TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 61. SCHOOL DISTRICTS

SUBCHAPTER FF. COMMISSIONER'S RULES CONCERNING VETERANS AND MILITARY DEPENDENTS

DIVISION 2. MILITARY-CONNECTED STUDENTS

19 TAC §61.1063

The Texas Education Agency (TEA) adopts new §61.1063, concerning purple star campus designation. The new section is adopted without changes to the proposed text as published in the January 10, 2020 issue of the Texas Register (45 TexReg 266) and will not be republished. The adopted new rule implements Senate Bill (SB) 1557, 86th Texas Legislature, 2019, by adopting in rule the criteria campuses must demonstrate in order to qualify to apply for and earn the Purple Star Designation.

REASONED JUSTIFICATION: SB 1557, 86th Texas Legislature, 2019, added Texas Education Code (TEC), §33.909, establishing the Purple Star Campus Designation and criteria campuses must demonstrate to earn the designation. TEC, §33.909, specifies that for a campus to earn the designation, the campus must designate a campus-based military liaison, create or maintain a webpage with information specific to military-connected families, establish or maintain a current campus transition program, and offer one of three initiatives: a resolution showing support for military connected students and families, recognition of Month of the Military Child or Military Family Month with relevant events hosted by the campus, or partnership with a school liaison officer to encourage and provide opportunities for active duty military members to volunteer in local schools.

Adopted new 19 TAC §61.1063 addresses the requirements of TEC, §33.909, as follows.

Adopted new subsection (a) sets forth the purpose of the adopted new rule in accordance with TEC, §33.909.

Adopted new subsection (b) establishes definitions for terms used in the adopted new rule.

Adopted new subsection (c) delineates the criteria required for campuses who voluntarily apply to earn the designation as a Purple Star Campus.

Adopted new subsection (c)(1) lists the requirements related to designating a campus-based military liaison and the duties of the liaison, including supporting military-connected students and their families, ensuring students are properly identified in the Texas Student Data System Public Education Information Management System (TSDS PEIMS), providing supports and services for students and families based on their unique needs and high mobility, and offering professional development opportunities for staff members.

Adopted new subsection (c)(2) lists the requirements related to creating and maintaining a webpage that includes information specific to mitigating barriers as military-connected students transition in and out of Texas public schools.

Adopted new subsection (c)(3) lists the requirements related to a campus transition program led by the military liaison or student leaders or ambassadors to assist with introductions to the school environment and school processes.

Adopted new subsection (c)(4) reiterates the statutory requirement to offer at least one of the following initiatives: a resolution showing support for military connected students and families, participation in the Month of the Military Child or Military Family Month, or partner with school liaison officer to provide opportunities for active duty military members to volunteer in the local schools.

Adopted new subsection (d) specifies provisions related to the TEA application and renewal process for Purple Star Campus Designation.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began January 10, 2020, and ended February 10, 2020. Following is a summary of public comments received and the corresponding agency responses.

Comment: An administrator commented that the new designation would increase resources available for military families as they maneuver the public education system.

Agency Response: The agency agrees.

Comment: A Texas parent commented on the need to emphasize the role of the school liaison officer partnering with districts across the state to ensure the academic well-being of military-connected students. The parent commented that the school liaison officer can help schools and military installations respond to the complexities of transition and deployment and provide resources, professional development, and mentors as well as access to Department of Defense grant opportunities and support relating to science, technology, engineering, and mathematics (STEM) and science technology academies reinforcing basic aviation space exploration (STARBASE). The parent stated that school liaison officers are key to working effectively with military parents and local districts. The parent commented that a productive collaboration between school liaison officers and schools will help provide a positive experience and quality education for military-connected students. The parent commented that the campus webpage should include a link to the school liaison officer.
webpage and social media to show partnership with military installations. The parent also commented that initiatives should include Purple UP! For Military Students Day, which is supported and designated by the governor each year.

Agency Response: The agency agrees that increasing the awareness of the role of a school liaison officer can benefit districts across the state. The agency agrees that webpages should include information and links to best practices and strategies for providing supports to their military-connected student population. Information about a link to the school liaison officer webpage and social media will be included in additional guidance provided to the districts that would like to apply for and earn the Purple Star Campus Designation. The agency agrees that campuses can show support of their military-connected student population by celebrating Month of the Military Child, including Purple UP! Day. Campuses can choose the initiative(s) in which to participate under §61.1063(c)(4)(A)-(C).

Comment: An administrator commented that a district in the San Antonio area recognizes the importance of supporting military-connected families. The administrator commented that the Purple Star Campus Designation would be an opportunity for campuses to highlight activities and events currently being provided to show support for military families. The administrator commented that many campuses in their district already meet much of the criteria required to apply for and earn the Purple Star Campus Designation. The administrator stated that their district currently has middle and high schools that have trained sponsors and campus transition programs, maintain webpages specific for military families, and recognize Month of the Military Child. The administrator commented that the Purple Star Campus Designation would be a wonderful way to feature campuses and bring more military families to their district.

Agency Response: The agency agrees that the Purple Star Campus Designation would give campuses an opportunity to highlight events, activities, resources, and supports for their military-connected-student population.

Comment: A Texas parent commented that local school boards should pass a resolution to publicize each campus’s support for military children and their families. The parent also suggested that local school boards should enforce the terms of the Military Interstate Children’s Compact Commission (MIC3) by incorporating guidelines into local policy.

Agency Response: The agency agrees that campuses should support military children and their families; however, the agency is unable to require local school boards to adopt the commenter’s suggested resolution. As an option under §61.1063(c)(4)(A), a campus can choose to draft a resolution showing support for military-connected students and families. The agency also agrees that educators should be aware of the terms of MIC3; however, the agency cannot require local school board to enforce the terms. Section 61.1063(c)(1)(C) requires professional development opportunities for staff members on issues related to military-connected students, including the Interstate Compact on Educational Opportunity for Military Children, as specified in Texas Education Code (TEC), Chapter 162, and implementation of the compact in relationship to state law and local school district policy. The agency has created a professional development training that addresses the provisions of the compact and continually provides this as a training opportunity for educators across the state.

Comment: A Texas parent commented that school websites must include information regarding the MIC3 rules and how they apply.

Agency Response: The agency agrees. The new rule specifies the criteria for a webpage that a campus must create and maintain, which includes in §61.1063(c)(2)(C) a link to information on the Interstate Compact on Educational Opportunity for Military Children, as specified in TEC, Chapter 162.

Comment: A Texas parent commented that campuses should show evidence that they work with local installation school liaison officers. The parent commented that the evidence could include having school liaison officer contact information on the webpage and fostering partnerships with school liaison officers to include activities and initiatives like adopt-a-school programs, installation tours, and career days.

Agency Response: The agency agrees that partnerships with school liaison officers are important in providing supports and services to the military-connected population. Section 61.1063(c)(4)(C) encourages a campus to partner with a school liaison officer to provide opportunities for active duty military members to volunteer in the local schools, speak at school assemblies, or host a school field trip. If the campus chooses this initiative, it will submit evidence of this collaboration to demonstrate it has met the criteria.

Comment: A Texas parent commented that the campus-based military liaison must be required to have sufficient training regarding the unique needs of military-connected students and written proof of training must be made available.

Agency Response: The agency agrees. Section 61.1063(c)(1)(B)(vi) includes the requirement that military liaisons must attend professional development or training annually to learn and understand topics related to the transition of military-connected students and their families. Campuses will receive guidance on what must be submitted to demonstrate they have met the criteria in the rule.

Comment: A Texas parent commented that school culture reflecting a friendly, warm, and welcoming environment should be evident and campuses should welcome parents to be active participants in the school upon arrival. The parent commented that districts should offer resources and information about family support organizations and services available at the district office and within each school.

Agency Response: The agency agrees. Section 61.1063(c)(3)(A)-(C) specifies the criteria for the required campus transition program. This program assists students in acclimating to a new school environment and is supported by the campus-based military liaison or student leaders or ambassadors.

Comment: A Texas parent commented that school campus websites should include the contact information of the campus-based military liaison. The parent commented that the campus should offer a mentor to bridge the gap of students who may not feel included upon their arrival. The parent commented that tours of the campus should be offered to students so they feel familiar with the school prior to attending. The parent commented that campuses should offer volunteer opportunities for parents and make them available on the campus website instead of assuming that they already know about these opportunities.

Agency Response: The agency agrees. Section 61.1063(c)(3)(C)(i)-(iii) specifies that student leaders or
ambassadors should participate in organizing and hosting newcomer social events throughout the school year that give military-connected students and families an opportunity to learn about campus culture, processes, and the community; facilitate guided tours of the campus; and accompany new students to lunch the first week of school. Section 61.1063(c)(2)(E) specifies that the campus webpage must provide the contact information of the campus’s designated military liaison.

Comment: A Texas parent commented that it is a challenge for military-connected families to navigate the MIC3 rules and how they apply at the local level. The parent also commented that their military-connected child faces unique challenges such as attending new schools every two to three years resulting in no close friendships. The parent stated that the burden of being a military-connected student can be eased by including school liaison officer contact information on the campus webpage. The parent commented that school liaison officers can help establish strong partnerships with the military through mentorship programs, career days, and military installation tours. The parent commented that campuses can help America remain the preeminent country in the world by creating a more military-friendly environment for children of service members. The parent also commented there should be consideration for joining the Purple UP! movement and relaxing some of the stringent University Interscholastic League (UIL) rules that prevent children who attend schools on a military base from participating in extracurricular opportunities not offered by their campus.

Agency Response: The agency agrees and has determined that the criteria for campuses to apply for and earn the Purple Star Campus Designation address concerns to increase the awareness and knowledge of the Interstate Compact on Educational Opportunity for Military Children in relationship to state law and local school district policy. These concerns are also addressed by having a transition program focused on assisting military-connected students with acclimating to a new school environment, encouraging partnerships with school liaison officers, and participating in Month of the Military Child, which can include Purple UP! For Military Children. Information about a link to the school liaison officer webpage and social media will be included in additional guidance provided to the districts that would like to apply for and earn the Purple Star Campus Designation. The agency does not have jurisdiction over UIL; however, provisions of the Interstate Compact on Educational Opportunity for Military Children require state and local agencies to facilitate the opportunity for inclusion of students in extracurricular activities regardless of deadlines as long as the student is otherwise qualified.

Comment: A community member commented that it is important that the campus-based military liaison have a close relationship with the school liaison officer at the military installation. The community stated that military families and students rely on school liaison officers to best represent their needs.

Agency Response: The agency agrees. Section 61.1063 includes opportunities for the campus to partner with the school liaison officer.

Comment: A Texas parent commented on the need for oversight and accountability of the Interstate Compact on Educational Opportunity for Military Connected Students from the local school board in terms of policy change and/or legislation. The parent also commented that campus liaisons and faculty must be knowledgeable about military child challenges, programs, partnerships, and resources. The parent commented that schools should partner with the school liaison officer in facilitating the overall well-being and education of the military child.

Agency Response: The agency disagrees, in part, as it does not have jurisdiction regarding oversight and accountability of the Interstate Compact on Educational Opportunity for Military Children for local school board members in terms of policy and legislative changes. The agency agrees the campus-based liaison and staff should be knowledgeable about military-connected children. Section 61.1063(c)(1)(B)(vi) requires campus-based military liaisons to attend professional development or trainings annually to learn and understand topics related to military-connected students and their families. Section 61.1063(c)(1)(C) requires the campus-based military liaison to offer professional development opportunities for staff members on issues related to military-connected students. The agency agrees school environments should be welcoming to military students and their families. Section 61.1063(c)(3) establishes the criteria for campus transition programs to address these specific needs. The agency agrees that partnership with school liaison officers and campuses is important to assisting military-connected students and their families with transitioning in and out of Texas public schools.

Comment: Three individuals, including parents and a military spouse, commented that campus websites need to include information on the MIC3 rules as well as the local school liaison officer. The individuals commented that campuses should work closely and establish strong relationships with the local school liaison officers, which include providing tours of the installation, sponsoring career days, and promoting mentorship. The individual commented that campus-based military liaisons should be trained on the unique needs of military-connected students.

Agency Response: The agency agrees that such information should be included. Section 61.1063(c)(2)(C) includes as one of the criteria for the webpage to include a link to the Interstate Compact on Educational Opportunity for Military Children, as specified in TEC, Chapter 162. Information about a link to the school liaison officer webpage and social media will be included in additional guidance provided to the districts that would like to apply for and earn the Purple Star Campus Designation. The agency has also included throughout §61.1063: opportunities for campuses to engage with their local school liaison officer. The agency agrees the campus-based military liaison should be trained on the unique need of military-connected student and has included language in the criteria stated in §61.1063(c)(1)(B)(vi).

Comment: The Children’s Bereavement Center of South Texas commented that the campus-based liaison should receive training in the area of impact of grief on students and ways in which healing can best occur. The Children’s Bereavement Center of South Texas also suggested to modify §61.1063(c)(1)(C) by moving §61.1063(c)(1)(C)(ix) in a more prominent position so it is the second or third topic listed. The Children’s Bereavement Center of South Texas stated that a child who has experienced death of a parent deserves priority attention.

Agency Response: The agency agrees that the campus-based military liaison should receive training on the impact of grief on students; however, the agency disagrees with the suggestion to prioritize topics. The list included in §61.1063(c)(1)(C)(i)-(ix) is not a list of required trainings but a list of some that are recommended to better serve their military-connected student population.
Comment: A military family advocate commented that he experienced grief and loss of a parent after losing his father in the Vietnam War. The advocate commented on his personal experience and stated that he often wonders if his life would have been improved by early intervention by teachers, counselors, principals, or other school professionals. The advocate suggested making "Gold Star" children a higher priority and moving §61.1063(c)(1)(C)(ix) from spot nine to spot number two on the list, which could make a huge difference in the eyes of surviving families of our nation's military family heroes.

Agency Response: The agency recognizes the importance of educators understanding trauma and grief related to military-connected students who lose a parent in the line of duty but disagrees with reorganizing the list in §61.1063(c)(1)(C). The list of professional development opportunities are optional and can be chosen based on the needs of the campus's military-connected student population.

Comment: A Texas parent commented that §61.1063(c)(1) should include language requiring the campus to designate an assigned staff member as a military liaison in writing. The parent also commented that §61.1063(c)(1) should include language to state that campus-based military liaisons should also work with school liaison officers.

Agency Response: The agency agrees in part that the designation of the military liaison be in writing; however, the application process will include more information on how campuses can demonstrate they have selected their campus-based military liaisons. The agency also agrees in part that the campus-based military liaison should be encouraged to work with school liaison officers; however, the agency disagrees with the comment that the campus-based military liaison be required to work with school liaison officers. There are rural districts and campuses not located near military installations that may not have access to school liaison officers.

Comment: A Texas parent commented that §61.1063(c)(2)(B) should require that information be added to each webpage about early registration options associated with the passage of HB 1597, 86th Texas Legislature, 2019.

Agency Response: This comment is outside the scope of the proposed rulemaking. However, guidance on the implementation of HB 1597 is available on the TEA Military Family Resource Webpage.

Comment: A Texas parent commented that §61.1063(c)(2) should add language on the campus webpage to include school liaison officer contact information. The parent also commented that a fifth criteria should be added to require campuses to partner with assigned school liaison officers.

Agency Response: The agency disagrees. Campuses not located in proximity to military installations may not have direct access to school liaison officers. Additionally, the agency does not have the statutory authority to include an additional criterion. Information about a link to the school liaison officer webpage and social media will be included in additional guidance provided to the districts that would like to apply for and earn the Purple Star Campus Designation.

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §33.909, as added by Senate Bill 1557, 86th Texas Legislature, 2019, which establishes the criteria campuses must demonstrate in order to qualify to apply for and earn the Purple Star Campus Designation. TEC, §33.909(e), requires the Texas Education Agency to adopt rules necessary to administer this statute.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §33.909, as added by Senate Bill 1557, 86th Texas Legislature, 2019.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 20, 2020.
TRD-202001207
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Effective date: April 9, 2020
Proposal publication date: January 10, 2020
For further information, please call: (512) 475-1497

TITLE 34. PUBLIC FINANCE
PART 1. COMPTROLLER OF PUBLIC ACCOUNTS
CHAPTER 7. PREPAID HIGHER EDUCATION TUITION PROGRAM
SUBCHAPTER K. HIGHER EDUCATION SAVINGS PLAN
34 TAC §7.101
The Comptroller of Public Accounts adopts an amendment to §7.101, concerning definitions, without changes to the proposed text as published in the October 25, 2019, issue of the Texas Register (44 TexReg 6278). The rule will not be republished.

The amendment to §7.101 updates the definition of qualified higher education expenses in paragraph (7) to reference the federal definition of the term, which was recently amended in the Tax Cuts and Jobs Act of 2017 and House Bill 3655, 86th Legislature, 2019.

No comments were received regarding adoption of the amendment.

This amendment is adopted under Education Code, §§54.702(a) and §54.710, which authorize the Prepaid Higher Education Tuition Board in the Comptroller of Public Accounts to adopt rules to implement the program.

This amendment implements Education Code, Chapter 54, Subchapter G.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 16, 2020.
TRD-202001149
SUBCHAPTER L. PREPAID TUITION UNIT
UNDERGRADUATE EDUCATION PROGRAM:
TEXAS TOMORROW FUND II
34 TAC §§7.122, 7.125, 7.136, 7.141, 7.142
The Comptroller of Public Accounts adopts amendments to §7.122, concerning definitions, §7.125, concerning redemption of tuition units, §7.136, concerning transfers to institutions on redemptions of tuition units, §7.141, concerning effect of program termination on contract, and §7.142, concerning statement regarding status of prepaid tuition contract, without changes to the proposed text as published in the October 25, 2019, issue of the Texas Register (44 TexReg 6279). The rules will not be republished.

The amendments to §7.122 update the format of the definitions listed in all paragraphs so that they are presented in the same format as other definitions listed in Chapter 7; update the definitions of beneficiary in paragraph (2) and eligible educational institution in paragraph (5) pursuant to new legislation, HB 3655, 86th Legislature, 2019; clarify the definition of enrollment period in paragraph (6) because there is a no longer an initial enrollment period and delete the obsolete language; delete the definition of market value in paragraph (10) because the term is not used in Subchapter L; add paragraph (11) defining medical and dental units, private or independent institution of higher education, public junior college, public state college, public technical institute, and recognized accrediting agency to reflect the definition in the Education Code; delete the definition in paragraph (17) because the terms are defined in paragraph (11); update the definition of program or plan in paragraph (17) to allow the board to select a different name for the plan for marketing purposes; update the definition of reduced refund value in paragraph (20) because the term market value is not being used; update the definition of refund value in paragraph (21) to conform with the method determined by the board; clarify the definition of prepaid tuition contract in paragraph (15) and the definition of tuition in paragraph (26) to reflect medical and dental units for purposes of implementing HB 3655; and renumbered the paragraphs so that they are arranged in numerical order.

The amendments to §7.125 update subsections (a) and (e) to add medical and dental units because the language is no longer complete since the adoption of HB 3655.

The amendment to §7.136 revises subsection (b) to add medical and dental units because the language is no longer complete since the adoption of HB 3655.

The amendment to §7.141 updates subsection (a)(1) to add medical and dental units because the language is no longer complete since the adoption of HB 3655.

The amendments to §7.142 change the deadline in subsection (a) from January 1st to 31st to allow adequate time to post all calendar year-end transactions and change "any" to "a" in subsection (a)(5) to limit the specific institutions.

No comments were received regarding adoption of the amendments.

These amendments are adopted under Education Code, §54.752(b)(1), which authorizes the Prepaid Higher Education Tuition Board in the Comptroller of Public Accounts to adopt rules to implement the program.

These amendments implement Education Code, Chapter 54, Subchapter H.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 16, 2020.

TRD-202001150
Victoria North
Chief Counsel, Fiscal and Agency Affairs Legal Services Division
Comptroller of Public Accounts
Effective date: April 5, 2020
Proposal publication date: October 25, 2019
For further information, please call: (512) 475-0387

CHAPTER 9. PROPERTY TAX ADMINISTRATION
SUBCHAPTER A. PRACTICE AND PROCEDURE
34 TAC §9.100
The Comptroller of Public Accounts adopts the repeal of existing §9.100, concerning the property value study advisory committee, without changes to the proposed text as published in the February 14, 2020, issue of the Texas Register (45 TexReg 997). The rule will not be republished. The comptroller repeals §9.100 to implement Section 91 of Senate Bill 2, 86th Legislature, 2019, which repealed Government Code, §403.302(m-1) and (n) effective Jan. 1, 2020.

The comptroller did not receive any comments regarding adoption of the amendment.

The repeal is adopted under Government Code, §403.302 (Determination of School District Property Values), which provides the comptroller with the authority to adopt rules governing the conduct of the property value study.

The repeal implements changes to Government Code, §403.302(m-1) and (n).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 18, 2020.

TRD-202001164
Victoria North
Chief Counsel Fiscal and Agency Affairs Legal Services Division
Comptroller of Public Accounts
Effective date: April 7, 2020
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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 15. TEXAS FORENSIC SCIENCE COMMISSION

CHAPTER 651. DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES

The Texas Forensic Science Commission ("Commission") adopts amendments to 37 Texas Administrative Code Chapter 651, concerning DNA, CODIS, Forensic Analysis, and Crime Laboratories, without changes to the text as published in the February 14, 2020, issue of the Texas Register (45 TexReg 1001). The rules will not be republished. These amendments apply to four rule sections: §651.5, Forensic Disciplines Subject to Commission Accreditation, which lists forensic disciplines subject to Commission crime laboratory accreditation requirements; §651.202, Definitions, which provides definitions related to the Commission's Forensic Analyst Licensing Program; §651.203, Forensic Disciplines Subject to Commission Licensing, which describes the Commission's categories of forensic analysis that are subject to forensic analyst licensure requirements; and §651.207, Forensic Analyst Licensing Requirements Including License Term, Fee and Procedure for Denial of Application and Reconsideration, which describes Commission licensing requirements for forensic analysts.

The first adopted amendment removes current restrictions on eligibility for the General Forensic Analyst Licensing Exam ("Exam") for forensic analysts practicing in certain forensic disciplines that are not subject to the accreditation requirements set forth in article 38.35 Tex. Code Crim. Proc. The Commission opted to expand the eligibility requirements for forensic analysts practicing in these disciplines after receiving multiple requests to take the Exam from practitioners in the disciplines.

The second adopted amendment provides clarity regarding certain categories of analysis listed under Materials (Trace), a forensic discipline subject to the accreditation and licensing rules. The amendment removes "physical comparison" from the list of categories of analysis subject to accreditation and licensing rules to avoid confusion regarding the application of this category to analytical work performed by document examiners who are otherwise exempt from the accreditation and licensing rules. The change clarifies that document examination analysts performing paper reconstructions are not subject to accreditation and licensing requirements solely because paper reconstruction could be considered a type of "physical comparison." Notwithstanding this adopted amendment, Materials (Trace) Analysts who perform physical determinations, chemical comparisons and/or any other category of analysis listed under Materials (Trace) will still be subject to accreditation and licensing requirements by the Commission.

The third adopted amendment harmonizes the cost of provisional forensic analyst licensure with the cost of the main forensic analyst licensure program. Under the current rules, a provisionally licensed forensic analyst pays $220 for his or her provisional license. After the year term of the license has expired, the analyst is not required to pay anything until he or she renews in two years for a total of three years of licensure. Analysts who are not provisionally licensed pay $220 for two years. This amendment is necessary to provide clarity in the payment structure so that every analyst pays the same amount for the same period of licensure, whether the analyst is initially licensed on a provisional basis or not.

The fourth adopted amendment provides corresponding definitions for certain unaccredited forensic disciplines for which forensic analysts will be eligible for the Exam pursuant to the adopted amendment to remove current restrictions on eligibility for the Exam.

The amendments are necessary to reflect adoptions made by the Commission at its January 31, 2020 quarterly meeting. The amendments are made in accordance with the Commission's forensic analyst licensing authority under Code of Criminal Procedure, Article 38.01 §§3-a and 4-a.

Summary of Comments. No comments were received regarding the amendments to these sections.

SUBCHAPTER A. ACCREDITATION

37 TAC §651.5

Statutory Authority. The amendments are adopted under Article 38.01 §§3-a and 4-a, Code of Criminal Procedure.

Cross reference to statute. The adoption affects 37 TAC §§651.5, 651.202, 651.203, and 651.207.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 16, 2020.

TRD-202001144
Leigh Savage
Associate General Counsel
Texas Forensic Science Commission
Effective date: April 5, 2020
Proposal publication date: February 14, 2020
For further information, please call: (512) 936-0661

SUBCHAPTER C. FORENSIC ANALYST LICENSING PROGRAM

37 TAC §§651.202, 651.203, 651.207

Statutory Authority. The amendments are adopted under Article 38.01 §§3-a and 4-a, Code of Criminal Procedure.

Cross reference to statute. The adoption affects 37 TAC §§651.5, 651.202, 651.203, and 651.207.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Leigh Savage
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Texas Forensic Science Commission
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45 TexReg 2318   April 3, 2020   Texas Register
SUBCHAPTER C. FORENSIC ANALYST
LICENSING PROGRAM

37 TAC §651.206

The Texas Forensic Science Commission ("Commission") adopts an amendment to 37 Texas Administrative Code §651.206 without changes to the text as published in the February 14, 2020, issue of the Texas Register (44 TexReg 1007). The rules will not be republished. The proposed amendment exempts an interpretive toxicology analyst licensed before January 1, 2019 who seeks to add seized drugs analysis to the scope of his or her license from complying with elevated chemistry and statistics coursework requirements that took effect after January 1, 2019. Because interpretive toxicologists are already expected to have laboratory training and experience in the identification and quantitation of drugs and use many of the same instruments and techniques used in the seized drugs discipline, it would be inefficient and burdensome to require these analysts to complete additional college-level coursework. The amendment is necessary to reflect adoptions made by the Commission at its January 31, 2020 quarterly meeting. The adoptions are made in accordance with the Commission's authority under Article 38.01 §§3-a and 4-a, Code of Criminal Procedure with respect to the Commission's Forensic Analyst Licensing program.

Summary of Comments. No comments were received regarding the amendments to this section.

Statutory Authority. The amendments are proposed under Tex. Code Crim. Proc. art 38.01 §§3-a and 4-a.

Cross reference to statute. The proposal affects 37 Texas Administrative Code §651.206.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 17, 2020.

TRD-202001152

Leigh Savage
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Effective date: April 6, 2020
Proposal publication date: February 14, 2020
For further information, please call: (512) 936-0661

37 TAC §651.210

The Texas Forensic Science Commission ("Commission") adopts an amendment to 37 Texas Administrative Code §651.210, with non-substantive changes to the text as published in the February 14, 2020, issue of the Texas Register (45 TexReg 1009). The rule will be republished. The changes address capitalization of the terms "Forensic Analyst" and "Forensic Technician" where necessary. The provisional Forensic Analyst or Forensic Technician license permits an individual to become licensed for one year while working to fulfill any education or other coursework requirements the individual may be missing for full licensure. The revisions clarify the original intent of the Commission - that an individual is only eligible for a provisional license one time and a provisional license may not be renewed. The amendments are necessary to reflect adoptions made by the Commission at the January 31, 2020, quarterly meeting. The adoptions were made in accordance with the Commission's forensic analyst licensing authority under Code of Criminal Procedure, Article 38.01 §§3-a and 4-a.

Summary of Comments. No comments were received regarding the amendments to this section.

Statutory Authority. The amendment is proposed under Tex. Code Crim. Proc., Art 38.01 §§3-a and 4-a.


§651.210. Provisional Forensic Analyst or Forensic Technician License.

(a) Issuance. The Commission may issue a provisional Forensic Analyst or Forensic Technician License.

(b) Eligibility. An individual may apply to the Commission for a provisional Forensic Analyst or Forensic Technician License if the individual meets the following qualifications:

(1) applicant is currently employed in an accredited laboratory for which the licensing requirements of this subchapter apply; and

(2) applicant cannot meet one or more of the forensic analyst license requirements set forth in this subchapter at the time of application but plans to meet all the requirements within the one-year provisional license period and meets all other requirements described in §651.207 of this subchapter, relating to Forensic Analyst Licensing Requirements Including License Term, Fee and Procedure for Denial of Application and Reconsideration.

(c) Application. An applicant for a provisional Forensic Analyst or Forensic Technician License shall complete and submit to the Commission a current Provisional Forensic Analyst License Application form, pay the required fee and submit a signed statement on a form to be provided by the Commission stating he or she has fulfilled the eligibility requirements of this section.

(d) Provisional License Term. A provisional Forensic Analyst or Forensic Technician License is granted for a period of one year from the date of issuance and is not eligible for renewal. A provisional Forensic Analyst or Forensic Technician License may only be issued to an individual one time.

(e) Scope of Provisional License. A provisionally licensed Forensic Analyst or Forensic Technician may technically review or perform forensic analysis or draw conclusions from or interpret a forensic analysis for a court or crime laboratory to the extent a fully licensed Forensic Analyst or Forensic Technician may perform these duties.

(f) Effective Date of Forensic Analyst or Forensic Technician License Requirements for Provisionally Licensed Analysts. A provisionally licensed Forensic Analyst or Forensic Technician shall be subject to the Forensic Analyst or Forensic Technician licensing requirements in effect on the date the Forensic Analyst or Forensic Technician is granted the provisional license.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 16, 2020.

TRD-202001148
SUBCHAPTER D. PROCEDURE FOR PROCESSING COMPLAINTS AND LABORATORY SELF-DISCLOSURES

37 TAC §651.302

The Texas Forensic Science Commission ("Commission") adopts amendments to Title 37, Texas Administrative Code §651.302, without changes to the text as published in the February 14, 2020, issue of the Texas Register (45 TexReg 1010). The rule will not be republished.

The amendments change the statutory reference to the definition of "forensic analysis" in this section to Article 38.01, Code of Criminal Procedure instead of Article 38.35, Code of Criminal Procedure. Article 38.01 is the Commission's enabling statute. It sets forth the Commission's responsibilities and the limitations on its jurisdiction, including a description of investigative authority. Because §651.302 addresses the investigative process, the appropriate statutory reference should be 38.01, not 38.35 which addresses the admissibility of forensic evidence in Texas criminal cases. The amendments are necessary to reflect adoptions made by the Commission at its January 31, 2020, quarterly meeting. The adoptions are made in accordance with the Commission's rulemaking authority under Article 38.01 §3-a, Code of Criminal Procedure.

Summary of Comments. No comments were received regarding the amendments to this section.

Statutory Authority. The amendments are adopted under Article 38.01, Code of Criminal Procedure §3-a.

Cross reference to statute. The adoption affects 37 Texas Administrative Code §651.302.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Effective date: April 5, 2020
Proposal publication date: February 14, 2020
For further information, please call: (512) 936-0661

37 TAC §651.307

The Texas Forensic Science Commission ("Commission") adopts amendments to Title 37, Texas Administrative Code §651.307 without changes as published in the February 14, 2020, issue of the Texas Register (45 TexReg 1011). The amendments set forth the process by which the Commission may review and refer cases that are the subject of a Commission investigation to the Office of Capital and Forensic Writs ("OCFW") pursuant to Article 38.01 §4(h), Code of Criminal Procedure. The referral option provided by Article 38.01 §4(h), Code of Criminal Procedure is referenced in Title 37, Texas Administrative Code §651.303 of the Commission's rules; however, specific procedures with regard to the referrals have not yet been adopted by the Commission and are adopted herein. The amendments are necessary to reflect adoptions made by the Commission at its January 31, 2020 quarterly meeting. The adoptions are made in accordance with the Commission's rulemaking authority under Article 38.01 §3-a, Code of Criminal Procedure.

Summary of Comments. No comments were received regarding the amendments to this section.

Statutory Authority. The amendment is proposed under Article 38.01, Code of Criminal Procedure §§4(h) and 3-a.

Cross reference to statute. The adoption affects 37 Texas Administrative Code §651.307.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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