

211.1 Definitions

Summary: Amended to clarify definitions to Commission's longstanding practices, conform to statutory amendments, and define newly added school marshal.

The Texas Commission on Law Enforcement (Commission) adopts an amendment to § 211.1, concerning Definitions without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7631) and will not be republished.

The amendment changes language to 37 Texas Administrative Code § 211.1, Definitions, to conform the definition of "Commission" to the statutory agency name change.

It clarifies and conforms the definitions of "Contractual Training Provider," "Law Enforcement Academy," and "Training Provider" to the commission's longstanding practice of entering into contractual relationships with training providers. The frame mounted optical enhancing sighting device defined in "Patrol Rifle" is changed from 3 power to 5 power to expand the varieties of acceptable patrol rifles.

Also, in response to the statutory creation of the school marshal program, the amendment defines "School Marshal."

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, § 1701.151, General Powers of the Commission; Rulemaking Authority.

§ 211.1. Definitions.

- (a) The following words and terms, when used in this part, shall have the following meanings, unless the context clearly indicates otherwise.
- (1) Academic alternative program--A program for college credit offered by a training provider recognized by the Southern Association of Colleges and Schools and the Texas Higher Education Coordinating Board, authorized by the commission to conduct preparatory law enforcement training as part of a degree plan program, and consisting of commission-approved curricula.
 - (2) Academic provider--A school, accredited by the Southern Association of Colleges and Schools and the Texas Higher Education Coordinating Board, which has been approved by the commission to provide basic licensing courses.
 - (3) Accredited college or university--An institution of higher education that is accredited or authorized by the Southern Association of Colleges and Schools,

- the Middle States Association of Colleges and Schools, the New England Association of Schools and Colleges, the North Central Association of Colleges and Schools, the Northwest Commission on Colleges and Universities, the Western Association of Schools and Colleges, or an international college or university evaluated and accepted by a United States accredited college or university.
- (4) Active--A license issued by the commission that meets the current requirements of licensure and training as determined by the commission.
 - (5) Administrative Law Judge (ALJ)--An administrative law judge appointed by the chief administrative law judge of the State Office of Administrative Hearings.
 - (6) Agency--A law enforcement unit or other entity, whether public or private, authorized by Texas law to appoint a person licensed or certified by the commission.
 - (7) Appointed--Elected or commissioned by an agency as a peace officer, reserve or otherwise selected or assigned to a position governed by the Texas Occupations Code, Chapter 1701, without regard to pay or employment status.
 - (8) Background investigation--A pre-employment background investigation that meets or exceeds the commission developed questionnaire/history statement.
 - (9) Basic licensing course--Any current commission developed course that is required before an individual may be licensed by the commission.
 - (10) Certified copy--A true and correct copy of a document or record certified by the custodian of records of the submitting entity.
 - (11) Chief administrator--The head or designee of a law enforcement agency.
 - (12) Commission--The Texas Commission on Law Enforcement.
 - (13) Commissioned--Has been given the legal power to act as a peace officer or reserve, whether elected, employed, or appointed.
 - (14) Commissioners--The nine commission members appointed by the governor.
 - (15) Contract jail--A correctional facility, operated by a county, municipality or private vendor, operating under a contract with a county or municipality, to house inmates convicted of offenses committed against the laws of another state of the United States, as provided by Texas Government Code, §511.0092.
 - (16) Contractual training provider--A law enforcement agency or academy, a law enforcement association, alternative delivery trainer, distance education, academic alternative, or proprietary training provider that conducts specific education and training under a contract with the commission.
 - (17) Convicted--Has been adjudged guilty of or has had a judgment of guilt entered in a criminal case that has not been set aside on appeal, regardless of whether:
 - (A) the sentence is subsequently probated and the person is discharged from probation;

- (B) the charging instrument is dismissed and the person is released from all penalties and disabilities resulting from the offense; or
 - (C) the person is pardoned, unless the pardon is expressly granted for subsequent proof of innocence.
- (18) Court-ordered community supervision--Any court-ordered community supervision or probation resulting from a deferred adjudication or conviction by a court of competent jurisdiction. However, this does not include supervision resulting from a pretrial diversion.
 - (19) Diploma mill--An entity that offers for a fee with little or no coursework, degrees, diplomas, or certificates that may be used to represent to the general public that the individual has successfully completed a program of secondary education or training.
 - (20) Distance education--Study, at a distance, with an educational provider that conducts organized, formal learning opportunities for students. The instruction is offered wholly or primarily by distance study, through virtually any media. It may include the use of: videotapes, DVD, audio recordings, telephone and email communications, and Web-based delivery systems.
 - (21) Duty ammunition--Ammunition required or permitted by the agency to be carried on duty.
 - (22) Executive director--The executive director of the commission or any individual authorized to act on behalf of the executive director.
 - (23) Experience--Includes each month, or part thereof, served as a peace officer, reserve, jailer, telecommunicator, or federal officer. Credit may, at the discretion of the executive director, be awarded for relevant experience from an out-of-state agency.
 - (24) Family Violence--In this chapter, has the meaning assigned by Chapter 71, Texas Family Code.
 - (25) Field training program--A program intended to facilitate a transition from the academic setting to the performance of the general duties of the appointing agency.
 - (26) Firearms--Any handgun, shotgun, precision rifle, patrol rifle, or fully automatic weapon that is carried by the individual officer in an official capacity.
 - (27) Firearms proficiency--Successful completion of the annual firearms proficiency requirements.
 - (28) Fit for duty review--A formal specialized examination of an individual, appointed to a position governed by the Texas Occupations Code, Chapter 1701, without regard to pay or employment status, to determine if the appointee is able to safely and/or effectively perform essential job functions. The basis for these examinations should be based on objective evidence and a reasonable basis that the cause may be attributable to a medical and/or psychological condition or

- impairment. Objective evidence may include direct observation, credible third party reports; or other reliable evidence. The review should come after other options have been deemed inappropriate in light of the facts of the case. The selected Texas licensed medical doctor or psychologist, who is familiar with the duties of the appointee, conducting an examination should be consulted to ensure that a review is indicated. This review may include psychological and/or medical fitness examinations.
- (29) High School Diploma--An earned high school diploma from a United States high school, an accredited secondary school equivalent to that of United States high school, or a passing score on the general education development test indicating a high school graduation level. Documentation from diploma mills is not acceptable.
 - (30) Home School Diploma--An earned diploma from a student who predominately receives instruction in a general elementary or secondary education program that is provided by the parent, or a person in parental authority, in or through the child's home. (Texas Education Code §29.916)
 - (31) Individual--A human being who has been born and is or was alive.
 - (32) Jailer--A person employed or appointed as a jailer under the provisions of the Local Government Code, §85.005, or Texas Government Code §511.0092.
 - (33) Killed in the line of duty--A death that is the directly attributed result of a personal injury sustained in the line of duty.
 - (34) Law--Including, but not limited to, the constitution or a statute of this state, or the United States; a written opinion of a court of record; a municipal ordinance; an order of a county commissioners' court; or a rule authorized by and lawfully adopted under a statute.
 - (35) Law enforcement academy--A school operated by a governmental entity which may provide basic licensing courses and continuing education under contract with the commission.
 - (36) Law enforcement automobile for training--A vehicle equipped to meet the requirements of an authorized emergency vehicle as identified by Texas Transportation Code §546.003 and §547.702.
 - (37) Lesson plan--A plan of action consisting of a sequence of logically linked topics that together make positive learning experiences. Elements of a lesson plan include: measurable goals and objectives, content, a description of instructional methods, tests and activities, assessments and evaluations, and technologies utilized.
 - (38) License--A license required by law or a state agency rule that must be obtained by an individual to engage in a particular business.
 - (39) Licensee--An individual holding a license issued by the commission.

- (40) Line of duty--Any lawful and reasonable action, which an officer identified in Texas Government Code, Chapter 3105 is required or authorized by rule, condition of employment, or law to perform. The term includes an action by the individual at a social, ceremonial, athletic, or other function to which the individual is assigned by the individual's employer.
- (41) Moral character--The propensity on the part of a person to serve the public of the state in a fair, honest, and open manner.
- (42) Officer--A peace officer or reserve identified under the provisions of the Texas Occupations Code, §1701.001.
- (43) Patrol rifle--Any magazine-fed repeating rifle with iron/open sights or with a frame mounted optical enhancing sighting device, 5 power or less, that is carried by the individual officer in an official capacity.
- (44) Peace officer--A person elected, employed, or appointed as a peace officer under the provisions of the Texas Occupations Code, §1701.001.
- (45) Personal Identification Number (PID)--A unique computer-generated number assigned to individuals for identification in the commission's electronic database.
- (46) Placed on probation--Has received an adjudicated or deferred adjudication probation for a criminal offense.
- (47) POST--State or federal agency with jurisdiction similar to that of the commission, such as a peace officer standards and training agency.
- (48) Precision rifle--Any rifle with a frame mounted optical sighting device greater than 5 power that is carried by the individual officer in an official capacity.
- (49) Proprietary training contractor--An approved training contractor who has a proprietary interest in the intellectual property delivered.
- (50) Public security officer--A person employed or appointed as an armed security officer identified under the provisions of the Texas Occupations Code, §1701.001.
- (51) Reactivate--To make a license issued by the commission active after a license becomes inactive. A license becomes inactive at the end of the most recent unit or cycle in which the licensee is not appointed and has failed to complete legislatively required training.
- (52) Reinstate--To make a license issued by the commission active after disciplinary action or failure to obtain required continuing education.
- (53) Reserve--A person appointed as a reserve law enforcement officer under the provisions of the Texas Occupations Code, §1701.001.
- (54) School marshal--A person employed and appointed by the board of trustees of a school district or the governing body of an open-enrollment charter school under Texas Code of Criminal Procedure, Article 2.127 and in accordance with and having the rights provided by Texas Education Code, § 37.0811.
- (55) Self-assessment--Completion of the commission created process, which gathers information about a training or education program.

- (56) Separation--An explanation of the circumstances under which the person resigned, retired, or was terminated, reported on the form currently prescribed by the commission, in accordance with Texas Occupations Code, §1701.452.
 - (57) SOAH--The State Office of Administrative Hearings.
 - (58) Successful completion--A minimum of:
 - (A) 70 percent or better; or
 - (B) C or better; or
 - (C) pass, if offered as pass/fail.
 - (59) TCLEDDS--Texas Commission on Law Enforcement Data Distribution System.
 - (60) Telecommunicator--A person employed as a telecommunicator under the provisions of the Texas Occupations Code, §1701.001.
 - (61) Training coordinator--An individual, appointed by a commission-recognized training provider, who meets the requirements of §215.9 of this title.
 - (62) Training cycle--A 48-month period as established by the commission. Each training cycle is composed of two contiguous 24-month units.
 - (63) Training hours--Classroom or distance education hours reported in one-hour increments.
 - (64) Training program--An organized collection of various resources recognized by the commission for providing preparatory or continuing training. This program includes, but is not limited to, learning goals and objectives, academic activities and exercises, lesson plans, exams, skills training, skill assessments, instructional and learning tools, and training requirements.
 - (65) Training provider--A governmental body, law enforcement association, alternative delivery trainer, or proprietary entity credentialed by or authorized under a training provider contract with the commission to provide preparatory or continuing training for licensees or potential licensees.
 - (66) Verification (verified)--The confirmation of the correctness, truth, or authenticity of a document, report, or information by sworn affidavit, oath, or deposition.
- (b) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

211.27 Reporting Responsibilities for Individuals

Summary: Repeal to replace with new rule which incorporates telecommunicator licenses and removes cross-referencing to only peace officers and jailers.

The Texas Commission on Law Enforcement (Commission) adopts the repeal of § 211.27, concerning Reporting Responsibilities for Individuals without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7634) and will not be republished.

The repeal of 37 Texas Administrative Code § 211.27, Reporting Responsibilities for Individuals, is replaced by new rule which incorporates telecommunicator licenses and removes cross-referencing to only peace officers and jailers.

This repeal is necessary to conform to the amended telecommunicator licensee statute by clarifying “licensee” to include telecommunicators. It also clarifies that a single military, not F-5 Report of Separation, dishonorable or bad conduct discharge is a disqualifier or violation.

No comments were received regarding adoption of this repeal.

The repeal is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 General Powers of the Commission; Rulemaking Authority.

§ 211.27. Reporting Responsibilities for Individuals

The final order of rule adoption has been approved this 5th day of December, 2013.

211.27 Reporting Responsibilities for Individuals

Summary: Conforms to amended telecommunicator statute and clarifies military disqualifiers or violations.

The Texas Commission on Law Enforcement (Commission) adopts the new § 211.27, concerning Reporting Responsibilities for Individuals without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7634) and will not be republished.

The new rule, 37 Texas Administrative Code § 211.27, Reporting Responsibilities for Individuals, clarifies “licensee” to include telecommunicators. It also clarifies that a single military, not F-5 Report of Separation, dishonorable or bad conduct discharge is a disqualifier or violation.

This new rule is necessary to conform to statutory amendments and clarify disqualifiers.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.405, Telecommunicators.

§ 211.27. Reporting Responsibilities of Individuals.

- (a) Within thirty days, a licensee or person meeting the requirements of a licensee shall report to the commission:
- (1) any name change;
 - (2) a permanent mailing address other than an agency address;
 - (3) all subsequent address changes;
 - (4) an arrest, charge, or indictment for a criminal offense above the grade of Class C misdemeanor, or for any Class C misdemeanor involving the duties and responsibilities of office or family violence, including the name of the arresting agency, the style, court, and cause number of the charge or indictment, if any;
 - (5) the final disposition of the criminal action; and
 - (6) receipt of a dishonorable or other discharge based on misconduct which bars future military service.
- (b) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

211.33 Law Enforcement Achievement Awards

Summary: Conforms to amended telecommunicator statute and clarifies military disqualifiers or violations.

The Texas Commission on Law Enforcement (Commission) adopts the amended § 211.33, concerning Law Enforcement Achievement Awards with changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7635) and will be republished.

The amendment to 37 Texas Administrative Code § 211.33, Law Enforcement Achievement Awards, adds telecommunicator licensee as a licensee eligible for an achievement award.

This amendment is necessary to conform to statutory amendments.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.405, Telecommunicators.

§ 211.33. Law Enforcement Achievement Awards.

- (a) The commission shall issue achievement awards to qualified peace officers, reserve law enforcement officers, jailers, or telecommunicators licensed by the commission and; hereinafter, will be referred to as the nominees. A nominee for the achievement award must meet the following criteria:
- (1) must have maintained, on a continuous basis, an average job performance during the individual's employment or appointment;
 - (2) must have exhibited relevant characteristics of the following:
 - (A) valor - an act of personal heroism or bravery which exceeds the normal expectations of job performance, such as placing one's own life in jeopardy to save another person's life, prevent serious bodily injury to another, or prevent the consequences of a criminal act;
 - (B) public service - when an individual, through initiative, creates or participates in a program or system which has a significant positive impact on the general population of a community which would exceed the normal expectations of job performance; or
 - (C) professional achievement - when an individual, through personal initiative, fixity of purpose, persistence, or endeavor, creates a program or system which has a significant positive impact on the law enforcement

profession which would exceed the normal expectations of job performance;

- (3) must have held a license at the time the qualifying act was performed;
 - (4) shall not ever have had a license suspended, revoked, cancelled, or voluntarily surrendered; and
 - (5) must not be in violation of Occupations Code, Chapter 1701 or rules of the commission.
- (b) The nominations/recommendations for the achievement awards shall be filed as follows:
- (1) received by the commission on or before December 31st of each year;
 - (2) must have been submitted by one of the following:
 - (A) an elected official of the state;
 - (B) an elected official of a political subdivision;
 - (C) an administrator of a law enforcement agency; or
 - (D) any person holding a current license issued by the commission; and
 - (3) shall be supported by acceptable evidence of the nominee's qualifications for the award. Such evidence may consist of evaluations, police reports, newspaper clippings, eyewitness accounts, or other valid, confirmable evidence, consisting of certified copies of documents and sworn affidavits.
- (c) A committee shall be appointed by the executive director for the purpose of reviewing recommendations. Upon completion of the review, the committee will forward to the executive director nominees for consideration. The executive director will provide a list to the commissioners who will then make the final determination of who merits awards at a regularly scheduled meeting.
- (d) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

215.1 Commission Authorization of Training Providers

Summary: Repeal to replace with new rule which substitutes licensing of training providers to entering into contracts with providers. .

The Texas Commission on Law Enforcement (Commission) adopts the repeal of § 215.1, concerning Licensing of Training Providers without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7636) and will not be republished.

The repeal of 37 Texas Administrative Code § 215.1, Licensing of Training Providers, sets out the Commission's discretionary authority to enter into a contract with a training provider.

This repeal is necessary to set out the Commission's discretionary authority to enter into a contract with a training provider. The repeal creates no substantive changes to a training provider applicant's previous responsibilities or duties under rule. The repeal helps delete, renumber, and organize redundant information regarding training provider application, approval, and contract provisions.

No comments were received regarding adoption of this repeal.

The repeal is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.251, Training Programs; Instructors.

§ 215.1. Licensing of Training Providers

The final order of rule adoption has been approved this 5th day of December, 2013.

215.1 Commission Authorization of Training Providers

Summary: Allows the Commission discretionary authority to enter into a contract with a training provider applicant.

The Texas Commission on Law Enforcement (Commission) adopts the new § 215.1, concerning Commission Authorization of Training Providers without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7636) and will not be republished.

The new rule, 37 Texas Administrative Code § 215.1, Commission Authorization of Training Providers, sets out the Commission's discretionary authority to enter into a contract with a training provider.

This new rule is necessary to sets out the Commission's discretionary authority to enter into a contract with a training provider. The new rule creates no substantive changes to a training provider applicant's previous responsibilities or duties under rule. The new rule helps delete, renumber, and organize redundant information regarding training provider application, approval, and contract provisions.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.251, Training Programs; Instructors.

§ 215.1. Commission Authorization of Training Providers.

- (a) The commission may enter into a contract with:
 - (1) a law enforcement academy training provider;
 - (2) a law enforcement association, distance education, or proprietary training provider; or
 - (3) an academic alternative training provider.
- (b) To enter into a contract with the commission, a training provider must be approved after completing all requirements for application and eligibility.
- (c) A training provider applicant must use the electronic application process and submit any required fee.
- (d) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

215.2 General Application and Approval Process

Summary: Outlines the Commission's general approval process for all prospective training provider applicants.

The Texas Commission on Law Enforcement (Commission) adopts the new § 215.2, concerning General Application and Approval Process without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7637) and will not be republished.

The new rule, 37 Texas Administrative Code § 215.2, General Application and Approval Process, sets out the Commission's general approval process for all prospective training provider applicants.

This new rule is necessary to set out the Commission's general approval process for all prospective training provider applicants. This new rule creates no substantive changes to a training provider applicant's previous responsibilities or duties under rule. This new rule helps, delete, renumber, and organize redundant information regarding training provider application, approval, and contract provisions.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.251, Training Programs; Instructors.

§ 215.2. General Application and Approval Process.

- (a) In addition to all other respective entity specific application requirements of this chapter, training provider applicants must comply with the provisions of this section.
- (b) All training provider applicants must pass an inspection of facilities and instructional materials. The inspection shall be conducted by commission staff or by a team of training provider coordinators as appointed by the executive director.
- (c) A training provider applicant must have and maintain:
 - (1) qualified instructors and staff to conduct successful training;
 - (2) instructional resources to conduct successful training, to include, but not limited to, convenient access to a law enforcement reference library or sufficient number of computers for student and staff use;
 - (3) access to current and appropriate teaching tools and electronic equipment, including video players, projection equipment, computer hardware, software, and the Internet;

- (4) a proprietary interest in or a written contract providing for a firing range suitable for the course of fire required in the current basic peace officer course, with safety rules clearly posted, secure storage and first aid equipment while on the premises; and
 - (5) a proprietary interest in or a written contract providing for at least one facility to conduct police driving training, to include at least one law enforcement automobile for training.
- (d) A training provider applicant shall submit:
- (1) documentation of compliance with the electronic reporting requirements of §1701.1523 of the Texas Occupations Code;
 - (2) documentation that an advisory board has already been appointed as required by this chapter and §1701.252 of the Texas Occupations Code;
 - (3) advisory board minutes that show the advisory board has complied with the requirements of this chapter;
 - (4) the name and PID of the proposed training coordinator;
 - (5) documentation that the training coordinator is in compliance with all responsibilities required under law; and
 - (6) at the request of the executive director, submit each board member's resume for approval. Law enforcement training providers excepted, applicants may alternatively submit at least one copy of the learning objectives of each course covered by the contract.
- (e) The chief administrator and proposed training coordinator of a law enforcement academy, law enforcement association, distance education, or proprietary training provider applicant must appear before the commissioners to respond to questions prior to action being taken on the application.
- (f) The dean or chair and the proposed training coordinator of an academic alternative applicant must appear before the commissioners to respond to questions prior to action being taken on the application.
- (g) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

215.3 Academy Licensing

Summary: Repeal to replace with new rule which deletes and organizes redundant information.

The Texas Commission on Law Enforcement (Commission) adopts the repeal of § 215.3, concerning Academy Licensing without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7638) and will not be republished.

The repeal of 37 Texas Administrative Code § 215.3, Academy Licensing, allows a new rule to clarify requirements for law enforcement academies.

This repeal is necessary to set out the Commission's general approval process for all prospective training provider applicants. This repeal creates no substantive changes to a training provider applicant's previous responsibilities or duties under rule. This repeal helps delete, renumber, and organize redundant information regarding training provider application, approval, and contract provisions.

No comments were received regarding adoption of this repeal.

The repeal is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.251, Training Programs; Instructors.

§ 215.3. Academy Licensing

The final order of rule adoption has been approved this 5th day of December, 2013.

215.3 Law Enforcement Academy Training Provider

Summary: Establishes specific requirements for a law enforcement academy training provider applicant.

The Texas Commission on Law Enforcement (Commission) adopts the new § 215.3, concerning Law Enforcement Academy Training Provider without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7638) and will not be republished.

The new rule, 37 Texas Administrative Code § 215.3, Law Enforcement Academy Training Provider, clarifies requirements for law enforcement academies.

This new rule is necessary to set out the Commission's general approval process for all prospective training provider applicants. This new rule creates no substantive changes to a training provider applicant's previous responsibilities or duties under rule. This new rule helps delete, renumber, and organize redundant information regarding training provider application, approval, and contract provisions.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.251, Training Programs; Instructors.

§ 215.3. Law Enforcement Academy Training Provider.

- (a) In addition to any other application requirements under this chapter, a law enforcement academy training provider applicant shall comply with all provisions of this section.
- (b) An entity applying for a law enforcement academy training provider contract must be based on at least one of the following sponsoring organizations:
 - (1) a law enforcement agency with a minimum of 75 full-time paid peace officers, county jailers, or telecommunicators under current appointment;
 - (2) an institution recognized by the Texas Higher Education Coordinating Board; or
 - (3) a regional planning commission or councils of governments' (COG) board. The commission will enter into only one academy contract within each regional planning commission or councils of governments' area at any one time.
- (c) A law enforcement academy training provider applicant shall submit:
 - (1) the proposed formal name of the academy, which must not misrepresent the status of the academy or be confusing to law enforcement or to the public;

- (2) a proposed course schedule to show that training will be conducted on a continuing basis;
 - (3) a schedule of tuition and fees that will be charged, if any;
 - (4) the physical location and a description of the proposed training facility and any satellite sites; and
 - (5) documentation of any contract an academy may have as cosponsor with law enforcement agencies and other entities to conduct continuing education classes or basic county corrections training.
- (d) A training needs assessment must be completed and submitted for commission approval and shall include:
- (1) a description of whom the academy will serve, including the identity of each law enforcement agency the academy expects to serve, the number of officers the academy expects to train annually from each agency, and the basis for the academy's expectations;
 - (2) the number and types of courses that will be offered; and
 - (3) proof of notification by e-mail to all academies within the regional planning commission or councils of governments' area of their intent to apply for an academy contract and what specific training needs the applicant intends to meet.
- (e) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

215.5 Contractual Training

Summary: Repeal to replace with new rule which deletes and organizes redundant information.

The Texas Commission on Law Enforcement (Commission) adopts the repeal of § 215.5, concerning Contractual Training without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7639) and will not be republished.

The repeal of 37 Texas Administrative Code § 215.5, Contractual Training, allows a new rule to clarify requirements for law enforcement academies.

This repeal is necessary to set out the Commission's general approval process for all prospective training provider applicants. This repeal creates no substantive changes to a training provider applicant's previous responsibilities or duties under rule. This repeal helps delete, renumber, and organize redundant information regarding training provider application, approval, and contract provisions.

No comments were received regarding adoption of this repeal.

The repeal is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.251, Training Programs; Instructors.

§ 215.5. Contractual Training

The final order of rule adoption has been approved this 5th day of December, 2013.

215.5 Other Training Providers

Summary: Establishes specific requirements for academy training provider applicants.

The Texas Commission on Law Enforcement (Commission) adopts the new § 215.5, concerning Other Training Providers without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7640) and will not be republished.

The new rule, 37 Texas Administrative Code § 215.5, Other Training Providers, establishes specific requirements for academy training provider applicants.

This new rule is necessary to set out the Commission's general approval process for all prospective training provider applicants. This new rule creates no substantive changes to a training provider applicant's previous responsibilities or duties under rule. This new rule helps delete, renumber, and organize redundant information regarding training provider application, approval, and contract provisions.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.251, Training Programs; Instructors.

§ 215.5. Other Training Providers.

- (a) In addition to any other application requirements under this chapter, a law enforcement association, distance education, or proprietary training provider applicant shall comply with all provisions of this section.
- (b) A law enforcement association, distance education, or proprietary training provider applicant shall submit a schedule of tuition and fees that will be charged, if any.
- (c) A training needs assessment must be completed and submitted for commission approval and shall include:
 - (1) what specific training needs are to be addressed by the proposed contract; and
 - (2) the number and types of courses that will be offered during the first quarter of the executed contract.
- (d) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

215.6 Academic Alternative Licensing

Summary: Repeal to replace with new rule which deletes and organizes redundant information.

The Texas Commission on Law Enforcement (Commission) adopts the repeal of § 215.6, concerning Academic Alternative Licensing without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7640) and will not be republished.

The repeal of 37 Texas Administrative Code § 215.6, Academic Alternative Licensing, allows a new rule to clarify requirements for academic alternative training provider applicant's.

This repeal is necessary to set out the Commission's general approval process for all prospective academic alternative training provider applicants. With the exception of requiring an academic alternative program to conduct a comprehensive review subject to commission approval prior to licensing exam, this repeal creates no substantive changes to an academic alternative training provider applicant's previous responsibilities or duties under rule. This repeal helps delete, renumber, and organize redundant information regarding training provider application, approval, and contract provisions.

No comments were received regarding adoption of this repeal.

The repeal is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.251, Training Programs; Instructors.

§ 215.6. Academic Alternative Licensing

The final order of rule adoption has been approved this 5th day of December, 2013.

215.6 Academic Alternative Training Provider

Summary: Establishes specific requirements for academic alternative training provider applicants.

The Texas Commission on Law Enforcement (Commission) adopts the new § 215.6, concerning Academic Alternative Training Provider without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7641) and will not be republished.

The new rule, 37 Texas Administrative Code § 215.6, Academic Alternative Training Provider, establishes specific requirements for academic alternative training provider applicants.

This new rule is necessary to set out the Commission's general approval process for all prospective academic alternative training provider applicants. With the exception of requiring an academic alternative program to conduct a comprehensive review subject to commission approval prior to licensing exam, this new rule creates no substantive changes to an academic alternative training provider applicant's previous responsibilities or duties under rule. This new rule helps delete, renumber, and organize redundant information regarding training provider application, approval, and contract provisions.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.251, Training Programs; Instructors.

§ 215.6. Academic Alternative Training Provider.

- (a) In addition to any other application requirements under this chapter, an academic alternative applicant shall comply with all provisions of this section.
- (b) A Texas college or university that is accredited by the Southern Association of Colleges and Schools (SACS) and which has a criminal justice or law enforcement program approved by the Texas Higher Education Coordinating Board (THECB) may make application to conduct training for licensees under a training provider contract.
- (c) An academic alternative applicant shall submit:
 - (1) documentation of approval from THECB for a criminal justice or law enforcement program;
 - (2) a proposed course schedule to show that training will be conducted;
 - (3) documentation of any contractual provision the applicant may have with a contract academy to provide the sequence courses; and

- (4) provisions for the Registrar to approve all students qualified for the state basic licensing exam in a timely manner.
- (d) A training needs assessment must be submitted to the commission for approval and must include:
 - (1) a description of whom the alternative academic provider will serve and the number of students they expect to train annually;
 - (2) the basis for these expectations; and
 - (3) proof of notification by e-mail to all academies within the area of the applicant's intent to apply for an academic alternative provider contract.
- (e) An academic alternative program shall conduct a comprehensive review subject to commission approval prior to licensing exam.
- (f) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

215.7 Training Provider Advisory Board

Summary: Conforms rule to longstanding practice and other provisions by replacing “license” with “contract.”

The Texas Commission on Law Enforcement (Commission) adopts the amended § 215.7, concerning Training Provider Advisory Board without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7641) and will not be republished.

The amendment to 37 Texas Administrative Code § 215.7, Training Provider Advisory Board, conforms rule to longstanding practice and other provisions by replacing “license” with “contract.”.

This amendment is necessary to conform with the Commission’s longstanding practice and other provisions by replacing “license” with “contract.”.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.251 Training Programs; Instructors and § 1701.252 Program and School Requirements; Advisory Board.

§ 215.7. Training Provider Advisory Board.

- (a) All training providers approved by the commission must establish and maintain an advisory board, as required by § 1701.252 of the Texas Occupations Code. The board must have at least three members who are appointed by the sponsoring organization. Board membership must not fall below a quorum for more than 30 days. A quorum of the advisory board is defined as a minimum of 51% of the voting membership.
- (b) The board may have members who are law enforcement personnel; however, one-third of the members must be public members, as defined in § 1701.052 of the Texas Occupations Code, having the same qualification as any commissioner who is required by law to be a member of the general public. The chief administrator, or head of the sponsoring organization, and the designated training coordinator may only serve as ex-officio, non-voting members. Board members are required to successfully complete the commission developed advisory board training course within one year of appointment to an advisory board.
- (c) The chief administrator, or head or the sponsoring organization, may appoint a board chair, or the board may elect a board member to serve as the board chair. The board

may elect other officers and set its own rules of procedure. A quorum must be present in order to conduct business.

- (d) A board must meet at least once each calendar year. More frequent meetings may be called by the board chair, the training coordinator, or the person who appoints the board.
- (e) A board will keep written minutes of all meetings. These minutes must be retained for at least five years and a copy forwarded to the commission upon request.
- (f) Board members will be appointed by the following authority:
 - (1) for an agency academy, by the chief administrator as defined in § 211.1 of this title;
 - (2) for a college academy, by the dean or other person who appoints the training coordinator;
 - (3) for a regional academy, by the head of the council of governments or other sponsoring entity holding the academy contract from names submitted by chief administrators from that area;
 - (4) for a contractual training provider, by the chief administrator; or
 - (5) for an academic alternative provider, by the dean or other person who appoints the training coordinator.
- (g) A member may be removed by the appointing authority.
- (h) A board is generally responsible for advising on the development of curricula and any other related duty that may be required by the commission.
- (i) The board must, as specific duties:
 - (1) discharge its responsibilities and otherwise comply with commission rules;
 - (2) advise on the need to study, evaluate, and identify specific training needs;
 - (3) advise on the determination of the types, frequency, and location of courses to be offered;
 - (4) advise on the establishment of the standards for admission, prerequisites, minimum and maximum class size, attendance, and retention; and
 - (5) advise on the order of preference among employees or prospective appointees of the sponsoring organization and other persons, if any.
- (j) No person may be admitted to a training course without meeting the admission standards. The admission standards for licensing courses must be available for review by the commission upon request.
- (k) A board may, when discharging its responsibilities, request that a report be made or some other information be provided to them by a training or course coordinator.
- (l) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

215.13 Risk Assessment

Summary: Conforms rule to longstanding practice and other provisions by replacing “license” with “contract.”

The Texas Commission on Law Enforcement (Commission) adopts the amended § 215.13, concerning Risk Assessment without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7642) and will not be republished.

The amendment to 37 Texas Administrative Code § 215.13, Risk Assessment, conforms rule to longstanding practice and other provisions by replacing “license” with “contract.”.

This amendment is necessary to conform with the Commission’s longstanding practice and other provisions by replacing “license” with “contract.”

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.254, Risk Assessment and Inspections.

§ 215.13. Risk Assessment.

- (a) A training provider may be found at risk and placed on at-risk probationary status if:
- (1) for those providing licensing courses, the passing rate on a licensing exam for first attempts for any three consecutive state fiscal years, beginning with state fiscal year 2007 (September 1, 2006 through August 31, 2007) is less than 80 percent of the students attempting the licensing exam;
 - (2) courses taught by academic alternative providers are not conducted in compliance with Higher Education Program Guidelines accepted by the commission;
 - (3) commission required learning objectives are not taught;
 - (4) lesson plans for classes conducted are not on file;
 - (5) examination and other evaluative scoring documentation is not on file;
 - (6) the training provider submits false reports to the commission;
 - (7) the training provider makes repeated errors in reporting;
 - (8) the training provider does not respond to commission requests for information;
 - (9) the training provider does not comply with commission rules or other applicable law;
 - (10) the training provider does not achieve the goals identified in its application for a contract;

- (11) the training provider does not meet the needs of the officers and law enforcement agencies served; or
 - (12) the commission has received sustained complaints or evaluations from students or the law enforcement community concerning the quality of training or failure to meet training needs for the service area.
- (b) A training provider may be found at risk and placed on at-risk probationary status if:
- (1) the contractor provides licensing courses and fails to comply with the passing rates in subsection (a)(1) of this section;
 - (2) lesson plans for classes conducted are not on file;
 - (3) examination and other evaluative scoring documentation is not on file;
 - (4) the provider submits false reports to the commission;
 - (5) the provider makes repeated errors in reporting;
 - (6) the provider does not respond to commission requests for information;
 - (7) the provider does not comply with commission rules or other applicable law;
 - (8) the provider does not achieve the goals identified in its application for a contract;
 - (9) the provider does not meet the needs of the officers and law enforcement agencies served; or
 - (10) the commission has received sustained complaints or evaluations from students or the law enforcement community concerning the quality of training or failure to meet training needs for the service area.
- (c) An academic alternative provider may be found at risk and placed on at-risk probationary status if:
- (1) the academic alternative provider fails to comply with the passing rates in subsection (a)(1) of this section;
 - (2) courses are not conducted in compliance with Higher Education Program Guidelines accepted by the commission;
 - (3) the commission required learning objectives are not taught;
 - (4) the program submits false reports to the commission;
 - (5) the program makes repeated errors in reporting;
 - (6) the program does not respond to commission requests for information;
 - (7) the program does not comply with commission rules or other applicable law;
 - (8) the program does not achieve the goals identified in its application for a contract;
 - (9) the program does not meet the needs of the students and law enforcement agencies served; or
 - (10) the commission has received sustained complaints or evaluations from students or the law enforcement community concerning the quality of education or failure to meet education needs for the service area.
- (d) If at risk, the chief administrator of the sponsoring organization, or the training coordinator, must report to the commission in writing within 30 days what steps are being taken to correct deficiencies and on what date they expect to be in compliance.

- (e) The chief administrator of the sponsoring organization, or the training coordinator, shall report to the commission the progress toward compliance within the timelines provided in the management response as provided in subsection (d) of this section.
- (f) The commission shall place providers found at-risk on probationary status for one year. If the provider remains at-risk after a 12-month probationary period, the commission shall begin the revocation process. If a provider requests a settlement agreement, the commission may enter into an agreement in lieu of revocation.
- (g) A training or educational program placed on at-risk probationary status must notify all students and potential students of their at-risk status.
- (h) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

215.15 Basic Licensing Enrollment Standards

Summary: Repeal to replace with new rule which deletes and organizes redundant information and clarifies disqualifying language.

The Texas Commission on Law Enforcement (Commission) adopts the repeal of § 215.15, concerning Basic Licensing Enrollment Standards without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7644) and will not be republished.

The repeal of 37 Texas Administrative Code § 215.15, Basic Licensing Enrollment Standards, allows a new rule which deletes redundant information, conforms disqualifying family violence language to current suspension and revocation rules, clarifies longstanding interpretation of previous rules related to disqualifying military discharges involving bad conduct, and removes telecommunicators from federal motor vehicle and firearm possession disqualifiers.

This repeal is necessary to set out the Commission's general approval process for all basic licensing enrollment applicants.

No comments were received regarding adoption of this repeal.

The repeal is adopted under Texas Occupations Code, Chapter 1701, § 1701.151, General Powers of the Commission; Rulemaking Authority.

§ 215.15. Basic Licensing Enrollment Standards

The final order of rule adoption has been approved this 5th day of December, 2013.

215.16 Telecommunicator Enrollment Standards

Summary: Repeal to replace with new rule which deletes and organizes redundant information and clarifies disqualifying language.

The Texas Commission on Law Enforcement (Commission) adopts the repeal of § 215.16, concerning Telecommunicator Enrollment Standards without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7644) and will not be republished.

The repeal of 37 Texas Administrative Code § 215.16, Telecommunicator Enrollment Standards, allows a new rule which deletes redundant information, conforms disqualifying family violence language to current suspension and revocation rules, and clarifies longstanding interpretation of previous rules related to disqualifying military discharges involving bad conduct.

This repeal is necessary to set out the Commission's general approval process for all telecommunicator enrollment applicants.

No comments were received regarding adoption of this repeal.

The repeal is adopted under Texas Occupations Code, Chapter 1701, § 1701.151, General Powers of the Commission; Rulemaking Authority.

§ 215.16. Telecommunicator Enrollment Standards

The final order of rule adoption has been approved this 5th day of December, 2013.

215.17 General Contract Procedures and Provisions

Summary: Consolidates and establishes general contract provisions with approved training provider applicants.

The Texas Commission on Law Enforcement (Commission) adopts the new § 215.17, concerning General Contract Procedures and Provisions without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7645) and will not be republished.

The new rule, 37 Texas Administrative Code § 215.17, General Contract Procedures and Provisions, consolidates and establishes general contract provisions with approved training provider applicants.

This new rule is necessary to consolidate and set out Commission's general contract provisions with approved training provider applicants. This new rule creates no substantive changes to training provider applicant's previous responsibilities or duties under rule and helps to delete, renumber, and organize redundant information regarding training provider application, approval, and contract provisions.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.251, Training Programs; Instructors.

§ 215.17. General Contract Procedures and Provisions.

- (a) Once an application is approved, the commission and a training provider may enter into a training provider contract for a term no longer than five years.
- (b) To renew a contract, the training provider must apply to the commission using the current renewal application and at least six months prior to expiration of a contract.
- (c) The commission may renew a training provider contract for any term deemed appropriate and dependent upon an evaluation which includes an assessment of the provider's compliance with: commission standards; terms of the contract; and program performance.
- (d) A contract may approve courses and the number of times they will be offered.
- (e) The commission will award training credit for any course conducted by a training provider unless:
 - (1) training was not conducted as required by contract or commission rules;

- (2) courses were not conducted in compliance with other applicable governing standards, including Texas Higher Education Coordinating Board (THECB) guidelines;
 - (3) training is not related to a commission license;
 - (4) an advisory board, academy, training coordinator, course coordinator, or instructor failed to discharge any responsibility required by contract or commission rule;
 - (5) credit was claimed by deceitful or untruthful means;
 - (6) distance education courses of a proprietary nature, equivalency, or the distance education portion of a basic licensing course were not submitted and approved under commission distance education guidelines; or
 - (7) the training provider has not complied with terms of a contract.
- (f) Once under contract, the chief administrator of the sponsoring organization or the training coordinator must submit a written report within thirty days of:
- (1) any change in the chief administrator or training coordinator;
 - (2) any failure to meet commission rules and standards by the academy, training coordinator, instructors, or advisory board;
 - (3) when non-compliance with federal or state requirements is discovered;
 - (4) any change in name, physical location, mailing address, electronic mail address, or telephone number; or
 - (5) any change in the department dean, Southern Association of Colleges and Schools, or THECB status for academic alternative training providers.
- (g) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

215.19 Contract Cancellation, Suspension, and Termination

Summary: Streamlines approved training provider contracts.

The Texas Commission on Law Enforcement (Commission) adopts the new § 215.19, concerning Contract Cancellation, Suspension, and Termination without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7646) and will not be republished.

The new rule, 37 Texas Administrative Code § 215.19, Contract Cancellation, Suspension, and Termination, consolidates and establishes general contract provisions with approved training provider applicants.

This new rule is necessary to consolidate and set out training provider contract cancellation, suspension, and termination provisions. This new rule creates no substantive changes to training provider applicant's previous responsibilities or duties under rule and helps to delete, renumber, and organize redundant information regarding training provider application, approval, and contract provisions.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.251, Training Programs; Instructors.

§ 215.19. Contract Cancellation, Suspension, and Termination.

- (a) The commission may cancel a contract issued in error or based on false or incorrect information.
- (b) The commission may suspend operation of a contract for a training provider's noncompliance with the terms of the contract or any commission rule or law. Operation of the contract may be suspended for a period of time, including a period pending outcome of an investigation or until remedial compliance with applicable standards has been met.
- (c) The commission may terminate a training provider contract if the:
 - (1) training coordinator intentionally or knowingly submits, or causes the submission of, a falsified document or a false written statement or representation to the commission;
 - (2) provider has not met the needs of the communities or agencies it serves;

- (3) provider fails to comply with any term of a contract or violation of a commission rule or law, including when a provider has been classified as at risk under this chapter for a twelve-month period without complying with commission rules;
 - (4) provider has failed to conduct training within a calendar year without a waiver from the commission; or
 - (5) provider has lost accreditation, including Southern Association of Colleges and Schools or Texas Higher Education Coordinating Board approval.
- (d) A contract may be terminated with ten days written notice by the commission or training provider. A training provider contract shall incorporate by reference all requirements and standards under Texas Occupations Code Chapter 1701, commission rules, and any other applicable law.
- (e) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

217.1 Minimum Standards for Initial Licensure

Summary: Conforms disqualifying military discharges and family violence language to current suspension and revocation rule.

The Texas Commission on Law Enforcement (Commission) adopts the amended § 217.1, concerning Minimum Standards for Initial Licensure without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7646) and will not be republished.

The amendment to 37 Texas Administrative Code § 217.1, Minimum Standards for Initial Licensure, conforms disqualifying military discharges and family violence language to current suspension and revocation rule.

This amendment is necessary to conform disqualifying “family violence” language to current suspension and revocation rules. It also clarifies to reflect longstanding interpretation of previous rules related to disqualifying military discharges involving bad conduct.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, § 1701.151, General Powers of the Commission; Rulemaking Authority.

§ 217.1. Minimum Standards for Initial Licensure.

- (a) The commission shall issue a license to an applicant who meets the following standards:
 - (1) age requirement:
 - (A) for peace officers and public security officers, is 21 years of age; or 18 years of age if the applicant has received:
 - (i) an associate's degree; or 60 semester hours of credit from an accredited college or university; or
 - (ii) has received an honorable discharge from the armed forces of the United States after at least two years of active service;
 - (B) for jailers is 18 years of age;
 - (2) minimum educational requirements:
 - (A) has passed a general educational development (GED) test indicating high school graduation level; or
 - (B) holds a high school diploma;
 - (3) is fingerprinted and is subjected to a search of local, state and U.S. national records and fingerprint files to disclose any criminal record;

- (4) community supervision history:
 - (A) has not ever been on court-ordered community supervision or probation for any criminal offense above the grade of Class B misdemeanor or a Class B misdemeanor within the last ten years from the date of the court order; but
 - (B) the commission may approve the application of a person who received probation or court-ordered community supervision for a Class B misdemeanor at least five (5) years prior to application if an agency administrator sufficiently demonstrates in writing with supporting documentation that mitigating circumstances exist with the case and with the individual applying for licensure, and that the public interest would be served by reducing the waiting period;
- (5) is not currently charged with any criminal offense for which conviction would be a bar to licensure;
- (6) conviction history:
 - (A) has not ever been convicted of an offense above the grade of a Class B misdemeanor or a Class B misdemeanor within the last ten years; but
 - (B) the commission may approve the application of a person who was convicted for a Class B misdemeanor at least five (5) years prior to application if an agency administrator sufficiently demonstrates in writing with supporting documentation that mitigating circumstances exist with the case and with the individual applying for licensure, and that the public interest would be served by reducing the waiting period;
- (7) has never been convicted in any court of an offense involving family violence as defined under Chapter 71, Texas Family Code;
- (8) is not prohibited by state or federal law from operating a motor vehicle;
- (9) is not prohibited by state or federal law from possessing firearms or ammunition;
- (10) has been subjected to a background investigation and has been interviewed prior to appointment by representatives of the appointing authority;
- (11) examined by a physician, selected by the appointing or employing agency, who is licensed by the Texas Medical Board. The physician must be familiar with the duties appropriate to the type of license sought and appointment to be made. The appointee must be declared by that professional, on a form prescribed by the commission, within 180 days before the date of appointment by the agency to be:
 - (A) physically sound and free from any defect which may adversely affect the performance of duty appropriate to the type of license sought;
 - (B) show no trace of drug dependency or illegal drug use after a blood test or other medical test; and
 - (C) for the purpose of meeting the requirements for initial licensure, an individual's satisfactory medical exam that is conducted as a requirement

- of a basic licensing course may remain valid for 180 days from the individual's date of graduation from that academy, if accepted by the appointing agency;
- (12) examined by a psychologist, selected by the appointing, employing agency, or the academy, who is licensed by the Texas State Board of Examiners of Psychologists. This examination may also be conducted by a psychiatrist licensed by the Texas Medical Board. The psychologist or psychiatrist must be familiar with the duties appropriate to the type of license sought. The individual must be declared by that professional, on a form prescribed by the commission, to be in satisfactory psychological and emotional health to serve as the type of officer for which the license is sought. The examination must be conducted pursuant to professionally recognized standards and methods. The examination process must consist of a review of a job description for the position sought; review of any personal history statements; review of any background documents; at least two instruments, one which measures personality traits and one which measures psychopathology; and a face to face interview conducted after the instruments have been scored. The appointee must be declared by that professional, on a form prescribed by the commission, within 180 days before the date of the appointment by the agency;
- (A) the commission may allow for exceptional circumstances where a licensed physician performs the evaluation of psychological and emotional health. This requires the appointing agency to request in writing and receive approval from the commission, prior to the evaluation being completed; or
- (B) the examination may be conducted by qualified persons identified by Texas Occupations Code § 501.004. This requires the appointing agency to request in writing and receive approval from the commission, prior to the evaluation being completed; and
- (C) for the purpose of meeting the requirements for initial licensure, an individual's satisfactory psychological exam that is conducted as a requirement of a basic licensing course may remain valid for 180 days from the individual's date of graduation from that academy, if accepted by the appointing agency;
- (13) has never received a dishonorable or other discharge based on misconduct which bars future military service;
- (14) has not had a commission license denied by final order or revoked;
- (15) is not currently on suspension, or does not have a surrender of license currently in effect;
- (16) meets the minimum training standards and passes the commission licensing examination for each license sought;

- (17) has not violated any commission rule or provision of the Texas Occupations Code Chapter 1701; and
- (18) is a U.S. citizen.
- (b) For the purposes of this section, the commission will construe any court-ordered community supervision, probation or conviction for a criminal offense to be its closest equivalent under the Texas Penal Code classification of offenses if the offense arose from:
 - (1) another penal provision of Texas law; or
 - (2) a penal provision of any other state, federal, military or foreign jurisdiction.
- (c) A classification of an offense as a felony at the time of conviction will never be changed because Texas law has changed or because the offense would not be a felony under current Texas laws.
- (d) In evaluating whether mitigating circumstances exist, the commission will consider the following factors:
 - (1) the applicant's history of compliance with the terms of community supervision;
 - (2) the applicant's continuing rehabilitative efforts not required by the terms of community supervision;
 - (3) the applicant's employment record;
 - (4) whether the disposition offense contains an element of actual or threatened bodily injury or coercion against another person under the Texas Penal Code or the law of the jurisdiction where the offense occurred;
 - (5) the required mental state of the disposition offense;
 - (6) whether the conduct resulting in the arrest resulted in the loss of or damage to property or bodily injury;
 - (7) the type and amount of restitution made by the applicant;
 - (8) the applicant's prior community service;
 - (9) the applicant's present value to the community;
 - (10) the applicant's post-arrest accomplishments;
 - (11) the applicant's age at the time of arrest; and
 - (12) the applicant's prior military history.
- (e) A person must meet the training and examination requirements:
 - (1) training for the peace officer license consists of:
 - (A) the current basic peace officer course(s);
 - (B) a commission recognized, POST developed, basic law enforcement training course, to include:
 - (i) out of state licensure or certification; and
 - (ii) submission of the current eligibility application and fee; or
 - (C) a commission approved academic alternative program, taken through a licensed academic alternative provider and at least an associate's degree.

- (2) training for the jailer license consists of the current basic county corrections course(s) or training recognized under Texas Occupations Code § 1701.310;
 - (3) training for the public security officer license consists of the current basic peace officer course(s); and
 - (4) passing any examination required for the license sought while the exam approval remains valid.
- (f) The commission shall issue a license to any person who is otherwise qualified for that license, even if that person is not subject to the licensing law or rules by virtue of election or appointment to office under the Texas Constitution.
 - (g) A sheriff who first took office on or after January 1, 1994, must meet the licensing requirements of Texas Occupations Code § 1701.302.
 - (h) A constable taking office after August 30, 1999, must meet the licensing requirements of Texas Local Government Code § 86.0021.
 - (i) The commission may issue a provisional license, consistent with Texas Occupations Code § 1701.311, to an agency for a person to be appointed by that agency. An agency must submit all required applications currently prescribed by the commission and all required fees before the individual is appointed. Upon the approval of the application, the commission will issue a provisional license. A provisional license is issued in the name of the applicant; however, it is issued to and shall remain in the possession of the agency. Such a license may neither be transferred by the applicant to another agency, nor transferred by the agency to another applicant. A provisional license may not be reissued and expires:
 - (1) 12 months from the original appointment date;
 - (2) on leaving the appointing agency; or
 - (3) on failure to comply with the terms stipulated in the provisional license approval.
 - (j) The commission may issue a temporary jailer license, consistent with Texas Occupations Code § 1701.310. An agency must submit all required applications currently prescribed by the commission and all required fees before the individual is appointed. Upon the approval of the application, the commission will issue a temporary jailer license. A temporary jailer license expires:
 - (1) 12 months from the original appointment date; or
 - (2) on completion of training and passing of the jailer licensing examination.
 - (k) A person who fails to comply with the standards set forth in this section shall not accept the issuance of a license and shall not accept any appointment. If an application for licensure is found to be false or untrue, it is subject to cancellation or recall.
 - (l) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

217.5 Denial and Cancellation

Summary: Adds “school districts” to list of entities who may not appoint an unqualified person under Commission standards.

The Texas Commission on Law Enforcement (Commission) adopts the amended § 217.5, concerning Denial and Cancellation without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7649) and will not be republished.

The amendment to 37 Texas Administrative Code § 217.5, Denial and Cancellation, adds “school districts” to list of entities who may not appoint an unqualified person under Commission standards.

In response to the statutory creation of the school marshal program, this amendment is necessary to conform with statutory amendments by adding “school districts” to the list of entities who may not appoint an unqualified person under Commission standards. In order to protect Texans from exposure to ineligible license holders or applicants, it is necessary to deny appointment or issuance of a license pending a determination of eligibility or administrative sanction. Also, school districts are added to this section under the legislatively created “School Marshal” program.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, § 1701.151, General Powers of the Commission; Rulemaking Authority.

§ 217.5. Denial and Cancellation.

- (a) The commission may deny an application for any license and may refuse to accept a report of appointment if the:
- (1) applicant has not been reported to the commission as meeting all minimum standards, including any training or testing requirements;
 - (2) applicant has not affixed any required signature;
 - (3) required forms or documentation are incomplete, illegible, or are not attached;
 - (4) application is not submitted or signed by a chief administrator, or designee with authority to appoint the applicant to the position reported;
 - (5) application is not submitted by the appointing agency or entity;
 - (6) agency reports the applicant in a capacity that does not require the license sought;

- (7) agency fails to provide documentation, if requested, of the agency's creation or authority to appoint persons in the capacity of the license sought or the agency is without such authority; or
 - (8) application contains a false assertion by any person; or
 - (9) applicant is subject to pending administrative action against a commission-issued license.
- (b) An agency chief administrator or school district may not appoint an applicant subject to pending administrative action based on:
- (1) enrollment or licensure ineligibility; or
 - (2) statutory suspension or revocation.
- (c) If an application is found to be incorrect or subject to denial under subsection (a) of this section, any license issued to the applicant by the commission is subject to cancellation.
- (d) Any such document may expire or be cancelled, surrendered, suspended, revoked, deactivated, or otherwise invalidated. Mere possession of the physical document does not necessarily mean that the person:
- (1) currently holds, has ever held, or has any of the powers of the office indicated on the document; or
 - (2) still holds an active, valid license, or certificate.
- (e) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

217.7 Reporting Appointment and Separation of a Licensee

Summary: Adds telecommunicators to agency appointment requirements.

The Texas Commission on Law Enforcement (Commission) adopts the amended § 217.7, concerning Reporting Appointment and Separation of a Licensee without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7650) and will not be republished.

The amendment to 37 Texas Administrative Code § 217.7, Reporting Appointment and Separation of a Licensee, adds telecommunicators to agency appointment requirements.

This amendment is necessary to conform with statutory amendments by adding “telecommunicator” to agency appointment requirements. It also removes redundant cross-referencing to other rule numbers.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.405, Telecommunicators.

§ 217.7. Reporting Appointment and Separation of a Licensee.

- (a) Before a law enforcement agency may hire a person licensed under Texas Occupations Code Chapter 1701, the agency head or the agency head's designee must:
 - (1) make a request to the commission for any employment termination report(s) regarding the person maintained by the commission under this chapter; and
 - (2) submit to the commission in a manner prescribed by the commission confirmation that the agency:
 - (A) conducted in the manner prescribed by the commission a background investigation of the person on a form that meets or exceeds the form prescribed by the commission;
 - (B) obtained the person's written consent on a form prescribed by the commission for the agency to view the person's employment records;
 - (C) obtained from the commission any service or education records regarding the person maintained by the commission; and
 - (D) contacted each of the person's previous law enforcement employers.
- (b) A request submitted electronically under this section must contain identifying information, acceptable to the commission, for verification.

- (c) A law enforcement agency that obtains a consent form described by subsection (a)(2)(B) of this section shall make the person's employment records available to a hiring law enforcement agency on request.
- (d) An agency that appoints an individual with less than a 180-day break in service who already holds a valid, active license appropriate to that position must notify the commission of such appointment not later than 30 days after the date of appointment. The appointing agency must have on file:
 - (1) documentation that the agency has met the requirements in subsection (a) of this section; and
 - (2) documentation that a peace officer is compliant with weapons qualification standards within the last 12 months.
- (e) If the appointment is made after a 180-day break in service, the agency must have the following on file and readily accessible to the commission:
 - (1) documentation that the agency has met the requirements in subsection (a) of this section;
 - (2) a new criminal history check by name, sex, race and date of birth from both TCIC and NCIC;
 - (3) a new declaration of psychological and emotional health;
 - (4) a new declaration of lack of any drug dependency or illegal drug use;
 - (5) one completed applicant fingerprint card or, pending receipt of such card, an original sworn, notarized affidavit by the applicant of their complete criminal history; such affidavit to be maintained by the agency while awaiting the return of completed applicant fingerprint card; and
 - (6) for peace officers, weapons qualification standards within the last 12 months.
- (f) When an individual licensed by the commission separates from appointment with an agency, the agency shall submit a report to the commission and to the licensee in the currently prescribed commission format that reports the separation. The report shall be submitted no later than the seventh business day after the licensee resigns, retires, is terminated, or separates from the agency and if applicable, exhausts all administrative appeals available to the licensee.
- (g) Agencies must report the employment and separation of telecommunicators on a form prescribed by the commission. The reports must be submitted under the following guidelines:
 - (1) within 30 days of employment; or
 - (2) no later than the seventh business day after separation and if applicable, after all administrative appeals are exhausted.
- (h) An agency must retain records kept under this section for a minimum of five years after the licensee's termination date with that agency. The records must be maintained in a format readily accessible to the commission.

- (i) All information submitted under subsection (f) of this section is exempt from disclosure under the Public Information Act, Texas Government Code Chapter 552, unless the individual resigned or was terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses, and is subject to subpoena only in a judicial proceeding.
- (j) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

217.8 Contesting an Employment Termination Report

Summary: Clarifies how reports of separation will be changed after an F-5 Report of Separation hearing.

The Texas Commission on Law Enforcement (Commission) adopts the amended § 217.8, concerning Contesting an Employment Termination Report without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7651) and will not be republished.

The amendment to 37 Texas Administrative Code § 217.8, Contesting an Employment Termination Report, clarifies how reports of separation will be changed after an F-5 Report of Separation hearing.

This amendment is necessary to conform with statutory amendments by adding telecommunicator as a licensee entitled to an F-5 Report of Separation. Also, instead of issuing orders to the chief administrators, administrative law judges will now instruct the Commission to make any necessary changes after an F-5 Report of Separation hearing. The amendment(s) further removes redundant cross-referencing to other rule numbers.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.4525, Petition for Correction of Report; Hearing; Administrative Penalty.

§ 217.8. Contesting an Employment Termination Report.

- (a) A person who is the subject of an employment termination report is entitled to file a petition contesting information included in the employment termination report. The written petition for correction of the report must be filed with the executive director on a form currently prescribed by the commission and a copy must be served on the law enforcement agency.
- (b) A petition described in subsection (a) of this section must be received by the executive director not later than the 30th day after the person receives a copy of the report of separation.
- (c) Upon receipt of the petition the executive director will refer the dispute to SOAH.
- (d) A proceeding conducted pursuant to subsection (c) of this section is a contested case under Chapter 2001, Texas Government Code. The parties to the proceeding shall be the person contesting the employment termination and the chief administrative officer of the law enforcement agency. The Commission is not considered a party in a proceeding

conducted by SOAH. The chief administrative officer of the law enforcement agency shall have the burden of proof by a preponderance of the evidence. Following the contested case hearing, the administrative law judge shall issue a final order on the petition.

- (e) If the alleged misconduct is not supported by a preponderance of the evidence, the administrative law judge shall order the commission to change the report. The commission shall send the changed report to the law enforcement agency that prepared the original employment termination report. The law enforcement agency shall replace the original employment termination report with the changed report.
- (f) Any party to a proceeding described in subsection (d) of this section may file exceptions to the administrative law judge's final order in accordance with SOAH rules and procedures.
- (g) The results of a hearing described in subsection (d) of this section are enforceable by the commission pursuant to Chapter 1701, Texas Occupations Code and Chapter 2001, Texas Government Code.
- (h) The results of a hearing described in subsection (d) of this section are appealable in accordance with Chapter 2001, Texas Government Code.
- (i) A chief administrative officer of a law enforcement agency who fails to comply with the results of a hearing after all appeals available to the agency have been exhausted is subject to disciplinary action pursuant to Chapter 1701, Texas Occupations Code, and Chapter 223 of this title.
- (j) All information submitted under subsection (d) of this section is exempt from disclosure under the Public Information Act, Chapter 552, Texas Government Code, unless the individual resigned or was terminated due to substantiated incidents of excessive force or violations of law other than traffic offenses, and is subject to subpoena only in a judicial proceeding.
- (k) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

217.9 Continuing Education Credit for Licensees.

Summary: Repeal to replace with new rule for organizational purposes.

The Texas Commission on Law Enforcement (Commission) adopts the repeal of § 217.9, concerning Continuing Education Credit for Licensees without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7652) and will not be republished.

The repeal of 37 Texas Administrative Code § 217.9, Continuing Education Credit for Licensees, allows a new rule which renumbers and organizes rules regarding licensee continuing education requirements.

This repeal is necessary to set out the Commission's general approval process for all continuing education credit for licensees. This repeal creates no substantive changes to a continuing education responsibilities or duties under rule. This repeal helps renumber and organize rules regarding licensee continuing education requirements.

No comments were received regarding adoption of this repeal.

The repeal is adopted under Texas Occupations Code, Chapter 1701, § 1701.151, General Powers of the Commission; Rulemaking Authority.

§ 217.9. Continuing Education Credit for Licensees

The final order of rule adoption has been approved this 5th day of December, 2013.

217.13 Reporting Legislatively Required Continuing Education.

Summary: Repeal to replace with new rule for organizational purposes.

The Texas Commission on Law Enforcement (Commission) adopts the repeal of § 217.13, concerning Reporting Legislatively Required Continuing Education without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7652) and will not be republished.

The repeal of 37 Texas Administrative Code § 217.13, Reporting Legislatively Required Continuing Education, allows a new rule which renumbers and organizes rules regarding licensee continuing education requirements.

This repeal is necessary to set out the Commission's general approval process for reporting education credit for licensees. This repeal creates no substantive changes to a continuing education reporting responsibilities or duties under rule. This repeal helps renumber and organize rules regarding licensee continuing education requirements.

No comments were received regarding adoption of this repeal.

The repeal is adopted under Texas Occupations Code, Chapter 1701, § 1701.151, General Powers of the Commission; Rulemaking Authority.

§ 217.13. Reporting Legislatively Required Continuing Education

The final order of rule adoption has been approved this 5th day of December, 2013.

217.15 Waiver of Legislatively Required Continuing Education.

Summary: Repeal to replace with new rule for organizational purposes.

The Texas Commission on Law Enforcement (Commission) adopts the repeal of § 217.15, concerning Waiver of Legislatively Required Continuing Education without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7653) and will not be republished.

The repeal of 37 Texas Administrative Code § 217.15, Waiver of Legislatively Required Continuing Education, allows a new rule which renumbers and organizes rules regarding licensee continuing education requirements.

This repeal is necessary to set out the Commission's general approval process for reporting education credit for licensees. This repeal creates no substantive changes to a continuing education reporting responsibilities or duties under rule. This repeal helps renumber and organize rules regarding licensee continuing education requirements.

No comments were received regarding adoption of this repeal.

The repeal is adopted under Texas Occupations Code, Chapter 1701, § 1701.151, General Powers of the Commission; Rulemaking Authority.

§ 217.15. Waiver of Legislatively Required Continuing Education

The final order of rule adoption has been approved this 5th day of December, 2013.

217.19 Reactivation of a License.

Summary: Repeal to replace with new rule for organizational purposes.

The Texas Commission on Law Enforcement (Commission) adopts the repeal of § 217.19, concerning Reactivation of a License without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7653) and will not be republished.

The repeal of 37 Texas Administrative Code § 217.19, Reactivation of a License, allows a new rule which renumbers and organizes rules regarding licensee reactivation requirements.

This repeal is necessary to move current rule § 217.19 to new rule § 219.11 under Chapter 219, Prelicensing, Reactivation, Tests, and Endorsements.

No comments were received regarding adoption of this repeal.

The repeal is adopted under Texas Occupations Code, Chapter 1701, § 1701.151, General Powers of the Commission; Rulemaking Authority.

§ 217.19. Reactivation of a License

The final order of rule adoption has been approved this 5th day of December, 2013.

217.20 Retired Peace Officer Reactivation.

Summary: Repeal to replace with new rule for organizational purposes.

The Texas Commission on Law Enforcement (Commission) adopts the repeal of § 217.20, concerning Retired Peace Officer Reactivation without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7654) and will not be republished.

The repeal of 37 Texas Administrative Code § 217.20, Retired Peace Officer Reactivation, allows a new rule which renumbers and organizes rules regarding licensee reactivation requirements for retired peace officers.

This repeal is necessary to move current rule § 217.20 to new rule § 219.13 under Chapter 219, Prelicensing, Reactivation, Tests, and Endorsements.

No comments were received regarding adoption of this repeal.

The repeal is adopted under Texas Occupations Code, Chapter 1701, § 1701.151, General Powers of the Commission; Rulemaking Authority.

§ 217.20. Retired Peace Officer Reactivation

The final order of rule adoption has been approved this 5th day of December, 2013.

217.21 Firearms Proficiency Requirements.

Summary: Repeal to replace with new rule to clarify time period and types of weapons required for proficiency qualification.

The Texas Commission on Law Enforcement (Commission) adopts the repeal of § 217.21, concerning Firearms Proficiency Requirements without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7654) and will not be republished.

The repeal of 37 Texas Administrative Code § 217.21, Firearms Proficiency Requirements, allows a new rule which clarifies time period and types of weapons required for proficiency qualification.

This repeal is necessary to set out the Commission's general approval process for firearms qualifications. This repeal creates no substantive changes to a continuing education responsibilities or duties under rule. This repeal helps renumber and organize rules regarding firearms qualifications.

No comments were received regarding adoption of this repeal.

The repeal is adopted under Texas Occupations Code, Chapter 1701, § 1701.151, General Powers of the Commission; Rulemaking Authority.

§ 217.21. Firearms Proficiency Requirements

The final order of rule adoption has been approved this 5th day of December, 2013.

217.23 Basic Licensing Enrollment Standards

Summary: Streamlines licensing enrollment standards.

The Texas Commission on Law Enforcement (Commission) adopts the new § 217.23, concerning Basic Licensing Enrollment Standards without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7654) and will not be republished.

The new rule, 37 Texas Administrative Code § 217.23, Basic Licensing Enrollment Standards, consolidates and establishes basic enrollment standards for applicants.

This new rule is necessary to delete redundant information, conform disqualifying family violence language with current suspension and revocation rules, clarify longstanding interpretation of previous rules related to disqualifying military discharges involving bad conduct, and remove telecommunicators from federal motor vehicle and firearm possession disqualifiers.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.255, Enrollment Qualifications.

§ 217.23. Basic Licensing Enrollment Standards.

- (a) In order for an individual to enroll in any basic licensing course the provider must have on file documentation that the individual meets the following standards:
 - (1) minimum educational requirements:
 - (A) a high school diploma;
 - (B) a high school equivalency certificate; or
 - (C) for the basic peace officer training course, an honorable discharge from the armed forces of the United States after at least 24 months of active duty service;
 - (2) the individual has been subjected to a search of local, state and national records to disclose any criminal record;
 - (A) is not currently charged with any criminal offense for which conviction would be a bar to licensure;
 - (B) community supervision history:
 - (i) has never been on court-ordered community supervision or probation for any criminal offense above the grade of a Class B

- misdemeanor or a Class B misdemeanor within the last ten years from the date of the court order; but
- (ii) the commission may approve the application of an individual who received probation or court-ordered community supervision for a Class B misdemeanor at least five (5) years prior to enrollment if an agency administrator sufficiently demonstrates in writing with supporting documentation that mitigating circumstances exist with the case and with the individual applying for licensure, and that the public interest would be served by reducing the waiting period;
- (C) conviction history:
- (i) has never been convicted of an offense above the grade of a Class B misdemeanor or a Class B misdemeanor within the last ten years; but
 - (ii) the commission may approve the application of an individual who was convicted of a Class B misdemeanor at least five (5) years prior to enrollment if an agency administrator sufficiently demonstrates in writing with supporting documentation that mitigating circumstances exist with the case and with the individual applying for licensure, and that the public interest would be served by reducing the waiting period.
- (D) For purposes of this section, the commission will construe any court ordered community supervision, probation, or conviction for a criminal offense to be its closest equivalent under the Texas Penal Code classification of offenses if the offense arose from:
- (i) another penal provision of Texas law; or
 - (ii) a penal provision of any other state, federal, military or foreign jurisdiction;
- (E) A classification of an offense as a felony at the time of conviction will never be changed because Texas law has changed or because the offense would not be a felony under current Texas law;
- (3) has never been convicted in any court of an offense involving family violence as defined under Chapter 71, Texas Family Code;
 - (4) has never received a dishonorable or other discharge based on misconduct which bars future military service;
 - (5) for peace officers and jailers, is not prohibited by state or federal law from operating a motor vehicle;
 - (6) for peace officers and jailers, is not prohibited by state or federal law from possessing firearms or ammunition; and
 - (7) is a U.S. citizen.

- (b) In evaluating whether mitigating circumstances exist, the commission will consider the following factors:
- (1) the applicant's history of compliance with the terms of community supervision;
 - (2) the applicant's continuing rehabilitative efforts not required by the terms of community supervision;
 - (3) the applicant's employment record;
 - (4) whether the disposition offense contains an element of actual or threatened bodily injury or coercion against another person under the Texas Penal Code or the law of the jurisdiction where the offense occurred;
 - (5) the required mental state of the disposition offense;
 - (6) whether the conduct resulting in the arrest resulted in the loss of or damage to property or bodily injury;
 - (7) the type and amount of restitution made by the applicant;
 - (8) the applicant's prior community service;
 - (9) the applicant's present value to the community;
 - (10) the applicant's post-arrest accomplishments;
 - (11) the applicant's age at the time of arrest; and
 - (12) the applicant's prior military history.
- (c) psychological and physical examination requirements:
- (1) the individual has been examined by a physician, selected by the appointing, employing agency, or the academy, who is licensed by the Texas Medical Board. The physician must be familiar with the duties appropriate to the type of license sought. The individual must be declared by that professional, on a form prescribed by the commission, within 180 days before the date of enrollment, acceptance, or entry into the licensing course to be:
 - (A) physically sound and free from any defect which may adversely affect the performance of duty appropriate to the type of license sought; and
 - (B) show no trace of drug dependency or illegal drug use after a blood test or other medical test; and
 - (2) the individual has been examined by a psychologist, selected by the appointing, employing agency, or the academy, who is licensed by the Texas State Board of Examiners of Psychologists. This examination may also be conducted by a psychiatrist licensed by the Texas Medical Board. The psychologist or psychiatrist must be familiar with the duties appropriate to the type of license sought. The individual must be declared by that professional, on a form prescribed by the commission, to be in satisfactory psychological and emotional health to serve as the type of officer for which the license is sought. The examination must be conducted pursuant to professionally recognized standards and methods. The examination process must consist of a review of a job description for the position sought; review of any personal history statements;

review of any background documents; at least two instruments, one which measures personality traits and one which measures psychopathology; and a face-to-face interview conducted after the instruments have been scored. The individual must be declared by that professional, on a form prescribed by the commission, within 180 days before the date of enrollment, acceptance, or entry into the licensing course.

- (A) the commission may allow for exceptional circumstances where a licensed physician performs the evaluation of psychological and emotional health. This requires the appointing agency to request in writing and receive approval from the commission, prior to the evaluation being completed; or
 - (B) the examination may be conducted by qualified persons identified by §501.004, Texas Occupations Code. This requires the appointing agency to request in writing and receive approval from the commission, prior to the evaluation being completed.
- (d) The enrollment standards established in this section do not preclude the provider from establishing additional requirements or standards for enrollment.
 - (e) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

217.25 Telecommunicator Enrollment Standards

Summary: Streamlines licensing enrollment standards for telecommunicators.

The Texas Commission on Law Enforcement (Commission) adopts the new § 217.25, concerning Telecommunicator Enrollment Standards without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7656) and will not be republished.

The new rule, 37 Texas Administrative Code § 217.25, Telecommunicator Enrollment Standards, consolidates and establishes basic enrollment standards for telecommunicator applicants.

This new rule is necessary to delete redundant information, conform disqualifying family violence language with current suspension and revocation rules and clarify longstanding interpretation of previous rules related to disqualifying military discharges involving bad conduct.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.405, Telecommunicators.

§ 217.25. Telecommunicator Enrollment Standards.

- (a) In order for an individual to enroll in any basic telecommunicator course the provider must have on file documentation that the individual meets the following standards:
 - (1) minimum educational requirements:
 - (A) a high school diploma; or
 - (B) a high school equivalency certificate;
 - (2) the individual has been subjected to a search of local, state, and national records to disclose any criminal record;
 - (A) is not currently charged with any criminal offense for which conviction would be a bar to certification;
 - (B) community supervision history:
 - (i) has never been on court-ordered community supervision or probation for any criminal offense above the grade of a Class B misdemeanor or a Class B misdemeanor within the last ten years from the date of the court order; but

- (ii) the commission may approve the application of an individual who received probation or court-ordered community supervision for a Class B misdemeanor at least five (5) years prior to enrollment if an agency administrator sufficiently demonstrates in writing with supporting documentation that mitigating circumstances exist with the case and with the individual applying for certification, and that the public interest would be served by reducing the waiting period;
 - (C) conviction history:
 - (i) has never been convicted of an offense above the grade of a Class B misdemeanor or a Class B misdemeanor within the last ten years; but
 - (ii) the commission may approve the application of an individual who was convicted of a Class B misdemeanor at least five (5) years prior to enrollment if an agency administrator sufficiently demonstrates in writing with supporting documentation that mitigating circumstances exist with the case and with the individual applying for certification, and that the public interest would be served by reducing the waiting period.
 - (D) for purposes of this section, the commission will construe any court ordered community supervision, probation, or conviction for a criminal offense to be its closest equivalent under the Texas Penal Code classification of offenses if the offense arose from:
 - (i) another penal provision of Texas law; or
 - (ii) a penal provision of any other state, federal, military, or foreign jurisdiction;
 - (E) a classification of an offense as a felony at the time of conviction will never be changed because Texas law has changed or because the offense would not be a felony under current Texas law;
 - (3) has never been convicted in any court of an offense involving family violence as defined under Chapter 71, Texas Family Code;
 - (4) has never received a dishonorable or other discharge based on misconduct which bars future military service; and
 - (5) is a U.S. citizen.
- (b) In evaluating whether mitigating circumstances exist, the commission will consider the following factors:
- (1) the applicant's history of compliance with the terms of community supervision;
 - (2) the applicant's continuing rehabilitative efforts not required by the terms of community supervision;
 - (3) the applicant's employment record;

- (4) whether the disposition offense contains an element of actual or threatened bodily injury or coercion against another person under the Texas Penal Code or the law of the jurisdiction where the offense occurred;
 - (5) the required mental state of the disposition offense;
 - (6) whether the conduct resulting in the arrest resulted in the loss of or damage to property or bodily injury;
 - (7) the type and amount of restitution made by the applicant;
 - (8) the applicant's prior community service;
 - (9) the applicant's present value to the community;
 - (10) the applicant's post-arrest accomplishments;
 - (11) the applicant's age at the time of arrest; and
 - (12) the applicant's prior military history.
- (c) The enrollment standards established in this section do not preclude the provider from establishing additional requirements or standards for enrollment.
 - (d) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

217.27 Appointment Eligibility of a Telecommunicator

Summary: Adds appointment requirements for telecommunicators.

The Texas Commission on Law Enforcement (Commission) adopts the new § 217.27, concerning Appointment Eligibility of a Telecommunicator with changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7657) and will be republished.

The new rule, 37 Texas Administrative Code § 217.27, Appointment Eligibility of a Telecommunicator, establishes appointment requirements for telecommunicator applicants.

This new rule is necessary to conform with statutory amendments by adding “telecommunicator” appointment eligibility requirements similar to other licensees. It is necessary to ensure that the public is served by telecommunicators who meet the same high standards as other Commission licensees.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.405, Telecommunicators.

§ 217.27. Appointment Eligibility of a Telecommunicator.

- (a) A chief administrator shall not appoint or employ a person as a telecommunicator unless the person: holds a telecommunicator license; or agrees to obtain the license not later than the first anniversary of the date of employment.
- (b) A person employed to act as a telecommunicator who has not obtained a license to act as a telecommunicator may not continue to act as a telecommunicator after the first anniversary of the date of employment unless the person obtains the license.
- (c) Notwithstanding § 1701.405, Texas Occupations Code, an officer is not required to obtain a telecommunicator license to act as a telecommunicator.
- (d) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

218.1 Continuing Education Credit for Licensees

Summary: Ensures clear and concise requirements for licensees receiving continuing education credit.

The Texas Commission on Law Enforcement (Commission) adopts the new § 218.1, concerning Continuing Education Credit for Licensees without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7658) and will not be republished.

The new rule, 37 Texas Administrative Code § 218.1, Continuing Education Credit for Licensees, ensures clear and concise requirements for licensees receiving continuing education credit.

This new rule is necessary to set out the Commission's general approval process for all continuing education credit for licensees. This new rule creates no substantive changes to continuing education responsibilities or duties under rule. This new rule helps renumber and reorganize rules regarding licensee continuing education requirements.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.352, Continuing Education Programs and § 1701.353, Continuing Education Procedures.

§ 218.1. Continuing Education Credit for Licensees.

- (a) A continuing education course is any training course that is recognized by the commission, specifically:
 - (1) legislatively required continuing education curricula and learning objectives developed by the commission;
 - (2) training in excess of basic licensing course requirements;
 - (3) training courses consistent with assigned duties; or
 - (4) training not included in a basic licensing course.
- (b) A law enforcement agency submitting continuing education courses under the chief administrator's approval through a departmental report of training, must have the following on file and readily accessible to the commission:
 - (1) lesson plans; or
 - (2) certificate of completion with hours indicated on the certificate;
 - (3) attendees' critique of the course that includes:
 - (A) written evaluation of the instructor; and

- (B) an assessment of how this training was applicable to their assigned duties;
 - (4) number of students attending from the agency;
 - (5) copy of course outline (if available); and
 - (6) copy of available handouts.
- (c) The commission may refuse credit for:
- (1) a course that does not contain a final examination or other skills test, if appropriate, as determined by the training provider;
 - (2) annual firearms proficiency;
 - (3) an out-of-state course not approved by that state's POST;
 - (4) training that fails to meet any commission established length and published learning objectives;
 - (5) an instructor claiming credit for a basic licensing course or more than one presentation of a non-licensing course by an instructor, per 24 month unit of a training cycle;
 - (6) course(s) claimed by deceitful means;
 - (7) courses provided by the same training provider and taken more than two times within one training unit; or
 - (8) legislatively mandated or certification courses reported by unlicensed or non-contractual training providers.
- (d) The training provider or agency must report to the commission and keep on file in a format readily accessible to the commission, a copy of all continuing education course training reports.
- (e) The effective date of this section is February 1, 2014.

218.5 Reporting Legislatively Required Continuing Education

Summary: Ensures clear and concise reporting requirements for licensees receiving continuing education credit.

The Texas Commission on Law Enforcement (Commission) adopts the new § 218.5, concerning Reporting Legislatively Required Continuing Education without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7659) and will not be republished.

The new rule, 37 Texas Administrative Code § 218.5, Reporting Legislatively Required Continuing Education, ensures clear and concise requirements for licensees receiving continuing education credit.

This new rule is necessary to set out the Commission's general approval process for reporting education credit for licensees. This new rule creates no substantive changes to continuing education responsibilities or duties under rule. This new rule helps renumber and reorganize rules regarding licensee continuing education requirements.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.353, Continuing Education Procedures.

§ 218.5. Reporting Legislatively Required Continuing Education.

- (a) Each agency, academy, or training provider shall maintain proof of a licensee's completion of legislatively required continuing education training in a format currently accepted by the commission. The report of training shall be submitted to the commission within 30 days following completion of the training. Failure to report training to the commission within 30 days is a violation of commission rules. Upon receipt of a properly completed report of training, the commission will make the appropriate entry into the training records of the licensee.
- (b) The chief administrator of an agency that has licensees who are in non-compliance shall, within 30 days of receipt of notice of non-compliance, submit a report to the commission explaining the reasons for such non-compliance.
- (c) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

218.7 Waiver of Legislatively Required Continuing Education

Summary: Ensures clear and concise continuing education waiver requirements for licensees.

The Texas Commission on Law Enforcement (Commission) adopts the new § 218.7, concerning Waiver of Legislatively Required Continuing Education without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7659) and will not be republished.

The new rule, 37 Texas Administrative Code § 218.7, Waiver of Legislatively Required Continuing Education, ensures clear and concise requirements for licensees receiving a waiver from continuing education credit.

This new rule is necessary to set out the Commission's general approval process for a waiver from continuing education credit for licensees. This new rule creates no substantive changes to continuing education responsibilities or duties under rule. This new rule helps renumber and reorganize rules regarding licensee continuing education waiver requirements.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.351, Continuing Education Required for Peace Officers.

§ 218.7. Waiver of Legislatively Required Continuing Education.

- (a) The executive director may waive the legislatively required continuing education for a licensee, as required by the Texas Occupations Code, Chapter 1701, if the licensee demonstrates the existence of mitigating circumstances justifying the licensee's failure to obtain the legislatively required continuing education.
- (b) Mitigating circumstances are defined as:
 - (1) catastrophic illness or injury that prevents the licensee from performing active duty for longer than 12 months; or
 - (2) active duty with the armed forces of the United States, or a reserve component of the armed forces of the United States for a time period in excess of 12 months.
- (c) A request for a waiver of the legislatively required continuing education due to mitigating circumstances shall be in writing, accompanied by verifying documentation, and shall be submitted to the executive director with a copy to the chief administrator of the licensee's appointing agency not less than 30 days prior to the end of the training unit.

- (d) Absent mitigating circumstances, a request for a waiver under this section shall be submitted to the executive director not less than 90 days prior to the end of the training unit.
- (e) The commission may waive the requirement for civil process training if not less than 90 days prior to the end of the training cycle:
 - (1) the constable requests a waiver for the deputy constable based on a representation that the deputy constable's duty assignment does not involve civil process responsibilities; or
 - (2) the constable or deputy constable requests a waiver because of hardship and the commission determines that a hardship exists.
- (f) Within 20 days of receiving a request for a waiver under this section, the executive director shall notify the licensee and the chief administrator of the licensee's appointing agency, whether the request has been granted or denied.
- (g) A licensee, whose request for a waiver under this section is denied, is entitled to a hearing in accordance with Texas Government Code, Chapter 2001. The licensee must request a hearing within 20 days of the waiver being denied. In a hearing pursuant to this subsection, the licensee is the petitioner and the executive director is the respondent. The burden of proof shall be on the licensee to show why he or she is entitled to a waiver of the legislatively required continuing education requirement.
- (h) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

218.9 Continuing Firearms Proficiency Requirements

Summary: Ensures clear and concise firearm qualification requirements for licensees.

The Texas Commission on Law Enforcement (Commission) adopts the new § 218.9, concerning Continuing Firearms Proficiency Requirements without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7660) and will not be republished.

The new rule, 37 Texas Administrative Code § 218.9, Continuing Firearms Proficiency Requirements, ensures clear and concise firearm requirements for licensees.

This new rule is necessary to set out the Commission's general approval process for firearms qualifications to clarify time period and types of weapons required for proficiency qualification.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.308, Weapons Proficiency and § 1701.355, Continuing Demonstration of Weapons Proficiency.

§ 218.9. Continuing Firearms Proficiency Requirements.

- (a) Each agency or entity that employs at least one peace officer shall:
 - (1) require each peace officer that it employs to successfully complete the current firearms proficiency requirements at least once each calendar year for each type of firearm carried;
 - (2) designate a firearms proficiency officer to be responsible for the documentation of annual firearms proficiency. The documentation for each officer shall include:
 - (A) date of qualification;
 - (B) identification of officer;
 - (C) firearm manufacturer, model;
 - (D) results of qualifying; and
 - (E) course(s) of fire;
 - (3) keep on file and in a format readily accessible to the commission a copy of all records of this proficiency.
- (b) The annual firearms proficiency requirements shall include:
 - (1) an external inspection by the proficiency officer, range officer, firearms instructor, or gunsmith to determine the safety and functioning of the weapon(s);

- (2) a proficiency demonstration in the care and cleaning of the weapon(s) used; and
 - (3) a course of fire that meets or exceeds the minimum standards.
- (c) The minimum standards for the annual firearms proficiency course of fire shall be:
- (1) handguns - a minimum of 50 rounds, including at least five rounds of ammunition, fired at ranges from point-blank to at least 15 yards with at least 20 rounds at or beyond seven yards, including at least one timed reload;
 - (2) shotguns - a minimum of five rounds of ammunition fired at a range of at least 15 yards;
 - (3) precision rifles - a minimum of 20 rounds of ammunition fired at a range of at least 100 yards; however, an agency may, in its discretion, allow a range of less than 100 yards but not less than 50 yards if the minimum passing percentage is raised to 90;
 - (4) patrol rifles - a minimum of 30 rounds of ammunition fired at a range of at least 50 yards, including at least one timed reload; however, an agency may, in its discretion, allow a range of less than 50 yards but not less than 10 yards if the minimum passing percentage is raised to 90;
 - (5) fully automatic weapons - a minimum of 30 rounds of ammunition fired at ranges from seven to at least 10 yards, including at least one timed reload, with at least 25 rounds fired in full automatic (short bursts of two or three rounds), and at least five rounds fired semi-automatic, if possible with the weapon.
- (d) The minimum passing percentage shall be 70 for each firearm.
- (e) The executive director may, upon written agency request, waive a peace officer's demonstration of weapons proficiency based on a determination that the requirement causes a hardship.
- (f) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

219.1 Eligibility to Take State Examinations

Summary: Conforms rule with school marshal amendment by, when applicable and in addition to this rule, making school marshal licenses subject to reactivation requirements.

The Texas Commission on Law Enforcement (Commission) adopts the amended § 219.1, concerning Eligibility to Take State Examinations with changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7661) and will not be republished.

The amendment to 37 Texas Administrative Code § 219.1, Eligibility to Take State Examinations, conforms rule with school marshal amendment by, when applicable and in addition to this rule, making school marshal licenses subject to reactivation requirements.

In response to the statutory creation of the school marshal program, this amendment is necessary to conform to statutory amendments by adding school marshal licenses and remove redundant cross-referencing to other rule numbers.

This rule sets forth examination requirements in relation to the period of time since a person's basic licensing training. The requirements recognize the diminishing effect of time on the basic licensing course skills. The reexamination and retraining requirements are necessary to refresh and fully update the training, knowledge, and skills of a person who fails to be appointed or licensed within a certain period of time.

Professional and technical competence as taught in a basic licensing course is paramount to commission licensees. Basic licensing course subject matter must be mastered as demonstrated by passing an examination. As such, multiple examination failures demonstrate an unacceptable lack of retention in basic licensing course instruction. Thus, to ensure the public's safety, welfare, and trust in the regulated community, a licensing course must be repeated until competence is demonstrated.

As for school marshals, due to possible changes in training and changes to the school marshal program itself, the requirement that an individual be licensed within two years from the date of their successful completion of the licensing exam is necessary. As with any new licensing course, after re-evaluation of the program by the commission, changes may be required.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.304, Examination.

§ 219.1. Eligibility to Take State Examinations.

- (a) An individual may not take a licensing exam for a license they actively hold.
- (b) To be eligible to take a state licensing exam, an individual must:
 - (1) have successfully completed a commission-approved basic licensing course or academic alternative program;
 - (2) meet the requirements for reactivation if the individual is currently licensed;
 - (3) meet the requirements for reinstatement if the individual is currently licensed;
 - (4) meet the requirements if an individual is an out of state peace officer, federal criminal investigator, or military; or
 - (5) be eligible to take the county corrections licensing exam as provided in Texas Occupations Code, Chapter 1701, § 1701.310.
- (c) To maintain eligibility to attempt a licensing exam the applicant must meet the basic licensing enrollment standards; or if previously licensed, meet minimum initial licensing standards.
- (d) An eligible examinee will be allowed three attempts to pass the examination. All attempts must be completed within 180 days from the completion date of the licensing course. Any remaining attempts become invalid on the 181st day from the completion date of the licensing course, or if the examinee passes the licensing exam. If an attempt is invalidated for any other reason, that attempt will be counted as one of the three attempts.
- (e) The examinee must repeat the basic licensing course for the license sought if:
 - (1) the examinee fails all three attempts to pass the licensing exam;
 - (2) the examinee fails to complete all three attempts within 180 days from the completion date of the licensing course; or
 - (3) the examinee is dismissed from an exam for cheating. If dismissed from an exam for cheating, all remaining attempts are invalidated.
- (f) An examinee that is required to repeat a basic licensing course under the provisions in subsection (e) of this section will not be allowed to repeat an academic alternative program.
- (g) If an individual is not licensed within 2 years from the date of their successful completion of the licensing exam, the basic licensing course must be repeated.
- (h) When applicable and in addition to this section, school marshal licenses are subject to the requirements of Chapter 227 of this title.
- (i) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

219.11 Reactivation of a License

Summary: Establishes reactivation procedures for licenses to include school marshal licenses.

The Texas Commission on Law Enforcement (Commission) adopts the new § 219.11, concerning Reactivation of a License without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7662) and will not be republished.

The new rule, 37 Texas Administrative Code § 219.11, Reactivation of a License, establishes reactivation procedures for licenses to include school marshal licenses.

In response to the statutory creation of the school marshal program, this rule is necessary to conform to statutory amendments by making school marshal licenses subject to commission license reactivation procedures.

This rule sets forth graduated reactivation requirements in relation to the period of time since a licensee's last appointment. The increased requirements are necessary to refresh and fully update the training, knowledge, and skills of a licensee who has failed to maintain education and training requirements.

This rule sets forth reactivation requirements in relation to the period of time since a person's last appointment. The requirements recognize the diminishing effect of time on a licensee's skills and proficiency. The reexamination and retraining requirements are necessary to refresh and fully update the training, knowledge, and skills of a person who fails to be appointed or licensed after a certain period of time.

The requirements and time periods are modeled on other state's similar reactivation standards. It also removes redundant cross-referencing to other rule numbers and helps to renumber and organize rules regarding license reactivation requirements.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.316, Reactivation of Peace Officer Licenses; § 1701.3161, Reactivation of Peace Officer Licenses; Retired Peace Officers.

§ 219.11. Reactivation of a License.

- (a) The commission will place all licenses in an inactive status at the end of the most recent training unit or cycle in which the licensee:

- (1) was not appointed at the end of the unit or cycle; and
- (2) did not meet continuing education requirements.
- (b) The holder of an inactive license is unlicensed for all purposes.
- (c) This section includes any permanent peace officer qualification certificate with an effective date before September 1, 1981.
- (d) A licensee with less than two years from last appointment held must:
 - (1) meet current licensing standards;
 - (2) successfully complete continuing education requirements; and
 - (3) make application and submit any required fee(s) in the format currently prescribed by the commission.
- (e) A licensee with two years but less than five years from last appointment held must:
 - (1) meet current licensing standards;
 - (2) successfully complete an approved supplementary peace officer training course;
 - (3) make application and submit any required fee(s); and
 - (4) pass the licensing exam.
- (f) A licensee with five years or more from last appointment held must:
 - (1) meet current enrollment standards;
 - (2) meet current licensing standards;
 - (3) successfully complete the applicable basic licensing course;
 - (4) make application and submit any required fee(s); and
 - (5) pass the licensing exam.
- (g) School marshal licenses are subject to the reactivation and renewal procedures related to school marshals under of Chapter 227 of this title.
- (h) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

219.13 Retired Peace Officer Reactivation

Summary: Establishes reactivation procedures for retired peace officers.

The Texas Commission on Law Enforcement (Commission) adopts the new § 219.13, concerning Retired Peace Officer Reactivation without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7663) and will not be republished.

The new rule, 37 Texas Administrative Code § 219.13, Retired Peace Officer Reactivation, establishes reactivation procedures for retired peace officers.

This new rule is necessary to remove redundant cross-referencing to other rule numbers and helps to renumber and reorganize rules regarding licensee reactivation requirements for retired peace officers.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.316, Reactivation of Peace Officer Licenses; § 1701.3161, Reactivation of Peace Officer Licenses; Retired Peace Officers.

§ 219.13. Retired Peace Officer Reactivation.

- (a) A retired peace officer's license becomes inactive at the end of the most recent training unit or cycle in which the licensee:
 - (1) was not appointed at the end of the unit or cycle; and
 - (2) did not meet the continuing education requirements.
- (b) The holder of an inactive license is unlicensed for all purposes.
- (c) In order for a retired peace officer to reactivate a license, a retiree must:
 - (1) meet current licensing standards;
 - (2) meet current continuing education requirements; and
 - (3) make application and submit any required fee(s).
- (d) This section does not apply to licensees exempted by Texas Occupations Code, § 1701.356.
- (e) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

219.25 License Requirements for Persons with Military Special Forces Training

Summary: Establishes procedures for licensing qualified former special forces members.

The Texas Commission on Law Enforcement (Commission) adopts the new § 219.25, concerning License Requirements for Persons with Military Special Forces Training without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7663) and will not be republished.

The new rule, 37 Texas Administrative Code § 219.25, License Requirements for Persons with Military Special Forces Training, establishes procedures for licensing qualified former special forces members.

This new rule is necessary to conform with statutory amendment giving the Commission authority to adopt rules allowing former special forces members to take the basic licensing examination.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

§ 219.25. License Requirements for Persons with Military Special Forces Training.

- (a) In this section, “special forces” means a special forces component of the United States armed forces, including:
- (1) the United States Army Special Forces;
 - (2) the United States Navy SEALs;
 - (3) the United States Air Force Pararescue;
 - (4) the United States Marine Corps Force Reconnaissance; and
 - (5) any other component of the United States Special Operations Command approved by the commission.
- (b) The commission shall adopt rules to allow an applicant to qualify to take an examination described by Texas Occupations Code § 1701.304 if the applicant:
- (1) has served in the special forces for 2 continuous years within the 4 years prior to application;
 - (2) has successfully completed a special forces training course and provides to the commission documentation verifying completion of the course;
 - (3) completes a supplemental peace officer training course; and

- (4) completes any other training required by the commission after the commission has reviewed the applicant's military training.
- (c) Commission rules adopted under subsection (b) of this section shall include rules:
 - (1) to determine acceptable forms of documentation that satisfy the requirements of subsection (b) of this section;
 - (2) under which the commission may waive any other license requirement for an applicant described by subsection (b) of this section based on other relevant military training the applicant has received, as determined by the commission, including intelligence or medical training; and
 - (3) to establish an expedited application process for an applicant described by subsection (b) of this section.
- (d) The commission shall review the content of the training course for each special forces component described by subsection (a) of this section and in adopting rules under subsection (b) of this section specify the training requirements an applicant who has completed that training course must complete and the training requirements from which an applicant who has completed that training course is exempt.
- (e) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

221.28 Advanced Instructor Proficiency

Summary: Amended to conform to statutory agency name change.

The Texas Commission on Law Enforcement (Commission) adopts the amended § 221.28, concerning Advanced Instructor Proficiency without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7664) and will not be republished.

The amendment to 37 Texas Administrative Code § 221.28, Advanced Instructor Proficiency, conforms to statutory agency name change.

This amendment is necessary to conform to statutory agency name change amendment.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, § 1701.151, General Powers of the Commission; Rulemaking Authority.

§ 221.28. Advanced Instructor Proficiency.

- (a) To qualify for an advanced instructor proficiency certificate, an applicant must meet all proficiency requirements including:
 - (1) holding a TCOLE Instructor license/certificate for at least three years; and
 - (2) successful completion of the commission's advanced instructor course.
- (b) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

223.2 Administrative Penalties

Summary: Amended to include administrative penalties for appointing ineligible individuals as a school marshal and telecommunicator.

The Texas Commission on Law Enforcement (Commission) adopts the amended § 223.2, concerning Administrative Penalties without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7664) and will not be republished.

The amendment to 37 Texas Administrative Code § 223.2, Administrative Penalties, includes administrative penalties for appointing ineligible individuals as a school marshal and telecommunicator.

In response to the statutory creation of the school marshal program, this amendment is necessary to conform to school marshal and telecommunicator statutory amendments. The amendment adds school districts as an appointing entity subject to administrative penalties.

Under the rule, governmental entities are subject to administrative penalties for, among other things, appointing or employing an ineligible person or failing to timely submit required documentation. The graduated fees directly correlate to a violation's severity and adverse effect on the public's safety, welfare, and trust in the regulated community.

As such, violations related to statutory requirements or the appointment of licensees are assigned penalties at or near the top of the penalty scale. Compliance and administrative violations are at the low or midrange of the penalty scale.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.507, Administrative Penalties.

§ 223.2. Administrative Penalties.

- (a) In addition to any other action or penalty authorized by law, the commission may impose an administrative penalty against a law enforcement agency or governmental entity, including a school district, for violations of commission statutes or rules.
- (b) In determining total penalty amounts, the commission shall consider:
 - (1) the seriousness of the violation;
 - (2) the respondent's history of violations;
 - (3) the amount necessary to deter future violations;

- (4) efforts made by the respondent to correct the violation; and
 - (5) any other matter that justice may require.
- (c) The following is a nonexclusive list of the per day per violation base penalty amounts for:
- (1) Appointing an unlicensed person as a peace officer, jailer, or telecommunicator, \$1,000;
 - (2) Appointing or employing an unlicensed or ineligible person as a school marshal, \$1,000;
 - (3) Appointing as a peace officer or jailer a person disqualified because of criminal history, \$1,000;
 - (4) Appointing a person who does not meet minimum licensing or appointment standards as a peace officer or jailer, \$750;
 - (5) Appointing or continued appointment of a person as a peace officer or jailer with a revoked, suspended, or cancelled license or who is otherwise ineligible for appointment or licensure, \$1,000;
 - (6) Failing to timely submit any required appointment documents, \$350;
 - (7) Failing to timely submit any required appointment, notice, or separation documents related to school marshals, \$1000;
 - (8) Failing to timely submit or deliver an F-5 Report of Separation, \$350;
 - (9) Failing to timely submit racial profiling data to the commission, \$1,000;
 - (10) Failing to timely report to the commission the reason(s) a license holder(s) appointed by the law enforcement agency or governmental entity are not in compliance with continuing education standards, \$250;
 - (11) Failing to timely comply with substantive provisions of any order(s) issued under commission statutes or rules, \$750;
 - (12) Failing to timely comply with technical provisions of any order(s) issued under commission statutes or rules, \$350;
 - (13) Failing to timely comply with required audit procedures, \$350;
 - (14) Failing to timely submit or maintain any document(s) as required by commission statutes or rules, \$250;
 - (15) Other noncompliance with commission statutes or rules not involving fraud, deceit, misrepresentation, intentional disregard of governing law, or actual or potential harm to the public or integrity of the regulated community as a whole, \$200.
- (d) In determining the total penalty amount, the commission may consider the following aggravating factors:
- (1) the severity and frequency of violations;
 - (2) multiple or previous violations;
 - (3) actual or potential harm to public safety;
 - (4) whether the violation could constitute criminal activity;

- (5) evidence of an intent to defraud, deceive, or misrepresent; and
- (6) any other aggravating factors existing in a particular case.
- (e) In determining the total penalty amount, the commission may consider the following mitigating factors:
 - (1) immediacy and degree of corrective action; and
 - (2) any other matter that justice may require.
- (f) The presence of mitigating factors does not constitute a requirement of dismissal of a violation of commission statutes or rules.
- (g) Subject to final approval of the commission, the executive director has the discretion to enter into an agreed order. In return for compromise and settlement, the total penalty amount in an agreed order may be calculated using a base amount below those listed in this rule.
- (h) The commission will provide written notice to a law enforcement agency or governmental entity of any alleged violations.
- (i) By written answer, a law enforcement agency or governmental entity may request a hearing challenging the allegations set forth in the notice letter. Failure to file an answer within twenty days after being provided written notice may result in the entry of a default order. The default order may include additional penalties for failing to respond to the notice letter or failing to correct any alleged violations.
- (j) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

223.13 Surrender of License

Summary: Clarifies a surrender of one license surrenders all Commission-issued licenses.

The Texas Commission on Law Enforcement (Commission) adopts the amended § 223.13, concerning Surrender of License without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7666) and will not be republished.

The amendment to 37 Texas Administrative Code § 223.13, Surrender of License, clarifies a surrender of one license surrenders all Commission-issued licenses.

This amendment is necessary to clarify a surrender of one license surrenders all Commission-issued licenses.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.501, Disciplinary Action.

§ 223.13. Surrender of License.

- (a) A licensee may surrender a license:
 - (1) as part of an employee termination agreement;
 - (2) as part of a plea bargain to a criminal charge;
 - (3) as part of an agreed settlement to commission action; or
 - (4) for any other reason.
- (b) A license may be surrendered either permanently or for a stated term.
- (c) Effective dates:
 - (1) the beginning date for any surrender shall be the date stated in the request or, if none, the date it was received by the commission;
 - (2) a term surrender shall have its ending date stated in the request; and
 - (3) any request without a stated ending date shall be construed as a permanent surrender.
- (d) A licensee may surrender any license by sending, or causing to be sent, a signed, notarized, written request to the executive director, who may accept or reject the request. The signed written request shall indicate that the licensee understands and has knowledge of the consequences of the document being signed. The executive director may accept requests for surrender submitted to the commission in any other form that indicates the licensee intends to surrender the license to the commission. The executive director may liberally construe the intent of any request. The surrender of one

commission-issued license operates as a surrender of all commission-issued licenses. The surrender should include a summary of the reason for the surrender.

- (e) If accepted, the licensee is no longer licensed:
 - (1) effective on the beginning date of the surrender; and
 - (2) except for permanent surrenders, until such person applies for and meets the requirements of a new license.
- (f) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

223.15 Suspension of License

Summary: Conforms disqualifying family violence language with enrollment and licensing rules and sets out a list of illustrative circumstances the Commission may consider when determining the seriousness of an offense in order to determine an appropriate period of suspension.

The Texas Commission on Law Enforcement (Commission) adopts the amended § 223.15, concerning Suspension of License without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7667) and will not be republished.

The amendment to 37 Texas Administrative Code § 223.15, Suspension of License, conforms disqualifying family violence language with enrollment and licensing rules and sets out a list of illustrative circumstances the Commission may consider when determining the seriousness of an offense in order to determine an appropriate period of suspension.

This amendment is necessary to conform disqualifying family violence language with enrollment and licensing rules. The amendment sets out a list of illustrative circumstances the Commission may consider when determining the seriousness of an offense in order to determine an appropriate period of suspension. The nonexclusive list of considerations would help afford commissioners full knowledge of the conduct leading to a licensee's disposition offense. Such circumstances would allow for the reasoned consideration of any mitigating circumstances presented in light of the seriousness of conduct. The amendment moves the bodily injury or coercion component from "mitigating factors" to the determination of suspension criteria.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.501, Disciplinary Action.

§ 223.15. Suspension of License.

- (a) Unless revocation is explicitly authorized by law, the commission may suspend any license issued by the commission if the licensee:
- (1) violates any provision of these sections;
 - (2) violates any provision of the Texas Occupations Code, Chapter 1701;
 - (3) is convicted of or placed on court ordered community supervision resulting from deferred adjudication for any offense above the grade of Class C misdemeanor;

- (4) is placed on deferred adjudication for an offense involving family violence; or
 - (5) has previously received two written reprimands from the commission.
- (b) If a licensee is charged with the commission of a felony, adjudication is deferred, and the licensee is placed on community supervision, the commission shall immediately suspend any license held for a period of 30 years. The suspension of any license under this subsection is effective immediately when the commission receives a certified copy of a court's judgment and issues notice to the licensee via certified mail that any license held is suspended.
- (c) If convicted or if adjudication is deferred and the licensee is placed on court ordered community supervision for any misdemeanor offense above the grade of Class C misdemeanor, the term of suspension may be for a period not to exceed 10 years.
- (d) If a licensee is charged with the commission of a misdemeanor offense involving family violence and an adjudication of guilt is deferred, the term of suspension may be for a period not to exceed 10 years.
- (e) If a license can be suspended under subsection (c) or (d) of this section for a Class A misdemeanor, the minimum term of suspension shall be 120 days. If a license can be suspended under subsection (c) or (d) of this section for a Class B or C misdemeanor, the minimum term of suspension shall be 30 days.
- (f) If a license can be suspended for a misdemeanor conviction or deferred adjudication, the commissioners may, in their discretion and upon proof of mitigating factors as defined in subsection (i) of this section, probate all or part of a suspension term after the mandatory minimum suspension. Factors the commission may consider in determining a term of suspension include:
- (1) the seriousness of the conduct resulting in the arrest;
 - (2) the required mental state of the disposition offense;
 - (3) whether the disposition offense contains an element of actual or threatened bodily injury or coercion against another person under the Texas Penal Code or the law of the jurisdiction where the offense occurred;
 - (4) the licensee's previous violations of commission statutes or rules;
 - (5) actual or potential harm to public safety, including personal injury and property damage, resulting from the conduct resulting in the arrest;
 - (6) aggravating evidence existing in a particular case; and
 - (7) evidence used in rebuttal to mitigating factors.
- (g) If a license can be suspended for violation of legislatively required continuing education for licensees as defined in § 217.11 of this title and if mitigating circumstances as defined in § 218.7 of this title do not apply, the commission may:
- (1) for first time offenders suspend a license(s) for up to 90 days;
 - (2) for second time offenders suspend a license(s) for up to 180 days; and
 - (3) for third time offenders suspend a license(s) for up to one (1) year.

- (h) If a license can be suspended for any other reason, the commission, through its executive director may, in its discretion and upon proof of the mitigating factors as defined in subsection (i) of this section, either:
 - (1) probate all or part of the suspension term; or
 - (2) issue a written reprimand in lieu of suspension.
- (i) Mitigating factors include:
 - (1) the licensee's history of compliance with the terms of court-ordered community supervision;
 - (2) the licensee's post-arrest continuing rehabilitative efforts not required by the terms of community supervision;
 - (3) the licensee's post-arrest employment record;
 - (4) the type and amount of any post-arrest, non-court ordered restitution made by the licensee; and
 - (5) any non-contested disciplinary action, either completed or ongoing, imposed by the appointing agency.
- (j) A suspension or probation may be ordered to run concurrently or consecutively with any other suspension or probation. The beginning date of a probated suspension shall be:
 - (1) any date agreed to by both parties, which is no earlier than the date of the rule violation;
 - (2) the date the licensee notifies the commission in writing of the rule violation if the commission later receives a signed waiver of suspension from the licensee that was postmarked within 30 days of its receipt; or
 - (3) the date the commission final order is entered in a contested case or the date it becomes effective, if that order is appealed.
- (k) The executive director shall inform the commissioners of any reprimand no later than at their next regular meeting.
- (l) The commission may impose reasonable terms of probation, such as:
 - (1) continued employment requirements;
 - (2) special reporting conditions;
 - (3) special document submission conditions;
 - (4) voluntary duty requirements;
 - (5) no further rule or law violations; or
 - (6) any other reasonable term of probation.
- (m) A probated license remains probated until:
 - (1) the term of suspension has expired;
 - (2) all other terms of probation have been fulfilled; and
 - (3) a written request for reinstatement has been received and accepted by the commission from the licensee unless the probation has been revoked by the commission for violation of probation; or

- (4) revoked.
- (n) Twelve months may be added to the term of a new suspension for each separate previous violation that has resulted in either a license suspension, a probated suspension, or a written reprimand before the beginning date of the new suspension.
- (o) Before reinstatement, the probation of a suspended license may be revoked before the expiration date of the probation upon violation of the terms of probation. Upon revocation, the full term of suspension shall be imposed with credit for any time already served on that suspension.
- (p) Once a license has been suspended, the suspension probated, the probation revoked, or the licensee reprimanded, the commission shall send, by regular mail, notice of the action to the chief administrator of any agency shown to have the licensee under either current or latest appointment.
- (q) A suspended license remains suspended until:
 - (1) the term of suspension has expired and the term of court-ordered community supervision has been completed; and
 - (2) a written request for reinstatement has been received from the licensee and accepted by the commission; or
 - (3) the remainder of the suspension is probated and the license is reinstated.
- (r) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

223.16 Suspension of License for Constitutionally Elected Officials

Summary: Conforms disqualifying family violence language with enrollment and licensing rules and sets out a list of illustrative circumstances the Commission may consider when determining the seriousness of an offense in order to determine an appropriate period of suspension.

The Texas Commission on Law Enforcement (Commission) adopts the amended § 223.16, concerning Suspension of License for Constitutionally Elected Officials without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7668) and will not be republished.

The amendment to 37 Texas Administrative Code § 223.16, Suspension of License for Constitutionally Elected Officials, conforms disqualifying family violence language with enrollment and licensing rules and sets out a list of illustrative circumstances the Commission may consider when determining the seriousness of an offense in order to determine an appropriate period of suspension.

This amendment is necessary to conform disqualifying family violence language with enrollment and licensing rules. The amendment sets out a list of illustrative circumstances the Commission may consider when determining the seriousness of an offense in order to determine an appropriate period of suspension. The nonexclusive list of considerations would help afford commissioners full knowledge of the conduct leading to a licensee's disposition offense. Such circumstances would allow for the reasoned consideration of any mitigating circumstances presented in light of the seriousness of conduct. The amendment moves the bodily injury or coercion component from "mitigating factors" to the determination of suspension criteria.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.302, Certain Elected Law Enforcement Officer, License Required and § 1701.501, Disciplinary Actions.

§ 223.16. Suspension of License for Constitutionally Elected Officials.

- (a) Unless revocation is explicitly authorized by law, the commission may suspend any license issued by the commission if the licensee:
 - (1) violates any provision of these sections;

- (2) violates any provision of the Texas Occupations Code, Chapter 1701;
 - (3) is convicted of or placed on court ordered community supervision resulting from deferred adjudication for any offense above the grade of Class C misdemeanor;
 - (4) is placed on deferred adjudication for an offense involving family violence; or
 - (5) has previously received two written reprimands from the commission.
- (b) If a licensee is charged with the commission of a felony, adjudication is deferred, and the licensee is placed on community supervision, the commission shall immediately suspend any license held for a period of 20 years. The suspension of any license under this subsection is effective immediately when the commission receives a certified copy of a court's judgment and issues notice to the licensee via certified mail that any license held is suspended.
 - (c) If convicted or if adjudication is deferred and the licensee is placed on court ordered community supervision for any misdemeanor offense above the grade of Class C misdemeanor, the term of suspension may be for a period not to exceed 10 years.
 - (d) If a licensee is charged with the commission of a misdemeanor offense involving family violence and an adjudication of guilt is deferred, the term of suspension may be for a period not to exceed 10 years.
 - (e) If a license can be suspended under subsection (c) or (d) of this section for a Class A misdemeanor, the minimum term of suspension shall be 120 days. If a license can be suspended under subsection (c) or (d) of this section for a Class B or C misdemeanor, the minimum term of suspension shall be 30 days.
 - (f) If a license can be suspended for a misdemeanor conviction or deferred adjudication, the commissioners may consider the suspension circumstances set forth in this chapter in determining a term of suspension and upon proof of mitigating factors, probate all or part of a suspension term after the mandatory minimum suspension.
 - (g) If a license can be suspended for violation of legislatively required continuing education for licensees as defined in § 217.11 of this title and if mitigating circumstances as defined in § 218.7 of this title do not apply, the commission may:
 - (1) for first time offenders suspend a license(s) for up to 90 days;
 - (2) for second time offenders suspend a license(s) for up to 180 days; and
 - (3) for third time offenders suspend a license(s) for up to one (1) year.
 - (h) If a license can be suspended for any other reason, the commission, through its executive director may, in its discretion and upon proof of the same mitigating factors, either:
 - (1) probate all or part of the suspension term during a probation term of up to twice the maximum suspension term; or
 - (2) issue a written reprimand in lieu of suspension.
 - (i) In evaluating whether mitigating circumstances exist, the commission will consider the following factors:

- (1) the licensee's history of compliance with the terms of court-ordered community supervision;
 - (2) the licensee's post-arrest continuing rehabilitative efforts not required by the terms of community supervision;
 - (3) the licensee's post-arrest employment record;
 - (4) the type and amount of any post-arrest, non-court ordered restitution made by the licensee; and
 - (5) any non-contested disciplinary action, either completed or ongoing, imposed by the appointing agency.
- (j) A suspension or probation may be ordered to run concurrently or consecutively with any other suspension or probation. The beginning date of a probated suspension shall be:
- (1) any date agreed to by both parties, which is no earlier than the date of the rule violation;
 - (2) the date the licensee notifies the commission in writing of the rule violation if the commission later receives a signed waiver of suspension from the licensee that was postmarked within 30 days of its receipt; or
 - (3) the date the commission final order is entered in a contested case or the date it becomes effective, if that order is appealed.
- (k) The executive director shall inform the commissioners of any reprimand no later than at their next regular meeting.
- (l) The commission may impose reasonable terms of probation, such as:
- (1) continued employment requirements;
 - (2) special reporting conditions;
 - (3) special document submission conditions;
 - (4) voluntary duty requirements;
 - (5) no further rule or law violations; or
 - (6) any other reasonable term of probation.
- (m) A probated license remains probated until:
- (1) the term of suspension has expired;
 - (2) all other terms of probation have been fulfilled; and
 - (3) a written request for reinstatement has been received and accepted by the commission from the licensee unless the probation has been revoked by the commission for violation of probation; or
 - (4) until revoked.
- (n) Twelve months may be added to the term of a new suspension for each separate previous violation that has resulted in either a license suspension, a probated suspension, or a written reprimand before the beginning date of the new suspension.
- (o) Before reinstatement, the probation of a suspended license may be revoked upon a showing that any of its terms have been violated before the expiration date of the

probation regardless of when the petition is filed. Upon revocation, the full term of suspension shall be imposed with credit for any time already served on that suspension.

- (p) Once a license has been suspended, the suspension probated, the probation revoked, or the licensee reprimanded, the commission shall send, by regular mail, notice of the action to the chief administrator of any agency shown to have the licensee under either current or latest appointment.
- (q) A suspended license remains suspended until:
 - (1) the term of suspension has expired and the term of court-ordered community supervision has been completed; and
 - (2) a written request for reinstatement has been received from the licensee and accepted by the commission; or
 - (3) the remainder of the suspension is probated and the license is reinstated.
- (r) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

223.19 Revocation of License

Summary: Conforms disqualifying military discharges and family violence language to current enrollment and licensing rule.

The Texas Commission on Law Enforcement (Commission) adopts the amended § 223.19, concerning Revocation of License without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7670) and will not be republished.

The amendment to 37 Texas Administrative Code § 223.19, Revocation of License, conforms disqualifying military discharges and family violence language to current enrollment and licensing rule.

This amendment is necessary to clarify and reflect longstanding interpretation of previous rules related to disqualifying military discharges involving bad conduct. It also conforms disqualifying “family violence” language to current suspension and revocation rules.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and § 1701.501, Disciplinary Actions.

§ 223.19. Revocation of License.

- (a) The commission shall immediately revoke any license issued by the commission if the licensee is or has been convicted of a felony offense as provided in subsections (b), (c) and (d) of this section. The revocation of any license held is effective immediately when the commission receives a certified copy of a court's judgment and issues notice to the licensee that any license held is revoked. Notice of revocation shall be sent via certified U.S. Mail to the address shown on the Texas driver's license record of the licensee and to the address of the agency showing the licensee under current or last appointment.
- (b) A person is convicted of a felony when an adjudication of guilt on a felony offense is entered against that person by a court of competent jurisdiction whether or not:
 - (1) the sentence is subsequently probated and the person is discharged from community supervision;
 - (2) the accusation, complaint, information, or indictment against the person is dismissed and the person is released from all penalties and disabilities resulting from the offense; or
 - (3) the person is pardoned for the offense, unless the pardon is expressly granted for subsequent proof of innocence.

- (c) The commission will construe any disposition for a criminal offense to be its closest equivalent under the Texas Penal Code classification of offenses if the offense arose from:
 - (1) another provision of the Texas law; or
 - (2) a provision of any other state, federal, military, tribal, or foreign jurisdiction.
- (d) The commission may revoke the license of a person who is either convicted of a misdemeanor offense or placed on deferred adjudication community supervision for a misdemeanor or felony offense, if the offense directly relates to the duties and responsibilities of any related office held by that person. In determining whether a criminal offense directly relates to such office, the commission shall, under this subsection, consider:
 - (1) the nature and seriousness of the crime;
 - (2) the relationship of the crime to the purpose for requiring a license for such office;
 - (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
 - (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of such office.
- (e) The commission shall revoke any license issued by the commission if the licensee:
 - (1) has received a dishonorable or other discharge based on misconduct which bars future military service;
 - (2) has made, submitted, caused to be submitted, or filed a false or untruthful report to the commission;
 - (3) has been found to be in unauthorized possession of any commission licensing examination or portion of a commission licensing examination, or a reasonable facsimile thereof;
 - (4) is convicted in any court of an offense involving family violence as defined under Chapter 71, Texas Family Code;
 - (5) is a fourth time offender in failing to obtain legislatively required continuing education as described in § 217.11 of this title; or
 - (6) violates any section where revocation is the penalty noted.
- (f) Revocation of a license shall permanently disqualify a person from licensing and a license may not be reinstated except when the licensee proves the facts supporting the revocation have been negated, such as:
 - (1) the felony conviction has been reversed or set aside on direct or collateral appeal, or a pardon based on subsequent proof of innocence has been issued;
 - (2) the dishonorable or bad conduct discharge has been upgraded to above dishonorable or bad conduct conditions;
 - (3) the report alleged to be false or untruthful was found to be truthful; or
 - (4) the section was not violated.

- (g) During the direct appeal of any appropriate conviction, a license may be revoked pending resolution of the mandatory direct appeal. The license will remain revoked unless and until the holder proves that the conviction has been set aside on appeal.
- (h) The holder of any revoked license may informally petition the executive director for reinstatement of that license based upon proof by the licensee that the facts supporting the revocation have been negated.
- (i) If granted, the executive director shall inform the commissioners of such action no later than at their next regular meeting.
- (j) If denied, the holder of a revoked license may petition the commission for a hearing to determine reinstatement based upon the same proof.
- (k) Once a license has been revoked, the commission shall search its files and send, by regular mail, notice of the action to the chief administrator of any agency shown to have the licensee under either current or latest appointment.
- (l) The date of revocation will be the earliest date that:
 - (1) a waiver was signed by the holder; or
 - (2) a final order of revocation was signed by the commissioners.
- (m) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

227.1 School District Responsibilities

Summary: Ensuring qualified school marshal licensee appointments are reported to the Commission.

The Texas Commission on Law Enforcement (Commission) adopts the new § 227.1, concerning School District Responsibilities without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7671) and will not be republished.

The new rule, 37 Texas Administrative Code § 227.1, School District Responsibilities, ensuring qualified school marshal licensee appointments are reported to the Commission.

This new rule is necessary to conform to the statutory school marshal amendment by setting forth a school district's requirements in order to appoint a school marshal. Due to the obvious potential harm of an ineligible or untrained person holding a school marshal license or appointment, a detailed process regarding appointment requirements is necessary.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

§ 227.1. School District Responsibilities.

- (a) A school district shall:
- (1) submit and receive approval for an application to appoint a person as a school marshal;
 - (2) upon authorization, notify the commission using approved format prior to appointment;
 - (3) report to the commission, within seven days, when a person previously authorized to act as a school marshal is no longer employed with the school district;
 - (4) report to the commission, within seven days, when a person previously authorized to act as a school marshal is no longer authorized to do so by the school district, commission standards, another state agency, or under other law; and
 - (5) immediately report to the commission a school marshal's violation of any commission standard, including the discharge of a firearm carried under the authorization of this chapter outside of a training environment.

- (b) A school district shall not appoint or employ an ineligible person as a school marshal.
- (c) For five years, the school district must retain documentation that the district and person has met all requirements under law in a format readily accessible to the commission. This requirement does not relieve a school district from retaining all other relevant records not otherwise listed.
- (d) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

227.3 School Marshal Licensing and Reporting Requirements

Summary: Ensuring qualified school marshal licensees.

The Texas Commission on Law Enforcement (Commission) adopts the new § 227.3, concerning School Marshal Licensing and Reporting Requirements without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7672) and will not be republished.

The new rule, 37 Texas Administrative Code § 227.3, School Marshal Licensing and Reporting Requirements, ensures qualified school marshal licensee appointments.

This new rule is necessary to conform to the statutory school marshal amendment by setting forth an applicant's requirements in order to be eligible for appointment as a school marshal. Due to the obvious potential harm of an ineligible or untrained person holding a school marshal license or appointment, a detailed process regarding appointment requirements is necessary.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

§ 227.3. School Marshal Licensing and Reporting Requirements.

- (a) To be eligible for appointment as a school marshal, an applicant shall:
 - (1) successfully complete all prerequisite commission training;
 - (2) pass the state licensing exam;
 - (3) be employed and appointed by an authorized school district; and
 - (4) meet all statutory requirements, including psychological fitness.
- (b) Once appointed, a school marshal shall:
 - (1) immediately report to the commission and school district any circumstance which would render them unauthorized to act as a school marshal by virtue of their employment with the school district, failure to meet the standards of the commission, another state agency, or under law;
 - (2) immediately report to the commission any violation of applicable commission standards, including any discharge of a firearm carried under the authorization of this chapter outside of training environment; and

(3) comply with all requirements under law, including Texas Education Code, § 37.0811.

(c) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

227.5 School Marshal Training Entities

Summary: Ensuring qualified school marshal licensees.

The Texas Commission on Law Enforcement (Commission) adopts the new § 227.5, concerning School Marshal Training Entities without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7673) and will not be republished.

The new rule, 37 Texas Administrative Code § 227.5, School Marshal Training Entities, ensures qualified school marshal licensees.

This new rule is necessary to conform to the statutory school marshal amendment by setting forth the training program requirements for school marshals.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

§ 227.5. School Marshal Training Entities.

- (a) A school marshal training program is open to any employee of a school district or open-enrollment charter school who holds a license to carry a concealed handgun issued under Texas Government Code, Chapter 411, Subchapter H.
- (b) The training program must be preapproved and conducted by commission staff or approved provider. The training program shall include 80 hours of instruction designed to:
 - (1) emphasize strategies for preventing school shootings and for securing the safety of potential victims of school shootings;
 - (2) educate a trainee about legal issues relating to the duties of peace officers and the use of force or deadly force in the protection of others;
 - (3) introduce the trainee to effective law enforcement strategies and techniques;
 - (4) improve the trainee's proficiency with a handgun; and
 - (5) enable the trainee to respond to an emergency situation requiring deadly force, such as a situation involving an active shooter.
- (c) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

227.7 School Marshal Renewals

Summary: Ensuring qualified school marshal licensees.

The Texas Commission on Law Enforcement (Commission) adopts the new § 227.7, concerning School Marshal Renewals without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7673) and will not be republished.

The new rule, 37 Texas Administrative Code § 227.7, School Marshal Renewals, ensures qualified school marshal licensees.

This new rule is necessary to conform to the statutory school marshal amendment by setting forth the license renewal requirements for school marshals. Due to the obvious potential harm of an ineligible or untrained person holding a school marshal license or appointment, a detailed process regarding appointment requirements is necessary.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

§ 227.7. School Marshal Renewals.

- (a) A school marshal license expires on the person's birth date following the second anniversary of initial licensure or renewal.
- (b) The commission may renew the license of a person who has:
 - (1) successfully completed a renewal course designed and administered by the commission which will not exceed a combined 16 hours of classroom and simulation training;
 - (2) passed a commission exam;
 - (3) demonstrated handgun proficiency as required by the commission; and
 - (4) demonstrated psychological fitness.
- (c) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

227.9 License Action

Summary: Ensuring qualified school marshal licensees.

The Texas Commission on Law Enforcement (Commission) adopts the new § 227.9, concerning License Action without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7674) and will not be republished.

The new rule, 37 Texas Administrative Code § 227.9, License Action, establishes disciplinary procedures for school marshal licensees.

This new rule is necessary to conform to the statutory school marshal amendment by setting forth the license revocation and suspension procedures for school marshal licenses. Due to the obvious potential harm of an ineligible or untrained person holding a school marshal license or appointment, public policy weighs heavily in favor of immediate revocation or suspension action.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

§ 227.9. License Action.

- (a) The commission shall immediately revoke a school marshal license if the license holder's ability to carry a concealed handgun has been suspended or revoked by the Texas Department of Public Safety.
- (b) A person whose school marshal license is revoked may obtain recertification by:
 - (1) furnishing proof to the commission that the person's concealed handgun license has been reinstated; and
 - (2) completing initial training to the satisfaction of the commission staff, paying the fee for the training, and demonstrating psychological fitness on the psychological examination.
- (c) If a school marshal license holder violates any commission standard, the commission shall immediately suspend the license for ten years. Mitigating factors are inapplicable to a suspension action under this chapter.
- (d) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

227.11 Confidentiality of Information

Summary: Ensuring qualified school marshal licensees.

The Texas Commission on Law Enforcement (Commission) adopts the new § 227.11, concerning Confidentiality of Information without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7674) and will not be republished.

The new rule, 37 Texas Administrative Code § 227.11, Confidentiality of Information, protects information received in relation to school marshal licensees.

This new rule is necessary to conform to the statutory school marshal amendment by setting forth the confidentiality of information received in relation to school marshals.

No comments were received regarding adoption of this new rule.

The new rule is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

§ 227.11. Confidentiality of Information.

- (a) Except as provided by law, identifying information about a person collected or submitted under Texas Occupations Code, § 1701.260 is confidential.
- (b) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

229.1 Eligibility for Memorial Monument

Summary: Amended to clarify type of memorial.

The Texas Commission on Law Enforcement (Commission) adopts the amended § 229.1, concerning Eligibility for Memorial Monument without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7675) and will not be republished.

The amendment to 37 Texas Administrative Code § 229.1, Eligibility for Memorial Monument, clarifies type of memorial.

This amendment is necessary to conform to statutory amendment by adding “monument” to caption of Peace Officer Memorial provisions.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and Texas Government Code, Chapter 3105, § 3105.003 Eligibility for Memorial.

§ 229.1. Eligibility for Memorial Monument.

- (a) A person is eligible to have the person's name on the memorial if the person was killed in the line of duty and was:
 - (1) a law enforcement officer or peace officer for this state or a political subdivision of this state under Article 2.12, Code of Criminal Procedure, or other law;
 - (2) a federal law enforcement officer or special agent performing duties in this state, including those officers under Article 2.122, Code of Criminal Procedure;
 - (3) a corrections or detention officer or county or municipal jailer employed or appointed by a municipal, county, or state penal institution in this state; or
 - (4) a Texas peace officer who, in historical perspective, would be eligible under any of the preceding criteria.
- (b) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.

229.3 Specific Eligibility of Memorial Monument

Summary: Amended to clarify type of memorial.

The Texas Commission on Law Enforcement (Commission) adopts the amended § 229.3, concerning Specific Eligibility of Memorial Monument without changes to the proposed text as published in the November 1, 2013, issue of the Texas Register (38 TexReg 7675) and will not be republished.

The amendment to 37 Texas Administrative Code § 229.3, Specific Eligibility of Memorial Monument, clarifies type of memorial.

This amendment is necessary to conform to statutory amendment by adding “monument” to caption of Peace Officer Memorial provisions.

No comments were received regarding adoption of this amendment.

The amendment is adopted under Texas Occupations Code, Chapter 1701, § 1701.151 and Texas Government Code, Chapter 3105, § 3105.003 Eligibility for Memorial.

§ 229.3. Specific Eligibility of Memorial Monument.

- (a) An officer identified in § 229.1 of this chapter is eligible for inclusion on the memorial if the fatal incident:
- (1) was a direct result of a line of duty, on or off duty incident;
 - (2) was an indirect result but directly attributed to a line of duty, on or off duty incident; or
 - (3) was a direct result of a felonious assault on the officer, perpetrated because of the officer’s status, regardless of duty status.
- (b) The effective date of this section is February 1, 2014.

The final order of rule adoption has been approved this 5th day of December, 2013.