

Final Order 12-01-§211.1 Definitions

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts a new rule §211.1 concerning Definitions, with changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6456) and will be republished.

The new rule adds language to 37 TAC §211.1, Definitions.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

No other code, article, or statute is affected by this proposal.

Rule Draft:

§211.1 Definitions

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

(1) Academic provider--A school, accredited by the Southern Association of Colleges and Schools and the Texas Higher Education Coordinating Board, which has been approved by the commission to provide basic licensing courses.

(2) Academic alternative program--A program for college credit offered by a training provider recognized by the Southern Association of Colleges and Schools and the Higher Texas Education Board, authorized by the commission to conduct preparatory law enforcement training as part of a degree plan program, and consisting of commission-approved curricula.

(3) Accredited college or university--An institution of higher education that is accredited or authorized by the Southern Association of Colleges and Schools, the Middle States Association of Colleges and Schools, the New England Association of Schools and Colleges, the North Central Association of Colleges and Schools, the Northwest Commission on Colleges and Universities, the Western Association of Schools and Colleges, or an international college or university evaluated and accepted by a United States accredited college or university.

(4) Active--A license issued by the commission that meets the current requirements of licensure and training as determined by the commission.

(5) Agency--A law enforcement unit or other entity, whether public or private, authorized by Texas law to appoint a person licensed or certified by the commission.

(6) Administrative Law Judge (ALJ)--An administrative law judge appointed by the chief administrative law judge of the State Office of Administrative Hearings.

(7) Appointed--Elected or commissioned by an agency as a peace officer, reserve or otherwise selected or assigned to a position governed by the Occupations Code, Chapter 1701, without regard to pay or employment status.

(8) Background investigation--A pre-employment background investigation that meets or exceeds the commission developed questionnaire/history statement.

(9) Basic licensing course--Any current commission developed course that is required before an individual may be licensed by the commission.

(10) Certified copy--A true and correct copy of a document or record certified by the custodian of records of the submitting entity.

(11) Chief administrator--The head or designee of a law enforcement agency.

(12) Commission--The Texas Commission on Law Enforcement Officer Standards and Education.

(13) Commissioned--Has been given the legal power to act as a peace officer or reserve, whether elected, employed, or appointed.

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(14) Commissioners--The nine commission members appointed by the governor.

(15) Contract jail--A correctional facility, operated by a county, municipality or private vendor, operating under a contract with a county or municipality, to house inmates convicted of offenses committed against the laws of another state of the United States, as provided by Texas Government Code, §511.0092.

(16) Contractual training provider--A law enforcement agency, a law enforcement association, alternative delivery trainer, or proprietary training contractor that conducts specific education and training under a contract with the commission.

(17) Convicted--Has been adjudged guilty of or has had a judgment of guilt entered in a criminal case that has not been set aside on appeal, regardless of whether:

(A) the sentence is subsequently probated and the person is discharged from probation;

(B) the charging instrument is dismissed and the person is released from all penalties and disabilities resulting from the offense; or

(C) the person is pardoned, unless the pardon is expressly granted for subsequent proof of innocence.

(18) Court-ordered community supervision--Any court-ordered community supervision or probation resulting from a deferred adjudication or conviction by a court of competent jurisdiction. However, this does not include supervision resulting from a pretrial diversion.

(19) Diploma mill – An entity that offers for a fee with little or no coursework, degrees, diplomas, or certificates that may be used to represent to the general public that the individual has successfully completed a program of secondary education or training. This entity also lacks accreditation by an accrediting agency or association that is recognized by state government.

(20) Distance education— Study, at a distance, with an educational provider that conducts organized, formal learning opportunities for students. The instruction is offered wholly or primarily by distance study, through virtually any media. It may include the use of: videotapes, DVD, audio recordings, telephone and email communications, and Web-based delivery systems.

(21) Duty ammunition--Ammunition required or permitted by the agency to be carried on duty.

(22) Executive director--The executive director of the commission or any individual authorized to act on behalf of the executive director.

(23) Experience--Includes each month, or part thereof, served as a peace officer, reserve, jailer, telecommunicator, or federal officer. Credit may, at the discretion of the executive director, be awarded for relevant experience from an out-of-state agency.

(24) Family Violence – In this chapter, has the meaning assigned by Chapter 71, Family Code.

(25) Field training program--A program intended to facilitate a transition from the academic setting to the performance of the general duties of the appointing agency.

(26) Firearms--Any handgun, shotgun, precision rifle, patrol rifle, or fully automatic weapon that is carried by the individual officer in an official capacity.

(27) Firearms proficiency--Successful completion of the annual firearms proficiency requirements.

(28) Fit for duty review – A formal specialized examination of an individual, appointed to a position governed by the Occupations Code, Chapter 1701, without regard to pay or employment status, to determine if the appointee is able to safely and/or effectively perform essential job functions. The basis for these examinations should be based on objective evidence and a reasonable basis that the cause may be attributable to a medical and/or psychological condition or impairment. Objective evidence may include direct observation, credible third party reports; or other reliable evidence. The review should come after other options have been deemed inappropriate in light of the facts of the case. The selected Texas licensed medical doctor or psychologist, who is familiar

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with the duties of the appointee, conducting an examination should be consulted to ensure that a review is indicated. This review may include psychological and/or medical fitness examinations.

(29) High School Diploma--An earned high school diploma from a United States high school, an accredited secondary school equivalent to that of United States high school, or a passing score on the general education development test indicating a high school graduation level. Documentation from diploma mills is not acceptable. Attainment of an associate or baccalaureate degree from an accredited college or university shall be evidence of having met this standard.

(30) Home School Diploma--An earned diploma from a student who predominately receives instruction in a general elementary or secondary education program that is provided by the parent, or a person in parental authority, in or through the child's home. (Education Code §29.916)

(31) Individual--A human being who has been born and is or was alive.

(32) Jailer--A person employed or appointed as a jailer under the provisions of the Local Government Code, §85.005, or Government Code §511.0092.

(33) Killed in the line of duty--A death that is the directly attributed result of a personal injury sustained in the line of duty.

(34) Law--Including, but not limited to, the constitution or a statute of this state, or the United States; a written opinion of a court of record; a municipal ordinance; an order of a county commissioners' court; or a rule authorized by and lawfully adopted under a statute.

(35) Law enforcement academy--A school operated by a governmental entity that has been licensed by the commission, which may provide basic licensing courses and continuing education.

(36) Law enforcement automobile for training--A vehicle equipped to meet the requirements of an authorized emergency vehicle as identified by Transportation Code §546.003 and §547.702.

(37) Lesson plan--A plan of action consisting of a sequence of logically linked topics that together make positive learning experiences. Elements of a lesson plan include: measurable goals and objectives, content, a description of instructional methods, tests and activities, assessments and evaluations, and technologies utilized.

(38) License--A license required by law or a state agency rule that must be obtained by an individual to engage in a particular business.

(39) Licensee--An individual holding a license issued by the commission.

(40) Line of duty--Any lawful and reasonable action, which an officer identified in Government Code, §3105 is required or authorized by rule, condition of employment, or law to perform. The term includes an action by the individual at a social, ceremonial, athletic, or other function to which the individual is assigned by the individual's employer.

(41) Moral character--The propensity on the part of a person to serve the public of the state in a fair, honest, and open manner.

(42) Officer--A peace officer or reserve identified under the provisions of the Occupations Code, §1701.001.

(43) Patrol rifle--Any magazine-fed repeating rifle with iron/open sights or with a frame mounted optical enhancing sighting device, 3 power or less, that is carried by the individual officer in an official capacity.

(44) Peace officer--A person elected, employed, or appointed as a peace officer under the provisions of the Occupations Code, §1701.001.

(45) Personal Identification Number (PID)--A unique computer-generated number assigned to individuals for identification in the commission's electronic database.

(46) Placed on probation--Has received an adjudicated or deferred adjudication probation for a criminal offense.

(47) POST--State or federal agency with jurisdiction similar to that of the commission, such as a peace officer standards and training agency.

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- (48) Precision rifle--Any rifle with a frame mounted optical sighting device greater than 3 power that is carried by the individual officer in an official capacity.
- (49) Proprietary training contractor--An approved training contractor who has a proprietary interest in the intellectual property delivered.
- (50) Public security officer--A person employed or appointed as an armed security officer identified under the provisions of the Occupations Code, §1701.001.
- (51) Reactivate--To make a license issued by the commission active after at least a two-year break in service and the licensee's failure to complete legislatively required training.
- (52) Reinstate--To make a license issued by the commission active after disciplinary action or failure to obtain required continuing education.
- (53) Reserve--A person appointed as a reserve law enforcement officer under the provisions of the Occupations Code, §1701.001.
- (54) Restore--To make a license issued by the commission active after surrender of license.
- (55) Self-assessment--Completion of the commission created process, which gathers information about a training or education program.
- (56) Separation--An explanation of the circumstances under which the person resigned, retired, or was terminated, reported on the form currently prescribed by the commission, in accordance with Occupations Code, §1701.452.
- (57) SOAH--The State Office of Administrative Hearings.
- (58) Successful completion--A minimum of:
- (A) 70 percent or better; or
 - (B) C or better; or
 - (C) pass, if offered as pass/fail.
- (59) TCLEDDS--Texas Commission on Law Enforcement Data Distribution System.
- (60) Telecommunicator--A person employed as a telecommunicator under the provisions of the Occupations Code, §1701.001.
- (61) Training coordinator--An individual, appointed by a commission-recognized training provider, who meets the requirements of §215.9 of this title
- (62) Training cycle--A 48-month period as established by the commission. Each training cycle is composed of two contiguous 24-month units.
- (63) Training hours--Classroom or distance education hours reported in one-hour increments.
- (64) Training program--An organized collection of various resources recognized by the commission for providing preparatory or continuing training. This program includes, but is not limited to, learning goals and objectives, academic activities and exercises, lesson plans, exams, skills training, skill assessments, instructional and learning tools, and training requirements.
- (65) Training provider--A governmental body, law enforcement association, alternative delivery trainer, or proprietary entity credentialed by the commission to provide preparatory or continuing training for licensees or potential licensees.
- (66) Verification (verified)--The confirmation of the correctness, truth, or authenticity of a document, report, or information by sworn affidavit, oath, or deposition.
- (b) The effective date of this section is December 23, 2011.

Final Order 12-02-§211.16 Establishment of an Appointing Entity

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts an amendment to §211.16 concerning Establishment of an Appointing Entity, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6459) and will not be republished.

The amendment adds language to 37 TAC §211.16 Establishment of an Appointing Entity.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The amendment as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.163 Information Provided by Commissioning Entities.

No other code, article, or statute is affected by this proposal.

Final Rule:

§211.16 Establishment of an Appointing Entity

(a) On or after September 1, 2009, an entity authorized by statute or by the constitution to create a law enforcement agency or police department and commission, appoint, or employ peace officers that first creates a law enforcement agency or police department and first begins to commission, appoint, or employ peace officers shall make application to the commission.

(b) On creation of the law enforcement agency or police department, and as part of the application process, the entity shall submit to the commission the current agency number, application form, any associated application fee, and information regarding:

- (1) the need for the law enforcement agency or police department in the community;
- (2) the funding sources for the law enforcement agency or police department;
- (3) the physical resources available to officers;
- (4) the physical facilities that the law enforcement agency or police department will operate, including descriptions of the evidence room, dispatch area, and public area;
- (5) law enforcement policies of the law enforcement agency or police department, including policies on:
 - (A) use of force;
 - (B) vehicle pursuit;
 - (C) professional conduct of officers;
 - (D) domestic abuse protocols;
 - (E) response to missing persons;
 - (F) supervision of part-time officers;
 - (G) impartial policing; and
 - (H) fitness for duty.
- (6) the administrative structure of the law enforcement agency or police department;
- (7) liability insurance; and
- (8) any other information the commission requires by rule.

(c) An entity authorized by Local Government Code, §511.0092 to operate a correctional facility to house inmates, in this state, convicted of offenses committed against the laws of another state of the United States, and appoint jailers requiring licensure by the commission, may make application for an agency number by submitting the current agency number application form, any associated application fee, and a certified copy of the contract under which the facility will operate.

(d) A political subdivision wanting to establish a consolidated emergency telecommunications center and appoint telecommunicators, as required by Texas Occupations Code, §1701.405, may make application for an agency number by submitting the current agency number

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application form, any associated application fee and a certified copy of the consolidation contract.

(e) The Texas Department of Criminal Justice - Pardon and Parole Division, a community supervision and corrections department, or a juvenile probation department may make application for an agency number if seeking firearms training certificates for parole officers, community supervision and corrections officers, or juvenile probation officers by submitting the current agency number application form and any associated application fee.

(f) The effective date of this section is December 23, 2011.

Final Order 12-03- §211.29 Responsibilities of Agency Chief Administrators

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts a new rule §211.29 concerning Responsibilities of Agency Chief Administrators, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6461) and will not be republished.

The new rule adds language to 37 TAC §211.29 Responsibilities of Agency Chief Administrators.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The new rule as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.164, Collection of Certain Incident-Based Data Submitted by Law Enforcement Agencies, §1701.351, Continuing Education Required for Peace Officers, §1701.352, Continuing Education Programs, §1701.402, Proficiency Certificates, §1701.451, Preemployment Request for Employment Termination Report and Submission of Background Check Confirmation Form, and §1701.452, Employment Termination Report.

No other code, article, or statute is affected by this proposal.

Final Rule:

§211.29 Responsibilities of Agency Chief Administrators.

- (a) An agency chief administrator is responsible for making any and all reports and submitting any and all documents required of that agency by the commission.
- (b) An individual who is appointed or elected to the position of the chief administrator of a law enforcement agency shall notify the Commission of the date of appointment and title, through a form prescribed by the Commission within 30 days of such appointment.
- (c) An agency chief administrator must comply with the appointment and/or retention requirements under Subchapter L of the Texas Occupations Code Chapter 1701.
- (d) An agency chief administrator must report to the commission within 30 days, any change in the agency's name, physical location, mailing address, electronic mail address, or telephone number.
- (e) An agency chief administrator must report, in a standard format, incident-based data compiled in accordance with Texas Occupations Code §1701.164.
- (f) Line of duty deaths shall be reported to the commission in current peace officers' memorial reporting formats.
- (g) An agency chief administrator has an obligation to determine that all appointees are able to safely and effectively perform the essential job functions. An agency chief administrator may require a fit for duty review upon identifying factors that indicate an appointee may no longer be able to perform job-related functions safely and effectively. These factors should be based on objective evidence and a reasonable basis that the cause may be attributable to a medical or psychological condition or impairment.
- (h) An agency must provide training on employment issues identified in Texas Occupations Code §1701.402 and field training.
- (i) An agency must provide continuing education training required in Texas Occupations Code §1701.351 and §1701.352.
- (j) Before an agency appoints any licensee to a position requiring a commission license it shall complete the reporting requirements of Texas Occupations Code §1701.451.
- (k) An agency appointing a person who does not hold a commission license must file an application for the appropriate license with the commission.

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(l) An agency must notify the commission electronically following the requirements of Texas Occupations Code §1701.452, when a person under appointment with that agency resigns or is terminated.

(m) An agency chief administrator must comply with orders from the commission regarding the correction of a report of resignation/termination or request a hearing from SOAH.

(n) An agency shall notify the commission electronically within 30 days, when it receives information that a person under appointment with that agency has been arrested, charged, indicted, or convicted for any offense above a Class C misdemeanor, or for any Class C misdemeanor involving the duties and responsibilities of office or family violence.

(o) Except in the case of a commission error, an agency that wishes to report a change to any information within commission files about a licensee shall do so in a request to the commission, containing:

(1) the licensee's name, date of birth, last four digits of the social security number, or PID

(2) the requested change; and

(3) the reason for the change.

(p) The effective date of this section is December 23, 2011.

Final Order 12-04-§215.3 Academy Licensing

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts an amendment to §215.3 concerning Academy Licensing, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6462) and will not be republished.

The amendment adds language to 37 TAC §215.3 Academy Licensing.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.353 Continuing Education Procedures.

No other code, article, or statute is affected by this proposal.

Final Rule:

§215.3 Academy Licensing

(a) A state or any political subdivision of the state may make application to provide law enforcement, corrections, telecommunications, and/or other law enforcement related training.

The entity must be based on at least one of the following sponsoring organizations:

- (1) a law enforcement agency with a minimum of 75 full-time paid peace officers, county jailers, and/or telecommunicators under current appointment;
- (2) an institution recognized by the Texas Higher Education Coordinating Board (THECB); or
- (3) a regional planning commission or councils of governments' (COG) board. The commission will issue only one academy license within each regional planning commission or councils of governments' area at any one time.

(b) As part of the electronic application process, the following documents shall be submitted:

- (1) the proposed formal name of the academy, which must not misrepresent the status of the academy or be confusing to law enforcement or to the public;
- (2) a proposed course schedule to show that training will be conducted on a continuing basis;
- (3) a schedule of tuition and fees that will be charged, if any;
- (4) documentation of compliance with the electronic reporting requirements of §1701.1523 of the Texas Occupations Code;
- (5) documentation that an advisory board has already been appointed as required by §215.7 of this chapter and §1701.252 of the Texas Occupations Code;
- (6) advisory board minutes that show the advisory board has complied with the requirements of §215.7 of this chapter;
- (7) the name and PID of the proposed training coordinator;
- (8) documentation that the training coordinator is in compliance with the responsibilities required by law, or rule, to include but not limited to §215.9 of this chapter;
- (9) the physical location and a description of the proposed training facility and any satellite sites;
- (10) documentation of any contract an academy may have as cosponsor with law enforcement agencies and other entities to conduct continuing education classes or basic county corrections training; and
- (11) at the request of the executive director the applicant must forward for approval resumes for each board member.

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(c) A training needs assessment must be completed and submitted for commission approval and shall include:

- (1) a description of whom the academy will serve, including the identity of each law enforcement agency the academy expects to serve, the number of officers the academy expects to train annually from each agency, and the basis for the academy's expectations;
- (2) the number and types of courses that will be offered; and
- (3) proof of notification by e-mail to all licensed academies within the regional planning commission or councils of governments' area of their intent to apply for an academy license and what specific training needs the applicant intends to meet.

(d) Upon approval of the application the proposed academy must pass an inspection of its facilities and instructional materials. The inspection shall be conducted by commission staff or by a team of academy coordinators as appointed by the executive director. An academy must have and maintain:

- (1) qualified instructors and staff to conduct successful training;
- (2) instructional resources to conduct successful training, to include, but not limited to, convenient access to a law enforcement reference library or sufficient number of computers for student and staff use;
- (3) access to current and appropriate teaching tools and electronic equipment, including video players, projection equipment, computer hardware, software, and the Internet;
- (4) a proprietary interest in or a written contract providing for a firing range suitable for the course of fire required in the current basic peace officer course, with safety rules clearly posted, secure storage and first aid equipment while on the premises; and
- (5) a proprietary interest in or a written contract providing for at least one facility to conduct police driving training, to include at least one law enforcement automobile for training.

(e) The chief administrator of the sponsoring organization and the proposed training coordinator must appear before the commissioners to respond to questions prior to action being taken on the application.

(f) Once an academy license is issued, the chief administrator of the sponsoring organization, or the training coordinator, must report in writing to the commission within 30 days:

- (1) any change in the chief administrator or training coordinator;
- (2) any failure to meet commission rules and standards by the academy, training coordinator, instructors, or advisory board;
- (3) when non-compliance with federal or state requirements is discovered; or
- (4) any change in academy name, physical location, mailing address, electronic mail address, or telephone number.

(g) The commission will award training credit for any course conducted by a licensed academy as provided by commission rules unless the:

- (1) course is not conducted as required by commission rules;
- (2) training is not related to a commission license;
- (3) advisory board, the academy, the training coordinator, the course coordinator, or the instructor failed to discharge any responsibility required by commission rule;
- (4) credit was claimed by deceitful means; or
- (5) distance education courses of a proprietary nature, equivalency, or the distance education portion of a basic licensing course was not submitted and approved under commission distance education guidelines.

(h) The commission may suspend an academy license, or the executive director or his designee may issue a written reprimand to the sponsoring organization, if the:

- (1) academy or the sponsoring organization fails to comply with commission rules or any law; or
- (2) academy has been classified as at risk under §215.13 of this chapter.

(i) The commission may cancel an academy license if it was issued in error or based on false or incorrect information.

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- (j) The commission may revoke an academy license if the:
 - (1) academy has been classified as at risk under §215.13 of this chapter for a 12-month period without complying with commission rules;
 - (2) training coordinator intentionally or knowingly submits a falsified document or a false written statement or representation to the commission; or
 - (3) academy has not met the needs of the communities and/or agencies that it serves.
- (k) An academy may surrender its license at any time or for any reason. To surrender the license, the chief administrator of the sponsoring organization must send written notice, accompanied by the license, to the executive director. The surrender is effective immediately upon receipt by the executive director.
- (l) The effective date of this section is December 23, 2011.]

Final Order 12-05-§215.5 Contractual Training

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts an amendment to §215.5 concerning Contractual Training, with changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6464) and will be republished.

The amendment adds language to 37 TAC §215.5 Contractual Training.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.353 Continuing Education Procedures.

No other code, article, or statute is affected by this proposal.

Final Rule:

§215.5 Contractual Training

- (a) A law enforcement agency, a law enforcement association, distance education provider, or proprietary training contractor may make application to conduct training for licensees.
- (b) As part of the electronic application process, the following documentation shall be submitted:
 - (1) documentation that an advisory board has been appointed as provided by §215.7 of this chapter and §1701.252 of the Texas Occupations Code;
 - (2) advisory board minutes that show the advisory board has complied with the requirements of §215.7 of this chapter;
 - (3) documentation of compliance with the electronic reporting requirements of §1701.1523 of the Texas Occupations Code.
 - (4) the name and PID of the proposed training coordinator;
 - (5) documentation that the training coordinator is in compliance with the responsibilities required by contract, law, or rule, to include but not limited to §215.9 of this chapter;
 - (6) a schedule of tuition and fees that will be charged, if any;
 - (7) selection of a training facility and instructional materials that meets inspection requirements identified in §215.3(d) of this chapter, as determined by the commission; and
 - (8) at the request of the executive director the applicant must forward for approval:
 - (A) resumes for each board member; and/or
 - (B) at least one copy of the learning objectives of each course covered by the contract.
- (c) A training needs assessment must be completed and submitted for commission approval and shall include:
 - (1) what specific training needs are to be addressed by the proposed contract; and
 - (2) the number and types of courses that will be offered during the first quarter of the executed contract.
- (d) The chief administrator of the sponsoring organization and the proposed training coordinator must appear before the commissioners to respond to questions prior to action being taken on the application.
- (e) Once a contract is issued, the chief administrator of the sponsoring organization, or training coordinator, must report in writing to the commission within 30 days:
 - (1) any change in chief administrator or training coordinator;
 - (2) any failure to meet commission rules and standards by the provider, training coordinator, instructors, or advisory board;

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- (3) any change in provider name, physical location, mailing address, electronic mail address, or telephone number; or
 - (4) when non-compliance with federal or state requirements is discovered.
- (f) A contract is limited to those terms expressly included in the contract or incorporated by reference and is:
- (1) in the currently prescribed commission format;
 - (2) signed by the executive director;
 - (3) signed by the chief administrator or head of the sponsoring organization; and
 - (4) signed by the training coordinator responsible for the administration of that training.
- (g) A contract may approve the courses and the number of times they will be offered. These contracts are for a stated period of time but may be terminated within 10 days by written notice on the part of either party to the contract. A contract may incorporate by reference a law, rule, or any other document; however, any waiver, exception, or deletion must be expressed.
- (h) The commission will award training credit for any course conducted by a contract training provider as provided by commission rules unless:
- (1) the training was not conducted in compliance with the contract;
 - (2) the advisory board, training coordinator or instructor failed to discharge any responsibility required by commission rule;
 - (3) the credit was claimed by deceitful means; or
 - (4) distance education courses of a proprietary nature, equivalency, or the distance education portion of a basic licensing course was not submitted and approved under commission distance education guidelines.
- (i) The executive director may suspend a contract for any violation of its terms or of any commission rule or law.
- (j) The executive director may terminate a contract if no training is conducted within a calendar year unless the chief administrator has petitioned the executive director for a waiver and the waiver has been granted. Any party may terminate, upon written notice to all other parties, received by the executive director, or the coordinator, or any other named person or office.
- (k) Notwithstanding any other provision of this chapter, the commission may revoke a contract if the:
- (1) contractual provider has been classified as at risk under §215.13 of this chapter for a 12-month period without complying with commission rules; or
 - (2) training coordinator intentionally or knowingly submits a falsified document or a false written statement or representation to the commission.
- (l) The effective date of this section is December 23, 2011.

Final Order 12-06-§215.6 Academic Alternative Licensing

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts an amendment to §215.6 concerning Academic Alternative Licensing, with changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6465) and will be republished.

The amendment adds language to 37 TAC §215.6 Academic Alternative Licensing

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.251 Training Programs; Instructors.

No other code, article, or statute is affected by this proposal.

Final Rule:

§215.6 Academic Alternative Licensing

(a) A Texas college or university that is accredited by the Southern Association of Colleges and Schools (SACS) and which has a criminal justice or law enforcement program approved by the Texas Higher Education Coordinating Board (THECB) may make application to conduct training for licensees.

(b) As part of the electronic application process:

- (1) documentation of approval from THECB for a criminal justice or law enforcement program;
- (2) documentation that an advisory board has been appointed as provided by §215.7 of this chapter and §1701.252 of the Texas Occupations Code;
- (3) advisory board minutes that show the advisory board has complied with the requirements of §215.7 of this chapter;
- (4) documentation of compliance with the electronic reporting requirements of §1701.1523 of the Texas Occupations Code;
- (5) the name and PID of the proposed training coordinator;
- (6) documentation that the training coordinator has met the responsibilities required by contract, law, or rule, to include but not limited to §215.9 of this chapter;
- (7) a proposed course schedule to show that training will be conducted;
- (8) selection of a training facility and instructional materials that meet the inspection requirements identified in §215.3(d) of this chapter, as determined by the commission;
- (9) documentation of any contractual provision the applicant may have with a licensed academy to provide the sequence courses;
- (10) provisions for the Registrar to approve all students qualified for the state basic licensing exam in a timely manner; and
- (11) at the request of the executive director the applicant must forward for approval:
 - (A) resumes for each board member; and/or
 - (B) at least one copy of the learning objectives of each alternative course provided.

(c) A training needs assessment must be submitted to the commission for approval and must include:

- (1) a description of whom the alternative academic provider will serve and the number of students they expect to train annually;
- (2) the basis for these expectations; and

Final Order 12-06-§215.6 Academic Alternative Licensing

- (3) proof of notification by e-mail to all licensed academies within the area of the applicant's intent to apply for an academic alternative provider license.
- (d) The dean or chair of the academic program and the proposed training coordinator must appear before the commissioners to respond to questions prior to action being taken on the application.
- (e) Once a license is issued, the chief administrator or training coordinator of the academic alternative provider must report in writing to the commission within 30 days:
 - (1) any change in the dean of the department;
 - (2) any change in training coordinator;
 - (3) any failure to meet commission rules and standards by the training coordinator, instructors, or advisory board;
 - (4) any change in status with SACS and/or THECB;
 - (5) when non-compliance with federal or state requirements is discovered; or
 - (6) any change in provider name, physical location, mailing address, electronic mail address, or telephone number.
- (f) The commission will award training credit for the academic alternative program when provided by licensed academic alternative providers, unless the:
 - (1) courses were not conducted in compliance with commission rules;
 - (2) courses were not conducted in compliance with THECB guidelines;
 - (3) advisory board, training coordinator, or instructor failed to discharge any responsibility required by rule; or
 - (4) credit was obtained by deceitful means.
- (g) The commission may cancel an academic alternative license if it was issued in error or based on false or incorrect information.
- (h) The commission may suspend an academic alternative license, or the executive director or his designee may issue a written reprimand to the dean of the department, if:
 - (1) the academic alternative provider fails to comply with commission rules or any law; or
 - (2) the academic alternative provider has been classified as at risk under §215.13 of this chapter.
- (i) The commission may revoke an academic alternative license if:
 - (1) the academic alternative provider has been classified as at risk under §215.13 of this chapter for a 12-month period without complying with commission rules;
 - (2) the academic alternative provider has lost either SACS accreditation or THECB approval; or
 - (3) the training coordinator intentionally or knowingly submits a falsified document or a false written statement or representation to the commission.
- (j) An academic alternative provider may surrender its license at any time for any reason. To surrender the license, the dean of the department must send written notice, accompanied by the license, to the executive director. The surrender is effective immediately upon receipt by the executive director.
- (k) The effective date of this section is December 23, 2011.

Final Order 12-07-§215.9 Training Coordinator

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts an amendment to §215.9 concerning Training Coordinator, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6467) and will not be republished.

The amendment adds language to 37 TAC §215.9 Training Coordinator.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.254 Risk Assessment and Inspections and §1701.353 Continuing Education Procedures.

No other code, article, or statute is affected by this proposal.

Final Rule:

§215.9 Training Coordinator

(a) A training coordinator must hold a valid instructor license or certificate and must be a full-time paid employee.

(b) The training coordinator must:

(1) ensure compliance with commission rules and guidelines:

(2) prepare, maintain, and submit the following reports within the time frame specified:

(A) reports of training:

(i) basic licensing course shall be submitted prior to students attempting a licensing exam; and

(ii) within 30 days of completion of continuing education course;

(B) self-assessment reports as required by the commission;

(C) a copy of advisory board minutes during an on-site evaluation;

(D) training calendars-schedules must be available for review or posted on the internet no later than 30 days prior to the beginning of each calendar quarter or academic semester;

(E) any other reports or records as requested by the commission;]

(3) be responsible for the administration and conduct of each course, including those conducted at ancillary sites, and specifically:

(A) appointing and supervising qualified instructors;

(B) maintaining course schedules and course files, including lesson plans;

(C) enforcing all admission, attendance, retention, and other standards set by the commission and the training provider;

(D) securing and maintaining all facilities necessary to meet the inspection standards of this section;

(E) controlling the discipline and demeanor of each student and instructor during class;

(F) distributing a current version of the Texas Occupations Code, Chapter 1701 and commission rules to all students at the time of admission to any course that may result in the issuance of a license;

(G) distributing learning objectives to all students at the beginning of each course;

(H) ensuring that all learning objectives are taught and evaluated;

(I) proctoring or supervising all examinations to ensure fair, honest results; and

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- (J) maintaining records of tests and other evaluation instruments for a period of five years.
 - (4) receive all commission notices on behalf of the training provider and forward each notice to the appointing authority; and
 - (5) attend or have a designee attend each academy coordinator's workshop conducted by the commission.
- (c) If the position of training coordinator becomes vacant, upon written request from the chief administrator of the training provider the commission may, at the discretion of the executive director, waive the requirements for a period not to exceed six months.
- (d) Upon written request from the chief administrator of a training provider that does not have a full-time paid staff, the commission may, at the discretion of the executive director, waive the requirements in subsection (a) of this section.
- (e) The effective date of this section is December 23, 2011.

Final Order 12-08-215.15 Basic Licensing Enrollment Standards

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts a new rule §215.15 concerning Basic Licensing Enrollment Standards, with changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6468) and will be republished.

The new rule adds language to 37 TAC §215.15 Basic Licensing Enrollment Standards.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The new rule as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.255, Enrollment Qualifications.

No other code, article, or statute is affected by this proposal.

Final Rule:

§215.15 Basic Licensing Enrollment Standards

(a) In order for an individual to enroll in any basic licensing course the provider must have on file documentation that the individual meets the following standards:

(1) minimum educational requirements:

(A) a high school diploma;

(B) a high school equivalency certificate; or

(C) for the basic peace officer training course, an honorable discharge from the armed forces of the United States after at least 24 months of active duty service.

(2) the individual has been subjected to a search of local, state and national records to disclose any criminal record;

(A) is not currently charged with any criminal offense for which conviction would be a bar to licensure;

(B) community supervision history:

(i) has never been on court-ordered community supervision or probation for any criminal offense above the grade of a Class B misdemeanor or a Class B misdemeanor within the last ten years from the date of the court order; but

(ii) the commission may approve the application of an individual who received probation or court-ordered community supervision for a Class B misdemeanor at least five (5) years prior to enrollment if an agency administrator sufficiently demonstrates in writing with supporting documentation that mitigating circumstances exist with the case and with the individual applying for licensure, and that the public interest would be served by reducing the waiting period;

(C) conviction history:

(i) has never been convicted of an offense above the grade of a Class B misdemeanor or a Class B misdemeanor within the last ten years; but

(ii) the commission may approve the application of an individual who was convicted of a Class B misdemeanor at least five (5) years prior to enrollment if an agency administrator sufficiently demonstrates in writing with supporting documentation that mitigating circumstances exist with the case and with the individual applying for licensure, and that the public interest would be served by reducing the waiting period.

(D) For purposes of this section, the commission will construe any court ordered community supervision, probation, or conviction for a criminal offense to be its

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closest equivalent under the Texas Penal Code classification of offenses if the offense arose from:

- (i) another penal provision of Texas law; or
- (ii) a penal provision of any other state, federal, military or foreign jurisdiction.

(E) A classification of an offense as a felony at the time of conviction will never be changed because Texas law has changed or because the offense would not be a felony under current Texas law.

- (3) has never been convicted of any family violence offense;
- (4) has not had a dishonorable or bad conduct discharge;
- (5) is not prohibited by state or federal law from operating a motor vehicle;
- (6) is not prohibited by state or federal law from possessing firearms or ammunition; and
- (7) is a U.S. citizen.

(b) In evaluating whether mitigating circumstances exist, the commission will consider the following factors:

- (1) the applicant's history of compliance with the terms of community supervision;
- (2) the applicant's continuing rehabilitative efforts not required by the terms of community supervision;
- (3) the applicant's employment record;
- (4) whether the disposition offense contains an element of actual or threatened bodily injury or coercion against another person under the Texas Penal Code or the law of the jurisdiction where the offense occurred;
- (5) the required mental state of the disposition offense;
- (6) whether the conduct resulting in the arrest resulted in the loss of or damage to property or bodily injury;
- (7) the type and amount of restitution made by the applicant;
- (8) the applicant's prior community service;
- (9) the applicant's present value to the community;
- (10) the applicant's post-arrest accomplishments;
- (11) the applicant's age at the time of arrest; and
- (12) the applicant's prior military history.

(c) psychological and physical examination requirements:

(1) the individual has been examined by a physician, selected by the appointing, employing agency, or the academy, who is licensed by the Texas Medical Board. The physician must be familiar with the duties appropriate to the type of license sought. The individual must be declared by that professional, on a form prescribed by the commission, to be:

- (A) physically sound and free from any defect which may adversely affect the performance of duty appropriate to the type of license sought; and
- (B) show no trace of drug dependency or illegal drug use after a blood test or other medical test; and

(2) the individual has been examined by a psychologist, selected by the appointing, employing agency, or the academy, who is licensed by the Texas State Board of Examiners of Psychologists. This examination may also be conducted by a psychiatrist licensed by the Texas Medical Board. The psychologist or psychiatrist must be familiar with the duties appropriate to the type of license sought. The individual must be declared by that professional, on a form prescribed by the commission, to be in satisfactory psychological and emotional health to serve as the type of officer for which the license is sought. The examination must be conducted pursuant to professionally recognized standards and methods. The examination process must consist of a review of a job description for the position sought; review of any personal history statements; review of any background documents; at least two instruments, one which

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measures personality traits and one which measures psychopathology; and a face to face interview conducted after the instruments have been scored.

(A) the commission may allow for exceptional circumstances where a licensed physician performs the evaluation of psychological and emotional health. This requires the appointing agency to request in writing and receive approval from the commission, prior to the evaluation being completed; or

(B) the examination may be conducted by qualified persons identified by §501.004, Occupations Code. This requires the appointing agency to request in writing and receive approval from the commission, prior to the evaluation being completed.

(d) The enrollment standards established in this section do not preclude the provider from establishing additional requirements or standards for enrollment.

(e) The effective date of this section is December 23, 2011.

Final Order 12-09-§217.1 Minimum Standards for Initial Licensure

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts a new rule §217.1 concerning Minimum Standards for Initial Licensure, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6471) and will not be republished.

The new rule adds language to 37 TAC §217.1 Minimum Standards for Initial Licensure.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The new rule as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.253 School Curriculum, §1701.256 Instruction in Weapons Proficiency Required, §1701.301 License Required, §1701.302 Certain Elected Law Enforcement Officers; License Required, §1701.306 Psychological and Physical Examination, §1701.307 Issuance of License, §1701.309 Age Requirement, §1701.310 Appointment of County Jailer; Training Required, and §1701.311 Provisional License for Workforce Shortage.

No other code, article, or statute is affected by this proposal.

Final Rule:

§217.1 Minimum Standards for Initial Licensure

(a) The commission shall issue a license to an applicant who meets the following standards:

(1) age requirement:

(A) for peace officers and public security officers, is 21 years of age; or 18 years of age if the applicant has received:

(i) an associate's degree; or 60 semester hours of credit from an accredited college or university or

(ii) has received an honorable discharge from the armed forces of the United States after at least two years of active service.

(B) for jailers is 18 years of age;

(2) minimum educational requirements:

(A) has passed a general educational development (GED) test indicating high school graduation level; or

(B) holds a high school diploma.

(3) is fingerprinted and is subjected to a search of local, state and U.S. national records and fingerprint files to disclose any criminal record;

(4) community supervision history:

(A) has not ever been on court-ordered community supervision or probation for any criminal offense above the grade of Class B misdemeanor or a Class B misdemeanor within the last ten years from the date of the court order; but

(B) the commission may approve the application of a person who received probation or court-ordered community supervision for a Class B misdemeanor at least five (5) years prior to application if an agency administrator sufficiently demonstrates in writing with supporting documentation that mitigating circumstances exist with the case and with the individual applying for licensure, and that the public interest would be served by reducing the waiting period;

(5) is not currently charged with any criminal offense for which conviction would be a bar to licensure;

(6) conviction history:

Final Order 12-09-§217.1 Minimum Standards for Initial Licensure

- (A) has not ever been convicted of an offense above the grade of a Class B misdemeanor or a Class B misdemeanor within the last ten years; but
- (B) the commission may approve the application of a person who was convicted for a Class B misdemeanor at least five (5) years prior to application if an agency administrator sufficiently demonstrates in writing with supporting documentation that mitigating circumstances exist with the case and with the individual applying for licensure, and that the public interest would be served by reducing the waiting period;
- (7) has never been convicted of any family violence offense;
- (8) is not prohibited by state or federal law from operating a motor vehicle;
- (9) is not prohibited by state or federal law from possessing firearms or ammunition;
- (10) has been subjected to a background investigation and has been interviewed prior to appointment by representatives of the appointing authority;
- (11) examined by a physician, selected by the appointing or employing agency, who is licensed by the Texas Medical Board. The physician must be familiar with the duties appropriate to the type of license sought and appointment to be made. The appointee must be declared by that professional, on a form prescribed by the commission, within 180 days before the date of appointment by the agency to be:
 - (A) physically sound and free from any defect which may adversely affect the performance of duty appropriate to the type of license sought;
 - (B) show no trace of drug dependency or illegal drug use after a blood test or other medical test; and
 - (C) for the purpose of meeting the requirements for initial licensure, an individual's satisfactory medical exam that is conducted as a requirement of a basic licensing course may remain valid for 180 days from the individual's date of graduation from that academy, if accepted by the appointing agency;
- (12) examined by a psychologist, selected by the appointing, employing agency, or the academy, who is licensed by the Texas State Board of Examiners of Psychologists. This examination may also be conducted by a psychiatrist licensed by the Texas Medical Board. The psychologist or psychiatrist must be familiar with the duties appropriate to the type of license sought. The individual must be declared by that professional, on a form prescribed by the commission, to be in satisfactory psychological and emotional health to serve as the type of officer for which the license is sought. The examination must be conducted pursuant to professionally recognized standards and methods. The examination process must consist of a review of a job description for the position sought; review of any personal history statements; review of any background documents; at least two instruments, one which measures personality traits and one which measures psychopathology; and a face to face interview conducted after the instruments have been scored.
 - (A) the commission may allow for exceptional circumstances where a licensed physician performs the evaluation of psychological and emotional health. This requires the appointing agency to request in writing and receive approval from the commission, prior to the evaluation being completed; or
 - (B) the examination may be conducted by qualified persons identified by §501.004, Texas Occupations Code. This requires the appointing agency to request in writing and receive approval from the commission, prior to the evaluation being completed; and
 - (C) for the purpose of meeting the requirements for initial licensure, an individual's satisfactory psychological exam that is conducted as a requirement of a basic licensing course may remain valid for 180 days from the individual's date of graduation from that academy, if accepted by the appointing agency;
- (13) has not had a dishonorable or bad conduct discharge;
- (14) has not had a commission license denied by final order or revoked;

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- (15) is not currently on suspension, or does not have a surrender of license currently in effect;
 - (16) meets the minimum training standards and passes the commission licensing examination for each license sought;
 - (17) has not violated any commission rule or provision of the Texas Occupations Code, Chapter 1701; and
 - (18) is a U.S. citizen.
- (b) For the purposes of this section, the commission will construe any court-ordered community supervision, probation or conviction for a criminal offense to be its closest equivalent under the Texas Penal Code classification of offenses if the offense arose from:
- (1) another penal provision of Texas law; or
 - (2) a penal provision of any other state, federal, military or foreign jurisdiction.
- (c) A classification of an offense as a felony at the time of conviction will never be changed because Texas law has changed or because the offense would not be a felony under current Texas laws.
- (d) In evaluating whether mitigating circumstances exist, the commission will consider the following factors:
- (1) the applicant's history of compliance with the terms of community supervision;
 - (2) the applicant's continuing rehabilitative efforts not required by the terms of community supervision;
 - (3) the applicant's employment record;
 - (4) whether the disposition offense contains an element of actual or threatened bodily injury or coercion against another person under the Texas Penal Code or the law of the jurisdiction where the offense occurred;
 - (5) the required mental state of the disposition offense;
 - (6) whether the conduct resulting in the arrest resulted in the loss of or damage to property or bodily injury;
 - (7) the type and amount of restitution made by the applicant;
 - (8) the applicant's prior community service;
 - (9) the applicant's present value to the community;
 - (10) the applicant's post-arrest accomplishments;
 - (11) the applicant's age at the time of arrest; and
 - (12) the applicant's prior military history.
- (e) A person must meet the training and examination requirements:
- (1) training for the peace officer license consists of:
 - (A) the current basic peace officer course(s);
 - (B) a commission recognized, POST developed, basic law enforcement training course, to include:
 - (i) out of state licensure or certification; and
 - (ii) submission of the current eligibility application and fee; or
 - (C) a commission approved academic alternative program, taken through a licensed academic alternative provider and at least an associate's degree.
 - (2) training for the jailer license consists of the current basic county corrections course(s) or training recognized under §1701.310 of the Texas Occupations Code;
 - (3) training for the public security officer license consists of the current basic peace officer course(s); and
 - (4) passing any examination required for the license sought while the exam approval remains valid.
- (f) The commission shall issue a license to any person who is otherwise qualified for that license, even if that person is not subject to the licensing law or rules by virtue of election or appointment to office under the Texas Constitution.
- (g) A sheriff who first took office on or after January 1, 1994, must meet the licensing requirements of §1701.302 of the Texas Occupations Code.

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(h) A constable taking office after August 30, 1999, must meet the licensing requirements of §86.0021 of the Texas Local Government Code.

(i) The commission may issue a provisional license, consistent with §1701.311 of the Texas Occupations Code, to an agency for a person to be appointed by that agency. An agency must submit all required applications currently prescribed by the commission and all required fees before the individual is appointed. Upon the approval of the application, the commission will issue a provisional license. A provisional license is issued in the name of the applicant; however, it is issued to and shall remain in the possession of the agency. Such a license may neither be transferred by the applicant to another agency, nor transferred by the agency to another applicant. A provisional license may not be reissued and expires:

- (1) 12 months from the original appointment date;
 - (2) on leaving the appointing agency;
 - (3) on the date the holder fails the peace officer licensing examination for the third time;
- or

(4) on failure to comply with the terms stipulated in the provisional license approval.

(j) The commission may issue a temporary jailer license, consistent with §1701.310 of the Texas Occupations Code. An agency must submit all required applications currently prescribed by the commission and all required fees before the individual is appointed. Upon the approval of the application, the commission will issue a temporary jailer license. A temporary jailer license expires:

- (1) 12 months from the original appointment date;
- (2) on completion of training and passing of the jailer licensing examination; or
- (3) on the date the holder fails the jailer licensing examination for the third time.

(l) A person who fails to comply with the standards set forth in this section shall not accept the issuance of a license and shall not accept any appointment. If an application for licensure is found to be false or untrue, it is subject to cancellation or recall.

(m) The effective date of this section is December 23, 2011.

Final Order 12-10-217.3 Application for License and Initial Report of Appointment

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts an amendment to §217.3 concerning Application for License and Initial Report of Appointment, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6475) and will not be republished.

The amendment adds language to 37 TAC §217.3 Application for License and Initial Report of Appointment.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.303 License Application; Duties of Appointing Entity.

No other code, article, or statute is affected by this proposal.

Final Rule:

§217.3 Application for License and Initial Report of Appointment

- (a) An agency appointing an individual who does not hold a commission license must file an application for the appropriate license with the commission. The application must be approved with a license issuance date before the individual is appointed or commissioned. The application must be completed, signed, and filed with the commission by the agency's chief administrator or designee.
- (b) An application for a license or initial report of appointment must be submitted in an application format currently accepted by the commission.
- (c) An agency that files an application for licensing must keep on file and in a format readily accessible to the commission a copy of the documentation necessary to show each licensee appointed by that agency met the minimum standards for licensing, including weapons proficiency for peace officers.
- (d) An agency must retain records required under subsection (c) of this section for a minimum of five years after the licensee's termination date with that agency. The records must be maintained in a format readily accessible to the commission.
- (e) An agency which submits an application for an individual must report to the commission any failure to appoint that individual in the reported capacity within 30 days of the reported date of appointment. Such report must be made in a currently accepted commission format that reports termination.
- (f) The effective date of this section is December 23, 2011.

Final Order 12-11-§217.7 Reporting Appointment and Separation

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts an amendment to §217.7 concerning Reporting Appointment and Separation, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6476) and will not be republished.

The amendment adds language to 37 TAC §217.7 Reporting Appointment and Separation.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.452 Employment Termination Report and §1701.4525 Request for Correction of Report; Administrative Penalty; Hearing; Appeal.

No other code, article, or statute is affected by this proposal.

Final Rule:

§217.7 Reporting Appointment and Separation

(a) Before a law enforcement agency may hire a person licensed under Chapter 1701, Texas Occupations Code, the agency head or the agency head's designee must:

- (1) make a request to the commission for any employment termination report(s) regarding the person maintained by the commission under this chapter; and
- (2) submit to the commission in a manner prescribed by the commission confirmation that the agency:

- (A) conducted in the manner prescribed by the commission a criminal background check regarding the person;
- (B) obtained the person's written consent on a form prescribed by the commission for the agency to view the person's employment records;
- (C) obtained from the commission any service or education records regarding the person maintained by the commission; and
- (D) contacted each of the person's previous law enforcement employers.

(b) A request submitted electronically under this section must contain identifying information, acceptable to the commission, for verification.

(c) A law enforcement agency that obtains a consent form described by subsection (a)(2)(B) of this section shall make the person's employment records available to a hiring law enforcement agency on request.

(d) An agency that appoints an individual who already holds a valid, active license appropriate to that position must notify the commission of such appointment not later than 30 days after the date of appointment. The appointing agency must have on file documentation that a peace officer licensee is compliant with weapons qualification according to §217.21 of this chapter within the last 12 months.

(e) If the appointment is made after a 180-day break in service, the agency must have the following on file and readily accessible to the commission:

- (1) a new criminal history check by name, sex, race and date of birth from both TCIC and NCIC;
- (2) a new declaration of psychological and emotional health;
- (3) a new declaration of lack of any drug dependency or illegal drug use;
- (4) one completed applicant fingerprint card or, pending receipt of such card, an original sworn, notarized affidavit by the applicant of their complete criminal history; such

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affidavit to be maintained by the agency while awaiting the return of completed applicant fingerprint card; and

(5) for peace officers, weapons qualification according to §217.21 of this chapter within the last 12 months.

(f) When an individual licensed by the commission separates from appointment with an agency, the agency shall submit a report to the commission and to the licensee in the currently prescribed commission format that reports the separation. The report shall be submitted no later than the seventh business day after the licensee resigns, retires, is terminated, or separates from the agency and if applicable, exhausts all administrative appeals available to the licensee.

(g) Agencies must report the employment and separation of telecommunicators on a form prescribed by the commission. The reports must be submitted under the following guidelines:

(1) within 30 days of employment; or

(2) no later than the seventh business day after separation and if applicable, after all administrative appeals are exhausted.

(h) An agency must retain records kept under this section for a minimum of five years after the licensee's termination date with that agency. The records must be maintained in a format readily accessible to the commission.

(i) All information submitted under section (f) is exempt from disclosure under the Public Information Act, Chapter 552, Texas Government Code, unless the individual resigned or was terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses, and is subject to subpoena only in a judicial proceeding.

(j) The effective date of this section is December 23, 2011.

Final Order 12-12-217.8 Contesting an Employment Termination Report

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts an amendment to §217.8 concerning Contesting an Employment Termination Report, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6477) and will not be republished.

The amendment adds language to 37 TAC §217.8 Contesting an Employment Termination Report.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.4525 Request for Correction of Report; Administrative Penalty; Hearing; Appeal.

No other code, article, or statute is affected by this proposal.

Final Rule:

§217.8 Contesting an Employment Termination Report

- (a) A person who is the subject of an employment termination report described in §217.7 of this chapter is entitled to file a petition contesting information included in the employment termination report. The written petition for correction of the report must be filed with the executive director on a form currently prescribed by the commission and a copy must be served on the law enforcement agency.
- (b) A petition described in subsection (a) of this section must be received by the executive director not later than the 30th day after the person receives a copy of the report of separation.
- (c) Upon receipt of the petition the executive director will refer the dispute to SOAH.
- (d) A proceeding conducted pursuant to subsection (c) of this section is a contested case under Chapter 2001, Texas Government Code. The parties to the proceeding shall be the person contesting the employment termination and the chief administrative officer of the law enforcement agency. The Commission is not considered a party in a proceeding conducted by SOAH. The chief administrative officer of the law enforcement agency shall have the burden of proof by a preponderance of the evidence. Following the contested case hearing, the administrative law judge shall issue a final order on the petition.
- (e) Any party to a proceeding described in subsection (d) of this section may file exceptions to the administrative law judge's final order in accordance with SOAH rules and procedures.
- (f) The results of a hearing described in subsection (d) of this section are enforceable by the commission pursuant to Chapter 1701, Texas Occupations Code and Chapter 2001, Texas Government Code.
- (g) The results of a hearing described in subsection (d) of this section are appealable in accordance with Chapter 2001, Texas Government Code.
- (h) A chief administrative officer of a law enforcement agency who fails to comply with the results of a hearing after all appeals available to the agency have been exhausted is subject to disciplinary action pursuant to Chapter 1701, Texas Occupations Code, and Chapter 223 of this title.
- (i) All information submitted under section (d) is exempt from disclosure under the Public Information Act, Chapter 552, Texas Government Code, unless the individual resigned or was terminated due to substantiated incidents of excessive force or violations of law other than traffic offenses, and is subject to subpoena only in a judicial proceeding.
- (j) The effective date of this section is December 23, 2011.

Final Order 12-13-§217.9 Continuing Education Credit for Licensees

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts an amendment to §217.9 concerning Continuing Education Credit for Licensees, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6478) and will not be republished.

The amendment adds language to 37 TAC §217.9 Continuing Education Credit for Licensees.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.353 Continuing Education Procedures.

No other code, article, or statute is affected by this proposal.

Final Rule:

§217.9 Continuing Education Credit for Licensees

(a) A continuing education course is any training course that is recognized by the commission, specifically:

- (1) legislatively required continuing education curricula and learning objectives developed by the commission;
- (2) training in excess of basic licensing course requirements;
- (3) training courses consistent with assigned duties; or
- (4) training not included in a basic licensing course.

(b) A law enforcement agency submitting continuing education courses under the chief administrators approval through a departmental report of training, must have the following on file and readily accessible to the commission:

- (1) lesson plans; or
- (2) certificate of completion with hours indicated on the certificate;
- (3) attendees' critique of the course that includes:
 - (A) written evaluation of the instructor; and
 - (B) an assessment of how this training was applicable to their assigned duties;
- (4) number of students attending from the agency;
- (5) copy of course outline (if available); and
- (6) copy of available handouts.

(c) The commission may refuse credit for:

- (1) a course that does not contain a final examination or other skills test, if appropriate, as determined by the training provider;
- (2) annual firearms proficiency;
- (3) an out-of-state course not approved by that state's POST;
- (4) training that fails to meet any commission established length and published learning objectives;
- (5) an instructor claiming credit for a basic licensing course or more than one presentation of a non-licensing course by an instructor, per 24 month unit of a training cycle;
- (6) course(s) claimed by deceitful means;
- (7) courses provided by the same training provider and taken more than two times within one training unit; or
- (8) legislatively mandated or certification courses reported by unlicensed or non-contractual training providers.

Final Order 12-13-§217.9 Continuing Education Credit for Licensees

- (d) The training provider or agency must report to the commission and keep on file in a format readily accessible to the commission, a copy of all continuing education course training reports.
- (e) The effective date of this section is December 23, 2011.

Final Order 12-14-§217.11 Legislatively Required Continuing Education for Licensees

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts an amendment to §217.11 concerning Legislatively Required Continuing Education for Licensees, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6479) and will not be republished.

The amendment adds language to 37 TAC §217.11 Legislatively Required Continuing Education for Licensees.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.353 Continuing Education Procedures.

No other code, article, or statute is affected by this proposal.

Final Rule:

§217.11 Legislatively Required Continuing Education for Licensees

(a) Individuals appointed as peace officers shall complete at least 40 hours of continuing education training and must complete a training and education program that covers recent changes to the laws of this state and of the United States pertaining to peace officers every 24-month unit of a training cycle.

(b) Each agency that appoints or employs peace officers, reserve law enforcement officers, jailers, or public security officers shall provide each peace officer, reserve law enforcement officer, jailer, or public security officer whom it appoints or employs with a continuing education program at least once every 48-month training cycle. Part of this training program consists of topics selected by the agency. This rule does not limit the number of hours of continuing education an agency may provide.

(c) Part of the legislatively required peace officer training in every 48-month training cycle must include the curricula and learning objectives developed by the commission, to include:

(1) for an officer holding a basic proficiency certificate or less, not more than 20 hours of education and training that contain curricula incorporating the learning objectives developed by the commission regarding:

(A) civil rights, racial sensitivity, and cultural diversity;

(B) de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments; and

(C) unless determined by the agency head to be inconsistent with the officer's assigned duties:

(i) the recognition and documentation of cases that involve child abuse or neglect, family violence, and sexual assault; and

(ii) issues concerning sex offender characteristics; and

(2) supervision issues for each peace officer appointed to their first supervisory position, this training must be completed within 24 months following the date of appointment as a supervisor.

(d) Individuals licensed as reserve law enforcement officers, jailers, or public security officers shall meet the training requirements for civil rights, racial sensitivity, and cultural diversity in every 48-month training cycle.

(e) Telecommunicators receiving certificates after December 1, 2011, shall be required to complete 24 hours of crisis communications instruction approved by the commission. The initial

Final Order 12-14-§217.11 Legislatively Required Continuing Education for Licensees

instruction must be provided on or before the first anniversary of the telecommunicator's first day of employment.

(f) A peace officer first licensed on or after January 1, 2011, must complete a basic training program on the trafficking of persons within one year of licensure.

(g) For appointed or elected constables:

(1) An individual appointed or elected to that individual's first position as constable must complete at least 40 hours of initial training for new constables in accordance with §1701.3545(c), Texas Occupations Code.

(2) Each constable must complete at least 40 hours of continuing education in accordance with §1701.3545(b), Texas Occupations Code, each 48-month cycle.

(h) Each deputy constable shall also complete a 20 hour course of training in civil process during each current training cycle.

(i) In accordance with §1701.358, Texas Occupations Code, individuals appointed as "chief" or "police chief" of a police department:

(1) A newly appointed or elected police chief shall complete the initial training program for new chiefs not later than the second anniversary of that individual's appointment or election as chief.

(2) Each police chief must receive at least 40 hours of continuing education provided by the Bill Blackwood Law Enforcement Management Institute each 24-month unit.

(j) The commission shall provide adequate notice to agencies and licensees of impending non-compliance with the legislatively required continuing education.

(k) The chief administrator of an agency that has licensees who are in non-compliance shall, within 30 days of receipt of notice of non-compliance, submit a report to the commission explaining the reasons for such non-compliance.

(l) The commission may take disciplinary action against a licensee for failure to complete the legislatively required continuing education program at least once every training unit.

(m) The commission may take disciplinary action against a licensee for failure to complete the appropriate training within a training cycle.

(n) Individuals licensed as peace officers shall complete the legislatively required continuing education program required under this section beginning in the first complete 24-month unit immediately following the date of licensing.

(o) Individuals licensed as county jailers shall complete the legislatively required continuing education program required under this section beginning in the first complete 48-month cycle immediately following the date of licensing.

(p) All peace officers must meet all continuing education requirements except where exempt by law.

(q) The effective date of this section is December 23, 2011.

Final Order 12-15-§217.15 Waiver of Legislatively Required Continuing Education

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts an amendment to §217.15 concerning Waiver of Legislatively Required Continuing Education, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6480) and will not be republished.

The amendment adds language to 37 TAC §217.15 Waiver of Legislatively Required Continuing Education.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.354 Continuing Education for Deputy Constables.

No other code, article, or statute is affected by this proposal.

Final Rule:

§217.15 Waiver of Legislatively Required Continuing Education

- (a) The executive director may waive the legislatively required continuing education for a licensee, as required by the Texas Occupations Code, Chapter 1701, if the licensee demonstrates the existence of mitigating circumstances justifying the licensee's failure to obtain the legislatively required continuing education.
- (b) Mitigating circumstances are defined as:
 - (1) catastrophic illness or injury that prevents the licensee from performing active duty for longer than 12 months; or
 - (2) active duty with the armed forces of the United States, or a reserve component of the armed forces of the United States for a time period in excess of 12 months.
- (c) A request for a waiver of the legislatively required continuing education due to mitigating circumstances shall be in writing, accompanied by verifying documentation, and shall be submitted to the executive director with a copy to the chief administrator of the licensee's appointing agency not less than 30 days prior to the end of the training unit.
- (d) Absent mitigating circumstances, a request for a waiver under this section shall be submitted to the executive director not less than 90 days prior to the end of the training unit.
- (e) The commission may waive the requirement for civil process training if not less than 90 days prior to the end of the training cycle:
 - (1) the constable requests a waiver for the deputy constable based on a representation that the deputy constable's duty assignment does not involve civil process responsibilities, or
 - (2) the constable or deputy constable requests a waiver because of hardship and the commission determines that a hardship exists.
- (f) Within 20 days of receiving a request for a waiver under this section, the executive director shall notify the licensee and the chief administrator of the licensee's appointing agency, whether the request has been granted or denied.
- (g) A licensee, whose request for a waiver under this section is denied, is entitled to a hearing in accordance with Texas Government Code, Chapter 2001. The licensee must request a hearing within 20 days of the waiver being denied. In a hearing pursuant to this subsection, the licensee is the petitioner and the executive director is the respondent. The burden of proof shall be on the licensee to show why he or she is entitled to a waiver of the legislatively required continuing education requirement.
- (h) The effective date of this section is December 23, 2011.

Final Order 12-16-§217.19 Reactivation of a License

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts an amendment to §217.19 concerning Reactivation of a License, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6481) and will not be republished.

The amendment adds language to 37 TAC §217.19 Reactivation of a License.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.316 Reactivation of Peace Officer License.

No other code, article, or statute is affected by this proposal.

Final Rule:

§217.19 Reactivation of a License

- (a) The commission will place all licenses in an inactive status when the licensee has not been reported to the commission as appointed for more than two years unless the licensee has met and continues to meet the continuing education required by §217.11 of this chapter.
- (b) The holder of an inactive license is unlicensed for purposes of these sections and the Texas Occupations Code, Chapter 1701.
- (c) This section includes any permanent peace officer qualification certificate with an effective date before September 1, 1981.
- (d) In order to reactivate a license, an individual must:
 - (1) meet the current licensing standards;
 - (2) successfully complete the legislatively required continuing education in accordance with § 217.11 of this chapter;
 - (3) make application and submit any required fee(s) in the format currently prescribed by the commission to receive approval for the licensing exam; and
 - (4) pass the licensing examination for the license to be reactivated. After three failures the individual must re-qualify by repeating the entire training course for the license sought.
- (e) The effective date of this section is December 23, 2011.

Final Order 12-17-§219.1 Eligibility to Take State Examinations

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts a new rule §219.1 concerning Eligibility to Take State Examinations, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6482) and will not be republished.

The new rule adds language to 37 TAC §219.1 Eligibility to Take State Examinations.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The new rule as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.304 Examination.

No other code, article, or statute is affected by this proposal.

Final Rule:

§219.1 Eligibility to Take State Examinations

- (a) An examination may not be taken by an individual who already holds an active license.
- (b) Eligibility to take a state licensing exam is based on:
 - (1) a previously completed commission-approved basic licensing course or academic alternative program;
 - (2) an examination result over two years when the individual has not been appointed;
 - (3) qualification to reactivate a Texas license identified by rule §217.19;
 - (4) out of state or federal training, licensing, or certification accepted by the commission;
 - or
 - (5) county corrections training identified by Texas Occupations Code Chapter 1701, §1701.310.
- (c) To maintain eligibility to attempt a licensing exam the applicant must meet the basic licensing enrollment standards identified by rule §215.15 of this title; or if previously licensed, meet the minimum initial licensing standards identified by rule §217.1 of this title.
- (d) An eligible examinee will be allowed three opportunities to pass the examination. If an individual is dismissed from an exam for cheating, any remaining attempts are invalidated and the basic licensing course must be repeated.
- (e) After three failures, the examinee must repeat the basic licensing course for the license sought. The academic alternative program may not be repeated.
- (f) If an attempt is invalidated for any reason, except for a commission error, that attempt will count as one of the three opportunities.
- (g) The effective date of this section is December 23, 2011.

Final Order 12-18-§219.2 Reciprocity for Out-of-State Peace Officers, Federal Criminal Investigators, and Military Police

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts an amendment to §219.2 concerning Reciprocity for Out-of-State Peace Officers, Federal Criminal Investigators, and Military Police, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6483) and will not be republished.

The amendment adds language to 37 TAC §219.2 Reciprocity for Out-of-State Peace Officers, Federal Criminal Investigators, and Military Police.

1 Comment, from an individual, was received on changes to 219.2

The comment related to National Guard training and duty assignments.

Staff has reviewed the issues presented and disagrees with the comments due to the inclusion of academic achievement to military experience and will move forward with the rule as published.

The amendment is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.305 Examination Results and §1701.316 Reactivation of Peace Officer License.

No other code, article, or statute is affected by this proposal.

Final Rule:

§219.2 Reciprocity for Out-of-State Peace Officers, Federal Criminal Investigators, and Military Police

(a) To be eligible to take a state licensing examination, an out of state, federal criminal investigator, or military police must comply with all provisions of §219.1 of this title and this section.

(b) Prospective out-of-state peace officer, federal criminal investigator, and military police applicants for peace officer licensing in Texas must:

(1) meet all statutory licensing requirements of the state of Texas and the rules of the Commission;

(2) successfully complete a supplementary peace officer training course, the curriculum of which is developed by the Commission; and

(3) successfully pass the Texas Peace Officer Licensing Examination.

(c) Requirements (Peace Officers): applicants who are peace officers from other U.S. states must meet the following requirements:

(1) provide proof of successful completion of a state POST-approved (or state licensing authority) basic police officer training academy;

(2) have honorably served (employed, benefits eligible) as a sworn peace officer for twelve consecutive months, following initial basic training;

(3) be subject to continued employment or eligible for re-hire (excluding retirement); and

(4) the applicant's license or certificate must never have been, nor currently be in the process of being, surrendered, suspended, or revoked.

(d) Requirements (Federal): The Texas Code of Criminal Procedures Section 2.122 recognizes certain named criminal investigators of the United States as having the authority to enforce selected state laws by virtue of their authority. These individuals are deemed to have the equivalent training for licensure consideration.

(e) Qualifying Federal Officers must:

Final Order 12-18-§219.2 Reciprocity for Out-of-State Peace Officers, Federal Criminal Investigators, and Military Police

- (1) have successfully completed an approved federal agency law enforcement training course (equivalent course topics and hours) at the time of initial certification or appointment;
 - (2) have honorably served (employed, benefits eligible) in one of the aforementioned federal capacities for twelve consecutive months, following initial basic training; and
 - (3) be subject to continued employment or eligible for re-hire (excluding retirement).
- (f) Requirements (Military): must have a military police military occupation specialty (MOS) or air force specialty code (AFSC) classification in one of the following:
- (1) United States Army 95B or 31B;
 - (2) United States Marine Corps 5811;
 - (3) United States Air Force 3PO51, 3PO71, or 3PO91; or
 - (4) United States Navy Master at Arms or NEC 9545 and successfully completed NAVEDTRA 14137.
- (g) Qualifying military personnel must provide proof of:
- (1) successfully completed basic military police course for branch of military served; and
 - (2) served at least 24 months active duty in the designated career field.
- (h) Procedures for receiving approval to take the state licensing examination:
- (1) complete the Commission application and have it notarized;
 - (2) attach a certified check or money order for any required fee; and
 - (3) submit the application and fee with all required documents to the Commission.
- (i) Required documents must accompany the application:
- (1) a certified or notarized copy of the basic training certificate for a peace officer, a certified or notarized copy of a federal agent's license or credentials, or a certified or notarized copy of the peace officer license or certificate issued by the state POST or proof of military training;
 - (2) a notarized statement from the state POST, current employing agency or federal employing agency revealing any disciplinary action(s) that may have been taken against any license or certificate issued by that agency or any pending action;
 - (3) a notarized statement from each applicant's employing agency confirming time in service as a peace officer or federal office or agent;
 - (4) a certified or notarized copy of the applicant's valid state-issued driver's license;
 - (5) a certified copy of the applicant's military discharge (DD-214), if applicable; and
 - (6) for applicants without a valid Texas drivers license, a passport-sized color photograph (frontal, shoulders and face), signed with the applicant's full signature on the back of the photograph.
- (j) The Commission may request that applicants submit a copy of the basic and advanced training curricula for equivalency evaluation and final approval.
- (k) All out-of-state, federal, and military applicants will be subject to a search of the National Decertification Database (NDD), NCIC/TCIC, and National Criminal History Databases to establish eligibility.
- (l) All documents must bear original certification seals or stamps.
- (m) The effective date of this section is December 23, 2011.

Final Order 12-19-§219.3 Examination Administration

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts an amendment to §219.3 concerning Examination Administration, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6484) and will not be republished.

The amendment adds language to 37 TAC §219.3 Examination Administration.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.304 Examination.

No other code, article, or statute is affected by this proposal.

Final Rule:

§219.3 Examination Administration

(a) Each examination may be given by a test administrator or by one or more proctors under the direction of the test administrator. Each administrator or proctor shall be either:

- (1) a member of the commission staff; or
- (2) another person designated by the executive director.

(b) A member of the commission staff, a test administrator, or a proctor shall:

- (1) comply with testing agreements;
- (2) set the date, time, and location of the examination;
- (3) control entrance to and exit from the examination site;
- (4) verify photo identification;
- (5) bar admission to or dismiss any examinee who is not eligible to sit for the examination;
- (6) prohibit written material or electronic devices into the examination room
- (7) ensure that the examination remains secure and is conducted under conditions warranting honest results;
- (8) not communicate any of the content of an examination to another at any time;
- (9) not copy, or in any way reproduce any part of the examination;
- (10) not assist examinees with the exam;
- (11) monitor the examination while in progress; and
- (12) dismiss any examinee suspected of cheating and immediately report the dismissal for cheating to the commission.

(c) The effective date of this section is December 23, 2011.

Final Order 12-20-§219.5 Examinee Requirements

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts a new rule §219.5 concerning Examinee Requirements, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6485) and will not be republished.

The new rule adds language to 37 TAC §219.5 Examinee Requirements.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The new rule as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.305 Examination Results.

No other code, article, or statute is affected by this proposal.

Final Rule:

§219.5 Examinee Requirements

- (a) In order to attempt an examination, an examinee must:
- (1) present PID;
 - (2) present a valid photo ID;
 - (3) report on time;
 - (4) not disrupt the examination;
 - (5) comply with all the written and verbal instructions of the proctor; and
 - (6) shall not:
 - (A) bring any written material into the examination room;
 - (B) bring any electronic devices into the examination room;
 - (C) share, copy, or in any way reproduce any part of the examination;
 - (D) engage in any deceptive or fraudulent act to gain admission; or
 - (E) solicit, encourage, direct, assist or aid another person to violate any provision of this section or to compromise the integrity of the examination.
- (b) Requests for accommodation shall be made in a written, notarized format, 90 days prior to the scheduling a licensing examination.
- (c) The commission may deny or revoke any license or certificate held by a person who violates any of the provisions of this section. The commission may file a criminal complaint against any individual who steals or attempts to steal any portion of the examination, reproduces without permission any part of the examination, or who engages in any fraudulent act relating to the examination process.
- (d) The effective date of this section is December 23, 2011.

Final Order 12-21-§221.13 Emergency Telecommunications Proficiency

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts an amendment to §221.13 concerning Emergency Telecommunications Proficiency, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6486) and will not be republished.

The amendment adds language to 37 TAC §221.13 Emergency Telecommunications Proficiency.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.402 Proficiency Certificates.

No other code, article, or statute is affected by this proposal.

Final Rule:

§221.13 Emergency Telecommunications Proficiency

(a) To qualify for a basic telecommunications proficiency certificate, an applicant must meet all proficiency requirements including:

- (1) one year of experience in public safety telecommunications; and
- (2) successful completion of courses currently required by Texas Occupations Code §1701.402 and the commission.

(b) To qualify for an intermediate telecommunications proficiency certificate, an applicant must meet all proficiency requirements including:

- (1) basic telecommunications certification;
- (2) at least two years experience in public safety telecommunications;
- (3) 120 hours of training; and
- (4) successful completion of courses currently required by Texas Occupations Code §1701.402 and the commission.

(c) To qualify for an advanced telecommunications proficiency certificate, an applicant must meet all proficiency requirements including:

- (1) intermediate telecommunications certificate;
- (2) at least four years experience in public safety telecommunications; and
- (3) successful completion of courses currently required by Texas Occupations Code §1701.402 and the commission.

(d) The effective date of this section is December 23, 2011.

Final Order 12-22-§223.2 Administrative Penalties

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts a new rule §223.2 concerning Administrative Penalties, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6487) and will not be republished.

The new rule adds language to 37 TAC §223.2 Administrative Penalties.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The new rule as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.507 Administrative Penalties.

No other code, article, or statute is affected by this proposal.

Final Rule:

§223.2 Administrative Penalties

- (a) In addition to other penalties imposed by law, a law enforcement agency or governmental entity that violates this chapter or a rule adopted under this chapter is subject to an administrative penalty in an amount set by the commission not to exceed \$1,000 per day per violation. The administrative penalty shall be assessed in a proceeding conducted in accordance with Chapter 2001, Texas Government Code.
- (b) The commission shall publish an Administrative Penalty Schedule identifying the types of violations subject to administrative penalties and the corresponding penalty range.
- (c) The amount of the penalty shall be based on:
 - (1) the seriousness of the violation;
 - (2) the respondent's history of violations;
 - (3) the amount necessary to deter future violations;
 - (4) efforts made by the respondent to correct the violation; and
 - (5) any other matter that justice may require.
- (d) The commission will provide written notice to a law enforcement agency or governmental entity of a pending violation. The law enforcement agency or governmental entity must report to the commission in writing within 30 days the steps being taken to correct the violation and on what date the violation will be corrected.
- (e) Failure to respond to the written notice or to correct violations identified in subsection (d) may result in the imposition of administrative penalties identified in subsection (b).
- (f) The effective date of this section is December 23, 2011.

Final Order 12-23-§223.17 Reinstatement of a License

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts an amendment to §223.17 concerning Reinstatement of a License, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6492) and will not be republished.

The amendment adds language to 37 TAC §223.17 Reinstatement of a License.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.304 Examination and §1701.316 Reactivation of Peace Officer License.

No other code, article, or statute is affected by this proposal.

Final Rule:

§223.17 Reinstatement of a License

(a) In order to reinstate a suspended or probated license, a licensee must complete the following requirements:

- (1) make application, in the format currently prescribed by the commission;
- (2) submit the reinstatement fee; and
- (3) meet the current continuing education requirements.

(b) If a licensee fails to meet the legislative required continuing education, a licensee must meet the requirements of subsection (a) of this section in order to reinstate.

(c) If the suspension results in a break in service of over two years, then the reinstatement procedure also includes the following requirements for attempting the licensing exam:

- (1) make application, in the format currently prescribed by the commission;
- (2) submit any required fee(s); and
- (3) upon approval of the application, the commission grants the holder of a suspended license approval to take the required licensing examination. If failed three times individuals will be required to complete the basic licensing course for the license sought.

(d) The effective date of this section is December 23, 2011.

Final Order 12-24 §223.15 Suspension of License

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts a new rule to §223.15 concerning Suspension of License, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6489) and will not be republished.

The new rule adds language to 37 TAC §223.15 Suspension of License.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The new rule as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.501, Disciplinary Action.

No other code, article, or statute is affected by this proposal.

Final Rule:

§223.15 Suspension of License

(a) Unless revocation is explicitly authorized by law, the commission may suspend any license issued by the commission if the licensee:

- (1) violates any provision of these sections;
- (2) violates any provision of the Texas Occupations Code, Chapter 1701;
- (3) is convicted of or placed on court ordered community supervision resulting from deferred adjudication for any offense above the grade of Class C misdemeanor;
- (4) is placed on deferred adjudication for an offense involving family violence; or
- (5) has previously received two written reprimands from the commission.

(b) If a licensee is charged with the commission of a felony, adjudication is deferred, and the licensee is placed on community supervision, the commission shall immediately suspend any license held for a period of 30 years. The suspension of any license under this subsection is effective immediately when the commission receives a certified copy of a court's judgment and issues notice to the licensee via certified mail that any license held is suspended.

(c) If convicted or if adjudication is deferred and the licensee is placed on court ordered community supervision for any misdemeanor offense above the grade of Class C misdemeanor, the term of suspension may be for a period not to exceed 10 years.

(d) If a licensee is charged with the commission of a misdemeanor offense involving family violence and an adjudication of guilt is deferred, the term of suspension may be for a period not to exceed 10 years.

(e) If a license can be suspended under subsection (c) or (d) for a Class A misdemeanor, the minimum term of suspension shall be 120 days. If a license can be suspended under subsection (c) or (d) for a Class B or C misdemeanor, the minimum term of suspension shall be 30 days.

(f) If a license can be suspended for a misdemeanor conviction or deferred adjudication, the commissioners may, in their discretion and upon proof of mitigating factors as defined in subsection (i) of this section, probate all or part of a suspension term after the mandatory minimum suspension.

(g) If a license can be suspended for violation of legislatively required continuing education for licensees as defined in §217.11 of this title and if mitigating circumstances as defined in §217.15 of this title do not apply, the commission may:

- (1) for first time offenders suspend a license(s) for up to 90 days;
- (2) for second time offenders suspend a license(s) for up to 180 days; and
- (3) for third time offenders suspend a license(s) for up to one (1) year;

Final Order 12-24 §223.15 Suspension of License

- (h) If a license can be suspended for any other reason, the commission, through its executive director may, in its discretion and upon proof of the mitigating factors as defined in subsection (i) of this section, either:
- (1) probate all or part of the suspension term; or
 - (2) issue a written reprimand in lieu of suspension.
- (i) In evaluating whether mitigating circumstances exist, the commission will consider the following factors:
- (1) the licensee's history of compliance with the terms of court-ordered community supervision;
 - (2) the licensee's post-arrest continuing rehabilitative efforts not required by the terms of community supervision;
 - (3) the licensee's post-arrest employment record;
 - (4) whether the disposition offense contains an element of actual or threatened bodily injury or coercion against another person under the Texas Penal Code or the law of the jurisdiction where the offense occurred;
 - (5) the type and amount of any post-arrest, non-court ordered restitution made by the licensee; and
 - (6) any non-contested disciplinary action, either completed or ongoing, imposed by the appointing agency.
- (j) A suspension or probation may be ordered to run concurrently or consecutively with any other suspension or probation. The beginning date of a probated suspension shall be:
- (1) any date agreed to by both parties, which is no earlier than the date of the rule violation;
 - (2) the date the licensee notifies the commission in writing of the rule violation if the commission later receives a signed waiver of suspension from the licensee that was postmarked within 30 days of its receipt; or
 - (3) the date the commission final order is entered in a contested case or the date it becomes effective, if that order is appealed.
- (k) The executive director shall inform the commissioners of any reprimand no later than at their next regular meeting.
- (l) The commission may impose reasonable terms of probation, such as:
- (1) continued employment requirements;
 - (2) special reporting conditions;
 - (3) special document submission conditions;
 - (4) voluntary duty requirements;
 - (5) no further rule or law violations; or
 - (6) any other reasonable term of probation.
- (m) A probated license remains probated until:
- (1) the term of suspension has expired;
 - (2) all other terms of probation have been fulfilled; and
 - (3) a written request for reinstatement has been received and accepted by the commission from the licensee unless the probation has been revoked by the commission for violation of probation; or
 - (4) revoked.
- (n) Twelve months may be added to the term of a new suspension for each separate previous violation that has resulted in either a license suspension, a probated suspension, or a written reprimand before the beginning date of the new suspension.
- (o) Before reinstatement, the probation of a suspended license may be revoked before the expiration date of the probation upon violation of the terms of probation. Upon revocation, the full term of suspension shall be imposed with credit for any time already served on that suspension.
- (p) Once a license has been suspended, the suspension probated, the probation revoked, or the licensee reprimanded, the commission shall send, by regular mail, notice of the action to the

Final Order 12-24 §223.15 Suspension of License

chief administrator of any agency shown to have the licensee under either current or latest appointment.

(q) A suspended license remains suspended until:

(1) the term of suspension has expired and the term of court-ordered community supervision has been completed; and

(2) a written request for reinstatement has been received from the licensee and accepted by the commission; or

(3) the remainder of the suspension is probated and the license is reinstated.

(r) The effective date of this section is December 23, 2011.

Final Order 12-25 §223.16 Suspension of License for Constitutionally Elected Officials

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts a new rule §223.16 concerning Suspension of License for Constitutionally Elected Officials, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6491) and will not be republished.

The new rule adds language to 37 TAC §223.16 Suspension of License for Constitutionally Elected Officials.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The new rule as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.501, Disciplinary Action.

No other code, article, or statute is affected by this proposal.

Final Rule:

§223.16 Suspension of License for Constitutionally Elected Officials

(a) Unless revocation is explicitly authorized by law, the commission may suspend any license issued by the commission if the licensee:

- (1) violates any provision of these sections;
- (2) violates any provision of the Texas Occupations Code, Chapter 1701;
- (3) is convicted of or placed on court ordered community supervision resulting from deferred adjudication for any offense above the grade of Class C misdemeanor;
- (4) is placed on deferred adjudication for an offense involving family violence; or
- (5) has previously received two written reprimands from the commission.

(b) If a licensee is charged with the commission of a felony, adjudication is deferred, and the licensee is placed on community supervision, the commission shall immediately suspend any license held for a period of 20 years. The suspension of any license under this subsection is effective immediately when the commission receives a certified copy of a court's judgment and issues notice to the licensee via certified mail that any license held is suspended.

(c) If convicted or if adjudication is deferred and the licensee is placed on court ordered community supervision for any misdemeanor offense above the grade of Class C misdemeanor, the term of suspension may be for a period not to exceed 10 years.

(d) If a licensee is charged with the commission of a misdemeanor offense involving family violence and an adjudication of guilt is deferred, the term of suspension may be for a period not to exceed 10 years.

(e) If a license can be suspended under subsection (c) or (d) for a Class A misdemeanor, the minimum term of suspension shall be 120 days. If a license can be suspended under subsection (c) or (d) for a Class B or C misdemeanor, the minimum term of suspension shall be 30 days.

(f) If a license can be suspended for a misdemeanor conviction or deferred adjudication, the commissioners may, in their discretion and upon proof of mitigating factors as defined in subsection (i) of this section, probate all or part of a suspension term after the mandatory minimum suspension.

(g) If a license can be suspended for violation of legislatively required continuing education for licensees as defined in §217.11 of this title and if mitigating circumstances as defined in §217.15 of this title do not apply, the commission may:

- (1) for first time offenders suspend a license(s) for up to 90 days;
- (2) for second time offenders suspend a license(s) for up to 180 days; and

Final Order 12-25 §223.16 Suspension of License for Constitutionally Elected Officials

- (3) for third time offenders suspend a license(s) for up to one (1) year;
- (h) If a license can be suspended for any other reason, the commission, through its executive director may, in its discretion and upon proof of the same mitigating factors, either:
 - (1) probate all or part of the suspension term during a probation term of up to twice the maximum suspension term; or
 - (2) issue a written reprimand in lieu of suspension.
- (i) In evaluating whether mitigating circumstances exist, the commission will consider the following factors:
 - (1) the licensee's history of compliance with the terms of court-ordered community supervision;
 - (2) the licensee's post-arrest continuing rehabilitative efforts not required by the terms of community supervision;
 - (3) the licensee's post-arrest employment record;
 - (4) whether the disposition offense contains an element of actual or threatened bodily injury or coercion against another person under the Texas Penal Code or the law of the jurisdiction where the offense occurred;
 - (5) the type and amount of any post-arrest, non-court ordered restitution made by the licensee; and
 - (6) any non-contested disciplinary action, either completed or ongoing, imposed by the appointing agency.
- (j) A suspension or probation may be ordered to run concurrently or consecutively with any other suspension or probation. The beginning date of a probated suspension shall be:
 - (1) any date agreed to by both parties, which is no earlier than the date of the rule violation;
 - (2) the date the licensee notifies the commission in writing of the rule violation if the commission later receives a signed waiver of suspension from the licensee that was postmarked within 30 days of its receipt; or
 - (3) the date the commission final order is entered in a contested case or the date it becomes effective, if that order is appealed.
- (k) The executive director shall inform the commissioners of any reprimand no later than at their next regular meeting.
- (l) The commission may impose reasonable terms of probation, such as:
 - (1) continued employment requirements;
 - (2) special reporting conditions;
 - (3) special document submission conditions;
 - (4) voluntary duty requirements;
 - (5) no further rule or law violations; or
 - (6) any other reasonable term of probation.
- (m) A probated license remains probated until:
 - (1) the term of suspension has expired;
 - (2) all other terms of probation have been fulfilled; and
 - (3) a written request for reinstatement has been received and accepted by the commission from the licensee unless the probation has been revoked by the commission for violation of probation; or
 - (4) until revoked.
- (n) Twelve months may be added to the term of a new suspension for each separate previous violation that has resulted in either a license suspension, a probated suspension, or a written reprimand before the beginning date of the new suspension.
- (o) Before reinstatement, the probation of a suspended license may be revoked upon a showing that any of its terms have been violated before the expiration date of the probation regardless of when the petition is filed. Upon revocation, the full term of suspension shall be imposed with credit for any time already served on that suspension.
- (p) Once a license has been suspended, the suspension probated, the probation revoked, or the licensee reprimanded, the commission shall send, by regular mail, notice of the action to the

Final Order 12-25 §223.16 Suspension of License for Constitutionally Elected Officials

chief administrator of any agency shown to have the licensee under either current or latest appointment.

(q) A suspended license remains suspended until:

(1) the term of suspension has expired and the term of court-ordered community supervision has been completed; and

(2) a written request for reinstatement has been received from the licensee and accepted by the commission; or

(3) the remainder of the suspension is probated and the license is reinstated.

(r) The effective date of this section is December 23, 2011.

Final Order 12-26 §223.19 Revocation of License

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts an amendment to §223.19 concerning Revocation of Licenses, with changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6493) and will be republished.

The amendment adds language to 37 TAC §223.19 Revocation of Licenses.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.501 Disciplinary Action.

No other code, article, or statute is affected by this proposal.

Final Rule:

§223.19 Revocation of Licenses

(a) The commission shall immediately revoke any license issued by the commission if the licensee is or has been convicted of a felony offense as provided in subsections (b), (c) and (d) of this section. The revocation of any license held is effective immediately when the commission receives a certified copy of a court's judgment and issues notice to the licensee that any license held is revoked. Notice of revocation shall be sent via certified U.S. Mail to the address shown on the Texas driver's license record of the licensee and to the address of the agency showing the licensee under current or last appointment.

(b) A person is convicted of a felony when an adjudication of guilt on a felony offense is entered against that person by a court of competent jurisdiction whether or not:

(1) the sentence is subsequently probated and the person is discharged from community supervision;

(2) the accusation, complaint, information, or indictment against the person is dismissed and the person is released from all penalties and disabilities resulting from the offense; or

(3) the person is pardoned for the offense, unless the pardon is expressly granted for subsequent proof of innocence.

(c) The commission will construe any disposition for a criminal offense to be its closest equivalent under the Texas Penal Code classification of offenses if the offense arose from:

(1) another provision of the Texas law; or

(2) a provision of any other state, federal, military, tribal, or foreign jurisdiction.

(d) The commission may revoke the license of a person who is either convicted of a misdemeanor offense or placed on deferred adjudication community supervision for a misdemeanor or felony offense, if the offense directly relates to the duties and responsibilities of any related office held by that person. In determining whether a criminal offense directly relates to such office, the commission shall, under this subsection, consider:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purpose for requiring a license for such office;

(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of such office.

(e) The commission shall revoke any license issued by the commission if the licensee:

(1) has a dishonorable or bad conduct discharge;

Final Order 12-26 §223.19 Revocation of License

- (2) has made, submitted, caused to be submitted, or filed a false or untruthful report to the commission;
 - (3) has been found to be in unauthorized possession of any commission licensing examination or portion of a commission licensing examination, or a reasonable facsimile thereof;
 - (4) is convicted in any court of an offense that has, as an element of the offense, family violence, as defined under Chapter 71, Texas Family Code;
 - (5) is a fourth time offender in failing to obtain legislatively required continuing education as described in §217.11 of this title; or
 - (6) violates any section where revocation is the penalty noted.
- (f) Revocation of a license shall permanently disqualify a person from licensing and a license may not be reinstated except when the licensee proves the facts supporting the revocation have been negated, such as:
- (1) the felony conviction has been reversed or set aside on direct or collateral appeal, or a pardon based on subsequent proof of innocence has been issued;
 - (2) the dishonorable or bad conduct discharge has been upgraded to above dishonorable or bad conduct conditions;
 - (3) the report alleged to be false or untruthful was found to be truthful; or
 - (4) the section was not violated.
- (g) During the direct appeal of any appropriate conviction, a license may be revoked pending resolution of the mandatory direct appeal. The license will remain revoked unless and until the holder proves that the conviction has been set aside on appeal.
- (h) The holder of any revoked license may informally petition the executive director for reinstatement of that license based upon proof by the licensee that the facts supporting the revocation have been negated.
- (i) If granted, the executive director shall inform the commissioners of such action no later than at their next regular meeting.
- (j) If denied, the holder of a revoked license may petition the commission for a hearing to determine reinstatement based upon the same proof.
- (k) Once a license has been revoked, the commission shall search its files and send, by regular mail, notice of the action to the chief administrator of any agency shown to have the licensee under either current or latest appointment.
- (l) The date of revocation will be the earliest date that:
- (1) a waiver was signed by the holder; or
 - (2) a final order of revocation was signed by the commissioners.
- (m) The effective date of this section is December 23, 2011.

Final Order 12-27-§211.27 Reporting Responsibilities of Individuals

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts an amendment to §211.27 concerning Reporting Responsibilities of Individuals, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6460) and will not be republished.

The amendment adds language to 37 TAC §211.27 Reporting Responsibilities of Individuals.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.3075 Qualified Applicant Awaiting Appointment.

No other code, article, or statute is affected by this proposal.

Final Rule:

§211.27 Reporting Responsibilities of Individuals

(a) An individual who either is a licensee or meets the requirements of Texas Occupations Code §1701.307(a) must report to the commission, in a format prescribed by the commission, within 30 days:

- (1) any name change;
- (2) a permanent mailing address other than an agency address;
- (3) all subsequent address changes;
- (4) an arrest, charge, or indictment for a criminal offense above the grade of Class C misdemeanor, or for any Class C misdemeanor involving the duties and responsibilities of office or family violence, including the name of the arresting agency, the style, court, and cause number of the charge or indictment, if any;
- (5) the final disposition of the criminal action; and
- (6) any dishonorable or bad conduct discharge.

(b) The effective date of this section is December 23, 2011.

Final Order 12-28-215.16 Basic Telecommunicator Enrollment Standards

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts a new rule §215.16 concerning Basic Telecommunicator Enrollment Standards, with changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6470) and will be republished.

The new rule adds language to 37 TAC §215.16 Basic Telecommunicator Enrollment Standards.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The new rule as adopted is in compliance with Texas Occupations Code, Chapter 1701, §1701.255, Enrollment Qualifications.

No other code, article, or statute is affected by this proposal.

Final Rule:

§215.16 Basic Telecommunicator Enrollment Standards

(a) In order for an individual to enroll in any basic telecommunicator course the provider must have on file documentation that the individual meets the following standards:

(1) minimum educational requirements:

(A) a high school diploma; or

(B) a high school equivalency certificate.

(2) the individual has been subjected to a search of local, state and national records to disclose any criminal record;

(A) is not currently charged with any criminal offense for which conviction would be a bar to certification;

(B) community supervision history:

(i) has never been on court-ordered community supervision or probation for any criminal offense above the grade of a Class B misdemeanor or a Class B misdemeanor within the last ten years from the date of the court order; but

(ii) the commission may approve the application of an individual who received probation or court-ordered community supervision for a Class B misdemeanor at least five (5) years prior to enrollment if an agency administrator sufficiently demonstrates in writing with supporting documentation that mitigating circumstances exist with the case and with the individual applying for certification, and that the public interest would be served by reducing the waiting period;

(C) conviction history:

(i) has never been convicted of an offense above the grade of a Class B misdemeanor or a Class B misdemeanor within the last ten years; but

(ii) the commission may approve the application of an individual who was convicted of a Class B misdemeanor at least five (5) years prior to enrollment if an agency administrator sufficiently demonstrates in writing with supporting documentation that mitigating circumstances exist with the case and with the individual applying for certification, and that the public interest would be served by reducing the waiting period.

(D) For purposes of this section, the commission will construe any court ordered community supervision, probation, or conviction for a criminal offense to be its

Final Order 12-28-215.16 Basic Telecommunicator Enrollment Standards

closest equivalent under the Texas Penal Code classification of offenses if the offense arose from:

- (i) another penal provision of Texas law; or
- (ii) a penal provision of any other state, federal, military or foreign jurisdiction.

(E) A classification of an offense as a felony at the time of conviction will never be changed because Texas law has changed or because the offense would not be a felony under current Texas law.

- (3) has never been convicted of any family violence offense;
- (4) has not had a dishonorable or bad conduct discharge; and
- (5) is a U.S. citizen.

(b) In evaluating whether mitigating circumstances exist, the commission will consider the following factors:

- (1) the applicant's history of compliance with the terms of community supervision;
- (2) the applicant's continuing rehabilitative efforts not required by the terms of community supervision;
- (3) the applicant's employment record;
- (4) whether the disposition offense contains an element of actual or threatened bodily injury or coercion against another person under the Texas Penal Code or the law of the jurisdiction where the offense occurred;
- (5) the required mental state of the disposition offense;
- (6) whether the conduct resulting in the arrest resulted in the loss of or damage to property or bodily injury;
- (7) the type and amount of restitution made by the applicant;
- (8) the applicant's prior community service;
- (9) the applicant's present value to the community;
- (10) the applicant's post-arrest accomplishments;
- (11) the applicant's age at the time of arrest; and
- (12) the applicant's prior military history.

(c) The enrollment standards established in this section do not preclude the provider from establishing additional requirements or standards for enrollment.

(d) The effective date of this section is December 23, 2011.

Final Order 12-29-§217.2 Minimum Standards for Telecommunicators

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) adopts a new rule §217.2 concerning Minimum Standards for Telecommunicators, without changes to the proposed text as published in the September 30, 2011 issue of the Texas Register (36 TexReg 6474) and will not be republished.

The new rule adds language to 37 TAC §217.2 Minimum Standards for Telecommunicators.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

No other code, article, or statute is affected by this proposal.

Final Rule:

§217.2 Minimum Standards for Telecommunicators

(a) The commission shall issue a certificate to a telecommunicator who meets the following standards:

- (1) minimum educational requirements:
 - (A) has passed a general educational development (GED) test indicating high school graduation level; or
 - (B) holds a high school diploma;
- (2) is at least 18 years of age;
- (3) is fingerprinted and is subjected to a search of local, state and U.S. national records and fingerprint files to disclose any criminal record;
- (4) community supervision history:
 - (A) has not ever been on court-ordered community supervision or probation for any criminal offense above the grade of Class B misdemeanor or a Class B misdemeanor within the last ten years from the date of the court order; but
 - (B) the commission may approve the application of a person who received probation or court-ordered community supervision for a Class B misdemeanor at least five (5) years prior to application if an agency administrator sufficiently demonstrates in writing with supporting documentation that mitigating circumstances exist with the case and with the individual applying for certification, and that the public interest would be served by reducing the waiting period;
- (5) is not currently charged with any criminal offense for which conviction would be a bar to licensure;
- (6) conviction history:
 - (A) has not ever been convicted of an offense above the grade of a Class B misdemeanor or a Class B misdemeanor within the last ten years; but
 - (B) the commission may approve the application of a person who was convicted for a Class B misdemeanor at least five (5) years prior to application if an agency administrator sufficiently demonstrates in writing with supporting documentation that mitigating circumstances exist with the case and with the individual applying for certification, and that the public interest would be served by reducing the waiting period;
- (7) has never been convicted of any family violence offense;
- (8) has been subjected to a background investigation and has been interviewed prior to appointment by representatives of the appointing authority;
- (9) has not had a dishonorable or bad conduct discharge;
- (10) has not had a commission license denied by final order or revoked;

Final Order 12-29-§217.2 Minimum Standards for Telecommunicators

- (11) is not currently on suspension, or does not have a surrender of license currently in effect;
 - (12) meets the minimum training standards;
 - (13) has not violated any commission rule or provision of the Texas Occupations Code, Chapter 1701; and
 - (14) is a U.S. citizen.
- (b) For the purposes of this section, the commission will construe any court-ordered community supervision, probation or conviction for a criminal offense to be its closest equivalent under the Texas Penal Code classification of offenses if the offense arose from:
- (1) another penal provision of Texas law; or
 - (2) a penal provision of any other state, federal, military or foreign jurisdiction.
- (c) A classification of an offense as a felony at the time of conviction will never be changed because Texas law has changed or because the offense would not be a felony under current Texas laws.
- (d) In evaluating whether mitigating circumstances exist, the commission will consider the following factors:
- (1) the applicant's history of compliance with the terms of community supervision;
 - (2) the applicant's continuing rehabilitative efforts not required by the terms of community supervision;
 - (3) the applicant's employment record;
 - (4) whether the disposition offense contains an element of actual or threatened bodily injury or coercion against another person under the Texas Penal Code or the law of the jurisdiction where the offense occurred;
 - (5) the required mental state of the disposition offense;
 - (6) whether the conduct resulting in the arrest resulted in the loss of or damage to property or bodily injury;
 - (7) the type and amount of restitution made by the applicant;
 - (8) the applicant's prior community service;
 - (9) the applicant's present value to the community;
 - (10) the applicant's post-arrest accomplishments;
 - (11) the applicant's age at the time of arrest; and
 - (12) the applicant's prior military history.
- (e) A person must successfully complete the current basic telecommunicator course.
- (f) The commission may issue a temporary telecommunicator certificate, consistent with §1701.405 of the Texas Occupations Code. An agency must submit all required applications currently prescribed by the commission and all required fees before the individual is appointed. Upon the approval of the application, the commission will issue a temporary telecommunicator certificate. A temporary telecommunicator certificate expires 12 months from the original appointment date.
- (l) A person who fails to comply with the standards set forth in this section shall not accept the issuance of a certificate and shall not accept any appointment. If an application for certification is found to be false or untrue, it is subject to cancellation or recall.
- (m) The effective date of this section is December 23, 2011.