

## CHAPTER 450. VETERANS COUNTY SERVICE OFFICERS CERTIFICATE OF TRAINING

### 40 TAC §§450.1, 450.3, 450.5

The Texas Veterans Commission adopts amendments to §§450.1, 450.3, and 450.5 of Title 40, Part 15, Chapter 450 of the Texas Administrative Code, concerning Veterans County Service Officers Certification, without changes to the proposed text as published in the May 24, 2019, issue of the *Texas Register* (44 TexReg 2599). The rules will not be republished.

The adopted amendment is a minor revision to §§450.1, 450.3, and 450.5 to implement a procedure to approve training provided by third-party, public or private entities, to fulfill initial and continuing training requirements established by the commission. Senate Bill (SB) 544 took effect on September 1, 2017.

No comments were received regarding the proposed rule amendment.

The amended rules are adopted under Texas Government Code §434.010, which provides the Texas Veterans Commission with the authority to establish rules that it considers necessary for the effective administration of the agency; and Texas Government Code §434.038, which authorizes the commission to establish rules governing the training and certification for Veteran County Service Officers and Assistant Veterans County Service Officers.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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For further information, please call: (512) 463-3605



## CHAPTER 451. VETERANS COUNTY SERVICE OFFICERS ACCREDITATION

### 40 TAC §451.1, §451.3

The Texas Veterans Commission adopts the amendment to subsections §451.1 and §451.3 of Title 40, Part 15, Chapter 451 of the Texas Administrative Code relating to Veterans County Service Officers Accreditation, without changes to the proposed text as published in the May 24, 2019, issue of the *Texas Register* (44 TexReg 2601) and will not be republished.

The adopted amendment is a minor revision to harmonize Rule 451's key definition with Title 38 of the U.S. Code of Federal Regulations, and minor revisions to improve clarity and to reflect the recent name change of the Claims Department.

No comments were received regarding the proposed rule amendment.

The amended rules are adopted under Texas Government Code §434.010, which provides the Texas Veterans Commission with

the authority to establish rules that it considers necessary for the effective administration of the agency; and Texas Government Code §434.038, which authorizes the commission to establish rules governing the training and certification for Veterans County Service Officers and Assistant Veterans County Service Officers.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## TITLE 43. TRANSPORTATION

### PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

#### CHAPTER 206. MANAGEMENT

##### SUBCHAPTER E. ADVISORY COMMITTEES

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts the repeal of 43 TAC §206.94 and §206.95. The department adopts amendments to 43 TAC §206.92 and §206.93. The department also adopts new 43 TAC §§206.94 - 206.99. The repealed, new, and amended sections relate to advisory committees.

The department adopts amendments 43 TAC §§206.92, 206.93, 206.96 - 206.99, and new sections 43 TAC §206.94 and §206.95 concerning advisory committees, with nonsubstantive, grammatical changes to the proposed text as published in the March 1, 2019, issue of the *Texas Register* (44 TexReg 1111). These rules will be republished. The department also adopts the repeals to §206.94 and §206.95 without changes to the proposed text and these rules will not be republished. Non-substantive, grammatical changes were made to §206.93(a) to provide greater clarity on the role of the advisory committee. The phrase "to the board" was added after "the role of an advisory committee under this subchapter is to provide advice and recommendations," to clarify who receives the advice and recommendations. Additional nonsubstantive, grammatical changes were made to §206.93(e) to clarify what action an advisory committee may take when a quorum is present. The phrase "transact business" was deleted and replaced with "deliberate on issues within the jurisdiction of the department or any public business," to conform to the language and definitions used in the Open Meetings Act, Government Code, §551.001. The changes to the adopted sections do not change issues raised in the proposal, introduce new subject matter, incur costs, or affect persons other than those previously on notice.

Amendments to 43 TAC §206.93 implement Senate Bill (SB) 604, Section 1.08, 86th Regular Session (2019), which repealed Government Code, §2110.002(c). Prior to the repeal, the department was exempt from the Government Code, §2110.002(c) requirements that an advisory committee be composed of a rea-

sonable number of members not to exceed 24 and that the composition of an advisory committee provide a balanced representation between the industry or occupation and the consumers of services provided by the agency, industry, or occupation. However, SB 604 now applies the Government Code, §2110.002(c) requirements to the department.

**REASONED JUSTIFICATION.** The amendments, new sections, and repeals are necessary to implement the Sunset Advisory Commission's adopted recommendation 1.7 in the Staff Report with Final Results, revised June 2019. The Sunset Advisory Commission recommended that the department establish advisory committees to provide expertise for rulemaking and other issues, and adopt rules regarding standard committee structure and operating criteria. The report also recommended the department establish advisory committees to provide expertise for rulemaking related to motor vehicle and carrier regulation, vehicle title and registration, consumer protection, and customer service. The amendments and new sections are necessary to specify the purposes, powers, and duties, of advisory committees, including the manner of reporting their work, under Transportation Code, §1001.031.

Amendments to §209.92, Definitions, add a definition for the term "member" to clarify that a member is appointed to the committee by the board of the Texas Department of Motor Vehicles (board), as required by Transportation Code, §1001.031(b). The definition of the new term "presiding officer" clarifies that the advisory boards are composed of members that are not members of the board, and presided over by a presiding officer elected by the other advisory committee members. The term further clarifies that advisory committee meetings will be presided over by a presiding officer who facilitates efficient functioning of the advisory committee by overseeing discussions and votes.

Nonsubstantive, grammatical changes were made to §206.92(6) and (7) to provide clarity for the roles of the member and presiding officer.

Amendments to §206.93, Advisory Committee Operations and Procedures, delete subsections (a) through (f) and add new subsections (a) through (l) to reorganize the subsections and provide clearer guidance for advisory committee operations and procedures. In addition, these new subsections promote the efficient handling of advisory committee meetings.

Requirements under existing §206.93(a) are now in new §206.93(f) and (b). The term of service for advisory committee members more closely aligns with the fourth anniversary expiration date for advisory committees consistent with Government Code, §2110.008.

Requirements under §206.93(b) were deleted and moved to new §206.93(j) to provide clearer guidance on how and when to report recommendations to the board.

Requirements under §206.93(c) were deleted entirely. In place of this subsection, §206.93(g) is added to require advisory committee members to receive training regarding the Open Meetings Act, Government Code, Chapter 551, the Public Information Act, and Government Code, Chapter 552. This amendment will ensure advisory committee members are aware of the open meeting and public information requirements of advisory committee meetings.

Requirements under §206.93(d) were deleted and moved to new §206.93(l). New §206.93(l) outlines permissible reimbursement of advisory committee members under Government

Code, §2110.004, which states that the manner and amount of reimbursement may be prescribed only by the General Appropriations Act or through the budget execution process under Government Code, Chapter 317, if the advisory committee was created after it is practicable to address the existence of the advisory committee in the General Appropriations Act.

Requirements under §206.93(e) were deleted and moved to new §206.93(k). New §206.93(k) requires the board to consider reports in addition to recommendations submitted by the advisory committees to ensure the board considers all available advisory committee resources.

Requirements under §206.93(f) were deleted to better reflect the notice requirements of the Open Meetings Act, Government Code, Chapter 551.

Section 206.93(g) was reorganized as new §206.93(m) and adds the title "Expiration dates for advisory committees," for consistency.

In addition, the amendments add several new subsections to §206.93, Advisory Committee Operations and Procedures. Section 206.93(a) is necessary to provide clarity for the role of the advisory committee to the board. Section 206.93(c) is necessary to clarify the qualifications for advisory committee members and includes a prohibition on board members serving on advisory committees to ensure the advisory group has independent external expertise and recommendations. Section 206.93(d) is necessary to ensure balanced representation on advisory committees, by requiring membership from different geographical regions of the state, to the extent practical, who have an interest of expertise in the subject area of the particular advisory committee. Section 206.93(e) is necessary to outline committee size, consistent with the requirements under Government Code, §2110.002, and quorum requirements, under the Open Meetings Act, Government Code, Chapter 551. Section 206.93(h) is necessary to ensure advisory committee compliance with the Open Meetings Act, Government Code, Chapter 551. Section 206.93(i) is necessary to require advisory committees to accept public comments to promote constituent engagement in the rule-making process.

The department is repealing §206.94, Household Goods Rules Advisory Committee (HGRAC), because this advisory committee completed recommendations to modernize and streamline rules to protect consumers using the service of a motor carrier who is transporting household goods for compensation and rules to ensure that a customer of a motor carrier transporting household goods is protected from unfair practices and unreasonably hazardous activities adopted under Transportation Code, §643.153(a) and (b). The committee is set to expire on August 14, 2019, under §206.95 of this title. Any rules regarding household goods may be addressed by the new Consumer Protection Advisory Committee (CPAC) created by amendment.

New §206.94, Motor Vehicle Industry Regulation Advisory Committee (MVIRAC), replaces repealed §206.94, HGRAC, to advise and make recommendations to the board and the executive director, as requested, on issues related to regulation of the motor vehicle industry. The MVIRAC may provide the department with independent external expertise and recommendation on motor vehicle regulation topics. Motor vehicle industry regulation makes up a significant part of the department's operations with over 33,000 regulated motor vehicle-related licenses issued in Fiscal Year 2019. The department may utilize the expertise of advisory committee members regarding the business operations

of motor vehicle and salvage dealers and other elements of the motor vehicle industry to improve the efficiency of department operations and procedures.

Nonsubstantive, grammatical changes were made to §206.94(a) to clarify the purpose of MVIRAC. "Issues" was deleted and replaced with "topics" to ensure the advisory committee may make all relevant recommendations.

The department is repealing §206.95, Motor Vehicle Licensing Advisory Committee (MVLAC), because the committee has completed the review of license requirements and procedures, and made recommendations to the department simplifying and modernizing the licensing process. The committee is set to expire on August 14, 2019, under §206.95 of this title.

New §206.95, Motor Carrier Regulation Advisory Committee (MCRAC), replaces repealed §206.95, MVLAC, to advise and make recommendations to the board and the executive director, as requested, on topics related to regulation of the motor carrier industry. The Sunset Advisory Commission Staff Report with Final Results, revised June 2019, noted the department enforces statute and rules governing nearly 50,000 registered motor carrier companies, including trucking and moving companies. The MCRAC will provide valuable independent external expertise and recommendations on motor vehicle carrier topics to the department.

Nonsubstantive, grammatical changes were made to §206.95(a) to clarify the purpose of MCRAC. "Issues" was deleted and replaced with "topics" to ensure the advisory committee may make all relevant recommendations.

New §206.96, Vehicle Titles and Registration Advisory Committee (VTRAC), is created to advise and make recommendations to the board and the executive director, as requested, on topics related to vehicle titles and registration. The Sunset Advisory Commission Staff Report with Final Results, revised June 2019, noted the department registers approximately 24 million vehicles across the state each year. The VTRAC is necessary to provide valuable independent external expertise and recommendations on title and registration topics to the department.

Nonsubstantive, grammatical changes were made to §206.96(a) to clarify the purpose of VTRAC. "Issues" was deleted and replaced with "topics" to ensure the advisory committee may make all relevant recommendations.

New §206.97, Consumer Protection Advisory Committee (CPAC), is created to advise and make recommendations to the board and the executive director, as requested, on investigation and enforcement topics, including vehicle titles and registration fraud; lemon law; the warranty performance program; and other consumer protection topics. Also, the department is creating the CPAC to gain valuable independent external expertise on various consumer protection topics.

Nonsubstantive, grammatical changes were made to §206.97(a) to clarify the purpose of CPAC. "But not limited to" was deleted following "including" because "including" is a word of expansion, and serves to encompass the following terms, rather than limit. "Issues" was deleted and replaced with "topics" to ensure the advisory committee may make all relevant recommendations.

New §206.98, Customer Service Advisory Committee (CSAC), is created to advise and make recommendations to the board and the executive director, as requested, on topics related to improving and enhancing department customer service, including infrastructure; new customer service initiatives; policy and

process improvements; and technology. The CSAC will have the opportunity to obtain valuable information from the department's customers and utilize the independent expertise of committee members for recommendations to improve the department's customer service operations.

New §206.99, Use of Advisory Committees and Working Groups, provides that the board shall prioritize the use of advisory committees over working groups in rulemaking on significant or controversial issues of public policy. Informal working groups may lack stakeholder and consumer inclusivity, and public transparency. This section is adopted to clarify situations in which advisory committees are to be used in preference to working groups.

**SUMMARY OF COMMENTS.** Tax Assessor-Collectors Association (TACA) submitted comments on the proposed rules. TACA expressed concern that the language of §206.93(d), Composition of Advisory Committee, did not include a specific statement of who should serve on the committees. TACA stated they do not necessarily feel they are regulated by the board, but the service they provide as partners with the department and the State is somewhat regulated by statute and state agency rule. TACA asked that the County Tax Assessor-Collector be specifically mentioned as an advisory committee member to applicable advisory committees. TACA stated that by not naming the County Tax Assessor-Collector for those applicable advisory committees, there is no guarantee that the interests of the department's most vital partner will be represented.

**RESPONSE.** The department agrees that County Tax Assessor-Collectors are vital partners of the department. In response to TACA's concerns, the department is amending the language of §206.93(d) to require the board to ensure representation of members from diverse geographical regions of the state who have an interest or expertise in the subject area of the particular advisory committee, to the extent practical. The amended language will promote a balanced advisory committee membership, by preserving board flexibility in appointing members to the advisory committees and still ensuring that County Tax Assessor-Collectors are eligible to become advisory committee members.

The department disagrees with TACA's suggested amendment to specifically name Tax Assessor-Collectors to specific committees, as Sunset Committee Recommendation 1.7 in the Staff Report with Final Results, revised June 2019, did not recommend the department to include such language. The amended language adopted by the department will ensure the composition of the advisory committees provide balanced representation and clarifies that County Tax Assessor-Collectors are eligible to become advisory committee members.

#### **43 TAC §§206.92 - 206.99**

**STATUTORY AUTHORITY.** The amendments and new sections are adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles (board) with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department. More specifically, Transportation Code, §1001.031, states that the department shall retain or establish one or more advisory committees to make recommendations to the board or the executive director. Transportation Code, §1001.031, provides the department authority to specify by rule, the purposes, powers, and duties of advisory committees, including the manner of reporting their work. Government Code, §2110.002(b)

provides the department authority to adopt rules governing balanced representation on advisory committees. Government Code, §2110.005 authorizes the department to adopt rules stating the purposes and tasks of advisory committees, and describing the manner in which advisory committees will report to the agency. Transportation Code, §643.155(b) gives the department the authority to adopt rules to govern the operations of the rules advisory committee, which examines the rules adopted by the department under Transportation Code, §643.153(a) and (b) and makes recommendations to the department on modernizing and streamlining the rules.

#### CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 1001.

#### §206.92. *Definitions.*

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

- (1) Advisory committee--Any committee created by the board to make recommendations to the board or to the executive director pursuant to Transportation Code, §1001.031.
- (2) Board--The board of the Texas Department of Motor Vehicles.
- (3) Department--The Texas Department of Motor Vehicles.
- (4) Division director--The chief administrative officer in charge of a division of the department.
- (5) Executive director--The chief executive officer of the Texas Department of Motor Vehicles.
- (6) Member--An appointed member of an advisory committee created under this subchapter.
- (7) Presiding officer--The presiding officer of an advisory committee elected by the membership of the advisory committee created under this subchapter.

#### §206.93. *Advisory Committee Operations and Procedures.*

(a) Role of advisory committee. The role of an advisory committee under this subchapter is to provide advice and recommendations to the board. Advisory committees shall meet and carry out their functions upon a request from the department or board for advice and recommendations on an issue(s).

(b) Appointment of advisory committee. The board shall appoint members to an advisory committee by selecting potential members from a list provided to the board by the executive director. Each advisory committee shall elect from its members a presiding officer, who shall report the advisory committee's recommendations to the board. The executive director may designate a division or divisions of the department to participate with, or to provide subject-matter expertise, guidance, or administrative support to the advisory committee as necessary.

(c) Member qualifications. Members shall have knowledge about and interests in, and represent a broad range of viewpoints about, the work of the committee or applicable division(s). Board members shall not serve as advisory committee members.

(d) Composition of advisory committees. In making appointments to the advisory committees, the board shall, to the extent practical, ensure representation of members from diverse geographical regions of the state who have an interest or expertise in the subject area of the particular advisory committee.

(e) Committee size and quorum requirements. An advisory committee shall be composed of a reasonable number of members not to exceed 24 as determined by the board. A simple majority of advisory committee members will constitute a quorum. An advisory committee may only deliberate on issues within the jurisdiction of the department or any public business when a quorum is present.

(f) Terms of service. Advisory committee members will serve terms of four years. A member will serve on the committee until the member resigns, is dismissed or replaced by the board, or the member's term expires.

(g) Member training requirements. Each member of an advisory committee must receive training regarding the Open Meetings Act, Government Code, Chapter 551; and the Public Information Act, Government Code, Chapter 552.

(h) Compliance with Open Meetings Act. The advisory committee shall comply with the Open Meetings Act, Government Code, Chapter 551.

(i) Public input and participation. The advisory committee shall accept public comments made in-person at advisory committee meetings or submitted in writing. Public comments made in writing should be submitted to the advisory committee five business days in advance of the advisory committee meeting with sufficient copies for all members.

(j) Reporting recommendations. Recommendations of the advisory committee shall be reported to the board at a board meeting prior to board action on issues related to the recommendations. The recommendations shall be in writing and include any necessary supporting materials. The presiding officer of the advisory committee or the presiding officer's designee may appear before the board to present the committee's advice and recommendations. This subsection does not limit the ability of the advisory committee to provide advice and recommendations to the executive director as necessary.

(k) Board use of advisory committee recommendations. In developing department policies, the board shall consider the written recommendations and reports submitted by advisory committees.

(l) Reimbursement. The department may, if authorized by law and the executive director, reimburse advisory committee members for reasonable and necessary travel expenses.

(m) Expiration dates for advisory committees. Unless a different expiration date is established by the board for the advisory committee, each advisory committee is abolished on the fourth anniversary of its creation by the board.

#### §206.94. *Motor Vehicle Industry Regulation Advisory Committee (MVIRAC).*

(a) The MVIRAC is created to make recommendations, as requested by the department and board, on topics related to regulation of the motor vehicle industry.

(b) The MVIRAC shall comply with the requirements of §206.93 of this title (relating to Advisory Committee Operations and Procedures).

(c) The MVIRAC shall expire on July 7, 2023.

#### §206.95. *Motor Carrier Regulation Advisory Committee (MCRAC).*

(a) The MCRAC is created to make recommendations, as requested by the department and board, on topics related to motor carrier registration and motor carrier regulation.

(b) The MCRAC shall comply with the requirements of §206.93 of this title (relating to Advisory Committee Operations and Procedures).

(c) The MCRAC shall expire on July 7, 2023.

§206.96. *Vehicle Titles and Registration Advisory Committee (VTRAC).*

(a) The VTRAC is created to make recommendations, as requested by the department and board, on topics related to vehicle titles and registration.

(b) The VTRAC shall comply with the requirements of §206.93 of this title (relating to Advisory Committee Operations and Procedures).

(c) The VTRAC shall expire on July 7, 2023.

§206.97. *Consumer Protection Advisory Committee (CPAC).*

(a) The CPAC is created to make recommendations, as requested by the department and board, on investigation and enforcement issues, including: vehicle titles and registration fraud; lemon law; the warranty performance program; and various other topics affecting consumers.

(b) The CPAC shall comply with the requirements of §206.93 of this title (relating to Advisory Committee Operations and Procedures).

(c) The CPAC shall expire on July 7, 2023.

§206.98. *Customer Service Advisory Committee (CSAC).*

(a) The CSAC is created to make recommendations, as requested by the department and board, on topics related to improving and enhancing customer service by the department, including, but not limited to: infrastructure; new customer service initiatives; policy and process improvements; and technology.

(b) The CSAC shall comply with the requirements of §206.93 of this title (relating to Advisory Committee Operations and Procedures).

(c) The CSAC shall expire on July 7, 2023.

§206.99. *Use of Advisory Committees and Working Groups.*

In determining appropriate situations in which to utilize an advisory committee versus a working group, the department and the board shall prioritize the use of advisory committees in rulemaking on significant or controversial issues of public policy. The department may form working groups to advise department staff. A working group is not a standing committee formed to advise the board, but a group formed by department staff on an as-needed basis.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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**43 TAC §206.94, §206.95**

STATUTORY AUTHORITY. The repeals are adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles (board) with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department. More specifically, Transportation Code, §1001.031, states that the department shall retain or establish one or more advisory committees to make recommendations to the board or the executive director. Transportation Code, §1001.031, provides the department authority to specify by rule, the purposes, powers, and duties of advisory committees, including the manner of reporting their work. Government Code, §2110.002(b) provides the department authority to adopt rules governing balanced representation on advisory committees. Government Code, §2110.005 authorizes the department to adopt rules stating the purposes and tasks of advisory committees, and describing the manner in which advisory committees will report to the agency. Transportation Code, §643.155(b) gives the department the authority to adopt rules to govern the operations of the rules advisory committee, which examines the rules adopted by the department under Transportation Code, §643.153(a) and (b) and makes recommendations to the department on modernizing and streamlining the rules.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 1001.

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