

## **Chapter 176. Driver Training Schools**

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

*Statutory Authority: The provisions of this Subchapter CC issued under the Texas Education Code, §1001.053 and §1001.103, unless otherwise noted.*

#### **§176.1201. General Provision.**

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

*Source: The provisions of this §176.1201 adopted to be effective December 26, 1999, 24 TexReg 11367; amended to be effective February 26, 2009, 34 TexReg 1244.*

#### **§176.1202. Definitions.**

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

- (1) Break--An interruption in a program of instruction occurring after the program introduction and before the post-program exam.
- (2) Certificate of program completion--Serially numbered certificates that are printed, administered, and supplied by the course provider that have been approved by the Texas Education Agency (TEA) as part of the drug and alcohol driving awareness program.
- (3) Change of ownership of a school--A change in the control of the school. Any agreement to transfer the control of a school is considered to be a change of ownership. The control of a school is considered to have changed:
  - (A) in the case of ownership by an individual, when more than 50% of the school has been sold or transferred;
  - (B) in the case of ownership by a partnership or a corporation, when more than 50% of the school or of the owning partnership or corporation has been sold or transferred; or
  - (C) when the board of directors, officers, shareholders, or similar governing body has been changed to such an extent as to significantly alter the management and control of the school.
- (4) Clock hour--50 minutes of instruction in a 60-minute period, unless the term "clock hour" is defined differently under another law or rule.
- (5) Course provider--For the purposes of this subchapter, a course provider is an enterprise that:
  - (A) maintains a place of business or solicits business in Texas;
  - (B) is operated by an individual, association, partnership, or corporation; and
  - (C) has received an approval for a drug and alcohol driving awareness program from the commissioner of education or has been designated by a person who has received that approval to conduct business and represent the person in Texas.
- (6) Division--The division of TEA responsible for administering the provisions of the law, rules, regulations, and standards as contained in this chapter and licensing driver training programs.

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- (7) Division director--The person designated by the commissioner of education to carry out the functions and regulations governing the drug and alcohol driving awareness schools and course providers and designated as director of the division responsible for licensing driver training programs.
- (8) Driver Training--For the purposes of this subchapter, driver training includes drug and alcohol driving awareness program training.
- (9) Drug and alcohol driving awareness program--A course of instruction intended to prevent or deter misuse and abuse of controlled substances as that applies to the task of driving.
- (10) Drug and alcohol driving awareness school--An enterprise that:
  - (A) maintains a place of business or solicits business in Texas; and
  - (B) is operated by an individual, association, partnership, or corporation that educates and trains persons using drug and alcohol driving awareness programs.
- (11) Good reputation--A person is considered to be of good reputation if:
  - (A) there are no felony convictions related to the operation of a school, and the person has been rehabilitated from any other felony convictions;
  - (B) there are no convictions involving crimes of moral turpitude;
  - (C) within the last ten years, the person has never been successfully sued for fraud or deceptive trade practice;
  - (D) the person does not own or operate a school or program currently in violation of the legal requirements involving fraud, deceptive trade practices, student safety, or quality of education; has never owned or operated a school or program with habitual violations; and has never owned or operated a school or program which closed with violations including, but not limited to, selling, trading, or transferring a certificate of program completion to any person or school not authorized to possess it;
  - (E) the person has not withheld material information from representatives of TEA or falsified instructional records or any documents required for approval or continued approval;
  - (F) in the case of an instructor, there are no misdemeanor or felony convictions involving driving while intoxicated or minor in possession, consumption, or purchase of alcoholic beverages within the past seven years; and
  - (G) in the event that an instructor or applicant has received deferred adjudication of guilt from a court of competent jurisdiction, a determination about good reputation can be made upon review of evidence of the conduct underlying the basis of the deferred adjudication. When determining underlying conduct, the commissioner of education may consider the facts and circumstances surrounding the deferred adjudication.
- (12) Instructor trainer--A licensed drug and alcohol driving awareness program instructor who has been authorized to prepare instructors to give instruction in a specified curriculum.
- (13) Moral turpitude--Conduct that is inherently immoral or dishonest.
- (14) New program--A drug and alcohol driving awareness program is considered new when it has not been approved by TEA to be offered previously, or has been approved by TEA and offered and then discontinued, or has been inactive for 36 months or more, or the content or lessons of the program have been changed to a degree that a new application is requested and a complete review of the application and program presentation is necessary to determine compliance.

- (15) Personal validation question--A question designed to establish the identity of the student by requiring an answer related to the student's personal information such as a driver's license number, address, date of birth, or student-solicited data such as personal preference, memory, or other similar information that is unique to the student.
- (16) Post-program exam--An exam designed to measure the student's comprehension and knowledge of course material presented after the instruction is completed.
- (17) Pre-program exam--An exam given during the program introduction using questions drawn from material to be covered in the course to determine the level of drug and alcohol knowledge possessed by the student prior to receiving instruction.
- (18) Program validation question--A question designed to establish the student's participation in the program and comprehension of the program material by requiring the student to answer a question regarding a fact or concept taught in the program.
- (19) Public or private school--For the purposes of this subchapter, a public or private school is an accredited public or non-public secondary school.
- (20) Self-assessment--A tool used by program participants to evaluate one's own risk for developing problems with alcohol and drugs.

*Source: The provisions of this §176.1202 adopted to be effective December 26, 1999, 24 TexReg 11367; amended to be effective February 26, 2009, 34 TexReg 1244.*

**§176.1203. Drug and Alcohol Driving Awareness School Licensure.**

- (a) Application for school. An application for a license for a drug and alcohol driving awareness school shall be made on forms supplied by the Texas Education Agency (TEA) and shall include:
  - (1) individual requests for approval for each multiple classroom of the school. The applications shall be made on forms provided by TEA. The school shall receive TEA approval for each location prior to advertising or offering a program at the location; and
  - (2) verification from the course provider that the school is authorized to provide the approved drug and alcohol driving awareness program.
- (b) Approval. TEA shall approve the application of a drug and alcohol driving awareness school if TEA finds that the school owner and employees are of good reputation and the school does not owe a civil penalty under Texas Education Code, Chapter 1001.
- (c) Verification of ownership for drug and alcohol driving awareness school.
  - (1) In the case of an original or change of owner application for a school, the owner of the school shall provide verification of ownership that includes, but is not limited to, copies of stock certificates, partnership agreements, and assumed name registrations. The division director may require additional evidence to verify ownership.
  - (2) With the renewal application, the owner of the school shall provide verification that no change in ownership has occurred. The division director may require additional evidence to verify that no change of ownership has occurred.
- (d) School name. A drug and alcohol driving awareness school license shall not contain more than one school name.
- (e) Effective date of the drug and alcohol driving awareness school license. The effective date of the school license shall be the date the license is issued. Licenses that are received at the drug and alcohol driving awareness school prior to the effective date are not valid until the effective date shown on the license.
- (f) Purchase of drug and alcohol driving awareness school.
  - (1) A person or persons purchasing a licensed school shall obtain an original license.

- (2) In addition, copies of the executed sales contracts, bills of sale, deeds, and all other instruments necessary to transfer ownership of the school shall be submitted to TEA. The contract or any instrument transferring the ownership of the drug and alcohol driving awareness school shall include the following statements.
  - (A) The sale of the school shall be subject to approval by TEA.
  - (B) The purchaser shall assume the liabilities, duties, and obligations under the enrollment contracts between the students and the seller, or any former owner.
- (g) New location.
  - (1) The division director shall be notified in writing of any change of address of a drug and alcohol driving awareness school at least three working days before the move.
  - (2) The school must submit the appropriate fee and all documents designated by the division director as being necessary.
  - (3) The school must maintain a current mailing address and telephone number at the division.
- (h) Renewal of drug and alcohol driving awareness school license. A complete application for the renewal of a license for a drug and alcohol driving awareness school shall be submitted before the expiration of the license in accordance with Texas Education Code, Chapter 1001, and shall include the following:
  - (1) completed application for renewal;
  - (2) renewal fee, if applicable; and
  - (3) any other revision or evidence of which the school has been notified in writing that is necessary to bring the school's application for a renewal license to a current and accurate status.
- (i) Denial, revocation, or conditional license. For schools approved to offer only one drug and alcohol driving awareness program, the authority to operate a school shall cease if the program approval is revoked or if the course provider removes all authorization to teach the program. The license of the school may continue for 60 calendar days to allow the school owner to obtain approval to provide a different program. At the end of the 60-day period, the school license will be revoked unless an approved program will be offered. The current school license shall not be renewed without an approved program. Denial, revocation, or conditioning of licenses shall be in accordance with Texas Education Code, Chapter 1001.
- (j) Notification of legal action. A school shall notify the division director in writing of any legal action that is filed against the school, its officers, any owner, or any school instructor that might concern the operation of the school within five working days after the school, its officers, any owner, or any school instructor has commenced the legal action or has been served with legal process. Included with the written notification, the school shall submit a file-marked copy of the petition or complaint that has been filed with the court.
- (k) School closure.
  - (1) The school owner shall notify TEA and the course provider at least 15 business days before the anticipated school closure. The school owner shall provide written notice to TEA and the course provider of the actual discontinuance of the operation within five working days after the cessation of classes. A school shall forward all records to the course provider responsible for the records within five days.
  - (2) The course provider shall provide TEA with written notice of a school closure within five working days after knowledge of cessation of classes.
  - (3) The division director may declare a school to be closed:
    - (A) as of the last day of attendance when written notification is received by TEA from the school or course provider stating that the school will close;

- (B) when TEA staff determine by means of an on-site visit that the school facility has been vacated without prior notification of change of address given to TEA and without TEA approval of future plans to continue to operate;
- (C) when the school owner allows the school license to expire; or
- (D) when the school does not have the appropriate facilities and equipment to operate.

*Source: The provisions of this §176.1203 adopted to be effective December 26, 1999, 24 TexReg 11367; amended to be effective February 26, 2009, 34 TexReg 1244.*

**§176.1204. Drug and Alcohol Driving Awareness School and Course Provider Responsibilities.**

- (a) Course providers must be located, or maintain a registered agent, in the State of Texas. All instruction in a drug and alcohol driving awareness program shall be performed in locations approved by the Texas Education Agency (TEA) and by TEA-licensed instructors.
- (b) Each course provider or employee shall:
  - (1) ensure that instruction of the program is provided in schools currently approved to offer the program, and in the manner in which the program was approved;
  - (2) ensure that the program is provided by persons who have a valid current instructor license with the proper endorsement issued by the division, except as provided in subsection (a) of this section;
  - (3) ensure that schools and instructors are provided with the most recent approved program materials and relevant data and information pertaining to the program within 60 days of approval. Instructor training may be required and shall be addressed in the approval notice;
  - (4) not falsify driver training records;
  - (5) develop and maintain a means to ensure the security and integrity of student information, especially financial and personal information, in transit and at rest;
  - (6) develop and maintain a means to ensure the privacy of student data, including personal and financial data, and make the corporate privacy policy available to all course students; and
  - (7) ensure that each certificate of program completion contains TEA complaint contact information.
- (c) Each drug and alcohol driving awareness school owner-operator or employee shall:
  - (1) ensure that each individual permitted to give instruction at the school or any classroom location has a valid current instructor license with the proper endorsement issued by the division, except as provided in subsection (a) of this section;
  - (2) prohibit an instructor from giving instruction or prohibit a student from receiving instruction if that instructor or student is using or exhibits any evidence or effect of an alcoholic beverage, controlled substance, drug, abusable glue, aerosol paint, or other volatile chemical as those terms are defined in the Alcoholic Beverage Code and the Health and Safety Code;
  - (3) provide instruction or allow instruction to be provided only in courses that are currently on the school's list of approved courses;
  - (4) complete, issue, or validate a certificate of program completion only for a person who has successfully completed the entire course;
  - (5) not falsify driver training records;
  - (6) evaluate instructor performance in accordance with the course provider plan;
  - (7) develop and maintain a means to ensure the security and integrity of student information, especially financial and personal information, in transit and at rest; and

- (8) develop and maintain a means to ensure the privacy of student data, including personal and financial data, and make the corporate privacy policy available to all course students.
- (d) For the purposes of this subchapter, each person employed by or associated with any drug and alcohol driving awareness school shall be deemed an agent of the school, and the school may share the responsibility for all acts performed by the person which are within the scope of the employment and which occur during the course of the employment.

*Source: The provisions of this §176.1204 adopted to be effective December 26, 1999, 24 TexReg 11367; amended to be effective February 26, 2009, 34 TexReg 1244.*

**§176.1205. Drug and Alcohol Driving Awareness Program Instructor License.**

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

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

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

*Source: The provisions of this §176.1205 adopted to be effective December 26, 1999, 24 TexReg 11367; amended to be effective February 26, 2009, 34 TexReg 1244.*

**§176.1206. Drug and Alcohol Driving Awareness Programs of Instruction.**

- (a) This section contains requirements for drug and alcohol driving awareness programs and instructor development programs. For each program, the following curriculum documents and materials are required to be submitted as part of the application for approval. All program content shall be delivered under the direct observation of a licensed instructor. Programs of instruction shall not be approved which contain language that a reasonable person would consider inappropriate. Any changes and updates to a program shall be submitted and approved prior to being offered.
  - (1) Drug and alcohol driving awareness programs.
    - (A) Educational objectives. The educational objectives of drug and alcohol driving awareness programs shall include, but not be limited to: educating participants on the risks associated with alcohol or other drug use/abuse and problems associated with such use; providing information on the physiological and psychological effects of alcohol and drugs, legal aspects of alcohol and drug use; the effects of alcohol and drugs on the driving task; signs of abuse; and assisting participants in developing a plan to reduce the probability that they will be involved in alcohol/drugs and driving situations.
    - (B) Drug and alcohol driving awareness program content guides. A program content guide is a description of the content of the program and the techniques of instruction that will be used to present the program. For programs offered in languages other than English, the course provider shall provide, along with the documentation specified in clauses (i)-(ix) of this subparagraph, a copy of the student verification of course completion document and/or enrollment contract, student instructional materials, and post-program exam in the proposed language accompanied by a statement from a translator with current credentials from the American Translators Association or the National Association of Judicial

Interpreters and Translators that the materials are the same in both English and the other language. In lieu of the credentials specified in this subparagraph, a translator's credentials shall be presented to the Texas Education Agency (TEA) for approval with the final determination based solely on TEA's interpretation. To be approved, each course provider shall submit as part of the application a program content guide that includes the following:

- (i) a statement of the program's drug and alcohol driving awareness program goal and philosophy. The program must not in any way promote Responsible Use, Harm Reduction, or Risk Reduction philosophies when being presented to minors;
- (ii) a statement of policies and administrative provisions related to instructor conduct, standards, and performance;
- (iii) a statement of policies and administrative provisions related to student progress, attendance, makeup, and conduct. The following policies and administrative provisions shall be used by each school that offers the program and include the following requirements:
  - (I) progress standards that meet the requirements of subsection (a)(1)(F) of this section;
  - (II) appropriate standards to ascertain the attendance of students. All schools approved to use the program must use the same standards for documenting attendance to include the hours scheduled each day and each hour not attended;
  - (III) any period of absence for any portion of instruction will require that the student complete that portion of instruction. All make-up lessons must be equivalent in length and content to the instruction missed and taught by a licensed instructor; and
  - (IV) conditions for dismissal and conditions for reentry of those students dismissed for violating the conduct policy;
- (iv) a statement of policy addressing entrance requirements and special conditions of students, such as the inability to read, language barriers, and other disabilities;
- (v) a list of relevant instructional resources, such as textbooks, audio and visual media and other instructional materials, and equipment that will be used in the program; and the furniture deemed necessary to accommodate the students in the program, such as tables, chairs, and other furnishings. The program shall include a minimum of 60 minutes of videos, including audio; however, the videos and other relevant instructional resources cannot be used in excess of 150 minutes of the 300 minutes of instruction. The resources may be included in a single list or may appear at the end of each instructional unit;
- (vi) a clear identification of the order in which the units of instruction will be presented, and for each student, the program shall be taught in the order identified in the approved application;
- (vii) written or printed materials that shall be provided for use by each student as a guide to the program. The division director may make exceptions to this requirement on an individual basis;
- (viii) units of instruction sufficient to present the topics identified in subsection (a)(1)(B) of this section and any additional topics unique to the program. Each instructional unit shall include the following:

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- (I) the subject of the unit;
  - (II) the instructional objectives of the unit;
  - (III) time to be dedicated to the unit;
  - (IV) an outline of major concepts to be presented;
  - (V) instructional activities to be used to present the material (lecture, films, other media, small-group discussions, workbook activities, written and oral discussion questions, etc.). When small-group discussions are planned, the program guide shall identify the questions that will be assigned to the groups;
  - (VI) instructional resources for each unit; and
  - (VII) techniques for evaluating the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the program content guide. The evaluative technique may be used throughout the unit or at the end; and
- (ix) a document that identifies the instructional units and topics and the order in which they are provided.
- (C) Program and time management. Approved drug and alcohol driving awareness programs shall be presented in compliance with the following guidelines.
- (i) A minimum of 300 minutes of instruction is required.
  - (ii) The total length of the program shall consist of a minimum of 360 minutes.
  - (iii) Sixty minutes of time, exclusive of the 300 minutes of instruction, shall be dedicated to break periods or to the topics included in the minimum program content. All break periods shall be provided after instruction has begun and before the post-program exam.
  - (iv) Programs conducted in a single day shall allow a minimum of 30 minutes for lunch.
  - (v) Programs taught over a period longer than one day shall provide breaks on a schedule equitable to those prescribed for one-day programs. However, all breaks shall be provided prior to the last unit of the instructional day or the post-program exam, whichever is appropriate.
  - (vi) The order of topics shall be approved by the TEA as part of the program approval, and for each student, the program shall be taught in the order identified in the approved application.
  - (vii) Students shall not receive a certificate of program completion unless that student received a grade of at least 70% on the post-program exam.
  - (viii) The program must not in any way promote Responsible Use, Harm Reduction, or Risk Reduction philosophies when provided to minors.
  - (ix) No more than 50 students per class are permitted in drug and alcohol driving awareness programs, unless the class size is limited by a restriction under another law or rule. In a traditional classroom setting, there must be sufficient seating for the number of students arranged so that all students are able to view, hear, and comprehend all instruction aids.
  - (x) The drug and alcohol driving awareness school shall make a material effort to establish the identity of the student.

- (D) Minimum program content. A drug and alcohol driving awareness program shall include, as a minimum, materials adequate to address the following topics and instructional objectives and the program as a whole.
  - (i) Program administration. The objective is to enable the instructor to handle any basic in-class administrative details that are necessary prior to beginning instruction. This unit shall be limited to 15 minutes.
  - (ii) Program introduction, pre-program exam, and background. The objective is to present an overview of the program and to demonstrate the nature of the problem as it relates to the use of alcohol or other drugs.
  - (iii) Texas laws. The objective is to provide basic information about laws related to alcohol/drug use in Texas.
  - (iv) Physiological and psychological effects of alcohol/drugs. The objective is to provide basic information about the physiological and psychological effects of alcohol and other drugs on humans.
  - (v) Effects of alcohol/drugs on the driving task. The objective is to explain the relationship of alcohol and other drugs to driving task abilities.
  - (vi) Signs of a problem. The objective is to help participants recognize and understand the warning signs of a potential alcohol/drug problem.
  - (vii) Decision making. The objective is to help participants make quality decisions about alcohol/drug use that will prevent future problems.
  - (viii) Post-program exam.
- (E) Instructor training guides. An instructor training guide contains a description of the plan, training techniques, and curriculum to be used to train instructors to present the concepts of the approved drug and alcohol driving awareness program described in the applicant's drug and alcohol driving awareness program guide. Each course provider shall submit as part of the application an instructor training guide. The guide shall include a table of contents and the following:
  - (i) a statement of the philosophy and instructional goals of the training program. The program must not in any way promote Responsible Use, Harm Reduction, or Risk Reduction philosophies when being presented to minors;
  - (ii) a description of the plan to be followed in training instructors. The plan shall include, as a minimum, provisions for the following:
    - (I) instruction of the trainee in the program curriculum;
    - (II) training the trainee in the techniques of instruction that will be used in the program;
    - (III) training the trainee about administrative procedures and course provider policies;
    - (IV) demonstration of desirable techniques of instruction by the instructor trainer;
    - (V) a minimum of 15 minutes of instruction of the program curriculum by the trainee under the observation of the instructor trainer as part of the basic training program; and
    - (VI) time to be dedicated to each training lesson; and

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- (iii) instructional units sufficient to address the provisions identified in clause (ii)(I)-(V) of this subparagraph. The total time of the units shall contain a minimum of 24 instructional hours. Each instructional unit shall include the following:
  - (I) the subject of the unit;
  - (II) the instructional objectives of the unit;
  - (III) time to be dedicated to the unit;
  - (IV) an outline of major concepts to be presented;
  - (V) instructional activities to be used to present the material (i.e., lecture, films, other media, small-group discussions, workbook activities, written and oral discussion questions). When small-group discussions are planned, the program guide shall identify the questions that will be assigned to the groups;
  - (VI) instructional resources for each unit; and
  - (VII) techniques for evaluating the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the instructor training guide. The evaluative technique may be used throughout the unit or at the end.
- (F) Exams. Each course provider shall submit for approval, as part of the application, pre- and post-program exams designed to measure the knowledge of students at the completion of the drug and alcohol driving awareness program. The post-program exam for each drug and alcohol driving awareness program must contain at least 20 questions. A minimum of 2 questions shall be drawn from the required units set forth in subparagraph (D)(iii)-(vii) of this paragraph. The post-program final exam questions shall be of such difficulty that the answer may not easily be determined without completing the actual instruction. Instructors shall not assist students in answering the post-program exam questions, but may facilitate alternative testing. Instructors may not certify or give students credit for the drug and alcohol driving awareness program unless they score 70% or more on the post-program exam. The program content guide shall identify alternative testing techniques to be used for students with reading, hearing, or learning disabilities and policies for retesting students who score less than 70% on the post-program exam. The course provider may choose not to provide alternative testing techniques; however, students shall be advised whether the course provides alternative testing prior to enrollment in the course. Exam questions may be short answer, multiple choice, essay, or a combination of these forms.
- (2) Instructor development programs.
  - (A) Drug and alcohol driving awareness program instructors shall successfully complete 24 clock hours (50 minutes of instruction in a 60-minute period) in the approved instructor development program for the drug and alcohol driving awareness program to be taught, under the supervision of a licensed drug and alcohol driving awareness instructor who is designated by the course provider. Supervision is considered to have occurred when the licensed instructor is present and personally provides the 24 clock hours of training for drug and alcohol driving awareness instructors, excluding clock hours approved by TEA that may be presented by a guest speaker or using films and other media that pertain directly to the concepts being taught.

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

*Source: The provisions of this §176.1206 adopted to be effective December 26, 1999, 24 TexReg 11367; amended to be effective February 26, 2009, 34 TexReg 1244.*

**§176.1207. Student Enrollment Forms.**

- (a) No person shall be instructed in a drug and alcohol driving awareness program until after being enrolled.
- (b) All drug and alcohol driving awareness enrollment forms shall provide students with the following information.
  - (1) Grievances not resolved by the school may be forwarded to Driver Training, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701. The current telephone number of the division shall also be provided.

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- (2) The school is prohibited from issuing a certificate of program completion if the student has not met all of the requirements for program completion, and the student should not accept a certificate of program completion under such circumstances.

*Source: The provisions of this §176.1207 adopted to be effective December 26, 1999, 24 TexReg 11367.*

**§176.1208. Facilities and Equipment.**

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

*Source: The provisions of this §176.1208 adopted to be effective December 26, 1999, 24 TexReg 11367.*

**§176.1209. Records.**

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

*Source: The provisions of this §176.1209 adopted to be effective December 26, 1999, 24 TexReg 11367; amended to be effective February 26, 2009, 34 TexReg 1244.*

**§176.1210. Application Fees and Other Charges.**

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

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- (2) The fee for a drug and alcohol driving awareness program alternative delivery method approval is \$9,000.
- (3) The initial fee for a drug and alcohol driving awareness school is \$150.
- (4) The fee for a change of address of a drug and alcohol driving awareness school is \$50.
- (5) The fee for a change of name of a drug and alcohol driving awareness school or name of owner is \$50.
- (6) The application fee for each additional program for a drug and alcohol driving awareness school is \$25.
- (7) A processing fee of \$50 and a licensing fee of \$25 shall accompany each application for an original drug and alcohol driving awareness program instructor license.
- (8) The instructor renewal fee is \$25.
- (9) The late instructor renewal fee is \$25.
- (10) The duplicate drug and alcohol driving awareness program instructor license fee is \$8.
- (11) The fee for an investigation at a drug and alcohol driving awareness school to resolve a complaint is \$1,000.
- (12) The drug and alcohol driving awareness school late renewal fee is \$100.

*Source: The provisions of this §176.1210 adopted to be effective December 26, 1999, 24 TexReg 11367; amended to be effective February 26, 2009, 34 TexReg 1244.*

**§176.1211. Alternative Delivery Methods of Drug and Alcohol Driving Awareness Program Instruction.**

- (a) Approval process. The commissioner of education may approve an alternative delivery method (ADM) that delivers an approved drug and alcohol driving awareness program and meets the following requirements.
  - (1) Standards for approval. The commissioner of education may approve an ADM for an approved drug and alcohol driving awareness program and waive any rules to accomplish this approval if the ADM delivers an approved program in a manner that is at least as secure as a traditional classroom. ADMs that meet the requirements outlined in subsections (b)-(h) of this section shall receive ADM approval.
  - (2) Application. The course provider shall submit a completed ADM application along with the appropriate fee. The application for ADM approval shall be treated the same as an application for the approval of a new program, and the ADM must deliver the course provider's approved curriculum as delineated in the program content guide required by §176.1206(a)(1)(B) of this title (relating to Drug and Alcohol Driving Awareness Programs of Instruction).
  - (3) Incomplete applications. An application that is incomplete may be returned to the applicant along with the application fee.
  - (4) School license required. A person or entity offering a drug and alcohol driving awareness program to Texas students by an ADM must hold a drug and alcohol driving awareness school license.
  - (5) Course provider endorsement required. The drug and alcohol driving awareness school must have an endorsement from a licensed course provider.
  - (6) Course provider responsibility. The day-to-day operations of an ADM are the responsibility of the course provider that owns the curriculum. A course provider may offer an ADM through a school that is not owned and operated by the course provider only with approval of the division director. By accepting such approval, the course provider that offers the curriculum through a licensed drug and alcohol and driving awareness school also accepts responsibility for all compliance issues that arise as a result of the operation of the ADM.

- (b) Program content. The ADM must deliver the same topics and program content as the approved course.
- (1) Course topics. The time requirements for each unit and the program as a whole described in §176.1206(a)(1)(B)(v), (C), and (D) of this title shall be met.
  - (2) Topic sequence. The ADM sequencing may be different from the approved traditional program as long as the sequencing does not detract from educational value of the program. The ADM owner shall provide a key showing the topic sequence of the traditional program and where the corresponding information appears in the ADM.
  - (3) Editing. The material presented in the ADM shall be edited for grammar, punctuation, and spelling and be of such quality that it does not detract from the subject matter.
  - (4) Irrelevant material. Advertisement of goods and services shall not appear during the actual instructional times of the program. Distracting material that is not related to the topic being presented shall not appear during the actual instructional times of the program.
  - (5) Minimum content. The ADM shall present sufficient content so that it would take a student 300 minutes to complete the program. In order to demonstrate that the ADM contains sufficient content, the ADM shall use the following methods.
    - (A) Word count. For written material that is read by the student, the course provider shall count the total number of words in the written sections of the program. This word count shall be divided by 180, the average number of words that a typical student reads per minute. The result is the time associated with the written material for the sections.
    - (B) Multimedia presentations. For multimedia presentation, the course provider shall calculate the total amount of time it takes for all multimedia presentations to play.
    - (C) Charts and graphs. The ADM may assign one minute for each chart or graph.
    - (D) Exams. The course provider may allocate up to 45 seconds for questions presented over the Internet and 30 seconds for questions presented by telephone.
    - (E) Total time calculation. If the sum of the time associated with the written program material, the total amount of time for all multimedia presentations, and the time associated with all charts and graphs equals or exceeds 300 minutes, the ADM has demonstrated the required amount of content.
    - (F) Alternate time calculation method. In lieu of the time calculation method, the ADM may submit alternate methodology to demonstrate that the ADM meets the 300-minute requirement.
  - (6) Student breaks. A program that demonstrates that it contains 300 minutes of instructional content shall mandate that students take 60 minutes of break time or provide additional educational content for a total of 360 minutes.
- (c) Personal validation. The ADM shall maintain a system to validate the identity of the person taking the program. The personal validation system shall incorporate the following requirements.
- (1) Personal validation questions. The ADM shall ask a minimum of 10 personal validation questions throughout the program.
  - (2) Data sources. The personal validation questions shall be drawn equally from at least two different databases. Alternatively, the data may be drawn from student-solicited question/answer pairs obtained during enrollment.
  - (3) Time to respond. The student must correctly answer the personal validation question within 45 seconds for questions presented over the Internet and 30 seconds for questions presented by telephone.

- (4) Placement of questions. At least one personal validation question shall appear in each major unit or section, not including the post-program exam.
  - (5) Exclusion from the course. The ADM shall exclude the student from the program after the student has incorrectly answered more than 20 percent of the personal validation questions.
  - (6) Correction of answer. The school may correct an answer to a personal validation question for a student who inadvertently missed a personal validation question drawn from a third-party database. In such a case, the student record shall include a record of both answers and an explanation of the reasons that the school corrected the answer. A school or course provider shall not correct or change an answer for a student who enrolls in an ADM that uses student-solicited question/answer pairs for personal validation.
  - (7) Student affidavits. A student enrolled in a program that uses third-party database validation questions and for whom third-party database information is available from fewer than two databases (for example, a student with an out-of-state driver's license) may be issued a certificate of program completion upon presentation to the course provider of a notarized copy of the student's driver's license or equivalent type of photo identification and a statement from the student certifying that the individual attended and successfully completed the six-hour drug and alcohol driving awareness program for which the certificate is being issued and for which there exists a corresponding student record.
  - (8) Alternative methods. Upon approval by the Texas Education Agency (TEA), the ADM may use alternate methods that are at least as secure as the personal validation question method.
- (d) Program validation. The ADM shall incorporate a program content validation process that verifies student participation and comprehension of program material, including the following.
- (1) Timers. The ADM shall include built-in timers to ensure that 300 minutes of instruction have been attended and completed by the student.
  - (2) Testing the student's participation in multimedia presentations. The ADM shall ask at least one program validation question following each multimedia clip of more than 60 seconds.
    - (A) Test bank. For each multimedia presentation that exceeds 60 seconds, the ADM shall have a test bank of at least four questions.
    - (B) Question difficulty. The question shall be short answer, multiple choice, essay, or a combination of these forms. The question shall be difficult enough that the answer may not be easily determined without having viewed the actual multimedia clip.
    - (C) Failure criteria. If the student fails to answer the question correctly, the ADM shall either require the student view the multimedia clip again or the ADM shall fail the student from the program. If the ADM requires the student to view the multimedia clip again, the ADM shall present a different question from its test bank for that multimedia clip. The ADM may not repeat a question until it has asked all the questions from its test bank.
    - (D) Answer identification. The ADM shall not identify the correct answer to the multimedia question.
  - (3) Mastery of program content. The ADM shall test the student's mastery of the program content by asking at least two questions from each of the five substantive topics listed in §176.1206(a)(1)(D)(iii)-(vii) of this title.
    - (A) Test bank. The test bank for program content mastery questions shall include at least two questions from each of the five substantive topics identified in §176.1206(a)(1)(D)(iii)-(vii) of this title. For each question in a substantive topic, the test bank shall contain four alternative questions covering the same topic, for a total of at least 100 questions.
    - (B) Placement of questions. The mastery of program content questions shall be asked at the end of the program (post-program exam).

- (C) Question difficulty. Program content mastery questions shall be short answer, multiple choice, essay, or a combination of these forms, and of such difficulty that the answer may not be easily determined without having participated in the actual instruction.
  - (D) Retest. If the student misses more than 30 percent of the questions asked on the post-program exam, the ADM shall retest the student in the same manner as the failed exam, using different questions from its test bank. The student is not required to repeat the failed program, but may be allowed to do so prior to retaking the exam. If the student fails the post-program exam three times, the student shall fail the program.
- (e) Student records. The ADM shall provide for the creation and maintenance of the records documenting student enrollment, the verification of the student's identity, and the testing of the student's mastery of the program material. Each entry that verifies enrollment, identifies the question asked or the response given, documents retesting and/or revalidation, and documents any changes to the student's record shall include the date and time of the activity reported. The school and/or course provider shall also ensure that the student record is readily, securely, and reliably available for inspection by TEA or a TEA-authorized representative. The student records shall contain the following information:
- (1) the student's name and driver's license number;
  - (2) a record of which personal validation questions were asked and the student's responses;
  - (3) a record of which multimedia participation questions were asked and the student's responses;
  - (4) the name or identity number of the staff member entering comments, retesting, or revalidating the student;
  - (5) if any answer to a question is changed by the school or course provider for a student who inadvertently missed a third-party database question, the school or course provider shall maintain both answers and a reasonable explanation for the change. A school or course provider shall not correct or change an answer for a student who enrolls in an ADM that uses student-solicited question/answer pairs for personal validation;
  - (6) a record of the program content mastery questions asked and the answers given; and
  - (7) a record of the time the student spent in each unit of the ADM and the total instructional time the student spent in the program.
- (f) Additional requirements for Internet programs. Programs delivered via the Internet shall also comply with the following requirements.
- (1) Re-entry into the program. An ADM may allow the student re-entry into the program by username and password authentication or other means that are as secure as username and password authentication.
  - (2) Navigation. The student shall be able to logically navigate through the program. The student shall be allowed to freely browse previously completed material.
  - (3) Audio-visual standards. The video and audio shall be clear and, when applicable, the video and audio shall be synchronized.
  - (4) Video transcripts. If the ADM presents transcripts of a video presentation, the transcript shall be delivered concurrently with the video stream so that the transcript cannot be displayed if the video does not display on the student's computer.
  - (5) Domain names. Each school offering an ADM must offer that ADM from a single domain. The ADM may accept students that are redirected to the ADM's domain, as long as the student is redirected to a web page that clearly identifies the course provider and school offering the ADM before the student begins the registration process, supplies any information, or pays for the course. Subdomains of the ADM's single domain may also accept students as long as the subdomain is

registered to and hosted by the ADM and clearly identifies the official course provider, school name, and TEA registration number.

- (6) ADM identification. All ADMs presented over the Internet shall display the school name and school number assigned by TEA as well as the course provider name and course provider number assigned by TEA on the homepage and the registration page of the entity to which the student pays any monies, provides any personal information, and in which the student enrolls.
- (g) Additional requirements for video programs.
  - (1) Delivery of the material. For ADMs delivered by the use of videotape, digital video disc (DVD), film, or similar media, the equipment and program materials may only be made available through a process that is approved by TEA.
  - (2) Video requirement. In order to meet the video requirement of §176.1206(a)(1)(B)(v) of this title, the video course shall include between 60 and 150 minutes of video that is relevant to the required topics such as video produced by other entities for training purposes, including public safety announcements and B roll footage. The remainder of the 300 minutes of required instruction shall be video material that is relevant to one of the five substantive required topics and produced by the ADM owner, course owner, or course provider specifically for the ADM.
    - (A) A video ADM shall ask, at a minimum, at least one program validation question for each multimedia clip of more than 60 seconds at the end of each major segment (chapter) of the ADM.
    - (B) A video ADM shall devise and submit for approval a method for ensuring that a student correctly answers questions concerning the multimedia clips of more than 60 seconds presented during the ADM.
- (h) Standards for ADMs using new technology. For ADMs delivered using technologies that have not been previously reviewed and approved by TEA, TEA may apply similar standards as appropriate and may also require additional standards. These standards shall be designed to ensure that the program can be taught by the alternative method and that the alternative method includes testing and security measures that are at least as secure as the methods available in the traditional classroom setting.
- (i) Modifications to the ADM. Except as provided by paragraph (1) of this subsection, a change to a previously approved ADM shall not be made without the prior approval of TEA. The licensed course provider for the approved program on which the ADM is based shall ensure that any modification to the ADM is implemented by all schools endorsed to offer the ADM.
  - (1) A course provider may submit to the TEA a request for immediate implementation of a proposed change that is insignificant or that protects the interest of the consumer such that immediate implementation is warranted. The request shall include:
    - (A) a complete description of the proposed change;
    - (B) the reason for the change;
    - (C) the reason the requestor believes the proposed change is insignificant or protects the interest of the consumer such that immediate implementation is warranted; and
    - (D) an explanation of how the change will maintain the program or ADM in compliance with state law and the rules specified in this chapter.
  - (2) The TEA may request additional information regarding a proposed change from the course provider making a request under paragraph (1) of this subsection.
  - (3) The TEA will respond to any request made under paragraph (1) of this subsection within five working days of receipt.

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

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- (k) Renewal of ADM approval. The ADM approval must be renewed every two years. The renewal document due date shall be March 1, 2012, and every two years thereafter.
  - (1) For approval, the course provider shall:
    - (A) update all the statistical data and references to law with the latest available data; and
    - (B) submit a statement of assurance saying that the ADM has been updated to reflect the latest applicable laws and statistics.
  - (2) Failure to make necessary changes or to submit a statement of assurance documenting those changes shall be cause for revocation of the ADM approval.
  - (3) The commissioner may alter the due date of the renewal documents by giving the approved ADM six months' notice. The commissioner may alter the due date in order to ensure that the ADM is updated six months after the effective date of new state laws passed by the Texas Legislature.
- (l) Access to instructor. With the exception of circumstances beyond the control of the school, the student shall have adequate access (on the average, within two minutes) to both a licensed instructor and telephonic technical assistance (help desk) throughout the program such that the flow of instructional information is not delayed.

*Source: The provisions of this §176.1211 adopted to be effective February 26, 2009, 34 TexReg 1244.*