

Chapter 176. Driver Training Schools

Subchapter AA. Commissioner's Rules on Minimum Standards for Operation of Licensed Texas Driver Education Schools

Statutory Authority: The provisions of this Subchapter AA issued under Texas Education Code, §§1001.052; 1001.053; 1001.101, as amended by House Bill 339 and House Bill 2730, 81st Texas Legislature, 2009; 1001.101, as amended by Senate Bill 1317, 81st Texas Legislature, 2009; 1001.1015; 1001.1025; 1001.110, and 1001.257, unless otherwise noted.

§176.1001. 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) 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.

- (12) Deferred adjudication--An order by a court deferring action on a criminal matter pending the successful completion of terms imposed by that court.
- (13) 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.
- (14) 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.
- (15) 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.
- (16) 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.
- (17) Moral turpitude--Conduct that is inherently immoral or dishonest.
- (18) 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.
- (19) Primary school--A licensed driver education main school that may have branch schools.

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- (20) 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.

Source: The provisions of this §176.1001 adopted to be effective December 26, 1999, 24 TexReg 11340; amended to be effective April 21, 2005, 30 TexReg 2215; amended to be effective December 29, 2010, 35 TexReg 11636.

§176.1002. 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.

Source: The provisions of this §176.1002 adopted to be effective December 26, 1999, 24 TexReg 11340; amended to be effective April 21, 2005, 30 TexReg 2215.

§176.1003. 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

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- (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.

Source: The provisions of this §176.1003 adopted to be effective December 26, 1999, 24 TexReg 11340; amended to be effective April 21, 2005, 30 TexReg 2215; amended to be effective December 29, 2010, 35 TexReg 11636.

§176.1004. 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;

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- (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) For the purposes of Texas Education Code, 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.

Source: The provisions of this §176.1004 adopted to be effective December 26, 1999, 24 TexReg 11340; amended to be effective April 21, 2005, 30 TexReg 2215; amended to be effective December 29, 2010, 35 TexReg 11636.

§176.1005. 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.

Source: The provisions of this §176.1005 adopted to be effective December 26, 1999, 24 TexReg 11340; amended to be effective April 21, 2005, 30 TexReg 2215.

§176.1006. 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; and
 - (3) holds a valid class A, B, C, or CDL driver's license, other than a learner's permit, for the preceding five years and which has not been suspended, revoked, or forfeited in the past five years.
- (b) A person applying for an original driver education instructor license shall submit to TEA the following:
- (1) complete application as provided by TEA;
 - (2) processing and annual instructor licensing fees; and

- (3) documentation showing that all applicable educational requirements have been met. Original documentation shall be provided upon the request of the division.
- (c) 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;

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- (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 can determine 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.
- (d) 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; and
 - (2) evidence of completing continuing education during the individual license renewal period.
- (e) 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.
- (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 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.
- (g) 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.
- (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 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.
- (k) An instructor shall not make any sexual or obscene comments or gestures while performing the duties of an instructor.
- (l) An instructor shall not falsify driver education records.
- (m) 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, 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 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.
 - (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 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 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 accumulated 6 or more penalty points during the preceding 36-month period as identified in the driver responsibility program.

Source: The provisions of this §176.1006 adopted to be effective December 26, 1999, 24 TexReg 11340; amended to be effective April 21, 2005, 30 TexReg 2215; amended to be effective December 29, 2010, 35 TexReg 11636.

§176.1007. 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) 20 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 20 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 20 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.

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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, and alcohol awareness and the effect of alcohol on the effective operation of a motor vehicle.

- (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.

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- (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, §1001.101(a)(2).
 - (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

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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.

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- (-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

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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:

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- (-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 instructions 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.

Source: The provisions of this §176.1007 adopted to be effective December 26, 1999, 24 TexReg 11340; amended to be effective July 19, 2001, 26 TexReg 5237; amended to be effective April 21, 2005, 30 TexReg 2215; amended to be effective December 29, 2010, 35 TexReg 11636.

§176.1008. 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.

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- (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.

Source: The provisions of this §176.1008 adopted to be effective December 26, 1999, 24 TexReg 11340; amended to be effective April 21, 2005, 30 TexReg 2215; amended to be effective December 29, 2010, 35 TexReg 11636.

§176.1009. 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.

Source: The provisions of this §176.1009 adopted to be effective December 26, 1999, 24 TexReg 11340; amended to be effective April 21, 2005, 30 TexReg 2215.

§176.1010. 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.

Source: The provisions of this §176.1010 adopted to be effective December 26, 1999, 24 TexReg 11340; amended to be effective July 19, 2001, 26 TexReg 5237; amended to be effective April 21, 2005, 30 TexReg 2215; amended to be effective December 29, 2010, 35 TexReg 11636.

§176.1011. 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.

Source: The provisions of this §176.1011 adopted to be effective December 26, 1999, 24 TexReg 11340; amended to be effective April 21, 2005, 30 TexReg 2215.

§176.1012. 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.

Source: The provisions of this §176.1012 adopted to be effective December 26, 1999, 24 TexReg 11340; amended to be effective April 21, 2005, 30 TexReg 2215; amended to be effective December 29, 2010, 35 TexReg 11636.

§176.1013. 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.

Source: The provisions of this §176.1013 adopted to be effective December 26, 1999, 24 TexReg 11340; amended to be effective April 21, 2005, 30 TexReg 2215; amended to be effective December 29, 2010, 35 TexReg 11636.

§176.1014. 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.

Source: The provisions of this §176.1014 adopted to be effective December 26, 1999, 24 TexReg 11340; amended to be effective April 21, 2005, 30 TexReg 2215.

§176.1015. 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.

Source: The provisions of this §176.1015 adopted to be effective December 26, 1999, 24 TexReg 11340; amended to be effective April 21, 2005, 30 TexReg 2215; amended to be effective December 29, 2010, 35 TexReg 11636.

§176.1016. 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;

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- (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.

Source: The provisions of this §176.1016 adopted to be effective December 26, 1999, 24 TexReg 11340; amended to be effective July 19, 2001, 26 TexReg 5237; amended to be effective April 21, 2005, 30 TexReg 2215; amended to be effective December 29, 2010, 35 TexReg 11636.

§176.1017. 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

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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.

Source: The provisions of this §176.1017 adopted to be effective December 26, 1999, 24 TexReg 11340; amended to be effective July 19, 2001, 26 TexReg 5237; amended to be effective April 21, 2005, 30 TexReg 2215.

§176.1018. 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, §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.

Source: The provisions of this §176.1018 adopted to be effective December 26, 1999, 24 TexReg 11340; amended to be effective April 21, 2005, 30 TexReg 2215 ; amended to be effective December 29, 2010, 35 TexReg 11636.

§176.1019. 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

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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

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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.

Source: The provisions of this §176.1019 adopted to be effective December 29, 2010, 35 TexReg 11636.

§176.1020. 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.

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- (10) The annual instructor license fee is \$25.
 - (11) The late instructor renewal fee is \$25.
 - (12) The duplicate driver education instructor license fee is \$8.00.
 - (13) The fee for an investigation at a school to resolve a complaint is \$1,000.
 - (14) The driver education school late renewal fee is \$200.
 - (15) The fee for a DE-964 is \$2.00.
 - (16) The fee for an ADE-1317 is \$3.00.
 - (17) The application fee for approval of a 32-hour Alternative Method of Instruction (AMI) for driver education classroom is \$15,000.
 - (18) The application fee for approval of part of a 32-hour AMI for driver education classroom is \$500 per instructional hour.
 - (19) The application fee for approval of a traditional driver education course exclusively for adults is \$500.
 - (20) 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.

Source: The provisions of this §176.1020 adopted to be effective December 29, 2010, 35 TexReg 11636.