

Chapter 827. Communities-in-Schools. §§827.1-827.2, 827.11-827.14, 827.21, 827.31-827.33, 827.41-827.43, 827.51-827.55

Part XX. Texas Workforce Commission

Chapter 827. Communities in Schools

The Texas Workforce Commission (Commission) adopts 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 Communities in Schools (CIS) program. Sections 827.1, 827.2, 827.12, 827.21, 827.31-827.33, 827.41-827.43, 827.51-827.55 are adopted with changes to the proposed text as published in the February 27, 1998, issue of the *Texas Register* (23 TexReg 1925). Sections 827.11, 827.13, and 827.14, are adopted without changes and will not be republished.

The Commission is committed to ensuring that the Texas CIS program is a beacon program, one that other programs wish to emulate. Local CIS programs excel by obtaining and maintaining active community involvement, including financial support. Local programs cannot succeed without such support, regardless of state involvement.

The purpose of the rules is to ensure that the CIS program be a statewide program that serves to ensure that youth throughout the state have access to this much needed and worthwhile program. The Commission is very committed to increasing funds for direct services to the at-risk population. One of the mechanisms for putting more dollars into services is eliminating duplicative administrative processes. More efficiency in the administration of programs means more dollars, which can be used to deliver services to our children. The Commission believes that one way to achieve this is by aligning CIS efforts with other local workforce development board operated youth-oriented programs, such as JTPA, Summer Youth and Year-Round programs, School-to-Careers, and TANF teen services. These programs target and touch the lives of the same Texas student population.

Subchapter A of the adopted rules sets out the general provisions relating to the purpose and applicability of the rules and definitions of terms used in the rules. Subchapter B of the adopted rules, regarding approval of new local applicant proposals, concerns proposal solicitation, proposal requirements, the procedure for proposal evaluation, and proposal amendments. Subchapter C of the adopted rules sets out continuation re-application procedures. Subchapter D of the adopted rules addresses the funding of CIS local programs using Compensatory Education Funds, JTPA funds, and TANF funds. Subchapter E of the adopted rules sets out program administration after approval as a local program, including program policy requirements, operational plan, and monitoring. Subchapter F addresses compliance issues and addresses preventive maintenance, sanctions for non-compliance, violations resulting in sanctions, notice of sanctions, and appeals.

The Commission held a public hearing on May 6, 1998, in room 644 of the TWC Building at 101 East 15th Street, Austin, TX. The following presented opposition to some sections of the proposed rules and comments on other sections: a State Senator; the Texas Education Agency; CIS El Paso; CIS Cameron County; CIS Brazoria; CIS East Texas; CIS Executive Director's Organization; CIS Bridgeport; CIS Dallas; CIS Houston; CIS Southeast Texas; Ysleta Independent School District; and Cesar Chavez Academy. The comments from the public hearing are addressed under the relevant headings.

Comments in support of the rules were received from a State Representative. Other comments received opposed some sections of the rules as proposed, while expressing concerns and questions about other sections and suggesting changes. Representatives from the following groups submitted comments: two State Senators; two State Representatives; West Central Texas Local Workforce Development Board (LWDB); North Central Texas LWDB; CIS Greater Ford Hood Area; CIS East Texas; CIS San Antonio; CIS Baytown; CIS Southeast Texas; CIS Central Texas; CIS Denton County; CIS El Paso; CIS Cameron County; CIS Comal County; CIS McLennan County; CIS Laredo; CIS Corpus Christi; CIS Houston; CIS Dallas; CIS Bridgeport; CIS Brazoria County; Jacksonville Independent School District; Northside Independent School District; Jefferson Independent School District; Pine Tree Independent School District; and USAA Volunteer Executive Program. Many persons, while not submitting comments on the proposed rules, expressed appreciation for the program and the services which it provides.

During the public hearing, the Commission asked the commenters what factors they recommended be used in considering local financial resources. The factors the commenters offered were as follows: tax base, unemployment rate, birth rate, health issues, socio-economic factors, availability of major resources or businesses, number of recipients of Food Stamps, availability of effective programs for children, success that programs have had, level of poverty, wealth of the school districts, dollars leveraged by the program, value of real estate, number of at-risk students as determined by the number of free and reduced lunches, charitable donations, population, tax rolls, and Consumer Price Index.

There were several comments, referenced under various sections of the rules, that address the same issue. Therefore, the comments and responses are combined and summarized under the relevant heading as follows:

I. Support for the Program.

- II. LWDB Involvement, regarding the preamble and §§827.11, 827.12, 827.31, and 827.42.
- III. Definitions, regarding §827.2
- IV. CIS Case Management System (CISCMS), regarding §§827.1, 827.2, and 827.41.
- V. Commission Funds, regarding §§827.2, 827.41, and 827.43.
- VI. Coordination, regarding §§827.11, 827.12, and 827.42.
- VII. 501(c)(3) Status, regarding §§827.2, 827.31, and 827.41.
- VIII. Adoption of Rules, regarding §827.31.
- IX. Funding Formula, regarding §§827.1, 827.2, 827.12, 827.31, 827.32, and 827.33.
- X. Applicant Proposals regarding the title of Subchapter B and §§827.11, 827.12, and 827.21.
- XI. Program Administration, regarding §§827.41-827.43.
- XII. Compliance, regarding §§827.51-827.55
- XIII. General Comments.

I. Support for the Program.

Comment: A commenter supports the effort to consolidate the CIS program with the JTPA and School-to-Career programs. The commenter wishes to see an avenue developed for less popular Independent School Districts to be able to capitalize on these programs.

Response: The Commission agrees with the commenter and has drafted rules that attempt to align the programs in order to more efficiently channel funds. The Commission appreciates the support expressed by the commenter.

Comment: One thousand nineteen commenters mention the various services provided by the CIS program and state appreciation for the good work the CIS program does for the young people in the community.

Response: The Commission acknowledges the expressions of local support for the program.

Comment: Several commenters state their program serves over 3000 children and that the demand for services continues to grow. They suggest that attention should be given to what is in the best interest of the children of the State of Texas.

Response: The Commission agrees with the concept of making decisions on the basis of what is in the best interest of Texas youth, and seeks to address the needs of children not residing in a local CIS program's service area.

II. LWDB Involvement.

Comment: Several commenters express the opinion that allocating funds to all local workforce development areas using the formula, beginning in Fiscal Year (FY) 2002, will block grant funds. One commenter believes that this will result in some programs in existence in FY96 having their funding drop below 50%. Citing House Bill 1863 and the Texas Labor Code, the commenters assert that CIS funds are exempt from required administration by the LWDB and that state statutory requirements for block grant funding do not apply to the Communities in Schools program. Some commenters believe that, since each local CIS program is a separate 501(c)(3) organization funded only partially by Commission funds, CIS funds may not be administered by the LWDBs. Other commenters assert that while they are prepared to handle having the funds routed to the LWDBs, it may cause them to compete with other contractors, which may affect the students and families they have been serving. The commenters question if there can be assurance that funds will be specifically allocated to the CIS program. Other commenters believe that as the LWDBs do not fund the CIS programs and as the CIS program is not under LWDB jurisdiction, the LWDBs should not be required to approve CIS plans or grant applications. The commenters believe that the LWDBs have no authority over several documents which comprise the plan, such as the marketing plan. The commenters suggest that the LWDBs should only have input on documents which relate to the CIS contract. The commenters express concern that transferring administration of the CIS program to the LWDB will create an unnecessary layer of bureaucracy. While expressing the opinion that the LWDBs are important partners in delivering CIS services, the commenters believe that the LWDBs are no more important than the other partners who do not review and approve the local CIS plan. The commenters assert that although the CIS program is included in the LWDB coordination plans, the CIS providers are not required to approve the LWDB plan. The commenters acknowledge that developing partnerships with local workforce development initiatives is important. However, mandating whom the partners should be and that one of the partners has approval authority over another partner is not conducive to the partnership. One commenter notes no statutory authority for the Commission to adopt rules which require local CIS plans to be reviewed and approved by the LWDBs. Some commenters express the concern that the proposed rules will result in a loss of local control. Other commenters assert that, as a 501(c)(3) organization, they are opposed to the formation of a "local" workforce development board. The commenters request clarification of the exact role of the LWDB and the governance board and express the opinion that these rules need serious modification. Other commenters request deleting all references to LWDBs.

Response: The Commission recognizes that House Bill 1863 exempts CIS funds from being block granted. However, the rules do not propose to block grant CIS funds, transfer administration of the program to the LWDBs,

or establish the LWDBs as fiscal agents for CIS providers. Through a Request for Proposal process conducted by the Commission, any entity in the local workforce development area, including the CIS boards, may apply for funds to serve at-risk students not currently served. Whether CIS funds will be processed to or through the LWDB is a local decision. To clarify the Commission's position that the LWDB is a resource and that the CIS boards should coordinate with this resource to best serve the needs of the at-risk students in their area, the rules are amended to replace "approved by" with "coordinated with." However, the Commission declines to delete references to the LWDBs.

House Bill 1863 requires the Commission to operate an integrated workforce development system in the state, in particular through the consolidation of job training, employment, and employment-related educational programs available in the state. House Bill 1863 also directs LWDBs to plan and oversee workforce development activities for the respective local areas. The LWDBs are required to develop a plan which includes a strategic component assessing the labor market needs of the local workforce development area and which identifies the existing workforce development programs. The plan is to evaluate the effectiveness of existing programs and services and set broad goals and objectives for all workforce development programs in the local area consistent with statewide goals, objectives, and performance standards.

With this responsibility, the Commission believes it is appropriate to provide the LWDBs with an opportunity to review plans of other programs receiving state funds from the Commission, even though the LWDB may not have direct authority over those programs. The Commission considers the LWDBs' opinions to be of importance in planning workforce development activities in the local area. The rules establish a role for an LWDB in the review of an application for a new local CIS program and for a CIS operational plan. This role is in accordance with the LWDB's responsibility for strategic planning and oversight of workforce development activities as prescribed in state law and provides for coordination of services, thereby reducing duplication. The intention of the coordination requirement is to ensure that all programs which provide youth services have an opportunity to maximize resources through joint planning. The rules are not intended to mandate relationships, but to ensure that the area has a comprehensive plan for workforce development activities for youth. This coordination will reduce duplication of services so that the dollars may be used more efficiently and effectively. This cohesiveness should serve the additional purpose of assisting in the leveraging of funds in the area. Therefore, the Commission does not agree with eliminating the involvement of the LWDBs.

The rules propose a methodology to ensure that all areas of the state have access to this worthwhile program. The Commission proposes to utilize an existing methodology to ensure that all Texas communities have access to this program. The existing methodology, division of the state into areas, is an efficient way to coordinate with other youth education programs. These programs include School-to-Careers, Titles IIB & IIC of the Job Training Partnership Act (JTPA), Youth Opportunities Unlimited (YOU), TANF services for teen parents, and Tech-Prep. Coordinating with the other programs in the area serves to reduce duplication of administration and services and ensures that the scarce tax dollars available are used to the best advantage.

As the LWDBs are the focal point for other workforce development programs, they serve as an invaluable resource which the CIS boards should utilize. Failure to coordinate resources would be a disservice to the students in their area. The Commission believes that the rules, rather than resulting in a loss of local control, serve to ensure that the CIS boards and the LWDBs are aware of one another's efforts, so that they may utilize limited state resources more efficiently and effectively. With funding coming into the area from different programs which serve the same students, all entities whose services relate to the same target groups have a fiscal responsibility to coordinate resources and plans for delivery of services in order to maximize the use of limited taxpayer dollars. To this end, the Commission endorses open and full information sharing and does not consider it necessary to limit the portions of the CIS operational plan to be reviewed by the LWDBs. The Commission believes that the proposed methodology is in the best interest of the residents of this state, particularly the at-risk student population, and will result in using the dollars available in the most efficient and effective manner.

III. Definitions.

Several commenters recommend revising the definitions to reflect 501(c)(3) status of the local CIS programs and to reflect that the definitions only apply to funds provided by the Commission. These issues are addressed under the relevant heading.

Comment: Regarding "at-risk student," several commenters request broadening the definition as CIS often provides services to the entire school. One commenter further asserts that, when campuses have over 50% of students meeting the restrictive definition, all students are truly at risk.

Response: The Commission relied upon the statutory definition for "at-risk," as defined in the Texas Education Code, §29.081. However, to reduce confusion, the definition of "at-risk student" is expanded to include students eligible for free or reduced-price meals as defined by the Texas Education Code, §42.152(b). The Commission has

combined the statutory definitions of "at-risk student" and "educationally disadvantaged student," but disagrees with expanding the definition beyond statute. The Commission believes that the Legislature's definition is appropriate for this program. As spreading the limited dollars thinly across the entire student population may diminish tangible, desirable results among at-risk students, the rules seek to target funds to those desperately at risk of dropping out of school.

Comment: Regarding "board development," several commenters question the definition, claiming that it is usually not feasible to have the CIS board trained by national, state or regional staff. They request that they be allowed to train the board locally, and suggest adding "training could be provided locally."

Response: The Commission has no objection to local level training should the CIS board wish to do so. Although the rules do not preclude such training, the Commission believes it is important for the CIS board to receive training at the state and national level as well. Any additional training is the prerogative of the CIS board. Therefore, the Commission declines to revise the rule.

Comment: Regarding "community support," "local applicant," and "local program," one commenter asserts that it appears that the definitions are developed in such a way as to require establishment of a separate, new board of directors rather than using an existing board. Specifically, the definition of "community support" seems to indicate that the board of directors has to be formed by a group different from an LWDB. The commenter believes that, based on this definition, it would be difficult for a local board, representing a region rather than a specific community, to apply for funding. The commenter recommends modifying the definition as follows: "An active community based organization or local workforce development board" The commenter further asserts that the definition of "local applicant" seems to preclude a local board from applying for funds by using the phrase "community-based organization" and recommends modifying the definition as follows: "A community based organization or local workforce development board"

Response: The definition of "local program" has been revised to include "or local workforce development board." The definition of "community support" has been revised to allow participation of an active local organization. The definition of "local applicant" does not preclude a local workforce development board from applying for CIS funds. Therefore, the Commission declines to revise this definition.

Comment: Regarding "community support," several commenters assert that the board of directors does not administer a nonprofit agency but rather governs the agency. One of the commenters asserts that their board of directors directs, guides, and governs the local CIS program and other organizations. They recommend changing "administer" to "govern."

Response: The Commission agrees that "govern" is a more appropriate term and revises the rule. The definition is also clarified to refer to participation of an active community organization. The Commission wishes to note that the national CIS program has indicated that a local CIS program should have a separate board of directors, rather than one that governs several organizations.

Comment: Regarding "compensatory education funds," one commenter asserts that the language does not limit funding of local programs to CIS programs. The commenter suggests adding the language "a CIS program."

Response: The state legislature appropriates Compensatory Education dollars for a number of programs, including CIS. As the Communities in Schools rules apply only to the CIS program, the Commission believes it is understood that references to Compensatory Education funds in these rules apply to the CIS program. However, the Commission has added §827.1(c) to clarify that these rules apply only to funds provided by the Commission. Therefore, the definition for Compensatory Education funds requires no revision.

Comment: Regarding "educationally disadvantaged," several commenters suggest it might be a typographical error. The commenters suggest verification and change to "economically disadvantaged."

Response: This is not an error. The Commission has deferred to the Texas Education Code for the definition of "educationally disadvantaged." The Commission believes this definition is consistent with legislative intent since it is derived from statute. However, to reduce confusion, the definition of "at-risk student" is expanded to include students eligible for free or reduced-price meals as defined by the Texas Education Code §42.152(b). The definition of "educationally disadvantaged" is therefore deleted.

Comment: Regarding "expansion," several commenters assert that it costs more to establish CIS services in a new school district than to establish services in a new school within an existing school district. One of the commenters suggests that consideration be given to treating expansion in a new school district like replication. Commenters suggest deleting "or in a new school district" and adding "in an existing school district." One additional commenter suggests changing the definition of "expansion" to "The process of an existing local program establishing CIS services on a new school campus."

Response: Expansion involves an existing program providing services to an additional campus or school district. Replication is the establishment of a new CIS entity in an unserved area of the state. It is understood that expanding

services into a new school district requires more developmental activities than expanding to an additional campus, but the degree of effort is not a factor in the definition. The Commission leaves to local control the amounts per campus or school district needed for expansion. Therefore, the Commission declines to revise the rule.

Comment: Regarding "financial resources," several commenters assert that this formula of taxable property is not reflective of a community's potential for financial support. They further assert that it can change frequently and would be impossible to apply consistently. They suggest deleting the formula. One commenter suggests that the Consumer Price Index also needs to be considered, notes that tax assessments may be disputed and can vary greatly as court cases are ruled on, and recommends developing a more realistic formula.

Response: The term "financial resources" is explained in the §827.31 of this chapter. Therefore, the Commission has deleted the definition of "local financial resources" from §827.2 of this chapter.

Comment: Regarding "local applicant," one commenter asserts that the definition does not require the organization to meet the standards of CIS by being chartered or in the process of being chartered. The commenter also asserts that the definition does not require the local applicant to have the support of community leaders and a minimum of resources, both hard dollar and in-kind. The commenter recommends adding these requirements.

Response: An organization applying for funds to establish a new CIS program would not necessarily have begun the process of achieving charter status. The rules do require the local applicant to submit a plan, which includes strategies for local financial support. As the requirements for local applicants are contained in §827.12, the Commission declines to add them to the definition.

Comment: Regarding "local program," a commenter asserts that the definition seems to require that the board be a nonprofit organization and that an executive director be hired. The commenter claims that this limits local control in making a staffing decision and may preclude an LWDB from applying, if the LWDB is not a nonprofit organization. The commenter recommends modifying the definition as follows: "A nonprofit corporation or local workforce development board responsible for 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 or local workforce development board which hires the necessary staff to administer the program."

Response: The Commission agrees and has revised the definition to allow a local workforce development board to apply for funds. However, it should be noted that, in order to be associated with the national CIS program, a local CIS program must abide by national CIS guidelines. The national CIS program indicates that the entity governing the local CIS program should be exclusive to that program and that there should be an executive director solely concerned with the local CIS program.

Comment: Regarding "low-income student," several commenters believe that the definition is outdated. They suggest changing the language to economically disadvantaged.

Response: The term "low-income student" is defined and used synonymously with "educationally disadvantaged student" in accordance with the Texas Education Code and TEA's terminology. However, to reduce confusion, the Commission has deleted the terms "low income student" and "educationally disadvantaged student" from the rules and merged the definition of "educationally disadvantaged student" with the definition of "at-risk student."

Comment: Regarding "replication," several commenters assert that it costs more to establish CIS in a new school district than to establish the program in a new school within an existing school district. They suggest deleting "or in a new school district" and adding "in an existing school district." One commenter suggests, ". . . in a previously city, school district, or workforce development area previously not . . ." Another commenter asserts that it costs the same amount and requires the same amount of time to open sites in a new school district as it does to replicate and suggests adding "or an existing CIS opening a program in a new school district."

Response: The comment seems to be addressing "expansion" rather than "replication." Nevertheless, since neither the definition of "expansion" nor "replication" is determined by the cost of the activity, the Commission declines to revise the definition.

Comment: Regarding "replication," one commenter asserts that there is no provision for replication in a workforce development area which has an existing CIS program. The commenter states that, while there are economies of size, this program is about bringing the community into the school. The commenter recommends allowing more than one community to have an operation in a workforce development area.

Response: The rules do not preclude more than one CIS program in a local workforce development area. The Commission believes that at-risk students in all areas of Texas deserve to receive the benefits of this valuable program, and its aim is to increase statewide coverage in order to comply with lawmakers' clearly stated intention that the program operate statewide. Additionally, the statute requires the Commission to expand the program.

Comment: Regarding "replication program," several commenters assert that it takes several years for a new program to become established and that stable funding is needed for the first three years. They suggest this title should be for

the purpose of the replication process and not be used for purposes of the funding formula. They request that the language be changed to, "the first three years following establishment of the program."

Response: The Commission acknowledges that it often takes more than one year for a new program to become fully operational and financially stable. Some programs may reach this point more quickly than others. The purpose of this definition is to identify a program in its first year. The term is not used in the funding formula. The Commission, therefore, declines to revise the rule.

IV. CISCMS

Comment: Several commenters reference the CISCMS system and assert that it is not effective and has not been used to the benefit of the state or local programs. The commenters claim that the CISCMS system does not track "stay in school" and recommend that the system be designed to track what the program does. The commenters assert that the reports of aggregated information on students, services, and results have not been valid or reliable. They believe that these reports are desperately needed for the development of community resources. The commenters recommend development of a system which works, and notes that smaller operations do not have the expertise or funds to develop such a system and that large amounts of funds have already been spent by the state in this area. Some commenters suggest that workable management information systems (MIS) used by larger CIS operations might be replicated for smaller operations. Several commenters request that the Commission allow them to develop and use their own system, which they believe is more efficient and still provides the state with all the data needed for tracking. One commenter requests funding to develop their own system.

Response: The proposed rules state that each local program shall utilize the CISCMS or other system as designated by the Commission. This does not preclude use of a Commission-approved local system. The requirement for use of a specific state system, or the approval for use of a local system, will also be a provision in the contract with the local program. Since CIS uses TANF and JTPA funds in addition to Compensatory Education dollars, the Commission must report to the federal government as well as to the State Legislature. While the current CISCMS system tracks the "stay in school" rate through exit outcome codes, the Commission wishes to do this efficiently and with minimal automation duplication. The best method to accomplish these goals is to use one system statewide. To this end, a new case management system is under development and representatives from local programs are providing design input. Therefore, the Commission declines to revise this rule.

V. Commission Funds.

Comment: Several commenters assert that the Commission only funds a part of their nonprofit organization. The commenters refer to the definitions for "contract," "local financial support," and "state office." Other commenters refer to "expenditure policies," "information requests," and "cost limitations" in §827.41 and monitoring in §827.43. The commenters suggest adding language to the definitions reflecting that the Commission has jurisdiction only over funds appropriated by the Legislature and request amendments to reflect that the rules only apply to funds provided by the Commission.

Response: The Commission agrees with clarifying terminology and adds §827.1(c) to reflect that these rules apply only to funds provided by the Commission. However, the Commission will audit funds from other sources used by the local CIS program, not to determine appropriate use of those funds, but to ensure that there is not a duplication of expenditures with state funds. This is in accordance with guidelines issued by the State Auditor's Office and recommendations from the Joint [Legislative] General Investigating Committee on State Agency Contracting Practices, 1996. Additionally, the Texas Labor Code §305.012 requires that the state coordinator obtain information from each participating school district to determine necessary program changes. The Commission believes that comprehensive information is necessary and declines to limit the information requested. Therefore, §827.1(c) will not apply to "Information Requests" or "Monitoring."

VI. Coordination.

Comment: Two commenters voice support for requiring coordination between local CIS programs and the LWDBs. The commenters especially approve of requiring new applicants to submit their plans to the LWDBs and of requiring the local CIS programs to submit their annual operating plans to the LWDBs. The commenters believe that this will provide an excellent opportunity for close coordination of services between CIS and the LWDBs and recommend that the Commission consider establishing an explicit set of performance measures for CIS programs, adjusted for local factors, which could be used to evaluate program performance. The commenters also request that CIS coordinate with the LWDBs and the local School-to-Careers (STC) Partnerships to ensure that workforce education goals developed by the LWDBs and the STC Partnerships are included in the CIS plan.

Response: The Commission appreciates these thoughts. The Commission agrees with close coordination and with the value of clear performance measures. The Commission agrees that new applications for local CIS programs as well as current CIS programs' annual operational plans should be reviewed by the LWDB and has revised the rule to reflect this change. As the lead agency in the state's School-to-Careers implementation grant, the Commission

anticipates School-to-Careers planning in conjunction with the LWDB. The LWDB may also coordinate the workforce education goals with the local CIS programs.

Comment: Several commenters assert that they cannot control whether or not other youth programs coordinate with them. They request that the rule be changed to remove mandatory coordination and suggest amending §827.12(c) by deleting "at a minimum" and "must" and adding, "coordination may include...." One commenter recommends listing the mandated youth programs and another commenter suggests requiring a description of strategies and activities demonstrating how the CIS program will be coordinated with other youth programs in the local workforce development area. Other commenters believe that the wording of §827.42(c)(10) is too descriptive and too prescriptive. They suggest deleting "at a minimum" and "must" and stating "coordination may include." Some commenters suggest changing the language to indicate that the activities are suggestions rather than mandates.

Response: The Commission strongly maintains that services for targeted groups should be planned jointly by the participating organizations, and that program operation should involve continual interaction related to planned activities. This will allow limited state resources to be used more efficiently, reduce duplication, and increase the services provided to our state's at-risk students. If youth programs such as School to Careers, Titles IIB and IIC of JTPA, Youth Opportunities Unlimited (YOU), TANF services for teen parent, and Tech-Prep refuse to cooperate, the efforts made by the local CIS program to accomplish coordination should be described in the plan for the Commission's consideration. The Commission, therefore, declines to revise §827.12(c) or §827.42(c)(10).

VII. 501(c)(3) Status.

Comment: Several commenters recommend that the Commission require the local CIS program to be incorporated as a 501(c)(3) organization. Referring to the definitions of "local applicant" and "local program" and §§827.31(e) and 827.41(e), the commenters believe that the definition of "local applicant" allows any local agency to receive CIS funding and that further definition of "community based organization" is needed. The commenters also believe that "new program" in the definition for "local applicant" and in §827.31(e) is not specific enough. The commenters believe that the definitions should also require that the local CIS program have received, or be in the process of receiving, a charter from the national office of Communities in Schools. Some commenters recommend that the definitions specify linkage with the national CIS agency. Some commenters believe that eliminating the 501(c)(3) status for local CIS programs will prohibit them from qualifying for selective funding sources and from offering tax breaks for local supporters. Other commenters recommend that §827.31(e) read, "Funds for new programs shall be awarded through a competitive RFP process to independent 501(c)(3) Communities in Schools agencies."

Response: The proposed rules do not prevent a new program from obtaining 501(c)(3) status. The Commission believes that the decision to incorporate as a 501(c)(3) program is best made locally. Therefore, the rules do not prohibit nor require a local CIS administrative entity to be a 501(c)(3) corporation. Through a Request for Proposal process, any entity in the local workforce development area, including a CIS board, may apply for funds to serve at-risk students not currently served. Since an applicant for funds to establish a new CIS program would not necessarily be operational, it would not be expected to be in the process of receiving a charter. The Commission acknowledges the leadership of the national CIS program. However, the Commission considers this reference unnecessary in relation to rules which apply to state funds. The Commission does agree to revise §827.41(e) to read, "Governance. Each local CIS program is governed by a local board of directors." However, as the Commission has revised §827.31, the suggested change would not be appropriate.

VIII. Adoption of Rules.

Comment: Two commenters request that the Commission not adopt rules governing the CIS program. They ask that the rules be delayed until the Legislature clarifies the law. The commenters suggest interim guidelines to allow for immediate replication and clarification of how TANF funds may be expended. They request that any interim rules on CIS funding not present a hardship on existing programs to continue. The commenters refer to the legislative intent to have a gradual reduction in Compensatory Education funding over a five-year period so that, by FY2002, at least half of the appropriated Compensatory Education funds would be available to programs started after 1996. The commenter expresses the belief that the proposed rules go far beyond the intent of the law and may conflict with the letter of the law. The commenters believe that the Commission has until FY2002 to adopt rules and, therefore, rules are not needed immediately.

Response: The CIS rules comply with the law as it is written. Section 827.31 has been revised to address FY99 allocations only. The statute expressly requires the Commission to adopt rules for the CIS program and the Commission is committed to complying with the statute. The Commission is also responding to a State Auditor's report that noted the need for rules. If necessary, the Commission will amend the CIS rules to reflect any subsequent statutory changes.

IX. Funding Formula.

Comment: Several commenters question the need for the formula to be in the rules and one requests that it be eliminated since local CIS programs have already received cuts.

Response: Publication of the formula provides an opportunity for valuable public input. This input assists the Commission in making its decision. The Commission acknowledges that reductions have occurred but still believes that the formula should be included in the rules. However, due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: Several commenters assert that not all agencies can utilize JTPA funding and suggest reexamining the funding formula.

Response: The Commission agrees with this comment and has revised the rule to award JTPA funds on the basis of a competitive Request for Proposal process. If local programs believe that they cannot effectively use the JTPA allocations for their area, they may choose not to submit a proposal.

Comment: Several commenters request that funding not be reduced. They refer to the prohibition against replacing funds lost through reduction with funds allocated for expansion, and express the opinion that this is supplanting and is not allowed by governmental or private entities. They express the opinion that reducing funds would severely undermine efforts to replace the lost funds and would necessitate removing CIS from schools. One commenter describes CIS as a public-private partnership whose mission is to help the school system with keeping students in school. They cite this mission as fundamental to the Commission's objective of providing a qualified workforce. The commenter expresses the opinion that the ability to raise private funds has been enhanced, if not made possible, by the ability to leverage contributions with state support through the partnership. The commenter believes that future ability to raise private funds would be put at risk by the proposed rules. The commenter believes that the private community will perceive the substantial reductions by their public partner as a critical weakening of the organization. Another commenter believes that the dilution of the existing funding level by a distribution process seems to encourage creation of new CIS organizations at the expense of currently successful community programs. The commenter requests that the funding strategy be reviewed and another formula set up to provide a successful future for all CIS programs and not to put them "at-risk," like the students which they serve.

Response: The Commission appreciates the strength of the services provided through CIS to the state's at-risk youth. However, the state statute has directed the Commission to reduce funding to programs which existed as of August 31, 1995, and to use the savings to replicate and expand the program to areas not currently served. The CIS model is not designed as a state-supported program; rather state funds have been provided to establish local CIS programs. The expectation is that programs will obtain local funds or other grant resources in order to be continually more self-supporting. The CIS National Standards state that over dependence on any one funding source is a serious threat to the long-term survivability of any nonprofit organization. Local programs need a mix of funds in order to operate relatively unencumbered within the free market. Moreover, coordination with the LWDBs would greatly assist the CIS boards in diversifying to achieve this mix of funds. The rules are intended to comply with the Legislature's directive. However, due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: Several commenters express concern about the effects of the funding rules. One commenter believes that there is "no assurance that funding will be at not less than 50% for existing levels of service on campuses currently being served." Without assurances that existing campuses will be served, the commenter expresses the opinion that dilution of funding will not permit an adequate amount to leverage existing resources. Several commenters assert that the CIS State Office recently completed a research project, which indicates it costs \$290,000 per year to launch and sustain a new local CIS program. They suggest that the funding formula should establish a minimum level of funding below which a program would not fall. They believe that \$290,000 is reasonable. Another commenter cites \$285,000, as the minimum amount needed to provide quality service.

Response: CIS is a local community program rather than a state program. State support is provided to enable a local community program to be implemented; but the local community must provide ongoing financial support in order for the program to be successful. It is the responsibility of the CIS boards to obtain sufficient funding to sustain the local program primarily through local resources. The amount of \$290,000 has been used as a projection for replication of the CIS program in new areas, but there are variable factors in each local area that will impact the cost of a new program, and the full replication cost might be more, or less, than \$290,000. The Commission notes that some local CIS programs currently receive less than \$290,000 and yet have been able to expand their program. However, due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: Several commenters express the opinion that the statute does not require funding to be reduced by 50%. Some assert that the law does not mandate a 50% reduction but says, "funds annually contributed by the state to not less than 50% of the base year." One commenter asks if the Commission believes it must reduce by 50% and

questions if the Commission has requested an opinion from the State Attorney General. A commenter expresses the opinion that the Commission is not exercising discretion in reducing funding and asks how the relinquishment of discretion comports with the obligations to exercise discretion in implementing programs it oversees. Some commenters express the opinion that reducing funds by 50% violates the Texas Labor Code §305.021.

Response: The Commission does not interpret the Texas Labor Code as mandating a 50% reduction. Nevertheless, the Texas Labor Code requires a reduction of funding for programs which existed as of August 31, 1995, and requires the Commission to use the savings to replicate the program in additional areas. The Commission believes it has exercised discretion in development of the formula, to the extent feasible, within the language of the statute and does not believe an Attorney General's opinion is needed. However, due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: Several commenters request lowering the amount of the funding reductions. Some commenters recommend a total cut of 30% as more realistic for existing programs to survive. Two commenters suggest adjusting the funding formula for small programs by defining the base year as the year the most funds were received. Other commenters suggest reducing funds by 20% in FY99, 15% in FY2000, and by 25% in FY2001. Other commenters request no further funding cuts and that State funding be maintained at FY98 levels. They assert that some programs have already received funding cuts, local businesses have significantly reduced their community service budgets, and community resources have already been secured to maintain current services and expansion. The commenters believe that they will need to shift from seeking additional funds for expanding services to maintaining services with reduced funds. The commenters further believe that additional reductions would be devastating to their efforts to maintain the quantity and quality of current services and to expand into additional areas of need. A commenter questions how a decrease in funding can be justified when the number of at-risk students increases daily. A commenter states that prevention is the key and students need help before they become adjudicated or drop out of school. Some commenters express the opinion that they have already met the intent of the law. Several commenters assert that cutting the funds to the extent required by the proposed rules would seriously jeopardize their continuation.

Response: State statute requires the Commission to expand the CIS program to reach at-risk students residing in areas not currently served by the program. As new programs will require continued support, the Legislature authorized the Commission to reduce funding by 50%. The Commission believes that the legislative intent is to expand the program to serve at-risk students not currently served. The statute also sets the base year as FY96, and the Commission does not have the authority to apply a different base year from that set by statute. In accordance with the CIS National Standards, local CIS programs have always been expected to rely on community resources as the primary source of support for the program, rather than on state funding. If this has not occurred, plans for developing local resource options should begin immediately. Planning in concert with other workforce development entities and in conjunction with the LWDBs should help the local CIS program identify sources for additional resources. However, due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: Some commenters believe that the proposed funding formula does not comply with the Texas Labor Code §305.021, House Bill 1863, or legislative correspondence. The commenters believe that a 50% reduction is not needed to fund eleven replication sites at \$290,000.00 per area. They recommend individualizing the local CIS program's situation, stabilizing funding at the current level, and adjusting the formula downward to the amount needed for scheduled replication.

Response: The Commission has determined that the rules do not conflict with the Texas Labor Code, House Bill 1863, and legislative correspondence. In order to comply with state statute and have funds to replicate CIS programs in new areas and provide continued support for those areas, funding for existing programs cannot be continued at the current level. Funds not awarded through the Request for Proposal process will be allocated among already contracted CIS programs. Due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: Several commenters express concern about the effect of the proposed rules on new, small, and rural programs in the state and assert that such programs stand to be affected more by the proposed funding reductions than other larger, more established programs. One commenter requests consideration of the situations in small, rural programs before adoption of the rules. The commenters state that their campus sites serve rural, low-income areas, which have a sparse industrial and business base. The commenters believe that the proposed funding formula does not take into account the lack of financial resources of an area due to unemployment, poverty levels, and the absence of large corporations. One commenter describes the areas it serves as having only a few local retail stores, one or no major industrial plants, no corporate home offices, no large industries, no local foundations, and no satellite offices of human services agencies. This commenter asserts that CIS is the sole facilitator of services with few, if any,

financial resources to leverage. Another commenter asserts that reducing funds by the amount in the proposed rule jeopardizes continuation of services without regard to resources available in areas, and recommends that a local program needs to have reductions based on availability of resources in the area. Several other commenters express the opinion that, statewide, CIS needs to maintain its standard foundation but also needs the flexibility to customize the program locally. The commenters suggest the rules should be applicable across the board in accordance with House Bill 1863, §11, and the Texas Labor Code, Chapter 305, and yet allow CIS to be adaptable to the needs of the region, county, district, and city. The commenters suggest that due to social and economic factors, a community's ability to support CIS programs financially varies drastically, and that communities in South Texas are considered economically disadvantaged.

Response: The formula considers situations in small, rural programs by using the number of at-risk students and local taxable property value as the two primary factors in allocating Compensatory Education Funds. Due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: Several commenters believe that the rules will negatively affect the students and families of their community which is one of the fastest growing in the nation and has 88% economically disadvantaged population and a high unemployment rate. The commenters request consideration for their program which has leveraged local funds to match up to 90% of state funds and note that they are a smaller city which does not have major corporations or funding sources.

Response: The Commission commends this program for effectively leveraging local funds. The ability to do so, in spite of limited local resources, indicates that it understands the concept of the CIS model and will continue to be successful. Although the Commission declines to include local funding obtained as a factor in the formula, this accomplishment will enable the local CIS program to be less dependent on state funds. However, due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: One commenter presents a chart to illustrate the impact of proposed funding and states that he derives almost 100% of his funding from state funds as he does not receive financial support from the school districts nor does he work with other grants. The commenter notes numbers served and asserts that the largest employers within the three school districts served are the school districts themselves. The commenter asserts that it was not the intent of the Legislature to systematically apply the 50% formula across the board to all agencies, regardless of their size, demographics, or ability to raise funds. He expresses his belief that it was not the intent of the Legislature to create new programs in West Texas by displacing productive and quality programs.

Response: The Legislature has stated, in statute, its intent for statewide operation of the CIS program. The Commission believes the Legislature intended to appropriate Compensatory Education Funds as a means to assist communities in leveraging local resources to provide the valuable services needed to help their at-risk students stay in school. The Commission believes that it is the intent of the Legislature, as well as the basic CIS model, for contracted programs to rely less on state funds. This is the basis for the provision in state statute to reduce funding over a five-year period and use the savings for replication of the program in other areas. A key element to the success of this program is community support. Over-dependence on any one source of funds seriously jeopardizes the long-term survivability of the program. If the local area cannot support the program, the CIS board may wish to consider consolidating with another entity to expand the funding base. However, due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: One commenter requests clarification on the level and type of financial support required from local applicants, while another commenter suggests requiring the respective school district to provide a 30% or 40% match for CIS funds.

Response: The CIS program is intended to be supported primarily by local funds, not state funds. However, as the Commission does not have the authority to require a match by a school district, the Commission declines to revise the rule. The level of support will depend on the local CIS entity's decisions and actions regarding the scale of the program. Support may be in-kind, as well as cash. The state does not specify the amount of local support, but will review the plan for indication that the local CIS program has identified resources and established an action plan to obtain resources which will make the program essentially self-sustaining over a period of time. If a local CIS program chooses to expand in the absence of a school match, that local program must determine the best way to operate the program in light of decreasing taxpayer dollars. Local funding decisions are best made at the local level.

Comment: Several commenters believe that the rules penalize an operational and existing CIS program which is in compliance and is producing expected results. The commenters believe that it will be difficult to obtain local financial support because diminished state funding will be viewed as lack of state support. The commenters express

the opinion that the reduction will cause local donors to reconsider donating their funds if they will not create a better match. The commenters assert that they should be rewarded for matching funds raised locally. Another commenter suggests that total outside funding is almost equal to state funding and that the rules punish the local CIS programs for doing what the Legislature intended by making state resources go further by attracting local and private support.

Response: The proposed rules are in response to state statute which specifies a reduction in funding with the savings to be used for replication of CIS programs in other areas. In accordance with the CIS National Standards, it has always been expected that the local CIS programs will raise local funds and, therefore, rely less on state dollars. The Commission encourages the local CIS programs to continue to solicit local and private support. The Commission disagrees that the rules penalize effective programs; rather, the rules recognize the value of the program and present an opportunity for children in other areas of the state to benefit from CIS services. As the CIS National Standards explain, over-dependence on any one source of funds will jeopardize the program. To ensure the long-term survivability of local CIS programs and to enable more local flexibility, a healthy mix of funding sources is advisable. Local CIS programs should explain to donors that this program is primarily a community program so that there is a minimal amount of state regulation. However, due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: Several commenters assert that the funding formula conflicts with law for various reasons. Some commenters express the belief that the proposed rule conflicts with law because the law says that cuts should be made over a five-year period and the rule proposes cuts over a three-year period. Other commenters assert that conversations with school administrators where CIS services are provided lead them to believe that the school districts are very close to the limit of what they can contribute to match the state funds. When that limit is reached and state funds continue to decrease, a reduction of services will occur. The commenters assert that the law requires the local CIS programs to maintain service levels in campus sites funded prior to FY96. They believe that programmatic cuts would mean even greater reduction in services at existing sites and that this is contrary to legislation. One commenter expresses the opinion that the rules do not take into consideration that some campus sites have been started using state funds while older campuses have been maintained by private resources and that some of the private resources are matches to state funding. Other commenters assert that the formula must take into consideration each individual community's resources and implement the cuts accordingly. They interpret this to mean that some cities with an overabundance of resources would receive larger cuts than depressed border cities with high unemployment rates. One commenter asserts that an across-the-board cut does not take into consideration the variation of city resources.

Response: State statute prescribes a funding reduction over a five-year period beginning September 1, 1996, and states that it is incumbent upon the local CIS programs to maintain services as funding is reduced. The Commission is striving to develop a formula to provide more equitable access to CIS services for the state's at-risk students. The Commission declines to consider the amount of match raised, as there may be a variety of reasons for the amount of match. However, due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: One commenter asserts that the language in the Texas Labor Code indicates that the reductions do not have to be to the overall parent program but to specific campus sites. The commenter states that the language contemplates that funds derived from savings could be used to expand a participating program's services to new campus sites within a school district, city, or county. The commenter believes that this is precluded by the rules unless other areas do not use the replication funds.

Response: The Commission understands that the Texas Labor Code does not mandate reductions to the programs. However, the local programs are in the best position to determine how funds are managed on a campus-by-campus basis. The Commission believes that there is potential for funds to be available for expansion by participating programs. However, in order to provide adequate opportunity to implement the law's mandate for statewide coverage of the CIS program, the Commission intends, first, to offer funds for implementing the program to areas of the state not currently participating in the program. However, due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: Several commenters comment upon Subchapter D in terms of replication. They believe that the reduction in funding to current CIS programs will result in more money than is needed to replicate. One commenter asserts that, having worked closely with the CIS State Office in helping expand the program to new cities, the CIS State Office could not open more than three or four cities in one year. The commenters believe that a 50% reduction in the current CIS programs' funding will not be required and request that the funding reductions be lowered to the amount needed to replicate. One commenter recommends stabilizing funding at the current level, ensuring all local CIS programs are reduced by at least 20%, and adjusting the formula downward to the amount needed for scheduled

replication. Another commenter expresses the opinion that the Commission should look at need of an area in deciding where to replicate. The commenter believes that the Commission is looking at replicating in the midsection of Texas, that this is a predominately rural area, and that this area will not be able to sustain this funding reduction. As they will not be able to sustain this program in light of reductions, the LWDBs will not respond to a Request for Proposal for replication. Another commenter questions using one-half of the Compensatory Education funds for replication in West Texas, asserting that there are not enough cities in that part of the state to merit this particular program. Another commenter believes that, since House Bill 1863 lists expansion before replication, a portion of the funds should be available for expansion at the beginning of the program year through current procedures, not through the LWDB. Another commenter suggests the formation of a volunteer committee to designate cities for replication of the program and the years in which these programs would start.

Response: The Commission's intent is to follow legislative direction to expand the CIS program into areas of the state which currently do not have CIS services, as it believes all Texas' at-risk students are entitled to the opportunity to benefit from this program. The program should not be limited to a particular region of the state. Indeed, the Legislature clearly expressed its intent in statute that the programs should operate statewide. The Commission notes interest from at least one West Texas rural community, which provided comments on these rules. However, the Commission wishes to point out that one-half of Compensatory Education funds are not set aside for replication. The Commission will issue a Request for Proposal to replicate in areas which currently do not have a CIS program. The responses may result in more than one new program being established. Therefore, no definitive knowledge exists at this time as to how many new programs will be established next year or in the years thereafter, or what the cost will be. The Commission believes that CIS programs require local support in any area of operation. It is incumbent upon local CIS programs to determine if additional funds are available for implementation and continued operation and to identify such funds in their response to the state's Request for Proposal. Considering the intense effort required to replicate a program, and in light of the fact that the new programs will require continued support, the cost of a new program is not limited to the first-year replication cost. Although House Bill 1863 does not designate either expansion or replication of higher importance, the Commission considers making funds available for replication in areas of the state which do not have a CIS program to be of higher priority. The Commission recognizes that all of these funds may not be utilized for replication. Funds not awarded through the competitive proposal process will be allocated among contracted programs based on the established formula to enable them to expand to new school districts or campuses. The Commission appreciates the commenter's idea of a volunteer committee. However, the Commission believes the opportunity for replicating the CIS program should be offered to all areas of the state and the decisions based on the local areas' responses. Due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: Two commenters recommend a formula applied with a hold harmless clause that guarantees 70% of base year funding in FY 99, a hold harmless of 60% in FY 2000, and a hold harmless of 50% for FY 2001 forward unless sanctions are imposed.

Response: This was the effect of the initial rules proposed by the Commission. However, due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: Several commenters question if there would be a TANF Request for Proposal (RFP) in addition to the Compensatory Education and JTPA RFPs and suggest clarifying this language.

Response: The Commission has revised §827.33, relating to TANF funds, to apply for one year. FY98 TANF carry-over funds will be available first to local workforce development areas which do not have CIS programs. If TANF carry-over funds are not allocated through the Request for Proposal process, remaining funds will be allocated to existing programs for expansion. FY99 TANF funds will be allocated to existing programs based on the percentage of at-risk students in the respective program compared to the number of at-risk students in all school districts served by CIS.

Comment: One commenter asserts that it is unclear what the responsibilities are for current CIS operations in a local workforce development area if another community wishes to replicate the CIS program.

Response: Funds for replication will be available first to local workforce development areas which do not have CIS programs. If all replication funds are not allocated through the RFP process, remaining funds will be allocated to existing CIS programs for expansion. These funds, as well as any local resources, may be used for expansion into other communities, school districts, or campuses in the area. This would be a local decision, but the Commission would offer assistance with expansion procedures as well as with replication in other areas.

Comment: Some commenters recommend deleting §827.31(f), saying that since §827.31(d) is invalid, so is §827.31(f).

Response: The Commission has revised §827.31, relating to Compensatory Education Funds to list the funding criteria and to apply for one year. However, the intent of this section remains the same. The Commission disagrees that these sections are invalid as they set out the criteria for allocating funds to new areas and what the Commission will do in the absence of responsive proposals.

Comment: One commenter asserts that reducing funds to a new CIS agency such as theirs, which was established in July 1995, seriously affects their ability to establish a strong foundation and recommends allowing at least three years for new CIS programs to establish a strong foundation.

Response: While the Commission acknowledges the commenter's concern, this program has been operational for three years. Programs that establish strong local support and community involvement, consistent with the CIS model, should succeed. However, due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: One commenter believes that the risk of supplanting reduces the ability to replace revenue and recommends stabilizing funding at the current level.

Response: The Commission recognizes the strong local efforts already in place for raising funds to serve the area's at-risk youth. However, it also recognizes that the state statute has directed the Commission to reduce funding to programs which existed as of August 31, 1995. The Commission, pursuant to state law, will use the savings to replicate and expand the program. However, due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: One commenter asserts that the proposed rules indicate that the program will be expected to maintain current levels of service even though the total operating budget will be reduced by 37% and that this is an unrealistic expectation.

Response: State statute, not Commission rules, requires each local program to develop a five-year funding plan under which current levels of service to eligible students are maintained, as the proportion of state funding is reduced. The local CIS programs are expected to obtain other resources to maintain services. However, due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: One commenter suggests using the educational service centers as fiscal agents for CIS funds.

Response: The Commission believes that administrative decisions should be made locally, insofar as possible, and declines to add this requirement to the rules.

Comment: One commenter suggests that if the Commission wants to provide the program to more cities, then the Commission needs to put more money into the program.

Response: The Legislature would need to appropriate more money for this program. The absence of such action does not relieve the Commission of its legislatively mandated obligation to replicate or expand the program.

Comment: A commenter asks if FY96 refers to school year 1995-96.

Response: State FY96 began September 1, 1995, and ended August 31, 1996.

Comment: A commenter asks what would happen if an individual program's funding has already been reduced by 30% by FY99.

Response: According to Commission records, only one program has experienced a reduction of over 30% from the Compensatory Education funds appropriated by the Legislature to CIS for FY96. However, due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: Eleven commenters assert that the language of the rule is unclear and question if programs established after 1995 are immune from cuts.

Response: No new programs have been established since 1995. Programs established after adoption of the rules will be subject to the formula, which allocates funds based on the percentage of at-risk students in the local workforce development area and the financial resources of individual communities and school districts in the local workforce development area. However, due to input provided, §827.31, relating to Compensatory Education Funds, has been revised to list the funding criteria and to apply the formula for one year.

Comment: One commenter expresses his belief that neither the Texas Labor Code, nor the law require CIS services to be in all workforce development areas and suggests deleting the section.

Response: The Legislature quite clearly stated its intent that the CIS program should operate throughout the state. Texas Labor Code §305.002 contains this statement of intent. The Commission is committed to providing equitable opportunities to all areas of the state, which wish to establish a CIS program. As the state is already divided into areas for other programs the Commission administers, it is prudent to utilize the existing methodology rather than create a new methodology. The Commission will use this methodology to ensure availability of this program statewide and therefore declines to delete this section.

X. Applicant Proposals.

Comment: Several commenters believe that, "Subchapter B. Approval of New Local Applicant Proposals" is unclear. They recommend specifying the CIS program or replication in the title. One commenter suggests adding a reference to a 501(c)(3) organization in the title.

Response: The Commission considers the current title of the subchapter to be accurate and appropriate for the contents. The subchapter sets forth the requirements for the Commission to approve a proposal submitted by a new local applicant in accordance with Commission guidelines. As these rules apply specifically to the CIS program, further reference to the program in the subchapter's title is considered unnecessary. The Commission believes that incorporating as a 501(c)(3) organization is a local decision. The Commission, therefore, declines to make this revision.

Comment: A commenter suggests that new applicants be required to submit an operational plan as specified in §827.42. The commenter requests that §827.12(a) be amended to add that requirement.

Response: Once approved to be a local program, new applicants must comply with §827.42, including the requirement for an operational plan. Therefore, the Commission believes an amendment to this section is unnecessary.

Comment: The commenter recommends requiring that the local CIS program's reapplication be provided to the LWDB for review and comment, and that ongoing evaluation reports be provided to the LWDB. The commenter asserts that the rules indicate that board members serving on both the LWDB and the CIS board may meet the coordination requirement. However, the commenter believes that once a program is funded, the LWDB would not necessarily have the opportunity for continued involvement or an opportunity for review and comment of the reapplication.

Response: Section 827.42(b) specifies that the annual local CIS operational plan must be reviewed by the LWDB prior to submission to the Commission. Consideration will be given to requiring the annual plan as an attachment to the reapplication. The Commission encourages information sharing; however, the Commission declines to revise the rule to require ongoing evaluation reports.

Comment: Because public funds are involved, several commenters suggest that solicitations be publicly advertised. They suggest deleting "or as otherwise determined by the Commission." One commenter suggests, "Subject to funding availability, the Commission shall place a public notice soliciting proposals for new CIS programs in the *Texas Register*."

Response: Proposal solicitations will always be published in the *Texas Register*. The reference to "or as otherwise determined by the Commission" refers to the frequency of solicitation.

XI. Program Administration.

Comment: Several commenters assert that the identification requirement is in error and request that it be deleted. Ten commenters believe such an identification is an error, suggest it be deleted, and assert that Commission staff acknowledged this fact. One commenter questions the use of "Communities In Schools of Texas" when another 501(c)(3) has already been chartered by the state with that name and suggests deleting this section or modifying it to "CIS . . . (name of area)."

Response: The Commission disagrees that this section should be deleted. However, the Commission agrees to modify this section. The rule is amended to read, "The local programs shall use the name 'Communities in Schools, (name of area)', for purposes of identification."

Comment: One commenter believes that the 15% limitation on administrative costs is unrealistic. The commenter requests that the Commission allow the local CIS programs the flexibility to allocate their own administrative costs within their total budget. The commenter believes that this will enable the CIS boards to adequately perform the job of leading their organizations. Alternatively, the commenter suggests raising the administrative cost limitation to 25%. Several other commenters request changing the language to read "not more than 15% of legislative funding can be used for administrative expenses."

Response: Administrative cost limitations are set by statute. Various programs, including CIS, must comply with this limitation. If necessary, smaller programs may wish to investigate efficiencies of scale, which could be derived from consolidation of resources. As these rules do not apply to funds not provided by the Commission, the program is free to utilize private dollars as it sees fit. Therefore, the Commission declines to amend this rule.

Comment: One commenter asks what the functions of the current CIS State Office and the local CIS board of directors are in this process.

Response: The rules do not change the function of the current CIS State Office or the CIS board of directors. The rules address the functions of the local CIS program.

Comment: Several commenters believe that August would be too late for the Commission to issue planning guidelines. They note that schools start the first of August and believe that August would be too late to allow for the

development of an effective plan, budget, development of community resources as well as insufficient time to obtain a review by another organization. The commenters suggest that planning guidelines should be issued in January, March, or April.

Response: The Commission concurs that an earlier date is appropriate, and the month established for issuing planning guidelines is changed to April. This enables the local CIS program to coordinate with other youth programs to ensure that the dollars are spent more efficiently.

Comment: One commenter states that the annual marketing plan is the type of information not normally shared with the public at large and that corporations normally do not share a business plan. The commenter recommends exclusion of the plan from any outside review.

Response: The marketing plan involves the use of public funds that are subject to review by the public. The Legislature, via the Open Records Act, indicated that the public has the right to know how their tax dollars are being spent. Further, it is incumbent on the Commission to ensure effective and efficient use of state funds, and integrated planning is a primary factor in this endeavor. The less dependent a program is on state funds, the more flexibility it will have.

Comment: Several commenters believe that the rule language suggests there is no opportunity to negotiate the contract and that the Commission can make unilateral modifications as they choose. The commenters suggest adding language allowing CIS programs to negotiate the contracts.

Response: The rules do not address contract negotiations. There is always an opportunity to negotiate contracts before either party commits to the contract by signature; therefore, the Commission declines to revise the rule.

Comment: One commenter states that it appears that program evaluation may be self-monitoring and that this seems to be in conflict with the philosophy of House Bill 1863, which requires a separation of entities involved in program evaluation from program operation. The commenter recommends requiring provision of monitoring reports to LWDBs for existing programs, requiring an independent evaluation for new programs operated by non-board entities, and requiring contracting of services for new programs operated by LWDBs.

Response: Local programs are expected to "self-evaluate" their programs biannually. However, the Commission has a unit responsible solely for monitoring programs. Section 827.43(b) indicates this activity. While the Commission appreciates the intent of this comment, the state statute treats CIS differently from other workforce development programs. Therefore, the Commission declines to revise the rule.

XII. Compliance.

Comment: Several commenters believe that program and fiscal monitoring assistance mixes contract compliance with technical assistance. They recommend separating these two functions.

Response: Section 827.51(b)(1) addresses technical assistance and §827.51(b)(2) addresses program and fiscal monitoring assistance. The two activities are addressed separately in the rules, not integrated into one subsection.

Comment: Several commenters believe that only staff compensated with Commission funds could be allowed or required to attend the technical assistance training. They assert that the Commission's funding reductions are eliminating staff which would attend these trainings. One additional commenter suggests that only staff paid by TWC-contracted funds should be required to attend. Other commenters suggest either providing funds for training or deleting this section.

Response: Staff who are required to attend training would be those whose responsibilities relate to the noncompliance issues being addressed. As the issues would relate to the contract with, or rules issued by, the Commission, this would affect staff responsible for activities related to state funding. The Commission would not limit the training to this staff, but would not require other staff to attend. The Commission believes that, if a program has breached a contract and/or failed to comply with specific state and federal requirements and Commission policies, the requirement to participate in technical training and quality assurance workshops is appropriate, and that the program is responsible for bearing the cost for participation. This cost would not be incurred if a program complied with all requirements, policies, and contract terms.

Comment: Several commenters do not understand what meetings Level Two Sanctions address. They request clarification.

Response: This term applies to any meeting which may relate to the noncompliance issue being addressed. The language is revised to include this additional wording.

Comment: Several commenters request clarification of what violations result in sanctions, particularly regarding the percentages in subchapter F of this chapter.

Response: Clarifying information is provided regarding sections for which specific questions were posed, including those which contain percentages. The following comments and responses address the specific issues raised.

Comment: Several commenters assert that the language in this subsection is unclear and suggest clarifying language as to 90% of any one or 90% overall in §827.53(a)(1) and as to 75% of any one or 75% of overall standards in §§827.53(b)(4) and 827.53(c)(5).

Response: The percentages in §§827.53(a)(1) and 827.53(b)(4) apply to each of the contracted standards. The percentages in §827.53(c)(5) apply to all of the contracted standards within the program year. Each rule is revised to reflect this clarification.

Comment: Several commenters state that they are confused by §827.53(b)(3) and request clarification of the language of the rule.

Response: The provision states that failure to take corrective action to resolve findings identified during monitoring reviews, investigative reviews, or program reviews may result in a Level One Sanction being applied. Level One Sanctions are identified under §827.52(1). The Commission considers these to be direct statements and does not agree that further clarification is needed.

XIII. General Comments, regarding all rules within this chapter.

Comment: One commenter asserts that Texas Labor Code, Chapter 305, limits the rulemaking authority of the Commission to rules necessary for implementation of the Memorandum of Understanding with the TEA. The commenter expresses the opinion that setting standards for local programs and developing the funding formula are responsibilities of the state coordinator.

Response: The Commission acknowledges the responsibilities specified in the law for the state coordinator. However, the state coordinator is an employee of the Commission. The Commission is responsible to the state for appropriate use of state funds and, to fulfill this responsibility, believes it is incumbent on the Commission to propose and adopt relevant rules, obtain public comment, and establish agency policies. The Commission believes that the requirement to adopt rules to implement the Memorandum of Understanding with the TEA is a requirement rather than a limitation. Additionally, the Commission's enabling statute provides it with the authority to adopt rules necessary for the effective administration of Commission programs.

Comment: One commenter acknowledges much of the guidance contained in the proposed rules is needed, but expresses concern that the rules seem to attempt to fit the CIS program into the organizational mold which is dominant at the Commission. The commenter expresses the concern that this organizational mold may not be in the best interest of this small and unique program.

Response: The Commission considers its organizational structure to be a result of state legislation which sought to integrate the numerous workforce development programs. By reducing duplication of services and reporting mechanisms, and by reducing administrative costs, the Commission believes that coordination among the various programs will not only provide benefits to these children and their families, but also to the local communities and ultimately the state as a whole. In addition, a coordinated effort will enable the programs to help keep more students in school, despite limited state resources.

Comment: One commenter explained during the public hearing that the TEA allocates Compensatory Education funds to school districts on the basis of the number of students who are eligible for free or reduced-price lunches. However, such funds are expended on students who are performing below grade level or are at-risk of dropping out of school as defined in the Texas Education Code. The commenter also explained that approximately \$133 million of Compensatory Education funds are set aside for various projects, and that the districts with higher taxable wealth, i.e., property values, contribute more to the set-aside amount.

Response: The Commission appreciates information from the TEA and seriously considered these factors in the development of the CIS funding formula.

Comment: One commenter, representing ten individuals, asserts that his program presently has six areas of emphasis and believes that the new rules would require them to expand to 28 areas, thus diluting and weakening an excellent program already in existence and proven to be effective.

Response: The rules do not require a local program to expand into additional areas, either programmatically or geographically.

Comment: One commenter expresses concern that the proposed rules will so bureaucratize the program that its effectiveness will be severely diminished. The commenter expresses the opinion that CIS has been the most effective anti-dropout program in the state as well as the nation, and that the public/private partnership aspect with its attendant flexibility has made the program very successful. The commenter notes that problems at the state level do not necessarily extrapolate to local programs, and that TWC can make an excellent program even better with the right balance between good business practices and government oversight where warranted, as opposed to micromanagement.

Response: The Commission agrees with flexibility at the local level and has adopted rules which reduce, rather than increase, state level management. The Commission recognizes and appreciates the contributions of the local CIS

programs and chooses to allocate funds without the state prescribing how funds will be used, other than those required by law. The Commission agrees that local control is the basis for effective program operations.

Comment: Several commenters believe that the mission of CIS should conform to the CIS national mission and that the mission as stated in the rules is different from that in the Texas Labor Code, §305.001(2). The commenters suggest editing to match the national mission statement and, at a minimum, being consistent with the definitions.

Response: The Commission believes that the CIS mission as stated in the rules is consistent with the national CIS mission and with the state statute. Rather than repeating verbatim what is written elsewhere, the Commission chooses to emphasize positive results. While "stay in school" and "don't drop out" have the same meaning, the former is a more positive way of stating the mission. However, the Commission has expanded the mission to accommodate the commenter's suggestion.

Comment: One commenter asserts that the mission statement is not measurable using the currently mandated Commission's student computerized management information system and that the methodology of TEA for measurement is unknown for comparison purposes. The commenter recommends development of a more measurable, comprehensive mission, one more aligned to the mission of the national CIS office and that the Commission work with TEA to develop a measurable outcome for comparison of both sets of data.

Response: The mission of helping young people stay in school is tracked in the current CISCMS system through the exit outcome codes. The Commission believes this factor is more easily measured than the broader concepts in the national CIS mission, such as championing the connection of community resources and preparing for life. As such, the Commission disagrees with changing the method of measurement but will continue to work with TEA to develop methods of comparing data.

Comment: Several commenters assert that it is school campuses that have at least 10% of students identified as at-risk and suggest changing "school districts" to "school campuses" in §827.21.

Response: The Commission concurs and the rule is changed to "continues to operate in a school with at least 10% of students identified as at risk."

The Commission has amended the title of §827.1 by adding "and Applicability."

The Commission has amended the title of "Communities In Schools" in §827.1(a) and (b) and §827.2(5)(6) and (26) by putting the "In" in lower case.

The Commission has amended §827.1(a) by changing "Central" to "Texas."

The Commission has amended the definition of "Base year" to clarify that the fiscal year referred to is the state's fiscal year.

The Commission has added a definition of "Fiscal Year."

The Commission has amended the definition of "Local applicant" by deleting "previously" and adding "currently."

The Commission has amended the definition of "Local Workforce Development Board" to mean a board, rather than an area.

The Commission has made a grammatical correction in the definition of "replication program" by deleting the hyphen in "ongoing."

The Commission has amended the title of "School-to-Work" to read "School-to-Careers."

The Commission has amended §827.12(c) by deleting the reference to "Youth Fair Chance."

The Commission has added §827.12(e) to reflect the Commission's intent to review the grant application along with any comments from the LWDB. This new section also states that the Commission may approve the plan, require modifications to the plan, or disapprove the plan.

The Commission has amended §827.21(b)(2) to clarify that local financial support must be continued and demonstrated.

The Commission has amended §827.21(b)(6) and §827.42(d) to clarify the coordination requirement with the LWDB.

The Commission has amended §827.32 to allocate JTPA funds based on a competitive RFP.

The Commission has amended §827.32 by deleting the reference to FY99.

The Commission has amended §827.41(c) to clarify that the CIS boards must comply with Commission requests and provide reasonable access to all program records.

The Commission has amended §827.42(c)(10) by deleting "Youth Fair Chance."

The Commission has amended §827.43(b) to clarify that the local program must cooperate with all Commission audits, monitorings, and evaluations.

The Commission has amended §827.51(b)(3) by changing "Assurance" to "Initiative" and by deleting "across program lines" as the CIS board only governs one program.

The Commission has added §827.53(a)(5) and (6) to be consistent with the Commission's sanctions rules.

The Commission has amended §§827.54 and 827.55 to be consistent with the Commission's sanctions rules and to avoid confusion.

Subchapter A. General Provisions

40 TAC §827.1, §827.2

The new rules are adopted under Texas Labor Code §301.061, which provides the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission programs.

§827.1.Purpose and Applicability.

(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 Texas Education Agency.

(b)

The mission of the Communities in Schools program in Texas is to help young people, successfully learn, stay in school, and prepare for life.

(c)

This chapter establishes the State programmatic and administrative requirements for Communities in Schools funds provided by the Texas Workforce Commission to Communities in Schools programs.

§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- a student that is at risk of dropping out of school, as defined in the Texas Education Code, Title 2, Subchapter C, §29.081 and is eligible for free or reduced-price meals in the national school lunch program, as defined in the Texas Education Code §42.152(b).

(2)

Base year - State 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 - Participation of an active local 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 governs 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)

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

(13)

Fiscal year - September 1 thru August 31 of each year.

(14)

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.).

(15)

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

(16)

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

(17)

Local program - A non-profit corporation or local workforce development board, 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.

(18)

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

(19)

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

(20)

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

(21)

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

(22)

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 ongoing.

(23)

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

(24)

School-to-Careers - 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.

(25)

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

(26)

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 adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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General Counsel

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Subchapter B. Approval of New Local Applicant Proposals

40 TAC §§827.11-827.14

The new rules are adopted under Texas Labor Code §301.061, which provides the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission programs.

§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), and Tech-Prep.

(d)

All grant applications for CIS funding must be reviewed and coordinated with the local workforce development board serving the local workforce development area in which the local CIS program operates.

(e)

The Commission shall review the grant application along with any comments from the local workforce development board. The Commission may approve the plan, require modifications to the plan, or disapprove the plan.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Subchapter C. Approval of Renewal and Expansion Proposals

40 TAC §827.21

The new rule is adopted under Texas Labor Code §301.061, which provides the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission programs. §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 and demonstrated local financial support;

(3)

continues to operate in a school 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 board serving the local workforce development area in which the local CIS program operates. 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 adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Subchapter D. Funding of CIS Local Programs

40 TAC §§827.31-827.33

The new rules are adopted under Texas Labor Code §301.061, which provides the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission programs. §827.31. *Compensatory Education Funds.*

(a)

The state will retain an amount, to be determined by the Commission, for replication of the program in local workforce development areas of the state that are not served by a participating CIS program. Replication funds may be made available through a competitive Request for Proposal process using the following criteria:

(1)

the relative number of at-risk students in the local workforce development area compared to the number of at-risk students in the local workforce development areas of the state that are not served by a participating CIS program, and

(2)

the local financial resources in the local workforce development area, defined as the area's total taxable property value in 1996 as determined by the Comptroller's Property Tax Division, divided by the total number of students in the area in 1996-1997.

(b)

In the absence of responsive bids in the Request for Proposal process, funds not awarded may be allocated to contracted CIS programs for expansion based on the following criteria:

(1)

the relative number of at-risk students in the school districts served by the respective program compared to the number of at-risk students in all school districts served by CIS, and

(2)

the weighted financial resources of individual communities and school districts, if less than the state average, as reflected in the statewide average of taxable property value per pupil in the state's independent school districts, as determined in 1996 by the Comptroller's Property Tax Division.

(c)

Funds not awarded for replication or expansion will be distributed to the CIS programs existing as of August 31, 1995, as outlined in subsection (d) of this section.

(d)

For FY99, the Commission will allocate an amount of Compensatory Education Funds, to be determined by the Commission, among CIS programs existing as of August 31, 1995, based on the following criteria:

(1)

no less than 50%, or more than 70%, shall be distributed to the individual CIS programs based on the relative proportion of the number of at-risk students attending school districts served by the respective program compared to the number of at-risk students in all school districts served by CIS, and

(2)

no less than 10%, or more than 25%, shall be distributed on the basis of the weighted financial resources of individual communities and school districts, if less than the state average, as reflected in the statewide average of taxable property value per pupil in the state's independent school districts, as determined in 1996 by the Comptroller's Property Tax Division.

(e)

For FY99, the Commission may adjust Compensatory Education funding to existing CIS programs if a CIS program receives less than 90% or more than 125% of Compensatory Education funds initially distributed in FY98.

§827.32. JTPA Funds.

In the event that JTPA funds are made available for the CIS program, the JTPA funding shall be subject to a competitive Request for Proposal (RFP) process.

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

(a)

For FY99, the State will retain the FY98 TANF carry-over funds for replication of the program in local workforce development areas of the state that are not served by a participating CIS program. TANF replication funds will be made available through a competitive Request for Proposal process.

(b)

In the absence of responsive bids in the Request for Proposal process, FY98 TANF carry-over funds not awarded will be allocated to contracted CIS programs for expansion based on the percentage of at-risk students in the respective program compared to the number of at-risk students in all school districts served by CIS programs.

(c)

For FY99, the Commission will allocate \$3 million TANF funds among CIS programs existing as of August 31, 1995, based on the percentage of at-risk students in the respective program compared to the number of at-risk students in all school districts served by CIS programs.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Subchapter E. Program Administration After Approval as a Local Program

40 TAC §§827.41-827.43

The new rules are adopted under Texas Labor Code §301.061, which provides the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission programs.

§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 audits, monitorings, and evaluations. The programs must provide reasonable access to all program records, including those funded by sources other than the Commission.

(d)

Identification. The local programs shall use the name "Communities in Schools (name of area)" 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 (name of area).

(e)

Governance. Each local CIS program 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 coordinated with 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 April 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), and Tech-Prep.

(d)
The Commission shall review the CIS board's plan along with any comments from the local workforce development board serving the local workforce development area in which the CIS program operates. 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 cooperate with all Commission audits, monitorings, and evaluations.
This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Subchapter F. Compliance

40 TAC §§827.51-827.55

The new rules are adopted under Texas Labor Code §301.061, which provides the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Commission programs.

§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 Initiative 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.

§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 any meetings related to the non-compliance issue; 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 each 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 rectify and/or resolve all independent audit findings and/or question costs within required timeframes;

(6)

failure to submit the annual audit required by OMB Circular A-133, as may be amended;

(7)

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 each of the 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 all contracted standards within the program year.

§827.54. Notice of Sanctions.

(a)

The specific sanctions to be imposed on a local program by this policy shall be determined by the Commission Executive Director.

(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 ten 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 the following methods:

(1)

facsimile (fax) transmission for all notices; and

(2)

letter by certified mail, return receipt requested.

(e)

The effective date of notice shall be the date the notice is sent to the CIS Board by certified mail.

§827.55. Appeals.

(a)

A CIS Board must submit a request for appeal within ten working 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.

(b)

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 adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 23, 1998.

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J. Randel (Jerry) Hill

General Counsel

Texas Workforce Commission

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