shall be a sufficient number of faculty holding teaching appointments who are accessible to the students to ensure continuity and stability of the education program, adequate educational association between students and faculty and among the faculty members, and adequate opportunity for proper preparation for instruction and professional growth by faculty members. At the associate and baccalaureate levels, there shall be at least one full-time faculty member in each program. At the graduate level, there shall be at least two full-time faculty members in each program.

(11) Academic Freedom and Faculty Security. The institution shall adopt, adhere to, and distribute to all members of the faculty a statement of academic freedom assuring freedom in teaching, research, and publication. All policies and procedures concerning promotion, tenure, and non-renewal or termination of appointments, including for cause, shall be clearly stated and published in a faculty handbook, adhered to by the institution, and supplied to all faculty. The specific terms and conditions of employment of each faculty member shall be clearly described in a written document to be given to that faculty member, with a copy to be retained by the institution.

(12) Curriculum.

(A) The quality, content, and sequence of each course, curriculum, or program of instruction, training, or study shall be appropriate to the purpose of the institution and shall be such that the institution may reasonably and adequately achieve the stated objectives of the course or program. Each program shall adequately cover the breadth of knowledge of the discipline taught and coursework must build on the knowledge of previous courses to increase the rigor of instruction and the learning of students in the discipline. A majority of the courses in the areas of specialization required for each degree program shall be offered in organized classes by the institution. An institution may offer for-credit coursework that does not directly relate to approved programs,

provided that it does not exceed 25 percent of all courses.

(B) An academic associate degree must consist of at least 60 semester credit hours or 90 quarter credit hours and not more than 66 semester credit hours or 99 quarter credit hours. A baccalaureate degree must consist of at least 120 semester credit hours or 180 quarter credit hours and not more than 139 semester credit hours or 208 quarter credit hours. A master's degree must consist of at least 30 semester credit hours or 45 quarter credit hours and not more than 36 semester credit hours or 54 quarter credit hours of graduate level work past the baccalaureate degree.

(C) Courses designed to correct deficiencies, remedial courses for associate and baccalaureate programs, and leveling courses for graduate programs, shall not count toward requirements for completion of the degree.

(D) The degree level, degree designation, and the designation of the major course of study shall be appropriate to the curriculum offered and shall be accurately listed on the student's diploma and transcript.

(13) General Education.

(A) Each academic associate degree program shall contain a general education component consisting of at least 20 semester credit hours or 30 quarter credit hours. Each baccalaureate degree program shall contain a general education component consisting of at least 25 percent of the total hours required for graduation from the program.

(B) This component shall be drawn from each of the following areas: Humanities and Fine Arts, Social and Behavioral Sciences, and Natural Sciences and Mathematics. It shall include courses to develop skills in written and oral communication and basic computer instruction.

(C) The applicant institution may arrange to have all or part of the general education component taught by another institution, provided that:

(i) the applicant institution's faculty shall design the general education requirement;

(ii) there shall be a written agreement between the institutions specifying the applicant institutions' general education requirements and the manner in which they will be met by the providing institution; and

(iii) the providing institution shall be accredited by a recognized accrediting agency.

(14) Credit for Work Completed Outside a Collegiate Setting.

(A) An institution awarding collegiate credit for work completed outside a collegiate setting (outside a degree-granting institution accredited by a recognized agency) shall establish and adhere to a systematic method for evaluating that work, shall award credit only in course content which falls within the authorized degree programs of the institution or, if by evaluative examination, falls within the standards for awarding credit by exam used by public universities in Texas, in an appropriate manner shall relate the credit to the student's current educational goals, and shall subject the institution's process and procedures for evaluating work completed outside a collegiate setting to ongoing review and evaluation by the institution's teaching faculty. To these ends, recognized evaluative examinations such as the advanced placement program (AP) or the college level examination program (CLEP) may be used.

(B) No more than one half of the credit applied toward a student's associate or baccalaureate degree program may be based on work completed outside a collegiate setting. Those credits must be validated in the manner set forth in subparagraph (A) of this paragraph. No more than 15 semester credit hours or 23 quarter credit hours of that credit may be awarded by means other than recognized evaluative examinations. No graduate credit for work completed outside a collegiate setting may be awarded. In no instance may credit be awarded for life experience per se or merely for years of service in a position or job.

(15) Learning Resources. The institution shall maintain and ensure that students have access to learning resources with a collection, staff, services, equipment, and facilities that are adequate and appropriate for the purposes and enrollment of the institution. Learning resources shall be current, well distributed among fields in which the institution offers instructions, cataloged, logically organized, and readily located. The institution shall maintain a continuous plan for learning resources development and support, including objectives and selections of materials. Current and formal written agreements with other institutions or with other entities may be used. Institutions offering graduate work shall provide access to learning resources that include basic reference and bibliographic works and major journals in each discipline in which the graduate program is offered. Vocational and technical degree programs shall provide adequate and appropriate resources for completion of course work.

(16) Facilities. The institution shall have adequate space, equipment, and instructional materials to provide education of good quality. Student housing owned, maintained, or approved by the institution, if any, shall be appropriate, safe, and adequate.

(17) Academic Records. Adequate records of each student's academic performance shall be securely and permanently maintained by the institution.

(A) The records for each student shall contain:

(i) student contact and identification information, including address and telephone number;

(ii) records of admission documents, such as high school diploma or GED (if undergraduate) or undergraduate degree (if graduate);

(iii) records of all courses attempted, including grade; completion status of the student, including the diploma, degree or award conferred to the student; and

(iv) any other information typically contained in academic records.

(B) Two copies of said records shall be maintained in secure places.

(C) Transcripts shall be provided upon request by a student, subject to the institution's obligation, if any, to cooperate with the rules and regulations governing state, and federally guaranteed student loans.

(18) Accurate and Fair Representation in Publications, Advertising, and Promotion.

(A) Neither the institution nor its agents or other representatives shall engage in advertising, recruiting, sales, collection, financial credit, or other practices of any type which are false, deceptive, misleading, or unfair. Likewise, all publications, by any medium, shall accurately and fairly represent the institution, its programs, available resources, tuition and fees, and requirements.

(B) The institution shall provide students, prospective students prior to enrollment, and other interested persons with a printed or electronically published catalog containing, at minimum, the following information:

(i) the institution's mission;

(ii) a statement of admissions policies;

(iii) information describing the purpose, length, and objectives of the program or programs offered by the institution;

(iv) the schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study;

(v) cancellation and refund policies;

(vi) a definition of the unit of credit as it applies at the institution;

(vii) an explanation of satisfactory progress as it applies at the institution, including an explanation of the grading or marking system;

(viii) the institution's calendar, including the beginning and ending dates for each instructional term, holidays, and registration dates;

(ix) a complete listing of each regularly employed faculty member showing name, area of assignment, rank, and each earned degree held, including degree level, degree designation, and institution that awarded the degree;

(x) a complete listing of each administrator showing name, title, area of assignment, and each earned degree held, including degree level, degree designation, and institution that awarded the degree;

(xi) a statement of legal control with the names of the trustees, directors, and officers of the corporation;

(xii) a complete listing of all scholarships offered, if any;

(xiii) a statement describing the nature and extent of available student services;

(xiv) complete and clearly stated information about the transferability of credit to other postsecondary institutions including two-year and four-year colleges and universities;

(xv) a statement of Texas Success Initiative requirements;

(xvi) any such other material facts concerning the institution and the program or course of instruction as are reasonably likely to affect the decision of the student to enroll therein; and

(xvii) any disclosures specified by the Board or defined in Board rules. If the catalog is made available in only an electronic format, the institution must preserve at least one printed copy thereof for at least ten years.

(C) The cancellation and refund policy of the institution shall be fair and shall be applied equitably.

(D) The institution shall provide to each prospective student, newly-enrolled student, and returning student, complete and clearly presented information indicating the institution's current graduation

rate by program and, if required by the Board, job placement rate by program.

(E) Any special requirements, or limitations of program offerings, for the students at the Texas branch must be made explicit in writing. This may be accomplished by either a separate section in the catalog or a brochure separate from the catalog. However, if a brochure is produced, the student must also be given the regular catalog.

(F) Upon satisfactory completion of the program of study, the student shall be given appropriate educational credentials indicating the degree level, degree designation, and the designation of the major course of study, and a transcript accurately listing the information typically found on such a document, subject to institutions' obligation, if any, to cooperate with the rules and regulations governing state, and federally guaranteed student loans.

(19) Academic Advising and Counseling. The institution shall provide an effective program of academic advising for all students enrolled. The program shall include orientation to the academic program, academic counseling, career information and planning, placement assistance, and testing services.

(20) Student Rights and Responsibilities. The institution shall establish and adhere to a clear and fair policy regarding due process in disciplinary matters, and publish this policy in a handbook, which shall include other rights and responsibilities of the students. This handbook shall be supplied in print or electronically to each student upon enrollment in the institution.

(21) Health and Safety. The institution shall provide an effective program of health and safety education reflecting the needs of the students. The program shall include information on emergency and safety procedures at the institution, including appropriate responses to illness, accident, fire, and crime.

§7.9. Certificate of Registration for Agents of Nonexempt Institutions.

(a) A person desiring to solicit students for enrollment, or to accept funds from Texas students, or otherwise to perform services as an agent of a nonexempt institution pursuant to the provisions of the Texas Education Code, Title 3, Chapter 61, Subchapter G and this subchapter, shall make application for a certificate of registration on forms that will be provided by the Board upon request.

(b) The application shall be accompanied by the fee described in §7.6(c) of this title (relating to Administrative Procedures Related to Certification of Nonexempt Institutions).

(c) Upon request of the Commissioner or the Commissioner's designee, the agent shall provide sufficient evidence of good character.

(d) The agent's certificate of registration shall be issued for a five-year period.

(e) If the Commissioner denies the application for a certificate of registration, or a renewal of the certificate of registration, the applicant shall be notified in writing, and shall be given the reasons for the denial. Additionally, the Commissioner shall notify the institution or institutions which the agent represented or proposed to represent, according to the records of the Board, in the same manner.

(f) At least 60 days, but no more than 120 days, prior to the expiration of an agent's certificate, the agent shall complete and file with the Board an application for renewal, accompanied by the registration fee described in §7.6(c) of this title.

(g) If a determination under this section is adverse to a person or institution, it shall become final and binding unless, within 45 days of the receipt of the adverse determination, the person or institution invokes the administrative remedies contained in Chapter 1, Subchapter B of this title (relating to Hearings and Appeals).

§7.10. Operation of Branch Campuses, Extension Centers, or Other Off-Campus Units.

(a) Off-Campus Operations.

(1) A nonexempt institution may not operate a branch campus.

(2) A private postsecondary institution must be approved by the Board to operate a branch campus, extension center, or other off-campus unit in Texas, except as noted in §7.5(a)(2) of this title (relating to Recognized Accrediting Agencies, Exemptions, Revocation of Exemptions and Certificates of Authorization).

(3) An institution with off-campus offerings that approach the scale of a branch campus, extension center, or other off-campus unit, as defined in §7.3 of this title (relating to Definitions), must submit to the Board a description of its plans, including such information as requested on an application form, to be furnished by the Board upon request.

(4) On receipt of an acceptable application and the application fee for initial review of a branch campus or extension center listed in §7.6(a) of this title (relating to Administrative Procedures Related to Certification of Nonexempt Institutions), the Commissioner may authorize the institution to begin operations at the branch campus, on a temporary basis, pending a formal review and evaluation.

(5) Formal Review and Evaluation.

(A) Accreditor's on-site review and evaluation. If the applicant institution is accredited by a recognized accrediting agency, it shall inform its recognized accreditor of the institution's temporary authorization from the Board to begin operations, as provided in paragraph (4) of this subsection, so that the accreditor may conduct a site visit at the branch campus or extension center to verify compliance with that accreditor's criteria for branch campuses.

(i) An exempt institution shall submit to the Board the report of the recognized accreditor's review and evaluation.

(ii) After examining the report of the recognized accreditor concerning an exempt institution, the Commissioner may issue continuing approval, place conditions on continuing approval, or revoke the Board's temporary authorization of the branch campus or extension center.

(iii) Final approval by the accreditor of an exempt institution must be made within two years of the initial approval by the Commissioner, or the Board's temporary authorization will lapse.

(iv) If the accreditor denies approval of an exempt institution, the Board's temporary authorization shall immediately expire.

(B) Board's on-site review and evaluation. If the accreditor does not conduct an on-site review and evaluation of the branch campus or extension center or the institution is non-exempt, the Board will conduct an office review and, if deemed necessary, an on-site review and evaluation to determine whether the branch complies with the Board's standards of operations.

(i) The Board may invite SACS to provide representation, to accompany the visiting team, and to supply comments.

(ii) If an on-site review is conducted, the institution shall be assessed the fee for an on-site survey to a branch campus or extension center, as provided in §7.6(c) of this title.

(iii) The institution shall be sent the report of the Board's review and evaluation and shall have 30 days to submit a written response to the report.

(iv) After examining the report of review and evaluation and the institution's written response, the Commissioner may issue continuing approval, place conditions on continuing approval, or revoke the Board's temporary approval of the branch campus or extension center.

(6) The Board requires reviews, including site visits, of an exempt branch campus or extension center according to the schedule used for accreditation of the main campus by the recognized accreditor. The review will be conducted in the same manner as described in paragraph (5) of this subsection. The Commissioner may deny continuing approval of any branch campus or extension site which fails to maintain the conditions and standards on which approval was based.

(7) In the event of any adverse determination made under the authority of this section by the Commissioner, the institution shall receive notice of the determination, and shall be given the reasons for the denial in writing.

(8) If a determination under this section is adverse to an institution, it shall become final and binding unless, within 45 days of receipt of the adverse determination, the institution invokes the administrative remedies contained in Chapter 1, Subchapter B of this title (relating to Hearings and Appeals).

(9) Any change in location, ownership, governance, administrative personnel, faculty, or facilities at the of the branch campus or extension center, or any other changes relevant to the Board's standards for off-campus operations at exempt institutions, shall be reported to the Board within ten days of the change by the chief administrative officer of the institution in order for the Board to determine if such changes adversely affect the conditions under which approval to operate a branch campus, extension center, or other off-campus unit was granted. For purposes of this provision, administrative personnel consists only of individuals in a leadership role that involves setting institutional policies. For purposes of this provision, facilities consist only of campuses taken as a unit. Notification is only required if an entire campus is closed. Changes in individual rooms and buildings, such as remodeling, need not be reported. For purposes of this provision, changes in the status of an individual faculty member, such as hours worked, courses taught, and responsibilities within a department, need not be reported. Only the addition or subtraction of a faculty member shall trigger notification.

(b) Standards for Off-Campus Operations at Exempt Institutions.

(1) Legal Compliance. The institution shall be maintained and operated in compliance with all applicable laws of the state in which the institution is located, and with all Texas laws affecting its operations in Texas, including the rules and regulations adopted to administer those laws. The institution shall demonstrate that it holds a certificate of authority or is exempt from the requirement to hold a certificate of authority to grant degrees by providing documentation from an accreditor recognized by the Board demonstrating that the institution is currently accredited.

(2) Administration of the Branch Campus. There shall be an appropriate and effective administrative structure between the main campus and the off-campus unit. The character, education, and experience in higher education of the local administrators shall be such as may reasonably ensure that the students will receive education consistent with the objectives of the course or program of study. Local faculty must have the same degree of separation and independence from the administration that faculty on the main campus enjoy.

(3) Financial Resources and Stability. The institution shall have a reasonable budget for the off-campus unit and must demonstrate adequate reserves available to the off-campus unit to meet its responsibilities to its Texas students.

(4) Institutional Assessment. Continual and effective assessment, planning, and evaluation of all aspects of the institution shall be conducted to advance and improve the institution. These aspects include, but are not limited to, the academic program of teaching, research, and public service; administration; financial planning and control; student services; facilities and equipment, and auxiliary enterprises.

(5) Student Admission and Remediation.

(A) Upon the admission of a student to any undergraduate program, the institution shall document the student's level of preparation to undertake college level work by obtaining proof of the student's high school graduation or General Educational Development (GED) certification and by assessing the academic skills of each entering student with an instrument approved in §4.56 of this title (relating to Assessment Instruments), and otherwise complying with §§4.51 - 4.59 of this title (relating to the Texas Success Initiative). If a GED is presented, to be valid, the score must be at or above the passing level set by the Texas Education Agency. The institution shall provide an effective program of remediation for students diagnosed with deficiencies in their preparation for collegiate study.

(B) Upon the admission of a student to any graduate program, the institution shall document that the student is prepared to undertake graduate-level work by obtaining proof that the student holds a baccalaureate degree from an institution accredited by a recognized accrediting agency, or an institution holding a certificate of authority to offer baccalaureate degrees under the provisions of this chapter, or a degree from a foreign institution equivalent to a baccalaureate degree from an accredited institution. The procedures used by the institution for establishing the equivalency of a foreign degree shall be consistent with the guidelines of the National Council on the Evaluation of Foreign Education Credentials or its successor.

(6) Faculty Qualifications. The character, education, and experience in higher education of the faculty shall be such as may reasonably ensure that the students will receive an education consistent with the objectives of the course or program of study.

(A) Each faculty member teaching in an academic associate or baccalaureate level degree program, except for technical or vocational courses, shall have at least a master's degree from an institution accredited by a recognized agency with at least 18 graduate semester credit hours in the discipline, or closely related discipline, being taught.

(B) Each faculty member teaching technical or vocational courses in a vocational associate degree program, or technical and vocational courses that academic associate or baccalaureate students may chose to take, shall have at least an associate degree in the discipline being taught from an institution

accredited by a recognized agency or at least three years of direct or closely related experience in the discipline being taught.

(C) Each faculty member teaching general education courses in a vocational associate degree program shall have at least a baccalaureate's degree from an institution accredited by a recognized agency with at least 18 graduate semester credit hours in the discipline, or closely related discipline, being taught.

(D) Graduate level degree programs shall be taught by faculty holding doctorates, or other degrees, generally recognized as the highest attainable in the discipline, or closely related discipline, being taught, from institutions accredited by a recognized agency.

(E) With the approval of a majority of the institution's governing board, an individual with exceptional experience in the field of appointment, which may include direct and relevant work experience, professional licensure and certification, honors and awards, continuous documented excellence in teaching, or other demonstrated competencies and achievements, may serve as a faculty member without the degree credentials specified above. The justification for such appointment shall be fully documented. The Coordinating Board may evaluate the qualifications of the full complement of faculty providing instruction at the institution to verify that such appointments are justified.

(7) Faculty Size. There shall be a sufficient number of faculty holding teaching appointments who are accessible to the students to ensure continuity and stability of the education program, adequate educational association between students and faculty and among the faculty members, and adequate opportunity for proper preparation for instruction and professional growth by faculty members. Full time faculty on the main campus serving in merely an assessment role at the off-campus unit do not, taken alone, satisfy the standard. There shall be at least one faculty member with a teaching assignment for each program at the off-campus unit.

(8) Academic Freedom and Faculty Security. The institution shall adopt, adhere to, and distribute to all members of the faculty a statement of academic freedom assuring freedom in teaching, research, and publication. All policies and procedures concerning promotion; tenure; and non-renewal or termination of appointments, including for cause, shall be clearly published in a faculty handbook, adhered to by the institution, and supplied to all faculty. The specific terms and conditions of employment of each faculty member shall be clearly described in a written document that shall be given to that faculty member with a copy to be retained by the institution. If there are separate provisions of employment for Texas branch faculty, those differences must be explicitly stated to faculty in writing. If the differences are substantial, there should be a separate faculty handbook for the Texas faculty.

(9) Curriculum.

(A) The quality, content, and sequence of each course, curriculum, or program of instruction, training, or study shall be appropriate to the purpose of the institution and shall be such that the institution may reasonably and adequately achieve the stated objectives of the course or program. Each program shall adequately cover the breadth of knowledge of the discipline taught and coursework must build on the knowledge of previous courses to increase the rigor of instruction and the learning of students in the discipline. A majority of the courses in the areas of specialization required for each degree program shall be offered in organized classes by the institution. An institution may offer for-credit coursework that does not directly relate to approved programs,

provided that it does not exceed 25 percent of all courses.

(B) An academic associate degree must consist of at least 60 semester credit hours or 90 quarter credit hours and not more than 66 semester credit hours or 99 quarter credit hours. A baccalaureate degree must consist of at least 120 semester credit hours or 180 quarter credit hours and not more than 139 semester credit hours or 208 quarter credit hours. A master's degree must consist of at least 30 semester credit hours or 45 quarter credit hours and not more than 36 semester credit hours or 54 quarter credit hours of graduate level work past the baccalaureate degree.

(C) Courses designed to correct deficiencies, remedial courses for associate and baccalaureate programs, and leveling courses for graduate programs, shall not count toward requirements for completion of the degree.

(D) The degree level, degree designation, and the designation of the major course of study shall be appropriate to the curriculum offered and shall be accurately listed on the student's diploma and transcript.

(10) General Education.

(A) Each academic associate degree program shall contain a general education component consisting of at least 20 semester credit hours or 30 quarter credit hours. Each baccalaureate degree program shall contain a general education component consisting of at least 25 percent of the total hours required for graduation from the program.

(B) This component shall be drawn from each of the following areas: Humanities and Fine Arts, Social and Behavioral Sciences, and Natural Sciences and Mathematics. It shall include courses to develop skills in written and oral communication and basic computer instruction.

(C) The applicant institution may arrange to have all or part of the general education component taught by another institution, provided that:

(i) the applicant institution's faculty shall design the general education requirement;

(ii) there shall be a written agreement between the institutions specifying the applicant institutions' general education requirements and the manner in which they will be met by the providing institution;

(iii) the providing institution shall be accredited by a recognized accrediting agency.

(11) Credit for Work Completed Outside a Collegiate Setting.

(A) An institution awarding collegiate credit for work completed outside a collegiate setting (outside a degree-granting institution accredited by a recognized agency) shall establish and adhere to a systematic method for evaluating that work, shall award credit only in course content which falls within the authorized degree programs of the institution, or, if by evaluative examination, falls within the standards for awarding credit by exam used by public universities in Texas, in an appropriate manner shall relate the credit to the student's current educational goals, and shall subject the institution's process and procedures for evaluating work completed outside a collegiate setting to ongoing review and evaluation by the institution's teaching faculty. To these ends, recognized evaluative examinations such as the advanced placement program (AP) or the college level examination program (CLEP) may be used.

(B) No more than one half of the credit applied toward a student's associate or baccalaureate degree program may be based on work completed outside a collegiate setting. Those credits must be validated in the manner set forth in subparagraph (A) of this paragraph. No more than 15 semester credit hours or 23 quarter credit hours of that credit may be awarded by means other than recognized evaluative examinations. No graduate credit for work completed outside a collegiate setting may be awarded. In no instance may credit be awarded for life experience per se or merely for years of service in a position or job.

(12) Learning Resources. The institution shall maintain and ensure that students have access to learning resources with a collection, staff, services, equipment, and facilities that are adequate and appropriate for the purposes and enrollment of the institution. Learning resources shall be current, well distributed among fields in which the institution offers instructions, cataloged, logically organized, and readily located. The institution shall maintain a continuous plan for learning resources development and support, including objectives and selections of materials. Current and formal written agreements with other institutions or with other entities may be used. Institutions offering graduate work shall provide access to learning resources that include basic reference and bibliographic works and major journals in each discipline in which the graduate program is offered. Vocational and technical degree programs shall provide adequate and appropriate resources for completion of course work.

(13) Academic Records. Adequate records of each student's academic performance shall be securely and permanently maintained by the institution.

(A) The records for each student shall contain:

(i) student contact and identification information, including address and telephone number;

(ii) records of admission documents, such as high school diploma or GED (if undergraduate) or undergraduate degree (if graduate);

(iii) records of all courses attempted, including grade; completion status of the student, including the diploma, degree or award conferred to the student; and

(iv) any other information typically contained in academic records.

(B) Two copies of said records shall be maintained in secure places.

(C) Transcripts shall be provided upon request by a student, subject to the institution's obligation, if any, to cooperate with the rules and regulations governing state, and federally guaranteed student loans.

(14) Facilities. The institution shall have adequate space, equipment, and instructional materials to provide education of good quality. Student housing owned, maintained, or approved by the institution, if any, shall be appropriate, safe, and adequate.

(15) Accurate and Fair Representation in Publications, Advertising, and Promotion.

(A) Neither the institution nor its agents shall engage in advertising, recruiting, sales, collection, financial credit, or other practices of any type which are false, deceptive, misleading, or unfair. Likewise, all publications, by any medium, shall accurately and fairly represent the institution, its programs, available resources, tuition and fees, and requirements.

(B) The institution shall provide students, prospective students prior to enrollment, and other interested persons with a catalog containing, at minimum, the following information:

(i) the institution's mission;

(ii) a statement of admissions policies;

(iii) information describing the purpose, length, and objectives of the program or programs offered by the institution;

(iv) the schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study;

(v) cancellation and refund policies;

(vi) a definition of the unit of credit as it applies at the institution;

(vii) an explanation of satisfactory progress as it applies at the institution, including an explanation of the grading or marking system;

(viii) the institution's calendar, including the beginning and ending dates for each instructional term, holidays, and registration dates;

(ix) a complete listing of each regularly employed faculty member showing name, area of assignment, rank, and each earned degree held, including degree level, degree designation, and institution that awarded the degree;

(x) a complete listing of each administrator showing name, title, area of assignment, and each earned degree held, including degree level, degree designation, and institution that awarded the degree;

(xi) a statement of legal control with the names of the trustees, directors, and officers of the corporation;

(xii) a complete listing of all scholarships offered, if any;

(xiii) a statement describing the nature and extent of available student services;

(xiv) complete and clearly stated information about the transferability of credit to other postsecondary institutions including two-year and four-year colleges and universities;

(xv) a statement of Texas Success Initiative requirements;

(xvi) any such other material facts concerning the institution and the program or course of instruction as are reasonably likely to affect the decision of the student to enroll therein; and

(xvii) any disclosures specified by the Board or defined in Board rules.

(C) The cancellation and refund policy of the institution shall be fair and shall be applied equitably.

(D) The institution shall provide to each prospective student, newly-enrolled student, and returning student, complete and clearly presented information indicating the institution's current graduation rate by program and job placement rate by program.

(E) Any special requirements, or limitations of program offerings, for the students at the Texas branch must be made explicit in writing or through electronic publication. This may be accomplished by either a separate section in the catalog or a brochure or other printed or electronic document separate from the catalog. However, if a brochure or separated document is produced, the student must also be given the regular catalog.

(F) Upon satisfactory completion of the program of study, the student shall be given appropriate educational credentials indicating the degree level, degree designation, and the designation of the major course of study, and a transcript accurately listing the information typically found on such a document, subject to institutions' obligation, if any, to cooperate with the rules and regulations governing state, and federally guaranteed student loans.

(16) Academic Advising and Counseling. The institution shall provide an effective program of academic advising for all students enrolled. The program shall include orientation to the academic program, academic counseling, career information and planning, placement assistance, and testing services.

(17) Student Rights and Responsibilities. The institution shall establish and adhere to a clear and fair policy regarding due process in disciplinary matters, and publish this policy in a handbook, which shall include other rights and responsibilities of the students. This handbook shall be supplied to each student upon enrollment in the institution.

(18) Health and Safety. The institution shall provide an effective program of health and safety education reflecting the needs of the students. The program shall include information on emergency and safety procedures at the institution, including appropriate responses to illness, accident, fire, and crime.

§7.11. Occasional Courses, Changes of Level at Exempt Institutions, and Out-of-State Public Institutions.

(a) Occasional Courses. A private institution may offer occasional degree-credit courses at off-campus sites in Texas without prior approval of the Board. Nonexempt private institutions must submit an annual report to the Board listing any new such courses added that year.

(b) Changes of Level for Exempt Private Institutions. An institution which is exempt by accreditation from a recognized agency and which has established stability by being so accredited for the previous ten years and which wishes to expand to a different degree level not covered by its existing accreditation shall, by submission of a letter to the Commissioner outlining the degree or degrees to be offered at the higher level, be granted state authorization to seek accreditation at the higher level with the recognized accrediting agency. If the recognized accrediting agency does not extend accreditation to the higher level or if the institution has not been accredited for ten or more years, the institution may seek a certificate of authority under the procedures listed in §7.7 of this title (relating to Certificate of Authority--Eligibility, Applications, Renewals, and Amendments).

(c) Out-of-State Public Institutions of Higher Education. An out-of-state public institution of higher education as defined in §7.3 of this title (relating to Definitions) must have approval of the Board to offer a course or a grouping of courses within the State of Texas (Texas Education Code, Chapter 61, Subchapter H). The institution must submit a description of its plans prior to offering courses, including information requested on an application form furnished by the Board. The application will be subject to review under the procedures listed in §7.7 of this title.

§7.12.Revocation of Certificates of Nonexempt Institutions and Agents.

(a) The Commissioner may revoke an institution's certificate of authority, including an alternative certificate of authority, to grant degrees at any time if the Commissioner finds that:

(1) Any statement contained in an application for the certificate is untrue;

(2) The institution has failed to maintain the standards of the Board, as described herein, on the basis of which the certificate was granted;

(3) Advertising or representations made on behalf of the institution is deceptive or misleading; or

(4) The institution has violated any provision of this subchapter.

(b) The Commissioner may revoke an agent's certificate of registration at any time if the Commissioner finds that:

(1) Any statement contained in the application is untrue;

(2) The institution represented has had its certificate of authority revoked;

(3) The agent has made false, deceptive, or misleading statements while attempting to solicit residents of this state as students; or

(4) The agent has violated any provision of this subchapter.

(c) Notice of revocation under subsections (a) and (b) of this section shall be provided to the certificate holder and shall contain information regarding the reasons for the revocation.

(d) Notice of revocation under subsection (b)(1), (3), or (4) of this section shall also be given to the institution that the agent represented or purported to represent. Immediately upon receipt of actual knowledge of the agent's violation, or upon receipt of the Commissioner's notice, whichever is earlier, the institution shall make every effort to:

(1) divest the agent of the authority and of the apparent authority to represent the institution;

(2) notify the media through which the agent made the misrepresentations of the actual facts; and

(3) notify all students whose decision to enroll in the institution was affected by the agent's misrepresentation, of the actual facts.

(e) A revocation made pursuant to this section shall become final and binding unless, within 45 days of its receipt of the notice of revocation, the institution or agent invokes the administrative remedies contained in Chapter 1, Subchapter B of this title (relating to Hearings and Appeals).

§7.13.Review and Use of Degrees from Institutions Not Eligible for Certificates of Authority.

(a) A person holding a degree from an institution that is not eligible to receive a certificate of authority may request a letter from the Board confirming that the institution is not eligible for a certificate of authority and providing the procedures for review and approval of the degree for use in Texas. The Board shall send a copy of the letter to the institution.

(b) Procedures for review and approval.

(1) An institution that confers a degree described in §7.3(14)(B) or (C) of this title (relating to Definitions), may request that the Board review and approve for use in Texas that degree, as provided in those sections. The person or institution shall submit the request on a form created by the Board.

(2) The Commissioner shall apply the standards provided in §7.8 of this title (relating to Standards for Certificates of Authority) to determine if the degrees awarded by a person or institution are equivalent to degrees granted by a private postsecondary educational institution or other person holding a certificate of authority from the Board.

(3) The Commissioner, or the Commissioner's designated representatives, and an ad hoc team of independent consultants, if the Commissioner finds that such a team would provide a benefit to the Board or to the institution, shall visit the institution and conduct an on-site survey to evaluate the application for review and approval. The visiting team shall be composed of people who have experience on the faculties or staffs of accredited institutions and who possess knowledge of accreditation standards.

(4) The Board shall charge the person or institution petitioning for review and approval a fee equal to the application fee for a certificate of authority or the actual cost of conducting the review, including travel expenses and cost of consultant fees, whichever is greater.

§7.14. Information Provided to Protect Public from Fraudulent, Substandard, or Fictitious Degrees.

(a) The Board shall disseminate the following information through the Board's Internet website:

(1) the accreditation status or the status regarding authorization or approval under this subchapter, to the extent known by the Board, of each exempt institution operating in the state, each postsecondary educational institution or other person that is regulated under §§7.1 - 7.11 of this title or for which a determination is made under §7.11(a) of this title (relating to Occasional Courses, Changes of Level at Exempt Institutions, and Out-of-State Public Institutions), and any institution offering fraudulent or substandard degrees, including:

(A) the name of each educational institution accredited, authorized, or approved to offer or grant degrees in this state;

(B) the name of each educational institution whose degrees the Board has determined may not be legally used in this state; and

(C) the name of each educational institution that the Board has determined to be operating in this state in violation of this subchapter; and

(2) any other information considered by the Commissioner to be useful to protect the public from fraudulent, substandard, or fictitious degrees.

(b) the Board shall utilize such usual and customary sources for determining the accreditation status of institutions; guides to international education; the Board's knowledge of legal actions taken against institutions, either by an agency of the state of Texas or agencies of other states or nations; or civil actions against institutions brought by governmental agencies or individuals.

(c) In determining the legitimacy of institutions headquartered or operating outside of Texas, the Board may determine if the state or nation in which the person or institution is headquartered, operates, or holds legal authorization to operate has standards and practices that are as rigorous as those of the Board's. A determination that a particular state or nation's standards or practices are not appropriately rigorous shall be sufficient reason to disapprove the use of the degrees of a person or institution.

§7.15.Prohibitions.

(a) A person or institution may not:

(1) Grant, award, or offer to award a degree on behalf of a nonexempt institution unless the institution has been issued a certificate of authority, including an alternative certificate of authority, to grant the degree by the Board;

(2) Represent that credits earned or granted by that person or institution are applicable for credit toward a degree to be granted by some other person or institution except under conditions and in a manner specified under §7.7 of this title (relating to Certificate of Authority--Eligibility, Applications, Renewals, and Amendments) or §7.23 (relating to Alternative Certificate of Authority--Eligibility, Applications, and Renewals), and approved by the Board, or represent that credits earned or granted are collegiate in nature, including describing them as "college-level," or at the level of any protected academic term;

(3) Award or offer to award an honorary degree on behalf of a private postsecondary educational institution subject to the provisions of the subchapter, unless the institution has been awarded a certificate of authority to award such a degree, or solicits another person to seek or accept an honorary degree and, further, unless the degree shall plainly state on its face that it is honorary;

(4) Use a protected term in the official name or title of a nonexempt private postsecondary educational institution or describe an institution using any of these terms or a term having a similar meaning, except as authorized by the Board, or solicit another person to seek a degree or to earn a credit that is offered by an institution or establishment that is using a term in violation of this section;

(5) Use a protected term in the official name or title of an educational or training establishment or describe an institution using any of these terms or a term having a similar meaning, or solicit another person to seek a degree or to earn a credit that is offered by an institution or establishment that is using a term in violation of this section;

(6) Act as an agent who solicits students for enrollment in a private postsecondary educational institution subject to the provisions of the subchapter without a certificate of registration, if required by this title.

(7) Use or claim to hold a degree that the person knows is a fraudulent or substandard degree or is a fictitious degree:

(A) in a written or oral advertisement or other promotion of a business; or

(B) with the intent to:

(i) obtain employment;

(ii) obtain a license or certificate to practice a trade, profession, or occupation;

(iii) obtain a promotion, a compensation or other benefit, or an increase in compensation or other benefit, in employment or in the practice of a trade, profession, or occupation;

(iv) obtain admission to an educational program in this state; or

(v) gain a position in government with authority over another person, regardless of whether the actor receives compensation for the position.

(b) Institutions Located on Federal Land in Texas. An institution that is operating on land in Texas over which the federal government has exclusive jurisdiction shall limit the recruitment of students and advertising of the institution or its programs or courses to the confines of the federal land and to the military or civilian employees and their dependents who work or live on that land. The institution shall not enlist any agent, representative, or institution to recruit or to advertise by any medium, the institution or its programs or courses except on the federal land.

(c) A violation of this subsection may constitute a violation of the Texas Penal Code, §32.52. An offense under subsection (a)(1) - (6) of this section may be a Class A misdemeanor and an offense under subsection (a)(7) of this section may be a Class B misdemeanor.

§7.16. Duties upon Dissolution of an Institution.

(a) In the event any institution now or hereafter operating in this state proposes to discontinue its operation, the chief administrative officer, by whatever title designated, of said institution shall cause to be filed with the Board the original or legible true copies of all such academic records of said institution as may be specified by the Commissioner. Such records shall include, without limitation:

(1) such academic information as is customarily required by colleges when considering students for transfer or advanced study; and

(2) the academic records of each former student.

(b) In the event it appears to the Commissioner that any records of an institution that is discontinuing its operations are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the Board, the Commissioner may seek, on the Board's behalf, court authority to take possession of such records.

(c) The Board shall maintain or cause to be maintained a permanent file of such records coming into its possession.

§7.17. Procedures Related to the Assessment of Administrative Penalties.

(a) If a person or institution violates a provision of this subchapter, the Commissioner may assess an administrative penalty against the person or institution as provided in this section.

(b) The Commissioner shall send written notice by certified mail to the person or institution charged with the violation. The notice shall state the facts on which the penalty is based, the amount of the penalty assessed, and the right of the person or institution to request a hearing.

(c) The Commissioner's assessment shall become final and binding unless, within 45 days of receipt of the notice of assessment, the person or institution invokes the administrative remedies contained in Chapter 1, Subchapter B of this title (relating to Hearings and Appeals).

(d) If the person or institution does not pay the amount of the penalty within 30 days of the date on which the assessment becomes final, the Commissioner may refer the matter to the attorney general for collection of the penalty, plus court costs and attorney fees.

§7.18.Administrative Penalties.

(a) Any person or institution that is neither exempt nor the holder of a certificate of authority, including an alternative certificate of authority, to grant degrees, shall be assessed an administrative penalty of not less than \$1,000 or more than \$5,000 for, either individually or through an agent or representative:

(1) conferring or offering to confer a degree;

(2) awarding or offering to award credits purported to be applicable toward a degree to be awarded by another person or institution (except under conditions and in a manner specified and approved by the Board);

(3) representing that any credits offered are collegiate in nature subject to the provisions of this subchapter;

(4) Each degree conferred without authority, and each person enrolled in a course or courses at the institution whose decision to enroll was influenced by the misrepresentations, constitutes a separate offense.

(b) Any person or institution that violates §7.15(a)(4) or (5) of this title (relating to Prohibitions) shall be assessed an administrative penalty of not less than \$1,000 or more than \$3,000.

(c) Any agent who solicits students for enrollment in an institution subject to the provisions of the subchapter without a certificate of registration shall be assessed an administrative penalty of not less than \$500 or more than \$1,000. Each student solicited without authority constitutes a separate offense.

(d) Any operations which are found to be in violation of the law shall be terminated.

§7.19.Injunctions.

(a) The Commissioner may report possible violations of this subchapter to the attorney general. The attorney general, after investigation and consultation with the Board, shall bring suit to enjoin further violations.

(b) An action for an injunction under this section shall be brought in a district court in Travis County.

§7.20.Civil Penalties.

(a) A person who violates this subchapter or a rule adopted under this subchapter is liable for a civil penalty in addition to any injunctive relief or any other remedy allowed by law. A civil penalty may not exceed \$1,000 a day for each violation.

(b) The attorney general, at the request of the Board, shall bring a civil action to collect a civil penalty under this section.

§7.21. Deceptive Trade Practices Act.

(a) A person who violates this subchapter commits a false, misleading, or deceptive act or practice within the meaning of the Texas Business and Commerce Code, §17.46.

(b) A public or private right or remedy under the Texas Business and Commerce Code, Chapter 17, may be used to enforce this section.

§7.22. Alternative Certification of Authority.

In lieu of the standard certification of authority requirements for institutions and their agents in §§7.8, 7.9, and 7.11 of this title, an institution may obtain an alternative certification of authority to issue degrees as provided by this section.

(1) Surety Instrument Requirement:

(A) At the time application is made for an alternative certificate of authority, or when new programs, stand-alone courses or continuing education courses are added, the applicant shall file with the Board a surety bond or surety alternative which meets the requirements set forth in these sections. Schools located in Texas each shall file one bond or surety alternative covering the school and its agents.

(B) A school whose surety value is found by the Board to be insufficient to fund the unearned, prepaid tuition of enrolled students shall be noncompliant with these sections, and, if, after a period of time determined by the Board from the issuance of a notice of noncompliance, the school has not increased its surety to an acceptable level, it shall be subject to revocation or suspension of its alternative certificate of authority.

(C) The amount of the bond or other allowable surety instrument submitted to the Board with an application for a alternative certificate of authority shall be equal to or greater than the cost of providing a refund, including administrative costs associated with processing claims, for the maximum prepaid, unearned tuition and fees of the school, not including the Title IV portion of tuition and fees, for a period or term during the applicable school year for which programs of instruction are offered including, but not limited to, on a semester, quarter, monthly, or class basis; except that the period or term of greatest duration and expense shall be utilized for this computation where a school's year consists of one or more such periods or terms.

(D) Following the initial filing of the surety bond with the Board, the amount of the bond shall be recalculated annually based upon a reasonable estimate of the maximum prepaid, unearned tuition and fees received by the school for such period or term. In no case shall the amount of the bond be less than five thousand dollars.

(E) The institution shall include a proposal in the form of a letter signed by an authorized representative of the school showing in detail the calculations made pursuant to this section and explaining the method used for computing the amount of the bond or alternative.

(F) In order to be approved by the Board, a surety bond must be:

(i) Executed by the applicant and by a surety company authorized to do business in Texas; and

(ii) In a form acceptable to the Board; and

(iii) Conditioned to provide indemnification to any student or enrollee of an in-state or out-of-state school or his/her parent or guardian determined by the Board to have suffered a loss of tuition or any fees as a result of violation of any minimum standard or as a result of a holder of a Alternative Certificate of Authority ceasing operation; and

(iv) An original bond.

(G) In lieu of a surety bond, an applicant may file with the Board an assignment of savings account that:

(i) Is in a form acceptable to the Board; and

(ii) Is executed by the applicant; and

(iii) Is executed by a state or federal savings and loan association, state bank or national bank whose accounts are insured by a federal depositor's corporation.

(H) In lieu of a surety bond, an applicant may file with the Board a certificate of deposit that:

(i) Is issued by a state or federal savings and loan association, state bank or national bank whose accounts are insured by a federal depositor's corporation;

(ii) Is either:

(I) Payable to the Board; or

(II) In the case of a negotiable certificate of deposit, is properly assigned without restriction to the Board; or

(III) In the case of a nonnegotiable certificate of deposit, is assigned to the Board by assignment in a form satisfactory to the Board.

(I) In lieu of a surety bond, an applicant may file with the Board an irrevocable letter of credit that:

(i) Is in a form acceptable to the Board; and

(ii) Conditioned to provide indemnification to any student or enrollee of the school or his/her parent or guardian determined by the Board to have suffered loss of tuition or any fees as a result of violation of any minimum standard or as a result of a holder of an alternative certificate of authority ceasing operation.

(J) In lieu of a surety bond, an applicant may file with the Board a properly executed participation contract with a private association, partnership, corporation or other entity whose membership is comprised of higher education institutions, which:

(i) Is in a form acceptable to the Board; and

(ii) Conditioned to provide indemnification to any student or enrollee of the school or his/her parent or guardian determined by the Board to have suffered loss of prepaid tuition or any fees as a result of violation of any minimum standard or as a result of a holder of an alternative certificate of

authority ceasing operation, and provides evidence satisfactory to the Board of its financial ability to provide such indemnification and lists the amount of surety liability the alternative entity will assume.

(K) Whenever these sections require a document to be executed by an applicant the following shall prevail:

(i) If the application is a corporation, the document must be executed by the president of the corporation or persons designated by the corporate Board.

(ii) If the applicant is a limited liability corporation the document must be executed by the members.

(iii) If the applicant is a partnership, the document must be executed by all general partners.

(iv) If the applicant is an individual, the document must be signed by the individual.

(v) If the applicant is a state agency, the document must be signed by the Director of that Department.

(vi) If the applicant is a local government, the document must be signed by the mayor or Board president.

(L) Any bonding alternative entity must have independent financial resources necessary to meet the contractual obligation to the students of a failed member institution and resources equal to or exceeding the maximum bonds required of all single school.

(M) A school applying for an alternative certificate of authority shall be exempt from the surety instrument requirement if it can demonstrate a United States Department of Education composite financial responsibility score of 1.5 or greater on its current financial statement; or if it can demonstrate a composite score between 1.0 and 1.4 on its current financial statement and has scored at least 1.5 on a financial statement in either of the prior two years.

(2) Self-certification Application and Statement. An institution seeking an alternative certificate of authority shall submit to the Board a completed application and a completed checklist, signed and dated, acknowledging compliance with certification criteria set forth in this section, along with a notarized attestation statement signed by the chief executive officer or equivalent. The application form shall contain:

(A) The name and address of the institution and its purpose;

(B) The names of the sponsors or owners of the institution;

(C) The regulations, rules, constitutions, bylaws, or other regulations established for the government and operation of the institution;

(D) The names and addresses of the chief administrative officer, the principal administrators, and each member of the board of trustees or other governing board;

(E) The names of faculty who have been retained, their area(s) of teaching, and their degrees held;

(F) The types of degrees to be awarded and a list of courses that may be included in each degree program; and

(G) The location of any facilities maintained or being constructed and a list of potentially hazardous equipment which requires a federal or state government license to operate, if any has been acquired, that is to be used by students in the teaching process. The institution must certify that it maintains the following items and that they are readily accessible to students and the public, including on the institution's internet website, although they need not be submitted to the Board unless specifically required herein or requested by the Board:

(i) Institutional Description. The postsecondary institution shall have a clear, accurate, and comprehensive written statement, which shall be available to the public upon request. The statement minimally shall include the following items:

(I) The history and development of the postsecondary institution;

(II) An identification of any persons, entities, or institutions that have a controlling ownership or interest in the postsecondary institution;

(III) The purpose of the postsecondary institution, including a statement of the relative degree of emphasis on instruction, research, and public service as well as a statement demonstrating that the school's proposed offerings are consistent with its stated purpose;

(IV) A list of the principal locations in Texas at which the postsecondary institution offers courses and a list of the degree programs currently offered or planned to be offered by the institution and/or a description of the postsecondary institution's online, distance and telecommunications activities; and

(V) Name of program director or director of education credentials;

(VI) The name, location, and address of the main campus, branch or site operating in Texas.

(ii) Student Profile. The postsecondary institution shall have a clear, accurate, and comprehensive written description of its student body profile. This description must be updated at least annually and made available to the public upon request. The description minimally shall include the following items:

(I) For each Texas location, and for the most recent academic year, the total number of students who were enrolled as well as the total number and percentage of students claiming Texas residence who were enrolled in each program offered;

(II) For each Texas location, the total number of students that completed/graduated from each program offered by the institution as of the end of the last academic year; and

(III) Demographic information on the composition of the student body.

(iii) Recruitment, Admissions, Courses, Student Complaints. The postsecondary institution shall have, maintain, and provide to all applicants a policy document, catalog, bulletin, brochure, or electronic media accurately defining the minimum requirements for eligibility for admission to the institution and for acceptance at the specific degree level or into all specific degree programs offered by the postsecondary institution that are relevant to the institution's admissions standards. In addition, the document shall include:

(I) A broad description, including academic career-technical objectives of each program offered, the number of hours of instruction in each subject and total number of hours required for course,

credential degree completion, course descriptions, and a statement of the type of credential awarded;

(II) The minimum requirements for satisfactory completion of each degree level and degree program, or nondegree certificates/diplomas;

(III) The academic or course work schedule for the period covered by the publication;

(IV) The criteria for transfer credit where applicable;

(V) A statement of tuition and fees and other charges related to enrollment, such as deposits, fees, books and supplies, tools and equipment, and any other charges for which a student may be responsible;

(VI) The description of any financial aid offered by the school including repayment obligations, standards of academic progress required for continued participation in the program, sources of loans or scholarships, the percentage of students receiving federal financial aid (if applicable) and the average student indebtedness at graduation;

(VII) The institution's refund policy for tuition and fees. The institution shall adopt a minimum refund policy relative to the refund of tuition, fees, and other charges. All fees and payments, with the exception of nonrefundable application fees remitted to the school by a prospective student shall be if the student is not admitted, does not enroll in the school, does not begin the program or course, withdraws prior to the start of the program, or is dismissed prior to the start of the program. The institution must have a written policy regarding the refund of tuition and fees after the start of the program, including the length of time in which refunds will be completed.

(VIII) A statement that accurately details the type and amount of career advising and placement services offered by the school;

(IX) Student retention, persistence, graduation, transfer, and time-to-degree or program completion rates;

(X) Students' rights, privileges, and responsibilities; and, the established grievance process of the institution, which shall indicate that students should follow this process and may contact the Board and/or Attorney General to file a complaint about the institution if necessary; and

(XI) Where students may find on the institution's website the results of student satisfaction surveys by course and instructor, student comments on the satisfaction surveys, and grade distributions by course and program; and whether this information is externally-validated and the name of address of the validating entity.

(XII) Where students may find on the institution's website outcome data such as graduation rate, post-graduate employment data, post-graduate scores on regulatory, licensure or other external exams, and results from post-graduate employer satisfaction and/or employer satisfaction surveys; and whether this information is externally-validated and the name of address of the validating entity.

(iv) Student Records. The postsecondary institution shall maintain records on all enrolled students. At a minimum, these records shall include:

(I) Each student's application for admission and admissions records containing information regarding the educational qualifications of each regular student admitted that are relevant to the postsecondary institution's admissions standards. Each student record must reflect the requirements and justification for admission of the student to the postsecondary institution. Admissions records must be maintained for a minimum of three years after the student's last date of attendance.

(II) A transcript of the student's academic or course work at the institution, which shall be retained permanently in either hard copy forms or in an electronic database with backup.

(III) A record of student academic or course progress at the institution including programs of study, dates of enrollment, courses taken and completed, grades, and indication of the student's current academic status.

(IV) A record of all financial transactions between each individual student and the institution including payments from the student, payments from other sources on the student's behalf, and refunds. Fiscal records must be maintained for a minimum of three years after the student's last date of attendance.

(V) A written, binding agreement transacted with another institution or records-maintenance organization with which the school is not corporately connected for the preservation of students' transcripts by another institution or agency, as well as for access to the transcripts, in the event of school closure or revocation of certification in Texas.

(v) Curriculum, Total Credits, General Education, Satisfactory Progress, Institutional Effectiveness and Systematic Program of Review. The institution must have a clearly defined process by which the curriculum is established, reviewed and evaluated. Each evaluation of institutional or program effectiveness must be completed on a regular basis and must include, but not be limited to:

(I) An explanation of how each program is consistent with the mission of the institution;

(II) The number of hours of instruction in each subject and total number of hours required for course, credential and/or degree completion, course descriptions, and a statement of the type of credential awarded;

(III) The amount and type of general education required in a degree program;

(IV) A detailed and clear explanation of the student outcomes expected by each program, including the skills, tools, knowledge and competencies students are expected to learn;

(V) An explanation for what constitutes satisfactory progress by students in each program;

(VI) A process for evaluating the effectiveness of each program in achieving the desired outcomes, including the use, where applicable, of student outcome data such as graduation rate, post-graduate employment data, post-graduate scores on regulatory, licensure or other external exams, results from post-graduate and/or employer satisfaction surveys;

(VII) The externally-validated, competency-based method that is reliable and comparable with other institutions or programs of the same type that is used to measure student outcomes for each program offered by the institution;

(VIII) The name and address of the entity or entities conducting the external review of each program;

(IX) That the institution maintains and makes readily available to all applicants, all enrolled students and the public the results of all external reviews of each program; and

(X) Documented use of the results of these reviews to improve the programs offered by the institution

(vi) Faculty Qualifications. The postsecondary institution shall have a clear, accurate, and comprehensive written statement regarding the qualifications of the institution's administrators and faculty, which shall be available to the public upon request. The statement minimally shall include the following items:

(I) The names of all administrators and faculty and their qualifications, including technical and general education faculty;

(II) The specific courses taught by each administrator and faculty member;

(III) The total number of students taught by each faculty member in the previous academic year or term;

(IV) The policy and procedures by which administrators and faculty receive performance reviews and are compensated, including whether the institution uses student evaluations of faculty; and

(V) The results from student satisfaction surveys of each faculty member.

(vii) Management and Financial Capacity and Information Sharing. The institution must maintain records that demonstrate it is financially sound; exercises proper management, financial controls and business practices; and can fulfill its commitments for education or training. The institution's financial resources should be characterized by stability, which indicates the institution is capable of maintaining operational continuity for an extended period of time.

(I) Institutions shall make publicly available the results of an annual independently audited, reviewed or compiled financial statement.

(II) In reviewing these results, the Board shall use the United States Department of Education Financial Ratio (composite score). The United States Department of Education composite score range is 1.0 to 3.0. Institutions with a score of 1.5 to 3.0 meet fully the stability requirement; scores between 1.0 and 1.4 meet the minimum expectations; and scores less than 1.0 do not meet the requirement and shall be immediately considered for audit by the Board.

(III) The institution shall have a written policy on the sharing of information with state and federal regulatory agencies.

(viii) Learning Resources. The institution shall maintain and ensure that students have access to learning resources with a collection, staff, services, equipment and facilities that are adequate and appropriate for the purpose and enrollment of the institution. Learning resources shall be current, well distributed among fields in which the institution offers instructions, cataloged, logically organized, and readily located. The institution shall maintain a continuous plan for learning resource development and support, including objectives and selections of materials. Current and formal written agreements with other institutions or with other entities may be used. Institutions offering graduate work shall provide access to learning resources that include basic reference and bibliographic works and major journals in each discipline in which the graduate program is offered. Vocational and technical degree programs shall provide adequate and appropriate resources for

completion of course work.

(ix) Agents. Institutions shall certify that they maintain a list of their agents as defined in §7.3 of this title (relating to Definitions) and have policies to ensure that their agents are of good character and provide accurate information to prospective students and their families, but such agents are not required to register with the Board or submit a fee.

(x) Continuity. Institutions shall certify either that they have operational continuity of two years or more by indicating that either at least one of their core institutional academic components, such as their chief academic officer or a founding faculty member, has delivered or overseen the delivery of higher education services within or outside of Texas for at least the last two years; or

(xi) Off-Campus Courses and Branch Campuses. An institution holding an alternative certificate of authority may operate branch campuses and offer degree-credit courses at off-campus sites without prior approval of the Board, provided the requirements of this section are met.

(3) That the applicant institution incorporated two or more years ago jurisdiction whether in Texas or another jurisdiction.

§7.23. Alternative Certificate of Authority--Eligibility, Applications, and Renewals.

This section shall apply to institutions holding or seeking an alternative certification of authority in lieu of §7.7 of this title (relating to Certificate of Authority--Eligibility, Applications, Renewals, and Amendments).

(1) Eligibility to apply. The Board will accept applications for an alternative certificate of authority only from those institutions proposing to offer a degree or credit courses alleged to be applicable to a degree.

(2) Application for alternative certificate of authority.

(A) Institutions seeking an alternative certificate of authority are urged to contact the Board's Institutional Certification before filing a formal application.

(B) Applications must be submitted with an original and four copies and accompanied by the fee described in §7.24(2) of this title (relating to Administrative Procedures Related to Alternative Certification of Nonexempt Institutions).

(3) Renewal of certificate of authority.

(A) At least 180 days, but no more than 210 days, prior to the expiration of the current alternative certificate of authority, an institution, if it desires renewal, shall make application to the Board on forms provided upon request. Reports not previously submitted to the Board, related to the application for or renewal of accreditation by national or regional accrediting agencies shall be included. The renewal application shall be accompanied by the fee described in §7.24(2) of this title.

(B) The application for renewal of the alternative certificate of authority will be evaluated in the same manner as that prescribed for evaluation of an initial application.

(4) An institution may be granted consecutive alternative certificates of authority for no longer than 12 years. Absent sufficient cause, at the end of 12 years, the institution must be accredited by a

recognized accrediting agency. A institution that provides information to the Board indicating that it has enhanced the educational and workforce preparation levels of its students and submits a notarized letter stating that accreditation requirements would increase costs, limit innovation, or otherwise impose hardship shall be deemed to have shown sufficient cause and the Board shall renew its certification without further limitation.

(5) The Board shall renew the alternative certificate of authority if it finds that the institution has maintained all requisite standards and is making progress toward accreditation.

(6) The Board shall consider applications for alternative certificates of authority without regard to the religious affiliation, if any, of the applicant.

(7) Authority to represent transferability of course credit. Any institution as defined in §7.3 of this title (relating to Definitions), whether it offers degrees or not, may solicit students for and enroll them in courses on the basis that such courses will be credited to a degree program offered by another institution, provided that:

(A) the other institution is named in such representation, and is accredited by an accrediting agency listed in §7.5(a)(1) of this title (relating to Recognized Accrediting Agencies, Exemptions, Revocation of Exemptions, and Certificates of Authorization) or holds a certificate of authority or alternative certificate of authority;

(B) the courses are identified for which credit is claimed to be applicable to the degree programs at the other institution; and

(C) the written agreement between the institution subject to these rules and the other institution is approved by both institutions' governing boards in writing and by their accrediting agencies, if any, and is filed with the Board.

(8) If an order, decision, or determination made pursuant to this section is adverse to an institution, the reasons therefore shall be detailed in a notice to the institution. The order, decision, or determination shall become final and binding unless, within 45 days of its receipt of the adverse order, decision, or determination, the institution invokes the administrative remedies contained in Chapter 1, Subchapter B of this title (relating to Hearings and Appeals).

§7.24. Administrative Procedures Relating to Alternative Certification of Nonexempt Institutions.

This section shall apply to institutions holding or seeking an alternative certification of authority in lieu of §7.6 of this title (relating to Administrative Procedures Related to Certification of Nonexempt Institutions).

(1) The Board shall issue to a nonexempt institution an alternative certificate of authority to grant degrees and enroll students for courses which may be applicable toward a degree if the Board finds that the institution meets the standards established heretofore and has submitted a valid surety instrument, completed application, self-certification checklist, and notarized attestation statement as described in §7.21 of this title (relating to Deceptive Trade Practices Act) unless the Board has found by a preponderance of the evidence that there is one or more material false statements in these submissions. The Board shall make this determination within 90 days.

(2) Fees.

(A) Alternative Certificates of Authority. Each biennium the Commissioner shall set the fee for initial and renewal applications for alternative certificates of authority, which shall be equal to the average cost of evaluating the applications. If the Board conducts a site visit at a main campus or a branch campus, the Board may also charge the institution with the costs of travel, meals, and lodging of the visiting team and the Commissioner, or the Commissioner's designated representatives, and consulting fees for the visiting team members.

(B) The Commissioner shall report changes in the fees to the Board at a quarterly meeting.

(3) Board's review of applications.

(A) Upon approval of the Board to award an alternative certificate of authority to an institution, the Commissioner will act immediately to prepare and forward the certificate. It shall state at minimum the issue date and the period for which the certificate is valid.

(B) If the Board denies an institution's application for an alternative certificate of authority, or for renewal of its alternative certificate of authority, the Commissioner shall notify the institution in writing of the denial and of the reasons for the denial.

(C) If a determination under this section is adverse to an institution, it shall become final and binding unless, within 45 days of its receipt of the adverse determination, the institution invokes the administrative remedies contained in Chapter 1, Subchapter B of this title (relating to Hearings and Appeals).

(D) Terms and limitations of an alternative certificate of authority.

(E) The alternative certificate of authority to grant degrees is valid for a period of two years from the date of issuance.

(F) An institution awarded an alternative certificate of authority shall not use terms to interpret the significance of the certificate which specify, imply, or connote greater approval than simple permission to operate and grant degrees in Texas. Terms which may not be used include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended" by the State of Texas or agency thereof. Specific language prescribed by the Commissioner which explains the significance of the alternative certificate of authority shall be included in all publications, advertisements, and other documents where certification and the accreditation status of the institution are mentioned.

(4) Any change in principal location, ownership, governance, administrative personnel, faculty, or facilities at the institution, or any other changes relevant to the Board's standards for alternative certification, shall be reported to the Board within ten days of the change by the chief administrative officer of the institution in order for the Board to determine if such changes adversely affect the conditions under which the certificate was granted. An institution may choose to comply with this provision by posting a notice of the change on its and, by fax, letter, phone, or email, notifying the Board that such notice has been so posted. For purposes of this provision:

(A) a change in administrative personnel that must be reported occurs only of an individual in a executive leadership role that involves setting institutional policies vacates that position;

(B) a change in facilities that must be reported occurs only if an entire campus is closed. Changes in individual rooms and buildings, such as remodeling, need not be reported

(C) changes in the status of an individual faculty member, such as hours worked, courses taught, and responsibilities within a department, need not be reported. Only the addition or subtraction of faculty collectively in an area (an academic or vocational department) shall be reported.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on December 11, 2007.

TRD-200706310

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: January 24, 2008

For further information, please call: (512) 427-6114

Part 2. TEXAS EDUCATION AGENCY

Chapter 101. ASSESSMENT

Subchapter CC. COMMISSIONER'S RULES CONCERNING IMPLEMENTATION OF TESTING PROGRAM

19 TAC §101.3005

The Texas Education Agency (TEA) proposes an amendment to §101.3005, concerning implementation of testing program. The amended section addresses required test administration procedures and training activities to ensure validity, reliability, and security of assessments. The proposed amendment would incorporate records retention requirements related to the security of assessment instruments, in accordance with Senate Bill (SB) 1031, 80th Texas Legislature, 2007.

SB 1031, 80th Texas Legislature, 2007, amended the TEC, Chapter 39, Subchapter B, incorporating additional statutes relating to public school accountability and the administration of certain assessment instruments in public schools. The TEC, §39.0301, added by SB 1031, authorizes the commissioner to establish record retention requirements for school district records related to the security of assessment instruments.

The proposed amendment to 19 TAC §101.3005 would implement the legislative requirement by incorporating reference to security in subsection (a) and adding new subsection (d) to specify in rule the retention requirement of five years for school districts to maintain records related to the security of assessment instruments. A non-substantive change would also be made in subsection (b)(2).

Criss Cloudt, associate commissioner for assessment, accountability, and data quality, has determined that, for the first five-year period the proposed amendment is in effect, there will be no fiscal implications for state government as a result of enforcing or administering the amendment. There will be fiscal implications for local government. Some school districts may incur additional

costs for the storing of records related to the security of assessment instruments; however, some school districts may already have the capacity to store records for five years as proposed. It is not possible to reasonably estimate what the cost would be since local school district needs for storing records would vary.

Dr. Cloudt has determined that, for each year of the first five years the proposed amendment is in effect, the public benefit anticipated as a result of enforcing the amendment will be the provision of additional methods and means of ensuring the security and validity of assessment instruments covered under the TEC, §39.023. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment.

The public comment period on the proposal begins December 21, 2007, and ends January 20, 2008. Comments on the proposal may be submitted to Cristina De La Fuente-Valadez, Policy Coordination Division, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-1497. Comments may also be submitted electronically to rules@tea.state.tx.us or faxed to (512) 463-0028. All requests for a public hearing on the proposed amendment submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 15 calendar days after notice of the proposal has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §39.0301(a)(2), as added by SB 1031, 80th Texas Legislature, 2007, which authorizes the commissioner to establish record retention requirements for school district records related to the security of assessment instruments.

The new section implements the Texas Education Code, §39.0301(a)(2).

§101.3005. Required Test Administration Procedures and Training Activities to Ensure Validity, Reliability, and Security of Assessments.

(a) Purpose. To ensure that each assessment instrument is reliable and valid and meets applicable federal requirements for measurement of student progress, as required by the Texas Education Code (TEC), §39.023(i), the commissioner of education shall establish test administration procedures and required training activities that support the standardization and security of the test administration process.

(b) Test administration procedures. These test administration procedures shall be delineated in the test administration materials provided to school districts and charter schools annually. Districts and charter schools must comply with all of the applicable requirements specified in the test administration materials. Test administration materials shall include, but are not limited to, the following:

- (1) general testing program information;
- (2) requirements for ensuring test security and confidentiality [~~confidential integrity~~] ;
- (3) procedures for test administration;
- (4) responsibilities of various personnel involved in test administration; and
- (5) procedures for materials control.

(c) Training activities. As part of the test administration procedures, the commissioner shall require training activities to ensure that testing personnel have the necessary skills and knowledge required

to administer assessment instruments in a valid, standardized, and secure manner. The commissioner may require evidence of successful completion of training activities. Test coordinators and administrators must receive all applicable training as required in the test administration materials.

(d) Records retention. As part of test administration procedures, the commissioner shall require school districts to maintain records related to the security of assessment instruments for a minimum of five years.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on December 10, 2007.

TRD-200706244

Cristina De La Fuente-Valadez

Director, Policy Coordination

Texas Education Agency

Earliest possible date of adoption: January 20, 2008

For further information, please call: (512) 475-1497
