

PART XX. Texas Workforce Commission

CHAPTER 827. Communities in Schools

The Texas Workforce Commission (Commission) proposes new §§827.1-827.2, 827.11-827.14, 827.21, 827.31-827.33, 827.41-827.43 and 827.51-827.55 concerning the administration of the Communities In Schools (CIS) program. The new chapter is proposed along with Subchapters A-F as the location of the rules pertaining to Communities In Schools.

New Subchapter A is added concerning General Provisions.

New §827.1 of Subchapter A, Purpose, states that these rules are to implement and interpret the requirements of Texas Labor Code, Chapter 305 and the provisions of the Communities In Schools Memorandum of Understanding with the Texas Education Agency.

New §827.2 defines words and terms used in these rules.

New Subchapter B is added concerning approval of new local applicant proposals.

New §827.11 states that, subject to funding availability, the Commission shall publicly solicit proposals for new CIS programs on an annual basis, either through the Texas Register or as otherwise determined by the Commission.

New §827.12 details the various components that local applicants must specify in their proposals for CIS programs.

New §827.13 sets forth the procedure for proposal evaluation.

New §827.14 states that no change or amendment may be made to proposals after submission, and provides exceptions.

New Subchapter C is added concerning approval of renewal and expansion proposals.

New §827.21 sets forth the continuation re-application procedures applicable to local programs currently contracting with the Commission for administration of the CIS program.

New Subchapter D is added concerning the funding of CIS local programs. New §827.31 sets forth the funding formula for Compensatory Education Funds. In accordance with Chapter 305 of the Texas Labor Code, those CIS programs participating as of August 31, 1995 shall have the funds contributed by the state reduced up to 50% over the next three years. Beginning in Fiscal Year 2002, all Compensatory Education Funds will be allocated to local workforce development areas based on the proportion of low-income students and financial resources in the area.

New §827.32 sets forth the funding formula for JTPA funds.

New §827.33 sets forth the funding method for CIS TANF funds.

New Subchapter E is added concerning the program administration after approval as a local program.

New §827.41 sets forth the program policy requirements.

New §827.42 sets forth the operational plan requirements.

New § 827.43 sets forth the monitoring requirements applicable to local programs.

New Subchapter F is added concerning compliance.

New §827.51 sets forth the preventive maintenance and fiscal accountability provisions.

New §827.52 sets forth the sanctions for non-compliance.

New §827.53 sets forth the violations resulting in sanctions.

New §827.54 sets forth the provisions for notice of sanctions.

New §827.55 sets forth the provision for appeals.

Randy Townsend, Director of Finance, has determined that for the first five-year period the sections are in effect, there will be no fiscal impact to state or to local governments as a result of enforcing or administering the rules. There will be no foreseeable cost reductions to the state and to local governments, no net effect on revenues as a result of enforcing and administering the rules, and no foreseeable implications relating to costs or revenues to the state or to

local governments associated with implementing these sections. There will be no effect on small businesses. There are no anticipated costs to persons who are required to comply with the sections as proposed.

Mark Hughes, Director of Labor Market Information, has determined that the proposed rules would have no impact upon public or private employment. Alan Miller, Director of Workforce Development Division, has determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of enforcing the sections will be providing funding to assist in reducing youth drop-out rates.

Comments on the proposal may be submitted to Sandra Smith, Education and Special Services, Texas Workforce Commission Building, 101 East 15th Street, Room 526BT, Austin, Texas 78778, fax (512) 305-9182. Comments may also be submitted via e-mail to Ms. Smith at sandra.smith@twc.state.tx.us.

SUBCHAPTER A. General Provisions

40 TAC §827.1, §827.2

The new rules are proposed under Texas Labor Code, §301.061 which provides the Texas Workforce Commission with the authority to adopt such rules as it deems necessary for the effective administration of the Act. Texas Labor Code, Chapter 305 will be affected by this proposal.

§827.1. Purpose.

(a) The purpose of these rules is to implement and interpret the requirements of Texas Labor Code, Chapter 305, as may be amended, and the provisions of the Communities In Schools Memorandum of Understanding with the Central Education Agency.

(b) The mission of the Communities In Schools program in Texas is to help young people stay in school.

§827.2. Definitions.

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

(1) At-risk student - student at risk of dropping out of school, as defined in the Texas Education Code, Title 2, Subchapter C, §29.081.

(2) Base year - Fiscal year 1996 (FY96).

(3) Board development/board orientation - The technical support, training, and customer service given to the local program board of directors by state, national, or regional CIS offices.

(4) Campus needs assessment - An annual survey conducted at each CIS campus to determine services that are provided through other sources, services needed but not provided, and the potential for CIS to provide additional needed services or integrate services to more effectively serve students.

(5) CIS - The Communities In Schools program authorized under the Texas Labor Code, Chapter 305.

(6) CISCMS - The Communities In Schools Case Management System that is an automated data collection system that tracks services and outcomes of the case managed students entered into CIS.

(7) Commission - The Texas Workforce Commission as established in Texas Labor Code, §301.001.

(8) Community support - An active community based organization consisting of representatives from key entities in the community, representing both the public and private sectors of the community as well as reflecting its ethnic and demographic makeup. This group, indicating community support, takes the initiative in spearheading the establishment of a CIS program in the community prior to the formation of a board of directors which then administers the CIS program.

(9) Compensatory education funds - General Revenue allocated by the State

Legislature for operation of programs and/or provision of services designed for students in at-risk situations as stipulated in the Texas Education Code, §29.081.

(10) Continuation program - a local CIS program which has contracted with the Commission and provided CIS services for one or more years.

(11) Contract - The agreement entered into by the local program board of directors and the Commission to administer the CIS program.

(12) Educationally disadvantaged student - Those students who are eligible for free or reduced-price meals in the national school lunch program. See Texas Education Code, §42.152.

(13) Expansion - The process of an existing local program establishing CIS services on a new school campus or in a new school district.

(14) Financial resources - The appraisal value of the taxable property assessed by the local appraisal districts located in the local workforce development area divided by the total student population in the local workforce development area.

(15) JTPA - The Job Training Partnership Act and the various programs established under such Act to prepare youths and adults facing serious barriers to employment for participation in the labor force by providing job training and other job services (29 U.S.C. §§1501 et seq.).

(16) Local applicant - A community based organization which desires to establish a new CIS program in a local workforce development area not previously having a CIS program.

(17) Local financial support - Funds or in-kind contributions from local entities for use in operation of the CIS program.

(18) Local program - A non-profit corporation, established in a given community with the purpose of administering the CIS program, that has a contract with the Commission to administer the CIS program. Each local program is governed by a local board of directors which hires an executive director to administer the program.

(19) Local workforce development area - The area as defined by the Texas Government Code, §2308.252.

(20) Local workforce development board - The area as defined by the Texas Government Code, §2308.253.

(21) Low-income student - A student who is eligible for free or reduced-price meals under the National School Lunch and Child Nutrition Program or other public assistance.

(22) Program year - The period from September 1 to the following August 31.

(23) Replication - The process of establishing a new CIS local program in a local workforce development area previously not served by CIS.

(24) Replication program - A program that will have the status of a "replication program" for the first year following establishment of the program. This indicates that it is in a developing stage and distinguishes it from a continuation program which is established and on-going.

(25) School district support - Written support from the school district indicating willingness and desire to have the CIS program on its campus.

(26) School-to-Work - A voluntary system that facilitates the understanding of students and their parents of expectations of employers and community professionals and provides multiple opportunities for students to experience success in meeting those expectations in the workplace and in the community.

(27) State office - The Texas Workforce Commission office that oversees and administers the Communities In Schools program, funded through legislatively appropriated funds, throughout the state.

(28) TANF- Temporary Assistance to Needy Families; cash assistance and services for eligible individuals as defined in the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (7 U.S.C. §§201.1, et seq.).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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J. Ferris Duhon

Acting Deputy Director of Legal Services

Texas Workforce Commission

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For further information, please call: (512) 463-8812

SUBCHAPTER B.Approval of New Local Applicant Proposals

40 TAC §§827.11-827.14

The new rules are proposed under Texas Labor Code, §301.061 which provides the Texas Workforce Commission with the authority to adopt such rules as it deems necessary for the effective administration of the Act. Texas Labor Code, Chapter 305 will be affected by this proposal.

§827.11.Proposal Solicitation.

Subject to funding availability, the Commission shall place a public notice soliciting proposals for new CIS programs in the Texas Register annually, or as otherwise determined by the Commission.

§827.12. Proposal Requirements.

(a) The local applicant must specify in the proposal to establish a CIS program how each of the following components will be provided, as well as any other information requested in the Request for Proposal (RFP).

(1) Supportive guidance - Individual and group services that address areas of a student's needs to assist in bringing about positive results in the student's life. This includes, but is not limited to, services such as one-on-one counseling, support groups, crisis interventions, court advocacy, or probation monitoring.

(2) Health and Human Services coordination - Services that promote increased health awareness and healthy life-styles in participants, and which coordinate the provision of social services in conjunction with other community service providers. This includes, but is not limited to, services such as health fairs and screenings, parenting classes, presentations on health issues, first aid classes, or fitness classes.

(3) Parental involvement - Services and activities to increase the participation of parents in the student's educational experience. This includes, but is not limited to, services such as parents' night, newsletters, parent surveys, or home visits.

(4) Pre-employment/employment training and services -Services planned and conducted to promote career awareness, job readiness skills, and preparation for and attainment of employment. This includes, but is not limited to, services such as job clubs, employment skills training, job shadowing, career fairs, or employment referrals.

(5) Enrichment activities and experiences - Services which provide training in positive social, cultural, recreational, and interpersonal skills and provide experiences to broaden and expand a student's life understanding. This includes, but is not limited to, services such as field trips, plays, after-school programs, clothes drives, or arts and crafts.

(6) Educational enhancement - The provision of support in all educational areas as needed to encourage student achievement and success in the school experience. This includes, but is not limited to, services such as tutoring, homework club, college field trips, English as a Second Language classes, General Equivalency Degree classes, or study skills.

(b) The local applicant must specify in the proposal to establish a CIS program a plan for increasing local financial support.

(c) The local applicant must include a description of strategies and activities

demonstrating how the CIS program will be coordinated with other youth programs in the local workforce development area. At a minimum, coordination must include School-to-Work, Titles IIB and IIC of the JTPA, Youth Opportunities Unlimited (YOU), Youth Fair Chance, and Tech-Prep.

(d) All grant applications for CIS funding must be reviewed and approved by the local workforce development board serving the local workforce development area in which the local CIS program operates prior to submission of the grant application to the Commission.

§827.13. Procedure for Proposal Evaluation.

Funds shall be awarded for implementation of local programs based on evaluation of the proposals received in relationship to the criteria specified in the Request for Proposal (RFP), and based upon funding availability. The RFP will specify the relative weight given to each criteria. In the event that funds are not sufficient for all proposals to be funded, funds shall be awarded on the basis of evaluation criteria specified in the RFP.

§827.14. Proposal Amendments.

No change or amendment may be made to the proposal after it has been submitted unless the local applicant can demonstrate to the Commission that the change:

- (1) is necessary due to circumstances beyond its control;
- (2) materially affects the proposal;
- (3) will enable the local applicant to meet the purposes and goals of the program; and
- (4) will avoid adversely affecting a substantial number of persons in the targeted population.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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J. Ferris Duhon

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SUBCHAPTER C. Approval of Renewal and Expansion Proposals

40 TAC §827.21

The new rule is proposed under Texas Labor Code, §301.061 which provides the Texas Workforce Commission with the authority to adopt such rules as it deems necessary for the effective administration of the Act. Texas Labor Code, Chapter 305 will be affected by this proposal.

§827.21. Continuation Re-Application Procedures.

(a) Annually, a local program currently contracting with the Commission for administration of the CIS program must file a reapplication for continuation of funding. A notice will be issued to local programs by the Commission advising them of the information required, the filing deadline, and any other criteria for reapplication.

(b) Continued funding shall be granted, based upon funding availability, if the local program meets the following criteria:

- (1) continued community and school district support;
- (2) continued local financial support;
- (3) continues to operate in school districts with at least 10% of students identified as at-risk;
- (4) compliance with contract provisions;
- (5) absence of any unresolved contract issues; and

(6) coordination of services with the local workforce development boards. Coordination of services may be evidenced by board members serving on both the local workforce development board and the CIS board; references in the workforce development area plan of coordinated activities with CIS; CIS functioning as a service provider for the workforce development board; and/or references in the CIS plan to involvement in programs or activities administered by the local workforce development board.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt. Filed with the Office of the Secretary of State, on February 13 1998.

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SUBCHAPTER D. Funding of CIS Local Programs

40 TAC §§827.31-827.33

The new rules are proposed under Texas Labor Code, §301.061 which provides the Texas Workforce Commission with the authority to adopt such rules as it deems necessary for the effective administration of the Act. Texas Labor Code, Chapter 305 will be affected by this proposal.

§827.31. Compensatory Education Funds.

(a) This Compensatory Education Funds reduction formula shall only apply to those CIS programs participating as of August 31, 1995.

(b) Based on funds awarded to CIS programs in the base year, fiscal year 1996, each program shall have the funds annually contributed by the state reduced by 50% over the next three years.

(c) Funds to CIS programs shall be reduced as follows:

- (1) in FY99, by 30% from the base year;
- (2) in FY2000, by 40% from the base year; and
- (3) in FY2001, by 50% from the base year.

(d) Savings accomplished through the reduction in funds to participating CIS programs shall be allocated to local workforce development areas of the state that are not served by a participating CIS program. The allocation formula shall use the following factors:

(1) percentage of low-income students in the local workforce development area; and

(2) the financial resources of the local workforce development area.

(e) Funds for new programs shall be awarded through a competitive RFP process.

(f) Funds not awarded through the Request for Proposal (RFP) process shall be reallocated among contracted CIS programs as described in subsection (d) of this section. Reallocated funds shall be limited to program expansion and shall not be used to replace funds lost through funding reduction.

§827.32. JTPA Funds.

In the event that JTPA funds are made available for the CIS program, the formula for allocating savings accomplished through the reduction in Compensatory Education Funds to participating CIS programs described in §827.31(d) shall be utilized to determine the allocation of JTPA funds.

§827.33. Temporary Assistance for Needy Families (TANF) Funding.

TANF funding shall be subject to a competitive Request for Proposal (RFP) process for FY99.

This agency hereby certifies that the proposal has been reviewed by legal

counsel and found to be within the agency's legal authority to adopt.
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SUBCHAPTER E. Program Administration After Approval as a Local Program

40 TAC §§827.41-827.43

The new rules are proposed under Texas Labor Code, §301.061 which provides the Texas Workforce Commission with the authority to adopt such rules as it deems necessary for the effective administration of the Act. Texas Labor Code, Chapter 305 will be affected by this proposal.

§827.41. Program Policy Requirements.

(a) Expenditure policies. The local programs shall adhere to the Commission's policies regarding procurement of goods and services in expenditure of funds.

(b) Records retention. Local programs shall maintain all documentation for a minimum of three years. In the event of litigation or an unresolved audit discrepancy, the local program shall retain the records until the litigation or discrepancy is resolved.

(c) Information requests. The local programs shall comply with all Commission requests for additional information for purposes of evaluation.

(d) Identification. The local programs shall use the name "Communities In Schools of Texas" for purposes of identification. Only those programs which have complied with all requirements set forth by the Commission are entitled to use the name "Communities In Schools of Texas."

(e) Governance. Each local board is governed by a local board of directors.

(f) Training. Each local program must meet national and state training requirements, as stated in its contract with the Commission. Local programs that fail to meet such requirements may be deemed out of compliance and shall be subject to withholding of funds until the local program is in compliance.

(g) Data collection. Each local program shall utilize the CISCMS or other system as designated by the Commission to track all students served by the CIS program.

(h) Cost limitations. The administrative costs for operation of a local CIS program shall not exceed 15%.

§827.42. Operational Plan.

(a) The local program shall prepare an annual operational plan (plan) which shall be submitted in accordance with the date established by the Commission in the annual planning guidelines.

(b) Prior to submission of the plan to the Commission, all annual plans for CIS funding must be reviewed and approved by the local workforce development board serving the local workforce development area in which the local CIS program operates.

(c) The Commission shall issue planning guidelines by August of each year. In addition to the content specified in the planning guidelines, the plan shall include the following:

- (1) the program goals and objectives;
- (2) the services necessary to implement all six CIS components on each campus;
- (3) the needs and resource assessment, which includes a letter of agreement between the local CIS program and the school district;
- (4) a description of the linkage between community and campus needs and available and provided services;
- (5) a self-evaluation and monitoring plan;

- (6) an annual marketing plan which defines the CIS mission, identifies target markets, and establishes a strategy for implementation;
 - (7) a Program Profile Document;
 - (8) a Program Volunteer Plan;
 - (9) a description of strategies for developing additional local financial resources; and
 - (10) a description of strategies and activities demonstrating how the CIS program will coordinate with other youth programs in the local workforce development area. At a minimum, coordination must include School-to-Work, Titles IIB and IIC of the JTPA, Youth Opportunities Unlimited (YOU), Youth Fair Chance, and Tech-Prep.
- (d) The Commission shall review the CIS board's plan along with any comments from local workforce development boards. The Commission may approve the plan, require modifications to the plan, or disapprove the plan.

§827.43.Monitoring

- (a) The local programs shall evaluate their programs on an ongoing basis and submit two reports per program year in accordance with the contract.
- (b) The local programs shall comply with Commission audits, monitorings, and evaluations.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt. Filed with the Office of the Secretary of State, on February 13 1998. TRD-9802182

J. Ferris Duhon

Acting Deputy Director of Legal Services
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SUBCHAPTER F.Compliance

40 TAC §§827.51-827.55

The new rules are proposed under Texas Labor Code, §301.061 which provides the Texas Workforce Commission with the authority to adopt such rules as it deems necessary for the effective administration of the Act. Texas Labor Code, Chapter 305 will be affected by this proposal.

§827.51.Preventive Maintenance.

- (a) Local programs that fail to meet the requirements stated in the contract with the Commission shall be deemed out of compliance and may be subject to withholding of funds.
- (b) Preventive maintenance measures, developed to ensure program outcome and provide fiscal accountability, will include technical assistance, timely and effective program and fiscal monitoring, and quality assurance reviews.
 - (1) Technical assistance is performance-driven and outcome-based, stressing the sharing of information and best practice models. The focus is on providing assistance to front-line staff as they deliver basic services. Assistance is provided for both fiscal and program issues.
 - (2) Program and Fiscal Monitoring assistance may include site visits, desk reviews, and analysis of both financial and program outcomes to help identify potential weaknesses before such weaknesses result in sub-standard performance or questioned costs. Monitoring may result in recommendations that provide practical solutions that can be used to take immediate corrective action.
 - (3) Quality Assurance assistance includes routine evaluation of essential quality indicators and certification systems which will be enhanced with timely and relevant professional training to help develop and maintain the knowledge, skills, and abilities required across program lines.

§827.52.Sanctions for Non-Compliance.

The Commission may impose the following levels of sanctions, as a result of non-compliance by a local program.

(1) Level One Sanctions may be imposed as a response to a contractual breach or failure to comply with specific state and federal requirements and Commission policies. Level One Sanctions may include, but are not limited to, one or more of the following actions:

(A) a requirement that the local program staff participate in technical training and quality assurance workshops designated by the Commission;

(B) development and implementation of a formal corrective action plan to address the weaknesses identified;

(C) submission of additional or more detailed financial or performance reports;

(D) designation as a high-risk program, requiring additional monitoring visits;

or

(E) repayment of disallowed costs.

(2) Level Two Sanctions may be imposed as a response to a severe problem and the potential negative impact such a problem may have on the local workforce development area or the state. Level Two Sanctions may include, but are not limited to, one or more of the following actions:

(A) imposition of one or more Level One sanctions;

(B) restrictions on the local program's ability to draw down funds;

(C) possible delay, suspension, or denial of contract payments;

(D) requirement of advance approval by Commission for program actions;

(E) requirement that a Commission representative be present at all meetings; or

(F) reduction of contract allocations in future periods;

(3) Level Three Sanctions may be imposed where a severe or continued failure to comply with state or federal laws, regulations or Commission policies has gone uncorrected. Level Three Sanctions may include, but are not limited to, one or more of the following actions:

(A) imposition of one or more Level One sanctions;

(B) imposition of one or more Level Two sanctions;

(C) deobligation of current year funds;

(D) contract suspension or termination; or

(E) submission and Commission approval of a corrective action plan.

§827.53.Violations Resulting in Sanctions.

(a) Violations which may result in the imposition of Level One Sanctions include, but are not limited to, the following:

(1) failure to attain or maintain annual performance within 90% of the contracted standards;

(2) failure to submit required financial or performance reports;

(3) failure to take corrective action to resolve findings identified during monitoring, investigative reviews or program reviews;

(4) breach of administrative and service contract requirements; or

(5) failure to retain required service delivery and financial records.

(b) Violations which may result in the imposition of Level Two Sanctions include, but are not limited to, the following:

(1) failure to rectify a Level One sanction within 180 days of notice;

(2) committing a second violation within the same fiscal year;

(3) failure to rectify reported threats to the health and safety of program participants within thirty days of notice; and

(4) failure to attain or maintain annual performance within 75% of contracted standards.

(c) Violations which may result in the imposition of Level Three Sanctions include, but are not limited to, the following:

(1) failure to rectify a Level One sanction within 360 days of notice;

- (2) failure to rectify a Level Two sanction within 180 days of notice;
- (3) committing three or more Level One violations or two or more Level Two violations within the same fiscal year;
- (4) failure to rectify reported threats to the health and safety of program participants within 90 days of notice; and
- (5) failure to return annual performance to 75% of contracted standards within two program years.

§827.54. Notice of Sanctions.

- (a) The specific sanctions to be imposed on a local program by this policy shall be determined by Commission staff.
- (b) The Commission shall issue a written notice of pending sanctions indicating the violation, the corrective action, and the level of sanction.
- (c) The written notice of pending sanctions shall be sent, at least five working days prior to the effective date of the sanction, to the CIS Board Chair, the CIS Executive Director, and the local workforce development area Board Chair.
- (d) All notices of sanctions shall be sent by facsimile (fax) transmission, and by regular mail for Level One sanctions, or by certified mail, return receipt requested, for Level Two or Level Three sanctions.
- (e) The effective date of notice shall be the date the facsimile transmission notice is sent to the CIS Board. If the notice is transmitted or recorded as delivered after 5:00 p.m., then the following business day shall be considered the date of notice.

§827.55. Appeals.

- (a) CIS Boards may appeal a decision by the Commission under this Chapter.
- (b) A CIS Board must submit a request for appeal within ten days of the date of a notice of sanctions. The request for appeal must be directed to the General Counsel, Texas Workforce Commission, 101 East 15th Street, Room 614, Austin, Texas 78778.
- (c) All appeals and hearings shall be referred to a hearing officer, and shall be conducted under the applicable hearing provisions depending on the source of funding. The hearing officer will receive oral and written evidence from both parties and shall prepare a written proposal for decision. This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt. Filed with the Office of the Secretary of State, on February 13, 1998.

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J. Ferris Duhon

Acting Deputy Director of Legal Services

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