

TEXAS REGISTER



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How to Use the Texas Register

Information Available: The 10 sections of the Texas Register represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules- sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following a 30-day public comment period.

Open Meetings - notices of open meetings.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the Texas Register is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 19 (1994) is cited as follows: 19 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "19 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 19 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using Texas Register indexes, the Texas Administrative Code, section numbers, or TRD number.

Texas Administrative Code

The Texas Administrative Code (TAC) is the official compilation of all final state agency rules published in the Texas Register. Following its effective date, a rule is entered into the Texas Administrative Code. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the TAC. West Publishing Company, the official publisher of the TAC, releases cumulative supplements to each printed volume of the TAC twice each year.

The TAC volumes are arranged into Titles (using

Arabic numerals) and Parts (using Roman numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency. The Official TAC also is available on WESTLAW, West's computerized legal research service, in the TX-ADC database.

To purchase printed volumes of the TAC or to inquire about WESTLAW access to the TAC call West: 1-800-328-9352.

The Titles of the TAC, and their respective Title numbers are:

- 1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the TAC scheme, each section is designated by a TAC number. For example in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the Texas Administrative Code; TAC stands for the Texas Administrative Code; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to update: To find out if a rule has changed since the publication of the current supplement to the Texas Administrative Code, please look at the Table of TAC Titles Affected. The table is published cumulatively in the blue-cover quarterly indexes to the Texas Register (January 21, April 15, July 12, and October 11, 1994). In its second issue each month the Texas Register contains a cumulative Table of TAC Titles Affected for the preceding month. If a rule has changed during the time period covered by the table, the rule's TAC number will be printed with one or more Texas Register page numbers, as shown in the following example.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
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The Table of TAC Titles Affected is cumulative for each volume of the Texas Register (calendar year).

Update by FAX: An up-to-date Table of TAC Titles Affected is available by FAX upon request. Please specify the state agency and the TAC number(s) you wish to update. This service is free to Texas Register subscribers. Please have your subscription number ready when you make your request. For non-subscribers there will be a fee of \$2.00 per page (VISA, MasterCard). (512) 463-5561.

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Name Miguel Sosh

Grade 9

School: Lopez High School, Brownsville, TX



Name: Robert Garcia
Grade: 10
School: Lopez High School, Brownsville ISD



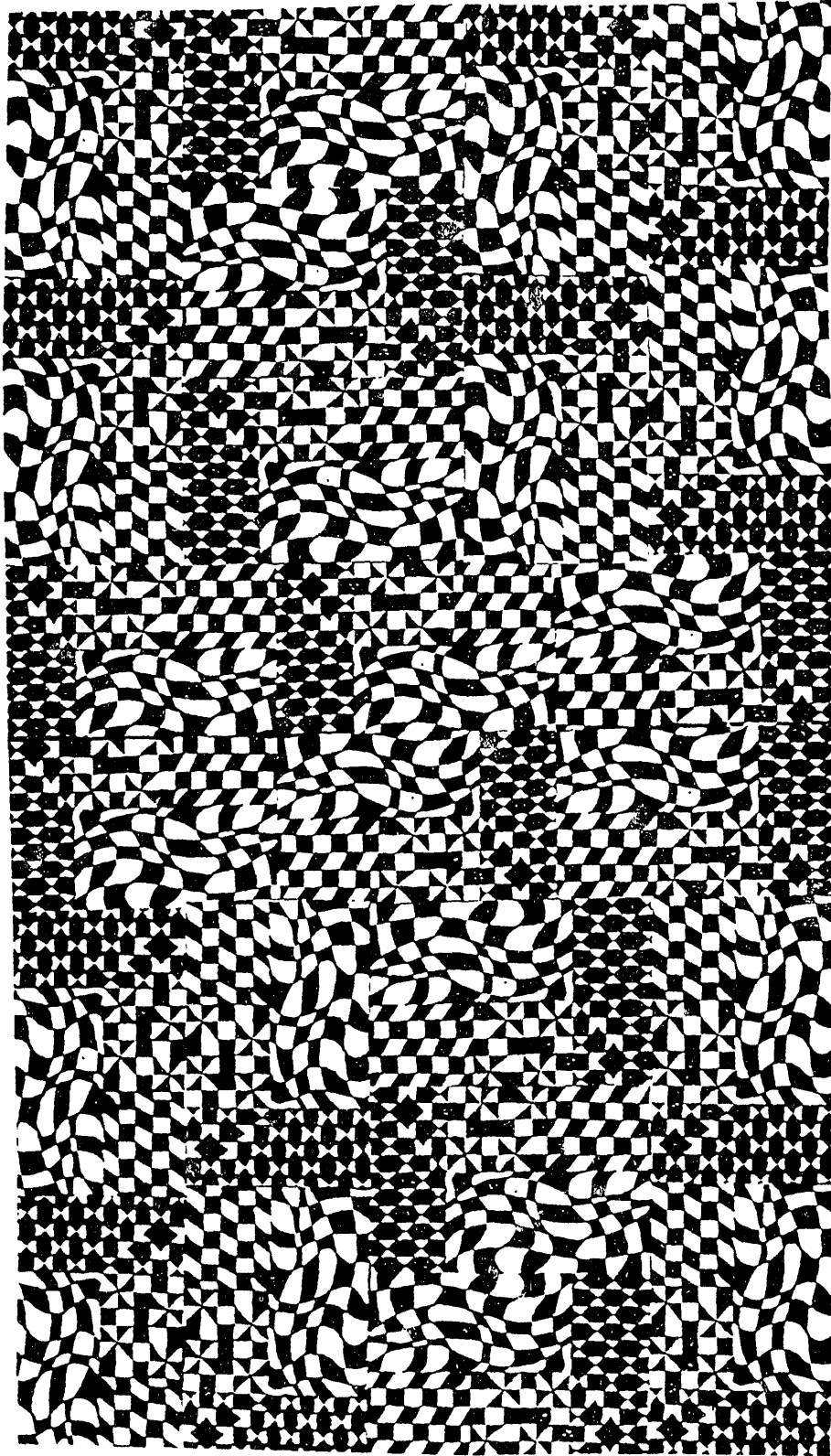
Name: Eladia Garcia
Grade: 9
School: Lopez High School, Brownsville ISD



Name: Ramiro Castro

Grade: 9

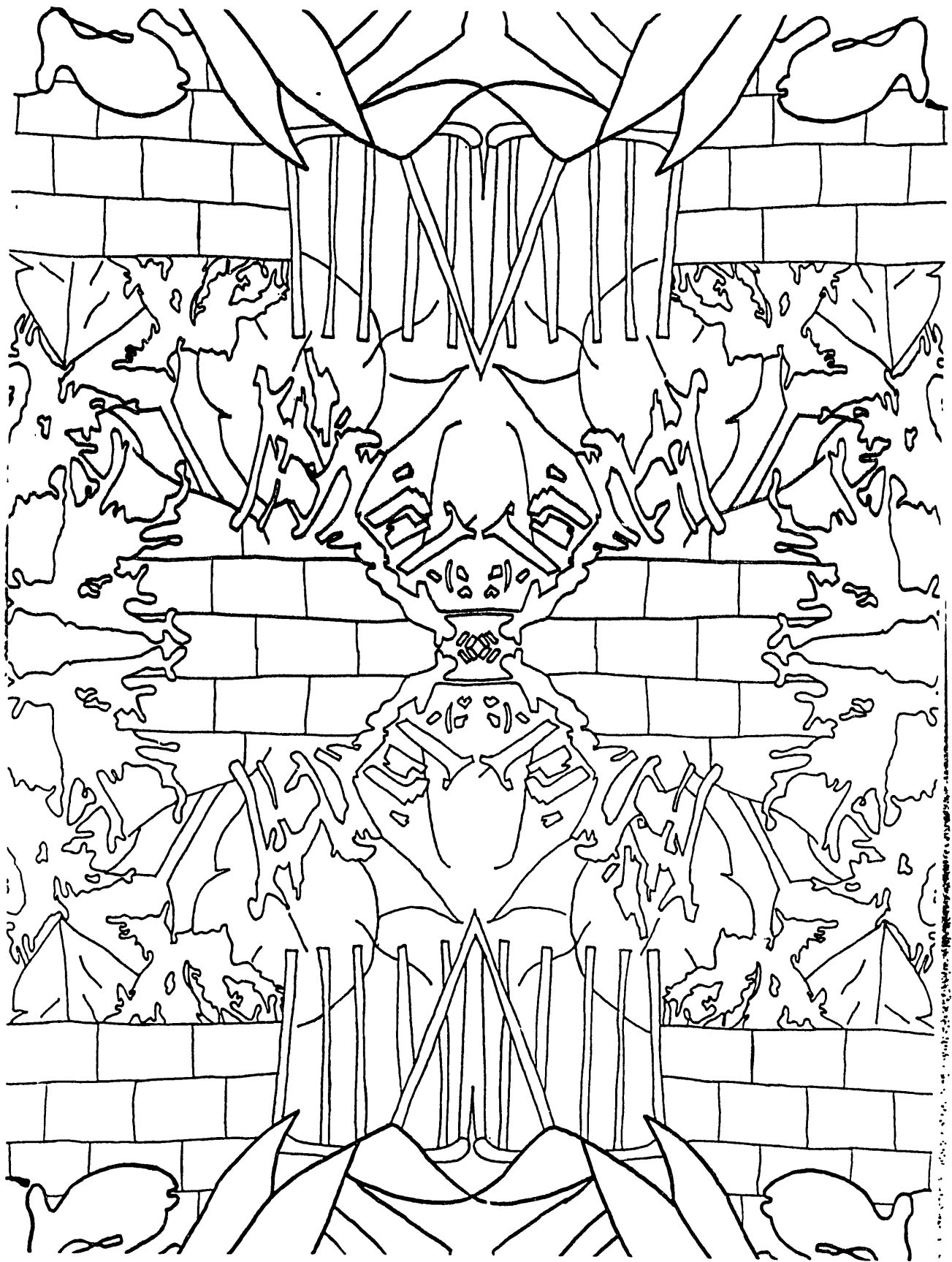
School: Lopez High School, Brownsville ISD



Name: Cessia Maldonado

Grade: 9

School: Lopez High School, Brownsville ISD



Name: Rose Marquez
Grade: 10
School: Lopez High School, Brownsville ISD

THE GOVERNOR

As required by Texas Civil Statutes, Article 6252-13a, §6, the **Texas Register** publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1828.

Appointments Made May 23, 1994

To serve as Criminal District Attorney of Van Zandt County until the next General Election and until her successor shall be duly elected and qualified, effective June 1, 1994: Leslie Poynter Dixon, P.O. Box 636, Edgewood, Texas 75517. Ms. Dixon will be replacing John A. Sickel of Canton, who resigned.

Appointments Made May 24, 1994

To be a member of the Department of Information Resources Board of Directors for a term to expire February 1, 1997: Dorothy G. Wells, Assistant Director, Texas Legislative Council, P.O. Box 12128, Austin, Texas 78711-2128. Ms. Wells will be filling the unexpired term of John Keel of Austin, who resigned.

Appointments Made May 25, 1994

To be a member of the Interagency Council on Sex Offender Treatment for a term to expire February 1, 1999: David L. Cory,

#4 Surrey Square, Abilene, Texas 79606. Mr. Cory will be replacing Norma W. Reed of El Paso, whose term expired.

To be a member of the State Board of Examiners of Marriage and Family Therapists for a term to expire February 1, 1999: Maria T. Flores, Ph.D., 1709 South Flores, San Antonio, Texas 78204. Dr. Flores is being reappointed.

Issued in Austin, Texas, on May 26, 1994.

TRD-9441442

Ann W. Richards
Governor of Texas





Name: Gabriela Gomez
Grade: 9
School: Lopez High School, Brownsville ISD

TEXAS ETHICS COMMISSION

The Texas Ethics Commission is authorized by Government Code, §571.091, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39.

Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Texas Ethics Commission

Opinions

AOR-241. File closed. No opinion issued.
Withdrawn by requestor.

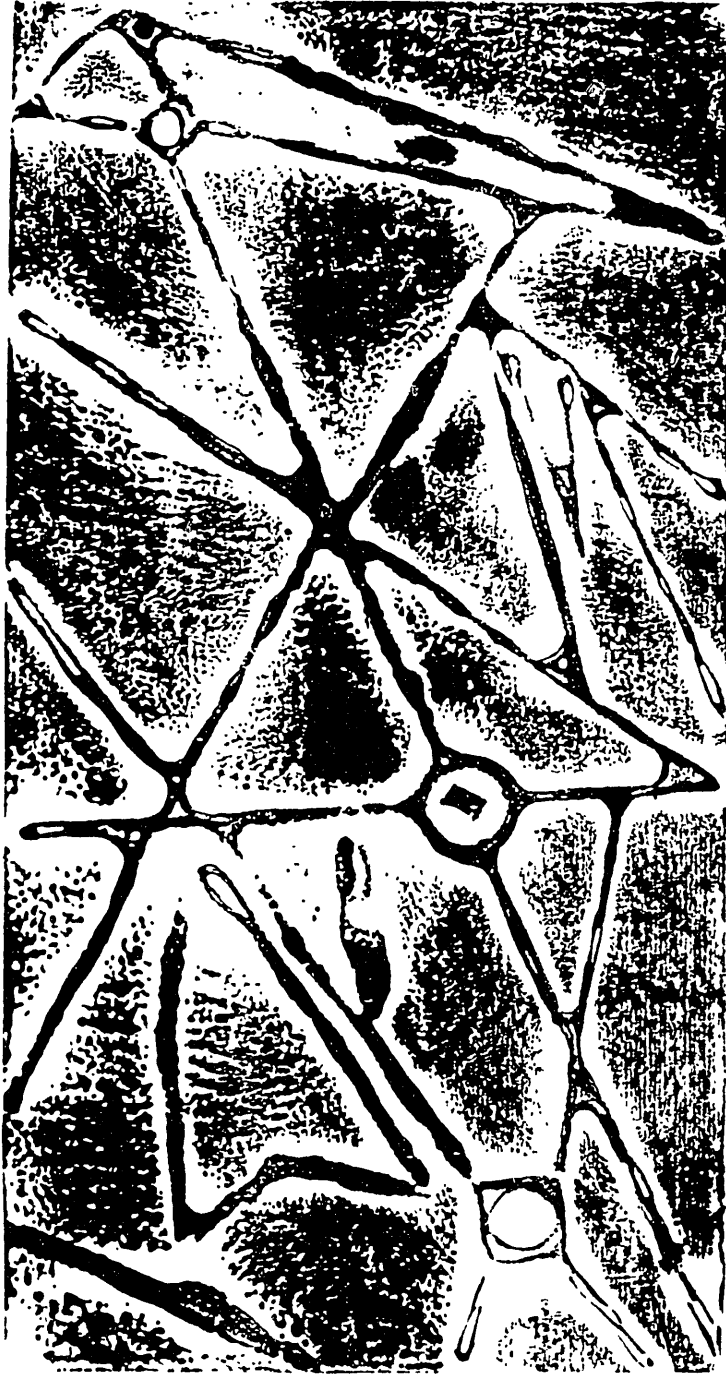
Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Issued in Austin, Texas, on May 25, 1994.

TRD-9441396 Sarah Woelk
Director, Advisory Opinions
Texas Ethics Commission

Filed: May 25, 1994





Name: Juan Lira
Grade: 9
School: Lopez High School, Brownsville ISD

PROPOSED RULES

Before an agency may permanently adopt a new or amended section or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before action is taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive action, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

Symbology in proposed amendments. New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

TITLE 16. ECONOMIC REGULATION Part I. Railroad Commission of Texas Chapter 3. Oil and Gas Division

Conservation Rules and Regulations

• 16 TAC §3.66

The Railroad Commission of Texas proposes an amendment to §3.66, implementing Senate Bill 966, which concerns spill and leak reports provided to the commission by common carrier pipelines. The proposed amendment establishes a procedure by which residents and owners of land can be notified of pipeline spills or leaks and eliminates a duplicative reporting requirement. Adoption of the proposed amendment will improve the dissemination of information to the public concerning spills or leaks occurring from pipelines crossing their property.

Rita E. Percival, systems analyst, Oil and Gas Division, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Barbara Epstein, hearings examiner, Legal Division, has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing or administering the rule will be more efficient and effective dissemination of information regarding common carrier pipeline spill and leak reports than presently required to be filed with the commission. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Barbara Epstein, Legal Division—Oil and Gas Section, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted by the commission 30 days after publication in the *Texas Register*.

The Railroad Commission proposes the amendment pursuant to the Texas Natural

Resource Conservation Code, §111.139, which provides the Railroad Commission with the authority to require common carriers to provide spill and leak reports to residents and owners of lands crossed by common carrier pipelines. The proposed rule affects Natural Resources Code, §111.139.

§3.66. *Pipelines Tariffs.* Every person owning, operating, or managing any pipeline, or any part of any pipeline, for the gathering, receiving, loading, transporting, storing, or delivering of crude petroleum as a common carrier shall be subject to and governed by the following provisions. Common carriers specified in this section shall be referred to as "pipelines," and the owners or shippers of crude petroleum by pipelines shall be referred to as "shippers."

(1)-(18) (No change.)

(19) Reports of loss from fire, lightning, and leakage.

(A) Each pipeline shall immediately notify the commission, by telegraph, telephone, or letter, of each fire that occurs at any oil tank owned or controlled by the pipeline, or of any tank struck by lightning. Each pipeline shall in like manner report each break or leak in any of its tanks or pipelines from which more than five barrels escape. [Each pipeline shall report in writing to the commission, by the fifteenth day of each calendar month, the estimated amount of loss of oil by fire or leakage from its tanks and pipelines for the preceding month; but not including leakage or evaporation ordinarily incident to transportation.]

(B) (No change.)

(C) Common carrier pipelines shall mail (return receipt requested or hand-deliver to landowners and residents of land upon which a spill or leak has occurred, all spill or leak reports required by the commission for that particular spill or leak within 30 days of filing the required reports with the com-

mission. If a landowner or resident has not registered with the commission, the common carrier is not required to furnish such reports to the resident or landowner.

(20)-(22) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 25, 1994.

TRD-9441376

Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Earliest possible date of adoption: July 4, 1994

For further information, please call: (512) 463-6941

TITLE 19. EDUCATION Part I. Texas Higher Education Coordinating Board

Chapter 5. Program Development

Subchapter P. Testing and Remediation

• 19 TAC §5.314

The Texas Higher Education Coordinating Board proposes an amendment to §5.314, concerning Testing and Remediation (Administration). A number of institutions have concluded that they are unable to administer and score the campus form of the test for the \$3.00 maximum fee that was set by the Board. Higher administrative staffing costs make the increase necessary.

Bill Sanford, assistant commissioner, Universities and Health Affairs, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Dr. Sanford also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be that it would allow institutions to charge students no more than \$4.00 for the administration and scoring of the campus form of the TASP test. There will be no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Dr. Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P. O. Box 12788, Austin, Texas 78711

The amendment is proposed under Texas Education Code, §51.306 and §61.027, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Testing and Remediation.

There are no other statutes, articles or code that are affected by this rule.

§5.314. Administration.

(a)-(e) (No change.)

(e) An institution may not charge a student more than \$4.00 [\$3.00] for the administration and scoring of the campus form of the examination.

(f)-(g) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 25, 1994.

TRD-9441431 James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Proposed date of adoption: July 15, 1994

For further information, please call: (512) 483-6160

Chapter 21. Student Services

Subchapter E. Tuition Equalization Grants Program

• 19 TAC §21.125

The Texas Higher Education Coordinating Board proposes an amendment to §21.125, concerning the Tuition Equalization Grants Program. The amendments proposed are for the purpose of limiting the number of remedial or developmental courses a grant recipient would be allowed to take and retain eligibility for a grant. The change was suggested as a way to ensure that persons unprepared for college-level work would have a limited period of time for improving their skills to college level.

Mack Adams, assistant commissioner, Student Services, has determined that for the

first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Adams also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to allow persons admitted to college with inadequate academic preparation to take up to the equivalent of one academic year of remedial work without losing eligibility for a grant. Remedial work in excess of the equivalent of one academic year would result in loss of eligibility for a grant. There will be no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Dr. Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P. O. Box 12788, Austin, Texas 78711

The amendment is proposed under Texas Education Code, §61.229, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning the Tuition Equalization Grant Program

There are no other statutes, articles or code that are affected by this rule.

§21.125. Eligible Students: Criteria. To be eligible for a tuition equalization grant a person must.

(1)-(11) (No change.)

(12) not be enrolled in remedial or developmental courses if the total of such courses attempted exceeds the equivalent of one academic year in units, courses, semester hours or quarter hours, as appropriate to the enrolling institution.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 25, 1994.

TRD-9441430 James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Proposed date of adoption: July 15, 1994

For further information, please call: (512) 483-6160

Part II. Texas Education Agency

Chapter 67. State Adoption and Distribution of Instructional Materials

The Texas Education Agency (TEA) proposes new §§67.1, 67.4, 67.7, 67.10, 67.21, 67.24, 67.27, 67.30, 67.33, 67.36, 67.39, 67.42, 67.45, 67.48, 67.51, 67.54, 67.57, 67.60, 67.63, 67.66, 67.69, 67.72, 67.75, 67.78, 67.81, 67.84, 67.87, 67.90, 67.101, 67.104, 67.107, 67.110, 67.113, 67.121, and 67.124, concerning state adoption and distribution of instructional materials.

Under the new rules, the legislature and the textbook publishing industry will receive advance notice of proposed expenditures for instructional materials by category and by year. A wider variety of instructional materials will be available to students at a lower cost. More up-to-date information will be included in core curriculum areas. Production of "ancillary" materials as marketing tools will be eliminated, and development of materials by publishers will be targeted to student and teacher materials submitted for review.

In a separate submission, TEA is proposing the repeal of existing Chapter 67.

Marvin Veselka, associate commissioner for curriculum, assessment, and textbooks, has determined that for the first five-year period the rules are in effect there will be fiscal implications for state or local government as a result of enforcing or administering the rules. The effect on state government and the publishing industry cannot be accurately determined at this time. The fiscal implications will depend on the six-year budget projection adopted by the State Board of Education and on the maximum costs to the state established in the textbook proclamation. There will be no effect on local government (school districts).

Mr. Veselka and Criss Cloudt, associate commissioner for policy planning and evaluation, have determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules will be that students throughout the state will have access to quality instructional materials. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed rules submitted under the Administrative Procedure Act and the Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rules has been published in the *Texas Register*.

Subchapter A. General Provisions

• 19 TAC §§67.1, 67.4, 67.7, 67.10

The new rules are proposed under the Texas Education Code, §12.16, which authorizes the State Board of Education to promulgate rules concerning the adoption and distribution of instructional materials.

§67.1. Scope of Rules. The State Board of Education (SBOE) shall adopt instructional materials for use in the public schools of Texas according to the Texas Education Code, Chapter 12, and the requirements in this chapter. Instructional materials recommended as suitable for use in bilingual education programs shall be adopted according to the rules in this chapter for adopting regular instructional materials. These rules shall apply to adoption of any combination of the following types of materials:

- (1) textbooks, which are bound books in one or more volumes;
- (2) learning systems, which are coordinated systems of instructional materials in one or several media designed to enable students to achieve desired outcomes for a specific subject or course;
- (3) teacher editions or teacher resource materials; and
- (4) computer software or other technology applications.

§67.4. Instructional Materials Not Adopted by the State Board of Education.

(a) Materials in any medium that a publisher intends to make available for sale to schools are not considered part of the publisher's bid and shall not be adopted by the State Board of Education (SBOE). Non-adopted materials shall be sold at prices consistent with nationally established prices.

(b) Publishers may not provide school districts or school district employees any materials free of charge.

§67.7. General Content Requirements and Limitations.

(a) All adopted instructional materials shall meet the following content requirements and limitations as appropriate to the category in which the materials are adopted.

(1) Instructional materials shall present the most current factual information accurately and objectively without editorial opinion or bias by the authors. Theories shall be clearly distinguished from fact and presented in an objective educational manner.

(2) Instructional materials shall promote citizenship, patriotism, understanding of the essentials and benefits of the free enterprise system, respect for recognized

authority, and respect for individual rights. The materials shall not include selections or works that encourage or condone civil disorder, social strife, or disregard of the law. Violence, if it appears, shall be treated in the context of its cause and consequence. It shall not appear for reasons of unwholesome excitement or sensationalism.

(A) Instructional materials shall present positive aspects of the United States and its heritage.

(B) When significant political or social movements in history generate contrasting points of view, instructional materials shall present balanced and factual treatment of the positions.

(C) Free enterprise means an economic system characterized by private or corporate ownership of capital goods; investments that are determined by private decision rather than by state control; and prices, production, and the distribution of goods that are determined in a free market.

(3) Instructional materials shall not include blatantly offensive language or illustrations.

(4) Instructional materials shall treat divergent groups fairly without stereotyping and reflect the positive contribution of all individuals and groups to the American way of life. Illustrations and written materials shall avoid bias toward any particular group or individual and present a wide range of goal choices. Particular care should be taken in the treatment of ethnic groups, issues related to the aging and aged, roles of men and women, the dignity of workers, and respect for the work ethic.

(A) Instructional materials shall not encourage lifestyles deviating from generally accepted standards of society.

(B) Instructional materials shall provide an objective view of cultural confluence and include information needed to develop mutual understanding and respect among all elements of our population. Materials shall reflect an awareness that culture and language variation does exist and can be used to promote successful learning.

(C) Instructional materials shall present examples of men and women participating in a variety of roles and activities and also shall present the economic, political, social, and cultural contributions of men and women, past and present.

(D) Instructional materials that treat aspects of the world of work

should reflect the positive contributions of all types of careers to the American economic system and way of life. People presented should reflect varieties of work and be treated without bias toward particular kinds of work.

(E) Instructional materials shall present traditional and contemporary roles of men, women, boys, and girls.

(F) Instructional materials shall present balanced treatment of issues related to aging and the aged.

(5) Authors of adopted instructional materials shall have expertise and experience that provide authoritative credibility to their work. Publishers may not submit instructional materials for adoption that have been authored by an employee of the Central Education Agency.

(6) Instructional materials submitted for adoption must undergo a systematic and thorough editorial review. Publishers shall verify facts, including historical dates, contained in materials submitted for adoption.

(7) Illustrations that are informative, closely related to the content, and placed where they can be easily used in conjunction with written text shall be included where appropriate.

(8) Content shall be organized to facilitate both teaching and learning.

(b) Content and suggested readings that violate the requirements and limitations in this section shall be deleted from any materials adopted under this chapter before the state purchases the materials.

§67.10. Manufacturing Standards and Specifications.

(a) All student textbooks adopted, including books in systems, shall comply with the standards in the latest edition of Manufacturing Standards and Specifications for Textbooks approved by the national Advisory Commission on Textbook Specifications.

(b) For each student textbook submitted for adoption, the publisher shall file a statement certifying the book will meet minimum manufacturing standards if adopted. Each statement must be: on a form provided by the commissioner of education, signed by a company official, and filed on or before the deadline specified in the schedule for the adoption process. A publisher may file one statement for a series of books if all books in the series have been manufactured under identical specifications.

(c) If, during the contract period, the commissioner of education determines

that any adopted instructional materials have faulty manufacturing characteristics or are made of inferior materials, the materials shall be replaced by the publisher without cost to the state.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 25, 1994.

TRD-9441377 Criss Cloudt
Associate Commissioner,
Policy Planning and
Evaluation
Texas Education Agency

Earliest possible date of adoption: July 4, 1994

For further information, please call: (512) 463-9701

General Provisions

The Texas Education Agency (TEA) proposes the repeal of §§67.11, 67.13, 67.21, 67.23, 67.31, 67.33, 67.35-67.37, 67.41, 67.43, 67.45, 67.51-67.53, 67.55-67.57, 67.61, 67.63, 67.65-67.68, 67.71, 67.81, 67.83, 67.85-67.88, 67.91, 67.93, 67.95, 67.97, 67.100, 67.102, 67.103, 67.105, 67.106, 67.121, 67.131, and 67.133, concerning state adoption and distribution of instructional materials. The repeals will allow TEA to adopt a new system for instructional materials in a separate submission.

Marvin Veselka, associate commissioner for curriculum, assessment, and textbooks, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Veselka and Criss Cloudt, associate commissioner for policy planning and evaluation, have determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be that TEA can adopt new rules giving students throughout the state access to quality instructional materials. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed repeals submitted under the Administrative Procedure Act and the Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rules has been published in the *Texas Register*.

- 19 TAC §§67.11, 67.13,

(Editor's note: The text of the following sections proposed for repeal will not be published. The

sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under the Texas Education Code, §12.16, which authorizes the State Board of Education to promulgate rules concerning the adoption and distribution of instructional materials.

§67.11. Scope of Rules.

§67.13. Materials Available for Use with Textbooks.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 25, 1994.

TRD-9441381 Criss Cloudt
Associate Commissioner,
Policy Planning and
Evaluation
Texas Education Agency

Earliest possible date of adoption: July 4, 1994

For further information, please call: (512) 463-9701

Subchapter A. State Textbook Program

General Content Requirements and Manufacturing Standards

- 19 TAC §67.21, §67.23

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under the Texas Education Code, §12.16, which authorizes the State Board of Education to promulgate rules concerning the adoption and distribution of instructional materials.

§67.21. General Content Requirements and Limitations.

§67.23. Manufacturing Standards and Specifications.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 25, 1994.

TRD-9441382

Criss Cloudt
Associate Commissioner,
Policy Planning and
Evaluation
Texas Education Agency

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For further information, please call: (512) 463-9701

Subchapter B. State Adoption, Acquisition, and Custody of Instructional Materials

- 19 TAC §§67.21, 67.24, 67.27, 67.30, 67.33, 67.36, 67.39, 67.42, 67.45, 67.48, 67.51, 67.54, 67.57, 67.60, 67.63, 67.66, 67.69, 67.72, 67.75, 67.78, 67.81, 67.84, 67.87, 67.90

The new rules are proposed under the Texas Education Code, §12.16, which authorizes the State Board of Education to promulgate rules concerning the adoption and distribution of instructional materials.

§67.21. Proclamation, Public Notice, and Schedule for Adoption of Instructional Materials.

(a) The State Board of Education (SBOE) shall issue a proclamation calling for new instructional materials according to the six-year budget projection approved by the SBOE. The proclamation shall serve as notice to all registered publishers and to the public that bids to furnish new materials to the state are being invited. The proclamation shall be issued 24 months before the scheduled adoption of the new instructional materials by the SBOE.

(b) In addition to content specified in the Texas Education Code, the proclamation shall contain the following:

(1) specifications for the content in each category for which bids are being invited;

(2) a maximum cost to the state for adopted student and/or teacher materials in each category for which bids are being invited;

(3) contract periods specified for each category for which bids are being invited;

(4) an estimated number of units to be purchased during the first contract year for each category in the proclamation;

(5) specifications for providing computerized files to produce braille versions of adopted instructional materials; and

(6) a schedule for the adoption process, including public hearings and meetings of subject area committees.

(c) The commissioner of education shall determine the number of appointees to proclamation advisory committees in the core subject areas of language arts, mathematics, science, and social studies. The commissioner shall solicit nominations for the appointments from school districts and educational organizations in the state. Recommendations may be accepted from any Texas resident.

(d) A draft copy of the proclamation shall be provided to proclamation advisory committees and designated representatives of the publishing industry to solicit input before the SBOE considers the proclamation. Information and comments submitted by proclamation advisory committees and publishers shall accompany the initial draft of the proclamation presented by the commissioner of education to the SBOE.

(e) The proclamation shall be considered at three meetings of the board and not be adopted before the third meeting. The SBOE shall hold a public hearing on the proclamation before adopting it. Testimony at the hearing shall be limited to residents of Texas and nonresidents who are official representatives of publishing companies who filed written requests to appear at the hearing.

(f) Under extraordinary circumstances, the board may adopt an emergency, supplementary, or revised proclamation without complying with the time lines and other requirements of this section. The proclamation shall be issued under the Texas Education Code, §12.17, and the public shall be given an opportunity to submit written comments on the proclamation before the SBOE adopts it.

§67.24. Budget Cycle.

(a) The commissioner of education shall present for board approval a six-year budget projection that provides estimated expenditures for instructional materials. The budget projection shall include subject areas in which bids for new instructional materials will be solicited. The determination to include a subject area in the budget projection shall be based on the anticipated availability of funds to purchase instructional materials and the need for up-to-date materials due to changing information, technology, instructional strategies, and/or methods of information delivery. The six-year budget projection shall also include information related to anticipated costs of providing continuing-contract material, braille and large-type material, and freight charges for delivering materials to school districts.

(b) Any revisions to the budget projection cycle the commissioner of education determines are necessary shall be presented to the State Board of Education (SBOE) for approval.

§67.27. Review and Renewal of Contracts.

(a) The commissioner of education shall review contracts for instructional materials and recommend which contracts should be renewed for terms not to exceed six years and which contracts should not be renewed.

(b) The State Board of Education (SBOE) shall decide to renew existing contracts upon determining that the renewal would be in the best interest of the state and after considering the following factors:

(1) inclusion of subject areas in the six-year budget projection;

(2) availability of new instructional materials; and

(3) willingness of publishers to offer materials for readoption and renewal of contracts.

(c) Publishers awarded new contracts shall be prepared to make the adopted instructional materials available for at least one extended contract period of not more than six years at prices the commissioner of education approves. The SBOE may consider refusing to award future contracts to a publisher who, after receiving written notice to do so, refuses to rebid instructional materials at least one time.

§67.30. Statement of Intent to Bid Instructional Materials.

(a) Each publisher who intends to offer instructional materials for adoption shall submit a statement of intent to bid on or before the date specified in the schedule for the adoption process. The statement of intent shall be accompanied by publisher's data submitted in a form approved by the commissioner of education.

(b) A publisher shall specify hardware or special equipment needed to review any item included in a student and/or teacher component of an instructional materials submission.

(c) A publisher who wishes to withdraw an instructional materials submission after having filed a statement of intent to bid shall notify the commissioner of education in writing on or before the date specified in the schedule for the adoption process.

§67.33. Subject Area Committees: Qualifications.

(a) A person is not eligible for appointment to a subject area committee if, during the two years immediately preceding the appointment, the person:

(1) was employed by or received funds from a publishing company or

an agent representing an author or publishing company; or

(2) owns or controls, directly or indirectly, any interest in a publishing company or an entity receiving funds from a textbook publishing company.

(b) Before employing an educator to review or sell instructional materials or represent a publishing company, the publisher shall notify the person that employment or receipt of any remuneration would disqualify him or her from serving on a subject area committee for a two-year period following the employment or receipt of remuneration.

(c) A majority of the members of a subject area committee shall be classroom teachers of recognized ability in areas appropriate to instructional materials the committee will evaluate.

(d) Each appointee to a subject area committee shall reside and/or teach in the State Board of Education (SBOE) district to be represented.

§67.36. Subject Area Committees: Appointment.

(a) The commissioner of education shall determine the number of subject area committees needed to review new instructional materials under consideration and the number of appointees to each committee.

(b) The commissioner of education shall solicit recommendations for possible appointees to subject area committees from school districts and educational organizations in the state. Recommendations may be accepted from any Texas resident.

(c) Nominations shall not be made by or accepted from any publishers; authors; depositories; agents for publishers, authors, or depositories; or any person who holds any official position with a publisher, author, depository, or agent. Publishers, authors, depositories, agents, or other persons who have any relationships or hold any positions with publishers, authors, depositories, or agents shall refrain from and shall avoid, either directly or indirectly, aiding, abetting, suggesting, recommending, or encouraging either that any other person seek to be nominated or appointed, or that any person nominate or appoint another person to a subject area committee.

(d) The commissioner of education shall ensure that all persons recommended for appointment to the subject area committees meet State Board of Education (SBOE) rule requirements concerning qualifications for membership. In making these recommendations, the commissioner shall be exempt from the requirements concerning consultation with members of the SBOE

§67.39. Subject Area Committees: Duties and Conduct.

(a) The duties of each subject area committee shall be to:

(1) evaluate all instructional materials submitted for adoption in each subject area assigned to that committee to ensure that the materials recommended for adoption meet the content requirements specified in the proclamation and in board rules and are of sufficient quality to justify purchase by the state at the price bid by publishers;

(2) recommend to the State Board of Education (SBOE) a list of instructional materials the committee approves for each subject area, course, or grade level assigned to that committee; and

(3) submit to the commissioner of education a list of any errors of fact and/or corrections needed to ensure accuracy in instructional materials recommended for adoption.

(b) Subject area committee members shall not accept meals, entertainment, gifts, or gratuities in any form from: publishers, authors, or depositories; agents for publishers, authors, or depositories; any person who holds any official position with publishers, authors, depositories, or agents; or any person or organization interested in influencing the selection of instructional materials.

(c) Each subject area committee member shall make every effort to attend all scheduled meetings of the committee. A member who cannot attend a meeting may not send a substitute.

(d) Before scheduled voting by a subject area committee, members shall be given an opportunity to discuss instructional materials under consideration for adoption. Public testimony shall not be allowed during this meeting. In addition, subject area committee members may elect to discuss materials during other official meetings of the committee. Representatives of publishing companies with instructional materials under consideration shall be present at the committee meetings to respond to questions from subject area committee members.

(e) A subject area committee member shall refrain from attempting to influence other committee members except during discussion at official meetings. Subject area committee members shall not endorse instructional materials under consideration to any party.

(f) In making recommendations, subject area committees shall consider written comments, oral testimony, and responses to written and/or oral testimony submitted under §67.66 of this title (relating to Public Comment on Instructional Materials).

(g) The list of instructional materials recommended by each subject area committee shall consist of not less than two or more than eight selections for each subject area, course, or grade level. If at least two suitable selections are not available in a subject area, course, or grade level, the subject area committee may recommend one selection.

(h) To be included on the list of recommendations, an instructional materials submission shall receive supporting votes from at least a two-thirds of the total membership of the appropriate subject area committee.

(i) One or more members of each subject area committee shall be designated to be present at the hearing held by the SBOE and/or the SBOE meeting at which instructional materials are adopted.

§67.42. Subject Area Committees: Expenses.

(a) Subject area committee members shall be reimbursed for expenses incurred in attending official meetings of the committee according to the applicable provisions of the General Appropriations Act.

(b) Expenses shall be paid for designated subject area committee members to attend the hearings before the State Board of Education (SBOE) and/or SBOE meetings or committee meetings at which instructional materials are considered.

§67.45. Subject Area Committees: Orientation. The commissioner of education shall ensure members of subject area committees receive an orientation including the following:

(1) the responsibilities of a subject area committee member, including the responsibility to ensure that all instructional materials recommended for adoption in each subject area assigned to the committee meet the content requirements specified in the proclamation and State Board of Education (SBOE) rules;

(2) statutes and SBOE rules pertaining to the state adoption process;

(3) content requirements and the schedule of adoption procedures in the proclamation;

(4) evaluation of content;

(5) contacts with publishers and their representatives; and

(6) regulatory requirements affecting the committee, including the Government Code, §572.051 (relating to Standards of Conduct), and the Texas Penal Code, §36.02 (relating to Bribery). Copies of the statutes mentioned in this section

shall be supplied to each subject area committee member.

§67.48. Presentations by Publishers to Subject Area Committees. The Central Education Agency shall schedule a meeting of each subject area committee to allow presentations by publishers to the appropriate subject area committee members. The Central Education Agency also shall schedule presentation dates and the time allocated to each publisher. The beginning date for publisher hearings shall be specified in the schedule for the adoption process.

§67.51. No-Contact Periods.

(a) Subject area committee members shall observe a no-contact period between the dates specified in the schedule for the adoption process. During this no-contact period, which shall begin with the initial communication regarding possible appointment to a subject area committee and end at the close of the balloting meeting, members shall not have contact either directly or indirectly with any publisher or publishing company, depository, or petitioner. This restriction is not intended to prohibit members of subject area committees, while in session, from requesting clarification from a petitioner or a representative of a publishing company.

(b) Subject area committee members shall report immediately to the commissioner of education any communication or attempted communication by any publisher or publishing company, depository, or petitioner or any representative or agent of a publisher or publishing company, depository, or petitioner.

(c) After the orientation provided by the Central Education Agency, subject area committee members shall not discuss content of instructional materials under consideration with any agency subject area staff member. Any request for information or clarification shall be directed to the commissioner of education or his designee. Copies of all questions from individual committee members shall be distributed with responses to all members of the appropriate subject area committee. This restriction is not intended to prohibit members of the subject area committees from contacting designated staff of the Central Education Agency regarding adoption procedures.

§67.54. Instructional Materials Offered for Purchase by the State.

(a) The official bid price for the student or teacher component of a submission shall not exceed the maximum cost to the state for adopted student and/or teacher materials established in the proclamation or the price information submitted with the

official samples. Any discounts offered for volume purchases of adopted instructional materials shall be included in price information submitted with official samples and in the official bid.

(b) The official bid filed by a publisher shall include separate prices for each item included in a student and/or teacher component of a submission. The publisher shall guarantee that all items included in the student and/or teacher component shall be available for state or local purchase at the prices listed for the entire contract period.

(c) Instructional materials submitted for adoption shall be self-sufficient for the period of adoption. Nonconsumable components shall be replaced by the publisher during the warranty period. Consumable materials included in a student or teacher component of a submission shall be clearly marked as consumable and shall be replaced without cost to the state for each year of the adoption period.

§67.57. Revised or Identical Editions.

(a) Publishers who offer for adoption instructional materials that are revisions or new copyrights of materials currently under contract shall file on or before the date specified in the schedule for the adoption process a complete list of deletions, additions, and changes in printing, illustrations, organization of materials, and format that have been made in the revised version.

(b) Instructional materials that are identical in content or substantially similar in content to materials already adopted shall be purchased only in quantities needed to replace worn-out materials or for increased enrollment.

(c) A publisher may submit a request to the commissioner of education for approval to substitute a later edition of instructional materials currently under contract. Requests for substitution shall state that there will be no additional cost to the state. Requests for substitution shall not be approved during the first four years of a contract.

§67.60. Samples.

(a) One sample copy of the student and/or teacher component of each instructional materials submission shall be filed with each of the 20 regional education service centers on or before the date specified in the schedule for the adoption process. These samples shall be available for public review. Price information required by the Texas Education Code and State Board of Education (SBOE) rules shall be included in each sample.

(b) Two official sample copies of each student and/or teacher component of

an instructional materials submission shall be filed with the commissioner of education on or before the date specified in the schedule for the adoption process. Price information required by the Texas Education Code, SBOE rules, and the Central Education Agency shall be included in each sample. In addition, the publisher shall provide a complete description of all items included in a student and/or teacher component of an instructional materials submission, including prices for each item.

(c) One sample copy of each student and/or teacher component of an instructional materials submission shall be filed with each member of the appropriate subject area committee on or before the date specified in the schedule for the adoption process. Price information required by the Texas Education Code and SBOE rules shall be included in each sample. If instructional materials submitted for consideration have been field tested, written evidence from the testing may be provided to subject area committee members.

(d) Hardware or special equipment necessary for review of any item included in a student and/or teacher component of an instructional materials submission shall be provided to the Central Education Agency and members of the appropriate subject area committees on or before the deadlines for submission of samples of instructional materials and remain available for the duration of the review process. If the appropriate hardware or special equipment is not available in a regional education service center, the publisher shall provide the hardware or equipment on or before the deadline for submission of samples of instructional materials and remain available for the duration of the review process. All such hardware or special equipment shall be returned to the publisher after the SBOE has completed adopting instructional materials.

(e) All samples of instructional materials shall be submitted with finished-format content and binding.

(f) A publisher shall provide a list of all editorial corrections to be made by the publisher to each student and/or teacher component of an instructional materials submission. The list must be in a format designated by the commissioner of education and filed on or before the deadline specified in the schedule for the adoption process. If no editorial corrections are necessary, the publisher shall file a letter stating this on or before the deadline in the schedule for submission of the list of editorial corrections. On or before the deadline for submission of lists of editorial corrections, publishers shall submit certification that all instructional materials have been edited for accuracy, content, and compliance with requirements of the proclamation and SBOE rules.

(g) If it is determined that good cause exists, the commissioner of education may extend the deadline for filing samples with regional education service centers. The commissioner shall notify the SBOE of all such extensions. At its discretion, the SBOE may remove from consideration any materials proposed for adoption that were not properly deposited with the regional education service centers, the Central Education Agency, or members of the appropriate subject area committee.

(h) Two sample copies of each student and/or teacher component of adopted instructional materials that incorporate all negotiated corrections and corrections noted on the lists of editorial corrections filed in accordance with subsection (f) of this section shall be filed with the commissioner of education on or before the date specified in the schedule for the adoption process. In addition, each publisher shall file an affidavit signed by an official of the company verifying that all corrections noted in the list of editorial corrections and all corrections required by the commissioner of education and SBOE have been made. Corrected samples shall be identical to materials that will be provided to school districts after purchase.

(i) Publishers participating in the adoption process are responsible for all expenses incurred by their participation, including provision of sample materials and hardware necessary to review electronic materials. The state does not guarantee return of sample instructional materials.

§67.63. Regional Education Service Centers: Procedures for Handling Samples, Public Access to Samples.

(a) Handling procedures

(1) Each regional education service center (ESC) executive director shall designate one person to supervise all shipments of instructional materials. The Central Education Agency shall provide to each designated person forms to be used in reporting receipt of sample shipments.

(2) On or before the date specified in the schedule for the adoption process, each ESC representative shall notify the commissioner of education of all irregularities in sample shipments. The appropriate publisher shall be notified of any sample shipment irregularities reported by the ESCs.

(b) Public access to samples

(1) Samples of instructional materials under consideration for adoption shall be retained in the ESCs for review by interested persons until notification is received from the Central Education Agency that school district adoptions have been completed. Samples shall not be removed from the ESCs.

(2) Regional education service centers shall ensure reasonable public access to sample instructional materials, including access outside of normal working hours that shall be scheduled by appointment.

(3) On or before the date specified in the schedule for the adoption process, each ESC shall issue a news release publicizing the date on which sample instructional materials will be available for review at the center and shall notify all school districts in the region of the schedule.

§67.66. Public Comment on Instructional Materials.

(a) Written comments.

(1) Any resident of Texas may submit written comments for, against, or about any instructional materials submitted for adoption.

(2) Written comments shall be submitted to the commissioner of education on or before the deadline specified in the schedule for the adoption process.

(3) Copies of written comments shall be provided to participating publishers, regional education service centers (ESCs), members of the appropriate subject area committees, and persons who have filed written requests.

(b) Hearings before subject area committees and the commissioner of education.

(1) Each subject area committee shall hold hearings if at least 10 Texas residents have submitted written requests to appear before the committee under this section. The commissioner of education or the commissioner's designee shall chair the hearings. The purposes of the hearings are:

(A) to provide a public forum for discussion of instructional materials offered for adoption; and

(B) to help develop a full record for use by members of the subject area committees, the commissioner of education, and the State Board of Education (SBOE).

(2) Testimony at the hearing will be accepted only from residents of Texas. No written comments shall be accepted for inclusion in the official record after the deadline for submission of written comments; however, copies of speeches made at the hearing may be distributed to subject area committee members. No other written material may be distributed during the hearings. Persons who wish to testify must notify the commissioner of education in writing on or before the date specified in

the schedule for the adoption process. The written notice shall identify the subject area and titles of materials about which testimony will be presented. Oral responses to testimony at the hearings may be made by official representatives of publishing companies who have requested time to present responses on or before the date specified in the schedule for the adoption process.

(3) To contain the hearings within the designated dates, the commissioner of education may limit the time available for each person to testify. The commissioner of education shall establish procedures concerning the hearings at least two weeks before the hearings. The procedures may limit the number of persons who may speak on behalf of any organization.

(4) The commissioner of education shall have a complete record of the hearings made and transcribed. Transcripts of hearings shall be provided to the appropriate subject area committees, ESCs, participating publishers, and persons who have filed written requests. The official record shall be held open for 21 calendar days after the close of the hearings. During this 21-day period any person who participated in a hearing before the commissioner and any official representative of a publishing company may submit a written response to written comments and/or oral testimony presented at the hearing.

(5) Within 10 days after the record is closed, the commissioner shall send copies of responses to written and/or oral testimony to members of the appropriate subject area committees, ESCs, participating publishers, and persons who have filed written requests.

(c) Copies of written comments, a transcript of the oral testimony presented at public hearings, and responses to written and/or oral testimony shall be provided to members of the SBOE.

§67.69. Report of the Commissioner of Education.

(a) The commissioner of education shall review all instructional materials recommended for adoption by subject area committees. The commissioner's review shall include the following:

(1) prices of recommended instructional materials;

(2) manufacturing quality of recommended instructional materials;

(3) lists of recommended corrections of errors of fact and/or corrections identified by subject area committees as necessary to ensure accuracy; and

(4) whether recommended instructional materials are offered by a publisher who refuses to rebid instructional

materials according to §67.27 of this title (relating to Review and Renewal of Contracts).

(b) The commissioner of education shall submit to the board a final list of corrections of errors of fact and corrections necessary to ensure accuracy that, in the judgment of the commissioner, should be made in recommended instructional materials. The commissioner shall confer with publishers concerning the list of recommended corrections to ensure publishers would be willing to make the corrections should they be required by the State Board of Education (SBOE). The list of recommended corrections shall be sent to affected publishers, regional education service centers (ESCs), and other persons, such as braillists, needing immediate access to the information.

(c) The commissioner of education shall report to the SBOE the results of his review of recommended instructional materials.

§67.72. Consideration and Adoption of Instructional Materials by the State Board of Education.

(a) Two weeks before the State Board of Education (SBOE) is scheduled to adopt instructional materials, each publisher participating in the adoption process shall file the following documents with the commissioner of education:

(1) three copies of the official bid

(2) a receipt from the state treasurer for a \$2,500 deposit filed in cash, certified check, or cashier's check as evidence of money to produce a valid contract if the publisher's recommended materials are selected;

(3) a certificate of authority to do business in the State of Texas obtained from the Office of the Texas Secretary of State; and

(4) a publisher's affidavit of eligibility and anti-trust compliance.

(b) On a date specified in the schedule for the adoption process, the SBOE shall hold a hearing on recommended instructional materials that may, at the discretion of the SBOE chair, be designated an official meeting of the SBOE.

(1) Testimony at the hearing shall be accepted only from residents of Texas who submitted official written comments or presented oral testimony at the joint hearings conducted by the commissioner of education and the subject area committees. Persons who wish to testify must notify the commissioner of education on or before the date specified in the schedule for the adoption process. The notice

must identify the subject areas and titles about which testimony will be presented. The SBOE may limit the time available for each person to testify.

(2) Oral responses to testimony at the hearing may be made by official representatives of publishing companies who have requested time to present responses on or before the date specified in the schedule for the adoption process.

(3) The deadline for residents scheduled to speak at the hearing to file written materials for consideration by the SBOE shall be 17 calendar days before the date specified for the public hearing in the schedule for the adoption process. Copies of written materials filed on or before the deadline shall be distributed 13 calendar days before the public hearing to the SBOE, members of subject area committees as appropriate, publishers participating in the adoption process, and residents scheduled to speak at the public hearing. Copies of speeches made at the public hearing may be distributed to SBOE members. No other written material may be distributed to SBOE members during the public hearing before the SBOE.

(4) Public comment on instructional materials not adopted by the SBOE on the date specified in the schedule for the adoption process shall be accepted according to the SBOE Operating Rules, §2.9 (relating to Public Testimony).

(c) At a meeting specified in the schedule for the adoption process the SBOE shall consider:

(1) complaints of violations of the statutes or the rules and procedural irregularities;

(2) written comments, transcripts of hearings before the subject area committees, and responses to written and/or oral testimony;

(3) the report of the subject area committees; and

(4) the report of the commissioner of education.

(d) A SBOE committee designated by the SBOE chair shall review the subject area committees' and the commissioner's reports concerning instructional materials recommended for state adoption. The commissioner of education or the commissioner's representative and representatives of the subject area committees shall be available to respond to inquiries from the SBOE committee. The committee shall report the results of its review to the SBOE.

(e) The SBOE shall specify which of the corrections of errors of fact and corrections necessary to ensure accuracy recommended by the commissioner of education shall be required as a condition for adoption of any instructional materials.

(f) The SBOE shall adopt a list of approved instructional materials under the Texas Education Code, §12.24.

(g) If a publisher requests to withdraw from the adoption process after the date specified in the proclamation due to price reductions, required corrections, or manufacturing specifications required as a condition of adoption by the SBOE that the publisher states cannot be met, and if the withdrawal would reduce the number of selections recommended by a subject area committee for a category to only one selection, the board may, after deliberation and consideration of the factors contributing to the request, grant the publisher's request to withdraw and adopt the remaining selection in the category. The request to withdraw must include a written statement signed by the publisher's authorized representative stating the withdrawal is voluntary and not made under duress.

§67.75. Requirement for Registers.

(a) A register shall be kept by each member of the State Board of Education (SBOE), the commissioner of education, and the Division of Curriculum Development and Textbooks of the Central Education Agency to record all visits, meetings, or telephone calls by publishers, their representatives, agents, authors, consultants, editors, depositories, or any other person soliciting support for or against any instructional materials submitted and being considered for SBOE approval.

(b) Publishers shall file with the commissioner of education, on or before a date specified in the schedule for the adoption process, a register indicating all visits, meetings, or contacts with SBOE members, including the date, time, location, and purpose of the communication.

§67.78. Preparation and Completion of Contract and Bond.

(a) The state contract form prepared by the Texas attorney general shall not be changed or modified.

(b) Contract forms prepared by the commissioner of education shall be sent to the publishers for signature. Signed contracts returned by the publishers shall be signed by the chair of the State Board of Education (SBOE) and attested to by the commissioner of education. Properly signed and attested contracts approved by the attorney general shall be filed with the secretary of state.

(c) The bidder to whom a contract is issued must execute a bond under the Texas Education Code, §12.26, in the amount of \$2,500 for each selection adopted by the SBOE. The bond shall be

prepared by the commissioner of education and sent to the publisher for execution and signature. Properly signed and executed bonds returned by the publishers shall be sent to the attorney general for approval and signature. The original bond shall be filed with the secretary of state.

§67.81. Expiring and Out-of-Adoption Instructional Materials.

(a) School districts may retain out-of-adoption instructional materials as needed if they are used by the school for reference, teaching aids, or library use.

(b) The procedures for providing out-of-adoption instructional materials to city and county jails, institutions within the Texas Department of Criminal Justice, and other organizations are as follows.

(1) Each school district shall make out-of-adoption instructional materials available to libraries maintained by city and county jails, institutions within the Texas Department of Criminal Justice, and other state agency institutions.

(2) School officials may donate out-of-adoption instructional materials to students, adult education programs, and nonprofit organizations. Individuals and officials making requests for out-of-adoption instructional materials shall be responsible for transporting the materials. Out-of-adoption instructional materials may not be sold.

§67.84. Availability of Instructional Materials. Each publisher is required to have adopted instructional materials in stock and available for distribution to school districts throughout the entire adoption period. The commissioner of education shall report the number of back-ordered materials by publisher to the State Board of Education (SBOE). A back order is defined as student or teacher material not in stock in the depository when ordered and not available for distribution to school districts on the specified shipment date.

§67.87. Procedures Governing Violations of the Statutes or the Rules, Procedural Irregularities, or Failure to Meet Established Deadlines.

(a) Official complaints of misconduct, violations of the statutes or the rules, or procedural irregularities shall be filed with the commissioner of education. The information may not be furnished to members of the subject area committees before official recommendations by the committees. Any person attempting to furnish this information may be subject, after hearing, to being disqualified by the State Board of Education (SBOE) from further participation in the adoption process. The commis-

sioner of education may hold preliminary fact-finding hearings (formal or informal) on official complaints and may report any findings to the SBOE.

(b) Upon discovering apparent discrepancies regarding failure to meet established deadlines, violations of statute or rules, or procedural irregularities, the commissioner of education may hold show-cause hearings and may report any findings to the SBOE.

(c) The SBOE may hold hearings concerning official complaints or discovered violations of the statutes, rules, or procedural irregularities.

(d) The SBOE may take action it deems appropriate concerning official complaints, discovered violations of the statutes, rules, or procedural irregularities, including removing publishers from the adoption process, requiring publishers to reduce prices, or imposing any penalty deemed appropriate for the specific violation.

(e) Each affected publisher shall issue credit to the Central Education Agency in the amount of any penalty imposed under the provisions of this section.

§67.90. Penalties.

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

(1) **Editorial change**—A change, agreed to by the Central Education Agency, in the printing of instructional material from what was submitted to the state under §67.60(f) of this title (relating to Samples) that involves revisions such as design, color, placement of material, inclusion of references, style of print, size of print, type of print, or any similar non-essential enhancement or deletion to the printed page. Editorial changes meeting this definition are not subject to penalties.

(2) **Substantial error**—A verified error of fact that would interfere with student learning. The context, including the intended student audience and grade level appropriateness, shall be considered.

(3) **Technical error**—A verified error not determined to be substantial.

(b) An error repeated in a single item or contained in both the student and teacher edition of a textbook shall be counted once for the purpose of determining penalties.

(c) Penalties for errors shall be recommended in increments. An error identified under this subsection shall not be counted when determining penalties if the affected publisher has provided prior notice of the error to the commissioner of education.

(1) The following provisions shall apply for errors identified after the publisher has submitted a list of editorial corrections under §67.60(f) of this title and before the date established in the proclamation by which the State Board of Education (SBOE) shall adopt instructional materials.

(A) A \$300 penalty shall be assessed for each substantial error.

(B) A \$100 penalty shall be assessed for each technical error.

(C) Penalties shall be assessed only if the SBOE adopts the affected instructional material.

(2) The following provisions shall apply for errors identified after the SBOE adopts the instructional material but before the deadline established in the proclamation by which publishers must have submitted corrected samples of adopted instructional materials.

(A) A \$1,000 penalty shall be assessed for each substantial error.

(B) A \$500 penalty shall be assessed for each technical error.

(3) The following provisions shall apply for errors identified after the deadline established in the proclamation by which publishers must have submitted corrected samples of adopted instructional materials.

(A) A \$3,000 penalty shall be assessed for each substantial error.

(B) A \$1,000 penalty shall be assessed for each technical error.

(d) The following provisions shall apply for errors identified in the list of editorial corrections submitted by a publisher under §67.60(f) of this title and errors identified under subsection (c)(1) of this section that are not corrected.

(1) A publisher shall be assessed a \$10,000 penalty for each substantial error. The publisher shall provide an errata sheet approved by the commissioner of education with each teacher component of an adopted title.

(2) A publisher shall be assessed a \$1,000 penalty for each technical error. The publisher may be required to provide an errata sheet approved by the commissioner of education with each teacher component of an adopted title.

(e) The commissioner of education may recommend that an instructional mate-

rials submission not be adopted when 50 or more substantial errors are identified in the submission. A substantial error shall not be counted if the affected publisher has provided prior notice of the error to the commissioner of education. This subsection applies to errors identified during the following time period:

(1) after the publisher has submitted a list of editorial corrections under §67.60(f) of this title; and

(2) before the deadline established in the proclamation by which additional written comments from persons scheduled to present testimony at the public hearing before the SBOE must be filed with the Central Education Agency.

(f) Each affected publisher shall issue credit to the Central Education Agency in the amount of any penalty imposed under the provisions of this section.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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Crisis Cloudt
Associate Commissioner,
Policy Planning and
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For further information, please call: (512) 463-9701

Subchapter A. State Textbook Program

Textbook Proclamation

• 19 TAC §§67.31, 67.33, 67.35-67.37

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under the Texas Education Code, §12.16, which authorizes the State Board of Education to promulgate rules concerning the adoption and distribution of instructional materials.

§67.31. Proclamation, Public Notice, and Schedule for Adoption of Textbooks.

§67.33. State Textbook Proclamation Advisory Committees: Appointments, Qualifications, and Duties.

§67.35. State Textbook Proclamation Advisory Committees: Meetings and Expenses.

§67.36. *Proclamation Advisory Committee Member Conduct.*

§67.37. *Involvement of Publishers in the Proclamation Development Process.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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◆ ◆ ◆
**State Adoption, Acquisition,
and Custody of Textbooks**

- 19 TAC §§67.41, 67.43, 67.45, 67.51-67.53, 67.55-67.57, 67.61, 67.63, 67.65-67.68, 67.71, 67.81, 67.83, 67.85-67.88, 67.91, 67.93, 67.95, 67.97

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under the Texas Education Code, §12.16, which authorizes the State Board of Education to promulgate rules concerning the adoption and distribution of instructional materials.

§67.41. *Balanced Adoption Cycle.*

§67.43. *Review and Renewal of Contracts.*

§67.45. *Statement of Intent To Offer Textbooks for Adoption.*

§67.51. *State Textbook Committee: Appointment and Qualifications.*

§67.52. *Orientation for Committee Members.*

§67.53. *State Textbook Committee Duties and Conduct.*

§67.55. *Compensatory Per Diem and Expenses.*

§67.56. *Presentations by Publishers at Hearings of State Textbook Subject Area Committees.*

§67.57. *No-Contact Periods.*

§67.61. *Bid Prices.*

§67.63. *Consumable Textbooks and Learning Systems Offered for Purchase by the State.*

§67.65. *Revised or Identical Editions.*

§67.66. *Samples.*

§67.67. *Special Provisions Concerning Samples of Learning Systems.*

§67.68. *Regional Education Service Centers: Procedures for Handling Samples; Public Access to Samples.*

§67.71. *Public Comment on Textbooks.*

§67.81. *Report of the State Textbook Committee.*

§67.83. *Report of the Commissioner of Education.*

§67.85. *Procedures Governing Violations of the Statutes or the Rules, Procedural Irregularities, or Failure to Meet Established Deadlines.*

§67.86. *Consideration and Adoption of Textbooks by the State Board of Education.*

§67.87. *Requirement for Registers.*

§67.88. *Preparation and Completion of Contract and Bond.*

§67.91. *Disposition of Textbooks in Unusable Condition.*

§67.93. *Expiring and Out-of-Adoption Textbooks.*

§67.95. *Availability of Textbooks.*

§67.97. *Penalties.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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- ◆ ◆ ◆
• 19 TAC §§67.100, 67.102, 67.103, 67.105, 67.106, 67.121

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under the Texas Education Code, §12.16, which authorizes the State Board of Education to promulgate rules concerning the adoption and distribution of instructional materials.

§67.100. *Mandatory Use of Adopted Textbooks.*

§67.102. *Sample Copies of Textbooks for Local School Districts.*

§67.103. *Selection of Textbooks by Local School Districts.*

§67.105. *Local Accountability.*

§67.106. *Registration of Certain Transactions.*

§67.121. *Depository Status.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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◆ ◆ ◆
Subchapter C. Local Operations

- 19 TAC §§67.101, 67.104, 67.107, 67.110, 67.113

The new rules are proposed under the Texas Education Code, §12.16, which authorizes the State Board of Education to promulgate rules concerning the adoption and distribution of instructional materials.

§67.101. *Mandatory Use of Adopted Instructional Materials.* The public schools

of Texas must use instructional materials adopted by the State Board of Education (SBOE) as required of district boards of trustees by law. With the approval of the district board of trustees, a school district may procure and use unadopted instructional materials under the following conditions:

(1) there are no adopted instructional materials in an approved subject or course;

(2) field testing on a classroom basis is being conducted by the district in cooperation with a publisher or an educational institution or association;

(3) the adopted instructional materials are not appropriate to be used by pupils with special needs;

(4) the method of instruction does not involve the use of adopted instructional materials; or

(5) a waiver allowing use of unadopted instructional materials has been granted by the commissioner of education.

§67.104. Sample Copies of Instructional Materials for School Districts.

(a) Each publisher shall provide every school district textbook coordinator one complete official sample of adopted instructional materials. Official samples of instructional materials submitted for consideration shall not be provided to school districts before the State Board of Education (SBOE) adopts the materials.

(b) Publishers may provide additional samples to the person or persons designated by the district. At the discretion of the publisher, such additional samples requested by school districts may be demonstration or representative samples, provided that identical samples are provided to each school district making such a request.

(c) All samples of instructional materials provided to school districts shall be labeled, "Sample Copy--Not for Classroom Use."

(d) Samples supplied to school districts shall be provided and distributed at the expense of the publisher. No state or local funds shall be expended to purchase, distribute, or ship sample materials. The state does not guarantee return of sample instructional materials.

§67.107. Adoption of Instructional Materials by School Districts.

(a) The jurisdiction for each independent school district rests with the board of trustees and the superintendent of schools of the district.

(b) After the State Board of Education (SBOE) adopts instructional materials, each district board of trustees shall appoint a local adoption committee composed of not fewer than five or more than 15 members. The official minutes of each board meeting at which the board appoints a local adoption committee must include a record of the names of persons appointed to serve on the committee.

(c) The board of trustees with the recommendation of the superintendent of schools shall make appointments to a local adoption committee. If the board of trustees rejects any recommendation, the superintendent shall present another recommendation in place of the one rejected.

(d) Each member of a local adoption committee must be a professional employee of the school district. The majority of the committee members must be classroom teachers. The superintendent of schools or the superintendent's designee shall serve as chair of the local adoption committee.

(e) The local adoption committee shall examine all instructional materials on the multiple lists adopted by the State Board of Education (SBOE), to select instructional materials from the lists for use in the school district, and to recommend its selections to the board of trustees for ratification.

(f) Each local adoption committee shall make its selections at a meeting of the committee held before the March meeting of the district board of trustees. If selections recommended by the committee are not ratified by the board of trustees, the committee shall make other selections at a meeting held as soon as possible following the meeting of the board of trustees at which any of the committee's selections were not ratified. A quorum of a local selection committee, consisting of at least a majority of the committee members, shall be present at any meeting at which selections are to be made.

(g) If the board of trustees, by majority vote, fails to ratify any of the selections made by the local adoption committee, the reasons must be placed in the official board minutes, and the board of trustees shall direct the local selection committee to recommend another selection or selections from the multiple lists and to report its selection to the board for ratification. This procedure shall continue until the board of trustees ratifies all selections of the local adoption committee. Final selections must be recorded in the minutes of the board of trustees.

(h) After ratification by the board of trustees, one copy of the local adoption committee's report, signed by the members of the committee who participated in the selection, the president of the board of trustees, and the secretary of the board, shall be

sent by the superintendent to the Central Education Agency no later than April 1.

(i) Only instructional materials recommended by the local adoption committee and ratified by the board of trustees shall be furnished by the state for use in any school. Selections certified to the Central Education Agency shall be final and, therefore, shall not be subject to reconsideration during the original contract period or readoption contract periods covering the instructional materials selected.

(j) Except as otherwise provided by statute, requisitions submitted before the first day of school shall be approved based on the maximum number of students enrolled in the district during the previous school year and/or registered to attend the district during the next school year. Requisitions submitted after the first day of school shall be approved based on the actual number of students enrolled in the district when the requisition is submitted. If two or more titles are selected from a multiple list, requisitions may be made for a combined total of the selected titles.

(k) Instructional materials requisitioned by and delivered to a school district shall be continued in use during the contract period or periods of the materials. A school district may not return copies of one title to secure copies of another title on the same multiple list.

(l) High school instructional materials may be distributed to middle school or junior high school pupils enrolled in high school classes.

(m) If a selection was not made from a multiple list in a prior adoption, the current local adoption committee may select such instructional materials if the subjects are to be taught in the school during the ensuing term.

(n) Adopted instructional materials shall be supplied to a pupil in special education classes as appropriate to the level of the pupil's ability and without regard to the grade for which the instructional material is adopted or the grade in which the pupil is enrolled.

(o) School districts shall not be reimbursed from state funds for expenses incurred in local handling of textbooks.

§67.110. Local Accountability. Each school district shall conduct an annual physical inventory of all currently adopted instructional materials that have been requisitioned by and delivered to the district. The results of the inventory shall be recorded in the district's files. Reimbursement shall be made for all instructional materials determined to be lost during the physical inventory.

§67.113. Depository Status.

(a) Under the Texas Education Code, §12.31, each publisher of adopted instructional materials shall designate one of the depositories approved by the State Board of Education (SBOE) in which a stock of the publisher's adopted instructional materials shall be kept and from which all shipments of adopted instructional materials to school districts shall be made.

(b) Payments from the Central Education Agency shall be made directly to the publisher or to any agent or trustee designated in writing by the publisher.

(c) Any publisher, at its discretion and at least 30 days after notifying the Central Education Agency in writing, may change from one depository to another depository approved by the SBOE.

(d) Any request to establish a new depository shall be submitted to the commissioner of education by September 1. The effective date for any new depository shall be April 1 of the year following approval. Each party requesting authority to establish a new depository shall:

- (1) present evidence of financial viability adequate to ensure performance of obligations under all contracts on an annual basis;
- (2) provide specifications for warehouse, equipment, plans for staffing of proposed depository, and computer capability to receive and process orders and communicate in the automated format specified by the Central Education Agency;
- (3) submit assurances that a proper stock of instructional materials is available;
- (4) request SBOE approval for the location of the depository;
- (5) if the approved location of the depository falls within boundaries designated for lot shipments, apply to the Railroad Commission for an amendment to Common Carriers' Motor Freight Tariff 25, Item 7023; and
- (6) submit a list of publishers under contract with the request.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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Subchapter D. Special Instructional Materials

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• 19 TAC §67.121, §67.124

The new rules are proposed under the Texas Education Code, §12.16, which authorizes the State Board of Education to promulgate rules concerning the adoption and distribution of instructional materials

◆ ◆ ◆
§67.121. Special Instructional Materials To Be Made Available.

(a) All laws and rules applying to instructional materials provided to sighted pupils that are not in conflict with the Texas Education Code, §12.03 or §12.35(b), or with rules in these sections, shall apply to the distribution and control of braille and large type instructional materials.

(b) Publishers shall grant permission to the state to have adopted instructional materials transcribed into braille, large type, and audiotape without penalty or royalty.

(c) On or before the deadline specified in the schedule for the adoption process, each publisher of newly adopted instructional materials shall provide computerized files as specified in the proclamation to be used for production of braille or other versions of materials to be used by students with disabilities. All information contained in adopted instructional materials shall be included on the computerized files

(d) The state shall make suitable student instructional materials available in large type. The commissioner of education shall develop specifications for large-type instructional materials and notify publishers of student instructional materials suitable for production in large type. The publisher may elect to supply the large-type materials, or the commissioner of education may enter into contracts for the production of large-type materials.

(e) Gifts of instructional materials for the education of students who are blind or visually impaired tendered by individuals, groups, or school district officials may be accepted by the State Board of Education (SBOE) and shall become state property and subject to the same regulations as similar items purchased with state funds. Gift materials may be shipped freight charges collect to the state depository.

(f) Copies of instructional materials in braille and large type needed by a person who is blind or visually impaired to carry out the duties of a teacher in the public schools of this state shall be furnished without cost. The materials are to be loaned to

the public school districts as long as needed and are to be returned to the state when they are no longer needed. Materials in the medium needed by the teacher may be requisitioned by a textbook coordinator after the superintendent of schools has certified to the commissioner of education:

- (1) the name of the teacher;
 - (2) the grade or subject taught;
- and
- (3) the fact of the teacher's visual impairment.

◆ ◆ ◆
§67.124. Authorization of State Funds.

(a) Money from the state textbook fund may be used to purchase braille and large-type state-adopted instructional materials listed in the General Catalog of Braille and Large Type Publications issued by the American Printing House for the Blind and supplements and/or revisions of this publication.

(b) Large-type instructional materials shall meet or exceed the specifications in §67.10 of this title (relating to Manufacturing Standards and Specifications) and any additional specifications that may be prescribed when the call for bids is issued.

(c) Bids for production of large-type materials shall be submitted pursuant to a call by the SBOE. Bid prices for production of large-type versions of instructional materials adopted by the SBOE shall be submitted in two parts as follows:

- (1) a cost per page, including the price of the regularly adopted instructional materials being enlarged and the cost of page reproduction; and
- (2) a per volume binding cost.

(d) The bid price shall be in effect for the entire adoption period.

(e) Contracts shall correspond to those awarded to publishers upon adoption. Such contracts shall be subject to readoptions required by the SBOE. A performance bond of \$10,000 shall be required of the successful bidder.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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Special Textbooks

• 19 TAC §67.131, §67.133

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under the Texas Education Code, §12.16, which authorizes the State Board of Education to promulgate rules concerning the adoption and distribution of instructional materials.

§67.131. Special Textbooks To Be Made Available.

§67.133. Authorization of State Funds.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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TITLE 22. EXAMINING BOARDS

Part XVII. Texas State Board of Plumbing Examiners

Chapter 361. Administration

General Provisions

• 22 TAC §361.6

The Texas State Board of Plumbing Examiners proposes an amendment to §361.6 concerning fees and charges for copies. The proposed amendment to §361.6 clarifies some fees and sets forth other fees for certain licenses, examinations, renewals and law renewals, and instructor certification training; the proposed amendment also deletes certain charges for copies which are found in §361.9 (Charges for Copies of Public Records).

Douglas A. Beran, Ph.D. chief, fiscal officer/office manager, has determined there will be fiscal implications as a result of enforcing or administering the rule. The estimated increase in revenue for the first five-year period the rule will be in effect will be contingent upon the number of individuals seeking licensure, undergoing examinations, and renewing licenses and the number of individuals participating in instructor certification training. The estimated additional cost on local government

for the first five-year period the rule will be in effect is contingent upon the number of local government employees seeking licensure, undergoing examinations, and renewing licenses. The cost of compliance with the rule for small businesses will be contingent upon the number of employees participating in instructor certification training.

Dr. Beran also has determined that for each year of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing the rule as proposed will be as enhanced public health, safety, and welfare by ensuring each person has access to clean water and clean air because of plumbing inspected by competent plumbing inspectors, by ensuring compliance with health and safety and water protection law, and by ensuring instructors of continuing education programs have undergone quality instructor certification training.

The anticipated economic cost to persons who are required to comply with rule as proposed will be contingent upon the applicable fees and the number of individuals seeking licensure, undergoing examinations, and renewing licenses and the number of individuals participating in instructor certification training.

Comments on the proposal may be submitted to Dr. Beran at the Texas State Board of Plumbing Examiner, P.O. Box 4200, Austin, Texas 78765.

The amendment is proposed under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law.

The amendment also is proposed under Senate Bill Number 5 (General Provisions Act), 73rd Legislature, Regular Session, §78 (Appropriation of Collections for Seminars and Conferences).

§361.6. Fees.

(a) The board has established the following fees:

(1) Licenses:

- (A) Master license-\$75;
- (B) Journeyman license-\$12;
- (C) Medical gas installation endorsement (Master)-\$50;
- (D) Medical gas installation endorsement (Journeyman)-\$12;
- (E) Plumbing inspector license-\$50;
- (F) Water supply protection specialist endorsement (Journeyman)-\$12;

(G) Water supply protection specialist endorsement (Master)-\$50.

(2) Examinations:

- (A) Master examination-\$75
- (B) Journeyman examination-\$25;
- (C) Medical gas installation endorsement (Master)-\$75;
- (D) Medical gas installation endorsement (Journeyman)-\$25;
- (E) Plumbing inspector examination-\$50 [\$25];

(F) Water supply protection specialist endorsement (Journeyman)-\$25;

(G) Water supply protection specialist endorsement (Master)-\$75.

(3) Renewals:

- (A) Master license-\$75;
- (B) Journeyman license-\$12;
- (C) Medical gas installation endorsement (Master)-\$50;
- (D) Medical gas installation endorsement (Journeyman)-\$12;
- (E) Plumbing inspector license-\$50;

(F) Water supply protection specialist endorsement (Journeyman)-\$12;

(G) Water supply protection specialist endorsement (Master)-\$50.

(4) Other fees.

- (A) Late renewal.
 - (i) Master: less than 90 days-one-half:
 - (I) examination fee-\$37.50;
 - (II) more than 90 days-examination fee-\$75.

(ii) Medical gas installation endorsement (Master):

(I) less than 90 days-one half examination fee-\$37.50;

(II) more than 90 days-examination fee-\$75;

(iii) Medical gas installation endorsement (Journeyman):

(I) less than 90 days-one half examination fee-\$12.50;

(II) more than 90 days-examination fee-\$25.

(iv) Journeyman-less than 90 days-one half:

(I) examination fee-\$12.50;

(II) more than 90 days-examination fee-\$25.

(v) Water supply protection specialist (Journeyman):

(I) less than 90 days-one half examination fee,->\$12.50;

(II) more than 90 days-examination fee-\$25.

(vi) Water supply protection specialist (Master):

(I) less than 90 days-one half examination fee-\$37.50;

(II) more than 90 days-examination fee-\$75.

(B) Instructor Certification Training (Per Day)-\$100.

(C)[(B)] Duplicate license or new license with change of name-\$10;

[(C) Copies-

[(i) \$.50 for the first page;

[(ii) \$.15 for each additional copy.]

(D) Returned check-

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 9, 1994.

TRD-9441420

Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

Earliest possible date of adoption: July 11, 1994

For further information, please call: (512) 458-2145

◆ ◆ ◆
• 22 TAC §361.8

The Texas State Board of Plumbing Examiners proposes an amendment to §361.8 concerning forms and materials. The proposed amendment to §361.8 updates the rule to cite correctly the forms and materials used by the Board.

Douglas A. Beran, Ph.D. chief, fiscal officer/office manager, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Dr. Beran also has determined that for each year of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing the rule as proposed will be enhanced public health, safety, and welfare by ensuring compliance by the Board and by its clientele with the Plumbing License Law through the use of appropriate forms and materials. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Dr. Beran at the Texas State Board of Plumbing Examiner, P.O. Box 4200, Austin, Texas 78765.

The amendment is proposed under Texas Civil Statutes, Article 6243-101, which provide the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules necessary to carry out the Plumbing License Law.

The proposed amendment does not affect other statutes, articles, nor codes.

§361.8. *Forms and Materials.* The board incorporates by reference any rules that may be contained in the following forms and requires the use of these forms in doing business with the agency:

(1) Applications for Examination and Enforcements;

(2) Employer's Certification;

(3) Application for Registration as an Apprentice Plumber;

(4) General Complaint;

[(4) Affidavit of Alleged Incompetency, as amended in September 1982;]

[(5) Affidavit of Alleged Violation of Municipal Ordinances, as amended in September, 1982;]

(5)[(6)] Renewal of Master Plumber License;

(6)[(7)] Renewal of Journeyman Plumber License;

(7)[(8)] Renewal of Plumbing Inspector License;

(8)[(9)] Renewal of Endorsement.

[(10) General Complaint, as adopted in September, 1982;]

[(11) Plumbing Licensee's Reference Guide].

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 9, 1994.

TRD-9441419

Gilbert Kissling
Administrator
Texas State Board of
Plumbing Examiners

Earliest possible date of adoption: July 11, 1994

For further information, please call (512) 458-2145

◆ ◆ ◆
TITLE 25. HEALTH SERVICES

Part XI. Texas Cancer Council

Chapter 701. Policies and Procedures

• 25 TAC §701.8

The Texas Cancer Council proposes new §701.8, concerning policies and procedures. The new section is being proposed to add a definition regarding charges for copies of public records.

Emily Untermeyer, executive director, has determined that for the first five-year period the rule is in effect the fiscal implications for state or local government as a result of enforcing or administering the rule, are expected to be minimal.

Ms. Untermeyer also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to make the Council in compliance with state law, Chapter 428, Acts of the 73rd Legislature.

Comments on the proposal may be submitted addressed to Emily Untermeyer, Executive Director, Texas Cancer Council, at the interagency address: 211 East Seventh, Suite 710, Austin, Texas 78701, or the mailing address: P.O. Box 12097, Austin, Texas 78711.

The new section is proposed under the Health and Safety Code, Chapters 102.002 and 102.009, which provide the Texas Cancer Council with the authority to develop and implement the Texas Cancer Plan, and Texas

Civil Statutes, Article 6252-13a, §4, which provide the Texas Cancer Council with the authority to adopt rules governing council practice and procedures

§701 8. Charges for Copies of Public Records.

(a) The charge to any persons requesting copies of any public record of the Council will be the charge established by the General Services Commission.

(b) The Council may reduce or waive these charges at the discretion of the Executive Director if there is a public benefit

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

Issued in Austin, Texas, on May 26, 1994.

TRD-8441421 Emily F. Untermeyer
Executive Director
Texas Cancer Council

Earliest possible date of adoption: July 4, 1994

For further information, please call: (512) 463-3190

◆ ◆ ◆
TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 9. Contract Management

Subchapter A. General

43 TAC §9.5

The Texas Department of Transportation proposes new §9.5, under new Subchapter A, General, concerning Special Labor Provisions for Public Works Contracts. Texas Civil Statutes, Article 5159a, require the department and other public bodies awarding contracts for public works to ascertain and include in its contracts the general prevailing rate of per diem wages for certain laborers, workers, and mechanics in the locality in which the work is to be performed. House Bill 560, 73rd Legislature, 1993, amended Texas Civil Statutes, Article 5159a to: require public bodies to ascertain prevailing wage rates by conducting a survey or adopt the prevailing wage rates determined by the United States Department of Labor in accordance with the Davis-Bacon Act, increase the penalty for a violation from \$10 to \$60 for each laborer, workman, or mechanic employed for each calendar day he or she is paid less than the established prevailing wage rate; require the public body to adopt a complaint and dispute resolution process which utilizes a good cause standard for evaluating complaints; and require the public body to hold all monies due under the contract pending resolution of any complaint found to have good cause.

In order to comply with the provisions of Texas Civil Statutes, Article 5159a, it is necessary to propose new §9.5 which prescribes the policies and procedures necessary to ensure efficient and equitable administration of the law's requirements. New §9.5, provides as follows: subsection (a), Purpose, states the purpose of the section; subsection (b), Definitions, defines words and terms used in the section; subsection (c), Determination of prevailing wage rate, states that highway improvement contracts shall adopt prevailing wages established by the United States Department of Labor in accordance with the Davis-Bacon Act and building contracts shall adopt prevailing wage rates established by the General Services Commission; subsection (d), Contract procedures, provides how the prevailing wage rate will be specified and applied in the department's public works contracts, states the contractor's responsibilities for ensuring compliance, describes the procedure for establishing wage rates for classifications not specified in the contract, and describes requirements related to the payment of overtime wages; subsection (e), Records and inspections, requires the contractor and subcontractors to submit payroll records to the department and keep associated cancelled payroll checks available for inspection, subsection (f), Enforcement, describes the procedures for a laborer filing a complaint, requires the department to make a good cause determination within 30 days after receiving a complaint, describes the dispute resolution process which includes retention of payments due under the construction contract by the department pending resolution of the complaint, and subsection (g), Penalties, states that contractors or subcontractors who violate the prevailing wage requirements are liable to the department for a penalty of \$60 for each calendar day a laborer, workman, or mechanic is paid less than the minimum rate stipulated in the contract.

Wayne Chambers, P.E., director, Construction and Maintenance Division, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect will be an estimated additional cost of \$9,000 for fiscal year 1994. The estimated additional cost for fiscal years 1995-1998 will be \$42,000 per year. These amounts include penalties collected to help offset the administrative costs. There will be no fiscal implications to local governments or small businesses as a result of enforcing or administering the section.

Mr. Chambers has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the section.

Mr. Chambers also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the section as proposed is a more equitable and efficient enforcement of prevailing wage rates. There is no significant anticipated economic cost to persons who are required to comply with the section as proposed, provided, however, that a contractor or subcontractor in violation of the section is liable for a penalty of \$60 per

day, and the department will withhold amounts due under a contract if it determines that good cause exists to believe that a violation has occurred. Pursuant to the Administrative Procedure Act, Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed new section. The public hearing will be held at 9:00 a.m. on Wednesday, June 15, 1994, in Room 101, Building 200, 200 East Riverside Drive, Austin, and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Those desiring to make comments or presentations may register starting at 8:30 a.m. Any interested person may appear and offer comments, either orally or in writing, however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held view, and same or similar comments, through a representative member where possible. Comments on the proposed text should include appropriate citations to sections, subsections, paragraphs, etc., for proper reference. Any suggestions or requests for alternative language or other revisions in the proposed text should be submitted in written form. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who have special communication or accommodations needs and who plan to attend the hearings may contact Eloise Lundgren, Director, Public Information Office, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8588.

Comments on the proposal may also be submitted to Wayne Chambers, P.E., Director, Construction and Maintenance Division, 125 East 11th Street, Austin, Texas 78701-2383. The deadline for receipt of written comments will be 5:00 p.m. on July 8, 1994.

The new section is proposed under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to promulgate rules and regulations for the conduct of the work of the Texas Department of Transportation, and Texas Civil Statutes, Article 5159a, which require the payment of prevailing wage rates on public works contracts.

Texas Civil Statutes, Article 5159a is affected by this section.

§9.5. Special Labor Provisions for Public Works Contracts.

(a) Purpose. Texas Civil Statutes, Article 5159a, require payment of the general prevailing rate of per diem wages, including legal holidays and overtime work, in the locality in which work is to be per-

formed for each craft or type of workman, laborer, or mechanic needed to execute a public works contract on behalf of the state. This section prescribes the policies and procedures by which the Texas Department of Transportation will ascertain the prevailing rate of wages, and will administer and enforce the prevailing rate of wages as required by Texas Civil Statutes, Article 5159a.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise

(1) Area engineer—The chief administrative officer in charge of an area office of the department

(2) Building contract—A contract awarded by the department for the construction or repair of a department building structure, but not designated by the department as a maintenance contract

(3) Commission—The Texas Transportation Commission

(4) Complainant—A laborer, workman, or mechanic who files a complaint under this section.

(5) Contractor—A firm awarded a public works contract

(6) Department—The Texas Department of Transportation

(7) District engineer—The chief administrative officer in charge of a district of the department.

(8) Highway improvement contract—A contract awarded by the commission under Texas Civil Statutes, Article 6674h, for the improvement of a segment of the state highway system, but not designated by the department as routine maintenance.

(9) Prevailing wage rate—The general prevailing rate of per diem wages, including legal holidays and overtime work, in the locality in which work is to be performed for each craft or type of workmen, laborer, or mechanic needed to execute a public works contract on behalf of the state.

(10) Public works contract—A building contract or a highway improvement contract.

(c) Determination of prevailing wage rate.

(1) Highway improvement contracts.

(A) For highway improvement contracts, the department shall adopt the prevailing wage rate for each job classification as determined by the United States Department of Labor in accordance with the Davis-Bacon Act, 40 United States Code,

§276a. The department will not utilize any Davis-Bacon wage rate survey conducted three or more years before the bidding of a project

(B) For purposes of this paragraph, contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act, §1(b)(2) on behalf of laborers, workmen, or mechanics are considered wages paid to such laborers, workmen, or mechanics. Whenever the prescribed minimum wage rate in the contract for laborers, workmen, and mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor or subcontractors, as appropriate, shall either pay the benefit as stated in the wage determinations or shall pay another bona fide fringe benefit or an hourly cash equivalent.

(2) Building contract—For building contracts, the department shall adopt the prevailing wage rate for each job classification as determined by the General Services Commission

(d) Contract procedures

(1) Contract specification. The department shall specify the applicable prevailing wage rates in its public works contracts and in the call for bids for such contracts. The specified rates shall apply as minimum wage rates for contracts. Failure of the department to specify the prevailing wage rate in the call for the contract shall relieve the contractor and any subcontractors from liability under Texas Civil Statutes, Article 5159a

(2) Contractor responsibility—The contractor is responsible for carrying out the requirements of this section and it shall be the contractor's responsibility to ensure that each subcontractor working on the project complies with these requirements

(3) Rate by class and type. The prevailing wage rate shall be indicated in the contract for each class and type of laborer, workman, and mechanic whose services are considered necessary to execute the contract. These rates shall govern as minimum wage rates for the contract and shall be conspicuously posted on the project site by the contractor for inspection by all laborers, workmen, and mechanics employed on the project.

(4) Apprentices and trainees.

(A) Apprentices and trainees may work at less than the predetermined minimum wage rate for work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship or trainee program registered with the United States Department of La-

bor, Employment and Training Administration. Proof of registration will be submitted to the department.

(B) The allowable ratio of apprentices or trainees to Journeyman-level employees on the project site in any craft classification shall not be greater than the ratio permitted to contractor or subcontractor under the registered program.

(5) Additional classification.

(A) This paragraph applies to highway improvement contracts.

(B) If the work performed by a workman, laborer, or mechanic is not covered by a job classification in the department's wage determination, the contractor or subcontractor and the area engineer shall each submit a request to the department for an additional classification with a recommended wage rate and supporting documentation. The recommendations must be based on industry practice and the rate of comparable classifications. The department may modify or disapprove the recommended classification minimum wage rate within 30 days of receipt if the department determines that the recommended classification minimum wage rate is not based on industry practice and the rate of comparable classifications.

(C) The additional classification minimum wage rate established by the department will be effective retroactive to the first day on which work is performed in the job classification.

(6) Overtime wages. The contractor or subcontractor shall pay overtime wages pursuant to the requirements of the Fair Labor Standards Act, 29 United States Code §201, et seq.

(e) Records and inspections

(1) The contractor and all subcontractors shall submit weekly payrolls to the department showing the name, occupation, number of hours worked each day, and per diem wages paid each laborer, workman, and mechanic together with a complete record of all deductions made from those wages. Only deductions made in accordance with the regulations issued by the United States Department of Labor (29 Code of Federal Regulations Part 3) are permitted. The initial payroll for each laborer, workman, or mechanic shall also indicate the employee's address and phone number.

(2) The contractor and subcontractor shall file an affidavit for each payroll certifying that the payroll is an accurate report of the full wages due and paid to

each laborer, workman, and mechanic employed by the contractor and/or subcontractor.

(3) The contractor and subcontractor shall keep originals or copies of canceled payroll checks issued for each payroll record submitted to the department. These canceled checks shall be provided to the department upon request.

(4) All payroll records and related canceled checks shall be retained by the contractor and subcontractor for a period of three years after completion of the project.

(f) Enforcement.

(1) Violation. A contractor or subcontractor in violation of the prevailing wage rate is liable for penalties as set forth in this section.

(2) Initiation of proceeding. A proceeding under this section to enforce the prevailing wage rate may be initiated by the filing of a complaint in accordance with paragraph (3) of this subsection or by the department on its own motion subsequent to review of records submitted in accordance with subsection (e) of this section.

(3) Filing a complaint. A laborer, workman, or mechanic who is not paid the prevailing wage rate specified in the contract for his or her classification may file a complaint with the department's area engineer responsible for monitoring the project's completion. A complaint involving a building contract may be filed with the responsible area engineer or with the director of the department's General Services Division. The complainant shall provide, in writing, the following information.

(A) name, phone number, and address;

(B) employer;

(C) job classification;

(D) period when violation occurred and daily work hours during the period;

(E) pay rate received and amount due; and

(F) any information necessary to support the complaint.

(4) Investigation. Within five days of receipt of a complaint, including necessary supporting information, or at any time upon its own motion, the department will provide written notice to the contractor or subcontractor of an alleged violation.

The contractor or subcontractor shall have ten days in which to respond in writing to the information presented against it.

(5) Good cause determination.

(A) The director of the department's Construction and Maintenance Division shall determine, within 30 calendar days of the date a complaint is filed whether good cause exists to believe that a contractor or subcontractor has committed a violation of the contract's prevailing wage rate requirements. Such determination will be based upon information submitted by the complainant, the contractor or subcontractor, and in accordance with subsection (e) of this section. The department shall provide written notice of its determination to the contractor and/or subcontractor and to the complainant. The department shall retain any amount due under the contract pending a final determination of the violation.

(B) For building contracts, the determination of good cause shall be made by the director of the department's General Services Division.

(6) Discrimination. A contractor or subcontractor shall not discriminate against any employee filing a complaint under the provisions of Texas Civil Statutes, Article 5159a.

(7) Appeal. If the department determines that good cause does not exist, the complainant may file an appeal in accordance with §§1.21-1.63 of this title (relating to Contested Case Procedure).

(8) Resolution. If the department provides written notice to the parties that good cause exists, the parties shall have 14 days from the date of the written determination to voluntarily resolve the wage dispute by written agreement. If the parties fail to voluntarily resolve the dispute, the issue of the alleged violation, any penalties owed to the department, and any amounts owed to the laborer, workman, or mechanic shall be submitted to binding arbitration in accordance with the provisions of the Texas General Arbitration Act, Texas Civil Statutes, Article 224, et seq. The department is not a party to the arbitration proceeding.

(9) Reimbursement.

(A) If the arbitrator determines that a violation of this section occurred and awards backpay, the department shall use any amounts retained under this subsection to reimburse the laborer, workman, or mechanic and collect any penalties due under subsection (g). The department shall issue a check to the complainant within 30 days after receiving the arbitrator's decision.

(B) If the laborer, workman, or mechanic and the contractor or subcontractor voluntarily resolve the wage dispute, a signed written agreement which specifies the terms of the agreement shall be submitted to the director of the department's Construction and Maintenance Division. If the agreement calls for backpay, a signed statement from the laborer, workman, or mechanic which acknowledges receipt of the backpay must be attached to the agreement. The department shall release any amounts retained within seven days of receiving this information.

(g) Penalties. A contractor or subcontractor who violates the prevailing minimum wage requirements of a public works contract is liable to the department for a penalty of \$60 for each laborer, workman, or mechanic employed, for each calendar day, or portion thereof, such laborer, workman, or mechanic is paid less than the minimum wage rate stipulated in the contract. The money collected under this subsection shall be used by the department to offset the costs incurred in the administration of this section.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 26, 1994.

TRD-9441464

Diane L. Northam
Legal Executive Assistant
Texas Department of
Transportation

Earliest possible date of adoption: July 4, 1994

For further information, please call: (512) 463-8630

◆ ◆ ◆
Chapter 23. Travel Information
Subchapter B. Travel Information

• 43 TAC §23.13

The Texas Department of Transportation proposes new §23.13, concerning Electronic Travel Information System. Section 23.13 will allow the department to disseminate travel information as required by Texas Civil Statutes, Article 6144a, in a more efficient and expedient manner.

New §23.13 provides for the creation of an electronic travel information system to gather and distribute travel information in an electronic form; authorizes governmental entities and travel-related businesses to contribute information to the system; limits the type of information eligible for inclusion in department travel literatures as provided in existing §23.10; provides application procedures for eligible contributors; and authorizes electronic

access to information in the system, and provides that contributors are responsible for protecting the right to commercial use of information they contributed.

Don Clark, director, Travel and Information Division, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect will be an increase in staff cost of \$63,000 for fiscal year 1994. For fiscal year 1995, the cost will be \$100,000, and for each year of fiscal years 1996-1998, the total staff costs will be \$52,000. Mr. Clark has estimated information that this electronic system will save state government \$200,000 a year in staff time and expenses for fiscal years 1995-1998. There will be no fiscal implications for local government as a result of enforcing or administering the section.

Mr. Clark has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the section.

Mr. Clark also has determined that for each year of the first five years the section as proposed is in effect, the public benefits anticipated as a result of enforcing the section will be to encourage travel to and within the state of Texas and to increase the efficiency and expediency of gathering and distributing travel information in an electronic form. There will be no effect on small businesses and no anticipated economic cost to persons who are required to comply with the proposed section.

Pursuant to the Administrative Procedure Act, Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed new section. The public hearing will be held at 9:00 a.m. on Monday, June 13, 1994 in Room 101 of the department's Riverside Annex, located at 200 East Riverside Drive, Austin, Texas and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Those desiring to make comments or presentations may register starting at 8:30 a.m. Any interested person may appear and offer oral or written comments; however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible. Comments on the proposed text should include appropriate citations to sections, subsections, paragraphs, etc., for proper reference. Any suggestions or requests for alternative language or other revisions in the proposed text should be submitted in written form. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who

have special communication or accommodation needs and who plan to attend the hearing may contact Eloise Lundgren, Director of the Public Information Office, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8588.

Written comments on the proposed rules may be submitted to Don Clark, Director, Division of Travel and Information, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. The deadline for receipt of written comments will be 5:00 p.m. on July 8, 1994.

The new section is proposed under Texas Civil Statutes, Articles 6666 and 6144e, which provide the Texas Transportation Commission with the authority to promulgate rules and regulations for the conduct of the work of the Texas Department of Transportation, to compile and publish pamphlets, bulletins, and documents necessary for informational and publicity purposes concerning the highways of the state and to provide road information, travel guidance, and various descriptive materials designed to furnish aid and assistance to the traveling public and stimulate travel to and within Texas.

Texas Civil Statutes, Article 6144e, is affected by this proposed amendment.

§23.13. *Electronic Travel Information System.*

(a) Purpose. The department may create and maintain an electronic travel information system to address the technological needs of the contributors and the consumers of Texas travel information. This information will inform travelers about the attractions and facilities available to the public and will encourage travel to and within the state of Texas. The system will serve as an efficient method of gathering and distributing travel information in an electronic form.

(b) Eligibility criteria. The following entities may contribute information to the electronic travel information system:

- (1) city and county governments;
- (2) state agencies;
- (3) chambers of commerce;
- (4) convention and visitors bureaus;
- (5) travel-related services or industries;
- (6) recreation-related services or industries; and
- (7) other travel services, or organizations of the travel industries that commonly serve the public.

(c) Eligible information. Contributors will follow the subject matter criteria found in §23.10(b) of this title (relating to Travel Literature).

(d) Application.

(1) To contribute information to the electronic system, an entity shall submit an application in the form and manner prescribed by the department to the system administrator, Texas Department of Transportation, Travel and Information Division.

(2) Applicants shall be required to update their information file in the form and manner prescribed by the department.

(3) Information supplied in non-standard form must be approved by the system administrator. Due to space considerations, limits may be imposed on the quantity of information accepted. Information files supplied to the department for use in the information system will be updated as stated in specifications for the standard file.

(e) Use of information.

(1) Information is freely accessible to the public. This access may be in the form of an electronic transfer or other access performed with a personal computer.

(2) Individual contributors are responsible for licensing or giving permission to use the information that they contribute, including the rights to copy or publish the information for commercial or other purposes.

(3) Any interested person or organization interested in licensing or obtaining permission to use the material contributed to the electronic travel information system for commercial purposes or other purposes must obtain such rights from the individual contributors.

(4) A copyright notice will be prominently displayed with all files and information where applicable.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

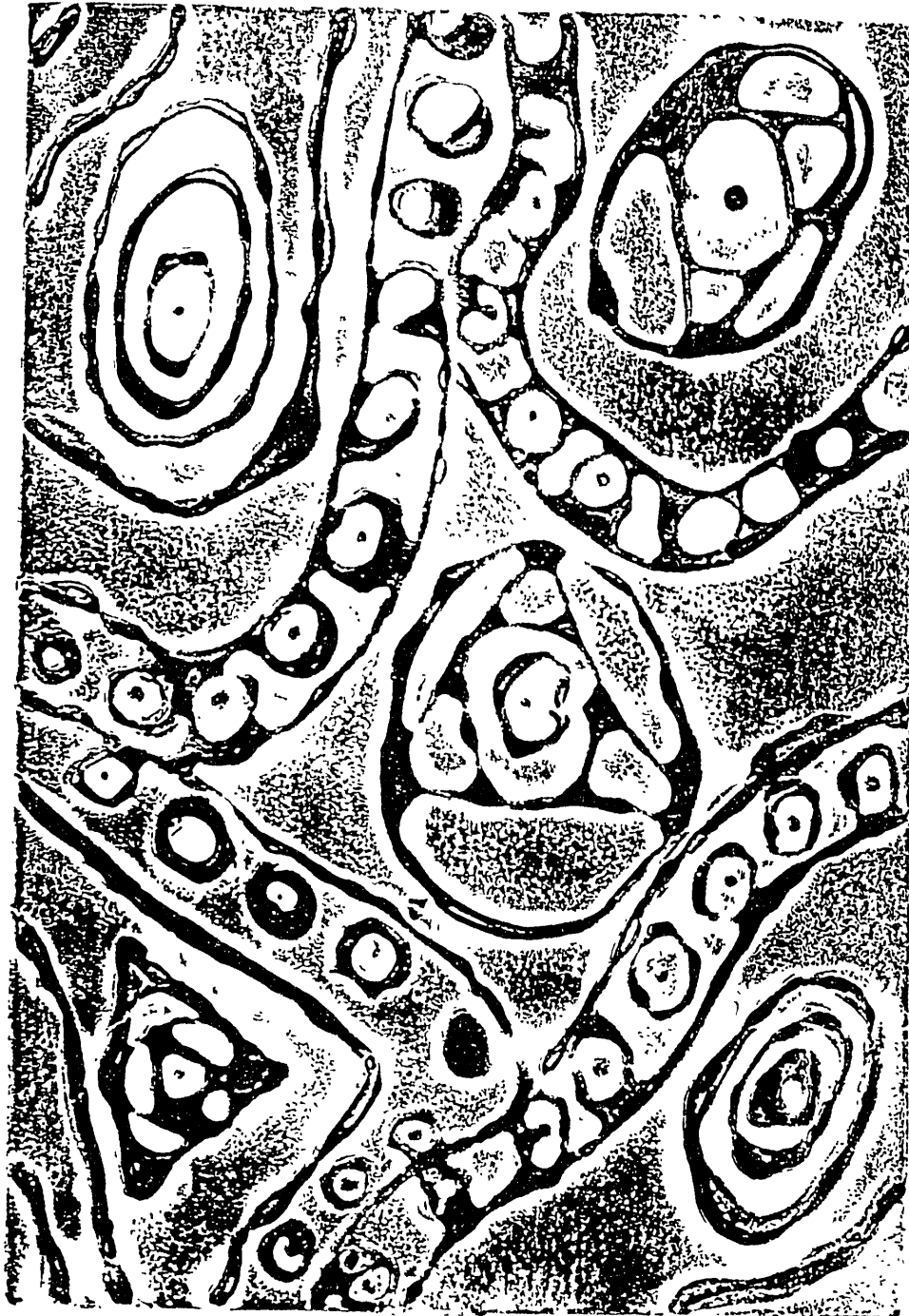
Issued in Austin, Texas, on May 25, 1994.

TRD-9441397 Diane L. Northam
Legal Executive Assistant
Texas Department of
Transportation

Earliest possible date of adoption: July 7, 1994

For further information, please call: (512) 463-8630

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Name: Richard Ganceres
Grade: 9
School: Lopez High School, Brownsville ISD

WITHDRAWN RULES

An agency may withdraw a proposed action or the remaining effectiveness of an emergency action by filing a notice of withdrawal with the **Texas Register**. The notice is effective immediately upon filing or 20 days after filing as specified by the agency withdrawing the action. If a proposal is not adopted or withdrawn within six months of the date of publication in the **Texas Register**, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the **Texas Register**.

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility Commission of Texas

Chapter 23. Substantive Rules

Rates

• 16 TAC §23.23

The Public Utility Commission of Texas has withdrawn from consideration for permanent adoption a proposed amendment to §23.23, which appeared in the May 8, 1994, issue of the *Texas Register* (19 TexReg 3405). The effective date of this withdrawal is May 25, 1994.

Issued in Austin, Texas, on May 25, 1994.

TRD-9441401 John M. Renfrow
 Secretary of the
 Commission
 Public Utility Commission
 of Texas

Effective date: May 25, 1994

For further information, please call: (512)
458-0100

TITLE 22. EXAMINING BOARDS

Part XXI. Texas State Board of Examiners of Psychologists

Chapter 463. Applications

• 22 TAC §463.32

The Texas State Board of Examiners of Psychologists has withdrawn from consideration for permanent adoption a proposed new §463.32, which appeared in the February 8, 1994, issue of the *Texas Register* (19 TexReg 861). The effective date of this withdrawal is June 17, 1994.

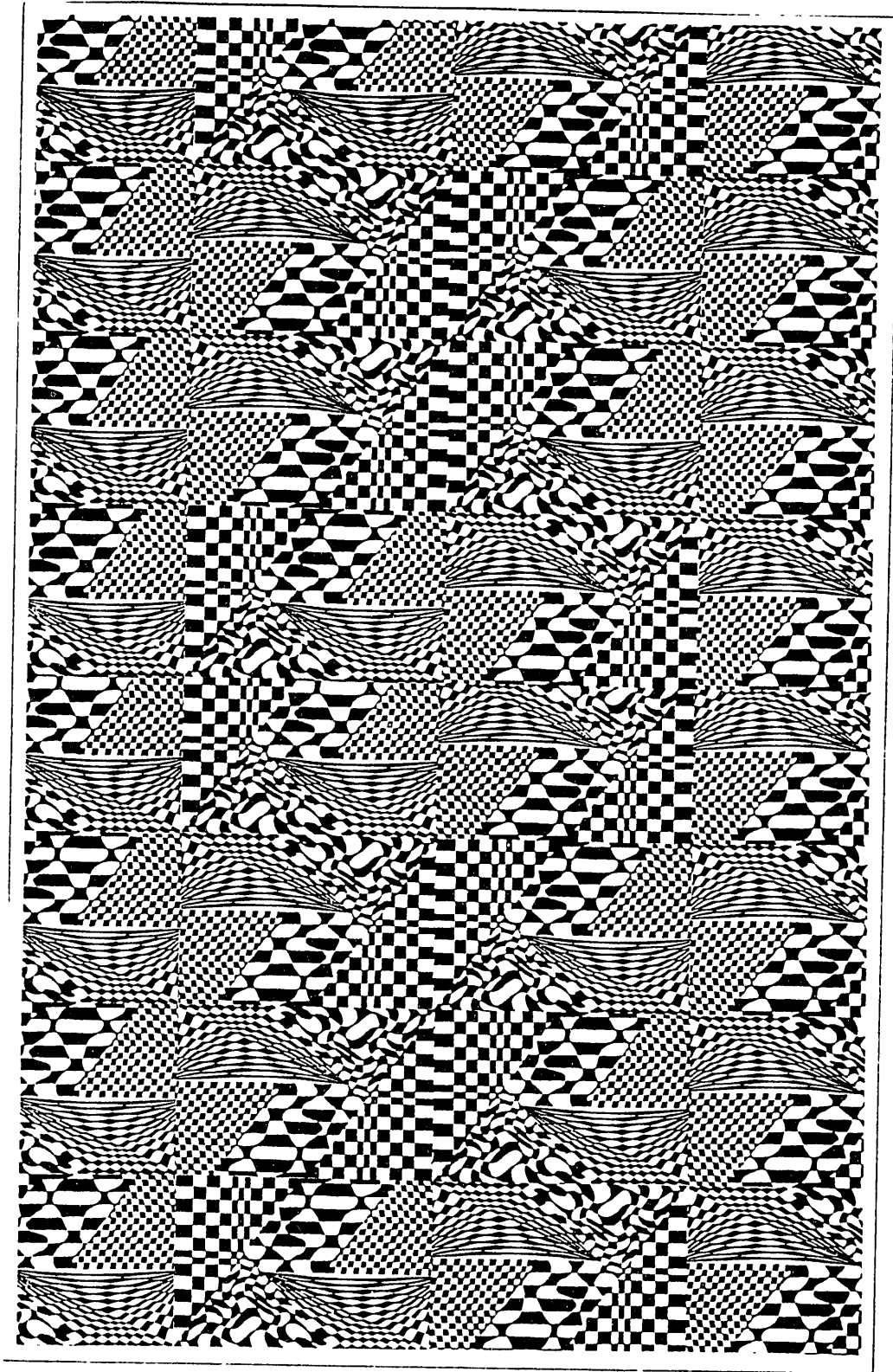
Issued in Austin, Texas, on May 26, 1994.

TRD-9441433 Rebecca E. Forkner
 Executive Director
 Texas State Board of
 Examiners of
 Psychologists

Effective date: June 17, 1994

For further information, please call: (512)
835-2036





Name: Rodrigo Chavez

Grade: 9

School: Lopez High School, Brownsville ISD

ADOPTED RULES

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

TITLE 19. EDUCATION Part I. Texas Higher Education Coordinating Board

Chapter 5. Program Development

Subchapter L. Operation of Off-Campus Educational Units of Public Senior Col- leges and Universities

• 19 TAC §5.242

The Texas Higher Education Coordinating Board adopts new §5.242, concerning Operation of Off-Campus Educational Units of Public Universities (Definitions) with changes to the proposed text as published in the March 15, 1994 issue of the *Texas Register* (19 TexReg 1729).

The rule is necessary to allow students to attain degrees at more geographically convenient locations.

The rules function by permitting institutions to offer existing degree programs at jointly managed remote sites. They provide standards and procedures for consideration of approval and oversight of the center.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Education Code, §61.051, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Operation of Off-Campus Educational Units of Public Universities (Definitions).

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

Off-campus educational unit—A subdivision under the management and control of an existing public university or central administration (hereinafter referred to as the parent institution) in a geographic setting separate from the parent institution. It exists for a specific purpose which is directly related to the teaching of courses for resident credit at the parent institution, or for providing administrative support which facilitates

the teaching of such courses. An off-campus unit, as used herein, is not a separate general academic institution and therefore does not have completely independent life within itself as regards academic, administrative, and fiscal matters, but has dependence upon the parent institution in such matters. Off-campus educational units include upper-level centers such as the Uvalde Center of Sul Ross State University.

Separate general academic institution—A degree-granting public university established by the Texas Legislature as an independent educational unit under the direct authority of a statutory governing board. Within the limits of the policies and regulations established by appropriate state authority and its governing board, an operationally separate institution is autonomous in academic, administrative, and fiscal matters. It is located on its own individual campus; is accredited by the Southern Association of Colleges and Schools; and has degree-granting authority. The minimum enrollment level which must be met before the Coordinating Board will consider recommending that the legislature establish an existing off-campus educational unit as a separate general academic institution is established as 1,500 full-time student equivalents (FTSE) enrolled on the campus. Off-campus enrollments may not be counted in reaching these enrollment levels.

Multi-Institution Teaching Center—An "off-campus educational unit" or an "auxiliary location" administered under a formal agreement between two or more public higher education institutions. It may also involve one or more private institutions. It exists for the purpose of providing credit instruction from several "parent institutions" in a common geographic setting. It is not a separate general academic institution and does not have independence regarding academic, administrative, or fiscal matters. Each signatory to the agreement may offer credit courses and, with prior Coordinating Board approval, may also offer degree programs by and in the name of the parent institution.

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

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• 19 TAC §5.245

The Texas Higher Education Coordinating Board adopts the repeal of §5.245, concerning Operation of Off-Campus Educational Units of Public Universities (The University of Houston Downtown), without changes to the proposed text as published in the March 15, 1994, issue of the *Texas Register* (19 TexReg 1729).

This section is being repealed and rewritten. The new rules will permit institutions to offer existing degree programs at jointly managed remote sites. They provide standards and procedures for consideration of approval and oversight of the center.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Education Code, §61.051, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Operation of Off-Campus Educational Units of Public Universities (The University of Houston Downtown).

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

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The Texas Higher Education Coordinating Board adopts new §5.245, concerning Operation of Off-Campus Educational Units of Public Universities (Multi-Institution Teaching Center), with changes to the proposed text as published in the March 15, 1994, issue of the *Texas Register* (19 TexReg 1729).

The rule is necessary to allow students to attain degrees at more geographically convenient locations.

The new rule functions by permitting institutions to offer existing degree programs at jointly managed remote sites. They provide standards and procedures for consideration of approval and oversight of the center.

Comments received stated that more clarification was needed; questions were raised regarding off-campus educational unit and auxiliary location; whether courses must be part of the institution's course inventory; and whether courses offered must be reported separately. Since some universities no longer have a graduate faculty per se, it was suggested to add the words "if applicable" to §5.245(f)(6).

Comments were received from the University of North Texas and the University of Houston System. Commenters were neither in favor nor opposed to adoption of the rule.

The agency agreed with the comments and changes were made accordingly.

The new section is adopted under Texas Education Code, §61.051 which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Operation of Off-Campus Educational Units of Public Universities (Multi-Institution Teaching Center).

§5.245. Multi-institution Teaching Center.

(a) **Role and Mission.** A multi-institution Teaching Center is an "off-campus educational unit" or "auxiliary location" administered under a formal agreement between two or more public higher education institutions. It may also involve one or more private institution partners. It exists for the purpose of providing credit instruction from several "parent institutions" in a common geographic setting. With prior approval, degree programs may also be offered by and in the name of the parent institution. A teaching center is not a separate general academic institution and does not have independence regarding academic, administrative, or fiscal matters.

(b) **Implementation.** The Coordinating Board must give formal approval of a Multi-institution Teaching Center before it may be initiated. Board approval is required whether the center operates as an "off-campus educational unit" or as an "auxiliary location." The Commissioner of Higher Education does not have authority to designate a Multi-institution Teaching Center as an auxiliary location. Board approval will be considered only after it receives a proposal and contract of agreement submitted jointly

by the governing boards of the parent institutions seeking authority to offer instruction at the common location.

(c) **Authority.** If the teaching center is approved as an "off-campus educational unit," courses and programs must be offered by more than one institution at the site under Board rules for off-campus sites. Such a jointly administered off-campus site will generally be required to operate successfully for two years before the Board will consider designating it as an auxiliary location. Institutions may petition the Board to designate a teaching center as an auxiliary location. Designation as an auxiliary location must be made by action of the Coordinating Board based on submission of a proposal and contract of agreement submitted jointly by the governing boards of the parent institutions seeking authority to offer instruction at the common location. The Board may designate the site as an auxiliary location if there is clear evidence that the course offerings will be of high quality, enrollment projections demonstrate a sufficient on-going student demand, and there is assurance of adequate financing and facilities. If such designation is authorized, the Board will conduct regular evaluation and oversight of all activities at the site. In the event that the Board determines at any time that any of the above provisions are not satisfied, the teaching center will be subject to the rules and regulations for off-campus sites for a minimum of two years before the site could again be considered as an auxiliary location. Each parent institution may offer associate, baccalaureate and/or master's degree programs at the teaching center provided that it first receives approval by the Coordinating Board and the Southern Association of Colleges and Schools for the delivery of each degree program at the site. No program may be offered at a teaching center that does not have prior approval to be offered at the parent institution.

(d) **Center Name.** The name to be used for a multi-institution teaching center must be approved by the Coordinating Board, and may not be changed without prior Coordinating Board approval.

(e) **Course Approval.** Courses previously approved for a parent institution may be offered at the teaching center without prior Coordinating Board approval, with the following restrictions.

(1) Courses offered at the teaching center must be reported separately. Most courses are expected to lead to the fulfillment of requirements for degrees, but a limited number of special-need courses may be offered.

(2) Courses must meet the same standards as comparable courses offered at the parent institution.

(3) Courses proposed to be offered at the teaching center but not at the parent institution must have prior approval by the Coordinating Board.

(4) All students seeking to enroll in courses offered at a teaching center must be admitted by the same procedures and under the same standards applicable to students enrolled at the parent institution.

(5) Student records must distinguish between courses taken at the center and at the parent institution.

(f) **Degree Program Approval.** Requests to offer degree programs at a teaching center must be based upon careful surveys of need and the availability of qualified faculty and other resources. They may be approved subject to the following restrictions.

(1) All students seeking to enroll in programs offered at a teaching center must be admitted by the same procedures and under the same standards applicable to students enrolled at the parent institution.

(2) Programs must be administered and evaluated by the same office or person administering the same program at the parent institution.

(3) Doctoral degree programs will not be authorized to be offered at a multi-institution teaching center.

(4) Facilities, including lecture halls and laboratories, at teaching centers must be equivalent to or better than the facilities available on the corresponding parent institutions. A proposed program may be offered at a teaching center only after the responsible administrator certifies to the adequacy of laboratory and computer resources and classroom facilities.

(5) Students must have parent institution library privileges and have library resources adequate for the courses or programs offered and convenient for use at the teaching center. A course or program may be offered at the teaching center only after the responsible administrator certifies that adequate library resources are available.

(6) The majority of faculty members at a teaching center must, by some means, have prior or continuing significant annual involvement at the parent institution in order to qualify to teach one or more courses at the teaching center. A part-time faculty member employed to teach a course at the teaching center could meet the requirement for continuing involvement by teaching a course annually at the parent institution prior to or concurrently with the assigned teaching center course. A limited number of instructors who do not satisfy the continuing involvement standard may teach credit courses at the teaching center with

prior Coordinating Board approval. Whether full-time or part-time, an instructor at the teaching center must hold membership on the faculty of the parent institution. Faculty members teaching graduate courses at the teaching center must also hold membership on the graduate faculty of the parent institution, if applicable.

(7) The teaching format (including syllabus, student-teacher ratio, student-to-student and student-to-professor interaction) must be comparable to the format used for parent institution instruction, as certified by the responsible administrator. Faculty contact hours with the classes must be equivalent to those of the same course when taught at the parent institution. Teaching of a class at the teaching center must be done by the faculty member of record for the course.

(g) Administration and Staffing. A multi-institution teaching center must be under the direct joint-management and control of the parent institutions. The parent institutions must provide sufficient personnel to insure effective instructional administration and to provide appropriate student services, and with prior approval by the Coordinating Board may contract for joint services and/or third-party management of the teaching center.

(h) Discontinuance. Recognition of a multi-institution teaching center may be withdrawn by the Board.

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

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For further information, please call: (512) 483-6160



Chapter 9. Public Junior Colleges

Subchapter E. Operational Provisions

• 19 TAC §9.103

The Texas Higher Education Coordinating Board adopts an amendment to §9.103, concerning Operational Provisions (Reporting for State Reimbursement), with changes to the proposed text as published in the March 15, 1994, issue of the *Texas Register* (19 TexReg 1732).

The amendment is necessary to eliminate an inconsistency in the Community and Technical Colleges Reporting and Procedures Manual and in Chapter 9 of the Texas Higher Education Coordinating Board rules and regulations that was noted during the junior college audit for reporting of "classes that meet other than 16 or 6 week terms." The change is made to correct the discrepancy. Clarity is provided for reporting of classes that meet other than 16 or 6 week terms. The official census date for reporting of classes less than 5 weeks is the third class meeting.

The rule functions by assuring colleges that our rules and regulations are consistent and unlikely to produce uncertainty and confusion regarding reporting dates and efficiency standards for the agency.

No comments were received regarding adoption of the rule.

The amendment is proposed under Texas Education Code, §81.061 and §81.065, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Operational Provisions (Reporting for State Reimbursement).

§9.103. Reporting for State Reimbursement.

(a) Class enrollments shall be reported on the CBM-004 for all students enrolled at the reporting institution in Coordinating Board approved semester-length courses (for which semester credit hours are awarded). Enrollment shall be reported as of the official census date prescribed in the current edition of the educational data reporting system for public community and technical colleges. On or before the official census date, each student eligible for inclusion shall have paid in full the amount set as tuition and fees by the respective governing board (or, where applicable, have a valid accounts receivable on record) and shall be eligible for a refund of tuition and mandatory fees according to the schedule prescribed in paragraphs (1) and (2) of this subsection.

(1) Students who officially withdraw from the institution will have their tuition and mandatory fees refunded according to the following schedule.

| FALL AND SPRING SEMESTERS | |
|---|------|
| Prior to the first class day | 100% |
| Between the first and the fifth class day | 80% |
| Between the sixth and the tenth class day | 70% |
| Between the eleventh and the fifteenth class day | 50% |
| Between the sixteenth and the twentieth class day | 25% |
| After the twentieth class day | None |

| SUMMER SEMESTERS | |
|--|------|
| Prior to the first class day | 100% |
| During the first, second, or third class day | 80% |
| During the fourth, fifth, or sixth class day | 50% |
| After the sixth class day | None |

(B) A public community/junior college may assess up to \$15 as a matriculation fee if the student withdraws from the institution before the first day of classes.

(C) Students who drop a course or courses and remain enrolled at the institution will have their tuition and mandatory fees refunded for those courses according to the following schedule:

(A) Separate refund schedules may be established for optional fees such as intercollegiate athletics, cultural entertainment, parking, yearbooks, etc.

REGULAR SESSION

During the first twelve class days
After the twelfth class day

100%
None

SUMMER SESSION

During the first four class days
After the fourth class day

100%
None

(2) Tuition and fees paid directly to the institution by a sponsor, donor or scholarship shall be refunded to the source rather than directly to the student.

(b) Class enrollments shall be reported on the CBM-00C for all students enrolled in courses approved for other than semester length reporting. Enrollments shall be reported as of the official census date prescribed in the current edition of the Educational Data Reporting Manual for Public Community and Technical Colleges. Students enrolled in classes with less than three scheduled meetings may be reported if in attendance at one scheduled meeting.

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

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For further information, please call: (512) 483-6160



Chapter 21. Student Services

Subchapter J. The Physician
Education Loan Repayment
Program

• 19 TAC §21.258, §21.261

The Texas Higher Education Coordinating Board adopts amendments to §21.258 and §21.261, concerning The Physician Education Loan Repayment Program. Section 21.258 is adopted with changes to the proposed text as published in the March 15, 1994 issue of the *Texas Register* (19 TexReg 1733). Section 21.261 is adopted without changes and will not be republished.

The rules better clarify the eligibility of program applicants provide better guidance to persons interested in participating in the program

No comments were received regarding adoption of the rules

The amendments are proposed under Texas Education Code, §§61.531, 61.532, and 61.537, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning the Physician Education Loan Repayment Program.

§21.258. *Eligible Physician.* An eligible physician is one who:

(1) is licensed to practice medicine in Texas by the Texas State Board of Medical Examiners and against whom no professional disciplinary action has been taken; and, except in the case of general practitioners:

(2) has satisfactorily completed a post-graduate program approved by the Texas State Board of Medical Examiners and accredited by the Accreditation Council on Graduate Medical Education or the American Osteopathic Association or has earned and maintained certification from an American Specialty Board that is a member of the American Board of Medical Specialties or the Advisory Board of Osteopathic Specialties in one of the following primary care or other specialties:

(A) in the state-funded program, family practice, osteopathic general practice, obstetrics/gynecology, general internal medicine, general pediatrics, emergency medicine, general surgery, and psychiatry; or

(B) in the federally funded (expanded) program, practice specialties named by the U.S. Secretary of Health and Human Services for purposes of this program.

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

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Subchapter DD. Minority Doctoral Incentive Program

• 19 TAC §§21.970-21.983

The Texas Higher Education Coordinating Board adopts new §21.970-§21.983, concerning the Minority Doctoral Incentive Program, with changes to the proposed text as published in the December 14, 1993, issue of the *Texas Register* (18 TexReg 9255).

The new rules are required by passage of Senate Bill 233 by the 73rd Legislature. The rules establish the minority doctoral incentive program and provide for its operation.

As funds become available, eligible students will be able to further their education and then teach in Texas institutions of higher education.

Comments were received regarding the definition of a minority; definition of a board-approved program and the use of the word "allopathic."

Comments were received from Texas Osteopathic Association; Independent College and Universities of Texas; and individuals.

The agency agreed with the comments received and changed the final version of the rules to reflect the concerns of those who commented.

The new sections are adopted under Texas Education Code, §56.162, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning the Minority Doctoral Incentive Program.

§21.970. *Purpose.* The purpose of the Minority Doctoral Incentive Program is to increase the number of minority students pursuing doctoral degrees and to increase minority representation among the faculty and academic administrators in public and independent institutions of higher education in Texas.

§21.971. *Administration.* The Texas Higher Education Coordinating Board, or its successor or successors, shall administer the Minority Doctoral Incentive Program

§21.972. *Delegation of Powers and Duties.* The Board delegates to the commissioner of higher education the powers, duties, and functions authorized by the Texas Education Code, Subchapter J, Chapter 5.

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

Academic Administrator—a person employed in an educational department of an institution of higher education in a supervisory position that is not classified under the state position classification plan.

Board—the Texas Higher Education Coordinating Board.

Board-Approved Program—For purposes of this Minority Doctoral Incentive Program only, a Board-approved graduate or professional degree program shall include appropriately-accredited programs offered through both public and independent institutions of higher education, as defined in the Texas Education Code, §61.003.

Commissioner—the commissioner of higher education, the chief executive officer of the Board.

Faculty Member—as defined in the Education Code, §51.101.

Full-time enrollment—as defined by the eligible institution of higher education.

Fund—the Minority Doctoral Incentive Program fund

Institution of Higher Education—any public or private institution of higher education, as defined in the Texas Education Code, §61.003 and §61.302(2), that is located in Texas and is accredited by a recognized accrediting agency, as defined in the Texas Education Code, §61.003.

Mentor—a designated faculty member in the program in which an eligible doctoral student is enrolled.

Minority—a member of an ethnic group which is significantly underrepresented in an academic discipline, as determined by the Commissioner.

Program—the Minority Doctoral Incentive Program.

Resident of Texas—a bona fide Texas resident as defined in the Texas Education Code, Chapter 54, Subchapter B, Sections 54.052, 54.054, and 54.055.

§21.974. *Eligible Doctoral Student.* An eligible doctoral student is one whose intent is to earn the doctor of philosophy degree and who:

(1) is a minority as defined in §21.973 of this title (relating to Definitions);

(2) is a bona fide resident of Texas; or

(3) is a resident of a state having a program similar to this program. Eligible nonresidents shall qualify to pay the same tuition as do Texas residents.

§21.975. *Eligible Lender or Holder.* The board shall retain the right of determining

eligibility of lenders and holders of education loans to which payments may be made under provisions of this program. An eligible lender or holder shall, in general, make or hold education loans made to individuals for purposes of attending postsecondary institutions and shall not be any private individual. An eligible lender or holder may be, but is not limited to, the board, a bank, savings and loan association, credit union, institution of higher education, secondary student loan market, governmental agency, pension fund, private foundation, or insurance company provided the education loan conforms to the definition of an eligible education loan described in this subchapter. A lender or holder must be willing to abide by the provisions of the law and rules of this program to be considered eligible

§21.976. *Eligible Education Loan.* An eligible loan is any loan made to an eligible student for educational purposes at the graduate or professional level that:

(1) is not made to oneself from one's own insurance policy, pension plan or from the private funds, insurance policy, or pension plan of a spouse or other relative;

(2) is obtained in pursuit of the doctor of philosophy degree or a master's degree with a demonstrated commitment to pursue a doctorate degree;

(3) is made to cover reasonable expenses related to attendance in the program;

(4) is made during one year of an academic course of study that does not exceed four consecutive years or is among other eligible education loans made for an academic course of study that does not exceed four consecutive years,

(5) does not exceed \$14,000 during a 12-month period;

(6) other than the service obligation of a forgiveness loan from the fund, does not entail a service obligation;

(7) will not be repaid through a similar program administered by the federal government, another state or territory of the United States, or by a foreign country;

(8) is made at simple interest;

(9) is evidenced by a promissory note providing for repayment of principal, interest, and any collections charges,

(10) is made for the fall semester 1994 or after;

(11) is made from the fund or by an eligible lender; and

(12) is an education loan for which payments are not more than 90 days past due at the time the program begins making payments on behalf of a qualified borrower.

§21.977. *Responsibilities of Institution of Higher Education Personnel*

(a) The president of the institution authorizes appropriate deans of the graduate or professional schools in which eligible doctoral students are enrolled to

(1) nominate eligible doctoral students for participation in the program based upon academic achievement, career interest, and other relevant factors the institution considers important,

(2) name a mentor for each nominated student, and

(3) complete a portion of the doctoral student's application for the program

(b) A mentor named by the appropriate dean agrees to:

(1) inform the eligible doctoral student in writing of his role as mentor;

(2) sponsor the eligible doctoral student; and

(3) assist the student in pursuing a master's or doctor's degree

(c) The president of the institution designates the student financial aid director of the institution as the Minority Doctoral Incentive Program Officer who shall

(1) complete the financial portion of the doctoral student's application for the program;

(2) be the board's on-campus agent to certify all institutional transactions and activities with respect to the program funds; and

(3) be responsible for all records and reports reflecting the transactions with respect to the program funds.

§21.978. *Qualifications for Participation in the Program.* An eligible doctoral student must:

(1) indicate intent to earn the doctor of philosophy,

(2) be nominated to participate in this program by the dean of the graduate or professional school offering the course of study leading to the doctorate,

(3) have a mentor in the doctoral program or in the masters program leading to the doctor of philosophy degree,

(4) be accepted for full-time enrollment or be enrolled full-time in a board-approved graduate or professional degree program leading to the doctor of philosophy degree or be accepted for full-time enrollment or enrolled full-time in a board-approved master's degree program leading to the doctor of philosophy degree.

(5) not have defaulted on any education loan; and

(6) have submitted to the board a properly completed application/promissory note:

(A) for participation in the program;

(B) for a loan or loans made from the fund; or

(C) if the loan is not made from the fund, for a conditional guarantee of loan repayment.

§21.979. Priority of Application Acceptance. Acceptance of applicants by the board will depend upon the availability of funds. Residents of Texas will receive priority in acceptance over residents from other states having programs similar to this program. The Commissioner will provide for the review, evaluation, and approval of applications for the program based on degree of under-representation in an academic field.

§21.980. Responsibilities and Liabilities of the Eligible Doctoral Student.

(a) A conditional guarantee of repayment from the fund does not release an eligible doctoral student at any time from the responsibilities and liabilities as a borrower under terms of the promissory notes of any eligible education loans received.

(b) If at any time and for any reason an otherwise eligible doctoral student ceases to be enrolled full-time in a master's degree program leading to the doctorate or a doctoral program at an eligible institution of higher education before earning the doctorate, a conditional guarantee of repayment from the fund becomes null and void.

(c) The borrower is responsible for any late fees assessed at any time on any eligible loans.

(d) The borrower is responsible for reporting to the Board any status change affecting eligibility for participation in this program.

(e) Any eligible doctoral student who receives a forgiveness loan from the fund is bound by the conditions of the promissory note and service obligation of that program as a borrower.

§21.981. Forgiveness of Education Loans. If a borrower earns the doctor of philosophy degree or its equivalent and serves as an academic administrator or a faculty member at a Texas institution of higher education, loans made by the board

from program funds may be forgiven. The board will forgive eligible education loans made through the program at the rate of one-fifth of the outstanding principal balance and interest for each year of service, not to exceed five years.

§21.982. Guarantee of Payment of Education Loans.

(a) If a borrower earns the doctor of philosophy degree and serves as an academic administrator or a faculty member at an institution of higher education in Texas, the program will repay from the fund eligible education loans through eligible lenders or holders of those loans at the rate of one-fifth of the outstanding principal balance and interest for each year of service, not to exceed five years.

(b) If the borrower enters a post-doctoral fellowship no later than the first day of the seventh month after the borrower ceases to be enrolled full-time, the lender or holder, as agreed upon, shall provide an in-school deferment of payments or forbearance until the borrower completes the post-doctoral fellowship and begins serving as an academic administrator or faculty member at an institution of higher education in Texas. The period of deferment or forbearance may not exceed two years.

(c) A conditional guarantee of repayment of an eligible education loan shall be provided to an eligible doctoral student and to any eligible lender stating that:

(1) the board will repay from the fund any eligible education loan incurred by the eligible doctoral student at the rate of one-fifth of the outstanding principal and interest for each full year of service as an academic administrator or faculty member at an institution of higher education in Texas; and

(2) an eligible education loan becomes due and payable by the borrower to the eligible lender on the first day of the seventh month after the borrower ceases to be enrolled full-time at an institution of higher education and is not serving as an academic administrator or faculty member at an institution of higher education in Texas or on the day after the borrower ceases to serve as an academic administrator or faculty member at an institution of higher education in Texas and has outstanding principal and interest on eligible education loans.

§21.983. Repayment of Education Loans.

(a) If, no later than the first day of the seventh month after the borrower drops below full-time study, unless the loan note provides for a longer grace period, the borrower has not earned the doctor of philosophy degree and is not serving as an

academic administrator or a faculty member at an institution of higher education in Texas, the borrower must begin repaying eligible education loans to the holders of the loan notes.

(b) With the exception that any outstanding principal and interest remaining on eligible loans becomes due and payable by the borrower to the eligible lender on the day after the borrower ceases to serve as an academic administrator or faculty member at an institution of higher education in Texas, the beginning of repayment, the minimum repayment amount, and the period of the eligible education loans are determined by the notes signed by the borrower.

(c) Authorized deferments and periods of forbearance depend upon the provisions of the education loan notes and the discretion of the lenders or holders of the loan notes.

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

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For further information, please call: (512) 483-6160

Chapter 25. Retirement Annuity Programs

Subchapter A. Retirement Annuity Programs

• 19 TAC §§25.3, 25.5, 25.7

The Texas Higher Education Coordinating Board adopts amendments to §§25.3, 25.5, and 25.7, concerning Retirement Annuity Programs. Section 25.3 is adopted with changes to the proposed text as published in the March 15, 1994, issue of the *Texas Register* (19 TexReg 1732). Section 25.5 and §25.7 are adopted without changes and will not be republished.

The new rules are necessary to promote uniformity in the administration of the Optional Retirement Program (ORP) by Texas public institutions of higher education. The changes are being made in response to questions received from institutional ORP administrators. The clarifications will provide for a better understanding of the program. The technical correction will correct a reference in the rules to a chapter in the Texas Government Code. The new subsection clarifies the procedure for returning the employer contribution when

an ORP participant terminates employment prior to vesting. It also adds a specific timeframe, which may provide for a speedier return of those funds to the originating fund.

Comments were received requesting an increase in the amount of time for the institutions to request refunds from the carriers; guidance for handling a return of employer contribution that was made in error; and a reasonable waiting period for determining whether a participant has terminated all employment in Texas public higher education. In addition, an oral comment was received suggesting the substitution of "alternate payee" for "ex-spouse" because the former term is used in the applicable statute (Chapter 804, Texas Government Code) and may include alternate payees other than the ex-spouse (e. g. dependent child).

Comments were received from the University of North Texas and the Texas A&M University System.

The agency agreed with these comments and made changes to §25.3(o) and (n) to incorporate these suggestions.

The amendment is proposed under Texas Education Code, §61.061 and §61.065, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Operational Provisions (Reporting for State Reimbursement).

§25.3. ORP Standards.

(a)-(h) (No change.)

(i) An ORP participant who has not satisfied the vesting requirements in subsection (a) of this section and becomes employed in an institution of higher education in Texas in a position not eligible for the ORP shall be required to return to membership in the TRS for the remainder of his or her employment in Texas public higher education.

(j) An individual terminates participation in the ORP only upon death, retirement (including disability retirement), or termination of employment in all public institutions of higher education in Texas. A change of company providing ORP benefits or a participant's transfer between institutions of higher education is not a termination of employment.

(k)-(m) (No change.)

(n) Contracts issued under the ORP shall include a provision that the ORP carrier is responsible for qualifying domestic relations orders and paying benefits in accordance with Government Code, Title 8, Chapter 804. The portion of the participant's account that is awarded to the alternate payee shall be segregated to a separate account. The alternate payee shall have the same authority to direct the investment of the funds in that separate account as did the participant prior to the domestic relations order. The alternate payee shall also have the authority to transfer the funds to any other company.

(o) If a participant terminates employment prior to satisfying the vesting requirements in subsection (a) of this section and does not resume participation in Texas ORP within 90 days of such termination, the employer contribution remitted for that participant must be returned to the originating fund. The institution must send a request to the ORP carrier for a return of the employer contribution within 90 days of a non-vested participant's termination from all public institutions of higher education in Texas. Within 30 days of receiving the institution's request, the carrier must process a reimbursement and send notification of the transaction to the employee. The institution must deposit the reimbursed amount in the originating fund immediately upon receipt. If it is determined that an employer contribution has been returned to the originating fund in error because the participant did, in fact, return to employment in Texas ORP within 90 days of termination, the institution must immediately return the reimbursed amount to the carrier for deposit in the participant's account.

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

Issued in Austin, Texas, on May 25, 1994.

TRD-9441432

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Effective date: June 16, 1994

Proposal publication date: March 15, 1994

For further information, please call: (512) 483-6160

Part II. Texas Education Agency

Chapter 75. Curriculum

Subchapter H. Promotion and Alternatives to Social Promotion

• 19 TAC §75.197

The Texas Education Agency (TEA) adopts new §75.197, concerning the Texas Advanced Placement (AP) Incentive Program, with changes to the proposed text as published in the March 1, 1994, issue of the *Texas Register* (19 TexReg 1433).

Passed by the 73rd Texas Legislature, the program rewards students, teachers, and campuses for performance on the College Board AP examinations. The new rule outlines the available awards.

The change in subsection (f)(4) clarifies that the commissioner of education will determine the date for filing applications for reimbursements under this rule.

No public comments have been received regarding adoption of the new rule.

The new rule is adopted under the Texas Education Code, Chapter 35, which authorizes the State Board of Education to promulgate rules regarding the Texas AP Incentive Program.

§75.197. Texas Advanced Placement Incentive Program.

(a) The Texas advanced placement incentive program is created to recognize and reward students, teachers, and schools that demonstrate success in achieving the educational goals of the state. Awards and subsidies granted under this section are for the public purpose of promoting an educated citizenry.

(b) Types of awards.

(1) A school participating in the program shall be eligible to receive the following awards:

(A) a one-time \$3,000 equipment grant for providing a college advanced placement course, based on need as determined by the commissioner; and

(B) \$100 for each student who receives a score of three or better on a college advanced placement test.

(2) A teacher who teaches a college advanced placement course shall be eligible to receive the following awards:

(A) a subsidy of up to \$450 per teacher for teacher training for college advanced placement courses;

(B) a one-time award of \$250 for teaching a college advanced placement course for the first time; and

(C) a share of the teacher bonus pool proportional to the number of courses taught that shall be distributed by the teacher's school. Fifty dollars may be deposited in the teacher bonus pool for each student enrolled in the school who scores a three or better on a college advanced placement test.

(3) A student who receives a score of three or better on a college advanced placement test may receive a reimbursement of up to \$65 for the advanced placement testing fee. This reimbursement shall be reduced by the amount of any subsidies awarded either by the College Board or under subsection (e) of this section.

(c) Award adjustment. The commissioner of education shall adjust and prorate by category the sum and number of

awards to ensure the purpose of the program is realized.

(d) Application for and use of awards.

(1) To obtain an award, a school or teacher must submit to the State Board of Education (SBOE) a written application in a form, manner, and time prescribed by the commissioner. The intended recipient of the award must submit the application.

(2) Schools shall give priority to academic enhancement purposes in using the awards received under this section. The awards may not be used for any purpose relating to athletics.

(e) Subsidies for College Board advanced placement tests.

(1) A student is entitled to a subsidy for the fee he or she pays to take a college advanced placement test if the student demonstrates financial need according to guidelines adopted by the College Board.

(2) The Texas Education Agency (TEA), with SBOE approval, may pay all eligible applicants an equal amount of up to \$25 for each applicant.

(f) Funding of awards and subsidies.

(1) All awards and subsidies granted under this section are subject to the availability of funds. Awards and subsidies may be funded by donations, grants, or legislative appropriations.

(2) The commissioner may solicit and receive grants and donations for the purpose of making awards under this section. The TEA shall account for and distribute donations, grants, or legislative appropriations.

(3) The TEA shall apply to the program any available funds from its appropriations that may be used for this purpose.

(4) Applications for funding may be filed with the agency at a date determined by the commissioner.

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

Issued in Austin, Texas, on May 25, 1994.

TRD-9441387
Cris Cloudt
Associate Commissioner,
Policy Planning and
Evaluation
Texas Education Agency

Effective date: June 15, 1994

Proposal publication date: March 1, 1994

For further information, please call: (512) 463-9701



Chapter 89. Adaptations for Special Populations

Subchapter G. Special Education

Clarification of Provisions in Federal Regulations and State Law

• 19 TAC §89.221, §89.224

The Texas Education Agency (TEA) adopts amendments to §89.221 and §89.224, concerning special education. Section 89.221 is adopted with changes to the proposed text as published in the April 12, 1994, issue of the *Texas Register* (19 TexReg 2587). Section 89.224 is adopted without changes and will not be republished.

The amendments are necessary to comply with the Individuals with Disabilities Education ACT (IDEA), the Texas State Plan for IDEA, legislation passed by the 73rd Legislature, and changes in State Board of Education policy concerning the use of nationally certified school psychologists.

The amendments increase the involvement of regular education teachers in developing and implementing the individual educational plans (IEPs) for students with disabilities who receive specialized support and supplemental aids and services in regular education. The amendments also require districts to have procedures that ensure regular and special education teachers can request assistance with implementation of, or request further consideration of, a student's IEP.

The change in §89.221(h)(2)(B) corrects a typographical error by replacing the word "aide" with the word "aids."

No public comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Education Code, §21.501, which authorizes the State Board of Education to develop and modify as necessary a statewide design for delivering services to handicapped children in Texas that includes rules for administering and funding the special education program.

§89.221. *The Admission, Review, and Dismissal (ARD) Committee.*

(a)-(g) (No change.)

(h) Persons other than those listed in this subsection may be present at, and participate in, ARD committee meetings at the discretion of the school district, the parent, or the student; however, the committee shall include, under the circumstances described in this section, only the following members in determining its actions:

(1) (No change.)

(2) representatives from instruction shall always be included. These representatives will include:

(A) the student's current special education teacher; and/or

(B) at least one appropriate regular classroom teacher for those students expected to receive their specialized support, supplemental aids and services in regular education;

(3)-(10) (No change.)

(i)-(j) (No change.)

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

Issued in Austin, Texas, on May 25, 1994.

TRD-9441388
Cris Cloudt
Associate Commissioner,
Policy Planning and
Evaluation
Texas Education Agency

Effective date: June 15, 1994

Proposal publication date: April 12, 1994

For further information, please call: (512) 463-9701



• 19 TAC §89.239

The Texas Education Agency (TEA) adopts an amendment to §89.239, concerning programs between school districts and the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf that provide specialized services to students with visual or auditory handicaps, without changes to the proposed text as published in the March 1, 1994, issue of the *Texas Register* (19 TexReg 1434).

The amendment repeals subsection (c)(3). The Attorney General issued an opinion that this subsection, which would allow TEA to withhold funds from a school district's share of the Available School Fund to satisfy a district's debt to the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf, exceeds the authority of the State Board of Education (SBOE).

The Legislative Budget Board commented on legislative intent and encouraged a process by which affected districts pay the schools directly.

The amendment is adopted under the Texas Education Code, §21.507, which authorizes SBOE to implement statutory requirements concerning support of students referred to the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf.

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

Issued in Austin, Texas, on May 25, 1994.

TRD-9441389
Cris Cloudt
Associate Commissioner,
Policy Planning and
Evaluation
Texas Education Agency

Effective date: June 15, 1994

Proposal publication date: March 1, 1994

For further information, please call: (512) 463-9701

Chapter 97. Planning and Accreditation

• 19 TAC §§97.1-97.9

The Texas Education Agency (TEA) adopts amendments to §§97.1-97.3 and new §§97.4-97.9, concerning requirements and procedures for school accreditation. The amendments to §97.2 and §97.3 and new §§97.4-97.8 are adopted with changes to the proposed text as published in the January 18, 1994, issue of the *Texas Register* (19 TexReg 334). The amendment to §97.1 and new §97.9 are adopted without changes and will not be republished.

The amendments and new rules are necessary to comply with Senate Bill 7, 73rd Legislature. They implement legislative changes to the accreditation process in the following areas: accreditation ratings assigned to districts; emphasis placed on the performance of individual campuses and attendant intervention strategies; and scheduling on-site accreditation peer reviews.

As a result of these changes, TEA is reorganizing Chapter 97. Old §§97. 4-97.6, which are proposed for repeal in a separate submission, are amended and renumbered here as §97.5, §97.6, and §97.9, respectively.

Changes to the proposed amendments and new rules clarify criteria for accreditation ratings and special investigations and alter the campus accreditation reporting process. Other changes clarify the indicators and criteria related to the effectiveness of the local board of trustees' governance and management of the operations of the school district.

The following comments were received regarding adoption of the amendments and new rules.

Comment: Change the language in §97.2(b) and §97.3(1)-(4) to delete reference to additional criteria to be used for determining accreditation status other than academic excellence indicators.

Agency Response: The agency deleted language to conform with requirements of the accountability system and the use of the academic excellence indicators.

Comment: In §97.3, replace the phrase "... by the commissioner of education" with the phrase "... by rule."

Agency Response: The agency disagreed with the change. The original language provides for setting standards and criteria for the academic excellence indicators.

Comment: In §97.3(1), delete the phrase "... health and safety of all students are ensured ..."

Agency Response: The agency deleted language to conform with requirements of the accountability system and the use of the academic excellence indicators.

Comment: Change the language in §97.3(2) to indicate that a district could be accredited with recognized status as long as there are no campuses rated as low performing.

Agency Response: The agency agreed with the change and altered the language to conform with requirements of the accountability system.

Comment: In §97.4(3), replace the phrase "... clearly unacceptable ..." with the phrase "... low performing ..."

Agency Response: The agency agreed with the change and altered the language to conform with requirements of the accountability system.

Comment: Delete gender as an indicator in the disaggregation of data used for accreditation purposes.

Agency Response: The agency disagreed with the change. Gender is included as an indicator in Senate Bill 7; however, it has not been disaggregated for use in the accountability system.

Comment: One commentator requested that §97.5(c)(1)-(21) be deleted or revised, while another requested the paragraphs remain unchanged. A third commentator requested that criteria for use in "regular" investigations be deleted.

Agency Response: The agency deleted paragraphs (1)-(18); added a new paragraph (1); and revised paragraphs (19)-(21) and renumbered them as new paragraphs (2)-(4). New paragraph (1) refers to special investigations related to effectiveness of the district's ability to discharge its responsibilities related to state and federal compliance requirements. The agency also agreed to delete reference to the use of criteria in "regular" investigations.

Comment: Revise the language of §97.5(c)(4) and add specific indicators related to the criteria for the effectiveness of the local board of trustees.

Agency Response: The agency agreed with the comment and included the indicators.

Comment: In §97.6(a), (c), and (d), clarify the use of additional criteria in determining accreditation status.

Agency Response: The agency changed the language in subsection (a) to state that status may be adjusted based on compliance with laws, rules, and court orders. The agency deleted language in subsection (c) related to additional criteria. The agency added language in subsection (d) to include effectiveness of site-based decision making and planning for low performing campuses in the on-site review process.

Comment: In §97.6, add language for on-site visits in response to high accreditation ratings.

Agency Response: The agency disagreed with the change because visits to high performing campuses are an option without rule changes.

Comment: In §97.6(g), commentator requested notification before any special accreditation investigation.

Agency Response: The agency changed the language for notification at least six weeks before a regularly scheduled accreditation peer-review visit.

Comment: In §97.6(i) and (j), commentator requested revisions to documents before they become public.

Agency Response: The agency revised the language. Note that §97.8 describes the reporting and appeal process. Reports are public documents subject to the Texas Open Records Act.

Comment: In §97.8, add language related to clarification of responsibilities at the local level for the appeal process.

Agency Response: The agency disagreed with the change because local decisions are based on district policy.

Comments were received from the Texas Association of School Boards, the Association of Texas Professional Educators, and the Texas Association of School Administrators.

The amendments and new rules are adopted under the Texas Education Code, §35.062, which authorizes the State Board of Education to adopt rules for the accreditation of school districts.

§97.2. Accreditation Required.

(a) Each school district must be accredited by the Central Education Agency.

(b) The accreditation of a school district is based primarily on its overall performance by all student populations and on the performance of each of its individual campuses as demonstrated on state adopted academic excellence indicators and other indicators of student performance.

(c) Accreditation by a voluntary association is a local option of the district, but it does not substitute for accreditation by the Central Education Agency.

§97.3. *Types of Accreditation Status.* The specific procedures for determining accreditation status based on performance measures will be established by the commissioner of education. The types of status districts may receive are as follows.

(1) Exemplary. In accordance with the established procedures, a district may be classified as exemplary if there is evidence of sustained performance at or above the established criteria by all student populations on all academic excellence indicators for which performance data are available and criteria have been established.

(A) The performance results reported on each of the academic excellence indicators for all student populations shall be the primary consideration of exemplary status.

(B) A district may retain its exemplary status unless it fails to maintain exemplary standards established by the commissioner of education.

(2) **Recognized.** In accordance with the established procedures, a district may be classified as recognized if there is evidence of required levels of performance on all academic excellence indicators for which performance data are available and criteria have been established for all student populations.

(A) The performance results reported on each of the academic excellence indicators for all student populations shall be the primary consideration of recognized status.

(B) A district may retain its recognized status unless it fails to maintain recognized standards established by the commissioner of education.

(3) **Accredited.** In accordance with the established procedures, a district shall be classified as accredited when it meets the standards of acceptable performance on all of the academic excellence indicators for which performance data are available and criteria have been established and maintains equity in achievement across all student populations.

(4) **Accredited, warned.** In accordance with the established procedures, a district shall be classified as accredited, warned when the district's students fail to achieve the standard of acceptable performance on the academic excellence indicators and substantial inequities in achievement exist among student populations.

§97.4. Types of Campus Performance Ratings. The specific procedures for determining campus performance ratings, based on overall performance by all student populations as demonstrated on state adopted academic excellence indicators and other indicators of student performance, will be established by the commissioner of education. Additional criteria will be established by the commissioner of education for special campuses which serve unique populations and/or provide alternative education programs. The types of performance ratings campuses may receive are as follows.

(1) **Exemplary.** In accordance with the established procedures, campuses must meet the same standards in respect to each of the designated academic excellence indicators that apply to the district level and are set forth for district exemplary status.

(2) **Recognized.** In accordance with the established procedures, campuses must meet the same standards in respect to

each of the designated academic excellence indicators that apply to the district and are set forth for district recognized status.

(3) **Acceptable.** In accordance with the established criteria, campuses are rated as acceptable as long as they maintain performance that is above the low performing level set by the commissioner and do not otherwise qualify as exemplary or recognized.

(4) **Low Performing.** In accordance with the established procedures, campuses are rated as "low performing" if they fail to achieve the standard of acceptable performance on the academic excellence indicators and other student performance measures.

§97.5. Criteria for Accreditation.

(a) The academic excellence indicators stipulated in law and other performance indicators as adopted by the State Board of Education shall be the main consideration of the Central Education Agency in the rating of a district. Performance on the academic excellence indicators required by this section shall be used for the purposes of evaluation and accreditation. The indicators must be based on information that is disaggregated with respect to race, ethnicity, gender, and socioeconomic status. Use of the academic excellence indicators in the rating process shall include consideration of district and campus performance in relation to:

(1) standards established for each indicator;

(2) required improvement necessary to meet the state standards and for students to meet exit requirements as defined by the commissioner of education; and

(3) comparable improvement of the district and campus relative to a state profile developed from the total state student performance data base.

(b) District and campus planning and decision making toward improved student performance will be the primary consideration during the on-site peer review and include:

(1) recommendations for locally directed school restructuring initiatives and/or regional education service center technical assistance; and

(2) recommendations to the commissioner regarding the level of intervention measures that may need to be imposed in order to bring about the desired level of improvement.

(c) Among other criteria stipulated in law, the following criteria will be considered under special investigations by the

commissioner of education when deemed appropriate:

(1) effectiveness of the school district's ability to discharge its responsibilities related to civil rights, and state and federal compliance requirements and established regulations for school financial accounting requirements and school programs;

(2) the effectiveness of the district's plan for both site-based decision making and improved student performance;

(3) the effectiveness of the school district's ability to provide physical facilities that are safe and designed to meet the educational needs of all students in an environment conducive to learning; and

(4) the effectiveness of the school district's board of trustees governance and management of the operations of the district in accordance with the following indicators.

(A) The board of trustees adopts written policies and maintains compliance with its own policies, with state law, and with rules of the State Board of Education and the commissioner of education.

(B) The board of trustees respects the authority of the superintendent to manage the district in accordance with adopted school board policies, the superintendent's contract, and the duties established in the Texas Education Code, §13.351.

(C) The board of trustees develops and adopts policies for planning and accountability frameworks and for site-based decision making that reflect, at a minimum, statutory provisions.

§97.6. The Accreditation Process.

(a) For the purpose of issuing accreditation status and performance ratings, the agency shall annually review the performance of each school district and campus in the state on the indicators adopted under the Texas Education Code, §35.041. Accreditation status and performance ratings will be based on the district's performance and on the performance of the campuses within the district on the accreditation criteria as described in §97.5 of this title (relating to Criteria for Accreditation). However, the districts' accreditation status may be adjusted based on their history in respect to compliance with state and federal laws, State Board of Education rules, and applicable court orders. Based on standards established by the commissioner of education, districts will be assigned an appropriate accreditation status and campuses will be assigned an appropriate performance rating.

(b) A district's accreditation status may be raised or lowered based on the district's performance or may be lowered based on the unacceptable performance of one or more campuses in the district. The commissioner must review at least annually the performance of a district for which the accreditation rating has been lowered due to unacceptable student performance and shall raise the rating of the district based on demonstrated improved student performance and other established criteria

(c) The commissioner shall establish the level of frequency of on-site visits, and the level of investigative review needed, dependent upon the district's or campus' performance as measured annually on the academic excellence indicators.

(d) If an annual review indicates low performance on one or more of the academic excellence indicators on one or more campuses in a district, the agency may conduct an on-site review to determine the extent to which the district is effectively planning to address the deficiencies cited in its low performing campus or campuses, as well as the effectiveness of the plan for site-based decision making

(e) The accreditation on-site review and intervention process shall normally be conducted by a select group of peers of professional district staff. Whenever practicable, the majority of the members of the accreditation review teams shall be composed of trained persons who have experience in school districts similar to the districts they are assigned to review as part of the accreditation review process. Agency staff will manage and facilitate the peer review process. The team will review, gather, and analyze data pertaining to student performance, district and campus planning and decision making, compliance, equity, governance, health, and safety. The team shall report its on-site visit findings to the commissioner. Agency staff will review all performance reports, compliance reports, other pertinent district records and findings of the review team, and the commissioner will determine the level of technical assistance or intervention necessary to improve student performance in respect to standards established by the commissioner of education.

(f) Districts that receive the status of accredited, warned, will be reviewed on-site at least annually to determine the level of oversight, technical assistance, and/or level of intervention required, and to monitor progress in respect to student performance, compliance, and other indicators of improvement

(g) The Central Education Agency shall give written notice to the superintendent and board of trustees of each district at least six weeks before a regularly scheduled accreditation peer review visit.

(h) The procedures followed during the on-site accreditation visits will be established by the commissioner of education and provided to the district along with the notice of visitation. The procedures shall include protocols for obtaining information from campus administrators, teachers, parents, and students.

(i) At the conclusion of a district's accreditation visit, the accreditation team shall orally report its preliminary findings to the superintendent and to the extent practicable: members of the board of trustees; members of the district-level committee as established in the Texas Education Code, §21.930; and others as deemed appropriate. A written report shall be sent to the district within 45 working days. The written report is a public document subject to the provisions of the Texas Open Records Act

(j) At the conclusion of the campus' visit, the peer intervention team shall orally report its preliminary findings to the campus principal and site-based decision making committee established under the Texas Education Code, §21.931, and to the extent practicable, members of the board of trustees, the superintendent, and others as deemed appropriate. A written report shall be sent to the district within 45 working days. The written report is a public document subject to the provisions of the Texas Open Records Act

§97.7. Special Investigations.

(a) Under certain circumstances, the commissioner of education may order a review team of Texas Education Agency (TEA) staff to conduct an on-site special investigation. The commissioner may raise or lower a school district's accreditation rating and may apply any sanction or intervention provided in statute as a result of the investigation. The commissioner may order the investigation under the following circumstances:

(1) when excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;

(2) when excessive numbers of allowable exemptions from the required state assessment are determined; or

(3) in response to a complaint submitted to the Central Education Agency regarding any of the following:

(A) alleged violations of civil rights or other requirements imposed on the state by federal law or court order;

(B) alleged violations of the accreditation criteria related to effective governance operations; or

(C) established compliance reviews of the district's fiscal management and financial accounting practices, state and federal program requirements, and State Board of Education (SBOE) rule.

(b) The commissioner shall determine separately the process for special investigative visits in each case.

(c) A written report shall be sent to the district within 30 working days after the investigation is complete. The written report is a public document subject to the provisions of the Texas Open Records Act

§97.8. The Appeal Process.

(a) The provisions of this section apply to §97.6 of this title (relating to The Accreditation Process) and §97.7 (relating to Special Investigations). Within 15 working days after receiving the accreditation or special investigation report, the school district may request resolution of any disagreement by submitting to agency staff a written response containing objections to the report. The district waives any objections not contained in the response. The time line may be extended under special circumstances, as determined by agency staff. Agency staff must respond within 15 working days after receiving the written response. If the objections are not resolved within 15 working days after the agency receives the district's objections, the district will be notified that it must choose between informal or formal resolution. The commissioner or the commissioner's designee shall review the report for informal or formal resolution, as described under the Administrative Procedures Act.

(b) At the next regularly scheduled board meeting, the school district board of trustees must review the complete written report as modified by any appeals.

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

Issued in Austin, Texas, on May 25, 1994.

TRD-9441390
Criss Cloutt
Associate Commissioner,
Policy Planning and
Evaluation
Texas Education Agency

Effective date June 15, 1994

Proposal publication date January 18, 1994

For further information, please call. (512) 463-9701

◆ ◆ ◆
• 19 TAC §§97.4-97.6

The Texas Education Agency (TEA) adopts the repeal of §§97.4-97.6, concerning requirements and procedures for school ac-

creditation, without changes to the proposed text as published in the January 18, 1994, issue of the *Texas Register* (19 TexReg 337).

In a separate submission, TEA is adopting amendments to several existing rules and several new rules in Chapter 97 to comply with Senate Bill 7, 73rd Legislature. As a result, the chapter is being reorganized, and §§97.4-97.6 are being renumbered as §97.5, §97.6, and §97.9, respectively. The repeals will allow a clearer, more concise statement of the rules relating to school accreditation.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Education Code, §35.062, which authorizes the State Board of Education to adopt rules for the accreditation of school districts.

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

Issued in Austin, Texas, on May 25, 1994

TRD-9441391 Criss Cloudt
Associate Commissioner,
Policy Planning and
Evaluation
Texas Education Agency

Effective date June 15, 1994

Proposal publication date January 18, 1994

For further information, please call (512) 463-9701

Chapter 175. Proprietary Schools and Veterans Education

Subchapter E. Minimum Standards for Operation of Texas Proprietary Schools

• 19 TAC §175.128

The Texas Education Agency (TEA) adopts an amendment to §175.128, concerning application fees and other charges for proprietary schools, without changes to the proposed text as published in the March 1, 1994, issue of the *Texas Register* (19 TexReg 1434).

The amendment is necessary to help support the regulation of proprietary schools. It increases the original and change of owner fees and the renewal certificate of approval fees paid by proprietary schools.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Education Code, §32.22, which authorizes the State Board of Education to adopt rules necessary to carry out the provisions of the Texas Proprietary School Act.

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

Issued in Austin, Texas, on May 25, 1994.

TRD-9441392 Criss Cloudt
Associate Commissioner,
Policy Planning and
Evaluation
Texas Education Agency

Effective date June 15, 1994

Proposal publication date March 1, 1994

For further information, please call (512) 463-9701

TITLE 22. EXAMINING BOARDS

Part XXI. Texas State Board of Examiners of Psychologists

Chapter 461. General Rulings

• 22 TAC §461.3

The Texas State Board of Examiners of Psychologists adopts an amendment to §461.3, concerning Violation of the Code of Ethics, without changes to the proposed text as published in the February 8, 1994, issue of the *Texas Register* (19 TexReg 858).

The amendment is necessary to clarify the Board's requirements that psychologist follow the professional ethics of the profession of psychology.

The amendment will clarify the Board's requirements that a psychologist follow the ethics of the profession of psychology to ensure that the public receives appropriate and ethics services.

No comments were received regarding adoption of the rule.

The amendment is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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

Issued in Austin, Texas, on May 26, 1994.

TRD-9441434 Rebecca E Forkner
Executive
Director/Investigation,
Compliance and
Enforcement Division
Manager
Texas State Board of
Examiners of
Psychologists

Effective date June 17, 1994

Proposal publication date February 8, 1994

For further information, please call: (512) 835-2036

Chapter 465. Rules of Practice

• 22 TAC §465.37

The Texas State Board of Examiners of Psychologists adopts new §465.37, concerning Provision of Psychological Services, without changes to the proposed text as published in the February 8, 1994, issue of the *Texas Register* (19 TexReg 861).

The new rule is necessary to clarify statutory requirements that only licensed psychologist and those persons under the supervision of a licensed psychologist may perform psychological services in the State of Texas.

The new rule will clarify statutory requirements so people know the legal restrictions on offering psychological services.

No comments were received regarding adoption of the rule.

The new rule is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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

Issued in Austin, Texas, on May 26, 1994.

TRD-9441435 Rebecca E Forkner
Executive
Director/Investigation,
Compliance and
Enforcement Division
Manager
Texas State Board of
Examiners of
Psychologists

Effective date June 17, 1994

Proposal publication date: February 8, 1994

For further information, please call: (512) 835-2036

Chapter 466. Procedure

• 22 TAC §§466.1-466.43

The Texas State Board of Examiners of Psychologists adopts new §§466.1-466.43, concerning Procedure. Sections 466.8, 466.31, and 466.39 are adopted with changes to the proposed text as published in the February 8, 1994, issue of the *Texas Register* (19 TexReg 862). Sections 466.1-466.7, 466.9-466.30, 466.32-466.38, and 466.40-466.43 are adopted without changes and will not be republished.

The new rules are necessary to more effectively regulate the practice of psychology, implement the requirements of Senate Bill 1424, 73rd Texas Legislature, and establish procedures for the orderly and efficient disposition of complaints before the Board.

The new rules will determine the qualifications of persons offering to perform psycho-

logical services and protect the public against exploitation and injury at the hands of the unqualified and unscrupulous.

One commenter stated that the proposed rules lacked a step-by-step description of the complaint process from initiation through final disposition of a complaint. One commenter stated that there is insufficient identification in §466.15(b) and §466.2 of the psychologist who may be appointed by the Chair to assist complaints review. One commenter stated that it is unclear as to the source of authority of the complaint reviewer in §466.15(c) to dispose of a complaint. One commenter stated that it is confusing to use the term "consulting psychologist" in §466.15(c); it would be better to use the term "appointed psychologist complaint reviewer". One commenter stated that §466.43 does not state the qualifications of the member of the Complaints Review Committee.

The Board also received comments regarding §466.39 and the Board's authority to review Proposals for Decision issued by the Administrative Law Judge at the State Office of Administrative Hearings.

Comments were received from Texas Psychological Association and individuals.

No comments were received in favor or against adoption of the rule.

The Board believes that the proposed rules clearly spell out the steps in the complaint process from initiation through final disposition of a complaint. It does not believe that §466.15(b) and §466.2 need to identify or define who the psychologist will be, as this would limit unreasonably and unnecessarily

the Board's flexibility and would presume knowledge of the unforeseeable. The source of authority of the consulting psychologist in §466.15(c) to dispose of a complaint is not an issue since such authority is reposed in the Complaints Review Committee as clearly stated in the rule. The use of the term "consulting psychologist" in §466.15(c) is not confusing and clearly would include the psychologist referred to in §466.15(b). The Complaints Review Committee is a committee comprised of Board members, as authorized by §2001.056 of the Government Code and §25C of the Psychologists' Certification and Licensing Act.

The Board's authority to review Administrative Law Judge orders is confirmed by §2001.058 of the Government Code with which the proposed rule is consistent.

The new rules are adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§466.8. Pleadings.

(a) Pleadings shall be type-written or printed upon paper 8-1/2 inches wide and 11 inches long, with left and right margins at least one inch wide. Exhibits annexed thereto shall be folded to the same size. Reproductions are acceptable, provided all copies are clear and permanently legible. The impression shall only be on one side of the paper and shall be double- or one and

one-half spaced, except that footnotes and lengthy quotations may be single-spaced

(b) Pleadings shall state their purpose, contain a concise statement of the facts in support thereof and a prayer for the desired relief.

(c) The original of every pleading shall be signed in ink by the party filing the document or by his or her representative. Pleadings shall contain the name, address and telephone number of the party filing the document and, if applicable, the attorney's state bar number and telecopier number. The signed original shall be filed with the Board.

(d) A certificate of service by the party or representative who files a pleading, stating that it has been served on the other parties, shall be prima facie evidence of such service. The following form of certificate will be sufficient in this connection: "I hereby certify that I have this _____ day of _____, 19____, served copies of the foregoing pleading upon all other parties to this proceeding, by (state manner of service) Signature " Service of pleadings on and by a party shall be as specified in §466.11 of this title (relating to Service in Nonrulemaking Proceedings).

(e) In a contested case the petition and each pleading shall be numbered with the licensee's license number and the number assigned by the State Office of Administrative Hearings, centered and underscored six lines down from the top of the first page. Double spaced below the numbers shall be the heading as follows

SOAH Docket No. _____

License No. _____

IN THE MATTER OF) BEFORE THE TEXAS STATE
) BOARD OF EXAMINERS OF
_____, RESPONDENT) PSYCHOLOGISTS

NAME OF PLEADING

(f) All allegations or responses shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all subsequent pleadings, so long as the pleading containing such paragraph has not been superseded by an amendment. Each violation founded upon a separate transaction or occurrence and each response thereto shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.

(g) Any pleading filed pursuant to a Notice of Hearing may be amended up to seven days prior to the hearing. Amendments after that time will be at the discretion of the presiding officer.

(h) All documents relating to any proceeding pending before the Board shall be filed with the chief clerk and the State Office of Administrative Hearings. A document is filed with the Board when it is received in the Board office or entered of record in a Board proceeding and is accompanied by the filing fee, if any, required by statute or Board rules. The received date noted on the document shall be considered prima facie evidence of the date of filing. Pleadings received after 5:00 p.m. local time of the Board shall be deemed filed the first day following that is not a Saturday, Sunday or official state holiday.

§466.31. Board Review of Discovery Orders. Any discovery order or order imposing sanctions issued by the presiding officer is subject to review by an interlocutory appeal to the Board according to the stage of the proceeding. The appeal shall be filed with the Board within five days of the action that is the subject of the appeal. The appeal may be considered by the Board chair within 15 days after filing of the appeal. If the Board chair does not make a ruling on the appeal with 15 days after the filing thereof, then the appeal shall be considered denied and the ruling of the presiding officer shall be considered upheld.

§466.39. Final Decisions and Orders.

(a) The Board may consider the case upon the expiration of ten days after the time for filing of replies to exceptions to the Proposal for Decision.

(b) A copy of the decision or order shall be delivered or mailed, certified, return receipt requested to any party and to his or her representative.

(c) All final decisions and orders of the Board after consideration of a proposal for decision shall be in writing or stated in the record and signed by the chair or presiding officer. A final order shall include findings of fact and conclusions of law separately stated.

(d) As the Board has been created by the legislature to protect the public interest as an independent agency of the execu-

tive branch of the government of the State of Texas so as to remain the primary means of licensing and regulating the practice of psychology consistent with federal and state law and to ensure that sound principles of psychology govern the decisions of the Board, it shall hereafter be the policy of the Board to change a finding of fact or conclusion of law or to vacate or modify the proposed order of an administrative law judge when the proposed order is:

- (1) erroneous;
- (2) against the weight of evidence;
- (3) based on unsound principles of psychology;
- (4) based on an insufficient review of the evidence;
- (5) not sufficient to protect the public interest; or
- (6) not sufficient to adequately allow rehabilitation.

(e) If the Board modifies, amends or changes the administrative law judge's proposed Order, an order shall be prepared reflecting the Board's changes as stated in the record.

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

Issued in Austin, Texas, on May 26, 1994.

Rebecca E. Fortner
Executive
Director/Investigation,
Compliance and
Enforcement Division
Manager
Texas State Board of
Examiners of
Psychologists

Effective date: June 17, 1994

Proposal publication date: February 8, 1994

For further information, please call: (512)
835-2036

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Chapter 471. Renewals

• 22 TAC §471.1

The Texas State Board of Examiners of Psychologists adopts an amendment to §471.1, concerning Notification of Renewal, without changes to the proposed text as published in the April 8, 1994, issue of the *Texas Register* (19 TexReg 2467).

The amendment is necessary to save money for the State, to carry out the mission of the Board in a more cost-effective manner, and to ensure that the Board has notification that notices were received by certificatees/licenses.

The amendment will save money for the State of Texas and will ensure that the public is receiving psychological services from psychologists who hold current certificates/licenses.

No comments were received regarding adoption of the rule.

The amendment is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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

Issued in Austin, Texas, on May 26, 1994.

Rebecca E. Fortner
Executive
Director/Investigation,
Compliance and
Enforcement Division
Manager
Texas State Board of
Examiners of
Psychologists

Effective date: June 17, 1994

Proposal publication date: April 8, 1994

For further information, please call: (512)
835-2036

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 98. HIV and STD Control

Subchapter C. Texas HIV Medication Program

General Provisions

• 25 TAC §98. 103

The Texas Department of Health (department) adopts an amendment to §98.103 without changes to the proposed text as published in the November 26, 1993, issue of the *Texas Register* (18 TexReg 8756). The section implements the provisions of the "Communicable Disease Prevention and Control Act," Health and Safety Code, Subchapter C, §85.063, concerning the Texas HIV Medication Program. The program assists hospital districts, local health departments, public or nonprofit hospitals and clinics, nonprofit community organizations, and HIV-infected individuals in the purchase of medications approved by the board that have been shown to be effective in reducing hospitalizations due to HIV-related conditions. Generally, the sections cover eligibility for participation and medication coverage. The amendment allows the program to adjust gross income of applicants by subtracting the Texas Department of Health cost of medication(s) that is (are) prescribed.

No comments were received regarding adoption of the rule.

The amendment is proposed under the Health and Safety Code, §85.063, which provides the Texas Board of Health with the authority to adopt rules concerning a Texas HIV Medication Program; and Health and Safety Code, §12. 001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the Commissioner of Health.

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

Issued in Austin, Texas, on May 26, 1994.

Susan K. Steeg
General Counsel
Texas Department of
Health

Effective date: June 20, 1994

Proposal publication date: November 26, 1994

For further information, please call: (512)
458-7236

TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 11. Design

Freeway Mainlanes

• 43 TAC §11.71

The Texas Department of Transportation adopts an amendment to §11.71, without changes to the proposed text as published in the March 15, 1994, issue of the *Texas Register* (19 TexReg 1986).

It is necessary to amend §11.71 to provide that the sale or disposal of surplus access rights to private interests be carried out in accordance with §§21.101-21.104 in order to allow the department to accept certain non-monetary contributions toward the cost of construction of a proposed frontage road as consideration for the purchase of surplus access rights adjacent to the frontage road and in order to expedite the construction of department-approved frontage roads.

Section 11.71 is amended to provide that the sale or disposal of surplus access rights be carried out in accordance with §§21.101-21.104 concerning Disposal of Real Estate Interests. This amendment is adopted contemporaneously with the final adoption of new §21.104 concerning Substitute Consideration for Disposal of Access Rights.

A public hearing was held on March 30, 1994, and no oral or written comments were received.

The amendment is adopted under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically by Texas Civil Statutes, Article 6673a, which provide the commission with the authority to promulgate rules relating to the disposal of real property interests, and Texas Civil Statutes, Article 6674w, et seq, which provide the commission with the authority to operate a modern state highway system with emphasis on the construction of controlled access facilities and to convert, wherever necessary, existing facilities into controlled access facilities to modern standards.

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

Issued in Austin, Texas, on May 26, 1994.

Diane L. Northam
Legal Executive Assistant
Texas Department of
Transportation

Effective date: June 16, 1994

Proposal publication date: March 15, 1994

For further information, please call (512)
463-8630

Chapter 13. Materials and Tests Division

• 43 TAC §13.2

The Texas Department of Transportation adopts the repeal of §13.2, without changes to the proposed text as published in the February 11, 1994, issue of the *Texas Register* (19 TexReg 1032)

Section 13.2 requires the department to test concrete admixtures prior to use on department projects. The repeal of §13.2 is necessary because pre-testing of concrete admixtures is no longer necessary due to the adoption of a department standard specification which requires all admixtures to be in compliance with all requirements specified in the American Society for Testing and Materials standards. The repeal of this section eliminates the requirement for department testing prior to use

On February 28, 1994, the department conducted a public hearing on the proposed repeal of the section. No written or oral comments were received concerning the proposed repeal

The repeal is adopted under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation.

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

Issued in Austin, Texas, on May 26, 1994.

TRD-9441469 Diane L Northam
Legal Executive Assistant
Texas Department of
Transportation

Effective date June 16, 1994

Proposal publication date: February 11, 1994

For further information, please call: (512) 463-8630

Chapter 21. Right of Way

Disposal of Real Estate Interests

• 43 TAC §21.104

The Texas Department of Transportation adopts new §21.104, without changes to the proposed text as published in the March 15, 1994, issue of the *Texas Register* (19 TexReg 1987)

New §21.104 will allow the department to accept certain non-monetary contributions toward the cost of construction of a proposed frontage road as consideration for the purchase of surplus access rights to the frontage road, thereby expediting the construction of department-approved frontage roads. This section is adopted on a permanent basis contemporaneously with the final adoption of an amendment to §11.71 concerning Control of Access on Freeway Mainlanes

A public hearing was held on March 30, 1994, and no oral or written comments were received.

The new section is adopted under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically by Texas Civil Statutes, Article 6673a, which provide the commission with the authority to promulgate rules relating to the disposal of real property interests, and Texas Civil Statutes, Article 6674w, et seq, which provide the commission with the authority to operate a modern state highway system with emphasis on the construction of controlled access facilities and to convert, wherever necessary, existing facilities into controlled access facilities to modern standards.

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

Issued in Austin, Texas, on May 26, 1994.

TRD-9441466 Diane L Northam
Legal Executive Assistant
Texas Department of
Transportation

Effective date: June 16, 1994

Proposal publication date: March 15, 1994

For further information, please call: (512) 463-8630

Control of Outdoor Advertising Signs

• 43 TAC §21.150

The Texas Department of Transportation adopts an amendment to §21.150, without changes to the proposed text as published in the March 15, 1994, issue of the *Texas Register* (19 TexReg 1988).

The department currently has rules for permitting outdoor advertising signs, codified at 43 TAC §§21.149-21.160, which provide that a permit issued under those sections is valid for a period of one year, provided the sign is erected and maintained in accordance with the rules. Under the existing rules, it is possible to obtain a permit and never erect the sign, thereby indefinitely prohibiting others from erecting signs. In order for the department to effectively control the erection and location of signs authorized under the Texas Litter Abatement Act, Texas Civil Statutes, Article 4477-9a, it is necessary to amend this section.

The amendment to §21.150(c)(1) requires that the permitted sign be erected within one year from the issuance of the permit.

A public hearing was held on March 30, 1994, and no oral or written comments were received.

The amendment is adopted under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of

the work of the Texas Department of Transportation, and more specifically by Texas Civil Statutes, Article 4477-9a, which provide the commission with the authority to adopt rules to regulate the orderly and effective display of outdoor advertising signs on the interstate or primary system.

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

Issued in Austin, Texas, on May 26, 1994.

TRD-9441467 Diane L Northam
Legal Executive Assistant
Texas Department of
Transportation

Effective date: June 16, 1994

Proposal publication date: March 15, 1994

For further information, please call: (512) 463-8630

Control of Signs Along Rural Roads

• 43 TAC §21.441

The Texas Department of Transportation adopts an amendment to §21.441, without changes to the proposed text as published in the March 15, 1994, issue of the *Texas Register* (19 TexReg 1988).

The department currently has rules for permitting off-premise signs along rural roads, codified at 43 TAC §§21.441-21.572, which provide that a permit issued under those sections is valid for a period of one year, provided the sign is erected and maintained in accordance with the rules. Under the existing rules, it is possible to obtain a permit and never erect the sign, thereby indefinitely prohibiting others from erecting signs. In order for the department to effectively control the erection and location of signs authorized under the Rural Road Sign Law, Texas Civil Statutes, Article 6674v-3, it is necessary to amend this section.

The amendment to §21.441(c)(1) requires that the permitted sign be erected within one year from the issuance of the permit.

A public hearing was held on March 30, 1994, and no oral or written comments were received.

The amendment is adopted under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically by Texas Civil Statutes, Article 6674v-3, which provide the commission with the authority to adopt rules to regulate the orderly and effective display of outdoor advertising signs on rural roads.

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

Issued in Austin, Texas, on May 26, 1994.

TRD-9441468

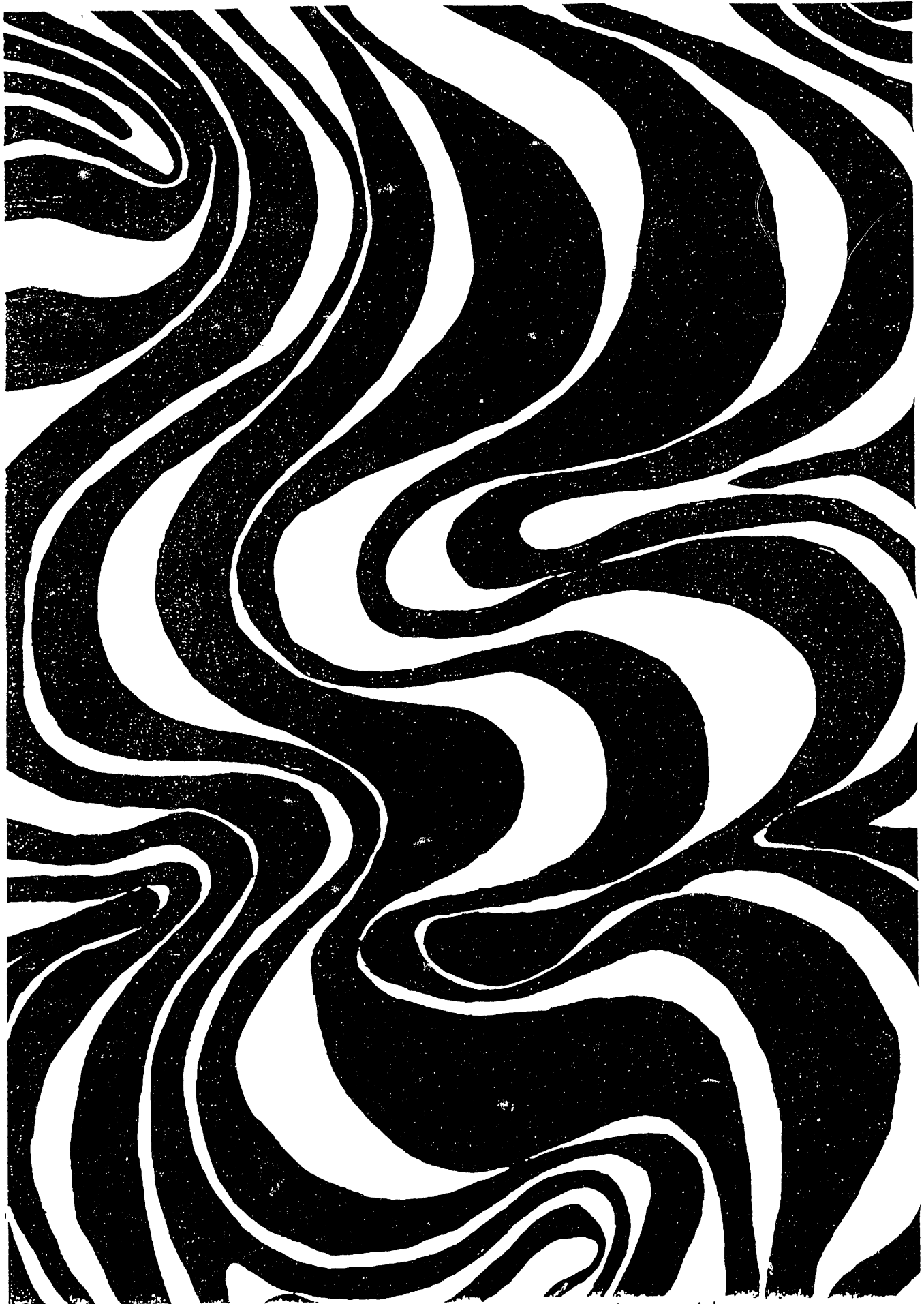
Diane L. Northam
Legal Executive Assistant
Texas Department of
Transportation

Effective date: June 16, 1994

Proposal publication date: March 15, 1994

For further information, please call: (512)
463-8630





Name: Janenette Atkinson
Grade: 9
School: Lopez High School, Brownsville ISD

OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the **Texas Register**.

Emergency meetings and agendas. Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the **Texas Register**.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Texas Certified Self-Insurer Guaranty Association

Wednesday, June 8, 1994, 9:30 a.m.

4000 South IH-35, Tippy Foster Meeting Room 910

Austin

According to the agenda summary, the Board will call to order; approval of minutes for the public meeting on April 14, 1994; discussion, consideration, and possible action on the initial applications for Johnson Controls, Inc. and Subsidiaries, and Smith's Food & Drug Centers, Inc.; discussion, consideration, and possible action on the renewal applications for Textron, Inc. and Subsidiaries, The Folger Coffee Company & Affiliated Companies, KMart Corporation and Subsidiaries, Dayton Hudson Corporation and Subsidiaries, The Stanley Works, (Incorporated) and Subsidiaries, Winn-Dixie Texas, Inc., Albertson's, Morrison Restaurants, Inc. and Subsidiary, Jacobs Engineering Group, Inc. and Subsidiaries, Tyson Foods, Inc. and Subsidiaries, Cooper Industries, Inc. and Subsidiaries, Weyerhaeuser Company and Subsidiaries, Rockwell International Corporation and Subsidiaries, and Roadway Express, Inc.; discussion of future public meetings; and adjournment.

Contact: Judy Roach, 1600 San Jacinto Center, 98 San Jacinto Boulevard, Austin, Texas 78701, (512) 322-2514.

Filed: May 27, 1994, 2:53 p.m.

TRD-9441509

Texas Department of Commerce

Monday, June 6, 1994, 3:00 p.m.

Henry B. Gonzales Convention Center, Room 105, 200 East Market Street

San Antonio

According to the agenda summary, the Joint Meeting of the Texas Mexico Authority and the International Trade Commission will call to order and introductions-board members, Representative Al Granoff, Deborah Kastrin, Jon Roberts, adoption of the minutes from the Texas Mexico Authority meeting of January 12, 1993; adoption of the minutes from the International Trade Commission meeting of July 13, 1993; 1994-1995 international plan for the Texas Department of Commerce; NAFTA update; sister state relations-China; role of ITC/TMA 1994-1995-reports, meetings, legislature; and adjourn.

Contact: Pat Segura, 816 Congress Avenue, Suite 890, Austin, Texas 78701, (512) 320-9612.

Filed: May 27, 1994, 4:36 p.m.

TRD-9441542

State Employee Charitable Campaign

Tuesday, May 31, 1994, 5:00 p.m.

624 Indiana, Capital Center, Second Floor Conference Room

Wichita Falls

According to the complete agenda, the Local Employee Committee-Wichita Falls reviewed agency applications for inclusion in the local portion of the State Employee Charitable Campaign brochure.

Contact: Judy Burks, Wichita Falls State Hospital, P.O. Box 300, Wichita Falls, Texas 76707, (817) 692-1220.

Filed: May 27, 1994, 4:43 p.m.

TRD-9441544

Wednesday, June 1, 1994, 2:00 p.m.

501 Campus Drive, TSTC System Conference Room

Waco

According to the complete agenda, the Local Employee Committee-Waco reviewed local applications.

Contact: Dr. Fred Williams, Texas State Technical College, TSTC Campus, Waco, Texas 76705, (817) 799-3611, Ext. 4892.

Filed: May 27, 1994, 4:43 p.m.

TRD-9441547

Wednesday, June 1, 1994, 2:00 p.m.

Texas Department of Public Safety, 2405 South Loop 250 West, New Classroom

Midland

According to the complete agenda, the Local Employee Committee-Midland held an organizational meeting to provide overview of State Employee Charitable Campaign and to review local charitable organization applications to determine eligibility to participate in the State Employee Charitable Campaign.

Contact: Capt. Kevin Napier, 2405 South Loop 250 West, Midland, Texas 79703-7410, (915) 694-9301.

Filed: May 27, 1994, 4:43 p.m.

TRD-9441548

Wednesday, June 1, 1994, 3:00 p.m.

3601 Fourth Street

Lubbock

According to the complete agenda, the Local Employee Committee reviewed local applications for SECC and consideration of local campaign budget.

Contact: Jim Bob Jones, Texas Tech University Health Science Center, 2B140, Lubbock, Texas 79430, (806) 743-2907.

Filed: May 27, 1994, 4:43 p.m.

TRD-9441546

Wednesday, June 1, 1994, 3:00 p.m.

2207 Line Avenue

Amarillo

According to the complete agenda, the Local Employee Committee reviewed local organization and federations applications.

Contact: Janette Taylor, 1111 South Taylor, Amarillo, Texas 79101, (806) 374-8787.

Filed: May 27, 1994, 4:43 p.m.

TRD-9441549

Thursday, June 2, 1994, 4:00 p.m.

128 East Second Street, Martin L. King Building

Odessa

According to the complete agenda, the Local Employee Committee held an organizational meeting to select local charitable organizations to appear in the SECC brochure.

Contact: Audra Allaire, 800 West Fourth Street, Odessa, Texas 79763, (915) 335-5111.

Filed: May 27, 1994, 4:48 p.m.

TRD-9441550

Thursday, June 2, 1994, 4:00 p.m.

4000 Southpark Drive #1200

Tyler

According to the complete agenda, the Local Employee Committee-Tyler held an organizational meeting to review application for local eligibility in the 1994 State Employee Charitable Campaign.

Contact: John Anderson, P.O. Box 2003, Tyler, Texas 75710, (903) 877-7734.

Filed: May 27, 1994, 4:43 p.m.

TRD-9441545

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Texas Employment Commission

Friday, June 3, 1994, 9:00 a.m.

TEC Building, Room 644, 101 East 15th Street

Austin

According to the agenda summary, the Commission will discuss prior meeting notes; consideration of tax coverage for bingo operators; staff reports; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 22; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: May 26, 1994, 4:02 p.m.

TRD-9441458

◆ ◆ ◆
General Land Office

Tuesday, June 7, 1994, 10:00 a.m.

Stephen F. Austin Building, 1700 North Congress, Room 831

Austin

According to the complete agenda, the School Land Board will discuss approval of previous board meeting minutes; opening and consideration of bids received for the June 7, 1994 sealed bid land sale; consideration of ratification of agreement pertaining to DCRC State Trust; pooling applications, Brookeland (Austin Chalk, 8800), Newton County; Giddings (Austin Chalk, Gas), Fayette County; El Campo, NE (Yegua), Wharton County; applications to lease highway rights of way for oil and gas, Brazos County and Tyler County; direct land sale, El Paso County; coastal public lands, commercial easement application, Clear Lake, Galveston County; commercial easement hardship request, Galveston Bay, Chambers and Galveston Counties; commercial lease application, Carancahua Bay, Calhoun County; commercial lease renewal, Old Brazos River, Brazoria County; easement

applications, Aransas Bay, Aransas County; San Bernard River, Brazoria County; Cow Bayou, Harris County; Clear Lake, Galveston County; lease applications, Cayo del Grullo, Kleberg County, and Clear Lake, Harris County; structure (cabin) permit terminations, Laguna Madre, Kleberg County; structure cabin permit request, Laguna Madre, Kleberg County; structure permit renewals, Laguna Madre, Kenedy County; Laguna Madre, Kleberg County; Laguna Madre, Willacy County; and Laguna Madre, Cameron County; consideration of land acquisition, Travis State School land, from Texas Department of MHMR, and conveyance to Travis County; executive session-pending and proposed litigation; executive session-consideration of land sale, First and Trinity property, Travis County; and open session-consideration of land sale, First and Trinity property, Travis County.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: May 26, 1994, 4:31 p.m.

TRD-9441461

◆ ◆ ◆
Office of the Governor

Friday, June 3, 1994, 10:00 a.m.

UTSMC-Dallas, Florence Bioinformation Center, Room E6.200, 5323 Harry Hines Boulevard

Dallas

According to the agenda summary, the Advisory Committee on the Superconducting Supercollider (SSC) will meet in joint session with the Texas National Research Laboratory Commission to hear a presentation regarding the Proton Treatment Center at the Loma Linda University Medical Center and to attend a symposium on the medical uses of the SSC Linear Accelerator. The symposium will begin at 1:30 p.m. in the McDermott Plaza Lecture Hall, Room D1.502 of the U.T. Southwestern Medical Center-Dallas.

Contact: Arthur H. Dilly, 201 West Seventh Street, Austin, Texas 78701, (512) 499-4402.

Filed: May 26, 1994, 10:10 a.m.

TRD-9441418

Friday, June 3, 1994, 1:30 p.m.

UTSMC, McDermott Plaza Lecture Hall, Room D1.502, 5323 Harry Hines Boulevard

Dallas

According to the agenda summary, the Advisory Committee on the Superconducting Supercollider (SSC) will meet in joint session with the Texas National Research Laboratory Commission to hear a presentation

regarding the Proton Treatment Center at the Loma Linda University Medical Center and to attend a symposium on the medical uses of the SSC Linear Accelerator. The symposium will begin at 1:30 p.m. in the McDermott Plaza Lecture Hall, Room D1. 502 of the U.T. Southwestern Medical Center-Dallas.

Contact: Arthur H. Dilly, 201 West Seventh Street, Austin, Texas 78701, (512) 499-4402.

Filed: May 26, 1994, 10:10 a.m.

TRD-9441460

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**Governor's Office, Texas
State Commission for Na-
tional and Community Ser-
vice**

Wednesday, June 8, 1994, 8:30 a.m.

Radisson Hotel, 111 East First Street on Town Lake

Austin

According to the complete agenda, the Board will call to order, staff report, discussion of grant review, approval of preliminary recommendation to the Corporation for National and Community Service under the National and Community Service Trust Act of 1993, discussion and possible planning of future meetings.

For assistance call Elizabeth Clower at (512) 463-1814 at least two days prior to the meeting.

Contact: Randi Shade, P.O. Box 12428, Austin, Texas 78711, (512) 463-1814.

Filed: May 26, 1994, 2:26 p.m.

TRD-9441443

◆ ◆ ◆
**Texas Department of Hous-
ing and Community Af-
fairs**

Wednesday, June 8, 1994, 9:00 a.m.

811 Barton Springs Road, Suite 100

Austin

According to the agenda summary, the Program Committee of the Board will meet to consider and possibly act upon appeals/review process; income limits for multi-family properties; termination of tenants process; HOME funding recommendations for FY'93 for owner-occupied rehabilitation application, rental project specific applications, rental program applications, first-time homebuyer, applications and pre-development loans; revised Program 45; single family new money issue and strategic plan. Individuals who require auxiliary aids or services for this meeting should contact Aurora Carvajal, ADA Responsible Em-

ployee, at (512) 475-3822 or Relay Texas at 1 (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Contact: Henry Flores, 811 Barton Springs Road, Suite 500, Austin, Texas 78711, (512) 475-3934.

Filed: May 27, 1994, 3:06 p.m.

TRD-9441511

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**Texas Department of Insur-
ance**

Monday, June 6, 1994, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Fifth Floor, Suite 502 Austin

According to the agenda summary, the Department will meet to consider whether disciplinary action should be taken against Robert Camp Dean and Pecos Abstract Company, Inc., Pecos, Texas who hold a Group XIII, Title Insurance Escrow Officer License and a Group XII, Title Insurance Agent's License.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: May 26, 1994, 2:14 p.m.

TRD-9441441

Tuesday, June 7, 1994, 9:00 a.m.

State Offices of Administrative Hearings, 300 West 15th Street, Fifth Floor, Suite 502 Austin

According to the agenda summary, the Department will meet to consider the application of Barry Don Coleman, Comanche, Texas, for a Group II, Insurance Agent's license.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code # 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: May 26, 1994, 2:14 p.m.

TRD-9441440

◆ ◆ ◆
**Texas Juvenile Probation
Commission**

Friday, June 3, 1994, 9:00 a.m.

2015 South IH-35

Austin

Revised Agenda

According to the complete agenda, the Board will discuss budget report-fiscal year 1995 administrative budget; basic probation fiscal year 1995-state aid, border projects,

challenge grants; community corrections fiscal year 1995-community corrections/performance targets, innovative project, divisionary placement; and discuss fiscal year 1996-1997 LAR options.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: May 26, 1994, 1:15 p.m.

TRD-9441422

◆ ◆ ◆
Board of Law Examiners

Friday-Sunday, June 10-12, 1994, 8:30 a.m.

Tom C. Clark Building, Suite 500, 205 West 14th Street

Austin

According to the agenda summary, the Board of Law Examiners will determine quorum; consider members' request for excused absences; conduct public hearings and deliberations on moral character and fitness of applicants/declarants (deliberations may be conducted in executive session); approve minutes, financial reports and investment reports; meet (in executive session) with legal counsel to discuss pending litigation; consider special requests; consider revision of subjects covered on bar exam; consider/act on reports presented by staff; consider/act on policy matters; meet with Supreme Court Liaison; consider adoption of fiscal year 1994 budget recommendation; review and consider to adopt Multi-state Essay Examination and model answers; hear communications from the public, and review (in executive session) bar exam questions.

Contact: Rachael Martin, P.O. Box 13486, Austin, Texas 78711-3486, (512) 463-1621.

Filed: May 26, 1994, 2:26 p.m.

TRD-9441444

◆ ◆ ◆
**Texas State Board of Medi-
cal Examiners**

Monday, June 6, 1994, 9:00 a.m.

1812 Centre Creek Drive, Suite 203

Austin

According to the agenda summary, the Texas State Board of Acupuncture Examiners/Education Committee will consider discussion and possible action on responsibilities of the committee, use of NASCOM as standard for Texas acupuncture schools, definition of tutorial program, use of University of Texas as the sole standard for determining appropriateness of the required 49 hours of college courses, plan for con-

tacting the Texas acupuncture schools, and citizen communication.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: May 27, 1994, 8:41 a.m.

TRD-9441476

Monday, June 6, 1994, 10:00 a.m.

1812 Centre Creek Drive, Suite 203

Austin

According to the complete agenda, the Texas State Board of Acupuncture Examiners/Grandfathering, Reciprocity, and Application Committee will call to order; roll call, approval of April 22, 1994 Grandfathering, Reciprocity, and Application Committee minutes; review of licensure files and recommendations to full board for automatic licensure and licensure by reciprocity; citizen communication; and adjourn.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: May 27, 1994, 8:41 a.m.

TRD-9441477

Monday, June 6, 1994, 11:00 a.m.

1812 Centre Creek Drive, Suite 203

Austin

According to the complete agenda, the Texas State Board of Acupuncture Examiners/Examination, Licensure and Fees Committee will call to order; roll call; discussion of validated tests and consideration for inclusion of the California test as automatic licensure "add-on"; discussion regarding committee's goals/tasks regarding licensing: registration, renewals, continuing education, temporary licenses, qualifications, examination, loss or destruction of license, change of name, or duplicate license, and fees; citizen communication; and adjourn.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: May 27, 1994, 8:42 a.m.

TRD-9441478

Monday, June 6, 1994, 1:30 p.m.

1812 Centre Creek Drive, Suite 203

Austin

According to the agenda summary, the Texas State Board of Acupuncture Examiners will discuss approval of minutes, presentation of reports from committees, reports from staff of Texas State Board of Medical Examiners, discussion and possible

action visa status, overall work plan of Acupuncture Board for next six months, travel reimbursement, and rules on auricular acupuncture.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728, Ext. 402.

Filed: May 27, 1994, 8:42 a.m.

TRD-9441479

◆ ◆ ◆ Texas Natural Resource Conservation Commission

Wednesday, June 8, 1994, 9:00 a.m.

1700 North Congress Avenue, Stephen F. Austin State Building, Room 118

Austin

According to the agenda summary, the Commission will consider approving the following matters on the contested agenda: water quality enforcement; water well driller enforcement; hazardous waste enforcement; rules; executive session; in addition, the Commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the Commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time. (Registration begins at 8:30 a.m. until 9:00 a.m.)

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: May 26, 1994, 1:11 p.m.

TRD-9441439

Wednesday, June 8, 1994, 9:00 a.m.

1700 North Congress Avenue, Stephen F. Austin State Building, Room 118

Austin

According to the agenda summary, the Commission will consider approving the following matters on the uncontested agenda: district matters; water utility matter; settled hearings; in addition, the Commission will consider items previously postponed for open meeting and at such meeting verbally posted or continued to this date. With regard to any item, the Commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time. (Registration begins at 8:30 a.m. until 9:00 a.m.)

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: May 26, 1994, 1:11 p.m.

TRD-9441438

Monday, June 27, 1994, 9:00 a.m.

500 North Church Street, Anderson City Courthouse Courtroom

Palestine

According to the agenda summary, the Commission will discuss on an application by the County of Anderson for a registration (Proposed Registration Number MSW40040) to construct and operate a Type V municipal solid waste transfer station. The proposed site contains approximately 2.294 acres of land and will be located on U.S. Highway 79, 2.5 miles north, northeast of the intersection of U.S. Highway 155, and U.S. Highway 79 near the City of Palestine in Anderson County, Texas.

Contact: Ann Scudday or Charles Stavley, P.O. Box 13087, Austin, Texas 78711, (512) 239-6687 or (512) 239-6688.

Filed: May 26, 1994, 2:53 p.m.

TRD-9441452

Monday, June 27, 1994, 4:00 p.m.

101 Bluff Street, Tyler City Courthouse, Commissioner's Court

Woodville

According to the agenda summary, the Commission will discuss on an application by the County of Tyler for a registration (Number MSW40038) to construct and operate a Type V municipal solid waste transfer station. The proposed site contains approximately 4.449 acres of land and will be located 14,400 feet west of the intersection of U.S. Highway 190 and U.S. Highway 69 near Woodville, in Tyler County, Texas.

Contact: Ann Scudday or Charles Stavley, P.O. Box 13087, Austin, Texas 78711, (512) 239-6687 or (512) 239-6688.

Filed: May 26, 1994, 2:53 p.m.

TRD-9441451

Tuesday, June 28, 1994, 10:00 a.m.

300 Mcaroe Street, Hardin City Courthouse, Commissioner's Court

Kountze

According to the agenda summary, the Commission will discuss on an application by Hardin County, Proposed Permit Number MSW2214 to authorize a Type I (land-fill) municipal solid waste management facility. The proposed site covers approximately 79 acres and is to be located three miles southwest of Kountze, 100 feet from FM 770 and 5.7 miles from Hawthorne Field in Hardin County, Texas.

Contact: Ann Scudday or Charles Stavley, P.O. Box 13087, Austin, Texas 78711, (512) 239-6687 or (512) 239-6688.

Filed: May 26, 1994, 2:52 p.m.

TRD-9441450

Tuesday, July 12, 1994, 9:00 a.m.

Kinney County Courthouse-District Courtroom, 501 Ann Street

Brackettville

According to the agenda summary, the Office of Hearings Examiners will hold a hearing on an application made by the City of Brackettville and Fort Clark Municipal Utility District for Proposed Permit Number 10194-02 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 500,000 gallons per day; a variance to the buffer zone requirements; and authorize the City to irrigate with treated effluent on approximately 60 acres of a golf course at a rate not to exceed 4.3 acre-feet/acre/year. The plant is approximately 2.3 miles south of the intersection of U.S. Highway 90 and State Highway 131 and 0.75 mile west of the State Highway 131 in Kinney County, Texas.

Contact: Bill Zukauckas, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: May 26, 1994, 2:52 p.m.

TRD-9441449

◆ ◆ ◆
Texas Board of Pardons and Paroles

Monday-Friday, June 6-10, 1994, 1:30 p.m.

2503 Lake Road, Suite #2

Huntsville

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: May 27, 1994, 10:28 a.m.

TRD-9441490

Monday, June 6, 1994, 1:30 p.m.

1550 East Palestine, Suite 100

Palestine

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include

decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: May 27, 1994, 10:29 a.m.

TRD-9441491

Tuesday, June 7, 1994, 9:00 a.m.

Beto Criminal Justice Center, Texas Room, Sam Houston State University Campus, 16th and Avenue H

Huntsville

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will call to order by chairman; discussion items: vote to approve minutes of the board meeting of March 15, 1994; consider, discuss and vote to adopt the following rules published as proposed rules in the May 6, 1994, issue of the *Texas Register*; the repeal of 37 TAC §§141.1-141.10 and the adoption of new §§141.1-141.5, concerning general provisions of the board; the repeal of 37 TAC §§141.41-141.45, concerning parole panels; the repeal of sections 37 TAC §§141.71-141.74 and the adoption of new §141.71 and §141.72, concerning records and reports; the repeal of 37 TAC §141.81 and §141.82 and the adoption of new rules §141.81 and §141.82, concerning the registration of visitors and fee affidavits; the repeal of 37 TAC §§149.11-149.14 and 149.16 and the adoption of new §149.11, concerning selection for mandatory supervision; the repeal of 37 TAC §150.56 and the adoption of new §150.56 policies pertaining to the administration of the agency; consider, discuss and vote to adopt the following Chapter 37 Texas Administrative Code published as proposed rules in the January 4, 1994, issue of the *Texas Register* and discussed at a public hearing on April 7, 1994; to repeal 37 TAC §§145.1-145.3 and to adopt new §§145.1-145.3, concerning the parole process; and adjournment.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: May 27, 1994, 4:23 p.m.

TRD-9441541

Tuesday-Thursday, June 7-9, 1994, 9:30 a.m. (Tuesday) and 9:00 a.m. (Wednesday-Thursday, respectively).

Beto Criminal Justice Center, Texas Room, Sam Houston State University Campus, 16th and Avenue H

Huntsville

According to the agenda summary, Board Training Seminar will call to order by chairman; discussion items: Day One: introduction, overview, national overview, critical

issues, trends, participants' expectations, Texas in context, role of the Texas Board, statutory and legal requirements, liability, confidentiality, and informal session and media relations; Day Two: decisionmaking: purposes and trends, individual decisionmaking vs. collegial decisionmaking, linkages to supervision, structured decisionmaking national trends, other states' experiences, inter-team communication, and the parole hearing. Day Three: looking ahead: issues emerging during training, What's Next?, closing, evaluation; and adjournment.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: May 27, 1994, 4:22 p.m.

TRD-9441540

Friday, June 10, 1994, 9:30 a.m.

1550 East Palestine, Suite 100

Palestine

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: May 27, 1994, 10:29 a.m.

TRD-9441492

Friday, June 10, 1994, 9:30 a.m.

1212 North Velasco, Suite 201

Angleton

According to the agenda summary, a panel(s) of the Board of Pardons and Paroles composed of three board members will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole, and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: May 27, 1994, 10:28 a.m.

TRD-9441489

Polygraph Examiners Board

Monday, June 6, 1994, 5:00 p.m.

5805 North Lamar, Building F-1, Department of Public Safety

Austin

According to the complete agenda, the Polygraph Examiners Board will discuss consideration of April, 1994 board meeting minutes; consideration of applications for licensure; discussion of agency strategic plans for 1995-1999; discussion of 1996-1997 appropriations request; discussion of methodology for approval of polygraph examiners courses and curriculum requirements; consideration of amendment to Rule §391.3(13); agency update; discussion of grading procedures and methodology for licensing examinations; and discussion of board grievance procedure.

Contact: Bryan M. Perot, P.O. Box 4087, Austin, Texas 78773, (512) 465-2058.

Filed: May 27, 1994, 1:09 p.m.

TRD-9441504

Public Utility Commission of Texas

Thursday, June 9, 1994, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a prehearing conference in Docket Number 12362-Tex-La Electric Cooperative of Texas, Inc complaint against Texas Utilities Electric Company

Contact: John M Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: May 27, 1994, 10:27 a.m.

TRD-9441487

Tuesday, August 30, 1994, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a hearing on the merits in Docket Number 12959-petition of Southwestern Public Service Company for a declaratory order that activities do not constitute construction of new generating plants

Contact: John M Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: May 27, 1994, 8:32 a.m.

TRD-9441475

Railroad Commission of Texas

Tuesday, June 7, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

According to the complete agenda, the Commission will consider and act on the Director's request to advertise for bids on the Butler-Weddington Phase I Revegetation Project. The Commission will consider award of the AML laboratory contract. The Commission will consider and act on the Director's report on division administration, budget, procedures, and personnel matters.

Contact: Melvin B. Hodgkiss, P.O. Box 12967, Austin, Texas 78711, (512) 463-6901.

Filed: May 27, 1994, 11:07 a.m.

TRD-9441495

Tuesday, June 7, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

According to the complete agenda, the Commission will consider and act on the Automatic Data Processing Division Director's report on division administration, budget, procedures, equipment acquisitions and personnel matters. The Commission will consider and act on the Information Resource Manager's report on information resource planning documents.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78701, (512) 463-7251.

Filed: May 27, 1994, 11:07 a.m.

TRD-9441496

Tuesday, June 7, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

According to the complete agenda, the Commission will consider and act on the Office of Information Services Director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Box 12967, Austin, Texas 78701, (512) 463-6710.

Filed: May 27, 1994, 11:07 a.m.

TRD-9441497

Tuesday, June 7, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

According to the complete agenda, the Commission will consider and act on the personnel division director's report on division administrations, budget, procedures,

and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel. The following matters will be taken up for consideration and/or decision by the commission; commission budget, fiscal, administrative or procedural matters, strategic planning; personnel and staffing, including restructuring or transferring the Oil Field Theft Division.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711, (512) 463-6981.

Filed: May 27, 1994, 11:07 a.m.

TRD-9441498

Tuesday, June 7, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

According to the complete agenda, the Commission will consider and act on the division director's report on budget, personnel and policy matters related to operation of the Alternative Fuels Research and Education Division.

Contact: Dan Kelly, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7110.

Filed: May 27, 1994, 11:07 a.m.

TRD-9441499

Tuesday, June 7, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

According to the complete agenda, the Commission will consider and act on the agency budget, fiscal and administrative matters and the administrative services division director's report on division administration, budget, procedures and personnel matters.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7257.

Filed: May 27, 1994, 11:07 a.m.

TRD-9441500

Tuesday, June 7, 1994, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

According to the agenda summary, the Commission will consider various applications and other matters within the jurisdiction of the agency including oral arguments at the time specified on the agenda. The Commission may consider the procedural status of any contested case of 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received. The Commission may meet in

executive session on any items listed above as authorized by the Open Meetings Act.

Contact: Carole J. Vogel, P.O. Box 12967, Austin, Texas 78711, (512) 463-6921.

Filed: May 27, 1994, 11:07 a.m.

TRD-9441501

Texas Rehabilitation Commission

Friday, June 3, 1994, 9:30 a.m.

4900 North Lamar Boulevard

Austin

According to the agenda summary, the Texas Board of Occupational Therapy Examiners will call to order; approval of minutes of February 11, 1994 and March, 1994 meetings; review and possible action on proposed TBOTE rule revisions; and adjournment.

Contact: Joy L. Vaughn, 4900 North Lamar Boulevard, Austin, Texas 78751-2399, (512) 483-4072.

Filed: May 26, 1994, 5:14 p.m.

TRD-9441472

Friday, June 3, 1994, 9:43 a.m.

4900 North Lamar Boulevard

Austin

According to the complete agenda, the Texas Board of Occupational Therapy Examiners Application Review Committee will call to order; review and discussion of applications; and adjournment.

Contact: Joy L. Vaughn, 4900 North Lamar Boulevard, Austin, Texas 78751-2399, (512) 483-4072.

Filed: May 27, 1994, 5:14 p.m.

TRD-9441473

Friday, June 3, 1994, 10:00 a.m.

4900 North Lamar Boulevard

Austin

According to the complete agenda, the Texas Board of Occupational Therapy Examiners Complaint Review Committee will call to order; review and discussion of complaints; and adjournment.

Contact: Joy L. Vaughn, 4900 North Lamar Boulevard, Austin, Texas 78751-2399, (512) 483-4072.

Filed: May 26, 1994, 5:14 p.m.

TRD-9441474

Texas National Research Laboratory Commission

Friday, June 3, 1994, 10:00 a.m.

5323 Harry Hines Boulevard, Sixth Floor, Room 200

Dallas

According to the agenda summary, the Texas National Research Laboratory Commission will convene joint meeting; welcome and opening remarks; opening remarks and introductions; discussion of Proton Treatment Center; panel responds to questions and answers; and adjourn.

Contact: Karen L. Chrestay, 1801 North Hampton Road, Suite 400, DeSoto, Texas 75115, (214) 709-3800.

Filed: May 26, 1994, 2:51 p.m.

TRD-9441445

Friday, June 3, 1994, 1:30 p.m.

5323 Harry Hines Boulevard, McDermott Plaza Lecture Hall, First Floor, Room D1.502

Dallas

According to the agenda summary, the Texas National Research Laboratory Commission will discuss introduction of briefings and presentations; developing a clinical proton accelerator; production and marketing of radioisotopes for the pharmaceutical industry; overview of federally funded project definition study; summary remarks; panel discussion; questions and answers on technical issues; and adjourn.

Contact: Karen L. Chrestay, 1801 North Hampton Road, Suite 400, DeSoto, Texas 75115, (214) 709-3800

Filed: May 26, 1994, 2:51 p.m.

TRD-9441446

Texas State Board of Examiners of Social Worker Examiners

Friday-Sunday, June 10-12, 1994, 9:00 a.m.

Wyndham Austin Hotel, Board Room, 14th Floor, 4140 Governor's Row

Austin

According to the complete agenda, the Texas State Board of Examiners of Social Worker Examiners will discuss approval of minutes from the previous meeting, and discuss and possibly act on: public comments; executive director report; committee reports; proposed rules; emergency rules; review American Association of State Social Work Boards exam contract; order relating to the license of MK; review policies

under §50.0062 and §50.0063 of the Health and Safety Code; and schedule of meetings through December 1994.

Contact: Michael Doughty, 1100 West 49th Street, Austin, Texas 78756, (512) 719-3521. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: May 27, 1994, 3:10 p.m.

TRD-9441517

Saturday, June 11, 1994, 3:00 p.m.

Wyndham Austin Hotel, Board Room, 14th Floor, 4140 Governor's Row

Austin

According to the complete agenda, the Supervision Committee will discuss and possibly act on: review of variance requests for supervision, and development of forms and brochures.

Contact: Michael Doughty, 1100 West 49th Street, Austin, Texas 78756, (512) 719-3521. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: May 27, 1994, 3:10 p.m.

TRD-9441520

Saturday, June 11, 1994, 3:00 p.m.

Wyndham Austin Hotel, Board Room, 14th Floor, 4140 Governor's Row

Austin

According to the complete agenda, the Compliance/Complaints Committee will discuss and possibly act on: review of old and new complaints; and development of forms and brochures.

Contact: Michael Doughty, 1100 West 49th Street, Austin, Texas 78756, (512) 719-3521. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: May 27, 1994, 3:10 p.m.

TRD-9441519

Saturday, June 11, 1994, 3:00 p.m.

Wyndham Austin Hotel, Board Room, 14th Floor, 4140 Governor's Row

Austin

According to the complete agenda, the Continuing Education/Competency Committee will discuss and possibly act on: review variance requests for continuing education; and development of forms and brochures.

Contact: Michael Doughty, 1100 West 49th Street, Austin, Texas 78756, (512) 719-3521. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512)

458-7708 at least two days prior to the meeting.

Filed: May 27, 1994, 3:10 p.m.

TRD-9441518

Saturday, June 11, 1994, 3:00 p.m.

Wyndham Austin Hotel, Board Room, 14th Floor, 4140 Governor's Row

Austin

According to the complete agenda, the Rules Committee will discuss and possibly act on development of forms and brochures.

Contact: Michael Doughty, 1100 West 49th Street, Austin, Texas 78756, (512) 719-3521. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: May 27, 1994, 3:09 p.m.

TRD-9441516

Texas Southern University

Thursday, June 2, 1994, 5:00 p.m.

Texas Southern University, Hannah Hall, Room 111, 3100 Cleburne Avenue

Houston

According to the complete agenda, the Development Committee will receive reports from the administration of university fundraising efforts, and to receive reports on special funds budget.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: May 26, 1994, 11:15 a.m.

TRD-9441423

Texas Department of Transportation

Monday, June 13, 1994, 9:00 a.m.

150 East Riverside Drive, Building 150, Room 309C

Austin

According to the agenda summary, the Environmental Advisory Committee will approve minutes; review of proposed rulemaking concerning consultation between TxDOT and TNRC during the state implementation plan conformity process; presentation on the progress with the state implementation plans; briefing on current status/commission action regarding rules previously reviewed; and introduction of committee coordinating staff.

Contact: Dianna Noble, 125 East 11th Street, Austin, Texas 78701, (512) 416-3001.

Filed: May 27, 1994, 3:24 p.m.

TRD-9441531

Texas Board of Veterinary Medical Examiners

Thursday-Friday, June 9-10, 1994, 8:30 a.m.

1946 South IH-35, Fourth Floor Conference Room

Austin

According to the agenda summary, the Texas Board of Veterinary Medical Examiners will consider petitions for license reinstatement, negotiated settlements in disciplinary cases, and guidelines for animal health care tasks and supervision levels for support staff. There are seven rules of professional conduct which will be reviewed for adoption, as well as the 1996-1997 legislative appropriations request. The Board will conduct other business as reflected on the attached agenda. An executive session will be held to discuss pending litigation and duties of the executive director as authorized in Attorney General Opinion H-484, 1974. Agenda items may be taken out of order and where appropriate and permitted by law, executive sessions may be held on subjects listed on the agenda. Persons requiring reasonable accommodations are requested to contact Judy Smith, 1946 South IH-35, #306, Austin, Texas 78704, (512) 447-1183 or TDD 1-800-735-2989 within 72 hours of meeting to make appropriate arrangements.

Contact: Ron Allen, 1946 South IH-35, #306, Austin, Texas 78704, (512) 447-1183.

Filed: May 27, 1994, 3:28 p.m.

TRD-9441532

Regional Meetings

Meetings Filed May 26, 1994

The Dallas Central Appraisal District Appraisal Review Board will meet at 2949 North Stemmons Freeway, Dallas, June 3, 1994, at 11:30 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9441471.

The Upshur County Appraisal District Appraisal Review Board will meet at the Upshur County Appraisal District Office, Warren and Trinity Streets, Gilmer, June 6, 1994, at 8:30 a.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644-0280, (903) 843-3041. TRD-9441457.

Meetings Filed May 27, 1994

The Austin-Travis County MHMR Center Board of Trustees met at 1430 Collier Street-Board Room, Austin, May 31, 1994, at 5:00 p.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9441502.

The Austin-Travis County MHMR Center (Revised agenda.) Board of Trustees met at 1430 Collier Street-Board Room, Austin, May 31, 1994, at 5:30 p.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9441537.

The Bastrop Central Appraisal District Appraisal Review Board will meet at 1200 Cedar Street, Bastrop, June 3, 1994, at 8:00 a.m. Information may be obtained from Dana Ripley, 1200 Cedar Street, Bastrop, Texas 78602, (512) 321-3925. TRD-9441543.

The Capital Area Economic Development District Executive Board will meet at the Wyndham Southpark Hotel, 4140 Governor's Row, Room 102, Austin, June 8, 1994, at 11:00 a.m. Information may be obtained from Richard G. Bean, 2520 IH-35 South, Suite 100, Austin, Texas 78704, (512) 443-7653. TRD-9441508.

The Capital Area Planning Council General Assembly will meet at the Wyndham Southpark Hotel, IH-35 South at South Ben White Boulevard, Austin, June 8, 1994, at 11:45 a.m. Information may be obtained from Richard G. Bean, 2520 IH-35 South, Suite 100, Austin, Texas 78704, (512) 443-7653. TRD-9441488.

The Central Texas Area Consortium Bluebonnet Health and Human Services, Inc. will meet at the Hallmark Restaurant, Sixth Street at IH-35, Belton, June 3, 1994, at noon. Information may be obtained from Wynonah Wineman, P.O. Box 937, Belton, Texas 76513, (817) 933-8663, Fax (817) 933-8665. TRD-9441514.

The Creedmoor Maha Water Corporation Monthly Board Meeting met at 1699 Laws Road, Mustang Ridge, June 1, 1994, at 7:30 p.m. Information may be obtained from Charles Laws, 1699 Laws Road, Buda, Texas 78610, (512) 243-1991, Ext. 2113. TRD-9441486.

The Erath County Appraisal District Appraisal Review Board met at 1390 Harbin Drive, Stephenville, June 1-2, 1994, at 9:00 a.m. Information may be obtained from Mitzi Meekins, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434, Fax (817) 965-5633. TRD-9441539.

The Golden Crescent Private Industry Council Executive Committee met at 2401 Houston Highway, Victoria, June 1, 1994, at 7:00 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston

Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9441536.

The Gonzales County Appraisal District Appraisal Review Board met at 928 St. Paul Street, Gonzales, June 1, 1994, at 9:00 a.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (210) 672-2879. TRD-9441503.

The Guadalupe-Blanco River Authority Executive Committee will meet at the Vic Bank & Trust-Cuero, 307 North Esplanade, Cuero, June 6, 1994, at 3:00 p.m. Information may be obtained from W. E. West, Jr., P.O. Box 271, Seguin, Texas 78156-0271, (210) 379-5822. TRD-9441512.

The Hunt County Appraisal District Hunt County Appraisal Review Board will meet at 4801 King Street, Board Room, Greenville, June 6-July 1, 1994, at 8:30 a.m. Information may be obtained from Shirley Gregory, 4801 King Street, Greenville, Texas 75403, (903) 454-3510. TRD-9441521.

The Panhandle Ground Water Conservation District Number Three Board of Directors (Public Meeting) met at the Water District Office, 300 South Omohundro Street, White Deer, June 1, 1994, at 8:00 p.m. Information may be obtained from C. E. Williams, P.O. Box 637, White Deer, Texas 79097, (806) 883-2501. TRD-9441515.

The Tax Appraisal District of Bell County Board of Directors will meet at the Tax Appraisal District Building, 411 East Central Avenue, Belton, June 8, 1994, at 7:00 p.m. Information may be obtained from Mike Watson, P.O. Box 390, Belton, Texas 76513-0390, (817) 939-5841, Ext. 29. TRD-9441510.

The Wood County Appraisal District Appraisal Review Board will meet at 217 North Main, Conference Room, Wood County Appraisal District, Quitman, June 3, 1994, at 1:30 p.m. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 518, Quitman, Texas 75783-0518, (903) 763-4891. TRD-9441485.

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Meetings Filed May 31, 1994

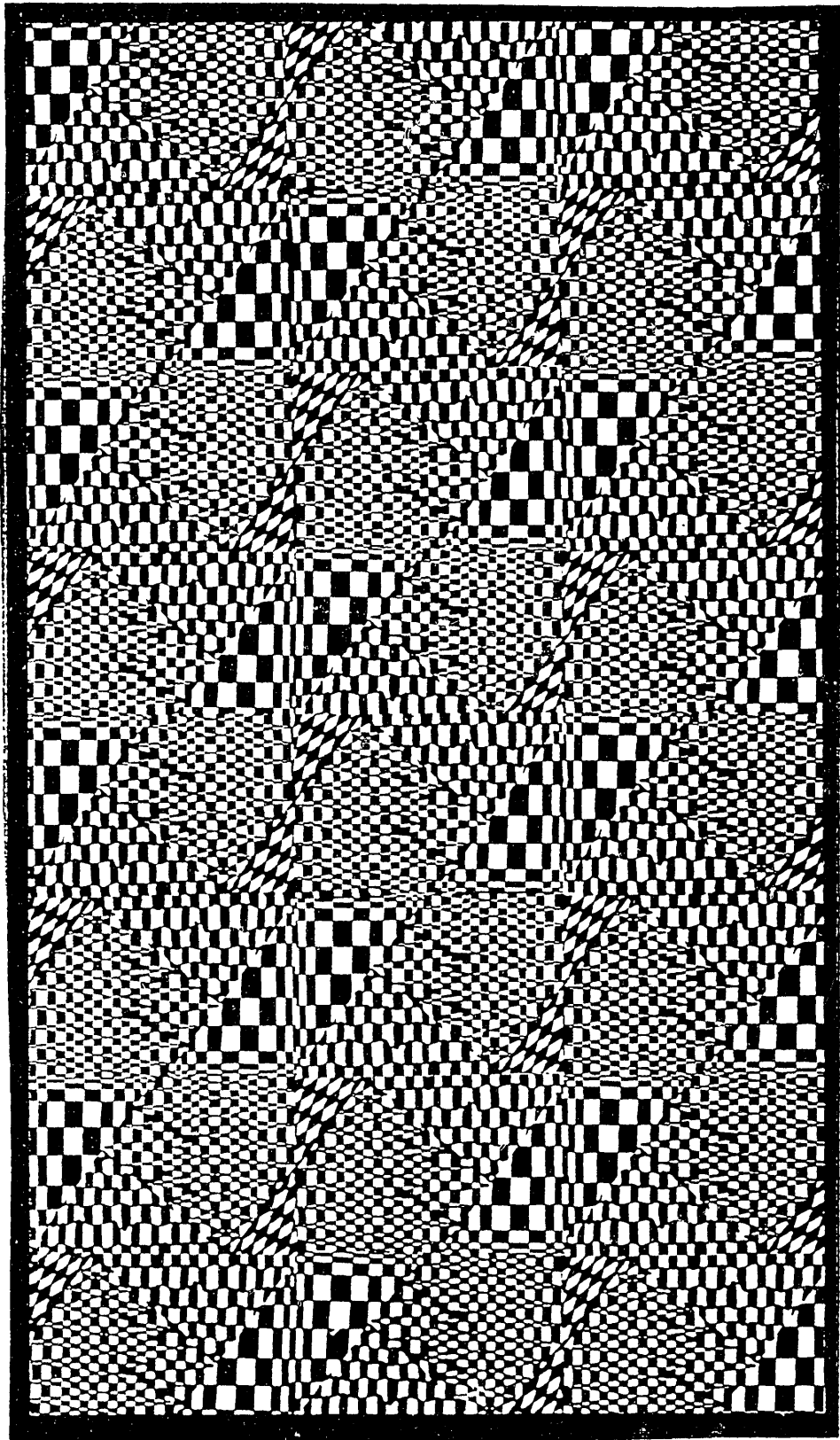
The Brazos River Authority Board of Directors will meet at 4400 Cobbs Drive, Waco, June 7, 1994, at 10:00 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD-9441553.

The Education Service Center-Region 17 Board of Directors will meet in the Board Room, 1111 West Loop 289, Lubbock, June 28, 1994, at 9:00 a.m. Information may be obtained from Virgil E. Flathouse, 1111 West Loop 289, Lubbock, Texas 79416, (806) 793-4854. TRD-9441558.

The Falls County Appraisal District Appraisal Review Board will meet at the Interstate of Highway 6 and 7, Falls County Courthouse-First Floor, Marlin, June 7, 1994, at 9:00 a.m. Information may be obtained from Joyce Collier, P.O. Box 430, Marlin, Texas 76661, (817) 883-2543. TRD-9441561.

The Millersview-Doole Water Supply Corporation Board of Directors will meet at the Corporation's Business Office, One Block West of FM 765 and FM 2134, Millersview, June 6, 1994, at 8:00 p.m. Information may be obtained from Glenda M. Hampton, P.O. Box E, Millersview, Texas 76862-1005, (915) 483-5438. TRD-9441552.

The Wood County Appraisal District (Emergency meeting.) Board of Directors met at 217 North Main Street, Conference Room, Wood County Appraisal District, Quitman, June 2, 1994, at 1:30 p.m. The emergency meeting was necessary due to appoint an ARB member. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 518, Quitman, Texas 75783-9518, (903) 763-4891. TRD-9441555.



Name Jorge Lopez
Grade 10
School Lopez High School, Brownsville ISD

IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Department of Agriculture Request for Proposals

The Texas Department of Agriculture's (the department) Agricultural Diversification Program is soliciting proposals for matching grant awards in the areas of agriculture research and innovation, business assistance, and small business incubators.

Purpose. The Texas Agricultural Diversification Program (the program) is a matching grants program designed to help diversify the Texas agricultural industry by providing grants to assist in the transfer of newly developed agricultural crops and technologies to the marketplace.

Program objectives. It is the general objective of the program to support projects which will stimulate increased economic activity within the Texas agricultural industry and to demonstrate the technical feasibility and commercial viability of alternative crop production, processing of agricultural products, and direct marketing enterprises. Some specific objectives include: to establish research, demonstration, and training projects that help commercialize the production and manufacture of new agricultural crops and products in Texas; to identify opportunities for substitution of Texas food and fiber products for imported products; to establish new methods or systems for marketing Texas agricultural products, including assisting marketing associations and cooperatives; to promote agricultural employment and entrepreneurial opportunities for low-income and other disadvantaged populations in rural areas; to demonstrate new farming practices, including soil, water and energy conservation and sustainable agricultural techniques; to increase the capabilities of community or regional organizations to provide training and assistance to new and expanding businesses based on agriculture; and to provide one-time seed money for self-financing small business incubators that provide business services to small enterprises that process or market agricultural crops in the state or produce alternative agricultural crops in the state.

Project Categories. Proposals submitted must meet the following requirements;

Research and Innovation.

Purpose. The purpose of a research and innovation grant is to support research and innovation leading to organizational or marketing improvements in businesses based on agriculture or the commercialization of new crops, new agricultural products, or new production processes.

Eligibility. A recipient of a research and innovation grant must be a non-profit sponsor organization affiliated with a small business in a project meeting the purpose of this section. The qualifications of the small business affiliate

will be considered along with those of the applicant during the evaluation process.

Match. A one-to-one cash match is required, with at least one-half of the matching money (cash) coming from the private sector.

Amount. A research and innovation grant may not exceed \$50,000.

Business Assistance.

Purpose. The purpose of a business assistance grant is to increase the capabilities of community and regional organizations to provide training and assistance to new and expanding businesses based on agriculture.

Eligibility. A recipient of a business assistance grant must be a non-profit sponsor organization, such as a community college or council of government.

Match. A one-to-one cash match is required.

Amount. A business assistance grant may not exceed \$50,000.

Small Business Incubators.

Purpose. The purpose of a small business incubator grant is to provide one-time seed money for self-financing small business incubators. The grant must be used primarily for professional services. These incubators shall provide business services to small enterprises that process or market agricultural crops in the state or that produce alternative agricultural crops in this state.

Eligibility. A recipient of a small business incubator grant must be a local non-profit sponsor organization.

Match. A three-to-one match is required. A grant recipient must match the amount of the state grant with assets valued at \$3.00 for every \$1.00 of the state grant. The local match may be in the form of land, buildings, business assistance, and dedicated loan pools as well as cash contributions.

Amount. A small business incubator grant may not exceed \$100,000.

Selections and Schedule. Technical review of the proposals for eligibility and satisfaction of the matching requirements will be made by department staff. Any proposal that is incomplete or received after the due date will be rejected. The Commissioner of Agriculture shall designate a review committee consisting of six members. Grants are awarded by the Commissioner of Agriculture with the consent of the Board of Directors of the Texas Agricultural Finance Authority (TAFAs). The TAFAs Board is expected to meet in September of 1994 to consent to the awards.

Format for proposal. The proposals submitted to the de-

partment must contain the following: a TDA title page consisting of a general information section with title of project, name of sponsor, name and address of fiscal officer and principal investigator, a project budget section, and a breakdown of matching funds; a summary of the project no more than eight single-spaced pages including a statement of the project purpose and background, the program objectives the project will address, the potential economic impact to the Texas agricultural industry, a list of the project's goals, and the plan for the dissemination of the outcome or information gained from the project; documentation of matching funds detailing the cash match for research and innovation and business assistance grants or detailing the in-kind match for small business incubator grants; plans for sources of future funding if project is beyond one year in duration; proof of non-profit status by providing a copy of the IRS ruling indicating tax-exempt status, by providing a copy of sponsors, charter from the Texas Secretary of State indicating non-profit status, or, if a university or community college, by providing a written statement explaining its educational status as recognized by the State and signed by the principal investigator; a workplan indicating the timetable for meeting the objectives and listing the anticipated accomplishments; resumes of the principal investigator and key personnel actively involved in the project; and letters of support from local, state and federal organizations.

Criteria for all Grants. In evaluating the grant proposals, the Commissioner shall consider: the scientific and technical merit of the application; the anticipated benefits arising from a grant to the applicant, including both the potential job creation and commercial benefits to the agricultural industry; the market value of the assets of the applicant; the qualifications of the applicant; the reasonableness of the applicant's proposed budget; the extent and level of other funding sources for the applicant; the funding commitments needed for continued development; and the present involvement and support of local organizations including education organizations.

Deadline For Submission. Proposals must be delivered by 5:00 p.m., Friday, July 15, 1994. Facsimile transmissions will not be accepted. Questions concerning the proposal, requests for copies of this document, or requests for the TDA title page or documentation of matching funds forms may be directed to V.A. Stephens at the address below or by calling (512) 463-7519. One original and six copies of the completed proposal are required and should be mailed to V. A. Stephens, Coordinator for Special Issues, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. If transmitted by commercial courier, send to Ms Stephens at the Texas Department of Agriculture, Stephen F. Austin Building, 1700 North Congress Avenue, Ninth Floor, Austin, Texas 78701.

Other Information. Grant projects must be completed by August 31, 1995. No grant funds will be provided to the grantee for any overhead or indirect expenses related to the administration of the grant.

Employees of the Texas Department of Agriculture, members of the Texas Agricultural Finance Authority Board, and their immediate families are not eligible for the program.

Issued in Austin, Texas, on May 26, 1994.

TRD-9441459

Dolores Alvarado Hibbs
Chief Administrative Law Judge
Texas Department of Agriculture

Filed: May 26, 1994

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**Texas Commission on Alcohol and
Drug Abuse**
Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas Commission on Alcohol and Drug Abuse (TCADA) invites proposals from qualified consultants to assist in the evaluation of substance abuse training services offered by the Texas Addictions Training Center (TATC).

The contractor will evaluate each of the colleges and universities (minimum of eight) funded by TCADA. In addition, the consultant will contact TCADA funded treatment providers in an effort to establish a demographic identifying the number and kind of clients served versus the number and kind of counselors providing those services.

The primary goal of this project is to conduct a process evaluation of the TATC consortium members to assess the success of the implementation of the TATC and the individual components and provide an interactive process to modify programming as necessary.

To obtain a complete copy of this RFP, contact Kelly Reichenbach, Texas Commission on Alcohol and Drug Abuse, 710 Brazos, Austin, Texas 78701, (512) 867-8735.

All proposals in response to the RFP (#517-4-2305) must be received by 4:00 p.m. on June 27, 1994.

A panel of program and administrative staff from TCADA will score and rank proposals based on criteria described in the Request for Proposals (RFP). The initial award period for this work will be approximately July 1, 1994-September 29, 1994, with TCADA having the option of awarding funds for September 30, 1993-September 29, 1995.

Issued in Austin, Texas, on May 27, 1994.

TRD-9441480

Ben Bynum
Executive Director
Texas Commission on Alcohol and Drug
Abuse

Filed: May 27, 1994

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**Texas Board of Architectural
Examiners**
Correction of Error

The Texas Board of Architectural Examiners adopted an amendment to §1.69. The rule appeared in the March 8, 1994, issue of the *Texas Register* (19 TexReg 1655).

In Subchapter D, 22 TAC §1.69-the first line reads "The Texas Board of Architectural Engineers" and should be "The Texas Board of Architectural Examiners".

Texas Court Reporters Certification Board

Certification of Court Reporters

Following the examination of applicants on April 22, 1994, the Court Reporters Certification Board certified to the Supreme Court the following individuals who are qualified in the method indicated to practice shorthand reporting pursuant to Chapter 52 of the Texas Government Code.

Oral Stenography: Leslie P. Bates-Texarkana and Shanna Cray Toal-Duncanville.

Machine Shorthand: Maribeth Anderson-Portland; Bonnie Lorraine Battise-Livingston; Dana L. Bienveue-Santa Fe; Julie Joyce Blackmon-Pearland; Nancy Nell Brewer-Palmer; Michelle Lynn Broadway-Round Rock; Chris Allen Broker-Colleyville; Sheri A. Brown-Garland; Minnie M. Cadena-South Houston; Connie Lankford Cole-Houston; Shelley J. David-Gilmer; Emily Dunegan-Austin; Susan Elizabeth Flanagan-Irving; Jeannie Lauren Fort-Austin; Paula Kathryn Frederick-Houston; Alison L. Gaboda-Vacaville, CA; Kimberly Kay Gauthier-Houston; Kelley Jean Gisler-Refugio; Tena Goree-Jacksonville; Toni Lynn Hill-Irving; Mary G. Hinojos-Irving; Patricia Sue Ibarra-San Antonio; Rose Angela Ibarra-San Antonio; Kristi Ann Irick-Austin; Janet Ann Jasper-Longview; Pamela Jenkins-San Antonio; Angelita R. Jimenez-San Antonio; Tomi Sue Johnson-Mesquite; Dana Lynn Kelly-Charleston, SC; Kristine Annette King-Plano; Rachel Rebecca King-Austin; Karen Lynn Kirtley-Grand Prairie; Raquel Kocher-Austin; Velma Casas La Chausse-Houston; Jerry Randolph Lawson II-Alvin; Susan Anne Love-Houston; Maria Eliza Madrigal-Houston; Tami A. Martin-Vienna, II; Sherry Irene McCray-Lewisville; Mary Elizabeth Moore-Austin; Chery Bartnett Nelson-Cabot, AR; Mira G. Palacios-Abilene; Teresa Ann Pendley-Houston; Debra Dimas Perales-San Antonio; Shanna Melissa Peratta-Denison; Tanya R. Pittman-Midland Sherry Dawn Powell-O'Brien; Cindy J. Rahal-Houston; Charla Felty Reamy-Celeste; Tori Renee Reed-Dallas; Sharon Laine Rodgers-Austin; Kara Lynette Rowell-Fort Worth; Christine Fay Schroller-Corpus Christi; Pavan Brooke Seibert-Alvin; Shirley G. Simpson-Amarillo; Anita Kay Spurger-Garland; Traci Diane Stanley-Austin; Lesley Ann Stephens-San Antonio; Steven Gianni Stogel-Austin; Sherry Marie Sukman-Houston; Angela Lea Swanson-The Colony; Dana Arlene Taylor-Arlington; Tonya R. Thompson-San Antonio; Sharo Lynette Thorpe-Grand Prairie; Valorie Camille Vititow-Houston; Sheila Walker-Duncanville; Makala Ann Weakley-Plano; Tina Kay Genzer White-Pasadena; and Lara Christine William-Dallas.

Issued in Austin, Texas on April 23, 1994.

TRD-9441463 Peg Liedtke
Executive Secretary
Texas Court Reporters Certification Board

Filed: May 26, 1994

Texas Commission for the Deaf and Hearing Impaired Request for Proposals

The Texas Commission for the Deaf and Hearing Impaired (TCDHI) announces the availability of up to \$20,000 to

develop and implement pilot projects to promote early intervention and prevention of hearing loss. Grants will range in size from \$5,000 to \$10,000. Pursuant to Texas Civil Statutes, Article 6252-11c, (Use of Private Consultants by State Agencies), TCDHI is requesting proposals (RFP) for the provision of services including, but not limited to, the production and dissemination of information that raises awareness of deafness/hearing loss and informs the public of the existence of available services; the dissemination of information regarding the causes and prevention of hearing loss; and the early detection of hearing loss. Methods that may be employed include, but are not limited to, the creation of brochures, public service announcements, or other means of dispersing the desired information, and the provision of hearing screenings, or referral to state agencies that conduct hearing screenings. Proposed projects should be designed to serve as models for other service providers throughout the State and may serve people of all ages. Proposals that demonstrate the respondents' ability and willingness to work with associations or organizations representing persons who are deaf or hard of hearing will be viewed favorably. Proposed projects should increase awareness of available state and local supports and services for persons who are deaf or hard of hearing. The projects should also target traditionally underserved populations. Applicants that have access to non-State matching funds are encouraged to apply. These services are for the 1995 Fiscal Year which begins September 1, 1994.

Contact Person. Requests for required application packets and for further information regarding the provision of the previously stated services may be directed to Mike Broderick, Administrative Technician, Texas Commission for the Deaf and Hearing Impaired, P.O. Box 12904, Austin, Texas 78711-2904. Telephone: (512) 451-8494 (V/TDD).

Deadline for Submission of Proposals. Deadline for the receipt of proposals in the offices of the Texas Commission for the Deaf and Hearing Impaired is June 29, 1993, at 5:00 p.m. Proposals received after 5:00 p.m. will not be considered. Proposals will not be accepted via facsimile. Proposals are to be addressed to Billy Collins, Director of Service Programs, Texas Commission for the Deaf and Hearing Impaired, P.O. Box 12904, Austin, Texas 78711-2904.

Guidelines for Submitting Proposals.

I. Each applicant must submit a program narrative of not more than ten double-spaced pages that shows that the applicant is an agency, organization, or individual able to develop and implement a pilot project to provide services related to early intervention and prevention of hearing loss. Each narrative should meet the narrative specifications contained in the application packet.

In addition to the program narrative:

II. Each applicant must submit a fiscally conservative budget showing the anticipated costs of the program and the amount of funds requested, using the budget form contained in the application package.

III. Each applicant must submit a detailed description of how it plans to evaluate the proposed program. This program evaluation plan should describe measurable objectives, methods that will be used to measure the objectives, a process through which the program can be reviewed and strengthened, and a method through which the

applicant will inform other service providers of the results of the program.

IV. Each applicant must submit the required application and all necessary forms. (All interested parties should request an application packet.) Proposals submitted with one or more forms missing will not be considered.

Proposal Evaluation Criteria. Proposals will be reviewed and recommendations made to TCDHI's Commissioners. The Commissioners will have authority to accept or reject any or all proposals based on the established proposal evaluation criteria contained in the application packet. Selection of contractors will be done by vote in open session of the first TCDHI Commission meeting held after the closing date for receipt of these proposals.

Contract Award and Allocation Procedures. Final selection will be made by the Commission, using the previously mentioned evaluation procedures. Award will not necessarily be made to the contractor or applicant offering the lowest cost. Close consideration will be given to the ability to provide quality services based on the Commission's evaluation criteria.

The Commission reserves the right to accept or reject any or all proposals submitted.

The Commission is under no legal requirement to execute a resulting contract on the basis of this advertisement and intends the materials provided only as a means of identifying the various elements which the Commission considers basic to the delivery of the requested services. The Commission will base its choice on demonstrated competence, qualifications, and evidence of superior conformance to established criteria. This request does not commit the Commission to pay any costs incurred prior to execution of a contract.

The Commission will announce the contract awards for the EIP program during the Commission's last scheduled meeting of Fiscal Year 1994. The contracted services shall begin September 1, 1994 and end on August 31, 1995.

Contracts include the possibility for amendments to permit additional funds, if such funds become available, or re-allocation of funds during the contract period if determined necessary by the Commission.

Conditions for Termination of Contract. Failure to comply with contract requirements may result in the termination of the contract.

Issued in Austin, Texas, on May 24, 1994.

TRD-9441395 David W Myers
Executive Director
Texas Commission for the Deaf and
Hearing Impaired

Filed: May 25, 1994

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Texas Education Agency

Correction of Error

In the May 17, 1994, issue of the *Texas Register* (19 TexReg 3829), an error as published appears in the open meeting notice for the Texas Education Agency, Art Committee. The location, which was omitted, should be: "William B. Travis Building, Room #1-104, 1701 North Congress Avenue."

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**Employees Retirement System of Texas
Contract Award**

This award for consulting services is being filed pursuant to the Government Code, §2254.024, Subsection (a)(6). The consultant will perform consulting services for the ERS concerning the ERS' use of the PORTIA software produced by Thomson Trading Services Incorporated (TTS). TTS will consult with and advise the ERS on project planning, status calls, report building, securities setup, procedures review, user training, other training and other issues which may arise during the contract period. The consultant is Thomson Financial Services, 22 Pitts-burgh Street, Boston, Massachusetts 02210. The total cost of the contract is \$21,120, and is effective from May 20-December 31, 1994.

Issued in Austin, Texas, on May 25, 1994.

TRD-9441373 Charles D Travis
Executive Director
Employees Retirement System of Texas

Filed: May 25, 1994

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Texas Department of Health

Correction of Error

The Texas Department of Health submitted an Open Meeting notice, which was published in the May 27, 1994, issue of the *Texas Register* (19 TexReg 4207).

The name of the council was erroneously left out. The meeting should read "According to the complete agenda, the Texas Emergency Medical Services Advisory Council..."

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Texas Department of Insurance

Third Party Administration

The following third-party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application for admission in Texas for Byerly and Company, Inc., a foreign third-party administrator. The home office is in Englewood, Colorado.

Application for incorporation in Texas for Nonsubscriber Administrators, Inc., (doing business under the assumed name of HD Texas Claims, Inc.), a domestic third-party administrator. The home office is in Houston, Texas.

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Charles M. Waits, MC 105-6A, 333 Guadalupe, Austin, Texas 78714-9104.

Issued in Austin, Texas, on May 26, 1994

TRD-9441462 D J Powers
Legal Counsel to the Commissioner
Texas Department of Insurance

Filed: May 26, 1994

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Texas Natural Resource Conservation Commission

Notice of Application for Waste Disposal Permits

Attached are Notices of Application for Waste Disposal Permits. These notices were issued during the period of May 23-26, 1994.

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within 30 days of the date of newspaper publication of notice concerning the application(s).

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address, and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing on this application should be submitted in writing to Kerry Sullivan, Assistant Chief Hearings Examiner, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7908.

Texas Natural Resource Conservation Commission Applications for Waste Disposal Permits for the Week of May 23-26, 1994.

Aker Gulf Marine; a marine fabrication facility; on the east side of Live Oak Peninsula, on FM Road 1069, approximately 1/2-mile south of the intersection of FM Roads 1069 and 2725, five miles southwest of the City of Aransas Pass, San Patricio County, Texas; renewal; 03012.

Kenneth Allison; the Eastwood Hills Subdivision Wastewater Treatment Facilities; in the Eastwood Hills Subdivision, east of the Missouri-Pacific Railroad and approximately 2,500 feet south of Robinson Road in Montgomery County, Texas; renewal; 12788-01.

City of Austwell; the City of Austwell Wastewater Treatment Facilities; southwest of the intersection of Stevens and Main Street in the City of Austwell in Refugio County; Texas; renewal; 11117-01.

Baroid Management Company; a facility which formerly threaded steel pipe which has discontinued all manufactur-

ing operations and currently remediates contaminated groundwater which is unclassified; at 7707 Wallisville Road in the City of Houston, Harris County, Texas; amendment; 01970.

Cape Royale Utility District; the Cape Royale Wastewater Treatment Facilities; approximately 5.5 miles north of the City of Coldspring in the northwest corner of the Cape Royale Subdivision, on the shore of Lake Livingston in San Jacinto County, Texas; renewal; 10997-01

Dallas District Church of the Nazarene, Inc.; wastewater treatment facility will serve the facilities of Scottsville Nazarene Campground; approximately six miles east of Marshall and approximately 1/4-mile north of the intersection of FM Road 2199 and FM Road 1998 in Harrison County, Texas; new; 13702-01.

City of Edna; wastewater treatment plant; approximately one mile southeast of the intersection of State Highway Loop 521 and State Highway 111, adjacent to the south bank of Post Oak Branch, southeast of the City of Edna in Jackson County, Texas; amendment; 10164-01.

City of Fredericksburg; wastewater treatment facilities, approximately 1/2-mile southeast of the City of Fredericksburg and immediately east of U.S. Highway 290 in Gillespie County, Texas; amendment; 10171-01.

Harris County Municipal Utility District Number 24; the Water Treatment Plant Number One; approximately 4,000 feet north of Louetta Road, on and approximately 2,000 feet east of Stuebner Airline Road in the Community of Spring in Harris County, Texas; new, 11988-02.

Harris County Municipal Utility District Number 24, the Water Treatment Plant Number Two; approximately 7,500 feet north of Louetta Road, and the west side of Stuebner Airline Road in the Community of Spring in Harris County, Texas; new; 11988-03.

Harris County Municipal Utility District Number 238, wastewater treatment facilities; approximately one mile north of the intersection of Saums Road and Barker-Cypress Road, approximately 2.1 miles north-northwest of the intersection of Interstate Highway 10 and Barker-Cypress Road in Harris County, Texas; renewal, 12802-01.

City of Hitchcock; wastewater treatment facilities; approximately one mile south of the intersection of State Highway 6 and FM Road 519 in Galveston County, Texas, renewal; 10690-01.

City of Houston; the Turkey Creek Wastewater Treatment Facilities; on the south bank of Buffalo Bayou approximately 1,200 feet south of the confluence of Turkey Creek with Buffalo Bayou, approximately 4,800 feet southwest of the intersection of Memorial Drive and Ashford Road in City of Houston in Harris County, Texas, renewal; 10495-109.

Katy Independent School District; the Mayde Creek Junior and Senior High School Wastewater Treatment Facilities, approximately eight miles east of the City of Katy, just north of South Mayde Creek, two miles west-northwest of the intersection of Barker-Cypress Road and Interstate Highway 10 in Harris County, Texas; renewal, 12110-01.

City of Lampasas; the Henderson Wastewater Treatment Facilities; on the south side of Sulphur Creek near the east of Creek Street in the City of Lampasas, Lampasas County, Texas; renewal; 10205-02.

City of Needville; wastewater treatment plant; at 14206 Church Street south of Buffalo Creek and south of the City of Needville, approximately 0.4 mile east and 0.8 mile south of the intersection of State Highway 36 and FM Road 1236 in Fort Bend County, Texas; amendment, 10343-01

Jim Nicholson, c/o Jim Nicholson Feedyard; a beef cattle feedyard, on the southwest corner of the intersection of County Road 9 and County Road H-H, approximately two miles west of the intersection of County Road 9 and U.S. Highway 385 in Deaf Smith County, Texas; new; 03661.

City of Rockport; wastewater treatment facilities; on the west side of FM Road 2165, approximately 1,200 feet south of the intersection of FM Road 2165 and Enterprise Boulevard in Aransas County, Texas; renewal, 10054-01.

M. J. Schouten doing business as The Udder Place, a dairy, on the east side of U.S. Highway 281, 2.3 miles south of the intersection of FM 913 and U.S. Highway 281 in Erath County, Texas, new; 03682.

Texas Parks and Wildlife Department, the San Jacinto Battleground State Historical Park Wastewater Treatment Facilities; approximately 3.5 miles north-northeast of the intersection of State Highway 225 and State Highway 134, north of State Highway-Park Road 1836 and east of the San Jacinto Monument in the San Jacinto Battleground State Historical Park in Harris County, Texas; renewal; 11214-01.

U.S. Department of the Air Force, the Sheppard Air Force Base Wastewater Treatment Facilities, approximately 1,500 feet southeast of the intersection of Anderson Drive and Nehis Boulevard; approximately 3,500 feet north of the intersection of the State Highway 240 and FM Road 890 in Wichita County, Texas, renewal; 12511-01

USX Corporation; a major steel plant which consists of steel manufacturing facilities, plate mill, a pipe and tube mill and present/future industrial park tenants; at 2500 FM Road 1405 in the Baytown Industrial District, Chambers County, Texas, renewal; 01332

Issued in Austin, Texas, on May 26, 1994

TRD-9441448 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed May 26, 1994

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**Notice of Opportunity to Comment on
Permitting Actions**

Notice of Opportunity to Comment on Permitting Actions
for Week Ending May 26, 1994

The following applications are subject to a Commission's resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within ten days of the date notice concerning the application(s) is published in the *Texas Register*.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mail-

ing address, and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations, and your proposed conditions which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will sign the permit ten days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing on this application should be submitted in writing to the Chief Clerk's Office, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Application of McCoy Water Supply Corporation to amend Water Certificate of Convenience and Necessity Number 10649 by adding and decertifying service areas in Atascosa, Live Oak and Wilson counties, Texas.

Application of City of Pharr to transfer a portion of Water Certificate of Convenience and Necessity Number 10558 from Sharyland Water Supply Corporation and amend Water Certificate of Convenience and Necessity Number 11918 in Hidalgo County, Texas.

Application by John D. Vieman, Jane V. Siebemann, Judith V. Sikes, and Janet Sappington for an extension of time to complete construction of the facilities authorized by Water Use Permit Number 5256 and pursuant to Texas Water Code, §11.145, for executive director's consideration. Applicant seeks to extend the completion date of a proposed off-channel reservoir from the original date of April 19, 1994, to April 19, 1997, due to equipment failures and bad weather. The applicants' permit authorizes three existing off-channel reservoirs and one proposed off-channel reservoir for industrial (fish farming) purposes as well as diversion of water for irrigation purposes, approximately nine miles northeast of Angleton, Brazoria County, Texas.

Issued in Austin, Texas, on May 26, 1994.

TRD-9441447 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: May 26, 1994

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**Texas State Board of Pharmacy
Correction of Error**

The Texas State Board of Pharmacy adopted amendments to §283.2 and §283.4, concerning Definitions and Internship Requirements. The rules appeared in the May 20, 1994, issue of the *Texas Register* (19 TexReg 3920).

In §283.4(c)(2)(A)(i): The semi-colon should be changed to a colon at the end of this clause.

In §291.113(c)(2)(C): The word "and" should be deleted from the end of subparagraph (C) and placed at the end of subparagraph (D).

In §291.114(c): The text to read; "...in original manufacturer's containers, the pharmacy..."

In §291.114(e)(4)(B)(i): The text should read "...drugs distributed to the agency..."

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Public Utility Commission of Texas
Notices of Application

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application for a waiver of Public Utility Commission Substantive Rule 23.14, which requires public utilities to keep all records necessary for regulation within the State of Texas.

Docket Title and Number. Joint Application of Central Power and Light Company, Southwestern Electric Power Company, and West Texas Utilities Company for Authority to Maintain Records Outside the State of Texas. Docket Number 13016.

The Application. Central Power and Light Company, Southwestern Electric Power Company, and West Texas Utilities Company are requesting approval to maintain certain records outside the State of Texas.

Persons who wish to intervene or comment upon the action sought should contact the Public Utility Commission of Texas at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0388, or (512) 458-0221 for teletypewriter for the deaf on or before June 8, 1994.

Issued in Austin, Texas, on May 25, 1994

TRD-9441454 John M Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: May 26, 1994

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application for a waiver of Public Utility Commission Substantive Rule 23.14, which requires public utilities to keep all records necessary for regulation within the State of Texas.

Docket Title and Number. Application of Gulf States Utilities Company for Authority to Maintain Records Outside the State of Texas. Docket Number 13017

The Application. Gulf States Utilities Company is requesting approval to maintain certain records at Entergy Corporation headquarters located in Arkansas, Louisiana, and Mississippi.

Persons who wish to intervene or comment upon the action sought should contact the Public Utility Commission of Texas at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0388, or (512) 458-0221 for teletypewriter for the deaf on or before June 13, 1994.

Issued in Austin, Texas, on May 25, 1994

TRD-9441455

John M Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: May 26, 1994

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application for a waiver of Public Utility Commission Substantive Rule 23.14, which requires public utilities to keep all records necessary for regulation within the State of Texas.

Docket Title and Number. Application of Southwestern Electric Power Company for Authority to Maintain Records Outside the State of Texas. Docket Number 13015.

The Application. Southwestern Electric Power Company is requesting approval to maintain certain records in Shreveport, Louisiana.

Persons who wish to intervene or comment upon the action sought should contact the Public Utility Commission of Texas at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0388, or (512) 458-0221 for teletypewriter for the deaf on or before June 8, 1994.

Issued in Austin, Texas, on May 25, 1994

TRD-9441456 John M Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: May 26, 1994

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Texas Low-Level Radioactive Waste
Disposal Authority
Notice of License Application
Information Meeting

In accordance with the Health and Safety Code, the Authority has submitted a license application to the Texas Natural Resource Conservation Commission for the operation of a low-level radioactive waste disposal facility in Hudspeth County, Texas

Copies of the license application are available for viewing at Austin office of the Texas Low-Level Radioactive Waste Disposal Authority, 7701 North Lamar Boulevard, Suite 300, Austin, Texas (512) 451-5292, and the Sierra Blanca office at 203 FM 1111 South, Sierra Blanca, Texas, (915) 369-3391.

Authority staff will be available to answer questions concerning this license application on Tuesday, June 14, 1994, from 8:00 a.m. to 12:00 p.m. in their offices at 7701 North Lamar Boulevard, Suite 300, Austin, Texas, (512) 451-5292.

For more information, please contact Adriana Riojas, Public Information Officer, at (512) 451-5292.

Issued in Austin, Texas, on May 25, 1994

TRD-9441415 Lee H Mathews
Deputy General Manager and Legal
Counsel
Texas Low-Level Radioactive Waste
Disposal Authority

Filed May 26, 1994

Texas Department of Transportation Notice of Contract Awards

Under the provisions of the Government Code, Chapter 2254, Subchapter A, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the September 14, 1993, issue of the *Texas Register* (18 TexReg 6239).

The consultant will provide professional engineering services for the design and construction administration phases for the following TxDOT Project: 95-09-081, City of Ennis.

The engineering firm selected to perform these services is Bucher, Willis and Ratliff, 3620 Old Bullard Road, Suite 206, Tyler, Texas 75701.

The total value of the contract is \$35,611 and the contract period started on May 17, 1994, until the completion of the project.

Issued in Austin, Texas, on May 25, 1994.

TRD-9441470 Diane L. Northam
 Legal Executive Assistant
 Texas Department of Transportation

Filed May 26, 1994



Under the provisions of the Government Code, Chapter 2254, Subchapter A, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services.

The request for qualifications for professional engineering services was published in the January 14, 1994, issue of the *Texas Register* (19 TexReg 301).

The consultant will provide professional engineering services for the design and construction administration phases for the following TxDOT Project: 95-21-031, City of Winnsboro.

The engineering firm selected to perform these services is The Brannon Corporation, 1321 South Broadway, Tyler, Texas 75711.

The total value of the contract is \$40,000 and the contract period started on May 24, 1994, until the completion of the project.

Issued in Austin, Texas, on May 25, 1994.

TRD-9441398 Diane L. Northam
 Legal Executive Assistant
 Texas Department of Transportation

Filed: May 25, 1994

