

SUMMARY OF PROPOSED RULE

37 Tex. Admin. Code § 211.1. *Definitions.*

The proposed amendment would add definitions for a Public Information Officer (PIO) and an administrative duty pay status.

RESUMEN DE LA NORMA PROPUESTA

37 Tex. Admin. Code § 211.1. *Definiciones.*

La enmienda propuesta incluiría definiciones para un Oficial de Información Pública (PIO) y un estado de cumplimiento de deberes administrativos.

PUBLICATION IN *TEXAS REGISTER*

The Texas Commission on Law Enforcement (Commission) proposes amended 37 Texas Administrative Code §211.1, Definitions. This proposed amended rule conforms with the addition of Texas Government Code §411.3735 made by House Bill 33 (89R) by adding a nearly identical definition for public information officer. The proposed amended rule would also define administrative duty pay status, which would allow an agency to temporarily restrict a licensee's authority to act under an appointment without having to separate the licensee.

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposal.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be a positive benefit to the public by conforming with Texas Government Code §411.3735 regarding the definition of a public information officer and the addition of a new pay status. There will be no anticipated economic costs to persons required to comply with the proposal.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no adverse economic effects to small businesses, microbusinesses, or rural communities as a result of implementing the proposal.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no effects to a local economy as a result of implementing the proposal.

Mr. Beauchamp has determined the following:

- (1) the proposed rule does not create or eliminate a government program;
- (2) implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency;
- (4) the proposed rule does not require an increase or decrease in fees paid to the agency;

- (5) the proposed rule does not create a new regulation;
- (6) the proposed rule does not expand, limit, or repeal an existing regulation;
- (7) the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) the proposed rule does not positively or adversely affect this state's economy.

The Commission is requesting comments regarding the proposed amended rule and information related to the cost, benefit, or effect of the proposed amended rule, including any applicable data, research, or analysis, from any person required to comply with the proposed amended rule or any other interested person. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments and information may be submitted electronically to public.comment@tcole.texas.gov or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The amended rule is proposed pursuant to Texas Government Code §411.3735, Certification and Continuing Education Required for Certain Public Information Officers, and Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. Texas Government Code §411.3735 defines public information officer. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701.

The amended rule as proposed affects or implements Texas Government Code §411.3735, Certification and Continuing Education Required for Certain Public Information Officers, and Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. No other code, article, or statute is affected by this proposal.

The proposed amended rule has been reviewed by legal counsel and has been found to be within the Commission's authority to adopt.

§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 or its successors 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 or its successors 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 its successors, 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 duty--A pay status for a licensee whose appointing entity has temporarily restricted the licensee's authority to act under that appointment.

(6)[(5)] Administrative Law Judge (ALJ)--An administrative law judge appointed by the chief administrative law judge of the State Office of Administrative Hearings.

(7)[(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.

(8)[(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.

(9)[(8)] Background investigation--An investigation completed by the enrolling or appointing entity into an applicant's personal history as set forth in §217.1(b)(10).

(10)[(9)] Basic licensing course--Any current commission developed course that is required before an individual may be licensed by the commission.

(11)[(10)] Certified copy--A true and correct copy of a document or record certified by the custodian of records of the submitting entity.

(12)[(11)] Chief administrator--The head or designee of a law enforcement agency.

(13)[(12)] Commission--The Texas Commission on Law Enforcement.

(14)[(13)] Commissioned--Has been given the legal power to act as a peace officer or reserve, whether elected, employed, or appointed.

(15)[(14)] Commissioners--The nine commission members appointed by the governor.

(16)[(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.

(17)[(16)] Contract Jailer--A person licensed as a Jailer in a Contract Jail or employed by an agency outside of a County Jail whose employing agency provides services inside of a County Jail which would require the person to have a Jailer License.

(18)[(17)] 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.

(19)[(18)] 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.

(20)[(19)] 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.

(21)[(20)] 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.

(22)~~(21)~~ 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.

(23)~~(22)~~ Duty ammunition--Ammunition required or permitted by the agency to be carried on duty.

(24)~~(23)~~ Executive director--The executive director of the commission or any individual authorized to act on behalf of the executive director.

(25)~~(24)~~ 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.

(26)~~(25)~~ Family Violence--In this chapter, has the meaning assigned by Chapter 71, Texas Family Code.

(27)~~(26)~~ 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.

(28)~~(27)~~ Firearms--Any handgun, shotgun, precision rifle, patrol rifle, or fully automatic weapon that is carried by the individual officer in an official capacity. Conducted energy devices (CEDs) are not firearms.

(29)~~(28)~~ Firearms proficiency--Successful completion of the annual firearms proficiency requirements.

(30)~~(29)~~ 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.

(31)~~(30)~~ Full-time peace officer--a peace officer who:

(A) works as a peace officer on average at least 32 hours per week, exclusive of paid vacation; and

(B) is compensated at least at the federal minimum wage and is entitled to all employee benefits offered to a peace officer by the appointing law enforcement agency or its governing body.

(32)~~(31)~~ 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.

(33)~~(32)~~ 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)

(34)~~(33)~~ Honorably Retired Peace Officer--An unappointed person with a Texas Peace Officer license who has a cumulative total of 15 years of full-time service as a Peace Officer. An Honorably Retired Peace Officer does not carry any Peace Officer authority.

(35)~~(34)~~ Individual--A human being who has been born and is or was alive.

(36)~~(35)~~ 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.

(37)~~(36)~~ Killed in the line of duty--A death that is the directly attributed result of a personal injury sustained in the line of duty.

(38)~~(37)~~ 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.

(39)~~(38)~~ Law enforcement academy--A school operated by a governmental entity which may provide basic licensing courses and continuing education under contract with the commission.

(40)~~(39)~~ 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.

(41)~~(40)~~ Less lethal force weapon--A weapon designed or intended for use on individuals or groups of individuals which, in the course of expected or reasonably foreseen use, has a lower risk of causing death or serious injury than do firearms. Less lethal force weapons do not include firearms or other weapons whose expected or reasonably foreseen use would result in life-threatening injuries. Less lethal force weapons may include police batons, hand-held chemical irritants, chemical irritants dispersed at a distance, conducted electrical weapons, kinetic impact projectiles, water cannons, and acoustic weapons and equipment. An officer provided or equipped with a less lethal force weapon should be trained, qualified, or certified in its use.

(42)~~(41)~~ 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.

(43)~~(42)~~ License--A license required by law or a state agency rule that must be obtained by an individual to engage in a particular business.

(44)~~(43)~~ Licensee--An individual holding a license issued by the commission.

(45)~~(44)~~ 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.

(46)~~(45)~~ Moral character--The propensity on the part of a person to serve the public of the state in a fair, honest, and open manner.

(47)~~(46)~~ Officer--A peace officer or reserve identified under the provisions of the Texas Occupations Code, §1701.001.

(48)~~(47)~~ Part-time peace officer--a peace officer who:

(A) works as a peace officer on a regular basis but on average less than 32 hours per week, exclusive of paid vacation; and

(B) is compensated at least at the federal minimum wage and is entitled to all employee benefits offered to a peace officer by the appointing law enforcement agency or its governing body.

(49)[(48)] 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.

(50)[(49)] Patrol vehicle--A vehicle equipped with emergency lights, siren, and the means to safely detain and transport a combative detainee.

(51)[(50)] Peace officer--A person elected, employed, or appointed as a peace officer under the provisions of the Texas Occupations Code, §1701.001.

(52)[(51)] Personal Identification Number (PID)--A unique computer-generated number assigned to individuals for identification in the commission's electronic database.

(53)[(52)] Placed on probation--Has received an adjudicated or deferred adjudication probation for a criminal offense.

(54)[(53)] POST--State or federal agency with jurisdiction similar to that of the commission, such as a peace officer standards and training agency.

(55)[(54)] 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.

(56)[(55)] Proprietary training contractor--An approved training contractor who has a proprietary interest in the intellectual property delivered.

(57) Public information officer (PIO)--An individual who is assigned by a state agency or local government entity and whose duties include communicating with the public during a disaster regarding the disaster.

(58)[(56)] Public security officer--A person employed or appointed as an armed security officer identified under the provisions of the Texas Occupations Code, §1701.001.

(59)[(57)] 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.

(60)[(58)] Reinstate--To make a license issued by the commission active after disciplinary action or failure to obtain required continuing education.

(61)[(59)] Reserve law enforcement officer--a licensed peace officer appointed according to Section 37.0816, Education Code, Section 41.102 or 411.0208, Government Code, Section 85.004, 86.012, or 341.012, Local Government Code, or Section 60.0775, Water Code.

(62)[(60)] School marshal--A person employed and appointed by the board of trustees of a school district, the governing body of an open-enrollment charter school, the governing body of a private school, or the governing board of a public junior college under Texas Code of Criminal Procedure, Article 2.127 and in accordance with and having the rights provided by Texas Education Code, §37.0811.

(63)[(61)] Self-assessment--Completion of the commission created process, which gathers information about a training or education program.

(64)[(62)] 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.

(65)[(63)] SOAH--The State Office of Administrative Hearings.

(66)[(64)] Successful completion--A minimum of:

(A) 70 percent or better; or

(B) C or better; or

(C) pass, if offered as pass/fail.

(67)[(65)] Sustainable funding sources--Funding from an agency's governing body such as property tax, sales tax, use and franchise fees, and the issuance of traffic citations subject to section 542.402 of the Texas Transportation Code. Term limited sources, such as grants, are not sustainable funding sources.

(68)[(66)] TCLEDDS--Texas Commission on Law Enforcement Data Distribution System.

(69)[(67)] Telecommunicator--A person employed as a telecommunicator under the provisions of the Texas Occupations Code, §1701.001.

(70)[(68)] Training coordinator--An individual, appointed by a commission-recognized training provider, who meets the requirements of §215.9 of this title.

(71)[(69)] Training cycle--A 48-month period as established by the commission. Each training cycle is composed of two contiguous 24-month units.

(72)[(70)] Training hours--Classroom or distance education hours reported in one-hour increments.

(73)[(71)] 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.

(74)[(72)] 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.

(75)[(73)] Uniform--Dress that makes an officer immediately identifiable as a peace officer, to include a visible badge. Acceptable uniform dress must be defined in agency policy and consistent in its application and use across the agency.

(76)[(74)] 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 June 1, 2026[~~November 1, 2025~~].