

ATTACHMENT I

Statutory Citations Relating to Consideration of Petition for Adoption of Rule Concerning 19 TAC Chapter 89, Adaptations for Special Populations, Subchapter C, Texas Certificate of High School Equivalency, §89.43, Eligibility for a Texas Certificate of High School Equivalency

Texas Government Code, §2001.021, Petition for Adoption of Rules:

- (a) An interested person by petition to a state agency may request the adoption of a rule.
- (b) A state agency by rule shall prescribe the form for a petition under this section and the procedure for its submission, consideration, and disposition.
- (c) Not later than the 60th day after the date of submission of a petition under this section, a state agency shall:
 - (1) deny the petition in writing, stating its reasons for the denial; or
 - (2) initiate a rulemaking proceeding under this subchapter.

19 TAC §30.1, Petition for Adoption of Rule Changes:

- (a) Any interested person may petition for the adoption, amendment, or repeal of a rule of the State Board of Education (SBOE) by filing a petition on a form provided in this subsection. The petition shall be signed and submitted to the commissioner of education. In consultation with the persons in the Texas Education Agency who are responsible for the area with which the rule is concerned, the commissioner shall evaluate the merits of the proposal to determine whether to recommend that rulemaking proceedings be initiated or that the petition be denied.

Figure: 19 TAC §30.1(a)
- (b) In accordance with the Texas Government Code, §2001.021, the agency must respond to the petitioner within 60 days of receipt of the petition.
 - (1) Where possible, the commissioner's recommendation concerning the petition shall be placed on the SBOE agenda, and the SBOE shall act on the petition within the 60-day time limit.
 - (2) Where the time required to review the petition or the scheduling of SBOE meetings will not permit the SBOE to act on the petition within the required 60 days, the commissioner or a designee shall respond to the petitioner within the required 60 days, notifying the petitioner of the date of the SBOE meeting at which the recommendation will be presented to the SBOE for action.
- (c) The SBOE will review the petition and the recommendation of the commissioner and will either direct the commissioner to begin the rulemaking process or deny the petition, giving reasons for the denial. The commissioner or designee will notify the petitioner of the SBOE's action related to the petition.
- (d) If the SBOE initiates rulemaking procedures in response to a petition, the rule text which the SBOE proposes may differ from the rule text proposed by the petitioner.

Texas Education Code, §7.111, High School Equivalency Examinations:

- (a) The board shall provide for the administration of high school equivalency examinations, including administration by the adjutant general's department for students described by Subdivision (2)(C). A person who does not have a high school diploma may take the examination in accordance with rules adopted by the board if the person is:
 - (1) over 17 years of age;
 - (2) 16 years of age or older and:
 - (A) is enrolled in a Job Corps training program under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.), and its subsequent amendments;
 - (B) a public agency providing supervision of the person or having custody of the person under a court order recommends that the person take the examination; or
 - (C) is enrolled in the adjutant general's department's Seaborne Challenge Corps; or
 - (3) required to take the examination under a justice or municipal court order issued under Article 45.054(a)(1)(C), Code of Criminal Procedure.
- (b) The board by rule shall establish and require payment of a fee as a condition to the issuance of a high school equivalency certificate and a copy of the scores of the examinations. The fee must be reasonable and designed to cover the administrative costs of issuing the certificate and a copy of the scores. The board may not require a waiting period between the date a person withdraws from school and the date the person takes the examination unless the period relates to the time between administrations of the examination.
- (c) The board by rule shall develop and deliver high school equivalency examinations and provide for the administration of the examinations online. The rules must:
 - (1) provide a procedure for verifying the identity of the person taking the examination; and
 - (2) prohibit a person under 18 years of age from taking the examination online.