

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

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3 **PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**  
4 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**  
5 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**  
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7 **ON AUGUST 22, 2017, THE TEXAS WORKFORCE COMMISSION PROPOSED THE**  
8 **BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS REGISTER.**

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10 Estimated Publication Date of the Proposal in the *Texas Register*: **September 8, 2017**  
11 Estimated End of Comment Period: **October 9, 2017**  
12

13 The Texas Workforce Commission (TWC) proposes adding the following new section to  
14 Chapter 807, relating to Career Schools and Colleges:  
15

16 Subchapter Q. Truck Driver Training Programs, §807.326  
17

18 TWC proposes amendments to the following section of Chapter 807, relating to Career Schools  
19 and Colleges:  
20

21 Subchapter A. General Provisions, §807.2  
22

- 23 PART I. PURPOSE, BACKGROUND, AND AUTHORITY
- 24 PART II. EXPLANATION OF INDIVIDUAL PROVISIONS
- 25 PART III. IMPACT STATEMENTS
- 26 PART IV. COORDINATION ACTIVITIES  
27

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

29 Texas law charges TWC with exercising jurisdiction and control of the oversight of career  
30 schools and colleges operating in Texas. TWC's Career Schools and Colleges department (CSC)  
31 licenses and regulates nonexempt private postsecondary career schools and colleges that offer  
32 vocational training or continuing education to Texas residents. TWC currently regulates more  
33 than 560 career schools and colleges, which provide training to more than 160,000 students  
34 annually.  
35

36 House Bill (HB) 29 and Senate Bill (SB) 128, passed by the 85th Texas Legislature, Regular  
37 Session (2017), enacted new Texas Education Code §132.006 to require each career school or  
38 college that offers a Commercial Driver's License (CDL) training program to include, as a part of  
39 that program, education and training on the recognition and prevention of human trafficking.  
40 These rules are proposed under Texas Education Code §132.006, which directs TWC to adopt  
41 rules to administer this new requirement and, in conjunction with the Office of the Attorney  
42 General, to establish the content of the required education and training. Additionally, Texas  
43 Labor Code §301.0015 and §302.002(d) provide TWC with the authority to adopt, amend, or  
44 repeal such rules as it deems necessary for the effective administration of TWC services and  
45 activities. The legislation requires TWC to adopt these rules no later than December 1, 2017.  
46

1 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

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

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5 **SUBCHAPTER A. GENERAL PROVISIONS**

6 **TWC proposes the following amendments to Subchapter A:**

7  
8 **§807.2. Definitions**

9 New §807.2(26) adds the definition of Human Trafficking to read: "the action or practice of  
10 illegally transporting people from one country or area to another, typically for the purposes of  
11 forced labor or commercial sexual exploitation, including all offenses referred to in Chapter 20A  
12 of the Texas Penal Code."  
13

14 **SUBCHAPTER Q. TRUCK DRIVER TRAINING PROGRAMS**

15 **TWC proposes the following amendments to Subchapter Q:**

16  
17 **§807.326. Required Training for Students**

18 New §807.326 is added to require Career Schools and Colleges that offer CDL training to  
19 include education and training on the recognition and prevention of human trafficking, the  
20 content of which is to be established by TWC and the Office of the Attorney General.  
21

22 **PART III. IMPACT STATEMENTS**

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

25  
26 There are no additional estimated costs to the state and to local governments expected as a result  
27 of enforcing or administering the rules.  
28

29 There are no estimated cost reductions to the state and to local governments as a result of  
30 enforcing or administering the rules.  
31

32 There are no estimated losses or increases in revenue to the state or to local governments as a  
33 result of enforcing or administering the rules.  
34

35 There are no foreseeable implications relating to costs or revenue of the state or local  
36 governments as a result of enforcing or administering the rules.  
37

38 There are no anticipated economic costs to persons required to comply with the rules.  
39

40 There is no anticipated adverse economic impact on small business, microbusinesses, or rural  
41 communities as a result of enforcing or administering the rules.  
42

43 Based on the analyses required by Texas Government Code §2001.024, TWC has determined  
44 that the requirement to repeal or amend a rule as required by House Bill (HB) 1290, passed by  
45 the 85th Texas Legislature, Regular Session (2017), and to be codified at Texas Government  
46 Code §2001.0045, does not apply to this rulemaking.

1 Economic Impact Statement and Regulatory Flexibility Analysis

2 TWC has determined that the proposed rules will not have an adverse economic impact on small  
3 businesses or rural communities, as these proposed rules place no requirements on small  
4 businesses or rural communities.

5  
6 Doyle Fuchs, Director of Labor Market and Career Information, has determined that there is no  
7 significant negative impact upon employment conditions in the state as a result of the rules.

8  
9 Courtney Arbour, Director, Workforce Development Division, has determined that for each year  
10 of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing  
11 the proposed rules will be the education of professional truck drivers on indicators of human  
12 trafficking which can result in early detection and protection of affected persons.

13  
14 **PART IV. COORDINATION ACTIVITIES**

15 In the development of these rules for publication and public comment, TWC sought the  
16 involvement of Texas' 28 Boards. TWC provided the concept paper regarding these rule  
17 amendments to the Boards for consideration and review. During the rulemaking process, TWC  
18 considered all information gathered in order to develop rules that provide clear and concise  
19 direction to all parties involved.

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

26  
27 The rules are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide the  
28 TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the  
29 effective administration of TWC services and activities.

30  
31 The proposed rules affect Title 4, Texas Labor Code, particularly Chapters 301 and 302, as well  
32 as Texas Education Code, Chapter 132.

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

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3                   **SUBCHAPTER A. GENERAL PROVISIONS**

4  
5                   **§807.2. Definitions.**

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

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

- 1 (10) Appellant--The party or the party's authorized hearing representative who files  
2 an appeal from an appealable determination or decision.  
3
- 4 (11) Asynchronous distance education--Distance education training that the Agency  
5 determines is not synchronous.  
6
- 7 (12) Class or course--An identifiable unit of instruction that is part of a program of  
8 instruction.  
9
- 10 (13) Commission--The body of governance of the Texas Workforce Commission  
11 composed of three members appointed by the governor as established under  
12 Texas Labor Code §301.002 that includes one representative of labor, one  
13 representative of employers, and one representative of the public. The definition  
14 of Commission shall apply to all uses of the term in rules contained in this  
15 subchapter.  
16
- 17 (14) Coordinating Board--The Texas Higher Education Coordinating Board.  
18
- 19 (15) Course of instruction--A program or seminar.  
20
- 21 (16) Course time--A course or class period that is:  
22
- 23 (A) a 50-minute to 60-minute lecture, recitation, or class, including a  
24 laboratory class or shop training, in a 60-minute period;  
25
- 26 (B) a 50-minute to 60-minute internship in a 60-minute period; or  
27
- 28 (C) 60 minutes of preparation in asynchronous distance education.  
29
- 30 (17) Date of notice--The date the notice is mailed, unless good cause exists for the  
31 hearing officer to determine otherwise.  
32
- 33 (18) Date of request of hearing--The date on which the appellant or the hearing  
34 representative filed a written notice of appeal with the Agency by hand delivery,  
35 facsimile, or mail. If an appeal is mailed to the Agency, then the appeal is  
36 perfected as of the postmark date on the envelope containing the appeal request  
37 unless good cause exists for the hearing officer to determine otherwise. If an  
38 appeal is delivered by hand or facsimile after 5:00 p.m., the date of request shall  
39 be the next day.  
40
- 41 (19) Distance education course--Either a seminar or a program that is offered to non-  
42 residence school students via correspondence or other media from a remote site  
43 on a self-paced schedule, excluding programs using interactive instruction.  
44
- 45 (20) Distance education school--A school that offers only distance education  
46 courses.  
47

- 1 (21) Employment--A graduating or graduate student's employment in the same or  
2 substantially similar occupation for which the student was trained.  
3
- 4 (22) Good reputation--The possession of honesty and truthfulness, trustworthiness  
5 and reliability, and a professional commitment to the educational process and  
6 the training or preparing of a person for a field of endeavor in a business, trade,  
7 technical, or industrial occupation, as well as the condition of being regarded as  
8 possessing such qualities. In determining whether a person is of good  
9 reputation, the Agency is not limited to the following acts or omissions. The  
10 Agency may consider similar acts or omissions and rehabilitation efforts in  
11 response to prior convictions in making its determination. A person is  
12 considered to be of good reputation if the person:  
13
- 14 (A) has never been convicted of a felony or any other crime that would constitute  
15 risk of harm to the school or students as determined by the Agency;  
16
- 17 (B) has not been successfully sued for fraud or deceptive trade practices, or  
18 breach of contract, within the last 10 years;  
19
- 20 (C) does not own or administer a school currently in violation of legal  
21 requirements, has never owned or administered a school with repeated  
22 violations, and has never owned or administered a school that closed with  
23 violations including, but not limited to, unpaid refunds; or  
24
- 25 (D) has not knowingly falsified or withheld information from the Agency.  
26
- 27 (23) Hearing--An informal, orderly, and readily available proceeding held before an  
28 impartial hearing officer. A party or hearing representative may present  
29 evidence to show that the Agency's determination should be reversed, affirmed,  
30 or modified.  
31
- 32 (24) Hearing officer--An Agency employee designated to conduct impartial hearings  
33 and issue final administrative decisions.  
34
- 35 (25) Hearing representative--Any individual authorized by a party to assist the party  
36 in presenting the party's appeal. A hearing representative may be legal counsel  
37 or another individual. Each party may have a hearing representative to assist in  
38 presenting the party's appeal.  
39
- 40 ~~(25)~~(26) Human Trafficking--the action or practice of illegally transporting people  
41 for the purposes of forced labor or commercial sexual exploitation, including all  
42 offenses referred to in Chapter 20A of the Texas Penal Code.  
43
- 44 ~~(26)~~(27) Job placement--An affirmative effort by the school to assist the student in  
45 obtaining employment in the same or substantially similar stated occupation for  
46 which the student was trained.  
47

- 1           ~~(27)~~(28) Master student registration list--A comprehensive list with an entry made  
2           for any person who signs an enrollment agreement, makes a payment to attend  
3           the school, or attends a class. The entry shall be made on the date the first of  
4           these events occurs.  
5
- 6           ~~(28)~~(29) Party--The person or entity with the right to participate in a hearing  
7           authorized in applicable statute or rule.  
8
- 9           ~~(29)~~(30) Program or program of instruction--A postsecondary program of  
10          organized instruction or study that may lead to an academic, professional, or  
11          vocational degree, certificate, or other recognized educational credential.  
12
- 13          ~~(30)~~(31) Refund--The completed payment of a refund such that the refund  
14          instrument has been negotiated or credited into the proper account(s).  
15
- 16          ~~(31)~~(32) Reimbursement contract basis--A school operating, or proposing to  
17          operate, under a contract with a state or federal entity in which the school  
18          receives payment upon completion of the training.  
19
- 20          ~~(32)~~(33) Residence school--A school that offers at least one program that includes  
21          classroom instruction or synchronous distance education.  
22
- 23          ~~(33)~~(34) Response deadline--Deadlines that fall on a weekend, an official state  
24          holiday, a state holiday for which minimal staffing is required, or a federal  
25          holiday are extended one working day.  
26
- 27          ~~(34)~~(35) Sanctions--Administrative or civil actions, including, but not limited to,  
28          penalties, revocation of approvals, or cease and desist orders taken by the  
29          Agency against an entity in response to violations of the Act or this chapter.  
30
- 31          ~~(35)~~(36) School--A "career school or career college," as defined in the Act, that  
32          includes each location where courses of instruction shall be offered.  
33
- 34          ~~(36)~~(37) Secondary education--Successful completion of public, private, or home  
35          schooling at the high school level or obtainment of a recognized high school  
36          equivalency credential.  
37
- 38          ~~(37)~~(38) Seminar--A course of instruction that enhances a student's career, as  
39          opposed to a program that teaches skills and fundamental knowledge required  
40          for a stated occupation. A seminar may include a workshop, an introduction to  
41          an occupation or cluster of occupations, a short course that teaches part of the  
42          skills and knowledge for a particular occupation, language training, continuing  
43          professional education, and review for postsecondary examination.  
44
- 45          ~~(38)~~(39) Seminar school--A school that offers only seminars.  
46
- 47          ~~(39)~~(40) Small school--A "small career school or college" as defined in the Act.  
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~~(40)~~(41) Stated occupation--An occupation for which a program is offered that:

- (A) is recognized by a state or federal law or by a state or federal agency as existing or emerging;
- (B) is in demand; and
- (C) requires training to achieve entry-level proficiencies.

~~(41)~~(42) Student--Any individual solicited, enrolled, or trained in Texas by a school.

~~(42)~~(43) Suspension of enrollments--A sanction that requires the school to suspend enrollments, re-enrollments, advertising, and solicitation, and to cease, in any way, advising prospective students, either directly or indirectly, of the available courses of instruction.

~~(43)~~(44) Synchronous distance education--The Agency may determine distance education to be synchronous under the following conditions:

- (A) the training is conducted simultaneously in real time, or the training is conducted so that the manner of delivery ensures that even if the instructor and student are separated by time, the course time of instruction that the student experiences can be determined; and
- (B) there is consistent interaction between the student(s) and the instructor on a schedule that includes a definite time for completion of the program and periodic verifiable student completion/performance measures that allow the application of the progress standards of Subchapter L and attendance standards of Subchapter M of this chapter.

~~(44)~~(45) Title IV school--A career school or college that participates in student financial aid programs under Title IV, Higher Education Act of 1965 (20 U.S.C. Section 1070 et seq.).

~~(45)~~(46) Tour--A required, in-person inspection of the facilities and equipment pertaining to a course of instruction.

~~(46)~~(47) Week--Seven consecutive calendar days.



1 **SUBCHAPTER Q. TRUCK DRIVER TRAINING PROGRAMS**

2  
3 **§807.326. Required Training for Students**

4  
5 All career schools and colleges Commercial Driver’s License (CDL) training programs  
6 must include training on the recognition and prevention of human trafficking, the content  
7 of which is to be established by the Agency in collaboration with the Office of the  
8 Attorney General.  
9