

SUMMARY OF PROPOSED RULE

37 Tex. Admin. Code § 221.1. *Proficiency Certificate Requirements.*

The proposed amendment would exempt applicants for the public information officer certificate from needing a license or appointment to obtain the certificate.

RESUMEN DE LA NORMA PROPUESTA

37 Tex. Admin. Code § 221.1. *Requisitos para el Certificado de Competencia.*

La enmienda propuesta eximiría a los solicitantes del certificado de oficial de información pública de la obligación de contar con una licencia o nombramiento para obtener dicho certificado.

PUBLICATION IN *TEXAS REGISTER*

The Texas Commission on Law Enforcement (Commission) proposes amended 37 Texas Administrative Code §221.1, Proficiency Certificate Requirements. This proposed amended rule conforms with the additions of Texas Government Code §§411.3735 and 418.333 made by House Bill 33 (89R). The proposed amended rule would exempt applicants for the public information officer certificate from needing a license or appointment to obtain the certificate.

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 and 418.333 regarding the public information officer certificate. 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, Texas Government Code §418.333, Certification and Continuing Education, and Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. Texas Government Code §411.3735 requires certain agencies to have a public information officer obtain the public information officer certificate. Texas Government Code §418.333 requires an applicant for a public information officer certification to complete minimum education and training requirements for initial certification and to complete continuing education to maintain the certificate. 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, Texas Government Code §418.333, Certification and Continuing Education, 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.

§221.1. Proficiency Certificate Requirements.

(a) The commission shall issue proficiency certificates in accordance with the Texas Occupations Code §1701.402. Commission certificates issued pursuant to §1701.402 are neither required nor a prerequisite for establishing proficiency or training. The commission shall give credit toward proficiency certification for successful completion of hours or degrees at accredited colleges and universities or for military service.

(b) To qualify for proficiency certificates, applicants must meet all the following proficiency requirements:

(1) submit any required application currently prescribed by the commission, requested documentation, and any required fee;

(2) have an active license or appointment for the corresponding certificate (not a requirement for Mental Health Officer Proficiency, Retired Peace Officer and Federal Law Enforcement Officer Firearms Proficiency, Firearms Instructor Proficiency, Firearms Proficiency for Community

Supervision Officers, Firearms Proficiency for Juvenile Probation Officers, [~~or~~]Instructor Proficiency, or Public Information Officer Certificate);

- (3) must not have license(s) under suspension by the commission within the previous 5 years;
 - (4) meet the continuing education requirements for the previous training cycle;
 - (5) for firearms related certificates, not be prohibited by state or federal law or rule from attending training related to firearms or from possessing a firearm; and
 - (6) academic degree(s) must be issued by an accredited college or university.
- (c) The commission may refuse an application if:
- (1) an applicant has not been reported to the commission as meeting all minimum standards, including any training or testing requirements;
 - (2) an applicant has not affixed any required signature;
 - (3) required forms are incomplete;
 - (4) required documentation is incomplete, illegible, or is not attached; or
 - (5) an application contains a false assertion by any person.
- (d) The commission shall cancel and recall any certificate if the applicant was not qualified for its issue and it was issued:
- (1) by mistake of the commission or an agency; or
 - (2) based on false or incorrect information provided by the agency or applicant.
- (e) If an application is found to be false, any license or certificate issued to the appointee by the commission will be subject to cancellation and recall.
- (f) The issuance date of a proficiency certificate may be changed upon submission of an application along with documentation supporting the proposed date of eligibility and payment of any required fee.
- (g) The effective date of this section is June 1, 2026[~~February 1, 2020~~].