

Driver Education and Safety
Administrative Rules
16 Texas Administrative Code, Chapter 84
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Subchapter A. Commissioner's Rules on Minimum Standards for Operation of Licensed Texas Driver Education Schools.

84.100. Definitions.

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

- (1) ADE-1317--The driver education certificate of completion used for certifying completion of a driver education course exclusively for adults. This term encompasses all parts of a certificate of completion with the same control number issued for an approved driver education course. It is a government record.
- (2) Advertising--Any affirmative act, whether written or oral, designed to call public attention to a school and/or course in order to evoke a desire to patronize that school and/or course.
- (3) Alternative method of instruction--A method of instruction for the minor and adult driver education course that does not require students to be present in a classroom.
- (4) Branch school--A licensed driver education school that has the same ownership and name as a licensed primary driver education school.
- (5) Break--An interruption in a course of instruction occurring after the lesson introduction and no later than 30 minutes before the daily lesson ends.
- (6) Change of ownership of a school--A change in the control of the school. Any agreement to transfer the control of a school is considered to be a change of ownership. The control of a school is considered to have changed:
 - (A) in the case of ownership by an individual, when more than 50% of the school has been sold or transferred;
 - (B) in the case of ownership by a partnership or a corporation, when more than 50% of the school or of the owning partnership or corporation has been sold or transferred; or
 - (C) when the board of directors, officers, shareholders, or similar governing body has been changed to such an extent as to significantly alter the management and control of the school.
- (7) Chief school official--The owner, director, assistant director, or assigned liaison of a licensed driver education school.
- (8) Clock hour--55 minutes of instruction time in a 60-minute period for a driver education course. This includes classroom and in-car instruction time.
- (9) Contract site--An accredited public or private secondary school approved as a location for a driver education course of a licensed school.
- (10) Course content validation question--A question designed to establish the student's participation in the course and comprehension of the course material by requiring the student to answer a question regarding a fact or concept taught in the course.
- (11) Criminal history record information--In accordance with the Texas Government Code, §411.082(2), information collected about a person by the Texas Department of Public Safety, a law enforcement or a criminal justice agency, or a private entity governed by the Fair Credit Reporting Act (15 United States Code, §1681 et seq.) that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.
- (12) DE-964--The driver education certificate of completion used for certifying completion of an approved minor and adult driver education course. This term encompasses all parts of a certificate of completion with the same control number issued for an approved driver education course. It is a government record.
- (13) Deferred adjudication--An order by a court deferring action on a criminal matter pending the successful completion of terms imposed by that court.
- (14) Division--The division of the Texas Education Agency (TEA) responsible for administering the provisions of

the law, rules, regulations, and standards as contained in this chapter and licensing Texas driver training programs.

- (15) Division director--The person designated by the commissioner of education to carry out the functions and regulations governing the driver education schools and designated as director of the division responsible for licensing driver training programs.
- (16) Educational objectives--The goal to promote respect for and encourage observance of traffic laws and traffic safety responsibilities of driver education and citizens; reduce traffic violations; reduce traffic-related injuries, deaths, and economic losses; and motivate development of traffic-related competencies through education, including, but not limited to, Texas traffic laws, risk management, driver attitudes, courtesy skills, and evasive driving techniques.
- (17) Good reputation--A person is considered to be of good reputation if:
 - (A) there are no felony convictions, unless the applicant can successfully demonstrate that the applicant has been rehabilitated;
 - (B) there are no convictions involving crimes of moral turpitude;
 - (C) within the last seven years, the person has never been successfully sued for fraud or deceptive trade practice;
 - (D) the person has not owned or operated a school with serious violations; and has never owned or operated a school or course provider that closed with violations, including, but not limited to, unpaid refunds or selling, trading, or transferring a DE-964, ADE-1317, or uniform certificate of course completion to any person or school not authorized to possess it. In making a determination regarding serious violations, the division may consider the seriousness and number of violations, efforts made to correct the violations, and any history of similar violations;
 - (E) the person has not failed to provide material information to representatives of TEA or falsified instructional records or any documents required for approval or continued approval;
 - (F) in the case of an instructor, there are no misdemeanor or felony convictions involving driving while intoxicated over the past seven years; and
 - (G) in the event that an instructor or applicant has received deferred adjudication of guilt from a court of competent jurisdiction, a determination can be made upon satisfactory review of evidence that the conduct underlying the basis of the deferred adjudication has not rendered the person unworthy to provide driver training instruction. When determining underlying conduct, the commissioner may consider the facts and circumstances surrounding the deferred adjudication.
- (18) Inactive status--When a license is placed on inactive status, it does not confer authority for the activity for which the license was issued until the license has been reactivated.
- (19) Moral turpitude--Conduct that is inherently immoral or dishonest.
- (20) National criminal history record information--Criminal history record information obtained from the Federal Bureau of Investigation under Texas Government Code, §411.087, based on fingerprint identification information.
- (21) Personal validation question--A question designed to establish the identity of the student by requiring an answer related to the student's personal information such as a driver's license number, address, date of birth, or other similar information that is unique to the student.
- (22) Primary school--A licensed driver education main school that may have branch schools.
- (23) Teacher of record--A licensed supervising driver education teacher or licensed driver education teacher employed at the school who is directly responsible for the classroom instructional phase provided by a teaching assistant-full.

84.101. Exemptions.

- (a) Schools desiring to be considered exempt from regulation as authorized by Texas Education Code, §1001.002, shall, upon request, ask for an exemption in writing and provide any information deemed necessary to the division to

determine exempt status.

- (b) Any school granted exempt status may be required to provide information or be visited by representatives of the Texas Education Agency in order to ensure continued operation in compliance with the exemption provisions.

84.102. Driver Education School Licensure.

- (a) **Application.** An application for a school license for a primary or branch driver education school shall be made on forms supplied by the Texas Education Agency (TEA).
- (b) **Bond requirements.** In the case of an original or a change of owner application, an original bond or approved alternate form of security shall be provided. In the case of a renewal application, an original bond or approved alternate form of security or a continuation agreement for the approved bond currently on file or continuation of an approved alternate form of security shall be submitted. The bond or the continuation agreement shall be executed on the form provided by TEA. Approved alternate forms of security shall adhere to the following guidelines.
 - (1) An irrevocable letter of credit. The letter shall be in the name of the owner of the school. The letter shall specify the amount of credit extended, which shall be equivalent to the coverage required for a corporate surety bond, and the purpose of the credit. The letter shall contain the signature of an appropriate bank representative. The bank and the letter shall be approved by TEA.
 - (2) A cash deposit. An irrevocable account shall be established by the school owner in the name of TEA to be drawn upon as needed to pay student refunds as needed if the school closes owing refunds. The account shall be equivalent to the coverage required for a corporate surety bond. The bank and the terms of the account shall be approved by TEA. The TEA shall keep records of deposits and/or withdrawals on the account.
- (c) **Verification of ownership.**
 - (1) In the case of an original or change of owner application for a primary school, the owner of the school shall provide verification of ownership that includes, but is not limited to, copies of stock certificates, partnership agreements, and assumed name registrations. The division may require additional evidence to verify ownership.
 - (2) In the case of an original or change of owner application for a branch school, the owner shall submit an application on forms supplied by TEA.
 - (3) With the renewal application, the owner of the school shall provide verification that no change in ownership has occurred. The division may require additional evidence to verify that no change of ownership has occurred.
- (d) **Effective date of the driver education school license.** The effective date of the school license for a primary driver education school shall be the date designated on the license. For a branch school, the expiration date of the driver education school license shall be concurrent with the driver education school license for the primary school.
- (e) **Purchase of a driver education school.**
 - (1) A person, partnership, or corporation, purchasing a licensed driver education school shall obtain an original license.
 - (2) A driver education school license for a branch school is transferable only to an applicant who owns a currently licensed primary driver education school. A purchaser of a branch school who does not own a currently licensed primary driver education school shall obtain an original driver education school license for a primary school.
 - (3) Copies of the executed sales contracts, bills of sale, deeds, and all other instruments necessary to transfer ownership of the school shall be submitted to TEA. The contract or any instrument transferring the ownership of the school shall include the following statements.
 - (A) The purchaser shall assume all refund liabilities incurred by the seller or any former owner before the transfer of ownership.
 - (B) The sale of the school shall be subject to approval by TEA.
 - (C) The purchaser shall assume the liabilities, duties, and obligations under the enrollment contracts between the students and the seller, or any former owner.

- (4) A change of ownership of a driver education school is considered substantially similar if:
 - (A) in the case of ownership by an individual, when the individual transfers ownership to a corporation in which the individual owns 100% of the stock of the corporation;
 - (B) in the case of ownership by a corporation, when the ownership is transferred to a partnership in which the stockholders possess equal interest in the owning partnership; or
 - (C) in the case of ownership by a partnership or a corporation that transfers ownership to a corporation in which the partners hold interest that equals the interest of the owning partnership, or the owning corporation transfers ownership to a different corporation in which the stockholders for both corporations possess equal shares.

- (f) New location.
 - (1) The division shall be notified in writing of any change of address at least five working days before the move.
 - (2) The school must submit the appropriate change of address fee prior to the actual move.
 - (3) If a student is not willing to change locations or is prevented from completing the training at the new location, a pro-rata refund (without deducting any administrative expense) must be made to the student.
 - (4) The school must maintain a current mailing address, telephone number, and e-mail address (if applicable) at the division.

- (g) Renewal of driver education school license. A complete application for the renewal of a license for a primary or branch driver education school shall be submitted before the expiration of the license and shall include the following:
 - (1) completed application for renewal;
 - (2) annual renewal fee;
 - (3) a current list of instructors employed at the school;
 - (4) executed bond or executed continuation agreement for the bond currently approved by, and on file with, TEA or approved alternate form of security;
 - (5) a current list of all motor vehicles used for instruction;
 - (6) evidence that all vehicles used for instruction are properly insured; and
 - (7) any other revision or evidence of which the school has been notified in writing that is necessary to bring the school's application for a renewal license to a current and accurate status.

- (h) Denial, revocation, or conditional license. The authority to operate a branch school ceases if a primary driver education school license is denied or revoked. The operation of a branch school license may be subject to any conditions placed on the continued operation of the primary driver education school. A driver education school license for a branch school may be denied, revoked, or conditioned separately from the license for the primary school.

- (i) Notification of legal action. A school shall notify the division in writing of any legal action that may affect the operation of, or is filed against, the school, its officers, any owner, or any school instructor within five working days after the school, its officers, any owner, or any school instructor has commenced the legal action or has been served with legal process. Included with the written notification, the school shall submit a file-marked copy of the petition or complaint that has been filed with the court.

- (j) School closure.
 - (1) The school owner shall notify TEA at least five business days before the anticipated school closure. In addition, the school owner shall provide written notice of the actual discontinuance of the operation the day of cessation of classes. A school shall make all records available for review to TEA upon request.
 - (2) The division may declare a school to be closed:
 - (A) when the school does not have the facilities, vehicles, instructors, or equipment to provide training

pursuant to this subchapter;

- (B) when the school has stopped conducting classes and has failed to fulfill contractual obligations to its students; or
 - (C) when the school owner allows the school license to expire.
- (3) If a branch school closes and a student is prevented from completing the training at the primary location, a pro-rata refund (without deducting any administrative expense) must be made to the student.
- (k) Contract site. A school shall receive approval from TEA prior to conducting a class at a contract site, and approval may be granted by TEA upon review of the agreement made between the licensed driver education school and the contract site. The course shall be subject to the same rules that apply at the licensed driver education school, including periodic inspections by TEA representatives. An on-site inspection is not required prior to approval of the site.

84.103. Driver Education School Responsibility for Employees

- (a) All instruction in a driver education course shall be performed by Texas Education Agency (TEA)-licensed instructors in locations approved by TEA. However, a student instructor-trainee may teach any practice teaching necessary for the purpose of licensing in a TEA-approved location under the direction and in the presence of a licensed instructor.
- (b) Each driver education school shall:
 - (1) ensure that each individual permitted to give classroom instruction or in-car instruction at the school or classroom location has a valid current driver education instructor's license with the proper endorsement issued by the division, except as provided in subsection (a) of this section;
 - (2) provide instruction or allow instruction to be provided only in courses that are currently on the school's list of approved courses;
 - (3) complete, issue, or validate a DE-964 or ADE-1317 only to a person who has successfully completed the entire portion of the course for which the DE-964 or ADE-1317 is being issued;
 - (4) authorize, approve, or conduct instruction in a motor vehicle that meets the requirements stated in §176.1014 of this title (relating to Motor Vehicles);
 - (5) not falsify driver education records; and
 - (6) ensure that no instructor provides more than eight hours of behind-the-wheel instruction per day.
- (c) Each driver education school owner-operator or employee that purchases driver education certificate numbers from the division shall:
 - (1) develop and maintain a means to ensure the security and integrity of student information, especially financial and personal information, in transit and at rest;
 - (2) develop and maintain a means to ensure the privacy of student data, including personal and financial data, and make the corporate privacy policy available to all course students;
 - (3) develop and maintain a TEA-approved method for printing and issuing original and duplicate driver education certificates that, to the greatest extent possible, prevents the unauthorized production or misuse of the certificates; and
 - (4) ensure that the front of each driver education certificate contains TEA complaint contact information and current division telephone number in a font that is visibly recognizable.
- (d) A driver education school shall discharge or refuse to hire any employee if the school has knowledge that the employee or applicant for employment has been convicted of an offense described in Texas Education Code (TEC), §1001.2514. Employment in violation of this subsection is grounds for the revocation of the school's license.
- (e) For the purposes of TEC, Chapter 1001, and this chapter, each person employed by or associated with any driver education school shall be deemed an agent of the driver education school, and the school may share the responsibility for all acts performed by the person which are within the scope of the employment and which occur during the course of the employment.

84.104. School Directors, Assistant Directors, and Administrative Staff Members.

- (a) Each school shall designate one person as the school director or assistant director.
 - (1) **Duties.** The school director or assistant director shall be responsible for all actions related to instruction, day-to-day operation and administration of the school. When the school director or assistant director is unavailable at the school, the owner shall designate a person to provide student records, contracts and schedules, as well as access to driver education vehicles, to division staff. This liaison person is not required to pay an application fee.
 - (2) **Qualifications.** The person designated as the school director or assistant director shall have one of the following:
 - (A) a total of three years of higher education and/or administrative/management experience; or
 - (B) a current license as a driver education instructor.
- (b) The school director for a driver education school may designate an administrative staff member. Duties and qualifications shall be at the discretion of the school director, assistant director, or school owner.
- (c) An individual who has been designated as the school director, assistant director, or administrative staff person shall be approved by the Texas Education Agency before assuming duties.
- (d) Violations at the school may result in removal of the approval of the school director and/or the administrative staff member.

84.105. Driver Education Instructor License.

- (a) Application for licensing as a driver education instructor shall be made on forms supplied by the Texas Education Agency (TEA). A person is qualified to apply for a driver education instructor license who:
 - (1) is of good reputation;
 - (2) has a high school diploma or equivalent;
 - (3) holds a valid class A, B, C, or CDL driver's license, other than a learner's permit, for the preceding five years that has not been suspended, revoked, or forfeited in the past five years; and
 - (4) has not been convicted of a crime described in Texas Education Code (TEC), §1001.2514.
- (b) A person applying for an original driver education instructor license shall:
 - (1) submit to TEA the following:
 - (A) complete application as provided by TEA;
 - (B) processing and annual instructor licensing fees;
 - (C) national criminal history record information review fee; and
 - (D) documentation showing that all applicable educational requirements have been met. Original documentation shall be provided upon the request of the division; and
 - (2) provide fingerprints to the Texas Department of Public Safety (DPS) through the Fingerprint Application Service of Texas (FAST) or any other method required by the DPS.
- (c) If an applicant fails to provide all required application materials and fails to provide within 90 days of the division's request any additional information or materials necessary to process the application, the application process will be terminated. An individual whose application has been terminated under this subsection will be required to submit new application materials and fees to apply for a license in the future.
- (d) If the applicant lives in a state other than Texas, another method of providing fingerprints may be approved as long as the method of providing the fingerprints is as secure as the method employed by DPS.

- (e) A person applying for a driver education instructor license may qualify for the following endorsements.
- (1) Supervising driver education teacher.
- (A) The application shall include:
- (i) a current, valid Texas teacher's certificate with proof of successful completion of appropriate examinations issued by the State Board for Educator Certification (SBEC) to the applicant and an official transcript indicating successful completion of 15 semester hours of driver and traffic safety education from an accredited college or university. Completion of course work in an approved alternative certification program may suffice for all or part of the 15 semester hours of driver and traffic safety education if TEA determines that the course is equivalent; or
 - (ii) a current, valid Texas teacher's certificate with evidence of successful completion of appropriate examinations issued by SBEC to the applicant and evidence of successful completion of a TEA-approved instructor development course that is equivalent to 15 semester hours.
- (B) Responsibilities of a supervising driver education teacher include:
- (i) instruction and administration of the classroom and in-car phases of driver education to minors and adults as prescribed in the program of organized instruction for driver education approved by TEA and this chapter; and
 - (ii) instruction of a TEA-approved driver education instructor development course.
- (C) A supervising driver education teacher may serve as a teacher of record.
- (2) Driver education teacher.
- (A) The application shall include:
- (i) a current, valid Texas teacher's certificate with proof of successful completion of appropriate examinations issued by SBEC to the applicant and an official transcript indicating successful completion of nine semester hours of driver and traffic safety education from an accredited college or university. Completion of course work in an approved alternative certification program may suffice for all or part of the nine semester hours of driver and traffic safety education if TEA determines that the course is equivalent; or
 - (ii) a current, valid Texas teacher's certificate with evidence of successful completion of appropriate examinations issued by SBEC to the applicant and evidence of successful completion of a TEA-approved instructor development course that is equivalent to nine semester hours.
- (B) Responsibilities of a driver education teacher include instruction and administration of the classroom and in-car phases of driver education to minors and adults as prescribed in the program of organized instruction for driver education approved by TEA and this chapter.
- (C) A driver education teacher may serve as a teacher of record.
- (3) Teaching assistant.
- (A) The application shall include:
- (i) a valid teaching assistant certificate issued by the appropriate TEA division that indicates approval for in-car instruction only;
 - (ii) an official transcript indicating successful completion of six semester hours of driver and traffic safety education from an accredited college or university. Completion of course work in an approved alternative certification program may suffice for all or part of the six semester hours of driver and traffic safety education if TEA determines that the course is equivalent; or

- (iii) evidence of successful completion of a TEA-approved instructor development course that is equivalent to six semester hours.
 - (B) The duties of a teaching assistant are limited to in-car instruction.
- (4) Teaching assistant-full.
 - (A) The application shall include:
 - (i) a valid teaching assistant certificate issued by the appropriate TEA division that indicates approval for all phases of laboratory instruction and instructional assistance in the classroom;
 - (ii) an official transcript indicating successful completion of nine semester hours of driver and traffic safety education from an accredited college or university. Completion of course work in an approved alternative certification program may suffice for all or part of the nine semester hours of driver and traffic safety education if TEA determines that the course is equivalent; or
 - (iii) evidence of successful completion of a TEA-approved instructor development course that is equivalent to nine semester hours.
 - (B) A teaching assistant-full is authorized to teach all phases of in-car instruction and may assist certified teachers in the classroom phase of minor and adult driver education. All classroom instruction provided by a teaching assistant-full shall be endorsed by the teacher of record. In emergency situations, the school owner may request prior approval from the division to endorse classroom instruction records provided by a teaching assistant-full.
- (5) Supervising teaching assistant-full.
 - (A) The application shall include:
 - (i) a valid teaching assistant-full certificate issued by the appropriate TEA division that indicates approval for all phases of laboratory instruction and instructional assistance in the classroom and an official transcript indicating successful completion of 15 semester hours of driver and traffic safety education from an accredited college or university;
 - (ii) completion of course work in an approved alternative certification program may suffice for all or part of the 15 semester hours of driver and traffic safety education if TEA determines that the course is equivalent; or
 - (iii) evidence of successful completion of a TEA-approved instructor development course that is equivalent to 15 semester hours.
 - (B) The responsibilities of a supervising teaching assistant-full include:
 - (i) authorization to teach all phases of in-car instruction;
 - (ii) assistance of certified teachers in the classroom phase of minor and adult driver education. All classroom instruction provided by a supervising teaching assistant-full shall be endorsed by the teacher of record; and
 - (iii) instruction in a TEA-approved driver education instructor development course.
- (6) Rehabilitative driver education in-car instructor.
 - (A) The application shall include:
 - (i) a valid driver education teaching assistant certificate issued by the appropriate TEA division or evidence of completion of an approved driver education program for certification as a teaching assistant that is equivalent to at least six semester hours; and
 - (ii) evidence of employment by, or a written contract with, the specific hospital or approved community rehabilitation program.

- (B) The endorsement will be valid only during the time the instructor is employed by or under contract with the specified hospital or approved community rehabilitation program and will entitle the instructor to provide in-car driver education instruction only at the specified hospital or approved community rehabilitation program.
- (f) An application for renewal of an instructor license shall be submitted on forms provided by TEA and shall be postmarked or hand-delivered at least 30 days before the date of expiration or a late instructor renewal fee shall be imposed. A complete application shall include the following:
- (1) annual licensing fee;
 - (2) national criminal history record information review fee; and
 - (3) evidence of completing continuing education during the individual license renewal period.
- (g) The division may issue a renewal license if the licensee has provided at least one set of fingerprints to the DPS, the fingerprints were rejected by the DPS or the Federal Bureau of Investigation, and the licensee has otherwise complied with all other renewal requirements. If additional information, including additional sets of fingerprints, from the licensee is needed to complete a criminal history record check, the division shall notify the licensee. The division may place the license on inactive status for failure to provide the requested data within a reasonable time, as specified in the notice. The division may also suspend or revoke the license for failure to provide the required information.
- (h) Continuing education requirements include the following.
- (1) Driver education instructors shall participate in and provide evidence of completion of at least one of the following to obtain credit for continuing education. Credit will be given only for courses that were completed during the appropriate licensing period.
 - (A) Instructors may participate in a TEA-approved driver education continuing education course provided by an approved driver education school. Evidence of completion of continuing education shall be provided for each instructor during the individual license renewal period on TEA forms or the equivalent. The instructor receiving instruction and the facilitator, presenter, or the school owner providing the instruction shall sign the form.
 - (B) Credit may be given for successful completion of a postsecondary course that pertains to instruction techniques or instruction related to driver education as provided by an accredited college or university. Evidence of completion shall be a copy of official school documentation indicating a passing grade.
 - (C) Credit may be given for successful completion of an approved driver education instructor development course or TEA-approved alternative certification program for driver education. Evidence of completion shall be verifiable records of successful completion of the course.
 - (D) Credit may be given for successful completion of national, state, or regionally sponsored in-service workshops, seminars, or conferences. These programs must pertain to subject matters that relate to the practice of driver education or teaching techniques.
 - (E) Credit may be given for successful completion of an approved six-hour driving safety, specialized, or drug and alcohol driving awareness course once every three years if the licensee is not endorsed or has not been endorsed as an instructor in that program for a period of one year previous to class attendance.
 - (2) Carryover credit of continuing education hours shall not be permitted.
 - (3) A licensee may not receive credit for completing the same course more than once every three years.
 - (4) A licensed driver education instructor who teaches an approved driver education continuing education course may receive credit for attending continuing education.
 - (5) A licensed driver education instructor will not receive credit for driver education continuing education by completing or teaching a driving safety continuing education course approved for driving safety only or by completing a driver education course exclusively for adults.
- (i) An instructor who has allowed a previous license to expire shall file an original application on a form provided by TEA and shall include the processing and annual instructor licensing fees and evidence of continuing education

completed within the last year. Evidence of driver and traffic safety education training may not be required to be resubmitted if the documentation is on file at TEA.

- (j) All driver education instructor license endorsement changes shall require the following:
 - (1) written documentation showing all applicable educational requirements have been met to justify endorsement changes; and
 - (2) the annual licensing fee.
- (k) All other license change requests, including duplicate instructor licenses or name changes, shall be made in writing and shall include payment of the duplicate instructor license fee.
- (l) The TEA shall be notified of an instructor's change of address in writing. Address changes shall not require payment of a fee.
- (m) All instructors shall notify the division and school owner in writing of any criminal complaint filed against the instructor within five working days of commencement of the criminal proceedings. The division may require a file-marked copy of the petition or complaint that has been filed with the court.
- (n) An instructor shall not make any sexual or obscene comments or gestures while performing the duties of an instructor.
- (o) An instructor shall not falsify driver education records.
- (p) The commissioner of education may suspend, revoke, or deny a license to any driver education instructor under any of the following circumstances.
 - (1) The applicant or licensee has been convicted of any felony, an offense involving moral turpitude, an offense of involuntary or intoxication manslaughter, criminally negligent homicide committed as a result of the person's operation of a motor vehicle, an offense involving driving while intoxicated or driving under the influence of drugs, an offense involving tampering with a governmental record, or an offense described in TEC, §1001.2514.
 - (A) These particular crimes relate to the licensing of instructors because such persons, as licensees of TEA, are required to be of good moral character and to deal honestly with the state and members of the public. Driver education instruction involves supervision of inexperienced drivers on public highways and accurate record keeping and reporting for driver licensing, court documentation, and other purposes. In determining the present fitness of a person who has been convicted of a crime and whether a criminal conviction directly relates to an occupation, TEA shall consider those factors stated in Texas Occupations Code, Chapter 53. However, any offense described in TEC, §1001.2514, requires the revocation of license without regard to the factors listed in the Texas Occupations Code, Chapter 53.
 - (B) In the event that an instructor is convicted of such an offense, the instructor's license will be subject to revocation or denial. A conviction for an offense described in TEC, §1001.2514, shall be considered for a period of 30 years from the date of the offense and shall continue to be considered thereafter if the person has failed to comply with the terms of the order entered on conviction. A conviction for an offense other than a felony shall not be considered by TEA under this paragraph if a period of more than ten years has elapsed since the date of the conviction or of the release of the person from the confinement, conditional release, or suspension imposed for that conviction, whichever is the later date. For seven years after an instructor is convicted of an offense involving driving while intoxicated, the instructor's license shall be recommended for revocation or denial.
 - (C) For the purposes of this paragraph, a person is convicted of an offense when a court of competent jurisdiction enters an adjudication of guilt on an offense against the person, whether or not:
 - (i) the sentence is subsequently probated and the person is discharged from probation; or
 - (ii) the person is pardoned for the offense, unless the pardon is expressly granted for subsequent proof of innocence.
 - (2) The applicant, licensee, any instructor, or agent is addicted to the use of alcoholic beverages or drugs or becomes incompetent to safely operate a motor vehicle or conduct classroom or in-car instruction properly.
 - (3) The license was improperly or erroneously issued.

- (4) The applicant or licensee fails to comply with the rules and regulations of TEA regarding the instruction of drivers in this state or fails to comply with any section of TEC, Chapter 1001.
- (5) The instructor fails to follow procedures as prescribed in this chapter.
- (6) The applicant or licensee has a personal driving record showing that the person has accumulated 6 or more penalty points during the preceding 36-month period as identified in the driver responsibility program.
- (q) The division may notify any driver education school about an instructor's criminal history record information if that school is employing an instructor who has been convicted of a crime described in TEC, §1001.2514.

84.106. Courses of Instruction

- (a) The educational objectives of driver training courses shall include, but not be limited to, promoting respect for and encouraging observance of traffic laws and traffic safety responsibilities of driver education and citizens; reducing traffic violations; reducing traffic-related injuries, deaths, and economic losses; and motivating development of traffic-related competencies through education, including, but not limited to, Texas traffic laws, risk management, driver attitudes, courtesy skills, and evasive driving techniques.
- (b) This subsection contains requirements for driver education courses. All course content and instructional material shall include current statistical data, references to law, driving procedures, and traffic safety methodology. For each course, curriculum documents and materials may be requested as part of the application for approval.
 - (1) Minor and adult driver education course.
 - (A) The driver education classroom phase for students age 14 and over shall consist of:
 - (i) a minimum of 32 hours of classroom instruction. The in-car phase must consist of seven hours of behind-the-wheel instruction and seven hours of in-car observation in the presence of a person who holds a driver education instructor license; and
 - (ii) 30 hours of behind-the-wheel instruction, including at least 10 hours of nighttime instruction, in the presence of an adult who meets the requirements of Texas Transportation Code, §521.222(d)(2). The 30 hours of instruction must be endorsed by a parent or legal guardian if the student is a minor. Simulation hours shall not be substituted for these 30 hours of instruction. Driver education training endorsed by the parent is limited to one hour per day.
 - (B) Schools are allowed five minutes of break per instructional hour for all phases. No more than ten minutes of break time may be accumulated for each two hours of instruction.
 - (C) Driver education course curriculum content, minimum instruction requirements, and administrative guidelines for classroom instruction, in-car training (behind-the-wheel and observation), simulation, and multicar range shall include the educational objectives established by the commissioner of education in the Program of Organized Instruction in Driver Education and Traffic Safety (POI) and meet the requirements of this subchapter. In addition, the educational objectives that must be provided to every student enrolled in a minor and adult driver education course shall include information relating to litter prevention, anatomical gifts, leaving children in vehicles unattended, distractions, motorcycle awareness, alcohol awareness and the effect of alcohol on the effective operation of a motor vehicle, and recreational water safety.
 - (D) Driver education schools that desire to instruct students age 14 and over shall provide the same beginning and ending dates for each student in the same class of 36 or less. No student shall be allowed to enroll and start the classroom phase after the sixth hour of classroom instruction has been completed.
 - (E) Students shall proceed in the sequence identified by and approved for that school.
 - (F) Students shall receive classroom instruction from an instructor who is approved and licensed by TEA. An instructor shall be in the classroom and available to students during the entire 32 hours of instruction, including self-study assignments. Instructors shall not have other teaching assignments or administrative duties during the 32 hours of classroom instruction.

- (G) Motion picture films, photographic slides, videos, tape recordings, guest speakers, and other instructional media that present concepts required in the POI may be used as part of the required 32 hours of classroom instruction. These instructional aids shall not exceed 640 minutes of the total 32 hours.
- (H) Self-study assignments occurring during regularly scheduled class periods shall not exceed 25% of the course and shall be presented to the entire class simultaneously.
- (I) Each classroom student shall be provided a driver education textbook designated by the commissioner or access to instructional materials that are in compliance with the POI approved for the school. Instructional materials, including textbooks, must be in a condition that is legible and free of obscenities.
- (J) A copy of the current edition of the "Texas Driver Handbook" or instructional materials that are equivalent shall be furnished to each student enrolled in the classroom phase of the driver education course.
- (K) Each student, including makeup students, shall be provided their own seat and table or desk while receiving classroom instruction. A school shall not enroll more than 36 students, excluding makeup students, and the number of students may not exceed the number of seats and tables or desks available at the school.
- (L) When a student changes schools, the school must follow the current transfer policy developed by TEA and Texas Department of Public Safety (DPS).
- (M) All classroom phases of driver education, including makeup work, shall be completed within the timelines stated in the original student contract. This shall not circumvent the attendance and progress requirements.
- (N) All in-car lessons shall consist of actual driving instruction. No school shall permit a ratio of more than four students per instructor or exceed the seating and occupant restraint capacity of the vehicle used for instruction. Schools that allow one-on-one instruction shall notify the parents in the contract.
- (O) A student must have a valid driver's license or instruction permit in his or her possession during any behind-the-wheel instruction.
- (P) All in-car instruction provided by the school shall begin no earlier than 5:00 a.m. and end no later than 11:00 p.m. The division may approve exceptions; however, the request shall be made in writing by the school owner or school director and include acknowledgment by all parents in the form of signatures.
- (Q) A school may use multimedia systems, simulators, and multicar driving ranges for in-car instruction in a driver education program. Each simulator, including the filmed instructional programs, and each plan for a multicar driving range must meet state specification developed by DPS and TEA. A licensed driver education instructor must be present during use of multimedia systems, simulators, and multicar driving ranges.
- (R) Four periods of at least 55 minutes per hour of instruction in a simulator may be substituted for 1 hour of behind-the-wheel instruction and 1 hour of in-car observation. Two periods of at least 55 minutes per hour of multicar driving range instruction may be substituted for 1 hour of behind-the-wheel instruction and 1 hour of in-car observation relating to elementary or city driving lessons. However, a minimum of four hours must be devoted to actual behind-the-wheel instruction.
- (S) A driver education program may be scheduled with the classroom phase of instruction presented in block form prior to the in-car phase or concurrently with the in-car phase. Under the block and concurrent programs, a student may apply to the DPS for an instruction permit after completing all of the required classroom instruction or after completing six hours of classroom instruction devoted to the instructional objectives of classroom instruction designated by the commissioner found in Module One: Traffic Laws.
- (T) A student issued a DE-964 under the block and concurrent programs must subsequently complete the required classroom instruction. If a student does not subsequently complete the required class instruction, the instructor must complete DPS Form DL-42 and send it to the DPS division responsible for license and driver records. Form DL-42 should be prepared as soon as it is evident

the student will not complete the required hours of instruction. The DPS may then revoke the student's instruction permit.

- (U) Driver education instruction is limited to eligible students who are at least 14 years of age when the driver education classroom phase begins and who will be 15 years of age or older when the behind-the-wheel and multicar range instruction begins.
 - (V) Each school owner that teaches driver education courses shall collect adequate student data to enable TEA to evaluate the overall effectiveness of the driver education course in reducing the number of violations and accidents of persons who successfully complete the course. The commissioner may determine a level of effectiveness that serves the purposes of Texas Education Code (TEC), Chapter 1001.
- (2) Driver education course exclusively for adults. Courses offered in a traditional classroom setting or online to persons who are age 18 to under 25 years of age for the education and examination requirements for the issuance of a driver's license under Texas Transportation Code, §521.222(c) and §521.1601, must be offered in accordance with the following guidelines.
- (A) Traditional approval process. The commissioner may approve a driver education course exclusively for adults to be offered traditionally if the course meets the following requirements.
 - (i) Application. The driver education school shall submit a completed application along with the appropriate fee.
 - (ii) Request for approval. The request for approval must include course curriculum content, list of instructional materials, contract, and instructional records.
 - (iii) School license required. A person or entity offering a driver education course exclusively for adults must hold a driver education school license.
 - (iv) Instructor license required. Students shall receive classroom instruction from a licensed supervising teacher, driver education teacher, or teaching assistant-full.
 - (v) Minimum course content. The driver education course exclusively for adults shall consist of six clock hours of classroom instruction that meets the following topics.
 - (I) Course introduction--ten minutes. Objective: The student recognizes the value of legal and responsible reduced-risk driving practices and accepts driving as a privilege with responsibilities, obligations, and potential consequences.
 - (II) Your license to drive--minimum of 20 minutes. Objective: The student reduces risk and accepts driving as a privilege by legally and responsibly possessing a driver's license, registering and having a current inspection on a motor vehicle, and obeying the Safety Responsibility Act.
 - (III) Right-of-way--minimum of 50 minutes. Objective: The student reduces risk by legally and responsibly accepting or yielding the right-of-way.
 - (IV) Traffic control devices--minimum of 40 minutes. Objective: The student reduces risk by legally and responsibly applying knowledge and understanding of traffic control devices.
 - (V) Controlling traffic flow--minimum of 40 minutes. Objectives: The student reduces risk by legally and responsibly applying knowledge and understanding of laws and procedures for controlling traffic flow.
 - (VI) Alcohol and other drugs--minimum of 50 minutes. Objective: The student legally and responsibly performs reduced-risk driving practices by adopting zero-tolerance driving and lifestyle practices related to the use of alcohol and other drugs and applying knowledge and understanding of alcohol and other drug laws, regulations, penalties, and consequences.
 - (VII) Cooperating with other roadway users--minimum of 20 minutes. Objective: The student reduces risk by legally and responsibly cooperating with law enforcement and other roadway users, including vulnerable roadway users in emergency and

potential emergency situations.

- (VIII) Managing risk--minimum of 50 minutes. Objective: The student reduces and manages risk by legally and responsibly understanding the issues commonly associated with motor vehicle collisions, including poor decision making, risk taking, impaired driving, distractions, speed, failure to use a safety belt, driving at night, and using a wireless communications device while operating a vehicle.
 - (IX) Classroom progress assessment--25 minutes (this shall be the last unit of instruction). The remaining 25 minutes of instruction shall be allocated to the topics included in the minimum course content under subclauses (II)-(VIII) of this clause.
- (vi) Course management. An approved adult driver education course shall be presented in compliance with the following guidelines.
- (I) Students shall receive classroom instruction from a licensed supervising teacher, driver education teacher, or teaching assistant--full. The instructor shall be physically present in appropriate proximity to the student for the type of instruction being given. The teacher of record shall sign all completed classroom instruction records provided by a teaching assistant--full.
 - (II) A copy of the current edition of the "Texas Driver Handbook" or study material that is equivalent shall be furnished to each student enrolled in the course.
 - (III) Self-study assignments, motion picture films, photographic slides, videos, tape recordings, guest speakers, and other instructional media that present topics required in the course shall not exceed 120 minutes of instruction.
 - (IV) Each student, including makeup students, shall be provided their own seat and table or desk while receiving classroom instruction. A school shall not enroll more than 36 students, excluding makeup students, and the number of students may not exceed the number of seats and tables or desks available at the school.
 - (V) All classroom instruction, including makeup work, shall be completed within the timelines stated in the original student contract.
 - (VI) A minimum of 330 minutes of instruction is required.
 - (VII) The total length of the course shall consist of a minimum of 360 minutes.
 - (VIII) Thirty minutes of time, exclusive of the 330 minutes of instruction, shall be dedicated to break periods or to the topics included in the minimum course content.
 - (IX) Students shall not receive a driver education certificate of completion unless that student receives a grade of at least 70% on the highway signs examination and at least 70% on the traffic laws examination as required under Texas Transportation Code, §521.161.
 - (X) The driver education school shall make a material effort to establish the identity of the student.
- (B) Online approval process. The commissioner may approve a driver education course exclusively for adults to be offered online if the course meets the following requirements.
- (i) Application. The driver education school shall submit a completed application along with the appropriate fee.
 - (ii) Request for approval. The request for approval must include a syllabus cross-reference, contract, and instructional records.
 - (iii) School license required. A person or entity offering an online driver education course exclusively for adults must hold a driver education school license.

- (I) The driver education school shall be responsible for the operation of the online course.
 - (II) Students shall receive classroom instruction from a licensed supervising teacher, driver education teacher, or teaching assistant-full.
- (iv) Course content. The online course must meet the requirements of the course identified in the TEC, §1001.1015.
- (I) Course topics. The course requirements described in subparagraph (A)(v) of this paragraph shall be met.
 - (II) Length of course. The course must be 6 hours in length, which is equal to 360 minutes. A minimum of 330 minutes of instruction must be provided. Thirty minutes of time, exclusive of the 330 minutes of instruction, shall be dedicated to break periods or to the topics included in the minimum course content. All break periods shall be provided after instruction has begun and before the comprehensive examination and summation.
 - (III) Required material. A copy of the current edition of the "Texas Driver Handbook" or study material that is equivalent shall be furnished to each student enrolled in the course.
 - (IV) Editing. The material presented in the online course shall be edited for grammar, punctuation, and spelling and be of such quality that it does not detract from the subject matter.
 - (V) Irrelevant material. Advertisement of goods and services shall not appear during the actual instructional times of the course. Distracting material that is not related to the topic being presented shall not appear during the actual instructional times of the course.
 - (VI) Minimum content. The online course shall present sufficient content so that it would take a student 360 minutes to complete the course. In order to demonstrate that the online course contains sufficient minutes of instruction, the online course shall use the following methods.
 - (-a-) Word count. For written material that is read by the student, the course shall contain the total number of words in the written sections of the course. This word count shall be divided by 180, the average number of words that a typical student reads per minute. The result is the time associated with the written material for the sections.
 - (-b-) Multimedia presentations. For multimedia presentation, the online course shall calculate the total amount of time it takes for all multimedia presentations to play, not to exceed 120 minutes.
 - (-c-) Charts and graphs. The online course may assign one minute for each chart or graph.
 - (-d-) Time allotment for questions. The online course may allocate up to 60 seconds for questions presented over the Internet and 30 seconds for questions presented by telephone.
 - (-e-) Total time calculation. If the sum of the time associated with the written course material, the total amount of time for all multimedia presentations, and the time associated with all charts and graphs equals or exceeds 330 minutes, the online course has demonstrated the required amount of minimum content.
 - (-f-) Alternate time calculation method. In lieu of the time calculation method, the online course may submit alternate methodology to demonstrate that the online course meets the 330-minute requirement.

- (v) Personal validation. The online course shall maintain a method to validate the identity of the person taking the course. The personal validation system shall incorporate one of the following requirements.
 - (I) School-initiated method. Upon approval by the TEA, the online course may use a method that includes testing and security measures that are at least as secure as the methods available in the traditional classroom setting. The method must meet the following criteria.
 - (-a-) Time to respond. The student must correctly answer a personal validation question within 60 seconds.
 - (-b-) Placement of questions. At least two personal validation questions shall appear randomly during each instructional hour, not including the final examination.
 - (-c-) Exclusion from the course. The online course shall exclude the student from the course after the student has incorrectly answered more than 30% of the personal validation questions.
 - (-d-) Correction of answer. The online course may correct an answer to a personal validation question for a student who inadvertently missed a personal validation question. In such a case, the student record shall include a record of both answers and an explanation of the reasons why the answer was corrected.
 - (II) Third party data method. The online course shall ask a minimum of 12 personal validation questions randomly throughout the course from a bank of at least 20 questions drawn from a third party data source. The method must meet the following criteria.
 - (-a-) Time to respond. The student must correctly answer a personal validation question within 60 seconds.
 - (-b-) Placement of questions. At least two personal validation questions shall appear randomly during each instructional hour, not including the final examination.
 - (-c-) Exclusion from the course. The online course shall exclude the student from the course after the student has incorrectly answered more than 30% of the personal validation questions.
 - (-d-) Correction of answer. The online course may correct an answer to a personal validation question for a student who inadvertently missed a personal validation question. In such a case, the student record shall include a record of both answers and an explanation of the reasons why the answer was corrected.
- (vi) Content validation. The online course shall incorporate a course content validation process that verifies student participation and comprehension of course material, including the following.
 - (I) Timers. The online course shall include built-in timers to ensure that 330 minutes of instruction have been attended and completed by the student.
 - (II) Testing the student's participation in multimedia presentations. The online course shall ask at least 1 course validation question following each multimedia clip of more than 60 seconds.
 - (-a-) Test bank. For each multimedia presentation that exceeds 60 seconds, the online course shall have a test bank of at least 4 questions.
 - (-b-) Question difficulty. The question shall be short answer, multiple choice, essay, or a combination of these forms. The question shall be difficult enough that the answer may not be easily determined without having

viewed the actual multimedia clip.

- (-c-) Failure criteria. If the student fails to answer the question correctly, the online course must require the student to view the multimedia clip again. The online course shall then present a different question from its test bank for that multimedia clip. The online course may not repeat a question until it has asked all the questions from its test bank.
 - (-d-) Answer identification. The online course shall not identify the correct answer to the multimedia question.
- (III) Course participation questions. The online course shall test the student's course participation by asking at least two questions from each of the seven topics listed in subparagraph (A)(v)(II)-(VIII) of this paragraph.
- (-a-) Test bank. The test bank for course participation questions shall include at least ten questions from each of the seven topics identified in subparagraph (A)(v)(II)-(VIII) of this paragraph.
 - (-b-) Placement of questions. The course participation questions shall be asked at the end of the major unit or section in which the topic is covered.
 - (-c-) Question difficulty. Course participation questions shall be of such difficulty that the answer may not be easily determined without having participated in the actual instruction.
- (IV) Comprehension of course content. The online course shall test the student's mastery of the course content by administering at least 30 questions covering the highway signs and traffic laws required under Texas Transportation Code, §521.161.
- (-a-) Test banks (two). Separate test banks for course content mastery questions are required for the highway signs and traffic laws examination as required under Texas Transportation Code, §521.161, with examination questions drawn equally from each.
 - (-b-) Placement of questions. The mastery of course content questions shall be asked at the end of the course (comprehensive final examination).
 - (-c-) Question difficulty. Course content mastery questions shall be of such difficulty that the answer may not be easily determined without having participated in the actual instruction.
- (vii) Retest the student. If the student misses more than 30% of the questions asked on an examination, the online course shall retest the student using different questions from its test bank. The student is not required to repeat the course, but may be allowed to review the course prior to retaking the examination. If the student fails the comprehensive final examination three times, the student shall fail the course.
- (viii) Student records. The online course shall provide for the creation and maintenance of the records documenting student enrollment, the verification of the student's identity, and the testing of the student's mastery of the course material. The school shall also ensure that the student record is readily, securely, and reliably available for inspection by a TEA representative. The student records shall contain the following information:
- (I) the student's first, middle, and last name;
 - (II) the student's date of birth and gender;
 - (III) a record of all questions asked and the student's responses;
 - (IV) the name or identity number of the staff member entering comments, retesting, or revalidating the student;
 - (V) both answers and a reasonable explanation for the change if any answer to a

question is changed by the school for a student who inadvertently missed a question; and

- (VI) a record of the time the student spent in each unit and the total instructional time the student spent in the course.
- (ix) Waiver of certain education and examination requirements. A licensed driver education instructor must determine that the student has successfully completed and passed a driver education course exclusively for adults prior to waiving the examination requirements of the highway sign and traffic law parts of the examination required under Texas Transportation Code, §521.161, and signing the ADE-1317 driver education completion certificate.
- (x) Age requirement. A person must be at least 18 years of age to enroll in a driver education course exclusively for adults.
- (xi) Issuance of certificate. Not later than the 15th working day after the course completion date, the school shall issue an ADE-1317 driver education certificate only to a person who successfully completes an approved online driver education course exclusively for adults.
- (xii) Access to instructor. The school must establish hours that the student may access the instructor. With the exception of circumstances beyond the control of the school, the student shall have access to the instructor during the specified hours.
- (xiii) Additional requirements for online courses.
 - (I) Re-entry into the course. An online course may allow the student re-entry into the course by username and password authentication or other means that are as secure as username and password authentication.
 - (II) Navigation. The student shall be provided orientation training to ensure easy and logical navigation through the course. The student shall be allowed to freely browse previously completed material.
 - (III) Audio-visual standards. The video and audio shall be clear and, when applicable, the video and audio shall be synchronized.
 - (IV) Domain names. Each school offering an online course must offer that online course from a single domain. The online course may accept students that are redirected to the online course domain, as long as the school license number appears on the source that redirects the student to the online course domain. The student must be redirected to a webpage that clearly identifies the licensed school offering the online course before the student begins the registration process, supplies any information, or pays for the course.
- (3) Compliance with Texas Transportation Code, §521.1601. Persons age 18 to under 25 years of age must successfully complete either a minor and adult driver education course or the driver education course exclusively for adults. Partial completion of either course does not satisfy the requirements of rule or law.
- (4) Issuance of certificate. A licensed school or instructor may not issue an ADE-1317 adult driver education certificate to a person who is not at least 18 years of age.
- (c) This subsection contains requirements for driver education instructor development courses. For each course, the following curriculum documents and materials are required to be submitted as part of the application for approval. If the course meets the minimum requirements set forth in this subchapter, the division may grant an approval. Schools desiring to provide driver education instructor development courses shall provide an application for approval that shall be in compliance with this section.
 - (1) Schools desiring to obtain approval for a driver education instructor development course shall request an application for approval from TEA. All instructor development curricula submitted for approval shall meet or exceed the requirements set forth for approved programs offered at colleges, universities, school districts, or educational service centers and shall be specific to the area of specialization. Guidelines and criteria for the course shall be provided with the application packet, and the school shall meet or exceed the criteria outlined.

- (A) Six-semester-hour instructor development course. The driver education instructor development program instructional objectives must be equivalent to 6 semester hours or 90 clock hours of driver and traffic safety education instructor training and shall include:
- (i) Driver Education I--minimum of 45 clock hours. Instructional objectives: the trainee shall acquire the knowledge, skills, and understanding to instruct students in the reduced-risk driving practices in the Highway Transportation System (HTS) in accordance with the standards for minor and adult driver education and traffic safety. Instruction shall address the following topics:
 - (I) overview of Driver Education I;
 - (II) minor and adult driver education curriculum overview and course goals;
 - (III) school and instructor liability and responsibility;
 - (IV) student evaluation and assessment;
 - (V) instructor conduct, including professionalism and public relations;
 - (VI) rules, codes, and standards for driver education programs; and
 - (VII) classroom progress examination for Driver Education I.
 - (ii) Driver Education II--minimum of 45 clock hours. Instructional objectives: the trainee shall acquire the knowledge, skills, and understanding to instruct students in the reduced-risk driving practices in the HTS in accordance with the standards for minor and adult driver education and traffic safety for in-car instruction. Instruction shall address the following topics:
 - (I) overview of Driver Education II;
 - (II) minor and adult driver education in-car curriculum overview;
 - (III) commentary driving techniques;
 - (IV) factors that influence learning and habit formation;
 - (V) in-car lesson planning, including scheduling and designing;
 - (VI) vocabulary and communication;
 - (VII) risk management;
 - (VIII) general guidelines for conducting behind-the-wheel and in-car observation;
 - (IX) in-car debriefing techniques;
 - (X) proper record keeping and maintenance;
 - (XI) classroom progress examination for Driver Education II; and
 - (XII) in-car laboratory, including:
 - (-a) initial assessment of trainee's driving skills by instructor trainer;
 - (-b) observation of in-car teaching techniques as given by a licensed instructor;
 - (-c) practice of instructor risk-management and emergency procedures, including taking control of the vehicle under the supervision and observation of a licensed instructor;
 - (-d) in-car trainee student teaching under the supervision and observation of a

licensed instructor; and

(-e-) trainee in-car student teaching final progress assessment under the supervision and observation of a licensed instructor.

(B) Nine-semester-hour instructor development course. The driver education instructor development program instructional objectives must be equivalent to 9 semester hours or 135 clock hours of driver and traffic safety education instructor training and shall include:

(i) all requirements set forth in subparagraph (A) of this paragraph; and

(ii) Driver Education III--minimum of 45 clock hours. Instructional objectives: the trainee shall acquire the knowledge, skills, and understanding to instruct students in the reduced-risk driving practices in the HTS in accordance with the standards for minor and adult driver education and traffic safety for classroom instruction. Instruction shall address the following topics:

(I) overview of Driver Education III;

(II) classroom delivery, including TEC, rules, standards, and school administrative procedures;

(III) student learning styles;

(IV) classroom management and student discipline;

(V) classroom lesson planning and designing;

(VI) scheduling driver education programs;

(VII) proper record keeping and maintenance;

(VIII) simulation theory and multicar range instruction;

(IX) instructor professional growth;

(X) classroom progress examination for Driver Education III; and

(XI) classroom laboratory, including:

(-a-) observation of classroom teaching techniques as given by a licensed instructor; and

(-b-) classroom practice student teaching under the supervision and observation of a licensed instructor.

(C) Supervising instructor development course. The supervising driver education instructor development program instructional objectives must be equivalent to 6 semester hours or 90 clock hours of driver and traffic safety education instructor training and shall include:

(i) training in administering driver education programs and supervising and administering traffic safety education;

(ii) Supervising Instructor I--minimum of 45 clock hours. Instructional objectives: the instructor shall acquire the knowledge, skills, and understanding to instruct trainees in the reduced-risk driving practices in the HTS in accordance with the standards for minor and adult driver education and traffic safety. Instruction shall address the following topics:

(I) overview of Supervising Instructor I;

(II) minor and adult driver education curriculum overview and course goals;

(III) rules, codes, and standards for driver education programs;

(IV) learning styles;

- (V) factors that influence learning and habit formation;
 - (VI) vocabulary and communication;
 - (VII) lesson plan development;
 - (VIII) classroom management and student discipline; and
 - (IX) classroom progress examination for Supervising Instructor I; and
- (iii) Supervising Instructor II--minimum of 45 clock hours. Instructional objectives: the instructor shall acquire the knowledge, skills, and understanding to instruct trainees in the reduced-risk driving practices in the HTS in accordance with the standards for minor and adult driver education and traffic safety. Instruction shall address the following topics:
- (I) overview of Supervising Instructor II;
 - (II) student evaluation and assessment;
 - (III) commentary driving techniques;
 - (IV) in-car debriefing techniques;
 - (V) scheduling driver education programs;
 - (VI) proper record keeping and maintenance;
 - (VII) school and instructor liability and responsibility;
 - (VIII) instructor conduct, including professionalism and public relations;
 - (IX) risk management;
 - (X) simulation theory and multicar range;
 - (XI) professional growth;
 - (XII) classroom progress examination for Supervising Instructor II; and
 - (XIII) classroom laboratory, including:
 - (-a-) observation of nine-semester-hour driver education instructor development course classroom teaching techniques as given by a licensed instructor; and
 - (-b-) classroom practice student teaching of a nine-semester-hour driver education instructor development course under the supervision and observation of a licensed instructor.
- (2) Prior to enrolling a student in a driver education instructor development course, the school owner or representative must obtain proof that the student has a high school diploma or equivalent. A copy of the evidence must be placed on file with the school. Further, the school shall obtain and evaluate a current official driving record from the student prior to enrollment. The individual must not have accumulated 6 or more penalty points on a driving record during the preceding 36-month period. The school must use the standards for assessing penalty points for convictions of traffic law violations and accident involvements established under Texas Transportation Code, Chapter 708, Subchapter B.
- (3) Instruction records shall be maintained by the school and supervising teacher for each instructor trainee and shall be available for inspection by authorized division representatives at any time during the training period and/or for license investigation purposes. The instruction record shall include the trainee's name, address, driver's license number, and other pertinent data; name and instructor license number of the person conducting the training; and dates of instruction, lesson time, and subject taught during each instruction period. Each record shall also include grades or other means of indicating the trainee's aptitude and development. Upon satisfactory completion of the training course, the supervising teacher conducting the

training will certify one copy of the instruction record for attachment to the trainee's application for licensing, and one copy will be maintained in a permanent file at the school.

- (4) All student instruction records submitted for the approved instructor development courses shall be original documents.
 - (5) A properly licensed supervising driver education teacher or supervising teaching assistant-full shall teach the 6-semester-hour, 9-semester-hour, and supervising instructor development courses. The supervising teacher may allow a driver education teacher, teaching assistant-full, or teaching assistant to provide training under the direction of the supervising teacher in areas appropriate for their level of certification and/or licensure. The supervising teacher is responsible for certifying all instruction conducted by the driver education teacher, teaching assistant-full, or teaching assistant, including independent study and research assignments, which shall not exceed 25% of the total training program time.
 - (6) Schools desiring to teach driver education instructor development courses shall either submit course offerings as a part of the school application or, if offered periodically, submit the dates, times, locations, and scheduled instructors' names and license numbers at least ten days before teaching the course.
- (d) This subsection contains requirements for driver education continuing education courses.
- (1) Driver education school owners may receive an approval for a four-hour continuing education course and provide the approved course to instructors to ensure that instructors meet the requirements for continuing education.
 - (2) The request for course approval shall contain the following:
 - (A) a description of the plan by which the course will be presented;
 - (B) the subject of each unit;
 - (C) the educational objectives of each unit;
 - (D) time to be dedicated to each unit;
 - (E) instructional resources for each unit, including names or titles of presenters and facilitators; and
 - (F) a plan by which the school owner will monitor and ensure attendance and completion of the course by the instructors within the guidelines set forth in the course.
 - (3) A continuing education course may be approved if TEA determines that:
 - (A) the course constitutes an organized program of learning that enhances the instructional skills, methods, or knowledge of a licensed driver education instructor;
 - (B) the course pertains to subject matters that relate directly to the practice of driver education instruction, instruction techniques, or driver education-related subjects; and
 - (C) the entire course shall be taught by individuals with recognized experience or expertise in the area of driver education or related subjects. The division may request evidence of the individuals' experience or expertise.
 - (4) Driver education school owners may not offer the same continuing education course to instructors each year. In order to continue to offer a course, a new or revised continuing education course shall be submitted to TEA for approval.
 - (5) Driver education school owners must notify the division of the scheduled dates, times, and locations of all continuing education courses at least ten days prior to teaching the course.
- (e) A branch school may offer only a course that is approved for the primary school.
- (f) Schools applying for approval of additional courses after the original approval has been granted shall submit the documents designated by the division with the appropriate fee. Courses shall be approved before soliciting students, advertising, or conducting classes. An approval for an additional course shall not be granted if the school's compliance is in question at the time of application.

- (g) If an approved course is discontinued, the division shall be notified within five days of discontinuance and furnished with the names and addresses of any students who could not complete the course because it was discontinued. If the school does not make arrangements satisfactory to the students and the division for the completion of the courses, the full amount of all tuition and fees paid by the students are due and refundable. If arrangements are not made satisfactory to the students and the division, the refunds must be made no later than 30 days after the course was discontinued. Any course discontinued shall be removed from the school's approval.
- (h) If, upon review and consideration of an original, renewal, or amended application for course approval, the commissioner determines that the applicant does not meet the legal requirements, the commissioner shall notify the applicant, setting forth the reasons for denial in writing.
- (i) The commissioner may revoke approval of a school's courses under certain circumstances, including, but not limited to, the following.
 - (1) Information contained in the application for the course approval is found to be untrue.
 - (2) The school has failed to maintain the instructors, facilities, equipment, or courses of study on the basis of which approval was issued.
 - (3) The school offers a course which has not been approved or for which there are no instructors or equipment.
 - (4) The school has been found to be in violation of TEC, Chapter 1001, and/or this chapter.

84.107. Student Enrollment Contracts

- (a) A legal written or electronic student enrollment contract shall be executed prior to the school's receipt of any money. Electronic signatures shall comply with Texas Business and Commerce Code, Chapter 322.
- (b) All driver education student enrollment contracts shall contain at least the following:
 - (1) the student's legal name;
 - (2) the student's driver's license number (if applicable);
 - (3) the student's address, including city, state, and zip code;
 - (4) the student's telephone number;
 - (5) the student's date of birth;
 - (6) the full legal name and license number of the primary school or the branch school;
 - (7) the specific course to be taught;
 - (8) the agreed total contract charges that itemize all tuition, fees, and other charges;
 - (9) the terms of payment;
 - (10) the number of classroom lessons;
 - (11) the length of each lesson and course;
 - (12) the school's cancellation, termination, and refund policy;
 - (13) a statement indicating the specific location, date, and time that classroom instruction is scheduled to begin; the date classroom instruction is scheduled to end; and the amount of time a student has to complete all classroom instruction, makeup assignments, and in-car instruction;
 - (14) the number of in-car lessons;
 - (15) the rate per classroom lesson that corresponds to actual instructional costs;
 - (16) the rate per in-car lesson that corresponds to actual instructional costs;
 - (17) the rates for use of a school car for a road test (if an extra charge is made);

- (18) a statement that the school maintains a business insurance policy for vehicles with coverage as required by Texas Transportation Code, Chapter 601, and uninsured or underinsured coverage;
- (19) the signature of a school representative; and
- (20) the student's signature or, if the driver education student is younger than 18, the signature of the parent or guardian. The signature of the parent or guardian is not required for an individual younger than 18 who is, or has been, married or whose disabilities of minority have been removed generally by law. Instead, such an individual shall:
 - (A) present a marriage certificate or a divorce decree (but not an annulment decree) or other satisfactory evidence of marriage or of having been married; or
 - (B) present a court order showing removal of disabilities of minority; or
 - (C) present a notarized parental authorization.
- (c) In addition, all driver education student enrollment contracts shall contain statements substantially as follows.
 - (1) I have been furnished a copy of the school tuition schedule; cancellation and refund policy; and school regulations pertaining to absence, grading policy, progress, and rules of operation and conduct.
 - (2) The school is prohibited from issuing a DE-964 or ADE-1317 if the student has not met all of the requirements for course completion, and the student should not accept a DE-964 or ADE-1317 under such circumstances.
 - (3) This agreement constitutes the entire contract between the school and the student, and assurances or promises not contained herein shall not bind the school or the student.
 - (4) I further realize that any grievances not resolved by the school may be forwarded to Driver Training, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701. The current telephone number of the division shall also be provided.
- (d) A copy of the enrollment contract shall be delivered to:
 - (1) the student, if 18 years of age or older; or
 - (2) the parent or guardian that signed the contract.
- (e) A copy of each enrollment contract shall be a part of the student files maintained by all driver education schools.
- (f) Schools shall submit proposed or amended enrollment contracts to the division.
- (g) Student enrollment contracts used at branch schools must be those approved for use at the primary school.
- (h) Driver education courses exclusively for adults may use a group contract that includes more than one student's name.

84.108. Progress

Appropriate standards shall be implemented to ascertain the progress of the students.

- (1) Progress standards shall meet the requirements of the Program of Instruction for Driver Education and Traffic Safety approved by the commissioner of education.
- (2) Each primary school shall submit to the division for approval procedures to ensure that each student who attends the primary school and all branch schools demonstrates an acceptable level of mastery of the Program of Instruction for Driver Education and Traffic Safety. Mastery is not related to passing the written examination for a driver's license administered by the Texas Department of Public Safety. Successful completion and mastery are prerequisites to awarding a grade of 70% or above.
- (3) One or more of the following methods shall determine evidence of successful completion and mastery:
 - (A) unit tests;

- (B) written assignments;
 - (C) skills performance checklist; and
 - (D) comprehensive examinations of knowledge and skills.
- (4) The instructor must certify that each student successfully mastered all course content before the student is awarded successful completion of a driver education program.

84.109. Attendance and Makeup

- (a) Written or electronic records of student attendance shall be prepared daily to document the attendance and absence of the students. A student must make up any time missed. Electronic signatures shall comply with Texas Business and Commerce Code, Chapter 322.
- (b) Schools are allowed five minutes of break per instructional hour.
- (c) Driver education training provided by the school is limited to five hours per day. Classroom instruction shall not exceed two hours per day, excluding makeup work. In-car instruction provided by the school shall not exceed three hours per day as follows:
 - (1) three hours or less of in-car training; however, behind-the-wheel instruction is limited to one hour per day, except as provided in subsection (d) of this section; or
 - (2) three hours or less of simulation instruction; or
 - (3) three hours or less of multicar range instruction; or
 - (4) any combination of the methods delineated in this subsection that does not exceed three hours per day.
- (d) A 2-hour increment of behind-the-wheel instruction may be offered once during the behind-the-wheel instruction for each student and shall include 10 minutes of instructional break after 55 minutes of instruction as identified in §176.1007(b)(1)(A) of this title (relating to Courses of Instruction).
- (e) The attendance policy shall limit a student's absences to no more than 10 classroom hours of a 32-classroom-hour session. A student whose classroom enrollment is terminated for violating the attendance policy may not reenter before the start of the next new class.
- (f) The student may receive credit for previous training if the student reenters and completes the applicable portion of the course within the timeline specified in the original student enrollment contract, starting from the first scheduled day of class on the original contract.
- (g) Schools shall submit a makeup policy to the division for approval. All absences are subject to the attendance policy regardless of whether the student attends makeup lessons. Students may be allowed to complete up to ten hours of classroom makeup work assignments outside of regularly scheduled classroom instruction. Schools shall not initiate nor encourage absences. Makeup policies shall adhere to the following requirements:
 - (1) For a policy that allows a student to attend a missed lesson on the same date or at a later date at a regularly scheduled class, the class shall be engaged in the same lesson the student missed previously.
 - (2) For a policy that allows a student to perform an individual makeup lesson, a sample of each makeup lesson, clearly labeled as "makeup for the driver education course," shall be available for review by the Texas Education Agency at the school. Each lesson shall be clearly identified as a makeup lesson and identified as to the units of instruction to be covered. Evidence of makeup completed outside of regularly scheduled classroom instruction shall be placed in the student file.
- (h) A school may allow a student to attend an alternative class on the same calendar day if the sequence of instruction will be maintained by the identical lesson being offered. The student instruction record shall reflect the time of day the alternative class was attended. A student selecting alternative scheduling shall not be considered absent.
- (i) Except as provided in subsection (j) of this section, the enrollment of students who do not complete all required instructional hours within the timelines specified in the original student enrollment contract will be terminated. Contractual timelines shall not exceed one year.
- (j) Variances to the timelines for completion of the driver education instruction stated in the original student enrollment

contract may be made at the discretion of the school owner and must be agreed to in writing by the parent or guardian.

84.110. Conduct Policy

A statement regarding the following shall be provided to the parent or guardian signing the contract:

- (1) conditions for dismissal; and
- (2) conditions for reentry of students.

84.111. Cancellation and Refund Policy

- (a) School cancellation and refund policies shall be in accordance with Texas Education Code (TEC), Chapter 1001.
- (b) If a student withdraws or is terminated from the course, a refund must be issued that corresponds to the actual instructional hours not provided.
- (c) Refunds for all driver education schools shall be completed within 30 days after the effective date of termination except as allowed under §176.1010(d) of this title (relating to Attendance and Makeup). Proof of completion of refund shall be the refund document or copies of both sides of the canceled check and shall be on file within 75 days of the effective date of termination. All refund checks shall identify the student to whom the refund is assigned. In those cases where multiple refunds are made using one check, the check shall identify each individual student and the amount to be credited to that student's account.
- (d) In reference to TEC, §1001.404, the interest rate on unpaid refunds is set at 20%.
- (e) In reference to TEC, §1001.404, a school is considered to have made a good faith effort to consummate a refund if the student file contains evidence of the following attempts:
 - (1) certified mail to the student's last known address;
 - (2) certified mail to the student's permanent address; and
 - (3) certified mail to the address of the student's parent, if different from the permanent address.
- (f) If it is determined that the method used by the school to calculate refunds is in error or the school does not routinely pay refunds within the time required by TEC, §1001.402(b)(5), the school shall submit a report of an audit which includes any interest due as set forth in TEC, §1001.404, conducted by an independent certified public accountant or public accountant who is properly registered with the appropriate state board of accountancy, of the refunds due former students. The audit opinion letter shall be accompanied by a schedule of student refunds due which shall disclose the following information for the previous two years from the date of request by the Texas Education Agency (TEA) for each student:
 - (1) name, address, and driver's license number;
 - (2) last date of attendance or date of termination; and
 - (3) amount of refund with principal and interest separately stated, date and check number of payment if payment has been made, and any balance due.
- (g) Any funds received from, or on behalf of, a student shall be recorded in a format that is readily accessible to representatives of TEA and acceptable to the division.
- (h) Branch schools shall use the policies approved for use at the primary school.

84.112. Facilities and Equipment

- (a) Each school shall conduct the Texas Education Agency-approved driver education course in a facility or facilities approved by the division.
- (b) A school offering any phase of driver education shall maintain an office in a place other than a private residence; and no classroom facility for driver education programs shall be located in a private residence.
- (c) The amount of classroom space shall meet the use requirements of the maximum number of current students in class with appropriate seating and writing facilities as necessitated by the activity patterns of the course.

- (d) Enrollment shall correspond to the design characteristics of the student workstations. The facilities shall meet any state and local ordinances governing housing and safety for the use designated.

84.113. Motor Vehicles

- (a) All in-car instruction of students in driver education schools shall be conducted in motor vehicles owned or leased by the owner of the driver education school in the name of the driver education school. If the student is disabled, the school may use a motor vehicle that is owned by the student or student's parent that is equipped with special vehicle controls. All school motor vehicles and vehicles for students with physical disabilities that are used to demonstrate or practice driving lessons shall:
- (1) be equipped with dual control brake pedals so that there is a foot brake located within easy reach of the instructor that is capable of bringing the vehicle to a stop and otherwise be equipped in accordance with Texas motor vehicle laws;
 - (2) be equipped with safety belts, and students and instructors shall comply with requirements of Transportation Code, §545.413;
 - (3) be properly registered in compliance with the motor vehicle registration laws of Texas and bear a current motor vehicle inspection certificate;
 - (4) be insured by a company authorized to do business in Texas with a continuous liability business insurance policy in the amount specified in Transportation Code, Chapter 601, and include coverage for uninsured or underinsured motorists;
 - (5) be equipped with an extra inside rearview mirror on the instructor's side and an outside rearview mirror on both sides. The visor mirror shall not substitute for the instructor's inside rearview mirror; and
 - (6) meet the requirements to pass vehicle inspection as required by the Transportation Code, Chapter 548, at the time of use.
- (b) School owners shall submit with the school license renewal application a current list of all motor vehicles used for instruction.
- (c) All vehicles shall be insured in accordance with subsection (a)(4) of this section and shall have evidence available for inspection by Texas Education Agency (TEA) representatives.
- (d) If it is found that the school has used an unsafe vehicle according to guidelines used for inspection of vehicles in the state of Texas or has used an uninsured vehicle, TEA may impose a civil penalty not to exceed \$1,000 for each day the unsafe or uninsured vehicle was used. Each vehicle shall constitute a separate offense.
- (e) All students must be seated in forward-facing seats in the vehicle that are in compliance with seatbelt capacities. Only one student and one instructor shall be seated in the front seat.

84.114. Student Complaints

The primary school shall have a written grievance procedure that is disclosed to all students. Branch schools shall follow the procedures approved for the primary school. The function of the procedure shall be to attempt to resolve disputes between students, including terminations and graduates, and the school.

84.115. Records

- (a) A driver education school shall accurately complete all school records and applications and furnish upon request any data pertaining to student enrollments and attendance, as well as records and necessary data required for licensure and to show compliance with the legal requirements for inspection by authorized representatives of the Texas Education Agency (TEA). The records shall include timecards for instructors and schedules that reflect the duties and instruction times for instructors that correlate to the times that are shown on timecards. There may be announced or unannounced on-site visits at each school each year.
- (b) The schools shall retain all student records for at least three years. A school shall maintain the records of the students who completed driver education classes at the site of instruction for the most current 12 months. The school owner shall maintain all other driver education records at a location accessible by the school owner after 12 months. All records pertaining to each completed student must be kept at one location. Schools with no current enrollment may request approval from the division to transfer records to the primary school or another approved location.

- (c) The school shall maintain a written or electronic daily record of attendance for all students enrolled at the instruction site. The record shall include the information specified in this subsection.
- (1) Attendance records shall include legend entries. Each entry made on the legend must be made by using symbols, abbreviations, or other appropriate markings to indicate the following:
- (A) absent;
 - (B) makeup;
 - (C) present;
 - (D) date; and
 - (E) time.
- (2) The individual student record form (classroom) for all students, including completed, terminated, or withdrawn, shall include the following:
- (A) name and classroom address of the school;
 - (B) full name, full address, telephone number of the student, and date of birth;
 - (C) date instruction terminated, if applicable;
 - (D) type and driver's license or permit number, if applicable, held by the student, including the expiration date and licensing state;
 - (E) month, day, year, and start and end time of instruction;
 - (F) each unit of instruction;
 - (G) grade earned for each unit;
 - (H) instruction hours for classroom, simulators, behind-the-wheel, and observation;
 - (I) initials of each instructor providing the classroom or in-car lesson. The instructor's signature and license number shall appear at least once on the form. The teacher of record shall sign all completed classroom instruction records;
 - (J) beginning and ending dates of the classroom phase; and
 - (K) statement of assurance signed by student and instructor that the record is true and correct.
- (3) The individual student record form (in-car instruction) shall contain the following entries:
- (A) month, day, year, and start and end time of instruction;
 - (B) each lesson of instruction;
 - (C) score earned for each lesson;
 - (D) name of student; and
 - (E) instructor's name and license number or instructor initials (if instructor's name and license number appears at least one time on the record).
- (4) Each driver education school shall retain a copy of the DE-964 or ADE-1317 in the appropriate student files.
- (d) Each driver education school shall, upon request, furnish each individually contracted student a duplicate of his or her instruction record when all of the courses contracted for are completed or the student otherwise ceases taking instruction at or with the school, providing all financial obligations have been met by the student.
- (e) Driver education schools shall not release student records that identify the student by name or address, or may lead to such identification, except:

- (1) to authorized representatives of the TEA;
- (2) to a peace officer;
- (3) under court order or subpoena; or
- (4) with written consent of both the student and at least one parent or legal guardian, if the student is under 18 years of age.

84.116. Names and Advertising

- (a) No primary school shall adopt, use, or conduct any business under a name that is like, or deceptively similar to, a name used by another licensed driver education school, driving safety school, course provider, or approved driving safety course without written consent of that school or course provider. Schools holding a name approved by the Texas Education Agency (TEA) as of August 31, 1995, may continue to use the name approved by TEA. No new license will be issued to a driver education school with a name like, or deceptively similar to, a name used by another licensed driver education school, driving safety school, course provider, or approved driving safety course.
- (b) A school license shall not contain more than one school name. Use of names other than the approved school name may constitute a violation of this section.
- (c) Branch schools shall adopt, use, and conduct business with the same name as the primary school.
- (d) A school shall not, by advertisement or otherwise, state or imply that a driver's license, permit, or DE-964 is guaranteed or assured to any student or individual who will take or complete any instruction or enroll or otherwise receive instruction in any driver education school.
- (e) A school shall not advertise without including the school name or the school number exactly as it appears on the driver education school license.
- (f) The division may require that a school furnish proof to TEA that substantiates any advertising claims made by the school. Failure to provide acceptable proof may require that the school publish a retraction of such advertising claims in the same manner as the disputed advertisement. Continuation of such advertising shall constitute cause for suspension of student enrollments or DE-964s and/or revocation of the school license and/or assessment of civil penalty.

84.117. Driver Education Certificates (DE-964 and ADE-1317)

- (a) The DE-964 and ADE-1317 shall be issued only to primary driver education schools. The primary driver education school shall maintain a record reconciling all DE-964s and ADE-1317s that are distributed to branch driver education schools and contract sites.
- (b) School owners shall be responsible for the DE-964 and ADE-1317 in accordance with this subsection.
 - (1) A licensed or exempt driver education school may request the serially numbered DE-964s and ADE-1317s by submitting an order form provided by the Texas Education Agency (TEA) stating the number of DE-964s and ADE-1317s to be purchased and including payment of all appropriate fees. The form shall have the original signature of the driver education school owner or school director.
 - (2) A driver education school shall not transfer DE-964s and ADE-1317s to a school other than the school for which the certificates were ordered from TEA without written approval from the division.
 - (3) Each driver education school owner shall ensure that the policies concerning the DE-964 and ADE-1317 are followed and communicated to all instructors and employees of the school and that the DE-964s and ADE-1317s are signed and issued as approved by TEA.
 - (4) The driver education school owner or school director shall maintain effective protective measures to ensure that unissued DE-964s and ADE-1317s are secure. The driver education school owner or school director shall report all unaccounted DE-964s and ADE-1317s to the division within five working days of the discovery of the incident. In addition, the driver education school shall be responsible for conducting an investigation to determine the circumstances surrounding the unaccounted DE-964s and ADE-1317s. A report of the findings of the investigation, including preventative measures for recurrence, shall be submitted to the division within 30 days of the discovery. Failure to provide adequate security may result in action against the instructor and/or school approvals and licenses. Each unaccounted DE-964 or ADE-1317 may be

considered a separate violation within the meaning of Texas Education Code (TEC), §1001.553(b).

- (5) No driver education school owner or employee shall complete, issue, or validate a DE-964 or ADE-1317 to a person who has not successfully completed the entire portion of the course for which the DE-964 or ADE-1317 is being issued.
- (c) If a driver education school issues a duplicate DE-964 or ADE-1317, the duplicate shall indicate the control number of the original DE-964 or ADE-1317.
 - (d) A driver education school that purchases driver education certificate numbers shall provide for the following.
 - (1) The DE-964 and ADE-1317 driver education certificate numbers shall only be issued to primary driver education schools. The primary driver education school shall maintain a record reconciling all DE-964 and ADE-1317 driver education certificate numbers that are distributed to branch driver education schools and contract sites.
 - (2) The school shall implement and maintain a policy which effectively ensures protective measures are in use at all times for securing original and duplicate driver education certificates numbers. The records and unissued or unnumbered original and duplicate driver education certificates shall be readily available for review by representatives of TEA.
 - (3) The school shall maintain electronic files with data pertaining to all driver education certificate numbers purchased from TEA. The school shall make available to TEA upon request an ascending numerical accounting record of the numbered driver education certificates issued. The school shall ensure security of the data.
 - (4) The school shall ensure that effective measures are taken to preclude lost data and that a system is in place to recreate electronic data for all driver education certificate numbers, whether used or not used, and all certificates that have been issued.
 - (5) Schools shall issue and mail driver education certificates using a block of identifying serial numbers purchased from the division only to students who have successfully completed all elements of the school's approved driver education course taught by TEA-licensed instructors in TEA-approved locations as indicated on the student contract.
 - (6) Schools shall report all unaccounted original and duplicate driver education numbers or unissued or duplicate certificates to the division within five working days of the discovery of the incident. In addition, the school shall be responsible for conducting an investigation to determine the circumstances surrounding the unaccounted items. A report of the findings of the investigation, including preventative measures for recurrence, shall be submitted for approval to the division within 30 days of the discovery.
 - (7) Each unaccounted or missing original or duplicate course driver education completion certificate number or blank or unissued original or duplicate driver education certificate may be considered a separate violation within the meaning of TEC, §1001.553. This may include lost, stolen, or otherwise unaccounted original or duplicate driver education certificate numbers or blanks or unissued original or duplicate driver education certificates.
 - (8) Schools shall not transfer driver education certificate numbers to another school.
 - (9) Schools shall sequentially number original driver education certificates from the block of numbers purchased from the division.
 - (10) When a duplicate driver education certificate is issued by a school, the duplicate certificate shall bear a serial number from the block of numbers purchased from the division by the school. The duplicate driver education certificate shall clearly indicate the number of both the duplicate and the original serial number of the certificate being replaced.

84.118. Alternative Method of Instruction for Driver Education Course

- (a) Approval process. The commissioner of education may approve an alternative method whereby a driver education school is approved to teach all or part of the classroom portion of an approved driver education course by an alternative method of instruction (AMI) that does not require students to be present in a classroom that meets the following requirements.
 - (1) Standards for approval. The commissioner may approve a driver education school to teach all or part of the

classroom portion of an approved driver education course by an AMI that does not require students to be present in a classroom only if:

- (A) the AMI includes testing and security measures that the commissioner determines are at least as secure as the measures available in the usual classroom setting;
 - (B) the course satisfies any other requirement applicable to a course in which the classroom portion is taught to students in the usual classroom setting;
 - (C) a student and instructor are in different locations for a majority of the student's instructional period;
 - (D) the AMI instructional activities are integral to the academic program; and
 - (E) extensive communication between a student and instructor and among students is emphasized.
- (2) Application. The school shall submit a completed AMI application along with the appropriate fee. The application for AMI approval shall be treated the same as an application for the approval of a driver education traditional course, and the AMI must deliver the school's approved curriculum as aligned with the Program of Organized Instruction for Driver Education and Traffic Safety.
- (3) School license required. A person or entity offering a classroom driver education course to Texas students by an AMI must hold a driver education school license. The driver education school is responsible for the operation of the AMI.
- (b) Course content. The AMI must deliver the same topics, sequence, and course content as the school's approved traditional driver education course.
- (1) Course topics. The time requirements for the course content described in §176.1007(a) and (b)(1)(C) of this title (relating to Courses of Instruction) shall be met.
 - (2) Editing. The material presented in the AMI shall be edited for grammar, punctuation, and spelling and be of such quality that it does not detract from the subject matter.
 - (3) Irrelevant material. Advertisement of goods and services shall not appear during the actual instructional times of the course. Distracting material that is not related to the topic being presented shall not appear during the actual instructional times of the course.
 - (4) Student breaks. The AMI is allowed 5 minutes of break per instructional hour for all phases, for a total of 160 minutes of break time. No more than ten minutes of break time may be accumulated for each two hours of instruction.
 - (5) Minimum content. The AMI shall present sufficient instructional content so that it would take a student a minimum of 32 hours (1,920 minutes) to complete the course. A course that demonstrates that it contains 1,760 minutes of instructional content shall mandate that students take 160 minutes of break time or provide additional educational content for a total of 1,920 minutes (32 hours). In order to demonstrate that the AMI contains sufficient content, the AMI shall use the following methods.
 - (A) Word count. For written material that is read by the student, the total number of words in the written sections of the course shall be divided by 180. The result is the time associated with the written material for the sections.
 - (B) Multimedia presentations. There shall be a minimum of 120 minutes of multimedia presentation. The school owner shall calculate the total amount of time it takes for all multimedia presentations to play, not to exceed 640 minutes.
 - (C) Charts and graphs. The AMI may assign one minute for each chart or graph.
 - (D) Examinations. The school owner may allocate up to 60 seconds for questions presented over the Internet and 30 seconds for questions presented by telephone.
 - (E) Total time calculation. If the sum of the time associated with the written course material, the total amount of time for all multimedia presentations, and the time associated with all charts, graphs, and breaks equals or exceeds the minimum 1,920 minutes, the AMI has demonstrated the required amount of content.

- (F) Alternate time calculation method. In lieu of the time calculation method, the AMI may submit alternate methodology to demonstrate that the AMI meets the minimum 32-hour requirement.
- (6) Academic integrity. The academic integrity of the AMI for a classroom driver education course shall include:
- (A) goals and objectives that are measurable and clearly state what the participants should know or be able to do at the end of the course;
 - (B) a clear, complete driver education classroom course overview and syllabus;
 - (C) content and assignments that are of sufficient rigor, depth, and breadth to teach the standards being addressed;
 - (D) literacy and communication skills that are incorporated and taught as an integral part of the AMI;
 - (E) sufficient learning resources and materials to increase student success available to students before the AMI begins;
 - (F) instruction requirements that are consistent with course goals, representative of the scope of the course, and clearly stated;
 - (G) communication processes that are provided to students, parents, and mentors on how to communicate with the school and instructor, including information on the process for these communications and for timely and frequent feedback about student progress;
 - (H) information addressing issues associated with the use of copyrighted materials; and
 - (I) if online, clearly stated academic integrity and netiquette (Internet etiquette) expectations regarding lesson activities, discussions, e-mail communications, and plagiarism.
- (7) Instructional design. Instructional design of AMI for classroom driver education shall:
- (A) include a clear understanding of student needs and incorporate varied ways to learn and multiple levels of mastery of the curriculum;
 - (B) ensure each lesson includes a lesson overview, objectives, resources, content and activities, assignments, and assessments to provide multiple learning opportunities for students to master the content;
 - (C) include concepts and skills that students will retain over time;
 - (D) include activities that engage students in active learning;
 - (E) include the instructor engaging students in learning activities that address a variety of learning styles and preferences to master course content;
 - (F) include instruction that provides opportunities for students to engage in higher-order thinking, critical-reasoning activities, and thinking in increasingly complex ways;
 - (G) include a statement that notifies the student of the school owner's security and privacy policy regarding student data, including personal and financial data; and
 - (H) include assessment and assignment answers and explanations.
- (c) Personal validation. The AMI shall maintain a method to validate the identity of the person taking the course. The personal validation system shall incorporate one of the following requirements.
- (1) School initiated method. Upon approval by the Texas Education Agency (TEA), the AMI may use a method that includes testing and security measures that are at least as secure as the methods available in the traditional classroom setting.
 - (2) Third party data method. The online course shall ask a minimum of 60 personal validation questions randomly throughout the course from a bank of at least 200 questions drawn from a third party data source.
 - (A) Time to respond. The student must correctly answer the personal validation question within 60

seconds for questions presented over the Internet and 30 seconds for questions presented by telephone.

- (B) Placement of questions. At least one personal validation question shall appear in each major unit or section, not including the final examination.
 - (C) Exclusion from the course. The AMI shall exclude the student from the course after the student has incorrectly answered more than 30% of the personal validation questions.
 - (D) Correction of answer. The school may correct an answer to a personal validation question for a student who inadvertently missed a personal validation question. In such a case, the student record shall include a record of both answers and an explanation of the reasons why the answer was corrected.
- (d) Content validation. The AMI shall incorporate a course content validation process that verifies student participation and comprehension of course material, including the following.
- (1) Timers. The AMI shall include built-in timers to ensure that 1,920 minutes of instruction have been attended and completed by the student.
 - (2) Testing the student's participation in multimedia presentations. The AMI shall ask at least 1 course validation question following each multimedia clip of more than 60 seconds.
 - (A) Test bank. For each multimedia presentation that exceeds 60 seconds, the AMI shall have a test bank of at least 4 questions.
 - (B) Question difficulty. The question shall be short answer, multiple choice, essay, or a combination of these forms. The question shall be difficult enough that the answer may not be easily determined without having viewed the actual multimedia clip.
 - (C) Failure criteria. If the student fails to answer the question correctly, the AMI shall either require the student to view the multimedia clip again or the AMI shall fail the student from the course. If the AMI requires the student to view the multimedia clip again, the AMI shall present a different question from its test bank for that multimedia clip. The AMI may not repeat a question until it has asked all the questions from its test bank.
 - (D) Answer identification. The AMI shall not identify the correct answer to the multimedia question.
 - (3) Mastery of course content. The AMI shall test the student's mastery of the course content by asking questions from each of the modules listed in the program of organized instruction for driver education and traffic safety.
 - (A) Test bank. The test bank for course content mastery questions shall include at least:
 - (i) 20 questions from each of modules 1, 8, and 12 listed in the program of organized instruction for driver education and traffic safety; and
 - (ii) 10 questions from each of the remaining modules.
 - (B) Placement of questions. The mastery of course content questions shall be asked at the end of each module.
 - (C) Question difficulty. Course content mastery questions shall be of such difficulty that the answer may not be easily determined without having participated in the actual instruction.
 - (4) Repeat and retest options. The AMI may use the following options for students who fail an examination to show mastery of course content.
 - (A) Repeat the failed module. If the student misses more than 30% of the questions asked on a module examination, the AMI shall require that the student take the module again. The correct answer to missed questions may not be disclosed to the student (except as part of course content). At the end of the module, the AMI shall again test the student's mastery of the material. The AMI shall present different questions from its test bank until all the applicable questions have been asked. The student may repeat this procedure an unlimited number of times.

- (B) Retest the final examination. If the student misses more than 30% of the questions asked on the final examination, the AMI shall retest the student in the same manner as the failed examination, using different questions from its test bank. If the student fails the same unit examination or the comprehensive final examination three times, the student shall fail the course.
- (e) Student records. The AMI shall provide for the creation and maintenance of the records documenting student enrollment, the verification of the student's identity, and the testing of the student's mastery of the course material. The school shall ensure that the student record is readily, securely, and reliably available for inspection by a TEA-authorized representative. The student records shall contain all information required in §176.1016 of this title (relating to Records) and the following information.
- (1) A record of all questions asked and the student's responses.
 - (2) The name or identity number of the staff member entering comments or revalidating the student.
 - (3) The name or identity number of the staff member retesting the student.
 - (4) If any answer to a question is changed by the school for a student who inadvertently missed a question, the school shall provide both answers and a reasonable explanation for the change.
 - (5) A record of the time the student spent in each unit of the AMI and the total instructional time the student spent in the course.
- (f) Additional requirements for Internet courses. Courses delivered via the Internet or technology shall also comply with the following requirements.
- (1) An AMI may allow the student re-entry into the course by username and password authentication or other means that are equally secure.
 - (2) The student shall be provided orientation training to ensure easy and logical navigation through the course. The student shall be allowed to freely browse previously completed material.
 - (3) The video and audio shall be clear and, when applicable, the video and audio shall be synchronized.
 - (4) If the AMI presents transcripts of a video presentation, the transcript shall be delivered concurrently with the video stream so that the transcript cannot be displayed if the video does not display on the student's computer.
 - (5) Each school offering an AMI must offer that AMI from a single domain. The AMI may accept students that are redirected to the AMI's domain, as long as the school license number appears on the source that redirects the student to the AMI domain. The student must be redirected to a webpage that clearly identifies the licensed school offering the AMI before the student begins the registration process, supplies any information, or pays for the course.
 - (6) Hardware, web browser, and software requirements must be specified.
 - (7) Prerequisite skills in the use of technology must be identified.
 - (8) Appropriate content-specific tools and software must be used.
 - (9) Universal design principles that ensure access for all students must be used.
 - (10) Online textbooks and other instructional materials used in an AMI must meet state standards.
 - (11) The school must offer the course instructor, school director, and school owner assistance with technical support and course management.
- (g) Additional requirements for video courses.
- (1) Delivery of the material. For AMIs delivered by the use of videotape, digital video disc (DVD), film, or similar media, the equipment and course materials may only be made available through a process that is approved by TEA.
 - (2) Video requirement. The video course shall include between 60 and 640 minutes of video that is relevant to the required topics such as video produced by other entities for training purposes, including public safety

announcements and B roll footage. The remainder of the 1,760 minutes of required instruction shall be video material that is relevant to required course instruction content.

- (A) A video AMI shall ask, at a minimum, at least 1 course validation question for each multimedia clip of more than 60 seconds.
 - (B) A video AMI shall devise and submit for approval a method for ensuring that a student correctly answers questions concerning the multimedia clips of more than 60 seconds.
- (h) Standards for AMIs using new technology. For AMIs delivered using technologies that have not been previously reviewed and approved by TEA, TEA may apply similar standards as appropriate and may also require additional standards. These standards shall be designed to ensure that the course can be taught by the alternative method and that the alternative method includes testing and security measures that are at least as secure as the methods available in the usual classroom setting.
- (i) Modifications to the AMI. Except as provided by paragraph (1) of this subsection, a change to a previously approved AMI shall not be made without the prior approval of TEA. The licensed school for the approved course on which the AMI is based shall ensure that any modification to the AMI is implemented by all schools endorsed to offer the AMI.
- (1) A school may submit to the TEA a request for immediate implementation of a proposed change that is insignificant or that protects the interest of the consumer such that immediate implementation is warranted. The request shall include:
 - (A) a complete description of the proposed change;
 - (B) the reason for the change;
 - (C) the reason the requestor believes the proposed change is insignificant or protects the interest of the consumer such that immediate implementation is warranted; and
 - (D) an explanation of how the change will maintain the course or AMI in compliance with state law and the rules specified in this chapter.
 - (2) The TEA may request additional information regarding a proposed change from the school making a request under paragraph (1) of this subsection.
 - (3) The TEA will respond to any request made under paragraph (1) of this subsection within five working days of receipt.
 - (A) If the TEA determines that the proposed change is insignificant or protects the interest of the consumer such that immediate implementation is warranted, the requestor may immediately implement the change. The licensed school for the approved course on which the AMI is based shall ensure that the change is implemented.
 - (B) If the TEA determines that the proposed change is neither insignificant nor protects the interest of the consumer such that immediate implementation is warranted, the TEA shall notify the requestor of that determination and the change may not be made unless the TEA approves the change following a complete review.
 - (4) A determination by the TEA to allow immediate implementation under paragraph (1) of this subsection does not constitute final approval by the TEA of the change. The TEA reserves the right to conduct further review after the change is implemented and to grant or deny final approval based on whether the change complies with state law and rules specified in this chapter.
 - (5) If, following further review, a change in an AMI that has been immediately implemented pursuant to paragraph (1) of this subsection is determined not to be in compliance with state law and rules specified in this chapter, the TEA:
 - (A) shall notify the course provider affected by the change of:
 - (i) the specific provisions of state law or rules with which the AMI change is not in compliance; and
 - (ii) a reasonable date by which the AMI must be brought into compliance;

- (B) shall not, for the period between the implementation of the change and the date specified under subparagraph (A)(ii) of this paragraph:
 - (i) seek any penalty relating to the non-compliance;
 - (ii) take any action to revoke or deny renewal of a license of a school or course provider based on the change; or
 - (iii) withdraw approval of a course or AMI based on the change; and
- (C) is not required to specify the method or manner by which the school alters the AMI to come into compliance with state law and the rules in this chapter.
- (6) If the TEA allows immediate implementation pursuant to paragraph (1) of this subsection and later determines that the description of the change or the request was misleading, materially inaccurate, not substantially complete, or not made in good faith, paragraph (5)(B) of this subsection does not apply.
- (7) A school who immediately implements a change pursuant to paragraph (1) of this subsection and fails to bring the AMI into compliance prior to the date allowed under paragraph (5)(A)(ii) of this subsection may be determined to be in violation of state law or the rules in this chapter after that date.
- (8) A school that immediately implements a change under paragraph (1) of this subsection assumes the risk of final approval being denied and of being required to come into compliance with state law and the rules in this chapter prior to the date allowed under paragraph (5)(A)(ii) of this subsection, including bearing the cost of reversing the change or otherwise modifying the AMI to come into compliance with state law and the rules in this chapter.
- (j) Termination of the school's operation. Upon termination, schools shall deliver any missing student data to TEA within five days of termination.
- (k) Renewal of AMI approval. The AMI approval must be renewed and updated to ensure timeliness every two years. The renewal document due date shall be March 1, 2012, and every two years thereafter.
 - (1) For approval, the school shall:
 - (A) update all the statistical data, references to law, and traffic safety methodology with the latest available data; and
 - (B) submit a statement of assurance that the AMI has been updated to reflect the latest applicable laws and statistics.
 - (2) Failure to make necessary changes or to submit a statement of assurance documenting those changes shall be cause for revocation of the AMI approval.
 - (3) The commissioner may alter the due date of the renewal documents by giving the approved AMI six months notice. The commissioner may alter the due date in order to ensure that the AMI is updated six months after the effective date of new state laws passed by the Texas Legislature.
- (l) Access to instructor. The school must establish hours that the student may access the instructor. With the exception of circumstances beyond the control of the school, the student shall have access to the instructor during the specified hours.
- (m) Enrollment guidelines. The AMI for driver education classroom that desires to instruct students age 14 to under 25 years of age shall provide the same beginning and ending dates for each student in the same class of 36 or less. No student shall be allowed to enroll and start the classroom phase after the sixth hour of classroom instruction has been completed.
- (n) Required training. The instructor must meet the professional teaching standard established by a state licensing agency or have academic credentials in the field in which he or she is teaching and must have been trained to teach the AMI classroom driver education course. Each instructor of an AMI classroom driver education course offered by a driver education school must:
 - (1) have a ST, DET, STA-F, or TA-F driver education license; and
 - (2) successfully complete the appropriate professional development course before teaching an AMI classroom

driver education course.

84.119. Application Fees and Other Charges

- (a) If a driver education school changes ownership, the new owner shall pay the same fee as that charged for an initial fee for a school. In cases where, according to §176.1003(e)(4) of this title (relating to Driver Education School Licensure), the change of ownership is substantially similar, the new owner shall pay the statutory fees allowed by Texas Education Code (TEC), §1001.151.
- (b) A late renewal fee shall be paid in addition to the annual renewal fee if the school fails to postmark a complete application for renewal at least 30 days before the expiration date of the driver education school license. The requirements for a complete application for renewal are found in §176.1003(g) of this title. The complete renewal application must be postmarked or hand-delivered with a date 30 or more days before the expiration date of the license.
- (c) Driver education instructors applying for school licensure as required by TEC, §1001.151, shall pay the fee amount set forth in statute.
- (d) License, application, and registration fees shall be collected by the commissioner of education and deposited with the state treasurer according to the following schedule.
 - (1) The initial fee for a primary school is \$1,000.
 - (2) The initial fee for a branch school is \$850.
 - (3) The renewal fee for a driver education school is \$200.
 - (4) The fee for a change of address of a driver education school is \$180.
 - (5) The fee for a change of name of a driver education school or to change the name of an owner is \$100.
 - (6) The application fee for each additional driver education course is \$25.
 - (7) The application fee for each school director is \$30.
 - (8) The application fee for each assistant director and each administrative staff member is \$15.
 - (9) Each application for an original driver education instructor's license shall be accompanied by a processing fee of \$50, except that the fee may not be collected for an applicant who is currently teaching a driver education course in a public school in this state.
 - (10) The annual instructor license fee is \$25.
 - (11) National criminal history check (nonrefundable)--The fee, posted on the Texas Department of Public Safety (DPS) website, shall vary according to the current cost of fingerprint processing and obtaining national criminal history record information from the DPS, its contractors, and the Federal Bureau of Investigation, not to exceed the fee imposed on an applicant for certification under TEC, Chapter 21, Subchapter B, for a national criminal history record information review under TEC, §21.0837.
 - (12) The late instructor renewal fee is \$25.
 - (13) The duplicate driver education instructor license fee is \$8.00.
 - (14) The fee for an investigation at a school to resolve a complaint is \$1,000.
 - (15) The driver education school late renewal fee is \$200.
 - (16) The fee for a DE-964 is \$1.00.
 - (17) The fee for an ADE-1317 is \$1.00.
 - (18) The application fee for approval of a 32-hour Alternative Method of Instruction (AMI) for driver education classroom is \$15,000.
 - (19) The application fee for approval of part of a 32-hour AMI for driver education classroom is \$500 per

instructional hour.

- (20) The application fee for approval of a traditional driver education course exclusively for adults is \$500.
- (21) The application fee for approval of an online driver education course exclusively for adults is \$9,000.
- (e) Failure to pay a required fee or penalty assessed shall be cause for revocation or denial of any license held by a school or instructor of whom the fee or penalty is required. Revocation or denial proceedings shall be started if the fee is not paid within 30 days of the expiration date of the appeal period set forth in TEC, Chapter 1001.

Subchapter B. Commissioner's Rules on Minimum Standards for Operation of Licensed Texas Driving Safety Schools and Course Providers.

84.200. Definitions

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

- (1) Advertising--Any affirmative act, whether written or oral, designed to call public attention to a school and/or course in order to evoke a desire to patronize that school and/or course. This includes Meta tags and search engine listings.
- (2) Break--An interruption in a course of instruction occurring after the course introduction and before the comprehensive examination and course summation.
- (3) Change of ownership of a school or course provider--A change in the control of the school or course provider. Any agreement to transfer the control of a school or course provider is considered to be a change of ownership. The control of a school or course provider is considered to have changed:
 - (A) in the case of ownership by an individual, when more than 50% of the school or course provider has been sold or transferred;
 - (B) in the case of ownership by a partnership or a corporation, when more than 50% of the school or course provider or of the owning partnership or corporation has been sold or transferred; or
 - (C) when the board of directors, officers, shareholders, or similar governing body has been changed to such an extent as to significantly alter the management and control of the school or course provider.
- (4) Clock hour--50 minutes of instruction in a 60-minute period for a driving safety course.
- (5) Course validation question--A question designed to establish the student's participation in the course and comprehension of the course material by requiring the student to answer a question regarding a fact or concept taught in the course.
- (6) Division--The division of the Texas Education Agency (TEA) responsible for administering the provisions of the law, rules, regulations, and standards as contained in this chapter and licensing driver training programs.
- (7) Division director--The person designated by the commissioner of education to carry out the functions and regulations governing the driving safety schools and course providers and designated as director of the division responsible for licensing driver training programs.
- (8) Final examination question--A question designed to measure the student's comprehension and knowledge of course material presented after the instruction is completed.
- (9) Good reputation--A person is considered to be of good reputation if:
 - (A) there are no felony convictions, unless the applicant can successfully demonstrate that the applicant has been rehabilitated;
 - (B) there are no convictions involving crimes of moral turpitude;
 - (C) within the last seven years, the person has never been successfully sued for fraud or deceptive trade practice;
 - (D) the person has not owned or operated a school or course provider with serious violations and has

never owned or operated a school or course provider that closed with violations, including, but not limited to, unpaid refunds or selling, trading, or transferring a driver education certificate or uniform certificate of course completion to any person or school not authorized to possess it. In making this determination, the division may consider the seriousness and number of violations, efforts made to correct the violations, and the history of similar violations;

- (E) the person has not failed to provide material information to representatives of TEA or falsified instructional records or any documents required for approval or continued approval;
 - (F) in the case of an instructor, there are no misdemeanor or felony convictions involving driving while intoxicated over the past seven years; and
 - (G) in the event that an instructor or applicant has received deferred adjudication of guilt from a court of competent jurisdiction, a determination can be made upon review of evidence that the conduct underlying the basis of the deferred adjudication has not rendered the person unworthy to provide driver training instruction. When determining underlying conduct, the commissioner may consider the facts and circumstances surrounding the deferred adjudication.
- (10) Inactive course--A driving safety or specialized driving safety course for which no uniform certificates of completion or course completion certificate numbers have been purchased for 36 months or longer.
 - (11) Instructor trainer--A driving safety instructor or specialized driving safety instructor who has been trained to prepare instructors to give instruction in a specified curriculum.
 - (12) Mail or commercial delivery--First Class U.S. mail or equivalent commercial delivery services that deliver no sooner than the day following successful course completion. Electronic delivery such as e-mail or facsimile is not acceptable as a commercial delivery service.
 - (13) Moral turpitude--Conduct that is inherently immoral or dishonest.
 - (14) New course--A driving safety or specialized driving safety course is considered new when it has not been approved by TEA to be offered previously; or has been approved by TEA and become inactive; or the content, lessons, or delivery of the course have been changed to a degree that a new application is requested and a complete review of the application and course presentation is necessary to determine compliance.
 - (15) Personal validation question--A question designed to establish the identity of the student by requiring an answer related to the student's personal information such as a driver's license number, address, date of birth, or other similar information that is unique to the student.
 - (16) Public or private school--For the purpose of these rules, a public or private school is an accredited public or non-public secondary school.
 - (17) Specialized driving safety course--A six-hour driving safety course that includes at least four hours of training intended to improve the student's knowledge, compliance with, and attitude toward the use of child passenger safety seat systems and the wearing of seat belt and other occupant restraint systems.
 - (18) Uniform certificate of course completion--A document with a serial number purchased from the division that is printed, administered, and supplied by course providers or primary consignees for issuance to students who successfully complete an approved driving safety or specialized driving safety course and that meets the requirements of Texas Transportation Code, Chapter 543, and Texas Code of Criminal Procedure, Article 45.051 or 45.0511. This term encompasses all parts of an original or duplicate uniform certificate of course completion. It is a government record.

84.201. Exemptions

- (a) Schools desiring to be considered exempt from regulation as authorized by Texas Education Code, §1001.002, shall upon request, ask for an exemption in writing and provide any information deemed necessary to the division to determine exempt status.
- (b) Any school granted exempt status may be required to provide information or be visited by representatives of the Texas Education Agency in order to ensure continued operation in compliance with the exemption provisions.

84.202. Driving Safety School Licensure

- (a) Application for driving safety school. An application for a license for a driving safety school shall be made on forms

supplied by the Texas Education Agency (TEA) and submitted to TEA by the course provider. The application shall:

- (1) include individual requests for approval for each multiple classroom of the school. The applications shall be made on forms provided by TEA. The driving safety school shall receive TEA approval for each location prior to advertising or offering a driving safety course at the location; and
 - (2) include verification from the licensed course provider that the school is authorized to provide the approved driving safety or specialized driving safety course and that the school will operate in compliance with all course provider policies and procedures.
- (b) Verification of ownership for driving safety school.
- (1) In the case of an original or change of owner application for a driving safety school, the owner of the school shall provide verification of ownership that includes, but is not limited to, copies of stock certificates, partnership agreements, and assumed name registrations. The division may require additional evidence to verify ownership.
 - (2) With the renewal application, the owner of the school shall provide verification that no change in ownership has occurred. The division may require additional evidence to verify that no change of ownership has occurred.
- (c) Effective date of the driving safety school license. The effective date of the driving safety school license shall be the date the license is issued. Licenses that are received at the driving safety school prior to the effective date are not valid until the effective date shown on the license.
- (d) Purchase of driving safety school.
- (1) A person or persons purchasing a licensed driving safety school shall obtain an original license.
 - (2) In addition, copies of the executed sales contracts, bills of sale, deeds, and all other instruments necessary to transfer ownership of the school shall be submitted to TEA. The contract or any instrument transferring the ownership of the driving safety school shall include the following statements.
 - (A) The purchaser shall assume all refund liabilities incurred by the seller or any former owner before the transfer of ownership.
 - (B) The sale of the school shall be subject to approval by TEA.
 - (C) The purchaser shall assume the liabilities, duties, and obligations under the enrollment contracts between the students and the seller, or any former owner.
- (e) New location.
- (1) The division shall be notified in writing of any change of address of a driving safety school at least five working days before the move.
 - (2) The school must submit the appropriate fee and all documents designated by the division as being necessary. The documents shall be submitted to TEA by the course provider on behalf of the school. A driving safety school license may be issued after the required documents are approved.
 - (3) The school must maintain a current mailing address at the division.
- (f) Renewal of driving safety school license. A complete application for the renewal of a license for a driving safety school shall be postmarked or hand-delivered by the school to the course provider at least 30 days before the expiration of the license and shall include the following:
- (1) completed application form for renewal;
 - (2) current list of instructors;
 - (3) current list of classrooms;
 - (4) annual renewal fee, if applicable; and
 - (5) any other revision or evidence of which the school has been notified in writing that is necessary to bring the

school's application for a renewal license to a current and accurate status.

- (g) Denial, revocation, or conditional license. For schools approved to offer only one driving safety course, the authority to operate a driving safety school shall cease if the course provider license is denied or revoked or if the course provider removes all authorization to teach the course. The license of the driving safety school may continue for 60 calendar days to allow the school owner to obtain approval to operate under a different course provider license. At the end of the 60-day period, the school license shall be revoked unless the school will offer an approved course. A current driving safety school license shall not be renewed without an approved course. A driving safety school license may be denied, revoked, or conditioned separately from the license of the course provider.
- (h) Notification of legal action. A school shall notify the division in writing of any legal action that is filed against the school, its officers, any owner, or any school instructor that might concern the operation of the school within five working days after the school, its officers, any owner, or any school instructor has commenced the legal action or has been served with legal process. Included with the written notification, the school shall submit a file-marked copy of the petition or complaint that has been filed with the court.
- (i) School closure.
 - (1) A school shall forward all records to the course provider responsible for the records within five business days of closure.
 - (2) The course provider shall provide TEA with written notice of a school closure within five business days after being notified of closure.
 - (3) The division may declare a school to be closed:
 - (A) as of the last day of attendance when written notification is received by TEA from the school owner or course provider stating that the school will close;
 - (B) when TEA staff determine by means of an on-site visit that the school facility has been vacated without prior notification of change of address given to TEA and without TEA approval of future plans to continue to operate;
 - (C) when the school owner allows the school license to expire; or
 - (D) when the school does not have the facilities and equipment to operate pursuant to this subchapter.
- (j) Course at public or private school. A school shall receive approval from TEA prior to conducting a course at a public or private school, and approval may be granted by TEA upon review of the agreement made between the licensed driving safety school and the public or private school. The course shall be subject to the same rules that apply at the licensed driving safety school, including periodic inspections by TEA representatives. An on-site inspection is not required prior to approval of the course.

84.203. Course Provider Licensure

- (a) Application for course provider. An application for a license for a course provider shall be made on forms supplied by the Texas Education Agency (TEA). An application from a course provider that is a primary consignee shall include evidence of permission from the course owner to operate as the primary consignee.
- (b) Bond requirements for course provider. In the case of an original or a change of owner application, an original bond shall be provided. In the case of a renewal application, an original bond or a continuation agreement for the approved bond currently on file shall be submitted. The bond or the continuation agreement shall be executed on the form provided by TEA. Posting of a \$25,000 bond shall satisfy the requirements for financial stability for a course provider.
- (c) Course provider license. The course provider license shall indicate the name of the driving safety course for which approval is granted exactly as stated in the application for the course approval.
- (d) Verification of ownership for course provider.
 - (1) In the case of an original or change of owner application for a course provider, the owner of the course provider shall provide verification of ownership that includes, but is not limited to, copies of stock certificates, partnership agreements, and assumed name registrations. The division may require additional evidence to verify ownership.

- (2) With the renewal application, the owner of the course provider shall provide verification that no change in ownership has occurred. The division may require additional evidence to verify that no change of ownership has occurred.
- (e) Adequate educational and experience qualifications. The course provider shall provide as part of the application sufficient documentation to support adequate educational and experience qualifications in order to carry out the responsibilities of a course provider. Verifiable education and/or experience in administration and/or supervision shall be required. Adequate educational and experience qualifications have been satisfied if the course provider meets one of the following.
 - (1) A course provider who has owned or been a primary consignee of an approved driving safety course and has been fully operational as a course provider in the State of Texas for a continuous 12-month period before September 1, 1995, satisfies the educational and experience qualifications.
 - (2) A course provider who has an approved driving safety course but has not been fully operational as a course provider for a continuous 12-month period must submit evidence of at least 1 year of experience in administration and/or supervision.
 - (3) A new course provider shall submit evidence of:
 - (A) at least 30 semester credit hours of education from an accredited postsecondary institution and 2 years of paid experience in administration and/or supervision; or
 - (B) a combined total of three years of driver and traffic safety education or experience and administrative/management experience; however, a minimum of six months in each shall be required.
- (f) Effective date of the course provider license. The effective date of the course provider license shall be the date the license is issued. Licenses that are received by the course provider prior to the effective date are not valid until the effective date shown on the license.
- (g) Purchase of course provider.
 - (1) A person or persons purchasing a licensed course provider shall obtain an original license. The application for a new course provider that is a primary consignee shall include evidence of permission from the course owner to operate as the primary consignee.
 - (2) In addition, copies of the executed sales contracts, bills of sale, deeds, and all other instruments necessary to transfer ownership of the course provider shall be submitted to TEA. The contract or any instrument transferring the ownership of the course provider shall include the following statements.
 - (A) The purchaser shall assume all refund liabilities incurred by the seller or any former owner before the transfer of ownership.
 - (B) The sale of the course provider shall be subject to approval by TEA.
 - (C) The purchaser shall assume the liabilities, duties, and obligations under the enrollment contracts between the students and the seller, or any former owner.
 - (3) A change of ownership of a course provider is considered substantially similar:
 - (A) in the case of ownership by an individual, when the individual transfers ownership to a corporation in which the individual owns 100% of the stock of the corporation;
 - (B) in the case of ownership by a corporation, when the ownership is transferred to a partnership in which the stockholders possess equal interest in the owning partnership; or
 - (C) in the case of ownership by a partnership or a corporation that transfers ownership to a corporation in which the partners hold interest that equals the interest of the owning partnership, or the owning corporation transfers ownership to a different corporation in which the stockholders for both corporations possess equal shares.
 - (4) In the event a change of ownership is substantially similar, the applicant pays a change in ownership fee as opposed to an initial application fee.

- (h) New location.
 - (1) The division shall be notified in writing of any change of address of a course provider at least five working days before the move.
 - (2) The course provider must submit the appropriate fee and all documents designated by the division as being necessary. A course provider license may be issued after the complete required documents are approved.
- (i) Renewal of course provider license. A complete application for the renewal of a license for a course provider shall be submitted before the expiration of the license and shall include the following:
 - (1) completed application for renewal;
 - (2) annual renewal fee, if applicable;
 - (3) a new continuing education course;
 - (4) executed bond or executed continuation agreement for the bond currently approved by, and on file with, TEA; and
 - (5) any other revision or evidence of which the course provider has been notified in writing that is necessary to bring the course provider's application for a renewal license to a current and accurate status.
- (j) Notification of legal action. A course provider shall notify the division in writing of any legal action that is filed against the course provider, its officers, any owner, or any school instructor that might concern the operation of the course provider within five working days after the course provider becomes aware of the fact that the legal action has commenced or the legal process has been served. Included with the written notification, the course provider shall submit a file-marked copy of the petition or complaint that has been filed with the court.
- (k) Course provider closure. A course provider owner shall notify TEA at least five business days before the course provider closure. The course provider shall provide written notice of the actual discontinuance of the operation the day of cessation of business. A course provider shall make all records and all used and unused uniform certificates of course completion and course completion certificate numbers available for review by TEA within 30 days of the date the course provider ceases operation.
- (l) Facility location. Course providers and all course provider facilities that process, deliver, or store curriculum materials, student records, or uniform certificates of course completion and certificate numbers to be used for Texas courses must be located within the United States.

84.204. Driving Safety School and Course Provider Responsibilities

- (a) Course providers must be located, or maintain a registered agent, in the State of Texas. All instruction in a driving safety or specialized driving safety course shall be performed in locations approved by the Texas Education Agency (TEA) and by TEA-licensed instructors. However, a student instructor trainee may teach the 12 hours necessary for licensing in a TEA-approved location under the direction and in the presence of a licensed driving safety or specialized driving safety instructor trainer who has been trained in the curriculum being instructed.
- (b) Each course provider or employee shall:
 - (1) ensure that instruction of the course is provided in schools currently approved to offer the course, and in the manner in which the course was approved;
 - (2) ensure that the course is provided by persons who have a valid current instructor license with the proper endorsement issued by the division, except as provided in subsection (a) of this section;
 - (3) ensure that schools and instructors are provided with the most recent approved course materials and relevant data and information pertaining to the course within 60 days of approval. Instructor training may be required and shall be addressed in the approval notice;
 - (4) not falsify driver training records;
 - (5) ensure that applications for licenses or approvals are forwarded to TEA within ten days of receipt at the course provider facilities;
 - (6) ensure that instructor performance is monitored. A written plan describing how instructor performance will

be monitored and evaluated shall be provided to the schools. The plan shall identify the criteria upon which the instructors will be evaluated, the procedure for evaluation, the frequency of evaluation (a minimum of once a year), and the corrective action to be taken when instructors do not meet the criteria established by the course provider. The instructor evaluation forms must be kept on file either at the course provider or school location for a period of one year;

- (7) develop and maintain a means to ensure the security and integrity of student information, especially financial and personal information, in transit and at rest;
 - (8) develop and maintain a means to ensure the privacy of student data, including personal and financial data, and make the corporate privacy policy available to all course students;
 - (9) develop and maintain a TEA-approved method for printing and issuing original and duplicate uniform certificates of course completion that, to the greatest extent possible, prevents the unauthorized production or misuse of the certificates;
 - (10) report original and duplicate certificate data, by secure electronic transmission, to TEA within 30 days of issue using guidelines established and provided by TEA. The issue date indicated on the certificate shall be the date the course provider mails the certificate to the student; and
 - (11) ensure that the front of each uniform certificate of course completion contains TEA complaint contact information and current division telephone number in a font that is visibly recognizable.
- (c) Each driving safety school owner-operator or employee shall:
- (1) ensure that each individual permitted to give instruction at the school or any classroom location has a valid current instructor's license with the proper endorsement issued by the division, except as provided in subsection (a) of this section;
 - (2) prohibit an instructor from giving instruction or prohibit a student from securing instruction in the classroom or in a motor vehicle if that instructor or student is using or exhibits any evidence or effect of an alcoholic beverage, controlled substance, drug, abusable glue, aerosol paint, or other volatile chemical as those terms are defined in the Texas Alcoholic Beverage Code, §1.04(1); and the Texas Health and Safety Code, §481.002 and §485.001;
 - (3) provide instruction or allow instruction to be provided only in courses that are currently on the school's list of approved courses;
 - (4) complete, issue, or validate a verification of course completion only for a person who has successfully completed the entire course;
 - (5) not falsify driver training records;
 - (6) ensure that instructors give students the opportunity to evaluate the course and instructor on an official evaluation form;
 - (7) evaluate instructor performance in accordance with the course provider plan;
 - (8) develop and maintain a means to ensure the security and integrity of student information, especially financial and personal information, in transit and at rest;
 - (9) develop and maintain a means to ensure the privacy of student data, including personal and financial data, and make the corporate privacy policy available to all course students; and
 - (10) pay a fee to the course provider that is equal to the fee paid by the course provider to TEA for course completion certificate numbers for original certificates provided for the students of that school within seven calendar days of the date each student successfully completes the driving safety course.
- (d) For the purposes of Texas Education Code, Chapter 1001, and this chapter, each person employed by or associated with any driving safety school shall be deemed an agent of the driving safety school, and the school may share the responsibility for all acts performed by the person which are within the scope of the employment and which occur during the course of the employment.

84.205. Administrative Staff Members

- (a) Each driving safety school shall designate one person as the administrative staff member.
 - (1) Duties. The school administrative staff member shall be responsible for all actions related to day-to-day operation and administration of the school, which includes supervising instructors, organizing and scheduling classes, maintaining the school plant, and maintaining proper administrative records.
 - (2) Qualifications. The administrative staff member shall have a high school diploma, GED, or equivalent, or be a licensed driving safety or specialized driving safety instructor.
- (b) During any period when the school administrative staff member is required to be absent from the school, the owner shall designate a liaison to provide student records, contracts, and schedules to Texas Education Agency (TEA) staff. The liaison is not required to pay an application fee; however, the school shall notify TEA in writing as to who will be appointed as liaison.
- (c) An individual shall be approved by TEA as the administrative staff member before employment as such.
- (d) The school administrative staff member or liaison shall assist TEA representatives during any compliance visit by TEA.
- (e) Violations at the school or by the administrative staff member may result in removal of the approval of the administrative staff member.

84.206. Driving Safety Instructor License

- (a) Application for licensing as a driving safety or specialized driving safety instructor shall be made on forms supplied by the Texas Education Agency (TEA). A person is qualified to apply for a driving safety or specialized driving safety instructor license who:
 - (1) is of good reputation; and
 - (2) holds a valid driver's license for the preceding five years in the areas for which the individual is to teach, which has not been suspended, revoked, or forfeited in the past five years for traffic-related violations.
- (b) A person applying for an original driving safety or specialized driving safety instructor's license shall submit to the course provider, who shall submit to TEA the following:
 - (1) complete application as provided by TEA;
 - (2) processing and annual instructor licensing fees;
 - (3) documentation showing that all applicable educational requirements have been met. Original documentation shall be provided upon the request of the division;
 - (4) a clear and legible photocopy of the current, valid driver's license issued to the applicant; and
 - (5) any other information necessary to show compliance with applicable state and federal requirements.
- (c) A person applying for a driving safety or specialized driving safety instructor license may qualify for the following endorsements.
 - (1) Driving safety instructor.
 - (A) The application shall include evidence of completion of 24 hours of training covering techniques of instruction and in-depth familiarization with material contained in the driving safety curriculum in which the individual is being trained and 12 hours of practical teaching in the same driving safety course and a statement signed by the course provider recommending the applicant for licensing. Alternatively, a currently licensed instructor may submit a copy of a current driving safety instructor license, a specialized driving safety instructor license, or a current driver education instructor license and evidence of 12 hours of training and 6 hours of demonstrative presentation teaching or practical teaching in the curriculum to be licensed. The 12 hours of training shall cover techniques of instruction and in-depth familiarization with material contained in the driving safety curriculum. The six hours of demonstrative presentation or practical teaching shall be in the driving safety curriculum and under the direct supervision of a licensed driving safety instructor trainer endorsed in the same driving safety curriculum and shall be accompanied by a statement signed by the course provider recommending the applicant for licensing.

- (B) The responsibilities of a driving safety instructor include instructing a TEA-approved driving safety course specific to the curriculum in which the instructor is endorsed and for which the certificate is issued.
- (2) Specialized driving safety instructor.
- (A) The application shall include evidence of completion of 24 hours of training and 12 hours of practical teaching. The 24 hours of training shall cover techniques of instruction and in-depth familiarization with material contained in the specialized driving safety curriculum. The 12 hours of practical teaching shall be in the same specialized driving safety curriculum and shall be accompanied by a statement signed by the course provider recommending the applicant for licensing. Alternatively, the applicant may submit a copy of a current driving safety instructor license or current or past certification as a National Highway Traffic Safety Association Child Passenger Safety technician or instructor and 12 hours of training and 6 hours of demonstrative presentation or practical teaching. The 12 hours of training shall cover techniques of instruction and in-depth familiarization with material contained in the specialized driving safety curriculum. The six hours of demonstrative presentation or practical teaching shall be in the same specialized driving safety curriculum and under the direct supervision of a licensed specialized driving safety instructor trainer endorsed in the same specialized driving safety curriculum and shall be accompanied by a statement signed by the course provider recommending the applicant for licensing.
 - (B) The responsibilities of a specialized driving safety instructor include instructing a TEA-approved specialized driving safety course specific to the curriculum in which the instructor is endorsed and for which the certificate is issued.
- (3) Driving safety instructor trainer.
- (A) The application shall include a statement signed by the driving safety course provider (if different than the applicant) recommending the instructor as an instructor trainer and evidence of one of the following:
 - (i) a Texas teaching certificate with driver education endorsement and 30 hours of experience, exclusive of the 36-hour instructor development course, in the same driving safety course for which the individual is to teach;
 - (ii) a teaching assistant certificate and 30 hours of experience, exclusive of the 36-hour instructor development course, in the same driving safety course for which the individual is to teach;
 - (iii) completion of all the requirements of a driving safety instructor and 120 hours of verifiable experience as a licensed driving safety instructor, of which the most recent 30 hours shall be in the same driving safety course for which the individual is to teach; or
 - (iv) proof of authorship of an approved driving safety course. The applicant who will provide the initial instructor training for a newly approved course shall demonstrate to the division director's designee the ability to teach the course and instructor training course prior to being licensed.
 - (B) The responsibilities of a driving safety instructor trainer include instructing a TEA-approved driving safety course, supervising instructor trainees, and signing as a driving safety instructor trainer for the records of practical teaching and/or demonstrative presentation for driving safety instructor trainees.
- (4) Specialized driving safety instructor trainer.
- (A) The application shall include a statement signed by the driving safety course provider (if different than the applicant) recommending the instructor as an instructor trainer, a copy of current or past certification as a National Highway Traffic Safety Association Child Passenger Safety technician or instructor, and evidence of one of the following:
 - (i) a Texas teaching certificate with driver education endorsement and 30 hours of experience, exclusive of the 36-hour instructor development course, in the same specialized driving safety course for which the individual is to teach;

- (ii) a teaching assistant certificate and 30 hours of experience, exclusive of the 36-hour instructor development course, in the same specialized driving safety course for which the individual is to teach;
 - (iii) completion of all the requirements for a specialized driving safety instructor license and 120 hours of verifiable experience as a licensed driving safety instructor, of which the most recent 30 hours shall be in the same specialized driving safety course for which the individual is to teach; or
 - (iv) proof of authorship of an approved specialized driving safety course. The applicant who will provide the initial instructor training for a newly approved course shall demonstrate to the division director's designee the ability to teach the course and the instructor training course prior to being licensed.
 - (B) The responsibilities of a specialized driving safety instructor trainer include instructing a TEA-approved specialized driving safety course, supervising instructor trainees, and signing as a specialized driving safety instructor trainer for the records of practical teaching and/or demonstrative presentation for the specialized driving safety instructor trainees.
- (5) Instructor development course driving safety instructor trainer.
- (A) The application shall include evidence of:
 - (i) completion of all the requirements for a driving safety instructor trainer plus an additional 60 hours of verifiable experience as a licensed driving safety instructor or driving safety instructor trainer in the same driving safety course for which the individual is to teach, or proof of authorship of an approved driving safety course. The applicant who will provide the initial instructor training for a newly approved course shall demonstrate to the division director's designee the ability to teach the course and the instructor training course prior to being licensed; and
 - (ii) a statement signed by the driving safety course provider, if different than the applicant, recommending the individual as an instructor development course instructor trainer in driving safety.
 - (B) The responsibilities of an instructor development course driving safety instructor trainer include instructing a TEA-approved driving safety course, supervising instructor trainees, training individuals to teach a TEA-approved driving safety course, and signing student instruction records and records of practical teaching and/or demonstrative presentation for driving safety trainees.
- (6) Instructor development course specialized driving safety instructor trainer.
- (A) The application shall include a copy of a current or past certification as a National Highway Traffic Safety Association Child Passenger Safety technician or instructor and evidence of:
 - (i) completion of all the requirements for a specialized driving safety instructor trainer plus an additional 60 hours of verifiable experience as a licensed specialized driving safety instructor or specialized driving safety instructor trainer in the same specialized driving safety course for which the individual is to teach, or proof of authorship of an approved specialized driving safety course. The applicant who will provide the initial instructor training for a newly approved course shall demonstrate to the division director's designees the ability to teach the course and the instructor training course prior to being licensed; and
 - (ii) a statement signed by the driving safety course provider, if different than the applicant, recommending the individual as an instructor development course instructor trainer in specialized driving safety.
 - (B) The responsibilities of an instructor development course specialized driving safety instructor trainer include instructing a TEA-approved specialized driving safety course, supervising instructor trainees, training individuals to teach a TEA-approved specialized driving safety course, and signing student instruction records and records of practical teaching and/or demonstrative presentation for specialized driving safety trainees.
- (d) A renewal application for a driving safety or specialized driving safety instructor license must be prepared using the following procedures.

- (1) Application for renewal of an instructor license shall be made on a form provided by TEA and submitted by the course provider. The annual instructor licensing fee and evidence of continuing education shall accompany the application.
 - (2) A complete license renewal application shall be postmarked or hand-delivered to the course provider by the instructor at least 30 days before the date of expiration or a late instructor renewal fee shall be imposed. A complete application includes:
 - (A) completed application for renewal;
 - (B) annual renewal fee; and
 - (C) evidence of continuing education for each driving safety or specialized driving safety course endorsement.
- (e) Continuing education requirements include the following.
- (1) Evidence of completion of continuing education shall be provided for each instructor during the individual license renewal period on forms approved by TEA. A verification form indicating completion shall be provided to TEA by the course provider on behalf of the instructors. The form shall be signed by the instructor receiving the training and the course provider or designee.
 - (2) Carryover credit of continuing education hours shall not be permitted.
 - (3) A licensee may not receive credit for attending the same course more than once during the same licensing period.
 - (4) A licensed individual who teaches an approved continuing education course may receive credit for attending continuing education.
 - (5) A driving safety or specialized driving safety continuing education course shall not be used for the continuing education requirement for a driver education instructor license.
- (f) An instructor who has allowed a previous license to expire shall file an original application on a form provided by TEA that is submitted by the course provider. The application shall include the processing and annual instructor licensing fees and evidence of continuing education completed within the last year. Evidence of educational experience may not be required to be resubmitted if the documentation is on file at TEA.
- (g) All driving safety and specialized driving safety instructor license endorsement changes shall require the following:
- (1) written documentation showing all applicable educational requirements have been met to justify endorsement changes;
 - (2) the annual instructor licensing fee; and
 - (3) completion of renewal requirements for current endorsements.
- (h) All other license change requests, including duplicate instructor licenses or name changes, shall be made in writing by the course provider and shall include payment of the duplicate instructor license fee.
- (i) The course provider shall notify the TEA of an instructor's change of address in writing. Address changes shall not require payment of a fee.
- (j) All instructors shall notify the division, school owner, and course provider in writing of any criminal complaint other than a minor traffic violation filed against the instructor within five working days of commencement of the criminal proceedings. The division may require a file-marked copy of the petition or complaint that has been filed with the court.
- (k) All instructors shall provide training in an ethical manner so as to promote respect for the purposes and objectives of driver training.
- (l) An instructor shall not make any sexual or obscene comments, advances, or gestures while performing the duties of an instructor.

- (m) An instructor shall not falsify driver training records.
- (n) The commissioner of education may suspend, revoke, or deny a license to any driving safety or specialized driving safety instructor trainer or instructor under any of the following circumstances.
 - (1) The applicant or licensee has been convicted of any felony, or an offense involving moral turpitude, or an offense of involuntary or intoxication manslaughter, or criminally negligent homicide committed as a result of the person's operation of a motor vehicle, or an offense involving driving while intoxicated or driving under the influence of drugs, or an offense involving tampering with a governmental record.
 - (A) These particular crimes relate to the licensing of instructors because such persons, as licensees of TEA, are required to be of good moral character and to deal honestly with courts and members of the public. Driving safety and specialized driving safety instruction involves accurate record keeping and reporting for court documentation and other purposes. In determining the present fitness of a person who has been convicted of a crime and whether a criminal conviction directly relates to an occupation, TEA shall consider those factors stated in Texas Occupations Code, Chapter 53.
 - (B) In the event that an instructor is convicted of such an offense, the instructor's license will be subject to revocation or denial. A conviction for an offense other than a felony shall not be considered by TEA under this paragraph if a period of more than ten years has elapsed since the date of the conviction or of the release of the person from the confinement, conditional release, or suspension imposed for that conviction, whichever is the later date. For seven years after an instructor is convicted of an offense involving driving while intoxicated, the instructor's license shall be recommended for revocation or denial.
 - (C) For the purposes of this paragraph, a person is convicted of an offense when a court of competent jurisdiction enters an adjudication of guilt on an offense against the person, whether or not:
 - (i) the sentence is subsequently probated and the person is discharged from probation; or
 - (ii) the person is pardoned for the offense, unless the pardon is expressly granted for subsequent proof of innocence.
 - (2) The applicant, licensee, any instructor, or agent is addicted to the use of alcoholic beverages or drugs or becomes incompetent to safely operate a motor vehicle or conduct classroom or behind-the-wheel instruction properly.
 - (3) The license was improperly or erroneously issued.
 - (4) The applicant or licensee fails to comply with the rules and regulations of TEA regarding the instruction of drivers in this state or fails to comply with any section of Texas Education Code, Chapter 1001.
 - (5) The instructor fails to follow procedures as prescribed in this chapter.
 - (6) The applicant or licensee has a personal driving record showing that the person has been the subject of driver improvement or corrective action as cited in Texas Transportation Code, Chapter 521, Subchapter N or O, during the past two years or that such action is needed to protect the students and motoring public.
 - (7) If an instructor or applicant has received deferred adjudication of guilt from a court of competent jurisdiction, a determination can be made upon satisfactory review of evidence that the conduct underlying the basis of the deferred adjudication has rendered the person unworthy to provide driver training instruction.
 - (8) The instructor uses any language, humor, gestures, advances, or innuendo that a reasonable and prudent individual would consider inappropriate.

84.207. Driving Safety Courses of Instruction

- (a) This section contains requirements for driving safety, continuing education, and instructor development courses. For each course, the following curriculum documents and materials are required to be submitted as part of the application for approval. Except as provided by §176.1110 of this title (relating to Alternative Delivery Methods of Driving Safety Instruction), all course content shall be delivered under the direct observation of a licensed instructor. Courses of instruction shall not be approved that contain language that a reasonable and prudent individual would consider inappropriate. Any changes and updates to a course shall be submitted by the course provider and approved prior to being offered. Approval will be revoked for any course that meets the definition of inactive as defined in §176.1101

of this title (relating to Definitions).

- (1) Driving safety courses.
 - (A) Educational objectives. The educational objectives of driving safety courses shall include, but not be limited to promoting respect for and encouraging observance of traffic laws and traffic safety responsibilities of drivers and citizens; reducing traffic violations; reducing traffic-related injuries, deaths, and economic losses; and motivating continuing development of traffic-related competencies.
 - (B) Driving safety course content guides. A course content guide is a description of the content of the course and the techniques of instruction that will be used to present the course. For courses offered in languages other than English, the course owner shall provide a copy of the student verification of course completion document and/or enrollment contract, student instructional materials, final examination, and evaluation in the proposed language accompanied by a statement from a translator with current credentials from the American Translators Association or the National Association of Judicial Interpreters and Translators that the materials are the same in both languages. In lieu of the specified credentials, a translator's credentials shall be presented to Texas Education Agency (TEA) for approval with the final determination based solely on TEA's interpretation. To be approved, each course owner shall submit as part of the application a course content guide that includes the following:
 - (i) a statement of the course's traffic safety goal and philosophy;
 - (ii) a statement of policies and administrative provisions related to instructor conduct, standards, and performance;
 - (iii) a statement of policies and administrative provisions related to student progress, attendance, makeup, and conduct. The policies and administrative provisions shall be used by each school that offers the course and include the following requirements:
 - (I) progress standards that meet the requirements of subparagraph (F) of this paragraph;
 - (II) appropriate standards to ascertain the attendance of students. All schools approved to use the course must use the same standards for documenting attendance to include the hours scheduled each day and each hour not attended;
 - (III) if the student does not complete the entire course, including all makeup lessons, within the timeline specified by the court, no credit for instruction shall be granted;
 - (IV) any period of absence for any portion of instruction will require that the student complete that portion of instruction. All makeup lessons must be equivalent in length and content to the instruction missed and taught by a licensed instructor; and
 - (V) conditions for dismissal and conditions for re-entry of those students dismissed for violating the conduct policy;
 - (iv) a statement of policy addressing entrance requirements and special conditions of students such as the inability to read, language barriers, and other disabilities;
 - (v) a list of relevant instructional resources such as textbooks, audio and visual media and other instructional materials, and equipment that will be used in the course and the furniture deemed necessary to accommodate the students in the course such as tables, chairs, and other furnishings. The course shall include a minimum of 60 minutes of audio/video materials relevant to the required topics; however, the audio/video materials shall not be used in excess of 150 minutes of the 300 minutes of instruction. The resources may be included in a single list or may appear at the end of each instructional unit;
 - (vi) written or printed materials to be provided for use by each student as a guide to the course. The division may make exceptions to this requirement on an individual basis;
 - (vii) instructional activities to be used to present the material (lecture, films, other media, small-

group discussions, workbook activities, written and oral discussion questions, etc.). When small-group discussions are planned, the course content guide shall identify the questions that will be assigned to the groups;

- (viii) instructional resources for each unit;
 - (ix) techniques for evaluating the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the course guide. The evaluative technique may be used throughout the unit or at the end; and
 - (x) a completed form cross-referencing the instructional units to the topics identified in subparagraph (D) of this paragraph. A form to cross-reference the instructional units to the required topics and topics unique to the course will be provided by the division.
- (C) Course and time management. Approved driving safety courses shall be presented in compliance with the following guidelines and shall include statistical information drawn from data maintained by the Texas Department of Transportation or National Highway Traffic Safety Administration.
- (i) A minimum of 300 minutes of instruction is required.
 - (ii) The total length of the course shall consist of a minimum of 360 minutes.
 - (iii) Sixty minutes of time, exclusive of the 300 minutes of instruction, shall be dedicated to break periods or to the topics included in the minimum course content. All break periods shall be provided after instruction has begun and before the comprehensive examination and summation.
 - (iv) Administrative procedures such as enrollment shall not be included in the 300 minutes of the course.
 - (v) Courses conducted in a single day in a traditional classroom setting shall allow a minimum of 30 minutes for lunch.
 - (vi) Courses taught over a period longer than one day shall provide breaks on a schedule equitable to those prescribed for one-day courses. However, all breaks shall be provided after the course introduction and prior to the last unit of the instructional day or the comprehensive examination and summation, whichever is appropriate.
 - (vii) The order of topics shall be approved by TEA as part of the course approval, and for each student, the course shall be taught in the order identified in the approved application.
 - (viii) Students shall not receive a uniform certificate of course completion unless that student receives a grade of at least 70% on the final examination.
 - (ix) In a traditional classroom setting, there must be sufficient seating for the number of students, arranged so that all students are able to view, hear, and comprehend all instructional aids and the class shall have no more than 50 students.
 - (x) The driving safety instructor or school shall make a material effort to establish the identity of the student.
- (D) Minimum course content. Driving Safety course content, including video and multimedia, shall include current statistical data, references to law, driving procedures, and traffic safety methodology. A driving safety course shall include, as a minimum, materials adequate to assure the student masters the following.
- (i) Course introduction--minimum of ten minutes (instructional objective--to orient students to the class). Instruction shall address the following topics:
 - (I) purpose and benefits of the course;
 - (II) course and facilities orientation;
 - (III) requirements for receiving course credit;

- (IV) student course evaluation procedures; and
 - (V) TEA-provided information on course content.
- (ii) The traffic safety problem--minimum of 15 minutes (instructional objectives--to develop an understanding of the nature of the traffic safety problem and to instill in each student a sense of responsibility for its solution). Instruction shall address the following topics:
- (I) identification of the overall traffic problem in the United States, Texas, and the locale where the course is being taught;
 - (II) death, injuries, and economic losses resulting from motor vehicle crashes in Texas; and
 - (III) the top five contributing factors of motor vehicle crashes in Texas as identified by the Texas Department of Transportation.
- (iii) Factors influencing driver performance--minimum of 20 minutes (instructional objective--to identify the characteristics and behaviors of drivers and how they affect driving performance). Instruction shall address the following topics:
- (I) attitudes, habits, feelings, and emotions (aggressive driving, etc.);
 - (II) alcohol and other drugs;
 - (III) physical condition (drowsy driving, etc.);
 - (IV) knowledge of driving laws and procedures; and
 - (V) understanding the driving task.
- (iv) Traffic laws and procedures--minimum of 30 minutes (instructional objectives--to identify the requirements of, and the rationale for, applicable driving laws and procedures and to influence drivers to comply with the laws on a voluntary basis). Instruction shall address the following topics:
- (I) passing;
 - (II) right-of-way;
 - (III) turns;
 - (IV) stops;
 - (V) speed limits;
 - (VI) railroad crossings safety, including statistics, causes, and evasive actions;
 - (VII) categories of traffic signs, signals, and highway markings;
 - (VIII) pedestrians;
 - (IX) improved shoulders;
 - (X) intersections;
 - (XI) occupant restraints;
 - (XII) anatomical gifts;
 - (XIII) litter prevention;
 - (XIV) law enforcement and emergency vehicles (this category will be temporary until the need is substantiated by documentation from the Department of Public Safety

on the number of deaths or injuries involved because of improper procedures used by a citizen when stopped by a law enforcement officer); and

- (XV) other laws as applicable (i.e., financial responsibility/compulsory insurance).
- (v) Special skills for difficult driving environments--minimum of 20 minutes (instructional objectives--to identify how special conditions affect driver and vehicle performance and identify techniques for management of these conditions). Instruction shall address the following topics:
 - (I) inclement weather;
 - (II) traffic congestion;
 - (III) city, urban, rural, and expressway environments;
 - (IV) reduced visibility conditions--hills, fog, curves, light conditions (darkness, glare, etc.), etc.; and
 - (V) roadway conditions.
- (vi) Physical forces that influence driver control--minimum of 15 minutes (instructional objective--to identify the physical forces that affect driver control and vehicle performance). Instruction shall address the following topics:
 - (I) speed control (acceleration, deceleration, etc.);
 - (II) traction (friction, hydroplaning, stopping distances, centrifugal force, etc.); and
 - (III) force of impact (momentum, kinetic energy, inertia, etc.).
- (vii) Perceptual skills needed for driving--minimum of 20 minutes (instructional objective--to identify the factors of perception and how the factors affect driver performance). Instruction shall address the following topics:
 - (I) visual interpretations;
 - (II) hearing;
 - (III) touch;
 - (IV) smell;
 - (V) reaction abilities (simple and complex); and
 - (VI) judging speed and distance.
- (viii) Defensive driving strategies--minimum of 40 minutes (instructional objective--to identify the concepts of defensive driving and demonstrate how they can be employed by drivers to reduce the likelihood of crashes, deaths, injuries, and economic losses). Instruction shall address the following topics:
 - (I) trip planning;
 - (II) evaluating the traffic environment;
 - (III) anticipating the actions of others;
 - (IV) decision making;
 - (V) implementing necessary maneuvers;
 - (VI) compensating for the mistakes of other drivers;
 - (VII) avoiding common driving errors;

- (VIII) interaction with other road users (motorcycles, bicycles, trucks, pedestrians, etc.);
 - (IX) motorcycle awareness, including the dangers of failing to yield the right-of-way to a motorcyclist and the need to share the road with motorcyclist; and
 - (X) distractions relating to the effect of using a wireless communication device, including texting or engaging in other actions that may distract a driver from the safe or effective operation of a motor vehicle.
- (ix) Driving emergencies--minimum of 40 minutes (instructional objective--to identify common driving emergencies and their countermeasures). Instruction shall address the following topics:
- (I) collision traps (front, rear, and sides);
 - (II) off-road recovery, paths of least resistance; and
 - (III) mechanical malfunctions (tires, brakes, steering, power, lights, etc.).
- (x) Occupant restraints and protective equipment--minimum of 15 minutes (instructional objective--to identify the rationale for having and using occupant restraints and protective equipment). Instruction shall address the following topics:
- (I) legal aspects;
 - (II) vehicle control;
 - (III) crash protection;
 - (IV) operational principles (active and passive);
 - (V) helmets and other protective equipment; and
 - (VI) dangers involved in locking or leaving children in vehicles unattended.
- (xi) Alcohol and traffic safety--minimum of 40 minutes (instructional objective--to identify the effects of alcohol on roadway users). Instruction shall not address methods to drink and drive but shall address the following topics related to the effects of alcohol on roadway users:
- (I) physiological effects;
 - (II) psychological effects;
 - (III) legal aspects; and
 - (IV) synergistic effects.
- (xii) Comprehensive examination--minimum of five minutes (this shall be the last unit of instruction).
- (xiii) The remaining 30 minutes of instruction shall be allocated to the topics included in the minimum course content or to additional driving safety topics that satisfy the educational objectives of the course.
- (E) Instructor training guides. An instructor training guide contains a description of the plan, training techniques, and curriculum to be used to train instructors to present the concepts of the approved driving safety course described in the applicant's driving safety course content guide. Each course provider shall submit as part of the application an instructor training guide that is bound or hole-punched and placed in a binder and that has a cover and a table of contents. The guide shall include the following:
- (i) a statement of the philosophy and instructional goals of the training course;

- (ii) a description of the plan to be followed in training instructors. The plan shall include, as a minimum, provisions for the following:
 - (I) instruction of the trainee in the course curriculum;
 - (II) training the trainee in the techniques of instruction that will be used in the course;
 - (III) training the trainee about administrative procedures and course provider policies;
 - (IV) demonstration of desirable techniques of instruction by the instructor trainer;
 - (V) a minimum of 15 minutes of instruction of the course curriculum by the trainee under the observation of the instructor trainer as part of the basic training course;
 - (VI) time to be dedicated to each training lesson; and
 - (VII) a minimum of 600 minutes of instruction of the course in a regular approved course under the observation of a licensed instructor trainer. The instructor trainee shall provide instruction for two full courses. It is not mandatory that the two courses be taught as two complete courses; however, every instructional unit shall be taught twice; and
- (iii) instructional units sufficient to address the provisions identified in clause (ii)(I)-(VI) of this subparagraph. The total time of the units shall contain a minimum of 24 instructional hours. Each instructional unit shall include the following:
 - (I) the subject of the unit;
 - (II) the instructional objectives of the unit;
 - (III) time to be dedicated to the unit;
 - (IV) an outline of major concepts to be presented;
 - (V) instructional activities to be used to present the material (i.e., lecture, films, other media, small-group discussions, workbook activities, written and oral discussion questions). When small-group discussions are planned, the course guide shall identify the questions that will be assigned to the groups;
 - (VI) instructional resources for each unit; and
 - (VII) techniques for evaluating the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the instructor training guide. The evaluative technique may be used throughout the unit or at the end.
- (F) Examinations. Each course provider shall submit for approval, as part of the application, tests designed to measure the comprehension level of students at the completion of the driving safety course and the instructor training course. The comprehensive examination for each driving safety course must include at least 2 questions from the required units set forth in subparagraph (D)(ii)-(xi) of this paragraph for a total of at least 20 questions. The final examination questions shall be of such difficulty that the answer may not easily be determined without completing the actual instruction. Instructors shall not assist students in answering the final examination questions, but may facilitate alternative testing. Instructors may not be certified or students given credit for the driving safety course unless they score 70% or more on the final test. The course content guide shall identify alternative testing techniques to be used for students with reading, hearing, or learning disabilities and policies for retesting students who score less than 70% on the final examination. The applicant may choose not to provide alternative testing techniques; however, students shall be advised whether the course provides alternative testing prior to enrollment in the course. Test questions may be short answer, multiple choice, essay, or a combination of these forms.
- (G) Student course evaluation. Each student in a driving safety course shall be given an opportunity to evaluate the course and the instructor on an official evaluation form. A master copy of the evaluation form will be provided to TEA.

- (H) State-level evaluation of driving safety courses. Each course provider shall collect adequate student data to enable TEA to evaluate the overall effectiveness of a course in reducing the number of violations and accidents of persons who successfully complete the course. The commissioner of education may determine a level of effectiveness that serves the purposes of Texas Education Code (TEC), Chapter 1001.
 - (I) Requirements for authorship. The course materials shall be written by individuals or organizations with recognized experience in writing instructional materials.
 - (J) Renewal of course approval. The course approval must be renewed every two years. The renewal document due date shall be March 1 of every even numbered calendar year.
 - (i) For approval, the course owner shall update all the course content methodology, procedures, statistical data, and references to law with the latest available data.
 - (ii) The course owner shall submit a Statement of Assurance stating that the course has been updated to reflect the latest applicable laws and statistics.
 - (iii) Failure to make necessary changes or to submit a Statement of Assurance documenting those changes shall be cause for revocation of the course approval.
 - (iv) The commissioner may alter the due date of the renewal documents by giving the approved course six months' notice. The commissioner may alter the due date in order to ensure that the course is updated six months after the effective date of new state laws passed by the Texas Legislature.
- (2) Instructor development courses.
- (A) If the alternative instructor training in §176.1107(c)(1) of this title (relating to Driving Safety Instructor License) is not applicable, driving safety instructors shall successfully complete 36 clock hours (50 minutes of instruction in a 60-minute period) in the approved instructor development course for the driving safety course to be taught, under the supervision of a driving safety instructor trainer. Supervision is considered to have occurred when the instructor trainer is present and personally provides the 36 clock hours of training for driving safety instructors, excluding those clock hours approved by TEA staff that may be presented by a guest speaker or using films and other media that pertain directly to the concepts being taught.
 - (B) Instruction records shall be maintained by the course provider and instructor trainer for each instructor trainee and shall be available for inspection by authorized division representatives at any time during the training period and/or for license investigation purposes. The instruction record shall include the trainee's name, address, driver's license number, and other pertinent data; the name and instructor license number of the person conducting the training; and the dates of instruction, lesson time, and subject taught during each instruction period. Each record shall also include grades or other means of indicating the trainee's aptitude and development. Upon satisfactory completion of the training course, the instructor trainer conducting the training will certify one copy of the instruction record for attachment to the trainee's application for licensing, and one copy will be maintained in a permanent file at the course provider location.
 - (C) All student instruction records submitted for the TEA-approved instructor development course shall be signed by the course provider. Original documents shall be submitted.
 - (D) Driving safety instructor development courses may be offered at approved classroom facilities of a licensed school which is approved to offer the driving safety course being taught. A properly licensed instructor trainer shall present the course.
 - (E) Applicants shall complete 36 hours of training in the driving safety curriculum that shall be taught. Of the 36 hours, 24 shall cover techniques of instruction and in-depth familiarization with materials contained in the driving safety curriculum. The additional 12 hours shall consist of practical teaching with students and shall occur after the first 24 hours have been completed.
 - (F) The driving safety course provider shall submit dates of instructor development course offerings for the 24-hour training that covers techniques of instruction and in-depth familiarization with the material contained in the driving safety curriculum, locations, class schedules, and scheduled instructor trainers' names and license numbers before the courses are offered. The 12-hour practical-teaching portion of the instructor development course shall be provided at properly licensed schools

or classrooms approved to offer the course being provided.

- (3) Continuing education courses.
 - (A) Continuing education requirements include the following.
 - (i) Each course provider will be responsible for receiving an approval for a minimum of a two-hour continuing education course. Each instructor currently endorsed to teach the course must attend the approved continuing education course conducted by the course provider.
 - (ii) The request for course approval shall contain the following:
 - (I) a description of the plan by which the course will be presented;
 - (II) the subject of each unit;
 - (III) the instructional objectives of each unit;
 - (IV) time to be dedicated to each unit;
 - (V) instructional resources for each unit, including names or titles of presenters and facilitators;
 - (VI) any information that TEA mandates to promote the quality of the education being provided; and
 - (VII) a plan by which the course provider will monitor and ensure attendance and completion of the course by the instructions within the guidelines set forth in the course.
 - (iii) A continuing education course may be approved if TEA determines that:
 - (I) the course is designed to enhance the instructional skills, methods, or knowledge of the driving safety instructor;
 - (II) the course pertains to subject matters that relate directly to driving safety instruction, instruction techniques, or driving safety-related subjects;
 - (III) the course has been designed, planned, and organized by the course provider. The course provider shall use licensed driving safety instructors to provide instruction or other individuals with recognized experience or expertise in the area of driving safety instruction or driving safety-related subject matters. Evidence of the individuals' experience or expertise may be requested by the division;
 - (IV) the course contains updates or approved revisions to the driving safety course curriculum, policies or procedures, and/or any changes to the course, that are affected by changes in traffic laws or statistical data; and
 - (V) any technology used to present a continuing education course meets reasonable standards for determining attendance, security, and testing.
 - (B) Course providers shall notify the division of the scheduled dates, times, and locations of all continuing education courses prior to the first day of class.
- (b) Course providers shall submit documentation on behalf of schools applying for approval of additional courses after the original approval has been granted. The documents shall be designated by the division and include the appropriate fee. Courses shall be approved before soliciting students, advertising, or conducting classes. An approval for an additional course shall not be granted if the school's compliance is in question at the time of application.
- (c) If an approved course is discontinued, the division shall be notified within five days of discontinuance and furnished with the names and addresses of any students who could not complete the course because it was discontinued. If the school does not make arrangements satisfactory to the students and the division for the completion of the courses, the full amount of all tuition and fees paid by the students are due and refundable. If arrangements are not made satisfactory to the students and the division, the refunds must be made no later than 30 days after the course was

discontinued. Any course discontinued shall be removed from the list of approved courses.

- (d) If, upon review and consideration of an original, renewal, or amended application for course approval, the commissioner determines that the applicant does not meet the legal requirements, the commissioner shall notify the applicant, setting forth the reasons for denial in writing.
- (e) The commissioner may revoke approval of any course given to a course owner, provider, or school under any of the following circumstances.
 - (1) Any information contained in the application for the course approval is found to be untrue.
 - (2) The school has failed to maintain the faculty, facilities, equipment, or courses of study on the basis of which approval was issued.
 - (3) The school and/or course provider has been found to be in violation of TEC, Chapter 1001, and/or this chapter.
 - (4) The course has been found to be ineffective in meeting the educational objectives set forth in subsection (a)(1)(A) of this section.

84.208. Specialized Driving Safety Courses of Instruction

- (a) This section contains requirements for specialized driving safety courses, instructor development courses, and continuing education. For each course, the following curriculum documents and materials are required to be submitted as part of the application for approval. Except as provided by §176.1110 of this title (relating to Alternative Delivery Methods of Driving Safety Instruction), all course content shall be delivered under the direct observation of a specialized driving safety licensed instructor. Courses of instruction shall not be approved that contain language that a reasonable and prudent individual would consider inappropriate. Any changes and updates to a course shall be submitted and approved prior to being offered. Approval will be revoked for any course that meets the definition of inactive as defined in §176.1101 of this title (relating to Definitions).
 - (1) Specialized driving safety courses.
 - (A) Educational objectives. The educational objectives of specialized driving safety courses shall include, but not be limited to improving the student's knowledge, compliance with, and attitude toward the use of child passenger safety seat systems and the wearing of seat belt and other occupant restraint systems.
 - (B) Specialized driving safety course content guides. A course content guide is a description of the content of the course and the techniques of instruction that will be used to present the course. For courses offered in languages other than English, the course owner shall provide a copy of the student verification of course completion document and/or contract, student instructional materials, final examination, and evaluation in the proposed language accompanied by a statement from a translator with current credentials from the American Translators Association or the National Association of Judicial Interpreters and Translators that the materials are the same in both languages. In lieu of the specified credentials, a translator's credentials may be presented to the Texas Education Agency (TEA) for approval with the final determination based solely on TEA's interpretation. To be approved, each course owner shall submit as part of the application a course content guide that includes the following:
 - (i) a statement of the course's goal and philosophy relative to occupant protection;
 - (ii) a statement of policies and administrative provisions related to instructor conduct, standards, and performance;
 - (iii) a statement of policies and administrative provisions related to student progress, attendance, makeup, and conduct. The policies and administrative provisions shall be used by each school that offers the course and include the following requirements:
 - (I) progress standards that meet the requirements of subparagraph (F) of this paragraph;
 - (II) appropriate standards to ascertain the attendance of students. All schools approved to use the course must use the same standards for documenting attendance to include the hours scheduled each day and each hour not attended;

- (III) appropriate criteria to determine course completion. If the student does not complete the entire course, including all makeup lessons, within the timeline specified by the court, no credit for instruction shall be granted;
 - (IV) provisions for the completion of makeup work. Any period of absence for any portion of instruction will require that the student complete that portion of instruction. All makeup lessons must be equivalent in length and content to the instruction missed and taught by a licensed instructor; and
 - (V) conditions for dismissal and conditions for re-entry of those students dismissed for violating the conduct policy;
- (iv) a statement of policy addressing entrance requirements and special conditions of students such as the inability to read, language barriers, and other disabilities;
 - (v) a list of relevant instructional resources such as textbooks, audio and visual media and other instructional materials, and equipment that will be used in the course and the furniture deemed necessary to accommodate the students in the course such as tables, chairs, and other furnishings. The course shall include a minimum of 60 minutes of audio/video materials relevant to the required topics; however, the audio/video materials shall not be used in excess of 150 minutes of the 300 minutes of instruction. The resources may be included in a single list or may appear at the end of each instructional unit;
 - (vi) written or printed materials provided for use by each student as a guide to the course. The division may make exceptions to this requirement on an individual basis;
 - (vii) instructional activities to be used to present the material (lecture, films, other media, small-group discussions, workbook activities, written and oral discussion questions, etc.). When small-group discussions are planned, the course content guide shall identify the questions that will be assigned to the groups;
 - (viii) instructional resources for each unit;
 - (ix) techniques for evaluating the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the course guide. The evaluative technique may be used throughout the unit or at the end; and
 - (x) a completed form cross-referencing the instructional units to the topics identified in subparagraph (D) of this paragraph. A form to cross-reference the instructional units to the required topics and topics unique to the course will be provided by the division.
- (C) Course and time management. Approved specialized driving safety courses shall be presented in compliance with the following guidelines and shall include statistical information drawn from data maintained by the Texas Department of Transportation or National Highway Traffic Safety Administration.
- (i) A minimum of 300 minutes of instruction is required of which at least 200 minutes shall address the use of child passenger safety seat systems and the wearing of seat belt and other occupant restraint systems.
 - (ii) The total length of the course shall consist of a minimum of 360 minutes.
 - (iii) Sixty minutes of time, exclusive of the 300 minutes of instruction, shall be dedicated to break periods or to the topics included in the minimum course content. All break periods shall be provided after instruction has begun and before the comprehensive examination and summation.
 - (iv) Administrative procedures such as enrollment shall not be included in the 300 minutes of the course.
 - (v) Courses conducted in a single day in a traditional classroom setting shall allow a minimum of 30 minutes for lunch.

- (vi) Courses taught over a period longer than one day shall provide breaks on a schedule equitable to those prescribed for one-day courses. However, all breaks shall be provided after the course introduction and prior to the last unit of the instructional day or the comprehensive examination and summation, whichever is appropriate.
 - (vii) The order of topics shall be approved by TEA as part of the course approval, and for each student, the course shall be taught in the order identified in the approved application.
 - (viii) Students shall not receive a uniform certificate of course completion unless that student receives a grade of at least 70% on the final examination.
 - (ix) Specialized driving safety classrooms must have sufficient seating for the number of students, arranged so that all students are able to view, hear, and comprehend all instructional aids and the class shall have no more than 50 students.
 - (x) The specialized driving safety instructor or school shall make a material effort to establish the identity of the student.
- (D) Minimum course content. A specialized driving safety course shall include, as a minimum, four hours of instruction that encourages the use of child passenger safety seat systems and the wearing of seat belts, etc., and materials adequate to assure the student masters the following.
- (i) Course introduction--minimum of ten minutes (instructional objective--to orient students to the class). Instruction shall address the following topics:
 - (I) purpose and benefits of the course;
 - (II) course and facilities orientation;
 - (III) requirements for receiving course credit; and
 - (IV) student course evaluation procedures.
 - (ii) The occupant protection problem--minimum of 15 minutes (instructional objectives--to develop an understanding of Texas occupant protection laws and the national and state goals regarding occupant protection). Instruction shall address the following topics:
 - (I) identification of Texas Occupant Protection Laws;
 - (II) deaths, injuries, and economic losses related to improper use of occupant restraint systems; and
 - (III) national and state goals regarding occupant protection.
 - (iii) Factors influencing driver performance--(instructional objective--to identify the characteristics and behaviors of drivers and how they affect driving performance). Instruction shall address the following topics:
 - (I) attitudes, habits, feelings, and emotions;
 - (II) alcohol and other drugs;
 - (III) physical condition;
 - (IV) knowledge of driving laws and procedures; and
 - (V) understanding the driving task.
 - (iv) Physical forces that influence driver control--(instructional objective--to identify the physical forces that affect driver control and vehicle performance). Instruction shall address the following topics:
 - (I) speed control (acceleration, deceleration, etc.);
 - (II) traction (friction, hydroplaning, stopping distances, centrifugal force, etc.); and

- (III) force of impact (momentum, kinetic energy, inertia, etc.).
- (v) Perceptual skills needed for driving--(instructional objective--to identify the factors of perception and how the factors affect driver performance). Instruction shall address the following topics:
 - (I) visual interpretations;
 - (II) hearing;
 - (III) touch;
 - (IV) smell;
 - (V) reaction abilities (simple and complex); and
 - (VI) judging speed and distance.
- (vi) Occupant protection equipment--minimum of 25 minutes (instructional objective--to identify the improvements and technological advances in automotive design and construction). Instruction shall address the following topics:
 - (I) anti-lock brakes;
 - (II) traction control devices;
 - (III) suspension control devices;
 - (IV) electronic stability/active handling systems;
 - (V) crumple zones;
 - (VI) door latch improvements;
 - (VII) tempered or safety glass;
 - (VIII) headlights; and
 - (IX) visibility enhancements.
- (vii) Occupant restraint systems--minimum of 40 minutes (instructional objective--to identify the rationale for having and using occupant restraints and protective equipment). Instruction shall address the following topics:
 - (I) safety belts, airbags, and other protective equipment;
 - (II) proper usage and necessary precautions;
 - (III) vehicle control and driver stability;
 - (IV) crash dynamics and protection; and
 - (V) operational principles (active versus passive).
- (viii) Child passenger safety--minimum of 120 minutes (instructional objective--to understand the child passenger safety law in Texas; the importance of child safety seats; and the risks to children that are unrestrained or not properly restrained). Instruction shall address the following topics:
 - (I) misconceptions or mistaken ideas regarding child passenger safety;
 - (II) purpose of child safety seats;
 - (III) how to secure the child properly and factors to consider;

- (IV) child safety seat types and parts;
 - (V) precautions regarding child safety seats;
 - (VI) correct installation of a child safety restraint system;
 - (VII) tips regarding child safety restraint systems; and
 - (VIII) dangers involved in locking or leaving children in vehicles unattended.
- (ix) Comprehensive examination--minimum of five minutes (this shall be the last unit of instruction).
 - (x) The remaining 30 minutes of instruction shall be allocated to the topics included in the minimum course content or to additional occupant protection topics that satisfy the educational objectives of the course.
- (E) Instructor training guides. An instructor training guide contains a description of the plan, training techniques, and curriculum to be used to train instructors to present the concepts of the approved specialized driving safety course described in the applicant's specialized driving safety course content guide. Each course provider shall submit as part of the application an instructor training guide that is bound or hole-punched and placed in a binder and that has a cover and a table of contents. The guide shall include the following:
- (i) a statement of the philosophy and instructional goals of the training course;
 - (ii) a description of the plan to be followed in training instructors. The plan shall include, as a minimum, provisions for the following:
 - (I) instruction of the trainee in the course curriculum;
 - (II) training the trainee in the techniques of instruction that will be used in the course;
 - (III) training the trainee about administrative procedures and course provider policies;
 - (IV) demonstration of desirable techniques of instruction by the instructor trainer;
 - (V) a minimum of 15 minutes of instruction of the course curriculum by the trainee under the observation of the instructor trainer as part of the basic training course;
 - (VI) time to be dedicated to each training lesson; and
 - (VII) a minimum of 600 minutes of instruction of the course in a regular approved course under the observation of a licensed specialized driving safety instructor trainer. The instructor trainee shall provide instruction for two full courses. It is not mandatory that the two courses be taught as two complete courses; however, every instructional unit shall be taught twice; and
 - (iii) instructional units sufficient to address the provisions identified in clause (ii)(I)-(VI) of this subparagraph. The total time of the units shall contain a minimum of 24 instructional hours. Each instructional unit shall include the following:
 - (I) the subject of the unit;
 - (II) the instructional objectives of the unit;
 - (III) time to be dedicated to the unit;
 - (IV) an outline of major concepts to be presented;
 - (V) instructional activities to be used to present the material (i.e., lecture, films, other media, small-group discussions, workbook activities, written and oral discussion questions). When small-group discussions are planned, the course guide shall identify the questions that will be assigned to the groups;

- (VI) instructional resources for each unit; and
 - (VII) techniques for evaluating the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the instructor training guide. The evaluative technique may be used throughout the unit or at the end.
- (F) Examinations. Each course provider shall submit for approval, as part of the application, tests designed to measure the comprehension level of students at the completion of the specialized driving safety course and the instructor training course. The comprehensive examination for each specialized driving safety course must include at least two questions from each unit, excluding the course introduction and comprehensive examination units. The final examination questions shall be of such difficulty that the answer may not easily be determined without completing the actual instruction. Instructors shall not assist students in answering the final examination questions unless alternative testing is required. Instructors may not be certified or students given credit for the specialized driving safety course unless they score 70% or more on the final test. The course content guide shall identify alternative testing techniques to be used for students with reading, hearing, or learning disabilities and policies for retesting students who score less than 70% on the final examination. The applicant may choose not to provide alternative testing techniques; however, students shall be advised whether the course provides alternative testing prior to enrollment in the course. Test questions may be short answer, multiple choice, essay, or a combination of these forms.
- (G) Student course evaluation. Each student in a specialized driving safety course shall be given an opportunity to evaluate the course and the instructor on an official evaluation form. A master copy of the evaluation form will be provided to TEA.
- (H) State-level evaluation of specialized driving safety courses. Each course provider shall collect adequate student data to enable TEA to evaluate the overall effectiveness of a course in reducing the number of violations and accidents of persons who successfully complete the course. The commissioner of education may determine a level of effectiveness that serves the purposes of TEC, Chapter 1001.
- (I) Requirements for authorship. The course shall be authored by an individual who possesses a current or past National Highway Traffic Safety Association Child Passenger Safety technician or instructor certificate.
- (2) Specialized driving safety instructor development courses.
- (A) If the alternative instructor training in §176.1107(c)(2) of this title (relating to Driving Safety Instructor License) is not applicable, specialized driving safety instructors shall successfully complete 36 clock hours (50 minutes of instruction in a 60-minute period) in the approved instructor development course for the specialized driving safety course to be taught, under the supervision of a specialized driving safety instructor trainer. Supervision is considered to have occurred when the instructor trainer is present and personally provides the 36 clock hours of training for the instructors, excluding those clock hours approved by TEA staff that may be presented by a guest speaker or using films and other media that pertain directly to the concepts being taught.
 - (B) Instruction records shall be maintained by the course provider and instructor trainer for each instructor trainee and shall be available for inspection by authorized division representatives at any time during the training period and/or for license investigation purposes. The instruction record shall include the trainee's name, address, driver's license number, and other pertinent data; the name and instructor license number of the person conducting the training; and the dates of instruction, lesson time, and subject taught during each instruction period. Each record shall also include grades or other means of indicating the trainee's aptitude and development. Upon satisfactory completion of the training course the instructor trainer conducting the training will certify one copy of the instruction record for attachment to the trainee's application for licensing and one copy will be maintained in a permanent file at the course provider location.
 - (C) All student instruction records submitted for the TEA-approved specialized driving safety instructor development course shall be signed by the course provider. Original documents shall be submitted.
 - (D) Specialized driving safety instructor development courses may be offered at approved classroom facilities of a licensed school which is approved to offer the specialized course being taught. A properly licensed instructor trainer shall present the course.

- (E) Applicants shall complete 36 hours of training in the specialized driving safety curriculum that shall be taught. Of the 36 hours, 24 hours shall cover techniques of instruction and in-depth familiarization with materials contained in the specialized driving safety curriculum. The additional 12 hours shall consist of practical teaching with students and shall occur after the first 24 hours have been completed.
 - (F) The course provider shall submit dates of instructor development course offerings for the 24-hour training that covers techniques of instruction and in-depth familiarization with the material contained in the specialized driving safety curriculum, locations, class schedules, and scheduled instructor trainers' names and license numbers before the courses are offered. The 12-hour practical-teaching portion of the instructor development course shall be provided at properly licensed schools or classrooms approved to offer the course being provided.
- (3) Continuing education courses.
- (A) Continuing education requirements include the following.
 - (i) Each course provider will be responsible for receiving an approval for a minimum of a two-hour continuing education course. Each instructor currently endorsed to teach the course must attend the approved continuing education course conducted by the course provider.
 - (ii) The request for course approval shall contain the following:
 - (I) a description of the plan by which the course will be presented;
 - (II) the subject of each unit;
 - (III) the instructional objectives of each unit;
 - (IV) time to be dedicated to each unit;
 - (V) instructional resources for each unit, including names or titles of presenters and facilitators;
 - (VI) any information that TEA mandates to ensure quality of the education being provided; and
 - (VII) a plan by which the course provider will monitor and ensure attendance and completion of the course by the instructions within the guidelines set forth in the course.
 - (iii) A continuing education course may be approved if TEA determines that:
 - (I) the course constitutes an organized program of learning that enhances the instructional skills, methods, or knowledge of the specialized driving safety instructor;
 - (II) the course pertains to subject matters that relate directly to driving safety or specialized driving safety instruction, instruction techniques, or driving safety-related subjects;
 - (III) the entire course has been designed, planned, and organized by the course provider. The course provider shall use licensed driving safety or specialized driving safety instructors to provide instruction or other individuals with recognized experience or expertise in the area of driving safety or specialized driving safety instruction or driving safety-related subject matters. Evidence of the individuals' experience or expertise may be requested by the division;
 - (IV) the course contains updates or approved revisions to the specialized driving safety course curriculum, policies or procedures, and/or any changes to the course, that are affected by changes in traffic laws or statistical data; and
 - (V) the division determines that any technology used to present a continuing

education course meets reasonable standards for determining attendance, security, and testing.

- (B) Course providers shall notify the division of the scheduled dates, times, and locations of all continuing education courses prior to the first day of class.
- (b) Course providers shall submit documentation on behalf of schools applying for approval of additional courses after the original approval has been granted. The documents shall be designated by the division and include the appropriate fee. Courses shall be approved before soliciting students, advertising, or conducting classes. An approval for an additional course shall not be granted if the school's compliance is in question at the time of application.
- (c) If an approved course is discontinued, the division shall be notified within five days of discontinuance and furnished with the names and addresses of any students who could not complete the course because it was discontinued. If the school does not make arrangements satisfactory to the students and the division for the completion of the courses, the full amount of all tuition and fees paid by the students are due and refundable. If arrangements are not made satisfactory to the students and the division, the refunds must be made no later than 30 days after the course was discontinued. Any course discontinued shall be removed from the list of approved courses.
- (d) If, upon review and consideration of an original, renewal, or amended application for course approval, the commissioner determines that the applicant does not meet the legal requirements, the commissioner shall notify the applicant, setting forth the reasons for denial in writing.
- (e) The commissioner may revoke approval of any course given to a course owner, provider, or school under any of the following circumstances.
 - (1) Any information contained in the application for the course approval is found to be untrue.
 - (2) The school has failed to maintain the faculty, facilities, equipment, or courses of study on the basis of which approval was issued.
 - (3) The school and/or course provider has been found to be in violation of TEC, Chapter 1001, and/or this chapter.
 - (4) The course has been found to be ineffective in meeting the educational objectives set forth in subsection (a)(1)(A) of this section.

84.209. Alternative Delivery Methods of Driving Safety Instruction

- (a) Approval process. The commissioner of education may approve an alternative delivery method (ADM) that delivers an approved driving safety course or an approved specialized driving course and meets the following requirements.
 - (1) Standards for approval. The commissioner may approve an ADM for an approved driving safety course or a specialized driving safety course and waive any rules to accomplish this approval if the ADM delivers an approved course in a manner that is at least as secure as a traditional classroom. ADMs that meet the requirements outlined in subsections (b)-(h) of this section shall receive ADM approval.
 - (2) Application. The course provider shall submit a completed ADM application along with the appropriate fee. The application for ADM approval shall be treated the same as an application for the approval of a new course and the ADM must deliver the course provider's approved curriculum as delineated in the course content guide required by §176.1108(a)(1)(B) of this title (relating to Driving Safety Courses of Instruction) and §176.1109(a)(1)(B) of this title (relating to Specialized Driving Safety Courses of Instruction).
 - (3) Incomplete applications. An application that is incomplete may be returned to the applicant along with the application fee.
 - (4) School license required. A person or entity offering a driving safety course or a specialized driving course to Texas students by an alternative delivery method must hold a driving safety school license. The driving safety school is responsible for the operation of the ADM.
 - (5) Course provider endorsement required. The driving safety school must have an endorsement from a licensed course provider.
- (b) Course content. The ADM must deliver the same topics and course content as the approved course.
 - (1) Course topics. The time requirements for each unit and the course as a whole described in

§176.1108(a)(1)(C) and (D) and §176.1109(a)(1)(C) and (D) of this title shall be met.

- (2) Topic sequence. The ADM sequencing may be different from the approved traditional course as long as the sequencing does not detract from educational value of the course. The ADM owner shall provide a key showing the topic sequence of the traditional course and where the corresponding information appears in the ADM.
 - (3) Editing. The material presented in the ADM shall be edited for grammar, punctuation, and spelling and be of such quality that it does not detract from the subject matter.
 - (4) Irrelevant material. Advertisement of goods and services shall not appear during the actual instructional times of the course. Distracting material that is not related to the topic being presented shall not appear during the actual instructional times of the course.
 - (5) Minimum content. The ADM shall present sufficient content so that it would take a student 300 minutes to complete the course. In order to demonstrate that the ADM contains sufficient content, the ADM shall use the following methods.
 - (A) Word count. For written material that is read by the student, the course provider shall count the total number of words in the written sections of the course. This word count shall be divided by 180, the average number of words that a typical student reads per minute. The result is the time associated with the written material for the sections.
 - (B) Multimedia presentations. For multimedia presentation, the course provider shall calculate the total amount of time it takes for all multimedia presentations to play.
 - (C) Charts and graphs. The ADM may assign one minute for each chart or graph.
 - (D) Examinations. The course provider may allocate up to 90 seconds for questions presented over the Internet and 30 seconds for questions presented by telephone.
 - (E) Total time calculation. If the sum of the time associated with the written course material, the total amount of time for all multimedia presentations, and the time associated with all charts and graphs equals or exceeds 300 minutes, the ADM has demonstrated the required amount of content.
 - (F) Alternate time calculation method. In lieu of the time calculation method, the ADM may submit alternate methodology to demonstrate that the ADM meets the 300-minute requirement.
 - (6) Student breaks. A course that demonstrates that it contains 300 minutes of instructional content shall mandate that students take 60 minutes of break time or provide additional educational content for a total of 360 minutes.
- (c) Personal validation. The ADM shall maintain a system to validate the identity of the person taking the course. The personal validation system shall incorporate the following requirements.
- (1) Personal validation questions. The ADM shall ask a minimum of 10 personal validation questions throughout the course.
 - (2) Third party data sources. The personal validation questions shall be drawn equally from at least two different databases.
 - (3) Time to respond. The student must correctly answer the personal validation question within 90 seconds for questions presented over the Internet and 30 seconds for questions presented by telephone.
 - (4) Placement of questions. At least one personal validation question shall appear in each major unit or section, not including the final examination.
 - (5) Exclusion from the course. The ADM shall exclude the student from the course after the student has incorrectly answered more than 30 percent of the personal validation questions.
 - (6) Correction of answer. The school may correct an answer to a personal validation question for a student who inadvertently missed a personal validation question. In such a case, the student record shall include a record of both answers and an explanation of the reasons that the school corrected the answer.
 - (7) Student affidavits. A student for whom third-party database information is available from fewer than two

databases (for example, a student with an out-of-state driver's license) may be issued a uniform certificate of completion upon presentation to the course provider of a notarized copy of the student's driver's license or equivalent type of photo identification and a statement from the student certifying that the individual attended and successfully completed the six-hour driving safety or specialized driving safety course for which the certificate is being issued and for which there exists a corresponding student record.

- (8) Alternative methods. Upon approval by the Texas Education Agency (TEA), the ADM may use alternate methods that are at least as secure as the personal validation question method.
- (d) Content validation. The ADM shall incorporate a course content validation process that verifies student participation and comprehension of course material, including the following.
- (1) Timers. The ADM shall include built-in timers to ensure that 300 minutes of instruction have been attended and completed by the student.
 - (2) Testing the student's participation in multimedia presentations. The ADM shall ask at least 1 course validation question following each multimedia clip of more than 60 seconds.
 - (A) Test bank. For each multimedia presentation that exceeds 60 seconds, the ADM shall have a test bank of at least 4 questions.
 - (B) Question difficulty. The question shall be short answer, multiple choice, essay, or a combination of these forms. The question shall be difficult enough that the answer may not be easily determined without having viewed the actual multimedia clip.
 - (C) Failure criteria. If the student fails to answer the question correctly, the ADM shall either require the student view the multimedia clip again or the ADM shall fail the student from the course. If the ADM requires the student to view the multimedia clip again, the ADM shall present a different question from its test bank for that multimedia clip. The ADM may not repeat a question until it has asked all the questions from its test bank.
 - (D) Answer identification. The ADM shall not identify the correct answer to the multimedia question.
 - (3) Mastery of course content. The ADM shall test the student's mastery of the course content by asking at least two questions from each of the topics listed in §176.1108(a)(1)(D)(ii)-(xi) and §176.1109(a)(1)(D)(ii)-(viii) of this title.
 - (A) Test bank. The test bank for course content mastery questions shall include at least ten questions from each of the topics identified in §176.1108(a)(1)(D)(ii)-(xi) and §176.1109(a)(1)(D)(ii)-(viii) of this title.
 - (B) Placement of questions. The mastery of course content questions shall be asked either at the end of the major unit or section in which the topic identified in §176.1108(a)(1)(D)(ii)-(xi) and §176.1109(a)(1)(D)(ii)-(viii) of this title is covered (unit examination) or at the end of the course (comprehensive final examination).
 - (C) Question difficulty. Course content mastery questions shall be short answer, multiple choice, essay, or a combination of these forms, and of such difficulty that the answer may not be easily determined without having participated in the actual instruction.
 - (4) Repeat and retest options. The ADM may use either of the following options for students who fail an examination to show mastery of course content, but may not use both in the same ADM.
 - (A) Repeat the failed unit. If the student misses more than 30% of the questions asked on an examination, the ADM shall require that the student take the unit again. All timers shall be reset. The correct answer to missed questions may not be disclosed to the student (except as part of course content). At the end of the unit, the ADM shall again test the student's mastery of the material. The ADM shall present different questions from its test bank until all the applicable questions have been asked. The student may repeat this procedure an unlimited number of times.
 - (B) Retest the student. If the student misses more than 30% of the questions asked on an examination, the ADM shall retest the student in the same manner as the failed examination, using different questions from its test bank. The student is not required to repeat the failed unit, but may be allowed to do so prior to retaking the examination. If the student fails the same unit examination or the comprehensive final examination three times, the student shall fail the course.

- (e) Student records. The ADM shall provide for the creation and maintenance of the records documenting student enrollment, the verification of the student's identity, and the testing of the student's mastery of the course material. Each entry that verifies enrollment, identifies the question asked or the response given, documents retesting and/or revalidation, and documents any changes to the student's record shall include the date and time of the activity reported. The student records shall contain the following information.
- (1) The student's name and driver's license number.
 - (2) A record of which personal validation questions were asked and the student's responses.
 - (3) A record of which multimedia participation questions were asked and the student's responses.
 - (4) The name or identity number of the staff member entering comments, retesting, or revalidating the student.
 - (5) If any answer to a question is changed by the school or course provider for a student who inadvertently missed a question, the school or course provider shall provide both answers and a reasonable explanation for the change.
 - (6) A record of the course content mastery questions asked and the answers given.
 - (7) A record of the time the student spent in each unit of the ADM and the total instructional time the student spent in the course.
 - (8) The school shall also ensure that the student record is readily, securely, and reliably available for inspection by TEA or a TEA-authorized representative.
- (f) Additional requirements for Internet courses. Courses delivered via the Internet shall also comply with the following requirements.
- (1) Re-entry into the course. An ADM may allow the student re-entry into the course by username and password authentication or other means that are as secure as username and password authentication.
 - (2) Navigation. The student shall be able to logically navigate through the course. The student shall be allowed to freely browse previously completed material.
 - (3) Audio-visual standards. The video and audio shall be clear and, when applicable, the video and audio shall be synchronized.
 - (4) Video transcripts. If the ADM presents transcripts of a video presentation, the transcript shall be delivered concurrently with the video stream so that the transcript cannot be displayed if the video does not display on the student's computer.
 - (5) Domain names. Each school offering an ADM must offer that ADM from a single domain. The ADM may accept students that are redirected to the ADM's domain, as long as the student is redirected to a webpage that clearly identifies the course provider and school offering the ADM before the student begins the registration process, supplies any information, or pays for the course. Subdomains of the ADM's single domain may also accept students as long as the subdomain is registered to and hosted by the ADM and clearly identifies the official course provider, school name, and TEA registration number.
 - (6) Course identification. All ADMs presented over the Internet shall display the school name and school number assigned by TEA as well as the course provider name and course provider number assigned by TEA in the top left-hand portion on the entity's homepage and the registration page used by the student to pay any monies, provide any personal information, and enroll.
- (g) Additional requirements for video courses.
- (1) Delivery of the material. For ADMs delivered by the use of videotape, digital video disc (DVD), film, or similar media, the equipment and course materials may only be made available through a process that is approved by TEA.
 - (2) Video requirement. In order to meet the video requirement of §176.1108(a)(1)(B)(v) of this title, the video course shall include between 60 and 150 minutes of video that is relevant to the required topics such as video produced by other entities for training purposes, including public safety announcements and B roll footage. The remainder of the 300 minutes of required instruction shall be video material that is relevant to 1 of the 11

required topics and produced by the ADM owner, course owner, or course provider specifically for the ADM.

- (A) A video ADM shall ask, at a minimum, at least 1 course validation question for each multimedia clip of more than 60 seconds at the end of each major segment (chapter) of the ADM.
 - (B) A video ADM shall devise and submit for approval a method for ensuring that a student correctly answers questions concerning the multimedia clips of more than 60 seconds presented during the ADM.
- (h) Standards for ADMs using new technology. For ADMs delivered using technologies that have not been previously reviewed and approved by TEA, TEA may apply similar standards as appropriate and may also require additional standards. These standards shall be designed to ensure that the course can be taught by the alternative method and that the alternative method includes testing and security measures that are at least as secure as the methods available in the traditional classroom setting.
- (i) Modifications to the ADM. Except as provided by paragraph (1) of this subsection, a change to a previously approved ADM shall not be made without the prior approval of TEA. The licensed course provider for the approved course on which the ADM is based shall ensure that any modification to the ADM is implemented by all schools endorsed to offer the ADM.
- (1) A course provider may submit to the TEA a request for immediate implementation of a proposed change that is insignificant or that protects the interest of the consumer such that immediate implementation is warranted. The request shall include:
 - (A) a complete description of the proposed change;
 - (B) the reason for the change;
 - (C) the reason the requestor believes the proposed change is insignificant or protects the interest of the consumer such that immediate implementation is warranted; and
 - (D) an explanation of how the change will maintain the course or ADM in compliance with state law and the rules specified in this chapter.
 - (2) The TEA may request additional information regarding a proposed change from the course provider making a request under paragraph (1) of this subsection.
 - (3) The TEA will respond to any request made under paragraph (1) of this subsection within five working days of receipt.
 - (A) If the TEA determines that the proposed change is insignificant or protects the interest of the consumer such that immediate implementation is warranted, the requestor may immediately implement the change. The licensed course provider for the approved course on which the ADM is based shall ensure that the change is implemented by all schools endorsed to offer the ADM.
 - (B) If the TEA determines that the proposed change is neither insignificant nor protects the interest of the consumer such that immediate implementation is warranted, the TEA shall notify the requestor of that determination and the change may not be made unless the TEA approves the change following a complete review.
 - (4) A determination by the TEA to allow immediate implementation under paragraph (1) of this subsection does not constitute final approval by the TEA of the change. The TEA reserves the right to conduct further review after the change is implemented and to grant or deny final approval based on whether the change complies with state law and rules specified in this chapter.
 - (5) If, following further review, a change in an ADM that has been immediately implemented pursuant to paragraph (1) of this subsection is determined not to be in compliance with state law and rules specified in this chapter, the TEA:
 - (A) shall notify the course provider affected by the change of:
 - (i) the specific provisions of state law or rules with which the ADM change is not in compliance; and

- (ii) a reasonable date by which the ADM must be brought into compliance;
 - (B) shall require the course provider to notify any school endorsed by the course provider of the finding;
 - (C) shall not, for the period between the implementation of the change and the date specified under subparagraph (A)(ii) of this paragraph:
 - (i) seek any penalty relating to the non-compliance;
 - (ii) take any action to revoke or deny renewal of a license of a school or course provider based on the change; or
 - (iii) withdraw approval of a course or ADM based on the change; and
 - (D) is not required to specify the method or manner by which the course provider alters the ADM to come into compliance with state law and the rules in this chapter.
- (6) If the TEA allows immediate implementation pursuant to paragraph (1) of this subsection and later determines that the description of the change or the request was misleading, materially inaccurate, not substantially complete, or not made in good faith, paragraph (5)(C) of this subsection does not apply.
 - (7) A course provider who immediately implements a change pursuant to paragraph (1) of this subsection and fails to bring the ADM into compliance prior to the date allowed under paragraph (5)(A)(ii) of this subsection may be determined to be in violation of state law or the rules in this chapter after that date.
 - (8) A course provider that immediately implements a change under paragraph (1) of this subsection assumes the risk of final approval being denied and of being required to come into compliance with state law and the rules in this chapter prior to the date allowed under paragraph (5)(A)(ii) of this subsection, including bearing the cost of reversing the change or otherwise modifying the ADM to come into compliance with state law and the rules in this chapter.
- (j) Termination of the school's operation. Upon termination, schools shall deliver any missing student data to TEA within five days of termination.
 - (k) Renewal of ADM approval. The ADM approval must be renewed every two years. The renewal document due date shall be March 1 of every even numbered calendar year.
 - (1) For approval, the course provider shall:
 - (A) update all the statistical data and references to law with the latest available data; and
 - (B) submit a statement of assurance that the ADM has been updated to reflect the latest applicable laws and statistics.
 - (2) Failure to make necessary changes or to submit a statement of assurance documenting those changes shall be cause for revocation of the ADM approval.
 - (3) The commissioner may alter the due date of the renewal documents by giving the approved ADM six months' notice. The commissioner may alter the due date in order to ensure that the ADM is updated six months after the effective date of new state laws passed by the Texas Legislature.
 - (l) Access to instructor. With the exception of circumstances beyond the control of the school, the student shall have adequate access (on the average, within two minutes) to both a licensed instructor and telephonic technical assistance (help desk) throughout the course such that the flow of instructional information is not delayed.

84.210. Student Enrollment Contracts

- (a) No person shall be instructed, either theoretically or practically, or both, to operate or drive motor vehicles until after a written legal contract has been executed. A contract shall be executed prior to the school's receipt of any money.
- (b) All driving safety and specialized driving safety contracts shall contain at least the following:
 - (1) the student's legal name and driver's license number;
 - (2) the student's address, including city, state, and zip code;

- (3) the student's telephone number;
 - (4) the student's date of birth;
 - (5) the full legal name and license number of the driving safety school or approval number of the classroom location, as applicable;
 - (6) the specific name of the approved driving safety course to be taught;
 - (7) a statement indicating the agreed total contract charges that itemizes all tuition, fees, and other charges;
 - (8) the terms of payment;
 - (9) the number of classroom lessons;
 - (10) the number of behind-the-wheel lessons, if applicable;
 - (11) the length of each lesson or course;
 - (12) the course provider's cancellation and refund policy;
 - (13) a statement indicating the specific location, date, and time that instruction is scheduled to begin and the date classroom instruction is scheduled to end;
 - (14) the signature and license number of the instructor;
 - (15) the signature of the student or the approved equivalent for a driving safety course delivered by an alternative delivery method; and
 - (16) a statement that notifies the student of the course provider's security and privacy policy regarding student data, including personal and financial data.
- (c) In addition, all driving safety school contracts shall contain statements substantially as follows.
- (1) I have been furnished a copy of the school tuition schedule; cancellation and refund policy; and school regulations pertaining to absence, grading policy, progress, and rules of operation and conduct.
 - (2) The school and course provider are prohibited from issuing a uniform certificate of course completion if the student has not met all of the requirements for course completion, and the student should not accept a uniform certificate of course completion under such circumstances.
 - (3) This agreement constitutes the entire contract between the school and the student, and verbal assurances or promises not contained herein shall not bind the school or the student.
 - (4) I further realize that any grievances not resolved by the school may be forwarded to the course provider (identify name and address) and to Driver Training, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701. The current telephone number of the division shall also be provided.
- (d) Driving safety or specialized driving safety may use a group contract that includes more than one student's name.
- (e) A copy of each contract shall be a part of the student files maintained by the driving safety school and/or course provider.
- (f) Course providers shall submit proposed or amended contracts to the division, and those documents shall be approved prior to use by schools.
- (g) Contracts for group instruction must meet all legal requirements.
- (h) Contracts executed in an electronic format shall be considered to contain original signatures for purposes of this section.

84.211. Cancellation and Refund Policy

- (a) Course provider cancellation shall be in accordance with Texas Education Code, Chapter 1001. Driving safety schools

shall use the cancellation policy approved for the course provider.

- (b) Refunds for all driving safety schools or course providers shall be completed within 30 days after the effective date of termination. Proof of completion of refund shall be the refund document or copies of both sides of the canceled check and shall be on file within 120 days of the effective date of termination. All refund checks shall identify the student to whom the refund is assigned. In those cases where multiple refunds are made using one check, the check shall identify each individual student and the amount to be credited to that student's account.
- (c) In reference to Texas Education Code, §1001.404(c), a school or course provider is considered to have made a good faith effort to consummate a refund if the student file contains evidence of the following attempts:
 - (1) certified mail to the student's last known address; and
 - (2) certified mail to the student's permanent address.
- (d) If it is determined that the school does not routinely pay refunds within the time required by Texas Education Code, §1001.402(b)(4), the school shall submit a report of an audit which includes any interest due as set forth in Texas Education Code, §1001.404, conducted by an independent certified public accountant or public accountant who is properly registered with the appropriate state board of accountancy, of the refunds due former students. The audit opinion letter shall be accompanied by a schedule of student refunds due which shall disclose the following information for the previous two years from the date of request by Texas Education Agency (TEA) for each student:
 - (1) name, address, and either social security number or driver's license number;
 - (2) last date of attendance or date of termination; and
 - (3) amount of refund with principal and interest separately stated, date and check number of payment if payment has been made, and any balance due.
- (e) Any funds received from, or on behalf of, a student shall be recorded in a format that is readily accessible to representatives of TEA and acceptable to the division.

84.212. Facilities and Equipment

- (a) No classroom facility shall be located in a private residence.
- (b) The classroom facilities, when used for instruction, shall contain at least the following:
 - (1) adequate seating facilities for all students being trained;
 - (2) adequate charts, diagrams, mock-ups, and pictures relating to the operation of motor vehicles, traffic laws, physical forces, and correct driving procedures; and
 - (3) any materials that have been approved as a part of the course approval.
- (c) The amount of classroom space shall meet the use requirements of the maximum number of current students in class with appropriate seating facilities as necessitated by the activity patterns of the course.
- (d) Each school and classroom shall conduct the Texas Education Agency-approved driving safety or specialized driving safety course in a facility that promotes the purpose and objectives as set forth in this chapter. The driving safety or specialized driving safety course shall be provided in designated instructional areas that promote learning by ensuring that students are able to see and hear the instructor and audiovisual aids. Any facility that contains an adult-oriented business or a facility that is required to exclude patrons because of age will not be approved. Factors that will be considered in determining whether facilities promote learning include facility layout, visual and hearing distractions, and equipment functionality.
- (e) Enrollment shall not exceed the design characteristics of the student workstations. The facilities shall meet any state and local ordinances governing housing and safety for the use designated.
- (f) A violation of the law or rules by any multiple classroom location constitutes a violation by the driving safety school.
- (g) All classroom approvals are contingent on the driving safety school license and shall be subject to denial or revocation if such action is taken against the license of the driving safety school that has responsibility for the classroom location.

- (h) Course provider facilities shall be staffed in such a manner that an employee of the course provider is available to answer questions and take messages during regular business hours.
- (i) The course provider location shall be the physical address as stated on the course provider license.

84.213. Student Complaints

- (a) The course provider shall have a written grievance procedure approved by the division director that is disclosed to all students. Driving safety schools shall follow the procedures approved for the course provider. The function of the procedure shall be to attempt to resolve disputes between students, including terminations and graduates, and the school. Adequate records shall be maintained.
- (b) The driving safety school or course provider shall make every effort to resolve complaints.
- (c) The front of each uniform certificate of course completion shall contain Texas Education Agency complaint contact information and current division telephone number in a font that is visibly recognizable.

84.214. Records

- (a) A driving safety school or course provider shall furnish upon request any data pertaining to student enrollments and attendance, as well as records and necessary data required for licensure and to show compliance with the legal requirements for inspection by authorized representatives of the Texas Education Agency (TEA). There may be announced or unannounced compliance surveys at each school or course provider each year.
- (b) The course provider shall retain all student records for at least three years. A course provider shall maintain the records of the students who completed driving safety or specialized driving safety classes for the most current 12 months at the course provider location. The actual driving safety or specialized driving safety comprehension test does not have to be retained; however, the test score must be in the student's records. The division director may require a course provider to retain the actual test of each student for a designated period of time if deemed necessary by the division director to show compliance with the legal requirements.
- (c) A course provider shall maintain a permanent record of instruction given to each student who received instruction to include students who withdrew or were terminated.
- (d) A course provider shall not release student records that identify the student by name or address, or may lead to such identification, except:
 - (1) to authorized representatives of the TEA;
 - (2) to a peace officer;
 - (3) under court order or subpoena; or
 - (4) with written consent of both the student and at least one parent or legal guardian, if the student is under 18 years of age.

84.215. Names and Advertising

- (a) No driving safety school or course provider shall adopt, use, or conduct any business under a name or domain name that is like, or deceptively similar to, a name or domain name used by another Texas licensed driving safety, drug and alcohol driving awareness, or driver education school without written consent of that school. Schools holding a name approved by the Texas Education Agency (TEA) as of August 31, 1995, may continue to use the name approved by TEA. No new license will be issued to a driving safety school or course provider with a name or domain name like, or deceptively similar to, a name or domain name used by another licensed driving safety, drug and alcohol driving awareness program, or driver education school. All advertisements of a multiple classroom location or alternative delivery method shall meet these same requirements.
- (b) A school license shall not contain more than one school name. Use of names other than the approved school name may constitute a violation of this section.
- (c) The division may require that a school or course provider furnish proof to TEA that substantiates any advertising claims made by the school or course provider. Failure to provide acceptable proof may require that the school or course provider, respectively, publish a retraction of such advertising claims in the same manner as the disputed advertisement. Continuation of such advertising shall constitute cause for suspension or revocation of the school or course provider license.

- (d) A school or course provider shall not design, manufacture, or supply to any court of the state any written materials that may be false, misleading, or deceptive.
- (e) The division may deny approval of any course or the issuance of any required license or invoke other sanctions if a course provider or driving safety school advertises before the later of:
 - (1) the 30th day after the date the course owner or school applies for a course provider or driving safety school license; or
 - (2) the date the course owner or school receives a course provider or driving safety school license from the commissioner of education.

84.216. Uniform Certificate of Course Completion for Driving Safety or Specialized Driving Safety Course

- (a) Course provider responsibilities. Course providers shall be responsible for original and duplicate uniform certificates of course completion in accordance with this subsection.
 - (1) The course provider of a driving safety or specialized driving safety course shall ensure that each instructor completes the verification of course completion document approved by the Texas Education Agency (TEA). The verification of course completion document shall contain a statement to be signed by the instructor that states: "Under penalty of law, I attest to the fact that the student whose name and signature appear on this document has successfully completed the number of hours as required under Texas Education Code, Chapter 1001, and that any false information on this document will be used as evidence in a court of law and/or administrative proceeding." This verification of course completion document shall be returned to the course provider upon completion of each driving safety class and maintained for no less than three years.
 - (2) The course provider shall implement and maintain a policy which effectively ensures protective measures are in use at all times for securing original and duplicate uniform certificates of course completion and course completion certificate numbers. The records and unissued or unnumbered original and duplicate uniform certificates of course completion shall be readily available for review by representatives of TEA.
 - (3) The course provider shall maintain electronic files with data pertaining to all course completion certificate numbers purchased from TEA. The course provider shall make available to TEA upon request an ascending numerical accounting record of the numbered uniform certificates of completion issued. The course provider shall ensure security of the data.
 - (4) The course provider shall ensure that effective measures are taken to preclude lost data and that a system is in place to recreate electronic data for all certificate numbers, whether used or not used, and all certificates that have been issued.
 - (5) Course providers shall issue and mail uniform certificates of course completion only to students who have successfully completed all elements of the course provider's approved driving safety or specialized driving safety course taught by TEA-licensed instructors in TEA-approved locations as indicated on the verification of course completion document or student footprint.
 - (6) Course providers shall ensure that adequate training is provided regarding course provider policies and updates on course provider policies to all driving safety schools and instructors offering their approved driving safety or specialized driving safety course.
 - (7) Course providers shall report all unaccounted original and duplicate course completion certificate numbers or unissued certificates or duplicates to the division within five business days of the discovery of the incident. In addition, the course provider shall be responsible for conducting an investigation to determine the circumstances surrounding the unaccounted items. A report of the findings of the investigation, including preventative measures for recurrence, shall be submitted for approval to the division within 30 days of the discovery.
 - (8) Each unaccounted or missing original or duplicate course completion certificate number or blank or unissued original or duplicate uniform certificate of completion may be considered a separate violation within the meaning of Texas Education Code (TEC), §1001.553. This may include lost, stolen, or otherwise unaccounted original or duplicate course completion certificate number or blank or unissued original or duplicate uniform certificates of course completion.
 - (9) Course providers shall mail all original and duplicate uniform certificates of course completion using first-class or enhanced postage or an equivalent commercial delivery method.

- (10) Course providers shall not transfer course completion certificate numbers to a course other than the course for which the certificates were ordered from TEA.
 - (11) No course provider or employee shall complete, issue, or validate a uniform certificate of course completion to a person who has not successfully completed all elements of the entire course as verified by a TEA-licensed instructor.
 - (12) No course provider or employee shall issue, mail, transfer, or transmit an original or duplicate uniform certificate of course completion bearing the serial number of a certificate or duplicate previously issued.
 - (13) Course providers shall sequentially number original uniform certificates of course completion from the block of numbers purchased from the division.
 - (14) When a duplicate uniform certificate of course completion is issued by a course provider, the duplicate certificate shall bear a serial number from the block of numbers purchased from the division by the course provider. The duplicate certificate of course completion shall clearly indicate the number of both the duplicate and the original serial number of the certificate being replaced.
 - (15) Any item on a duplicate uniform certificate of course completion that has different data than that shown on the original certificate must clearly indicate both the original data and the replacement data; for example, a change in the date of course completion must show the correct date and "changed from XX," where "XX" is the date shown on the original uniform certificate of course completion.
 - (16) The fee for a duplicate uniform certificate of course completion is \$10. If the student requests a duplicate within 30 days of the date of issue of the original certificate because the original was not received or was damaged so as to be unusable or was issued with errors due to no fault of the student, the course provider shall issue the duplicate at no cost to the student. Course providers shall ensure that schools endorsed to offer the approved course are aware of this rule and shall include this information in the student enrollment contract.
 - (17) Course providers shall implement and maintain methods for efficiently issuing and mailing original uniform certificates of course completion so that issuance of duplicate certificates is kept at a minimal rate. A ratio of duplicates to originals that would indicate to a reasonable and prudent person that the course provider has failed to minimize duplicates constitutes evidence that a violation of TEC, §1001.056(c-1), exists and shall be sufficient to initiate proceedings to sanction or condition the license of the course provider in question.
- (b) School owner responsibilities. In order to prevent misuse of uniform certificates of course completion, driving safety school owners shall ensure that:
- (1) the course provider policies are followed and communicated to all instructors and employees of the school; and
 - (2) all records are returned to the course provider in a timely manner as set forth by the course provider.
- (c) Instructor responsibilities. In order to prevent misuse of uniform certificates of course completion, driving safety and specialized driving safety instructors shall ensure that:
- (1) all records are returned to the driving safety school to be forwarded to the course provider within the time allowed by course provider policy;
 - (2) the verification of course completion document provided by the course provider is signed by the instructor who conducted the class upon completion of the class;
 - (3) the entire course is completed prior to signing the verification of course completion document;
 - (4) the court information is obtained from each student taking the driving safety or specialized driving safety class for the purposes of Texas Code of Criminal Procedure, Article 45.051 and 45.0511. Students who want an insurance reduction only shall have "insurance only" indicated in the court information area on the verification of course completion document provided to the course provider; and
 - (5) the instructor adheres to the school and course provider policies.

84.217. Application Fees and Other Charges

- (a) If a driving safety school or course provider changes ownership, the new owner shall pay the same fee as that charged for an initial fee for a school or course provider license. In cases where, according to §176.1104(g)(3) of this title (relating to Course Provider Licensure), the change of ownership of a course provider is substantially similar, the new owner shall pay the statutory fees allowed by Texas Education Code, §1001.151.
- (b) A late renewal fee shall be paid in addition to the annual renewal fee if a driving safety school or course provider fails to postmark a complete application for renewal at least 30 days before the expiration date of the driving safety school license. The requirements for a complete application for renewal are found in §176.1103(f) of this title (relating to Driving Safety School Licensure) and §176.1104(i) of this title (relating to Course Provider Licensure). The complete renewal application must be postmarked or hand-delivered with a date on or before the due date.
- (c) License, application, and registration fees shall be collected by the commissioner of education and deposited with the state treasurer according to the following schedule.
 - (1) The fee for a driving safety or specialized driving safety course approval is \$9,000.
 - (2) The initial fee for a course provider is \$2,000.
 - (3) The initial fee for a driving safety school is \$150.
 - (4) The annual renewal fee for a course provider is \$200.
 - (5) The fee for a change of address of a course provider or driving safety school is \$50.
 - (6) The fee for a change of name of a course provider or name of owner is \$100.
 - (7) The fee for a change of name of a driving safety school or name of owner is \$50.
 - (8) The application fee for each additional course for a driving safety school is \$25.
 - (9) The application fee for each administrative staff member is \$15.
 - (10) A processing fee of \$50 shall accompany each application for an original driving safety or specialized driving safety instructor's license.
 - (11) The annual instructor license fee is \$25.
 - (12) The late instructor renewal fee is \$25.
 - (13) The duplicate driving safety or specialized driving safety instructor license fee is \$8.00.
 - (14) The fee for an investigation at a driving safety school or course provider to resolve a complaint is \$1,000.
 - (15) The course provider late renewal fee is \$200.
 - (16) The driving safety school late renewal fee is \$100.
 - (17) The fee for a course completion certificate number is \$1.00.
- (d) Failure to pay a required fee or penalty assessed shall be cause for revocation or denial of any license held by a course provider, driving safety school, or instructor of whom the fee or penalty is required. Revocation or denial proceedings shall be started if the fee is not paid within 30 days of the expiration date of the appeal period set forth in Texas Education Code, §1001.460.

Subchapter C. Commissioner's Rules on Minimum Standards for Operation of Texas Drug and Alcohol Driving Awareness Programs.

84.300. General Provision

All drug and alcohol driving awareness programs will be regulated in accordance with the rules adopted in this subchapter. Driving safety rules contained in Subchapter BB of this chapter (relating to Commissioner's Rules on Minimum Standards for Operation of Licensed Texas Driving Safety Schools and Course Providers) are not applicable except as set forth herein, as mandated by the Texas Education Code, §1001.103.

84.301. Definitions

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

- (1) Break--An interruption in a program of instruction occurring after the program introduction and before the post-program exam.
- (2) Certificate of program completion--Serially numbered certificates that are printed, administered, and supplied by the course provider that have been approved by the Texas Education Agency (TEA) as part of the drug and alcohol driving awareness program.
- (3) Change of ownership of a school--A change in the control of the school. Any agreement to transfer the control of a school is considered to be a change of ownership. The control of a school is considered to have changed:
 - (A) in the case of ownership by an individual, when more than 50% of the school has been sold or transferred;
 - (B) in the case of ownership by a partnership or a corporation, when more than 50% of the school or of the owning partnership or corporation has been sold or transferred; or
 - (C) when the board of directors, officers, shareholders, or similar governing body has been changed to such an extent as to significantly alter the management and control of the school.
- (4) Clock hour--50 minutes of instruction in a 60-minute period, unless the term "clock hour" is defined differently under another law or rule.
- (5) Course provider--For the purposes of this subchapter, a course provider is an enterprise that:
 - (A) maintains a place of business or solicits business in Texas;
 - (B) is operated by an individual, association, partnership, or corporation; and
 - (C) has received an approval for a drug and alcohol driving awareness program from the commissioner of education or has been designated by a person who has received that approval to conduct business and represent the person in Texas.
- (6) Division--The division of TEA responsible for administering the provisions of the law, rules, regulations, and standards as contained in this chapter and licensing driver training programs.
- (7) Division director--The person designated by the commissioner of education to carry out the functions and regulations governing the drug and alcohol driving awareness schools and course providers and designated as director of the division responsible for licensing driver training programs.
- (8) Driver Training--For the purposes of this subchapter, driver training includes drug and alcohol driving awareness program training.
- (9) Drug and alcohol driving awareness program--A course of instruction intended to prevent or deter misuse and abuse of controlled substances as that applies to the task of driving.
- (10) Drug and alcohol driving awareness school--An enterprise that:
 - (A) maintains a place of business or solicits business in Texas; and
 - (B) is operated by an individual, association, partnership, or corporation that educates and trains persons using drug and alcohol driving awareness programs.
- (11) Good reputation--A person is considered to be of good reputation if:
 - (A) there are no felony convictions related to the operation of a school, and the person has been rehabilitated from any other felony convictions;
 - (B) there are no convictions involving crimes of moral turpitude;

- (C) within the last ten years, the person has never been successfully sued for fraud or deceptive trade practice;
 - (D) the person does not own or operate a school or program currently in violation of the legal requirements involving fraud, deceptive trade practices, student safety, or quality of education; has never owned or operated a school or program with habitual violations; and has never owned or operated a school or program which closed with violations including, but not limited to, selling, trading, or transferring a certificate of program completion to any person or school not authorized to possess it;
 - (E) the person has not withheld material information from representatives of TEA or falsified instructional records or any documents required for approval or continued approval;
 - (F) in the case of an instructor, there are no misdemeanor or felony convictions involving driving while intoxicated or minor in possession, consumption, or purchase of alcoholic beverages within the past seven years; and
 - (G) in the event that an instructor or applicant has received deferred adjudication of guilt from a court of competent jurisdiction, a determination about good reputation can be made upon review of evidence of the conduct underlying the basis of the deferred adjudication. When determining underlying conduct, the commissioner of education may consider the facts and circumstances surrounding the deferred adjudication.
- (12) Instructor trainer--A licensed drug and alcohol driving awareness program instructor who has been authorized to prepare instructors to give instruction in a specified curriculum.
 - (13) Moral turpitude--Conduct that is inherently immoral or dishonest.
 - (14) New program--A drug and alcohol driving awareness program is considered new when it has not been approved by TEA to be offered previously, or has been approved by TEA and offered and then discontinued, or has been inactive for 36 months or more, or the content or lessons of the program have been changed to a degree that a new application is requested and a complete review of the application and program presentation is necessary to determine compliance.
 - (15) Personal validation question--A question designed to establish the identity of the student by requiring an answer related to the student's personal information such as a driver's license number, address, date of birth, or student-solicited data such as personal preference, memory, or other similar information that is unique to the student.
 - (16) Post-program exam--An exam designed to measure the student's comprehension and knowledge of course material presented after the instruction is completed.
 - (17) Pre-program exam--An exam given during the program introduction using questions drawn from material to be covered in the course to determine the level of drug and alcohol knowledge possessed by the student prior to receiving instruction.
 - (18) Program validation question--A question designed to establish the student's participation in the program and comprehension of the program material by requiring the student to answer a question regarding a fact or concept taught in the program.
 - (19) Public or private school--For the purposes of this subchapter, a public or private school is an accredited public or non-public secondary school.
 - (20) Self-assessment--A tool used by program participants to evaluate one's own risk for developing problems with alcohol and drugs.

84.302. Drug and Alcohol Driving Awareness School Licensure

- (a) Application for school. An application for a license for a drug and alcohol driving awareness school shall be made on forms supplied by the Texas Education Agency (TEA) and shall include:
 - (1) individual requests for approval for each multiple classroom of the school. The applications shall be made on forms provided by TEA. The school shall receive TEA approval for each location prior to advertising or offering a program at the location; and

- (2) verification from the course provider that the school is authorized to provide the approved drug and alcohol driving awareness program.
- (b) Approval. TEA shall approve the application of a drug and alcohol driving awareness school if TEA finds that the school owner and employees are of good reputation and the school does not owe a civil penalty under Texas Education Code, Chapter 1001.
- (c) Verification of ownership for drug and alcohol driving awareness school.
 - (1) In the case of an original or change of owner application for a school, the owner of the school shall provide verification of ownership that includes, but is not limited to, copies of stock certificates, partnership agreements, and assumed name registrations. The division director may require additional evidence to verify ownership.
 - (2) With the renewal application, the owner of the school shall provide verification that no change in ownership has occurred. The division director may require additional evidence to verify that no change of ownership has occurred.
- (d) School name. A drug and alcohol driving awareness school license shall not contain more than one school name.
- (e) Effective date of the drug and alcohol driving awareness school license. The effective date of the school license shall be the date the license is issued. Licenses that are received at the drug and alcohol driving awareness school prior to the effective date are not valid until the effective date shown on the license.
- (f) Purchase of drug and alcohol driving awareness school.
 - (1) A person or persons purchasing a licensed school shall obtain an original license.
 - (2) In addition, copies of the executed sales contracts, bills of sale, deeds, and all other instruments necessary to transfer ownership of the school shall be submitted to TEA. The contract or any instrument transferring the ownership of the drug and alcohol driving awareness school shall include the following statements.
 - (A) The sale of the school shall be subject to approval by TEA.
 - (B) The purchaser shall assume the liabilities, duties, and obligations under the enrollment contracts between the students and the seller, or any former owner.
- (g) New location.
 - (1) The division director shall be notified in writing of any change of address of a drug and alcohol driving awareness school at least three working days before the move.
 - (2) The school must submit the appropriate fee and all documents designated by the division director as being necessary.
 - (3) The school must maintain a current mailing address and telephone number at the division.
- (h) Renewal of drug and alcohol driving awareness school license. A complete application for the renewal of a license for a drug and alcohol driving awareness school shall be submitted before the expiration of the license in accordance with Texas Education Code, Chapter 1001, and shall include the following:
 - (1) completed application for renewal;
 - (2) renewal fee, if applicable; and
 - (3) any other revision or evidence of which the school has been notified in writing that is necessary to bring the school's application for a renewal license to a current and accurate status.
- (i) Denial, revocation, or conditional license. For schools approved to offer only one drug and alcohol driving awareness program, the authority to operate a school shall cease if the program approval is revoked or if the course provider removes all authorization to teach the program. The license of the school may continue for 60 calendar days to allow the school owner to obtain approval to provide a different program. At the end of the 60-day period, the school license will be revoked unless an approved program will be offered. The current school license shall not be renewed without an approved program. Denial, revocation, or conditioning of licenses shall be in accordance with Texas Education Code, Chapter 1001.

- (j) Notification of legal action. A school shall notify the division director in writing of any legal action that is filed against the school, its officers, any owner, or any school instructor that might concern the operation of the school within five working days after the school, its officers, any owner, or any school instructor has commenced the legal action or has been served with legal process. Included with the written notification, the school shall submit a file-marked copy of the petition or complaint that has been filed with the court.
- (k) School closure.
 - (1) The school owner shall notify TEA and the course provider at least 15 business days before the anticipated school closure. The school owner shall provide written notice to TEA and the course provider of the actual discontinuance of the operation within five working days after the cessation of classes. A school shall forward all records to the course provider responsible for the records within five days.
 - (2) The course provider shall provide TEA with written notice of a school closure within five working days after knowledge of cessation of classes.
 - (3) The division director may declare a school to be closed:
 - (A) as of the last day of attendance when written notification is received by TEA from the school or course provider stating that the school will close;
 - (B) when TEA staff determine by means of an on-site visit that the school facility has been vacated without prior notification of change of address given to TEA and without TEA approval of future plans to continue to operate;
 - (C) when the school owner allows the school license to expire; or
 - (D) when the school does not have the appropriate facilities and equipment to operate.

84.303. Drug and Alcohol Driving Awareness School and Course Provider Responsibilities

- (a) Course providers must be located, or maintain a registered agent, in the State of Texas. All instruction in a drug and alcohol driving awareness program shall be performed in locations approved by the Texas Education Agency (TEA) and by TEA-licensed instructors.
- (b) Each course provider or employee shall:
 - (1) ensure that instruction of the program is provided in schools currently approved to offer the program, and in the manner in which the program was approved;
 - (2) ensure that the program is provided by persons who have a valid current instructor license with the proper endorsement issued by the division, except as provided in subsection (a) of this section;
 - (3) ensure that schools and instructors are provided with the most recent approved program materials and relevant data and information pertaining to the program within 60 days of approval. Instructor training may be required and shall be addressed in the approval notice;
 - (4) not falsify driver training records;
 - (5) develop and maintain a means to ensure the security and integrity of student information, especially financial and personal information, in transit and at rest;
 - (6) develop and maintain a means to ensure the privacy of student data, including personal and financial data, and make the corporate privacy policy available to all course students; and
 - (7) ensure that each certificate of program completion contains TEA complaint contact information.
- (c) Each drug and alcohol driving awareness school owner-operator or employee shall:
 - (1) ensure that each individual permitted to give instruction at the school or any classroom location has a valid current instructor license with the proper endorsement issued by the division, except as provided in subsection (a) of this section;
 - (2) prohibit an instructor from giving instruction or prohibit a student from receiving instruction if that instructor

or student is using or exhibits any evidence or effect of an alcoholic beverage, controlled substance, drug, abusable glue, aerosol paint, or other volatile chemical as those terms are defined in the Alcoholic Beverage Code and the Health and Safety Code;

- (3) provide instruction or allow instruction to be provided only in courses that are currently on the school's list of approved courses;
 - (4) complete, issue, or validate a certificate of program completion only for a person who has successfully completed the entire course;
 - (5) not falsify driver training records;
 - (6) evaluate instructor performance in accordance with the course provider plan;
 - (7) develop and maintain a means to ensure the security and integrity of student information, especially financial and personal information, in transit and at rest; and
 - (8) develop and maintain a means to ensure the privacy of student data, including personal and financial data, and make the corporate privacy policy available to all course students.
- (d) For the purposes of this subchapter, each person employed by or associated with any drug and alcohol driving awareness school shall be deemed an agent of the school, and the school may share the responsibility for all acts performed by the person which are within the scope of the employment and which occur during the course of the employment.

84.304. Drug and Alcohol Driving Awareness Program Instructor License

- (a) Application for licensing as a drug and alcohol driving awareness program instructor shall be made on forms supplied by the Texas Education Agency (TEA). A person is qualified to apply for a drug and alcohol driving awareness program instructor license who:
- (1) is of good reputation; and
 - (2) holds a valid driver's license for the preceding five years which has not been suspended, revoked, or forfeited in the past five years for traffic-related violations or is knowledgeable in the areas of traffic safety and alcohol/drug use and abuse.
- (b) A person applying for an original instructor license shall submit to TEA the following:
- (1) complete application as provided by TEA;
 - (2) processing and instructor licensing fees;
 - (3) evidence of completion of instructor training and a statement signed by the course provider recommending the applicant for licensing. Original documentation shall be provided upon the request of the division director. Instructor training shall consist of 24 hours of training covering techniques of instruction and in-depth familiarization with material contained in the drug and alcohol driving awareness program curriculum in which the individual is being trained; and
 - (4) any other information necessary to show compliance with applicable state and federal requirements.
- (c) The responsibilities of a drug and alcohol driving awareness program instructor include instructing a TEA-approved drug and alcohol driving awareness program specific to the curriculum in which the individual is trained.
- (d) A drug and alcohol driving awareness program instructor license shall be valid for two years.
- (e) A renewal application for drug and alcohol driving awareness program instructor license must be prepared using the following procedures.
- (1) Application for renewal of an instructor license shall be made on a form provided by TEA and shall be accompanied by the instructor renewal fee.
 - (2) A complete license renewal application shall be postmarked or hand-delivered at least 30 days before the date of expiration or a late instructor renewal fee shall be imposed. A complete application includes:

- (A) completed application for renewal; and
 - (B) renewal fee.
- (f) An instructor who has allowed a previous license to expire shall file an original application on a form provided by TEA and shall include the processing and instructor renewal fees. Evidence of educational experience may not be required to be resubmitted if the documentation is on file at TEA.
- (g) Drug and alcohol driving awareness program instructors who want to add a program endorsement to a license shall submit the following:
- (1) written documentation showing all applicable educational requirements have been met to justify endorsement changes;
 - (2) the instructor renewal fee; and
 - (3) evidence of two additional hours of training from the course provider of the drug and alcohol driving awareness program curriculum that the instructor will be licensed to teach.
- (h) All other license change requests, including duplicate instructor licenses or name changes, shall be made in writing and shall include payment of the duplicate instructor license fee.
- (i) The TEA shall be notified of an instructor's change of address in writing. Address changes shall not require payment of a fee.
- (j) All instructors shall notify the division director, school owner, and course provider in writing of any criminal complaint identified in subsection (n) of this section filed against the instructor within five working days of commencement of the criminal proceedings. The division director may require a file-marked copy of the petition or complaint that has been filed with the court.
- (k) All instructors shall provide training in an ethical manner so as to promote respect for the purposes and objectives of driver training. Further, the instructor must not in any way promote Responsible Use, Harm Reduction, or Risk Reduction philosophies when providing instruction to minors.
- (l) An instructor shall not make any sexual or obscene comments, advances, or gestures while performing the duties of an instructor.
- (m) An instructor shall not falsify driver training records.
- (n) The commissioner of education may suspend, revoke, or deny a license to any drug and alcohol driving awareness program instructor under any of the following circumstances.
- (1) The applicant or licensee has been convicted of any felony, or an offense involving moral turpitude, or an offense of involuntary or intoxication manslaughter, or criminally negligent homicide committed as a result of the person's operation of a motor vehicle, or an offense involving driving while intoxicated or driving under the influence of drugs, or an offense involving tampering with a governmental record.
 - (A) These particular crimes relate to the licensing of instructors because such persons, as licensees of TEA, are required to be of good moral character and to deal honestly with courts and members of the public. Drug and alcohol driving awareness program instruction involves accurate record keeping and reporting for insurance documentation and other purposes. In determining the present fitness of a person who has been convicted of a crime and whether a criminal conviction directly relates to an occupation, TEA shall consider those factors stated in Texas Occupations Code, Chapter 53.
 - (B) In the event that an instructor is convicted of such an offense, the instructor's license will be subject to revocation or denial. A conviction for an offense other than a felony shall not be considered by TEA under this paragraph if a period of more than ten years has elapsed since the date of the conviction or of the release of the person from the confinement or suspension imposed for that conviction, whichever is the later date. For seven years after an instructor is convicted of an offense involving driving while intoxicated, the instructor's license shall be recommended for revocation or denial.
 - (C) For the purposes of this paragraph, a person is convicted of an offense when a court of competent jurisdiction enters an adjudication of guilt on an offense against the person, whether or not:

- (i) the sentence is subsequently probated and the person is discharged from probation; or
 - (ii) the person is pardoned for the offense, unless the pardon is expressly granted for subsequent proof of innocence.
- (2) The applicant, licensee, any instructor, or agent is addicted to the use of alcoholic beverages or drugs or becomes incompetent to conduct classroom instruction properly.
 - (3) The license was improperly or erroneously issued.
 - (4) The applicant or licensee fails to comply with the rules and regulations of TEA regarding the instruction of drivers in this state or fails to comply with any section of Texas Education Code, Chapter 1001.
 - (5) The instructor fails to follow procedures as prescribed in this subchapter.
 - (6) The applicant or licensee has a personal driving record showing that the person has been the subject of driver improvement or corrective action as cited in Transportation Code, Chapter 521, Subchapter N or O, during the past two years or that such action is needed to protect the students and motoring public.
 - (7) If an instructor or applicant has received deferred adjudication of guilt from a court of competent jurisdiction, a determination can be made upon satisfactory review of evidence that the conduct underlying the basis of the deferred adjudication has rendered the person unworthy to provide driver training instruction.
 - (8) The instructor uses any language, humor, gestures, advances, or innuendo that a reasonable person would consider inappropriate.

84.305. Drug and Alcohol Driving Awareness Programs of Instruction

- (a) This section contains requirements for drug and alcohol driving awareness programs and instructor development programs. For each program, the following curriculum documents and materials are required to be submitted as part of the application for approval. All program content shall be delivered under the direct observation of a licensed instructor. Programs of instruction shall not be approved which contain language that a reasonable person would consider inappropriate. Any changes and updates to a program shall be submitted and approved prior to being offered.
 - (1) Drug and alcohol driving awareness programs.
 - (A) Educational objectives. The educational objectives of drug and alcohol driving awareness programs shall include, but not be limited to: educating participants on the risks associated with alcohol or other drug use/abuse and problems associated with such use; providing information on the physiological and psychological effects of alcohol and drugs, legal aspects of alcohol and drug use; the effects of alcohol and drugs on the driving task; signs of abuse; and assisting participants in developing a plan to reduce the probability that they will be involved in alcohol/drugs and driving situations.
 - (B) Drug and alcohol driving awareness program content guides. A program content guide is a description of the content of the program and the techniques of instruction that will be used to present the program. For programs offered in languages other than English, the course provider shall provide, along with the documentation specified in clauses (i)-(ix) of this subparagraph, a copy of the student verification of course completion document and/or enrollment contract, student instructional materials, and post-program exam in the proposed language accompanied by a statement from a translator with current credentials from the American Translators Association or the National Association of Judicial Interpreters and Translators that the materials are the same in both English and the other language. In lieu of the credentials specified in this subparagraph, a translator's credentials shall be presented to the Texas Education Agency (TEA) for approval with the final determination based solely on TEA's interpretation. To be approved, each course provider shall submit as part of the application a program content guide that includes the following:
 - (i) a statement of the program's drug and alcohol driving awareness program goal and philosophy. The program must not in any way promote Responsible Use, Harm Reduction, or Risk Reduction philosophies when being presented to minors;
 - (ii) a statement of policies and administrative provisions related to instructor conduct, standards, and performance;
 - (iii) a statement of policies and administrative provisions related to student progress,

attendance, makeup, and conduct. The following policies and administrative provisions shall be used by each school that offers the program and include the following requirements:

- (I) progress standards that meet the requirements of subsection (a)(1)(F) of this section;
 - (II) appropriate standards to ascertain the attendance of students. All schools approved to use the program must use the same standards for documenting attendance to include the hours scheduled each day and each hour not attended;
 - (III) any period of absence for any portion of instruction will require that the student complete that portion of instruction. All make-up lessons must be equivalent in length and content to the instruction missed and taught by a licensed instructor; and
 - (IV) conditions for dismissal and conditions for reentry of those students dismissed for violating the conduct policy;
- (iv) a statement of policy addressing entrance requirements and special conditions of students, such as the inability to read, language barriers, and other disabilities;
 - (v) a list of relevant instructional resources, such as textbooks, audio and visual media and other instructional materials, and equipment that will be used in the program; and the furniture deemed necessary to accommodate the students in the program, such as tables, chairs, and other furnishings. The program shall include a minimum of 60 minutes of videos, including audio; however, the videos and other relevant instructional resources cannot be used in excess of 150 minutes of the 300 minutes of instruction. The resources may be included in a single list or may appear at the end of each instructional unit;
 - (vi) a clear identification of the order in which the units of instruction will be presented, and for each student, the program shall be taught in the order identified in the approved application;
 - (vii) written or printed materials that shall be provided for use by each student as a guide to the program. The division director may make exceptions to this requirement on an individual basis;
 - (viii) units of instruction sufficient to present the topics identified in subsection (a)(1)(B) of this section and any additional topics unique to the program. Each instructional unit shall include the following:
 - (I) the subject of the unit;
 - (II) the instructional objectives of the unit;
 - (III) time to be dedicated to the unit;
 - (IV) an outline of major concepts to be presented;
 - (V) instructional activities to be used to present the material (lecture, films, other media, small-group discussions, workbook activities, written and oral discussion questions, etc.). When small-group discussions are planned, the program guide shall identify the questions that will be assigned to the groups;
 - (VI) instructional resources for each unit; and
 - (VII) techniques for evaluating the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the program content guide. The evaluative technique may be used throughout the unit or at the end; and
 - (ix) a document that identifies the instructional units and topics and the order in which they are provided.

- (C) Program and time management. Approved drug and alcohol driving awareness programs shall be presented in compliance with the following guidelines.
- (i) A minimum of 300 minutes of instruction is required.
 - (ii) The total length of the program shall consist of a minimum of 360 minutes.
 - (iii) Sixty minutes of time, exclusive of the 300 minutes of instruction, shall be dedicated to break periods or to the topics included in the minimum program content. All break periods shall be provided after instruction has begun and before the post-program exam.
 - (iv) Programs conducted in a single day shall allow a minimum of 30 minutes for lunch.
 - (v) Programs taught over a period longer than one day shall provide breaks on a schedule equitable to those prescribed for one-day programs. However, all breaks shall be provided prior to the last unit of the instructional day or the post-program exam, whichever is appropriate.
 - (vi) The order of topics shall be approved by the TEA as part of the program approval, and for each student, the program shall be taught in the order identified in the approved application.
 - (vii) Students shall not receive a certificate of program completion unless that student received a grade of at least 70% on the post-program exam.
 - (viii) The program must not in any way promote Responsible Use, Harm Reduction, or Risk Reduction philosophies when provided to minors.
 - (ix) No more than 50 students per class are permitted in drug and alcohol driving awareness programs, unless the class size is limited by a restriction under another law or rule. In a traditional classroom setting, there must be sufficient seating for the number of students arranged so that all students are able to view, hear, and comprehend all instruction aids.
 - (x) The drug and alcohol driving awareness school shall make a material effort to establish the identity of the student.
- (D) Minimum program content. A drug and alcohol driving awareness program shall include, as a minimum, materials adequate to address the following topics and instructional objectives and the program as a whole.
- (i) Program administration. The objective is to enable the instructor to handle any basic in-class administrative details that are necessary prior to beginning instruction. This unit shall be limited to 15 minutes.
 - (ii) Program introduction, pre-program exam, and background. The objective is to present an overview of the program and to demonstrate the nature of the problem as it relates to the use of alcohol or other drugs.
 - (iii) Texas laws. The objective is to provide basic information about laws related to alcohol/drug use in Texas.
 - (iv) Physiological and psychological effects of alcohol/drugs. The objective is to provide basic information about the physiological and psychological effects of alcohol and other drugs on humans.
 - (v) Effects of alcohol/drugs on the driving task. The objective is to explain the relationship of alcohol and other drugs to driving task abilities.
 - (vi) Signs of a problem. The objective is to help participants recognize and understand the warning signs of a potential alcohol/drug problem.
 - (vii) Decision making. The objective is to help participants make quality decisions about alcohol/drug use that will prevent future problems.
 - (viii) Post-program exam.

- (E) Instructor training guides. An instructor training guide contains a description of the plan, training techniques, and curriculum to be used to train instructors to present the concepts of the approved drug and alcohol driving awareness program described in the applicant's drug and alcohol driving awareness program guide. Each course provider shall submit as part of the application an instructor training guide. The guide shall include a table of contents and the following:
- (i) a statement of the philosophy and instructional goals of the training program. The program must not in any way promote Responsible Use, Harm Reduction, or Risk Reduction philosophies when being presented to minors;
 - (ii) a description of the plan to be followed in training instructors. The plan shall include, as a minimum, provisions for the following:
 - (I) instruction of the trainee in the program curriculum;
 - (II) training the trainee in the techniques of instruction that will be used in the program;
 - (III) training the trainee about administrative procedures and course provider policies;
 - (IV) demonstration of desirable techniques of instruction by the instructor trainer;
 - (V) a minimum of 15 minutes of instruction of the program curriculum by the trainee under the observation of the instructor trainer as part of the basic training program; and
 - (VI) time to be dedicated to each training lesson; and
 - (iii) instructional units sufficient to address the provisions identified in clause (ii)(I)-(V) of this subparagraph. The total time of the units shall contain a minimum of 24 instructional hours. Each instructional unit shall include the following:
 - (I) the subject of the unit;
 - (II) the instructional objectives of the unit;
 - (III) time to be dedicated to the unit;
 - (IV) an outline of major concepts to be presented;
 - (V) instructional activities to be used to present the material (i.e., lecture, films, other media, small-group discussions, workbook activities, written and oral discussion questions). When small-group discussions are planned, the program guide shall identify the questions that will be assigned to the groups;
 - (VI) instructional resources for each unit; and
 - (VII) techniques for evaluating the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the instructor training guide. The evaluative technique may be used throughout the unit or at the end.
- (F) Exams. Each course provider shall submit for approval, as part of the application, pre- and post-program exams designed to measure the knowledge of students at the completion of the drug and alcohol driving awareness program. The post-program exam for each drug and alcohol driving awareness program must contain at least 20 questions. A minimum of 2 questions shall be drawn from the required units set forth in subparagraph (D)(iii)-(vii) of this paragraph. The post-program final exam questions shall be of such difficulty that the answer may not easily be determined without completing the actual instruction. Instructors shall not assist students in answering the post-program exam questions, but may facilitate alternative testing. Instructors may not certify or give students credit for the drug and alcohol driving awareness program unless they score 70% or more on the post-program exam. The program content guide shall identify alternative testing techniques to be used for students with reading, hearing, or learning disabilities and policies for retesting students who score less than 70% on the post-program exam. The course provider may choose not

to provide alternative testing techniques; however, students shall be advised whether the course provides alternative testing prior to enrollment in the course. Exam questions may be short answer, multiple choice, essay, or a combination of these forms.

- (2) Instructor development programs.
 - (A) Drug and alcohol driving awareness program instructors shall successfully complete 24 clock hours (50 minutes of instruction in a 60-minute period) in the approved instructor development program for the drug and alcohol driving awareness program to be taught, under the supervision of a licensed drug and alcohol driving awareness instructor who is designated by the course provider. Supervision is considered to have occurred when the licensed instructor is present and personally provides the 24 clock hours of training for drug and alcohol driving awareness instructors, excluding clock hours approved by TEA that may be presented by a guest speaker or using films and other media that pertain directly to the concepts being taught.
 - (B) Instruction records shall be maintained by the course provider and licensed instructor for each instructor trainee and shall be available for inspection by authorized division representatives at any time during the training period and/or for license investigation purposes. The instruction record shall include the trainee's name, address, driver's license number, and other pertinent data; the name and instructor license number of the person conducting the training; and the dates of instruction, lesson time, and subject taught during each instruction period. Each record shall also include unit, pre- and post-program exam grades or other means of indicating the trainee's aptitude and development. Upon satisfactory completion of the training program, the instructor trainer conducting the training will certify a copy of the instruction record for attachment to the trainee's application for licensing.
 - (C) The course provider shall sign all student instruction records submitted for the TEA-approved instructor development program. Original documents shall be submitted.
 - (D) Instructor development programs may be offered at approved classroom facilities of a licensed school which is approved to offer the drug and alcohol driving awareness program being taught. A properly licensed instructor shall present the program.
- (b) Schools applying for approval of additional drug and alcohol driving awareness programs after the original approval has been granted shall submit the documents designated by the division director with the appropriate fee. Programs shall be approved before soliciting students, advertising, or conducting classes. An approval for an additional program shall not be granted if the school's compliance is in question at the time of application.
- (c) If an approved program is discontinued, the division director shall be notified within five working days of discontinuance. Any program discontinued shall be removed from the list of approved programs.
- (d) If, upon review and consideration of an original, renewal, or amended application for drug and alcohol driving awareness program approval, the commissioner of education determines that the applicant does not meet the legal requirements, the commissioner shall notify the applicant, setting forth the reasons for denial in writing.
- (e) The commissioner of education may revoke approval of any drug and alcohol driving awareness program given to a course provider or school under any of the following circumstances.
 - (1) A statement contained in the application for the program approval is found to be untrue.
 - (2) The school has failed to maintain the faculty, facilities, equipment, or programs of study on the basis of which approval was issued.
 - (3) The school and/or course provider has been found to be in violation of Texas Education Code, Chapter 1001, and/or this subchapter.
 - (4) The program has been found to be ineffective in carrying out the purpose of Texas Education Code, Chapter 1001.

84.306. Student Enrollment Forms

- (a) No person shall be instructed in a drug and alcohol driving awareness program until after being enrolled.
- (b) All drug and alcohol driving awareness enrollment forms shall provide students with the following information.

- (1) Grievances not resolved by the school may be forwarded to Driver Training, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701. The current telephone number of the division shall also be provided.
- (2) The school is prohibited from issuing a certificate of program completion if the student has not met all of the requirements for program completion, and the student should not accept a certificate of program completion under such circumstances.

84.307. Facilities and Equipment

- (a) No classroom facility shall be located in a private residence.
- (b) The classroom facilities, when used for instruction, shall contain at least the following:
 - (1) adequate seating and desk or table facilities for all students being trained;
 - (2) equipment needed to provide the program as it has been approved; and
 - (3) any materials that have been approved as a part of the program approval.
- (c) Enrollment shall not exceed the design characteristics of the student workstations. The facilities shall meet any state and local ordinances governing housing and safety for the use designated.
- (d) A violation of the law or rules by any multiple classroom location constitutes a violation by the drug and alcohol driving awareness school.
- (e) All classroom approvals are contingent on the drug and alcohol driving awareness school license and shall be subject to denial or revocation if such action is taken against the license of the school that has responsibility for the classroom location.
- (f) The program shall not be taught in any location where alcohol is present.

84.308. Records

- (a) A drug and alcohol driving awareness school or course provider shall furnish upon request any data pertaining to student enrollments and attendance, as well as records and necessary data required for licensure, and to show compliance with the legal requirements for inspection by authorized representatives of the Texas Education Agency. There may be announced or unannounced compliance surveys at drug and alcohol awareness schools.
- (b) The school shall retain all student records for at least three years. The actual pre- and post-program exams do not have to be retained; however, the exam scores must be in the student's records.

84.309. Application Fees and Other Charges

- (a) If a drug and alcohol driving awareness school changes ownership, the new owner shall pay the same fee as that charged for an initial fee for a school.
- (b) A late renewal fee shall be paid in addition to the renewal fee if a drug and alcohol driving awareness school fails to postmark a complete application for renewal at least 30 days before the expiration date of the drug and alcohol driving awareness school license. The requirements for a complete application for renewal are found in §176.1203(h) of this title (relating to Drug and Alcohol Driving Awareness School Licensure). The complete renewal application must be postmarked or hand-delivered with a date on or before the due date.
- (c) License, application, and registration fees shall be collected by the commissioner of education and deposited with the state treasurer according to the following schedule.
 - (1) The fee for a drug and alcohol driving awareness program approval is \$9,000.
 - (2) The fee for a drug and alcohol driving awareness program alternative delivery method approval is \$9,000.
 - (3) The initial fee for a drug and alcohol driving awareness school is \$150.
 - (4) The fee for a change of address of a drug and alcohol driving awareness school is \$50.
 - (5) The fee for a change of name of a drug and alcohol driving awareness school or name of owner is \$50.

- (6) The application fee for each additional program for a drug and alcohol driving awareness school is \$25.
- (7) A processing fee of \$50 and a licensing fee of \$25 shall accompany each application for an original drug and alcohol driving awareness program instructor license.
- (8) The instructor renewal fee is \$25.
- (9) The late instructor renewal fee is \$25.
- (10) The duplicate drug and alcohol driving awareness program instructor license fee is \$8.
- (11) The fee for an investigation at a drug and alcohol driving awareness school to resolve a complaint is \$1,000.
- (12) The drug and alcohol driving awareness school late renewal fee is \$100.

84.310. Alternative Delivery Methods of Drug and Alcohol Driving Awareness Program Instruction

- (a) Approval process. The commissioner of education may approve an alternative delivery method (ADM) that delivers an approved drug and alcohol driving awareness program and meets the following requirements.
 - (1) Standards for approval. The commissioner of education may approve an ADM for an approved drug and alcohol driving awareness program and waive any rules to accomplish this approval if the ADM delivers an approved program in a manner that is at least as secure as a traditional classroom. ADMs that meet the requirements outlined in subsections (b)-(h) of this section shall receive ADM approval.
 - (2) Application. The course provider shall submit a completed ADM application along with the appropriate fee. The application for ADM approval shall be treated the same as an application for the approval of a new program, and the ADM must deliver the course provider's approved curriculum as delineated in the program content guide required by §176.1206(a)(1)(B) of this title (relating to Drug and Alcohol Driving Awareness Programs of Instruction).
 - (3) Incomplete applications. An application that is incomplete may be returned to the applicant along with the application fee.
 - (4) School license required. A person or entity offering a drug and alcohol driving awareness program to Texas students by an ADM must hold a drug and alcohol driving awareness school license.
 - (5) Course provider endorsement required. The drug and alcohol driving awareness school must have an endorsement from a licensed course provider.
 - (6) Course provider responsibility. The day-to-day operations of an ADM are the responsibility of the course provider that owns the curriculum. A course provider may offer an ADM through a school that is not owned and operated by the course provider only with approval of the division director. By accepting such approval, the course provider that offers the curriculum through a licensed drug and alcohol and driving awareness school also accepts responsibility for all compliance issues that arise as a result of the operation of the ADM.
- (b) Program content. The ADM must deliver the same topics and program content as the approved course.
 - (1) Course topics. The time requirements for each unit and the program as a whole described in §176.1206(a)(1)(B)(v), (C), and (D) of this title shall be met.
 - (2) Topic sequence. The ADM sequencing may be different from the approved traditional program as long as the sequencing does not detract from educational value of the program. The ADM owner shall provide a key showing the topic sequence of the traditional program and where the corresponding information appears in the ADM.
 - (3) Editing. The material presented in the ADM shall be edited for grammar, punctuation, and spelling and be of such quality that it does not detract from the subject matter.
 - (4) Irrelevant material. Advertisement of goods and services shall not appear during the actual instructional times of the program. Distracting material that is not related to the topic being presented shall not appear during the actual instructional times of the program.
 - (5) Minimum content. The ADM shall present sufficient content so that it would take a student 300 minutes to

complete the program. In order to demonstrate that the ADM contains sufficient content, the ADM shall use the following methods.

- (A) Word count. For written material that is read by the student, the course provider shall count the total number of words in the written sections of the program. This word count shall be divided by 180, the average number of words that a typical student reads per minute. The result is the time associated with the written material for the sections.
 - (B) Multimedia presentations. For multimedia presentation, the course provider shall calculate the total amount of time it takes for all multimedia presentations to play.
 - (C) Charts and graphs. The ADM may assign one minute for each chart or graph.
 - (D) Exams. The course provider may allocate up to 45 seconds for questions presented over the Internet and 30 seconds for questions presented by telephone.
 - (E) Total time calculation. If the sum of the time associated with the written program material, the total amount of time for all multimedia presentations, and the time associated with all charts and graphs equals or exceeds 300 minutes, the ADM has demonstrated the required amount of content.
 - (F) Alternate time calculation method. In lieu of the time calculation method, the ADM may submit alternate methodology to demonstrate that the ADM meets the 300-minute requirement.
- (6) Student breaks. A program that demonstrates that it contains 300 minutes of instructional content shall mandate that students take 60 minutes of break time or provide additional educational content for a total of 360 minutes.
- (c) Personal validation. The ADM shall maintain a system to validate the identity of the person taking the program. The personal validation system shall incorporate the following requirements.
- (1) Personal validation questions. The ADM shall ask a minimum of 10 personal validation questions throughout the program.
 - (2) Data sources. The personal validation questions shall be drawn equally from at least two different databases. Alternatively, the data may be drawn from student-solicited question/answer pairs obtained during enrollment.
 - (3) Time to respond. The student must correctly answer the personal validation question within 45 seconds for questions presented over the Internet and 30 seconds for questions presented by telephone.
 - (4) Placement of questions. At least one personal validation question shall appear in each major unit or section, not including the post-program exam.
 - (5) Exclusion from the course. The ADM shall exclude the student from the program after the student has incorrectly answered more than 20 percent of the personal validation questions.
 - (6) Correction of answer. The school may correct an answer to a personal validation question for a student who inadvertently missed a personal validation question drawn from a third-party database. In such a case, the student record shall include a record of both answers and an explanation of the reasons that the school corrected the answer. A school or course provider shall not correct or change an answer for a student who enrolls in an ADM that uses student-solicited question/answer pairs for personal validation.
 - (7) Student affidavits. A student enrolled in a program that uses third-party database validation questions and for whom third-party database information is available from fewer than two databases (for example, a student with an out-of-state driver's license) may be issued a certificate of program completion upon presentation to the course provider of a notarized copy of the student's driver's license or equivalent type of photo identification and a statement from the student certifying that the individual attended and successfully completed the six-hour drug and alcohol driving awareness program for which the certificate is being issued and for which there exists a corresponding student record.
 - (8) Alternative methods. Upon approval by the Texas Education Agency (TEA), the ADM may use alternate methods that are at least as secure as the personal validation question method.
- (d) Program validation. The ADM shall incorporate a program content validation process that verifies student participation and comprehension of program material, including the following.

- (1) Timers. The ADM shall include built-in timers to ensure that 300 minutes of instruction have been attended and completed by the student.
- (2) Testing the student's participation in multimedia presentations. The ADM shall ask at least one program validation question following each multimedia clip of more than 60 seconds.
 - (A) Test bank. For each multimedia presentation that exceeds 60 seconds, the ADM shall have a test bank of at least four questions.
 - (B) Question difficulty. The question shall be short answer, multiple choice, essay, or a combination of these forms. The question shall be difficult enough that the answer may not be easily determined without having viewed the actual multimedia clip.
 - (C) Failure criteria. If the student fails to answer the question correctly, the ADM shall either require the student view the multimedia clip again or the ADM shall fail the student from the program. If the ADM requires the student to view the multimedia clip again, the ADM shall present a different question from its test bank for that multimedia clip. The ADM may not repeat a question until it has asked all the questions from its test bank.
 - (D) Answer identification. The ADM shall not identify the correct answer to the multimedia question.
- (3) Mastery of program content. The ADM shall test the student's mastery of the program content by asking at least two questions from each of the five substantive topics listed in §176.1206(a)(1)(D)(iii)-(vii) of this title.
 - (A) Test bank. The test bank for program content mastery questions shall include at least two questions from each of the five substantive topics identified in §176.1206(a)(1)(D)(iii)-(vii) of this title. For each question in a substantive topic, the test bank shall contain four alternative questions covering the same topic, for a total of at least 100 questions.
 - (B) Placement of questions. The mastery of program content questions shall be asked at the end of the program (post-program exam).
 - (C) Question difficulty. Program content mastery questions shall be short answer, multiple choice, essay, or a combination of these forms, and of such difficulty that the answer may not be easily determined without having participated in the actual instruction.
 - (D) Retest. If the student misses more than 30 percent of the questions asked on the post-program exam, the ADM shall retest the student in the same manner as the failed exam, using different questions from its test bank. The student is not required to repeat the failed program, but may be allowed to do so prior to retaking the exam. If the student fails the post-program exam three times, the student shall fail the program.
- (e) Student records. The ADM shall provide for the creation and maintenance of the records documenting student enrollment, the verification of the student's identity, and the testing of the student's mastery of the program material. Each entry that verifies enrollment, identifies the question asked or the response given, documents retesting and/or revalidation, and documents any changes to the student's record shall include the date and time of the activity reported. The school and/or course provider shall also ensure that the student record is readily, securely, and reliably available for inspection by TEA or a TEA-authorized representative. The student records shall contain the following information:
 - (1) the student's name and driver's license number;
 - (2) a record of which personal validation questions were asked and the student's responses;
 - (3) a record of which multimedia participation questions were asked and the student's responses;
 - (4) the name or identity number of the staff member entering comments, retesting, or revalidating the student;
 - (5) if any answer to a question is changed by the school or course provider for a student who inadvertently missed a third-party database question, the school or course provider shall maintain both answers and a reasonable explanation for the change. A school or course provider shall not correct or change an answer for a student who enrolls in an ADM that uses student-solicited question/answer pairs for personal validation;
 - (6) a record of the program content mastery questions asked and the answers given; and

- (7) a record of the time the student spent in each unit of the ADM and the total instructional time the student spent in the program.
- (f) Additional requirements for Internet programs. Programs delivered via the Internet shall also comply with the following requirements.
- (1) Re-entry into the program. An ADM may allow the student re-entry into the program by username and password authentication or other means that are as secure as username and password authentication.
 - (2) Navigation. The student shall be able to logically navigate through the program. The student shall be allowed to freely browse previously completed material.
 - (3) Audio-visual standards. The video and audio shall be clear and, when applicable, the video and audio shall be synchronized.
 - (4) Video transcripts. If the ADM presents transcripts of a video presentation, the transcript shall be delivered concurrently with the video stream so that the transcript cannot be displayed if the video does not display on the student's computer.
 - (5) Domain names. Each school offering an ADM must offer that ADM from a single domain. The ADM may accept students that are redirected to the ADM's domain, as long as the student is redirected to a web page that clearly identifies the course provider and school offering the ADM before the student begins the registration process, supplies any information, or pays for the course. Subdomains of the ADM's single domain may also accept students as long as the subdomain is registered to and hosted by the ADM and clearly identifies the official course provider, school name, and TEA registration number.
 - (6) ADM identification. All ADMs presented over the Internet shall display the school name and school number assigned by TEA as well as the course provider name and course provider number assigned by TEA on the homepage and the registration page of the entity to which the student pays any monies, provides any personal information, and in which the student enrolls.
- (g) Additional requirements for video programs.
- (1) Delivery of the material. For ADMs delivered by the use of videotape, digital video disc (DVD), film, or similar media, the equipment and program materials may only be made available through a process that is approved by TEA.
 - (2) Video requirement. In order to meet the video requirement of §176.1206(a)(1)(B)(v) of this title, the video course shall include between 60 and 150 minutes of video that is relevant to the required topics such as video produced by other entities for training purposes, including public safety announcements and B roll footage. The remainder of the 300 minutes of required instruction shall be video material that is relevant to one of the five substantive required topics and produced by the ADM owner, course owner, or course provider specifically for the ADM.
 - (A) A video ADM shall ask, at a minimum, at least one program validation question for each multimedia clip of more than 60 seconds at the end of each major segment (chapter) of the ADM.
 - (B) A video ADM shall devise and submit for approval a method for ensuring that a student correctly answers questions concerning the multimedia clips of more than 60 seconds presented during the ADM.
- (h) Standards for ADMs using new technology. For ADMs delivered using technologies that have not been previously reviewed and approved by TEA, TEA may apply similar standards as appropriate and may also require additional standards. These standards shall be designed to ensure that the program can be taught by the alternative method and that the alternative method includes testing and security measures that are at least as secure as the methods available in the traditional classroom setting.
- (i) Modifications to the ADM. Except as provided by paragraph (1) of this subsection, a change to a previously approved ADM shall not be made without the prior approval of TEA. The licensed course provider for the approved program on which the ADM is based shall ensure that any modification to the ADM is implemented by all schools endorsed to offer the ADM.
- (1) A course provider may submit to the TEA a request for immediate implementation of a proposed change that is insignificant or that protects the interest of the consumer such that immediate implementation is warranted. The request shall include:

- (A) a complete description of the proposed change;
 - (B) the reason for the change;
 - (C) the reason the requestor believes the proposed change is insignificant or protects the interest of the consumer such that immediate implementation is warranted; and
 - (D) an explanation of how the change will maintain the program or ADM in compliance with state law and the rules specified in this chapter.
- (2) The TEA may request additional information regarding a proposed change from the course provider making a request under paragraph (1) of this subsection.
- (3) The TEA will respond to any request made under paragraph (1) of this subsection within five working days of receipt.
- (A) If the TEA determines that the proposed change is insignificant or protects the interest of the consumer such that immediate implementation is warranted, the requestor may immediately implement the change. The licensed course provider for the approved program on which the ADM is based shall ensure that the change is implemented by all schools endorsed to offer the ADM.
 - (B) If the TEA determines that the proposed change is neither insignificant nor protects the interest of the consumer such that immediate implementation is warranted, the TEA shall notify the requestor of that determination and the change may not be made unless the TEA approves the change following a complete review.
- (4) A determination by the TEA to allow immediate implementation under paragraph (1) of this subsection does not constitute final approval by the TEA of the change. The TEA reserves the right to conduct further review after the change is implemented and to grant or deny final approval based on whether the change complies with state law and rules specified in this chapter.
- (5) If, following further review, a change in an ADM that has been immediately implemented pursuant to paragraph (1) of this subsection is determined not to be in compliance with state law and rules specified in this chapter, the TEA:
- (A) shall notify the course provider affected by the change of:
 - (i) the specific provisions of state law or rules with which the ADM change is not in compliance; and
 - (ii) a reasonable date by which the ADM must be brought into compliance;
 - (B) shall require the course provider to notify any school endorsed by the course provider of the finding;
 - (C) shall not, for the period between the implementation of the change and the date specified under subparagraph (A)(ii) of this paragraph:
 - (i) seek any penalty relating to the non-compliance;
 - (ii) take any action to revoke or deny renewal of a license of a school or course provider based on the change; or
 - (iii) withdraw approval of a program or ADM based on the change; and
 - (D) is not required to specify the method or manner by which the course provider alters the ADM to come into compliance with state law and the rules in this chapter.
- (6) If the TEA allows immediate implementation pursuant to paragraph (1) of this subsection and later determines that the description of the change or the request was misleading, materially inaccurate, not substantially complete, or not made in good faith, paragraph (5)(C) of this subsection does not apply.
- (7) A course provider who immediately implements a change pursuant to paragraph (1) of this subsection and fails to bring the ADM into compliance prior to the date allowed under paragraph (5)(A)(ii) of this subsection may be determined to be in violation of state law or the rules in this chapter after that date.

- (8) A course provider that immediately implements a change under paragraph (1) of this subsection assumes the risk of final approval being denied and of being required to come into compliance with state law and the rules in this chapter prior to the date allowed under paragraph (5)(A)(ii) of this subsection, including bearing the cost of reversing the change or otherwise modifying the ADM to come into compliance with state law and the rules in this chapter.
- (j) Termination of the school's operation. Upon termination, a school shall deliver any missing student data to TEA within five days of termination.
- (k) Renewal of ADM approval. The ADM approval must be renewed every two years. The renewal document due date shall be March 1, 2012, and every two years thereafter.
 - (1) For approval, the course provider shall:
 - (A) update all the statistical data and references to law with the latest available data; and
 - (B) submit a statement of assurance saying that the ADM has been updated to reflect the latest applicable laws and statistics.
 - (2) Failure to make necessary changes or to submit a statement of assurance documenting those changes shall be cause for revocation of the ADM approval.
 - (3) The commissioner may alter the due date of the renewal documents by giving the approved ADM six months' notice. The commissioner may alter the due date in order to ensure that the ADM is updated six months after the effective date of new state laws passed by the Texas Legislature.
- (l) Access to instructor. With the exception of circumstances beyond the control of the school, the student shall have adequate access (on the average, within two minutes) to both a licensed instructor and telephonic technical assistance (help desk) throughout the program such that the flow of instructional information is not delayed.

Subchapter D. Commissioner's Rules on Hearings Held Under the Texas Education Code, Chapter 1001.

84.400. Rules of Procedure

- (a) Applicability. This section applies to all hearings and appeals brought under the Texas Education Code, Chapter 1001. Hearings under this section are also governed by Chapter 157, Subchapter AA, of this title (relating to General Provisions for Hearings Before the Commissioner of Education) for the administration of all appeals before the state commissioner of education. If this section conflicts with Chapter 157, Subchapter AA, or any other rule governing hearings, the requirements of this section prevail for all hearings conducted under Texas Education Code, Chapter 1001 unless expressly provided otherwise.
- (b) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.
 - (1) Adverse action--Written notification that:
 - (A) denies, suspends, revokes, assesses a penalty against, or otherwise imposes conditions on a license or other form of approval held or sought by an applicant or licensee; and
 - (B) specifically provides the applicant or licensee with an opportunity for an adjudicative hearing under Texas Education Code, Chapter 1001.
 - (2) Applicant--A party seeking a license or other permission under Texas Education Code, Chapter 1001.
 - (3) Commissioner--The state commissioner of education or other person designated by the commissioner to render a decision under Texas Education Code, Chapter 1001.
 - (4) Licensee--A party holding a license or similar form of permission required under Texas Education Code, Chapter 1001.
 - (5) Party--A person or state agency named or admitted as a party to an appeal.
 - (6) Party representative--A lawyer or non-lawyer who acts on behalf of himself or herself or on behalf of another person during an adjudicative hearing.

- (c) Grounds for hearing. An applicant or licensee may request a hearing before the commissioner upon receiving notice of an adverse action.
- (d) Procedures to schedule hearing.
 - (1) To obtain a hearing, an applicant or licensee shall submit a written request for a hearing to the agency representative identified in the written notice of adverse action. The written request shall be submitted not later than the 15th calendar day after the date the notice of an adverse action is received. The written request shall be submitted in person, by courier receipted delivery, or by certified or registered mail. If mailed, the envelope's postmark shall be considered as the submittal date.
 - (2) A request for hearing shall include a specific statement of each issue the applicant or licensee intends to raise in the hearing to contest the adverse action. An applicant or licensee may be denied the opportunity to present evidence on issues that should reasonably have been raised in the written request for hearing.
 - (3) The agency representative shall forward the request for hearing and the notice of adverse action to the division of hearings for scheduling. A hearing shall be held within 30 calendar days after the date the written request for a hearing is received unless all parties agree to a later date for the hearing.
 - (4) A licensee who is issued a summary suspension under Texas Education Code, Chapter 1001, shall be scheduled for a hearing on the suspension on an expedited basis.
 - (5) Petitions for review, answers, exceptions, and replies to exceptions need not be filed unless directed by a hearings examiner.
- (e) Amendments. A notice of adverse action or request for hearing may be amended or supplemented at any time up to ten calendar days before the hearing and thereafter with approval of the hearings examiner. Amendments and supplements shall be submitted to the division of hearings in the manner prescribed for the service of pleadings, pleas, and motions.
- (f) Classification of parties.
 - (1) An applicant or licensee issued a notice of adverse action that denies an initial license or renewal license shall be classified as a petitioner, and the agency shall be classified as a respondent.
 - (2) A licensee issued a notice of adverse action that revokes an existing license, imposes conditions on a license, or assesses a penalty, shall be classified as a respondent, and the agency shall be classified as petitioner.
- (g) Motions for continuance.
 - (1) Continuances may be granted by the hearings examiner under Texas Education Code, Chapter 1001; Chapter 157, Subchapter AA; and all other applicable law.
 - (2) If a continuance is sought by an applicant or licensee who is entitled to a hearing within 30 calendar days, the motion may be construed by the hearings examiner as a waiver of the right to the hearing within the statutory 30-day time line. The party representative for the agency may request, and the hearings examiner may grant, a waiver of the 30-day time line absent an objection by the applicant or licensee.
- (h) Service of documents.
 - (1) Every pleading, plea, or motion filed with the division of hearings shall be served by delivering a copy to all party representatives of record in person, by agent, by courier receipted delivery, or by certified or registered mail, to the party's current address of record, or by facsimile to the recipient's current telecopier number of record.
 - (2) All other communications not specified in paragraph (1) of this subsection that are filed with the division of hearings may be served by first class mail.
 - (3) Service by mail shall be complete upon deposit of the paper, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service.
 - (4) Service by facsimile completed after midnight local time of the recipient shall be deemed served on the following day.

- (5) A party representative shall serve all party representatives by the same method as the document was filed with the division of hearings. Service by facsimile may be substituted for personal service. If one of the parties to be served does not have the ability to receive service by facsimile, service by certified mail shall be an adequate substitute for personal service.
- (6) The party representative shall certify compliance with this rule in writing over the signature of the party representative on the filed document. The following form of certification shall be sufficient. "I certify that on this _____ day of _____, 20 ____, I served copies of the foregoing pleading upon all other parties to this proceeding by (state the manner of service). Signature."
- (7) If a filing does not contain a required certificate of service or otherwise show service on all other parties, the division of hearings may:
 - (A) return the document to the filing party;
 - (B) send a notice to all parties that the filing does not show service on all parties and will not be considered unless the division is notified that all parties have been served with the filing; or
 - (C) in the interest of economy of effort, send a copy of the filing to all parties.
- (i) Stipulations.
 - (1) By stipulation, the parties may agree to any substantive or procedural matter.
 - (2) A stipulation may be filed in writing or entered on the record at the hearing.
 - (3) The hearings examiner may permit or require additional development of stipulated matters if needed to evaluate the issues presented on appeal.
- (j) Decision.
 - (1) The hearings examiner shall prepare a decision that shall contain findings of fact and conclusions of law, separately stated. If deemed warranted, the hearings examiner may direct a party to draft and submit a proposal, which shall include proposed findings of fact and a concise and explicit statement of the underlying facts supporting such proposed findings.
 - (2) The commissioner or his designee shall issue a decision on the appeal within ten calendar days after the hearing unless the parties agree to a later date.
- (k) Motion for rehearing. As a prerequisite to judicial appeal, a party may file a motion for rehearing. The motion shall satisfy all applicable requirements of law and Chapter 157, Subchapter AA.

Subchapter E. Parent Taught Driver Education

84.500. Parent Taught Driver Education

- (a) Prior to teaching a department approved parent taught driver education course, an instructor must submit a completed Request for Parent Taught Driver Education Information Packet form with a non-refundable fee to the Texas Department of Public Safety. A Parent Taught Driver Education Information packet will be provided to the requestor.
- (b) The Parent Taught Driver Education Information packet is not a driver education course and does not contain the required materials (i.e. lesson plans and other resources) necessary to teach the parent taught driver education course. The instructor must obtain one of the department approved parent taught driver education courses to fulfill program requirements.
- (c) The parent taught driver education course provider will provide a numbered Texas Driver Education Certificate.
- (d) The parent taught driver education program includes both classroom and behind the wheel phase instruction. The instructor may teach both or utilize a commercial or public driver education school for either phase. However, a student cannot transfer hours between the parent taught program and a commercial or public driver education school. All 32 hours of classroom instruction must be taught under one program; either parent taught or a commercial or public driver education school. The 14 hours of laboratory (behind the wheel) instruction must be taught under one program; either parent taught or a commercial or public driver education school. All previous driver education hours must be repeated if the method of instruction changes prior to completion of either phase. The additional 30 hours of behind the wheel practice must be completed in the presence of an adult who meets the requirements of Texas

Transportation Code, §521.222(d)(2).

- (e) The required 32 hours of classroom driver education instruction may be taught either as an entire block prior to any portion of the behind the wheel phase or concurrently with the behind the wheel phase. If taught concurrently, the student must complete the first six hours of the classroom driver education instruction prior to the instruction of any of the behind the wheel phase and prior to issuance of a learner license.
- (f) The classroom location should be comfortable and have an atmosphere conducive to learning. No more than 640 minutes of the required hours of classroom instruction delivered via multimedia may be counted. Instructors may utilize more hours of multimedia instruction, but it may not be counted as part of the required hours.
- (g) Behind the wheel driver education instruction may be conducted in any vehicle that is legally operated with a Class C driver license on a Texas highway.
- (h) Behind the wheel driver education instruction may begin after the student receives a learner license. The required curriculum that must be followed includes: minimum of 44 hours; 7 hours behind the wheel instruction in the presence of an instructor; 7 hours of in-car observation in the presence of an instructor; and 30 hours of behind the wheel instruction, including at least 10 hours at night, in the presence of an adult who meets the requirements of Texas Transportation Code, §521.222(d)(2). The additional 30 hours must be verified by a parent or guardian.

Subchapter F. Department Approved Driver Education Course

84.600. Submission of Course for Department Approval

- (a) Entities requesting parent taught driver education course evaluation for department approval must submit the complete course curriculum and copies of all materials to: Texas Department of Public Safety, P.O. Box 4087, Austin, Texas 78773, Attention: Parent Taught Driver Education.
- (b) If the curriculum and all materials meet or exceed the minimum standards set forth in Texas Transportation Code, §521.205, the department will approve the course. The course will be added to the list of approved courses as soon as practical.
- (c) Notification of approval or denial will be sent to the requesting entity. Deficiencies will be noted in cases of denial. Any substantive change in course curriculum or materials will require submission for approval according to subsection (a) of this section.
- (d) A written request is required within 30 days if there is any change relating to an approved course, including contact information, company name, and course titles. Updated information will be included as soon as practical.
- (e) The department will retain submitted materials according to the department's retention schedule.
- (f) The department has authority to require course reapproval due to changes in parent taught driver education curriculum requirements, state law, or administrative rules. The department will notify the parent taught driver education course provider when reapproval is required. The course provider will have 90 days from the date of notification to submit the requested information. Failure to adequately respond within the required time will result in cancellation of the course approval. The department will review the course material and make a determination as to adoption in a timely manner.
- (g) Submission of internet courses shall comply with the requirements for domain names detailed in this subsection:
 - (1) Each school or parent taught driver education course provider offering an alternative delivery method (ADM) must offer that ADM from a single domain. The ADM may accept students who are redirected to the ADM's domain only if the student is redirected to the webpage that clearly identifies the course provider and school offering the ADM before the student begins the registration process, supplies any information, or pays for the course.
 - (2) Subdomains of the ADM's single domain may also accept students as long as the subdomains are registered to and hosted by the ADM, and clearly identify the official course provider, school name, and the PTDE course number.
- (h) A parent taught driver education course submitted for department review may be denied upon finding:
 - (1) that the course does not meet the standards required under Texas Transportation Code, §521.205; or
 - (2) the materials used were not approved by the department.

- (i) A notice of denial will be sent to requesting entity. The requesting entity will have 90 days to correct the noted deficiencies. If the requesting entity fails to meet approval criteria, the course will be denied. If a course is denied by the department, the requesting entity must wait 30 days before submitting a new parent taught driver education course for approval by the department.

84.601. Cancellation of Department Approval

- (a) A department approved parent taught driver education course may have its approval cancelled upon a finding:
 - (1) That the course does not meet the standards required under Texas Transportation Code, §521.205;
 - (2) The materials used were not approved by the department; or
 - (3) After notice, the program has not been reapproved as required by §18.21(f) of this title (relating to Submission of Course for Department Approval).
- (b) Prior to cancellation, the department will allow the parent taught driver education course provider 90 days from the date of notification the opportunity to correct the noted deficiencies in the curriculum and remove the non-approved material.
 - (1) Failure to adequately respond within the required time will result in cancellation of the course.
 - (2) If the parent taught driver education course is cancelled by the department, all course information will be removed from the Parent Taught Driver Education packet and the department's website immediately.
 - (3) If a parent taught driver education course is cancelled by the department, the entity must wait 30 days before submitting a new Parent Taught Driver Education Course for approval by the department.

Subchapter G. Commissioner's Rules Concerning Driver Education Standards of Operation for Public Schools, Education Service Centers, and Colleges or Universities

84.700. Course Requirements

- (a) To be approved under this subchapter, a driver education plan shall include one or more of the following course programs.
 - (1) Core program. This program shall consist of at least 32 hours of classroom instruction; 7 hours of behind-the-wheel instruction in the presence of a certified instructor; 7 hours of in-car observation in the presence of a certified instructor; and 30 hours of behind-the-wheel instruction, including at least 10 hours of instruction that takes place at night, verified by a parent or guardian in the presence of an adult who meets the requirements of Texas Transportation Code, §521.222(d)(2). Under this plan, a student may receive only local credit for the course.
 - (2) In-car only program. This program shall consist of at least 7 hours of behind-the-wheel instruction in the presence of a certified instructor; 7 hours of in-car observation in the presence of a certified instructor; and 30 hours of behind-the-wheel instruction, including at least 10 hours of instruction that takes place at night, verified by a parent or guardian in the presence of an adult who meets the requirements of Texas Transportation Code, §521.222(d)(2). Under this plan, a student may receive only local credit for the course.
 - (3) Classroom only program. This program shall consist of at least 32 hours of classroom instruction. Under this plan, a student may receive only local credit for the course.
 - (4) School day credit program. This program shall consist of at least one class period per scheduled day of school, for a semester (traditional, condensed, accelerated, block, etc.), covering the driver education classroom and in-car program of organized instruction or only the classroom program of organized instruction. This class traditionally consists of at least 56 hours of driver education classroom instruction and, if in-car instruction is provided, must include 7 hours of behind-the-wheel instruction in the presence of a certified instructor; 7 hours of in-car observation in the presence of a certified instructor; and 30 hours of behind-the-wheel instruction, including at least 10 hours of instruction that takes place at night, verified by a parent or guardian in the presence of an adult who meets the requirements of Texas Transportation Code, §521.222(d)(2). Under this plan, a student may receive one-half unit of state credit toward graduation.
 - (5) Non-school day credit program. This program shall consist of at least 56 hours of driver education classroom instruction, and, if in-car instruction is provided, must include 7 hours of behind-the-wheel instruction in the

presence of a certified instructor; 7 hours of in-car observation in the presence of a certified instructor; and 30 hours of behind-the-wheel instruction, including at least 10 hours of instruction that takes place at night, verified by a parent or guardian in the presence of an adult who meets the requirements of Texas Transportation Code, §521.222(d)(2). Under this plan, a student may receive one-half unit of state credit toward graduation.

- (6) Multi-phase school day or non-school day credit program. This program shall consist of at least 40 hours of driver education classroom instruction; 4 hours of behind-the-wheel instruction in the presence of a certified instructor; 8 hours of in-car observation in the presence of a certified instructor; 12 hours of simulator instruction in the presence of a certified instructor; and 30 hours of behind-the-wheel instruction, including at least 10 hours of instruction that takes place at night, verified by a parent or guardian in the presence of an adult who meets the requirements of Texas Transportation Code, §521.222(d)(2). Under this plan, a student may receive one-half unit of state credit toward graduation.
- (b) The minimum requirements of the driver education program must be met regardless of how the course is scheduled. The following applies to all minor and adult driver education programs.
- (1) Driver education programs may be scheduled in block or concurrent form.
 - (A) Block form is when the classroom phase is taught as a separate, complete unit before the in-car phase begins.
 - (B) Concurrent form is when the classroom and the in-car phases are taught simultaneously or on alternating days.
 - (2) Instruction may be scheduled any day of the week, during regular school hours, before or after school, and during the summer.
 - (3) Instruction shall not be scheduled before 5:00 a.m. or after 11:00 p.m. The superintendent, college or university chief school official, or education service center (ESC) director may approve exceptions to the scheduled hours of instruction and must include acceptance in writing of the exception by the parents or legal guardians for each of the students involved.
 - (4) The driver education classroom phase must have uniform beginning and ending dates. Students shall proceed in a uniform sequence. Students shall be enrolled and in class before the 7th hour of classroom instruction in a 32-hour program and the 12th hour of classroom instruction in 56-hour or semester-length programs.
 - (5) Self-study assignments occurring during regularly scheduled class periods shall not exceed 25% of the course and shall be presented to the entire class simultaneously.
 - (6) The driver education course shall be completed within the timelines established by the superintendent, college or university chief school official, or ESC director. This shall not circumvent attendance or progress. Variances to the established timelines shall be determined by the superintendent, college or university chief school official, or ESC director and must be agreed to by the parent or legal guardian.
 - (7) Schools are allowed five minutes of break within each instructional hour in all phases of instruction. A break is an interruption in a course of instruction occurring after the lesson introduction and before the lesson summation. It is recommended that the five minutes of break be provided outside the time devoted to behind-the-wheel instruction so students receive a total of seven hours of instruction.
 - (8) A student shall not receive credit for more than four hours of driver education training at a school in one calendar day no matter what combination of training is provided, excluding makeup. Further, for each calendar day, a student shall be limited to a maximum of:
 - (A) two hours of classroom instruction;
 - (B) four hours of observation time;
 - (C) two hours of multicar range driving;
 - (D) three hours of simulation instruction; and
 - (E) one hour of behind-the-wheel instruction.
 - (9) Driver education training verified by the parent is limited to one hour per day.

- (c) Course content, minimum instruction requirements, and administrative guidelines for each phase of driver education classroom instruction, in-car training (behind-the-wheel and observation), simulation, and multicar range shall include the instructional objectives established by the commissioner of education, as specified in this subsection, and meet the requirements of this subchapter. Sample instructional modules may be obtained from the Texas Education Agency (TEA). Schools may use sample instructional modules developed by the TEA or develop their own instructional modules based on the approved instructional objectives. The instructional objectives are organized into the modules outlined in this subsection and include objectives for classroom and in-car training (behind-the-wheel and observation), simulation lessons, parental involvement activities, and evaluation techniques. In addition, the instructional objectives that must be provided to every student enrolled in a minor and adult driver education course include information relating to litter prevention; anatomical gifts; distractions, including the use of a wireless communication device that includes texting; motorcycle awareness; alcohol awareness and the effect of alcohol on the effective operation of a motor vehicle; and recreational water safety. A student may apply to the Texas Department of Public Safety (DPS) for an instruction permit after completing six hours of instruction as specified in Module One if the student is taking the course in a concurrent program. The minor and adult driver education program instructional objectives shall include:
- (1) Module One: Traffic Laws. The student legally and responsibly performs reduced-risk driving practices in the Highway Transportation System (HTS) by:
 - (A) accepting driving as a privilege with responsibilities, obligations, and potential consequences; and
 - (B) applying knowledge and understanding of Texas traffic laws, including traffic control devices and right-of-way laws.
 - (2) Module Two: Driver Preparation. The student legally and responsibly performs reduced-risk driving practices in the HTS by:
 - (A) employing pre-drive tasks;
 - (B) using and requiring passengers to use occupant protection and restraint systems;
 - (C) using vehicle symbols and devices;
 - (D) employing starting tasks;
 - (E) performing vehicle operation and control tasks;
 - (F) employing post-drive tasks;
 - (G) using baseline and progress assessment tools to evaluate and improve behind-the-wheel skill level; and
 - (H) formulating a driving plan.
 - (3) Module Three: Vehicle Movements. The student legally and responsibly performs reduced-risk driving practices in the HTS by:
 - (A) sustaining visual attention and communication;
 - (B) using reference points;
 - (C) managing vehicle balance; and
 - (D) executing vehicle maneuvers.
 - (4) Module Four: Driver Readiness. The student legally and responsibly performs reduced-risk driving practices in the HTS by:
 - (A) employing legal and responsible driving practices; and
 - (B) limiting and managing fatigue and aggressive driving.
 - (5) Module Five: Risk Management. The student legally and responsibly performs reduced-risk driving practices in the HTS by:

- (A) predicting, analyzing, and minimizing risk factors, including the dangers of failing to yield the right-of-way to a motorcyclist and the need to share the road with motorcycles; and
 - (B) employing a space management system.
- (6) Module Six: Environmental Factors. The student legally and responsibly performs reduced-risk driving practices in the HTS by:
- (A) identifying and analyzing driving environments; and
 - (B) minimizing environmental risk.
- (7) Module Seven: Distractions. The student legally and responsibly performs reduced-risk driving practices in the HTS by limiting and managing distractions, including the use of a wireless communication device that includes texting, and multi-task performances.
- (8) Module Eight: Alcohol and Other Drugs. The student legally and responsibly performs reduced-risk driving practices in the HTS by adopting zero-tolerance practices related to the use of alcohol and other drugs by applying knowledge and understanding of alcohol and other drug laws, regulations, penalties, and consequences to licensing, driving, and lifestyles.
- (9) Module Nine: Adverse Conditions. The student legally and responsibly performs reduced-risk driving practices in the HTS by managing adverse conditions resulting from weather, reduced-visibility, traction loss, and emergencies.
- (10) Module Ten: Vehicle Requirements. The student legally and responsibly performs reduced-risk driving practices in the HTS by:
- (A) assessing and managing vehicle malfunctions;
 - (B) performing preventative maintenance; and
 - (C) planning trips.
- (11) Module Eleven: Consumer Responsibilities. The student legally and responsibly performs reduced-risk driving practices in the HTS by:
- (A) attending to the vehicle requirements by making wise consumer decisions regarding vehicle use and ownership;
 - (B) vehicle insurance;
 - (C) environmental protection and litter prevention;
 - (D) anatomical gifts; and
 - (E) recreational water safety.
- (12) Module Twelve: Personal Responsibilities. The student legally and responsibly performs reduced-risk driving practices in the HTS by:
- (A) using the knowledge, skills, and experiences of the Driver Education and Traffic Safety Program;
 - (B) obtaining and using a driver license; and
 - (C) continuing the lifelong learning process of reduced-risk driving practices.
- (d) A school may use multimedia systems, simulators, and multicar driving ranges for instruction in a driver education program.
- (e) Each simulator, including the filmed instructional programs, and each plan for a multicar driving range must meet state specifications developed by the DPS and TEA. Simulators are electromechanical equipment that provides for teacher evaluation of perceptual, judgmental, and decision-making performance of individuals and groups. With simulation, group learning experiences permit students to operate vehicular controls in response to audiovisual depiction of traffic environments and driving emergencies. The specifications are available from TEA.

- (f) A minimum of 4 periods of at least 55 minutes per hour of instruction in a simulator may be substituted for 1 hour of behind-the-wheel and 1 hour observation instruction. A minimum of 2 periods of at least 55 minutes per hour of multicar driving range instruction may be substituted for 1 hour of behind-the-wheel and 1 hour observation instruction relating to elementary or city driving lessons. However, a minimum of four hours must be devoted to behind-the-wheel instruction and a minimum of four hours must be devoted to observation instruction.
- (g) A school may not permit more than 36 students per driver education class, excluding makeup students.
- (h) All behind-the-wheel lessons shall consist of actual driving instruction. Observation of the instructor, mechanical demonstrations, etc., shall not be counted for behind-the-wheel instruction. The instructor shall be in the vehicle with the student the entire time behind-the-wheel instruction is provided.
- (i) Minor and adult driver education programs shall include the following components.
 - (1) Driver education instruction is limited to eligible students between the ages of 14-18 years of age, who are at least 14 years of age when the driver education classroom phase begins and who will be 15 years of age or older when the behind-the-wheel instruction begins. Students officially enrolled in school who are 18-21 years of age may attend a minor and adult driver education program.
 - (2) Motion picture films, slides, videos, tape recordings, and other media that present concepts outlined in the instructional objectives may be used as part of the required instructional hours of the classroom instruction. Units scheduled to be instructed may also be conducted by guest speakers as part of the required hours of instruction. Together, these shall not exceed 640 minutes of the total classroom phase.
 - (3) Each classroom student shall be provided a driver education textbook or driver education instructional materials approved by the TEA.
 - (4) A copy of the current edition of the "Texas Driver Handbook" published by DPS shall be furnished to each student enrolled in the classroom phase of the driver education course.
 - (5) No school should permit a ratio of less than two, or more than four, students per instructor for behind-the-wheel instruction, except behind-the-wheel instruction may be provided for only one student when it is not practical to instruct more than one student, for makeup lessons, or if a hardship would result if scheduled instruction is not provided. In each case when only one student is instructed:
 - (A) the school shall obtain a waiver signed and dated by the parent or legal guardian of the student and the chief school official stating that the parent or legal guardian understands that the student may be provided behind-the-wheel instruction on a one-on-one basis with only the instructor and student present in the vehicle during instruction;
 - (B) the waiver may be provided for any number of lessons; however, the waiver shall specify the exact number of lessons for which the parent is providing the waiver; and
 - (C) the waiver shall be signed before the first lesson in which the parent is granting permission for the student to receive one-on-one instruction.
- (j) Courses offered to adult persons who are 18 years of age or older shall only be offered by colleges and universities. Colleges and universities that offer driver education to adults shall submit and receive written approval for the course from the TEA prior to implementation of the program. The request for approval must include a syllabus, list of instructors, samples of instructional records that will be used with the course, and information necessary for approval of the program.

84.701. Procedures for Student Certification and Transfers

- (a) The Texas Education Agency (TEA) shall be responsible for providing the driver education certificate (Form DE-964E) to public schools, education service centers (ESCs), and colleges or universities exempt from the Texas Driver and Traffic Safety Education Act. The TEA shall also provide the DE-964E certificate to the Texas Department of Public Safety (DPS) for driver education programs approved by DPS. On this form, the driver education instructor and the superintendent, college or university chief school official, ESC director, DPS director, or their designee must certify that the driver education course was conducted according to TEA and DPS education standards for an approved course in driver education for Texas schools.
 - (1) For schools exempt from the Texas Driver and Traffic Safety Education Act and programs approved by DPS, the DE-964E certificate shall consist of five parts to be designated as follows: Texas Department of Public Safety Copies (Instruction Permit and Driver's License), Insurance Copy, Texas Education Agency Copy,

and School Copy. The DE-964E certificate is used to certify completion of an approved driver education course and is a government record.

- (2) The TEA shall charge a fee of \$1.00 for each DE-964E certificate provided.
- (3) The DE-964E certificates shall be issued to the superintendent, college or university chief school official, ESC director, or individuals designated by the superintendent, college or university chief school official, or ESC director to be responsible for managing the certificates for the school. This does not remove the superintendent, college or university chief school official, or ESC director from obligations pursuant to this subchapter to oversee the program. The DPS shall be responsible for the DE-964E certificates provided to DPS-approved driver education programs.
- (4) Unused DE-964Es shall not be transferred to another school without written approval by TEA.
- (5) The DE-964E document is a government record as defined under Texas Penal Code, §37.01(2). Any misrepresentation by the applicant or person issuing the form as to the prerequisite set forth may result in suspension or revocation of instructor credentials or program approval and/or criminal prosecution.
- (6) The superintendent, college or university chief school official, ESC director, or their designee may request to receive serially numbered DE-964E certificates for exempt schools and programs approved by DPS by submitting a completed order on the form provided by the commissioner of education stating the number of certificates to be purchased and including payment of all appropriate fees. TEA will accept purchase requisitions from school districts.
- (7) The superintendent, college or university chief school official, ESC director, or their designee shall be responsible for accounting for each DE-964E certificate he or she has been issued. All DE-964E certificates and records of certificates shall be maintained in an orderly fashion.
- (8) The DPS shall accept only the original signature of a certified driver education teacher. The signature of the chief school official or ESC director may be written, stamped, or omitted.
- (9) All DE-964E certificates and records of certificates must be provided to TEA or DPS upon request. The superintendent, college or university chief school official, ESC director, or their designee shall maintain the school copies of the certificates and submit the TEA copies of all issued certificates to TEA no later than February 15, June 15, and September 15 of each year. The chief school official, ESC or DPS director, or their designee shall return unissued DE-964E certificates to TEA within 30 days from the date the school discontinues the driver education program, unless otherwise notified.
- (10) Each superintendent, college or university chief school official, ESC director, or their designee shall ensure that the policies concerning DE-964E certificates are followed by all individuals who have responsibility for the certificates.
- (11) The superintendent, college or university chief school official, ESC director, or their designee shall maintain effective protective measures to ensure that unissued DE-964E certificates and records of certificates are secure.
- (12) The superintendent, college or university chief school official, ESC director, or their designee shall report any incident of unaccounted DE-964E certificates to TEA immediately upon discovering the incident. If such an incident occurs, the superintendent, college or university chief school official, ESC director, or their designee shall conduct an investigation to determine the circumstances of the unaccounted certificates. A report of the findings of the investigation, including measures taken to prevent the incident from recurring, shall be submitted to TEA within 30 days of the discovery.
- (13) The superintendent, college or university chief school official, or ESC director must insure that employees complete, issue, or validate a DE-964E only to a person who has successfully completed the entire portion of the course for which the DE-964E is being used. The DPS must insure that the participants of the home taught driver education programs complete, issue, or validate a DE-964E only to a person who has successfully completed the entire portion of the course for which the DE-964E is being used. Issuance of the DE-964E is the assurance that the student has successfully achieved mastery of the course objectives.
- (14) The right to receive DE-964E certificates may be immediately suspended for a period determined by TEA if:
 - (A) a TEA investigation is in progress and TEA has reasonable cause to believe the certificates have been misused or abused or that adequate security was not provided; or
 - (B) the superintendent, college or university chief school official, ESC director, or their designee fails to provide information on records requested by TEA or DPS within the allotted time.

- (15) The DPS copy of a DE-964E certificate must contain the original signature of the certified instructor. The name of the superintendent, college or university chief school official, ESC director, or their designee may be written, stamped, typed, or omitted.
- (16) The superintendent, college or university chief school official, ESC director, or their designee may issue a duplicate DE-964E certificate to a student who completed a course under the responsibility of the superintendent, college or university chief school official, ESC director, or their designee. The duplicate shall indicate the control number of the original DE-964E certificate.
- (b) An authorized DPS employee shall accept a DE-964E certificate when a certified driver education instructor certifies by signing the DE-964E that the driver education program was completed according to this subchapter and that the student has achieved the competencies specified in this subchapter. The school official shall make a copy of the teacher's certificate for driver education available to authorized TEA or DPS representatives when requested.
- (c) The superintendent, college or university chief school official, or ESC director may designate one certified driver education teacher to sign the DE-964E certificates for that school. In a concurrent program, only one teacher shall be required to sign a DE-964E certificate, but each teacher giving instruction in the concurrent program must be a fully certified driver education teacher or state-approved teaching assistant and must initial for each lesson they instruct. In each case, the teacher signing the DE-964E certificate must compile all records and verify the student's successful completion.
- (d) TEA shall accept any part of the driver education instruction received by a student in another state; however, the student must complete all of the course requirements for a Texas driver education program. Driver education instruction completed in another state must be certified in writing by the chief official or course instructor of the school where the instruction was given and include the hours and minutes of instruction and a complete description of each lesson provided. The certification document must be attached to the student's individual record at the Texas school and be maintained with the record for seven years.
- (e) Students who are licensed in another state and have completed that state's driver education program should contact the DPS for information on the licensing reciprocal agreement between that state and Texas.
- (f) When it is impossible or inconvenient for the certified driver education instructor to sign the DE-964E (due to transfer, illness, or death, etc.), the superintendent, college or university chief school official, ESC director, or their designee may, by completing the driver education affidavit form on the reverse side of the DE-964E certificate, certify that official records show a particular student completed an approved driver education course as indicated on the DE-964E.
- (g) All records of instruction shall be included as part of the student's final history when it is necessary to compile multiple records to verify that a student successfully completed a driver education course.
- (h) A student may receive credit for course hours completed if there was a violation of this subchapter or before a teacher's endorsement was suspended provided the violation or suspension was not for an infraction that would conclusively establish the course as inadequate.