

PUBLICATION IN *TEXAS REGISTER*

The Texas Commission on Law Enforcement (Commission) adopts amended 37 Texas Administrative Code §211.29, Responsibilities of Agency Chief Administrators, without changes to the proposed text as published in the July 25, 2025 issue of the *Texas Register* (50 TexReg 4342). The rule will not be republished.

This adopted amended rule codifies in rule the requirements of law enforcement agencies in relation to the Commission that are contained in Texas Occupations Code Chapter 1701 or in the Misconduct Allegations and Personnel Files model policies. As intended by Senate Bill 1445 (88R), this will allow the Commission to enforce limited aspects of these model policies, or substantively similar ones, as adopted by law enforcement agencies. This includes the requirement that agencies investigate and submit reports for allegations of misconduct of their appointed licensees and that they maintain personnel and department files for their appointed licensees and submit those personnel and department files to the Commission when required.

The public comment period began on July 25, 2025, and ended on September 4, 2025, at the conclusion of the public meeting of the Commission. One public comment was received.

Public Comment: Commentor is against the requirement in Subsection (o)(4) that a chief administrator must submit a report to the Commission for all completed investigations of alleged administrative misconduct, including for those investigations where the allegations were not sustained. He is also against the requirement in Subsection (o)(6) that documentation of the completed investigation be included in the licensee's personnel or department file, as appropriate. His reasoning is that allegations of misconduct that are not sustained can still cause reputational and other negative impacts to the officer. Also, some may question why the Commission does not take disciplinary action against a licensee that has a certain amount of complaints against them.

Commission Response: Senate Bill 1445 (88R), also known as the TCOLE Sunset Bill, required the Commission to create model policies for the investigation of allegations of misconduct and the maintenance of personnel files, which is codified in Texas Occupations Code §§1701.4522 and .4535. The bill also required every agency to adopt these model policies, or substantively similar ones. The requirements in this proposed rule, including the ones the commenter takes exception to, are baseline requirements in the statute which are required to be in the model policies. As such, the proposed rule does not create any additional requirements that are not already contained in the model policies as required by statute.

The amended rule is adopted under Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority, Texas Occupations Code §1701.4522, Misconduct Investigation and Hiring Procedures, and Texas Occupations Code §1701.4535, Personnel File. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701. Texas Occupations Code §1701.4522 requires the Commission to adopt a model policy for misconduct investigations. Texas Occupations Code §1701.4535 requires the Commission to adopt a model policy for personnel files.

The amended rule as adopted affects or implements Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority, Texas Occupations Code §1701.4522, Misconduct Investigation and Hiring Procedures, and Texas Occupations Code §1701.4535, Personnel File. No other code, article, or statute is affected by this proposal.

The adopted amended rule has been reviewed by legal counsel and found to be a valid exercise of the Commission's legal authority.

§211.29. Responsibilities of Agency Chief Administrators.

- (a) An agency chief administrator is responsible for making any and all reports and submitting any and all documents required of that agency by the commission.
- (b) An individual who is appointed or elected to the position of the chief administrator of a law enforcement agency shall notify the Commission of the date of appointment and title, through a form prescribed by the Commission within 30 days of such appointment.
- (c) An agency chief administrator must comply with the appointment and retention requirements under Texas Occupations Code, Chapter 1701.
- (d) An agency chief administrator must report to the commission within 30 days, any change in the agency's name, physical location, mailing address, electronic mail address, or telephone number.
- (e) An agency chief administrator must report, in a standard format, incident-based data compiled in accordance with Texas Occupations Code §1701.164.
- (f) Line of duty deaths shall be reported to the commission in current peace officers' memorial reporting formats.
- (g) An agency chief administrator has an obligation to determine that all appointees are able to safely and effectively perform the essential job functions. An agency chief administrator may require a fit for duty review upon identifying factors that indicate an appointee may no longer be able to perform job-related functions safely and effectively. These factors should be based on objective evidence and a reasonable basis that the cause may be attributable to a medical or psychological condition or impairment.
- (h) An agency chief administrator shall notify the commission of any failed medical (L-2) or psychological (L-3) examination within 30 days on a form prescribed by the commission. An agency chief administrator shall notify the commission upon a final determination of a failed fit-for-duty examination (FFDE) or drug screen within 30 days on a form prescribed by the commission.
- (i) An agency must provide training on employment issues identified in Texas Occupations Code §1701.402 and field training.
- (j) An agency must provide continuing education training required in Texas Occupations Code §1701.351 and §1701.352.
- (k) Before an agency appoints any licensee to a position requiring a commission license it shall complete the reporting requirements of Texas Occupations Code §1701.451.
- (l) An agency appointing a person who does not hold a commission license must file an application for the appropriate license with the commission.

(m) An agency must notify the commission electronically following the requirements of Texas Occupations Code §1701.452, when a person under appointment with that agency resigns or is terminated.

(n) An agency chief administrator must comply with orders from the commission regarding the correction of a report of resignation/termination or request a hearing from SOAH.

(o) An agency chief administrator must:

(1) at the time the agency becomes aware of an allegation of misconduct, as defined in the model policy required by Texas Occupations Code § 1701.4522(a)(1), that may result in suspension, demotion, or termination, initiate an appropriate administrative or criminal investigation into alleged misconduct of a licensee who was appointed by the law enforcement agency at the time the alleged misconduct occurred;

(2) ensure completion of the investigation into alleged misconduct in a timely manner consistent with the law enforcement agency's policies even if the licensee has separated from the law enforcement agency;

(3) submit a report of a completed investigation into alleged criminal misconduct for which criminal charges are filed against a licensee to the commission within 30 days after the investigation is completed on a form prescribed by the commission;

(4) submit a report of a completed investigation into alleged administrative misconduct to the commission in a timely manner, but not later than 30 days after the licensee's separation from the law enforcement agency, on a form prescribed by the commission;

(5) if the investigative findings or disciplinary action taken are appealed, notify the commission that the matter is under appeal and notify the commission of the disposition of an appeal within 30 days after receipt of the decision; and

(6) include documentation of the completed investigation in the licensee's personnel or department file, as appropriate.

(p) An agency chief administrator must:

(1) maintain a personnel file and department file for each licensee appointed with the law enforcement agency;

(2) submit to the commission a complete copy of the personnel file of a licensee within 30 days after separation of the licensee from the law enforcement agency in a manner prescribed by the commission; and

(3) submit to the commission a complete copy of the personnel file and department file of a licensee upon request as part of an ongoing investigation relating to the licensee.

(q) Except in the case of a commission error, an agency that wishes to report a change to any information within commission files about a licensee shall do so in a request to the commission, containing:

(1) the licensee's name, date of birth, last four digits of the social security number, or PID;

(2) the requested change; and

(3) the reason for the change.

(r) An agency chief administrator may not appoint an applicant subject to pending administrative action based on:

(1) enrollment or licensure ineligibility; or

(2) statutory suspension or revocation.

(s) The effective date of this section is November 1, 2025.