

Texas Register

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Open Meetings-notices of open meetings

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Texas Administrative Code

The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules.

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40 TAC §§27.2901-27.2917—752

40 TAC §§27.3001-27.3011—752

40 TAC §§27.3101-27.3106—753

40 TAC §§27.3201-27.3221—753

40 TAC §§27.3301-27.3303—753

40 TAC §§27.3401-27.3406—754

40 TAC §27.3501, §27.3502—754

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298.13, 298.15, 298.17—763

Part X. Texas Employment Commission

40 TAC §301.9—767

TITLE 43. TRANSPORTATION

**Part I. State Department of Highways and Public
Transportation**

43 TAC §§1.101-1.103, 1.105-1.107—900

43 TAC §17.51—778



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) 463-1814.

Executive Order

AWR 91-1

ESTABLISHING THE GOVERNOR'S LAW ENFORCEMENT COUNCIL

WHEREAS, providing for the safety and security of its citizens is the primary concern of Texas state government; and
WHEREAS, the State of Texas appropriates \$1.25 billion annually on law enforcement and corrections activities; and
WHEREAS, there is a need to bring together leaders of law enforcement agencies, both state and local, for strategic planning purposes;
NOW, THEREFORE, I, Ann W. Richards, Governor of Texas, do hereby create and establish the Governor's Law Enforcement Council, hereinafter referred to as the Council.

I. Organization

A. The Council is composed of:

- (1) the president of the Texas District and County Attorneys Association;
- (2) the president of the Sheriff's Association of Texas;
- (3) the president of the Texas Police Chiefs' Association;
- (4) the director of the Texas Department of Public Safety;
- (5) the director of the Criminal Justice Division of the Governor's Office, who will serve as Chair; and
- (6) three other law enforcement representatives appointed by the governor to serve for a term expiring on January 31, 1992.

B. The Criminal Justice Division of the Governor's Office shall provide the Council with staff support.

II. Duties

The Council shall:

- A. advise and assist the Governor on state policies, plans, programs, and proposed legislation for law enforcement and crime prevention;
- B. monitor and evaluate the effectiveness and efficiency of state law enforcement programs and seek ways to improve the performance of such programs;
- C. recommend policies and standards for the award of grants to local units of government by the Criminal Justice Division of the Governor's Office for law enforcement programs; and
- D. perform other duties as necessary to improve and enhance the law enforcement policies, plans, and programs of the state.

This executive order shall be effective immediately and shall remain in full force and effect until modified, amended, or rescinded by me.

Given under my hand this 8th day of February, 1991.

Issued in Austin, Texas, on February 8, 1991.

TRD-9101675

Ann W. Richards
Governor of Texas





Name: Mari Gostola

Grade: 8

School: Boles Junior High, Arlington ISD

Emergency Sections

An agency may adopt a new or amended section or repeal an existing section on an emergency basis if it determines that such action is necessary for the public health, safety, or welfare of this state. The section may become effective immediately upon filing with the *Texas Register*, or on a stated date less than 20 days after filing, for no more than 120 days. The emergency action is renewable once for no more than 60 days.

Symbology in amended emergency sections. 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 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 10. Family Self-support Services

Child Care Management Services Statewide Implementation

• 40 TAC §10.3413

The Texas Department of Human Services (DHS) adopts on an emergency basis an amendment to §10.3413, concerning Child Care Management Services Statewide Implementation, in its Family Self-support Services chapter. The purpose of the amendment is to add eligibility criteria for clients who are not receiving Aid to Families with Dependent Children (AFDC) benefits and who may qualify to receive At-Risk Title IV-A funded child care services. New federal child care funds of \$300 million annually are authorized under the Omnibus Budget Reconciliation Act (OBRA) of 1990 for fiscal years 1991 through 1995. A preliminary estimate of the Texas annual share is \$23 million. This new Title IV-A capped entitlement is to be used to provide child care to children of low-income families who are not receiving AFDC benefits and

who need child care to continue working. Without child care these families would otherwise be at risk of becoming dependent upon AFDC.

The adoption of the amendment on an emergency basis, concurrent with implementation of the new child care service delivery system to be effective March 1, 1991, enables DHS to use unmatched state child care funds to access the new At-Risk Title IV-A funds as early as possible. This action will increase the amount of child care services available to low-income families at risk of becoming dependent on AFDC. The department adopts the amendment on an emergency basis effective March 1, 1991, because failure to adopt this amendment on an emergency basis would constitute an imminent peril to health, safety, or welfare of low-income families who are not receiving AFDC benefits and to remain independent of AFDC. DHS is simultaneously proposing this amendment for review and comment in this issue of the *Texas Register*.

The amendment is adopted on an emergency basis under the Human Resources Code, Title 2, Chapters 22 and 44, which authorize the department to administer public assistance and day care programs.

§10.3413. Eligibility for Title IV-A Funded Child Care Services.

(a) The Texas Department of Human Services (DHS) guarantees child care

or a subsidy for care for families meeting the eligibility requirements stated in 45 Code of Federal Regulations, §255.2 and §256.2.

(b) To be eligible for At-Risk Title IV-A funded child care, a family must meet the following eligibility requirements:

(1) the family must not be receiving Aid to Families with Dependent Children (AFDC) benefits;

(2) the parent(s) must need child care in order to work; and

(3) the family's total gross income must be equal to or less than 150% of the applicable, current federal poverty income guidelines.

Issued in Austin, Texas, on February 12, 1991.

TRD-9101730

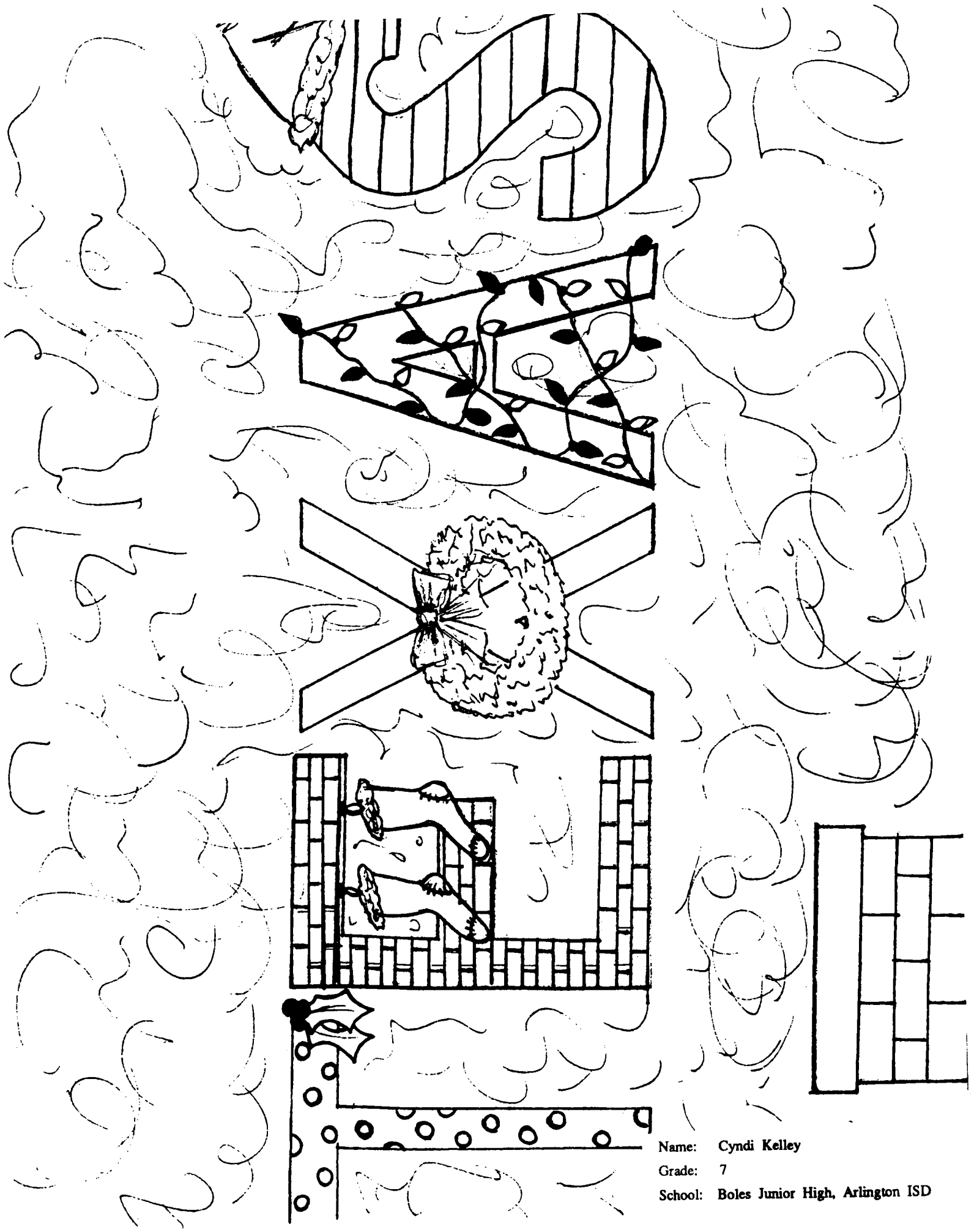
Nancy Murphy
Agency Liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: March 1, 1991

Expiration date: June 29, 1991

For further information, please call: (512) 450-3765

◆ ◆ ◆



Name: Cyndi Kelley
Grade: 7
School: Boles Junior High, Arlington ISD

Proposed Sections

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 any action may be 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 sections, 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 Regu- lations

• 16 TAC §3.22

The Railroad Commission of Texas (Commission) proposes new §3.22 (Statewide Rule 22) concerning the protection of birds. Subsection (a) advises oil and gas operators that they may incur liability under federal and state wildlife protection laws if they fail to take measures to prevent harm to birds from contact with oil in tanks and pits. Subsection (b) requires the operators to screen, net, cover, or otherwise render harmless certain open-top tanks and pits that are likely to collect some oil. Subsection (c) allows the commission to require protective measures at other pits under specified circumstances.

According to information provided to the commission by wildlife authorities, oil and gas operators need to take additional measures to prevent harm to birds from contact with oil in tanks and pits. Although existing 16 TAC §3.8 and §3.21, concerning water protection (Rule 8) and fire prevention and swabbing (Rule 21), prohibit the storage of oil in pits, certain types of pits collect some oil that has to be skimmed off. According to wildlife authorities, even small amounts of oil in a pit may result in the death of birds. Thus, the commission believes that this proposed section will complement existing rules by requiring additional measures necessary to protect birds at tanks and pits where conditions harmful to birds exist or are likely to occur.

The commission seeks comments on the proposed section, including comments on its scope. In particular, the commission seeks comments on the types of tanks that pose a threat to birds and should be required to be rendered harmless. The proposed section exempts tanks less than or equal to 16 feet in diameter. The commission is interested in receiving information that will enable it to determine what sizes of tanks, if any, should be exempted.

Rita E. Percival, systems analyst, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications as a result of enforcing or administering the section. There will be no effect on state or local government. The cost of compliance with the section for small

businesses will be approximately \$150 for an open-top storage tank that exceeds 16 feet in diameter and contains a continuous or frequent surface film or accumulation of oil and approximately \$150 for an open-top storage tank that exceeds 16 feet in diameter and contains a continuous or frequent surface film or accumulation of oil and approximately \$500 for a 100-foot by 100-foot skimming pit or collecting pit used as a skimming pit. Annual maintenance will be approximately \$50 per tank or pit.

Ms. Percival also has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section as proposed will be the prevention of harm to birds from contact with oil in tanks and pits associated with the production of oil and gas. The anticipated economic cost to persons who are required to comply with the section as proposed will be approximately \$150 for an open-top storage tank that exceeds 16 feet in diameter and contains a continuous or frequent surface film or accumulation of oil and approximately \$50 for a 100-foot by 100-foot skimming pit or collecting pit used as a skimming pit. Annual maintenance will be approximately \$50 per tank or pit.

Comments on the proposal may be submitted to Nina Hutton, Staff Attorney, Underground Injection Control, Oil and Gas Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Written comments will be received for 30 days from the date of publication of the proposed new section.

The new section is proposed under the Texas Natural Resources Code, Title 3, particularly §85.042, which provides the Railroad Commission with the authority to adopt rules for the prevention of operations in the field dangerous to life or property.

§3.22. Protection of Birds.

(a) If an oil and gas operator who maintains a tank or pit does not take protective measures necessary to prevent harm to birds, the operator may incur liability under federal and state wildlife protection laws. Federal statutes, such as the Migratory Bird Treaty Act, provide substantial penalties for the death of certain species of birds due to contact with oil in a tank or pit. These penalties may include imprisonment. State statutes also protect certain species of birds. The Railroad Commission of Texas (commission) is cooperating with federal and state wildlife authorities in their efforts to protect birds.

(b) An operator must screen, net, cover, or otherwise render harmless to birds

the following categories of open-top tanks and pits associated with the production of oil and gas:

(1) open-top storage tanks that exceed 16 feet in diameter and contain a continuous or frequent surface film or accumulation of oil;

(2) skimming pits as defined in §3.8 of this title (relating to Water Protection) (Rule 8); and

(3) collecting pits as defined in §3.8 that are used as skimming pits.

(c) If the commission finds a surface film or accumulation of oil in any other pit regulated under §3.8, the commission will instruct the operator to remove the oil. If the operator fails to remove the oil from the pit in accordance with the commission's instructions or if the commission finds a surface film or accumulation of oil in the pit again within a 12-month period, the commission will require the operator to screen, net, cover, or otherwise render the pit harmless to birds. Before complying with this requirement, the operator will have a right to a hearing upon request. In addition to the enforcement actions specified by this subsection, the commission may take any other appropriate enforcement actions within its authority.

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 February 12, 1991.

TRD-9101783

Brenda Loudermilk
Assistant Director, Legal
Division-General Law
Railroad Commission of
Texas

Earliest possible date of adoption: March 22, 1991

For further information, please call: (512) 463-6977



Chapter 5. Transportation Division

Subchapter K. Safety Requirements

• 16 TAC §5.173

Pursuant to a petition filed on behalf of the Sand and Gravel Motor Carriers Association, Inc., and its members carriers, the Railroad Commission of Texas proposes an amendment to §5.173, concerning the driver's daily log. The amendment will exempt specialized motor common carriers authorized to transport sand, gravel, and other similar type road building and construction commodities from the requirement of maintaining a driver's daily log when the driver is operating within a 150-air-mile radius of the normal work reporting location. This amendment will reduce the amount of record keeping required by the involved carriers and will be consistent with the exemption contained in Texas Civil Statutes, Article 6701d, §139(a)(7), which is applicable to intrastate carriers as enforced by the Texas Department of Public Safety.

Jackye Greenlee, assistant director-central operations, 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.

Linda G. Sorrells, hearings examiner, has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the reduced record keeping burden, and reduced operations expenses. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Public comments may be submitted to Linda G. Sorrells, Hearing Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

the amendment is proposed under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which provides the commission with the authority to prescribe rules and regulations for the operations of motor carriers.

§5.173. Driver's Daily Log.

(a) Except as provided in subsections [subsection] (c) and (e) of this section, every motor carrier and every motor bus company shall require that a driver's daily log shall be made by each of its drivers, and every driver who operates a motor vehicle subject to the jurisdiction of the Railroad Commission of Texas shall make a daily log. Driver's logs shall be made on and in accordance with the instructions of BMC-59, driver's daily log, as revised from time to time, as prescribed by the department of transportation, and they shall reflect the true facts as to the activities of each driver for the full 24 hours of each day.

(b)-(d) (No change.)

(e) Specialized motor common carriers authorized to transport sand, gravel, and other similar road building and construction materials, in bulk, shall only be required to maintain daily driver's logs in such instances as required by 37 TAC, §3.62 (relating to Regulations governing Transportation Safety); however, in instances where daily driver's logs are not required to be maintained pursuant to the provisions of this section, the business records of the carriers shall nevertheless provide for and reflect the following information:

(1) the time the driver reports for duty each day;

(2) the total number of hours the driver is on duty each day;

(3) the time the driver is released from duty each day; and

(4) the total time for the preceding seven days in accordance with 49 Code of Federal Regulations, §395.8 of the Federal Motor Carrier Safety Regulations for drivers used for the first time or intermittently.

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 February 11, 1991.

TRD-9101742

Brenda Loudermilk
Assistant Director
Legal Division, General
Law

Earliest possible date of adoption: March 22, 1991

For further information, please call: (512) 463-7096

TITLE 19. EDUCATION Part II. Texas Education Agency

Chapter 53. Regional Education Service Centers

The Texas Education Agency (TEA) proposes new §§53.1-53.3, 53.21- 53.25, and 53.71-53.74. Senate Bill 1, passed by the 71st Texas Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters must occur under the new rule-making relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. Chapter 53 has been reviewed by the board and was proposed for repeal in the February 5, 1991, issue of the *Texas Register* (16 TexReg 633). The new sections in Chapter 53 incorporate the former sections with the following changes: additional authorization for the regional board of directors to purchase and hold real property has been added; the minimum age requirement for board members has been changed from 21 to 18-years-old,

the responsibilities of centers in the Public Education Information Management System (PEIMS) are delineated; and other minor clarifications are included in the sections.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Moak and Criss Cloude McCuller, director for planning coordination, also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be a clearer more concise statement of the agency's rule authority. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Criss Cloude McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed sections submitted in accordance with the Administrative Procedure and 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 sections has been published in the *Texas Register*.

Subchapter A. Authorization

• 19 TAC §§53.1-53.3

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code, relating to public education.

§53.1. General Provisions.

(a) Regional education service centers shall operate to provide to school districts services that promote equalization of educational opportunities and the highest possible level of quality in instruction and related services to students. Regional education service centers shall participate as service agencies in the planning, development, coordination, implementation, and evaluation of educational programs and in educational research. Services and research efforts by the regional education service center shall be consistent with the mission, goals, and objectives for public education in Texas. Regional education service centers shall operate in accordance with state and federal laws, rules of the State Board of Education, and provisions of the state plan for regional education service centers.

(b) The commissioner shall recommend and the State Board of Education shall adopt a state plan for regional education service centers that serves as the charter under which the centers operate and

shall adopt a state plan for regional education service centers that serves as the charter under which the centers operate and provide services to districts. The State Board of Education shall periodically review the state plan for regional education service centers.

(c) In order to facilitate cooperative planning in the region and to promote quality, regional education service centers and institutions of higher education shall establish and maintain a close working relationship to accomplish mutual goals.

(d) The education service centers shall be supported by state funds, federal funds, and grants from or contracts with other private and public organizations for purposes identified in §53.2 of this title (relating to Services to Member Schools).

§53.2. Services to Member Schools.

(a) Each regional education service center shall develop and provide to member schools services in the core service areas specified in the state plan for regional education service centers. Specific core service tasks and outcomes are to be defined by the commissioner of education. Other services may be offered on a free-market basis outside regional boundaries.

(b) The commissioner of education may assign additional responsibilities to one or more regional education service centers to assist the Central Education Agency in support of statewide educational programs.

§53.3. Location of Centers.

(a) Regional education service centers shall be located throughout Texas so that each school district has the opportunity to be served on a voluntary basis.

(b) The regional education service center site in each of the geographic regions shall be located by action of the board of directors and approved by the State Board of Education.

(c) Approved centers shall serve a geographic area having 50,000 or more eligible scholastics in average daily attendance. The State Board of Education may make an exception for sparsely populated areas.

(d) The assignment of counties to regions shall be made by the State Board of Education. All boundary lines of regions shall coincide with county lines except where a school district is in two or more counties in which case it shall be served from the region encompassing its county of jurisdiction. Further exception may be made in assignment of a county line district when evidence of hardship or other unusual circumstances is presented to support a request for reassignment to the adjoining region.

(e) The assignment of counties to each of the service center regions and a

state map showing the boundaries of the regions are as follows:

(1) Region I. Cameron, Hidalgo, Jim Hogg, Starr, Webb, Willacy, and Zapata counties;

(2) Region II. Aransas, Bee, Brooks, Duval, Jim Wells, Kenedy, Kleberg, Live Oak, McMullen, Nueces, and San Patricio counties;

(3) Region III. Calhoun, Colorado, DeWitt, Goliad, Jackson, Karnes, Lavaca, Matagorda, Refugio, Victoria, and Wharton counties;

(4) Region IV. Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, and Waller counties;

(5) Region V. Hardin, Jasper, Jefferson, Newton, Orange, and Tyler counties;

(6) Region VI. Austin, Brazos, Bureson, Grimes, Houston, Leon, Madison, Milam, Montgomery, Polk, Robertson, San Jacinto, Trinity, Walker, and Washington counties;

(7) Region VII. Anderson, Angelina, Cherokee, Gregg, Harrison, Henderson, Nacogdoches, Panola, Raines, Rusk, Sabine, San Augustine, Shelby, Smith, Upshur, Van Zandt, and Wood counties;

(8) Region VIII. Bowie, Camp, Cass, Delta, Franklin, Hopkins, Lamar, Marion, Morris, Red River, and Titus counties;

(9) Region IX. Archer, Baylor, Clay, Foard, Hardeman, Jack, Knox, Montague, Throckmorton, Wichita, Wilbarger, and Young counties;

(10) Region X. Collin, Dallas, Ellis, Fannin, Grayson, Hunt, Kaufman, and Rockwall counties;

(11) Region XI. Cooke, Denton, Erath, Hood, Johnson, Palo Pinto, Parker, Somervell, Tarrant, and Wise counties;

(12) Region XII. Bell, Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Lampasas, Limestone, McLennan, Mills, and Navarro counties;

(13) Region XIII. Bastrop, Blanco, Burnet, Caldwell, Comal, Fayette, Gillespie, Gonzales, Guadalupe, Hays, Kendall, Lee, Llano, Travis, and Williamson counties;

(14) Region XIV. Callahan, Comanche, Eastland, Fisher, Haskell, Jones, Mitchell, Nolan, Scurry, Schackelford, Stephens, Stonewall, and Taylor counties;

(15) Region XV. Brown, Coke, Coleman, Concho, Crockett, Edwards, Irion, Kimble, McCulloch, Mason, Menard, Runnels, San Saba, Schleicher, Sterling, Sutton, Tom Green, and Val Verde counties;

(16) Region XVI. Armstrong, Briscoe, Carson, Castro, Childress,

Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler counties;

(17) Region XVII. Bailey, Borden, Cochran, Cottle, Crosby, Dawson, Dickens, Floyd, Gaines, Garza, Hale, Hockley, Kent, King, Lamb, Lubbock, Lynn, Motley, Terry, and Yoakum counties;

(18) Region XVIII. Andrews, Brewster, Crane, Culberson, Ector, Glasscock, Howard, Jeff Davis, Loving, Martin, Midland, Pecos, Presidio, Reagan, Reeves, Terrell, Upton, Ward, and Winkler counties;

(19) Region XIX. El Paso and Hudspeth counties;

(20) Region XX. Atascosa, Bandera, Bexar, Dimmit, Frio, Kerr, Kinney, LaSalle, Maverick, Medina, Real, Uvalde, Wilson, and Zavala counties.

(f) Satellite centers may be established by action of center boards of directors subject to approval by the commissioner of education.

(g) The State Board of Education shall periodically review the number, location, and boundaries of regional education service centers, and considering demographic and other factors may change the existing structure when such changes will enhance effectiveness, economy, or provision of services.

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 January 24, 1991.

TRD-9101777

W. N. Kirby
Commissioner of Education

Earliest possible date of adoption: March 22, 1991

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

Subchapter B. Administration and Operation

• 19 TAC §§53.21-53.25

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code, relating to public education.

§53.21. Working Relationships.

(a) General provisions. Education service centers operate in the state educational system as nonregulatory regional units that support and assist the Central Education Agency in the development and implementation of educational programs. The functional interrelationships and work-

ing arrangements among elements of the state education system that impact on the regional delivery of services are defined in the state plan for regional education service centers.

(b) Board of directors.

(1) The service center board of directors is charged with the development of policies to ensure sound management and operation of the regional education service center within state laws and the rules of the State Board of Education, and to ensure responsiveness to the needs of the school districts in the region. A copy of current regional board policies shall be filed with the Central Education Agency.

(2) The board is accountable to constituents in the region for the delivery of services that are responsive to the needs of school districts and consistent with the mission, goals, and objectives of the State Board of Education.

(3) The board of directors is accountable through the commissioner of education to the State Board of Education for operation of the center in accordance with state laws and the rules of the State Board of Education.

(4) The board of directors shall operate in accordance with the provisions of the state plan for regional education service centers.

(5) The board of directors shall be elected in accordance with the following procedures.

(A) Board members must be citizens of the United States, not less than 18 years of age, and residents of the region being served by the center. They may not be engaged professionally in education in a public school district, be a member of the school district board of trustees, or be a member of the board of any institution of higher education.

(B) Members of the board of directors are elected by the local school boards in each region.

(C) Any eligible person wishing to seek election to membership on a regional education service center board shall file at the headquarters office of the center in person or by certified mail between February 1 and February 20. No filing fee shall be required. Regional boards of directors shall adopt policies concerning filing procedures.

(D) Notice of the time and place for filing shall be submitted for publication to appropriate newspapers in the region, and to the regional advisory committee, and posted in appropriate locations by February 1.

(E) A ballot shall be developed and submitted to all local school boards in the region by March 1. Placement on the ballot shall be determined by drawing. Each local school board member shall have one vote for each vacancy on the board. Completed ballots shall be returned to the chairman of the regional board of directors by April 5. The board of directors shall canvass the ballots at its next regularly scheduled or special meeting, but not later than May 31, and determine the winner by a plurality of the votes cast. In the event of tie the names of the candidates who have tied shall be resubmitted to the local school boards.

(6) The board of directors may acquire, hold title, and sell real property for service center purposes in accordance with statutes governing the authority of boards of trustees of independent school districts.

(c) Regional advisory committee.

(1) In each region there is a regional advisory committee of the education service center whose membership shall be determined in accordance with provisions of the state plan for regional education service centers.

(2) The regional advisory committee shall:

(A) consult and advise with the board of directors on matters concerning educational services provided by the regional education service center;

(B) provide information to the executive director regarding school district needs and appropriateness and quality of services provided; and

(C) conduct an annual evaluation and report to the board of directors on the quality of services rendered, the effectiveness of center operations, and the appropriateness of program development efforts.

(d) Statewide advisory commission. A statewide advisory commission on education service centers serves in an advisory capacity to the State Board of Education. The statewide advisory commission on education service centers is composed of the chairman of each board of directors. This commission shall meet annually with the chairman of the State Board of Education and the commissioner of education to provide a forum to plan, to communicate, and to facilitate the delivery of services in accordance with the mission, goals, and objectives of the State Board of Education.

(e) Commissioner's advisory council for regional services. An advisory council composed of the executive directors of the regional education service centers shall meet upon call by the commissioner of education to assist in the development of comprehensive plans for programs to be carried

out through the regional education service centers in cooperation with the Central Education Agency, member schools, and institution of higher learning and other agencies. The structure and functions of the commissioner's advisory council shall be designated by the commissioner.

(f) Institutions of higher education. The board of directors shall adopt policies that encourage close working relationships and cooperative delivery arrangements with the institutions of higher education conducting teacher training programs within the region.

§53.22. Staff.

(a) General provisions. The regional board of directors shall employ personnel as needed to carry out the functions of the center and to ensure its successful operation. Staffing structure shall be consistent with position titles and functions specified in the state plan. The board of directors shall adopt policies for effective minority recruitment with the objective of attaining a qualified professional staff that is reflective of the ethnic composition of the professional staff of the public schools of Texas.

(b) Staff selection.

(1) The regional board of directors shall employ an executive director in accordance with the following procedures.

(A) The board notifies the commissioner of education that a vacancy exists.

(B) The board drafts a list of competencies it expects the executive director to possess. This will provide a guide for the board in identifying and employing the best possible applicant.

(C) The board drafts a job vacancy notice which includes the draft list of competencies and position qualifications.

(D) The board designates a search committee to assist with the initial steps in the selection process.

(E) The board sends the draft list of competencies, the job vacancy notice, and the list of search committee members to the commissioner of education for approval. As part of the approval process, the commissioner of education may meet with the board to review and revise documents as necessary.

(F) After approval, the job vacancy notices are distributed as follows:

(i) commissioner of education;

(ii) each of the 20 regional education service centers;

(iii) each school district within the region; and

(iv) other (optional).

(G) Notices of the job vacancy are posted for a period of at least 30 days from the date of the announcement, and applications are accepted during that time.

(H) All qualified applicants are given equal consideration, and no person shall be excluded on the grounds of race, religion, color, national origin, sex, handicap, or age (except where handicap or age constitutes a bona fide impediment to the proper and efficient fulfillment of the duties of this position).

(I) The search committee narrows the field of applicants to three-five finalists and notifies the board. The board then provides the commissioner a list of all qualified candidates with the selected finalists identified. The commissioner may approve the list or may choose to interview the finalists prior to making a decision. If fewer than two finalists are approved by the commissioner, the board may direct the search committee to develop another list of finalists.

(J) Upon receipt of approval from the commissioner of education, the board initiates the final steps in the selection process.

(K) The board of directors as a whole interviews each of the finalists, selects the best qualified applicant, and notifies the commissioner of education of its decision.

(2) The board of directors confirms employment of other staff who are recommended by the executive director. Qualifications of personnel employed shall equal or exceed those which are required by school districts with similar duties and responsibilities. Professional personnel shall possess appropriate training, experience, and certification to perform assigned responsibilities and function competently and effectively.

(3) Each regional education service center shall provide to the Central Education Agency an organization chart and personnel roster for each fiscal year.

(c) Salaries.

(1) An annual salary schedule including salary ranges for all positions shall be prepared according to provisions in the state plan for education service centers and approved by the education service center board of directors and submitted each year to the commissioner of education.

(2) Salary ranges, including

fringe benefits, for executive directors shall be established by the commissioner of education in consultation with the regional board of directors. The salary range will take into consideration the size of the service center operation and the salaries of superintendents in the region.

(3) Employees of the regional education service center shall be eligible to contribute to and participate in the Teacher Retirement System of Texas.

§53.23. Fiscal Records and Accounting. Fiscal records and accounting procedures shall be in accordance with standards prescribed by the commissioner of education.

§53.24. Accountability Requirements.

(a) The system of accountability in the delivery of regional services shall include the following activities.

(1) Each regional education service center shall submit annually a comprehensive application to the Central Education Agency for review and approval. The application shall contain information relating to service design, administrative procedures, budgets, funding source, contractual arrangements, and reporting requirements for each program, service, and project regardless of funding source.

(2) Each regional education service center shall prepare and submit to the Central Education Agency an annual performance report for each of the services specified in the regional education service center's comprehensive application. The report shall also contain general information on the administration and operation of the service center. This report shall disclose the service center's accomplishments compared with the commitments contained in the comprehensive application and official budgets. A copy of the annual performance report shall be available to each school district within the region.

(3) Management and service audits shall be conducted as provided in §109.24(d) of this title (relating to Field Audits and Reviews).

(4) Monitoring of regional education service center compliance with program guidelines shall be conducted as follows.

(A) Regional education service center programs that are supported with funds administered by the Central Education Agency shall be subject to an on-site review by agency staff in accordance with a schedule established by the commissioner.

(B) The purpose of this monitoring is to verify that service center practices and program accomplishments are in

compliance with the guidelines and assurances contained in the approved applications for funds. Where necessary, certain programs within a center may be subject to follow-up monitoring to ensure implementation by the regional education service center of appropriate corrective actions.

(5) Annual financial audits shall be provided in accordance with §109.25 of this title (relating to School District and Regional Education Service Center Independent Audits).

(6) Annual budget reviews shall be conducted as follows.

(A) The regional education service center board of directors shall develop and approve an annual operating budget for the center in accordance with the Texas Education Code, §23.42. The standardized reporting system for regional education service center budgets is specified in Bulletin 679, Financial Accounting Manual.

(B) In order to expend state funds, regional education service centers must comply with the prescribed reporting requirements and provide necessary information to the commissioner of education. In instances where regional education service centers are not in compliance with the reporting requirements, the commissioner of education may withhold state and/or federal funds until such time as the regional education service center is in compliance with the reporting requirements.

(7) The commissioner shall require reports concerning fund balances at the end of the fiscal year.

(8) The Central Education Agency shall provide for an evaluation of the quality of services delivered by each center in each of the core service areas. Such an evaluation shall include an assessment of service quality by direct users of the service.

(b) The accountability activities identified in subsections (a)(1)-(8) of this section provide the basis for an overall review of regional education service center effectiveness. Such a review shall be made annually by the commissioner of education. The results of this review shall be reported to the regional education service center board of directors, the State Board of Education, and other interested agencies. This report shall identify strengths and weaknesses of individual regional education service centers and the regional delivery system concept.

§53.25. Powers of the Commissioner of Education to Impose Sanctions.

(a) Whenever the commissioner of education determines that a regional education service center is operating in substantial violation of law, including

constitutional, statutory, and regulatory provisions, fails to provide core services in accordance with State Board of Education or commissioner directives, or fails to provide adequate leadership or management of the center, the commissioner of education may, after notice and an opportunity for hearing, impose sanctions against the regional education service center, including one or more of the following:

(1) directing the board of directors to withhold the executive director's salary in accordance with the procedure provided in the Texas Education Code, §21.254;

(2) suspension of any or all state funds, and any or all federal funds to the extent permitted by federal law;

(3) removal of any or all of the members of the regional board of directors. In the event that any director is removed from office, a new director shall be elected in accordance with the procedure provided in the state plan for regional education service centers; or

(4) removal of the executive director of the regional education service center. In the event that an executive director is removed from office, the commissioner of education shall appoint an acting executive director who shall serve pending the selection of the executive director in accordance with §53.22(b) of this title (relating to Staff);

(5) transfer of service delivery responsibility to another service center.

(b) Prior to the imposition of any sanction, the commissioner of education shall give notice of the intention to impose sanctions. The notice shall be given in writing to the members of the board of directors of the regional education service center, to the executive director, and to the chief fiscal officer. The notice shall specify the nature of the alleged violation of law and the nature of the sanctions which the commissioner intends to impose.

(c) The regional education service center board of directors, executive director, or any officer thereof against whom any proposed sanction is directed may request a hearing before the commissioner of education. A request for hearing must be received by the commissioner within 10 days of the receipt of notice of the commissioner's intention to impose sanctions. After a hearing, or in the event no hearing has been requested within the time specified in this subsection, the commissioner of education may impose any or all of the sanctions described in his notice of intent as he deems necessary.

(d) If a regional education service center board of directors, executive director, or any officer thereof requests a hearing before the commissioner of education, the hearing shall be conducted within 15 days of the commissioner's receipt of the request

unless the time for the hearing is extended by the commissioner. At the hearing, the burden shall be on the regional education service center to show cause why the proposed sanctions should not be imposed.

(e) A regional education service center board of directors, executive director, or any officer thereof against whom any action is directed may appeal any final action of the commissioner under this section to the State Board of Education. Such an appeal shall be based upon the record of the hearing before the commissioner. Notice of appeal to the State Board of Education must be filed with the commissioner of education within 10 days after receipt of notice of final action ordered by the commissioner. The order of the commissioner shall be in effect unless and until reversed or modified by the State Board of Education.

(f) Sanctions imposed by the commissioner under this section shall be reported to the State Board of Education at the next regular meeting of the board.

(g) Notwithstanding any provision of this section, under extraordinary circumstances in which it is deemed that irreparable harm may result, the commissioner may issue temporary orders simultaneous with the issuance of the notice provided for in subsection (b) of this section. Such temporary orders may include a freezing of any or all accounts of a regional education service center and the suspension of any or all funds which otherwise would be transferred to the regional education service center. Any such temporary orders may, in the discretion of the commissioner, remain effective until the final order is entered.

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 January 24, 1991.

TRD-9101765

W. N. Kirby

Commissioner of Education

Earliest possible date of adoption: March 22, 1991

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

Subchapter D. Information Systems

• 19 TAC §§53.71-53.74

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code, relating to public education.

§53.71. General Provisions. A planned statewide system of computer services and a program of financial assistance shall be implemented to provide for the equitable

and economical delivery of computer services to school districts through the regional education service centers. Objectives for the statewide system of computer services shall include the following:

(1) to provide funding assistance to education service centers for the cost of various services and the continual development, and modification of school administrative software systems to satisfy school district management requirements, and state and federal reporting requirements; and

(2) to reduce the burden of state and federal reporting by facilitating the implementation of the Public Education Information Management System.

§53.72. Multi-Regional Processing Center (MRPC).

(a) **Definition.** A multi-regional processing center (MRPC) is a specifically designated regional education service center computer facility having the responsibility for providing services to school districts in two or more education service center regions.

(b) **Management committee.** A management committee shall be established for each MRPC. The committee shall be composed of the members of the MRPC and provide the users of computer services with a voice in the MRPC operation. This includes the preparation and adoption of an annual consolidated MRPC budget for the judicious use of resources to accomplish the objectives of the statewide system of computer services.

§53.73. Reporting. Regional education service centers shall submit reports as required by the Central Education Agency to facilitate budgeting and the distribution of financial assistance for the statewide system of computer services.

§53.74. Funding

(a) **Revenue sources.** Computer services and research and development shall be funded from school district, state, and federal revenue sources.

(1) **School district revenue.** Each participating school district shall be responsible for making payment toward the cost of the computer services which it receives through the regional education service centers.

(2) **State revenue.** The funds which become available under the provisions of the Texas Education Code, §11.33(b), and any other appropriate state legislation shall be used to finance a portion of the costs of the statewide system of computer services.

(3) **Federal or other revenue.** A portion of the costs of the statewide system of computer services provided for school

districts through the regional education service centers may be financed by federal funds or other funds which available for this purpose.

(b) State funding of computer services. Funding assistance shall be made to the regional education service centers providing computer services to school districts in accordance with the funding guidelines established by the commissioner of education.

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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W. N. Kirby
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For further information, please call: (512) 463-9701

Chapter 61. School Districts

The Texas Education Agency (TEA) proposes new §§61.11, 61.21, 61.30-61.31, 61.41, 61.43, 61.45, 61.47, 61.51, 61.53, 61.61, 61.63, and 61.71-61.73. Senate Bill 1, passed by the 71st Texas Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters must occur under the new rule-making relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. Chapter 61, School Districts, has been reviewed by the board and was proposed for repeal in the February 5, 1991, issue of the *Texas Register* (16 TexReg 634). New Chapter 61 eliminates many obsolete provisions and provisions without appropriate statutory authority. Rules in such areas as waivers and exemptions, year-round schools, school district information requirements, dropout reporting, absences, missing child prevention and identification programs, non-biased pupil appraisal, training for school board members, tuition, nomination of trustees for military reservation school districts, and mineral leases are proposed for retention.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, also have determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be a clearer more concise statement of the agency's rule authority. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Criss Cloudt McCuller, Office of Planning

Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed sections submitted in accordance with the Administrative Procedure and 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 sections has been published in the *Texas Register*.

Subchapter A. Operations

• 19 TAC §61.11, §61.21

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code, relating to public education.

§61.11. School District Information Requirements. The commissioner of education shall be responsible for the development of an annual system specifying all Texas Education Agency information requirements for school districts including the Public Education Information Management System (PEIMS). This system shall specify all projected information requirements to be submitted by school districts, campuses, or school personnel and shall include PEIMS, forms, plans, and other instruments of information gathering whether by paper or electronic submission. Through this process the number and length of reports and the information requirements of PEIMS shall be reviewed and reduced where appropriate. No later than April 1 of each year the commissioner shall submit a summary of all information requirements for the subsequent year to the State Board of Education for review and approval. The summary shall include the legal basis for each set of information requirements, a brief justification, the projected use of each information set, and such other information as the board may require. The commissioner's report shall also include a review of the information collection activities of the then current school year.

§61.21. Year-Round Schools.

(a) School districts desiring to operate year-round education programs, either single or multitrack, are encouraged to do so. However, successful year-round education involves a comprehensive process of careful planning, communication, and implementation. The commissioner shall provide materials to assist districts in planning and implementing year-round programs.

(b) Districts considering the adoption of a year-round school program that contains less than the required 175 days of instruction and/or eight days of inservice shall apply to the commissioner for approval. Such districts shall adopt a calendar that ensures that instructional time at least equivalent to the amount provided in a

175-day school year and inservice time at least equivalent to the amount provided in eight days of inservice is maintained. In addition, districts shall ensure that employee contracts provide an equivalent salary for the number of hours of instruction delivered as would have been provided in a traditional schedule. In determining approval, the commissioner shall consider how the proposed calendar will affect average daily attendance, special program full-time equivalents, state salary schedules, state curriculum requirements, and any other educationally related issues deemed appropriate.

(c) The commissioner shall provide alternative testing dates, data reporting, and related matters for those districts which adopt year-round programs that meet all other requirements of this rule.

(d) Students enrolled in districts adopting year-round education programs and who meet all University Interscholastic League and State Board of Education rules and regulations shall be eligible to participate even when the student's calendar track is not in session.

(e) School districts shall submit the following information to the commissioner for review and approval before implementation of a year-round program:

(1) calendars: attach a copy of the district's proposed calendar. Indicate methods of attendance accounting that will ensure that there are not duplications. Show how both single and multitrack systems will be incorporated into the district's student attendance accounting. If modifications will be made under subsection (b) of this section, submit information to show the impact on instructional time, inservice time, and contracts;

(2) transportation: assess how year-round education will affect bus routes, schedules, maintenance, equipment, and drivers. For funding purposes, routes must be approved by the commissioner;

(3) food service: describe how lunch schedules, employees, purchasing, and commodities will be affected.

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 January 24, 1991.

TRD-9101775

W. N. Kirby
Commissioner of Education

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

Subchapter B. Waivers and Exemptions

• 19 TAC §61.30, 61.31

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides

the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code, relating to public education.

§61.30. Waivers and Exemptions from Rules or Laws.

(a) General provisions. In accordance with the Texas Education Code, §11.273, the State Board of Education may grant waivers and exemptions to local school districts and campuses.

(b) Requirement for written plan. Each request for a waiver by a local school district or campus under this section must contain the following components:

(1) a section that includes the local goals and/or achievement objectives, the statute or rule that inhibits student achievement, and how student achievement is inhibited by this requirement or prohibition;

(2) a section that describes the proposed plan to be implemented in lieu of the current requirement;

(3) a section that describes how the waiver will remove the inhibitions to student achievement; and

(4) a section that describes how the district or campus will determine whether the proposed waiver is successful in removing the inhibitions;

(5) a section that describes and verifies how the requirements of this section were carried out through either the appropriate campus or district level decision process required by Texas Education Code, §21.7532 and §21.930. This paragraph will become effective September 1, 1991.

(c) Textbook waivers. A school district or campus shall apply for a waiver to use a textbook that is not included on the state-adopted multiple list. A waiver under this section shall be for the same number of years for which the textbooks for the subject or course are adopted by the State Board of Education.

(1) To qualify for the waiver and receive state funds, in addition to the filing of the written plan required in subsection (b) of this section, the school district or campus shall apply by March 1 preceding the first year of the state-adopted textbook cycle for that subject or course.

(2) In addition to the written plan required by subsection (b) of this section, a school district or campus shall provide the following information:

(A) assurance of a six-year life expectancy of the textbook;

(B) coverage of essential elements by the textbook and sources of supplementary materials to address essential elements not covered by the textbook to

ensure compliance with Texas Education Code, §11.273(e)(1);

(C) involvement of campus instructional staff in the selection of the textbook.

(3) Upon approval of the waiver, the school district or campus shall purchase the textbook.

(4) The school district shall provide selected textbooks not on the state-adopted multiple list in special formats, such as, but not limited to, Braille, large print, audio, and Spanish language as required by law if they are needed by any students in the district who would use the textbook.

(5) Student performance using the textbooks shall be reviewed on an annual basis using student testing and other performance data to determine whether the textbook is fulfilling the achievement objectives submitted to the board pursuant to Texas Education Code, §11.273(b).

(6) Nothing in this rule shall restrict the authority of a school district to purchase textbooks not adopted by the State Board of Education pursuant to Texas Education Code, §12.01(d).

(d) Exemptions. Pursuant to Texas Education Code, §11.273(d), a district may be granted an exemption from a requirement or prohibition imposed by law or regulation, excluding textbook requirements, if:

(1) the district has been granted a waiver of the requirement or prohibition for a consecutive three-year period; and

(2) the campus or district has fulfilled the achievement objectives submitted to the board pursuant to Texas Education Code, §11.273(b).

(e) Assurances. For any application, waiver, or exemption request set forth in subsections (a)-(d) of this section, each district or campus shall provide assurances that the requested waivers or exemptions do not apply to subjects and tasks in the Texas Education Code, §11.273(e)(1)-(12).

§61.31. Commissioner of Education's Discretionary Authority to Waive State Board of Education Rules Under Certain Circumstances.

(a) Upon written request of a school district superintendent, the commissioner of education is authorized to waive, for a specified period of time, one or more regulations of the State Board of Education for that school district when, in the judgment of the commissioner, granting the waiver would enable the district to improve its educational program.

(b) The district's request must state the nature of the waiver requested, the reasons for the request, and the anticipated educational consequences of the waiver.

(c) It is the intent of this section that the commissioner's waiver authority may be used to enable districts to explore innovative strategies for educational improvement, as well as to enable them to address emergency or hardship situations.

(d) Waivers under this section are entirely within the discretion of the commissioner of education. This section in no way creates a right to a waiver on the part of any school district. Statutory requirements may not be waived.

(e) Waivers requested and those granted under this section shall be reported to the State Board of Education at the next meeting of the board and shall be collectively reviewed by the board annually.

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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W. N. Kirby
Commissioner of Education

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Subchapter C. Pupil Relationship

• 19 TAC §§61.41, 61.43, 61.45, 61.47

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code, relating to public education.

§61.41. Dropout Reporting. A student shall be reported as a dropout for a school year if the individual is absent for a period of 30 or more consecutive school days without approved excuse or documented transfer from the public secondary school (grades seven-12) in which he or she enrolled; or if the student fails to re-enroll during the first 30 consecutive school days in the following semester or school year without completion of a high school program. Documentation for approved excuses or transfers will be under standards set by the commissioner of education.

§61.43. Absences.

(a) For purposes of reviewing student absences, extenuating circumstances include, but are not limited to, the following:

(1) an excused absence as defined in the Texas Education Code, §21.035 (relating to violations of attendance requirements);

(2) days of suspension for which students have satisfactorily completed assignments for the suspensions period as provided in the Texas Education Code, §21.301(h);

(3) participation in a court proceeding or a child abuse/neglect investigation in accordance with §129.62 of this title (relating to Court-Related Students);

(4) the late enrollment and/or early withdrawal of a migratory student as defined by Code of Federal Regulations, §201.3;

(5) days missed by a runaway as defined by the Texas Family Code, §51.03 (relating to delinquent conduct; conduct indicating a need for supervisions);

(6) completion of a competency-based education program for students identified as at-risk in §75.195 of this title (relating to Alternatives to Social Promotion) and dropouts;

(7) the late enrollment or early withdrawal of a student placed in or having resided in a community care home by the Texas Youth Commission (TYC);

(8) the absences of a teen parent due to caring for his/her child; and

(9) participation in a substance abuse rehabilitation program.

(b) Each school district shall adopt policies establishing alternative ways for students to make up work missed or regain credit lost because of absences for extenuating circumstances. Alternative ways for students to make up work missed or regain credit include tutorials, evening school, Saturday classes, correspondence courses, independent study projects, computer assisted instruction, student contracts, and summer school.

(c) Each school district may adopt policies establishing alternative ways for students to make up work missed or regain credit lost due to unexcused absences. A district may impose a grade adjustment on the work made up by a student for an unexcused absence. Districts adopting such policies shall file a copy of the policies with the commissioner of education upon approval of the policies by the district board of trustees.

(d) Provisions under subsection (c) of this section do not permit or allow credit for work missed due to student absences for participation in extracurricular activities in excess of those permitted in §97.113(a) and (b) of this title (relating to Student Absences for Extracurricular or Other Activities).

(e) For students, grades K-eight, absences may be aggregated on the basis of 160 days per year.

(f) Absences in excess of those permitted under §97.113 of this title (relating to Student Absences for Extracurricular

or Other Activities) may not be considered as extenuating circumstances.

(g) For students identified in §89.211 of this title (relating to Handicapped Students) as handicapped students, the admission, review, and dismissal (ARD) committee shall determine absences due to the handicapping condition as extenuating circumstances. The ARD committee shall determine any modifications necessary regarding work to be made up by the handicapped student in order to regain class credit lost due to the absences.

(h) The attendance committee shall hear all cases where a student's attendance falls below 80 days and a petition by the student or the student's parent, legal guardian, or other person having lawful control pursuant to an order of a court has been filed and may review other cases at local option. The hearing may be a review of student attendance records and other appropriate documents; an oral presentation before the committee with the student, his or her parent, or other appropriate representatives such as case worker or substance abuse counselor; or another process established in policy by the district.

(i) If a student has an absence that the district recognizes as an extenuating circumstance and if the student satisfactorily makes up missed work, the student shall be considered in attendance for purpose of computing compulsory attendance under the Texas Education Code, §21.032, and for driver's license eligibility under Texas Civil Statutes, Article 6687b.

§61.45. Missing Child Prevention and Identification Program: Fingerprints and Photographs.

(a) In accordance with the Texas Education Code, §21.775(d), a photograph of a student shall be retained by the participating school until the photograph is replaced by a subsequently made photograph or until the expiration of three years, whichever is earlier.

(b) When a student withdraws from a school district, all photographs and fingerprints of the student taken as part of the Missing Child Prevention and Identification Program shall be returned to the parent or guardian of the student. If the district is unable to return the photograph and fingerprints to the parent or guardian, the photograph and fingerprints shall be destroyed by the school district.

§61.47. Commitment to and Procedures for Nonbiased Pupil Appraisal.

(a) The State Board of Education commits itself to the belief that schools are responsible for ensuring that students of a particular race, sex, national origin, or primary home language are not denied the opportunity to obtain the education generally obtained by other students in the sys-

tem. It affirms that school districts should exercise particular care in the appraisal process which includes the referral, assignment, placement, or change in placement of students to any of a variety of special programs, including special education, migrant, bilingual, gifted and talented, and vocational programs. Such procedures shall not discriminate against students on the basis of race, sex, national origin, primary home language, or handicapping condition.

(b) In order to be nondiscriminatory in the areas referred to in subsection (a) of this section, any selection procedure must be formulated and administered solely on criteria appropriate to meeting the special educational needs of the student for whom the program is designed and, further, must provide for timely reassessment and opportunity for reassignment. Procedures and tests must be used which give adequate consideration to such factors, related to the assessment of learning of linguistic and cultural competencies of test examiners. Similarly, adequate consideration to these factors should be included in the training of teachers, aides, and other instructional personnel.

(c) If a student has been placed in any special program on the basis of selection procedures which are not in compliance with current statutes, State Board of Education policies, or Texas Education Agency administrative procedures, it is the responsibility of the school district to provide special transitional services as the student is moved into more appropriate programs. The establishment of transitional services through the cooperation of special programs and general education should allow the student and the receiving teachers to receive the support necessary for continued educational growth and development. There should be no loss of credits earned in the special program or other 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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Commissioner of Education

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

◆ ◆ ◆ Subchapter D. Tuition and Fees

• 19 TAC §61.51, §61.53

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code, relating to public education.

§61.51. School District Collection of Student Fees. School districts shall be authorized to charge tuition fees for summer school provided tuition fees are not charged for courses required for graduation unless such courses are offered tuition-free during the regular school term.

§61.53. Tuition. A school district enrolling children who reside at a child-caring institution and whose maintenance expenses are paid in whole or in part by another state shall admit these children only upon the payment of tuition by the child-caring institution in an amount equal to the actual cost of educating a child enrolled in a similar educational program in the district.

(1) School districts shall determine the tuition rates in the following manner:

(A) students in regular programs: deduct the total vocational and special education program costs, including debt service prorated to the specific program, from the district's total budget including debt service and divide by the number of regular student full-time equivalents;

(B) students in vocational education programs: divide the school district's specific vocational education program cost including debt service prorated to the specific program by the number of vocational education student full-time equivalents in that program;

(C) students in special education programs: divide the school district's specific special education program cost including debt service prorated to the specific program by the number of special education student full-time equivalents in that program;

(D) part-time attendance: is prorated according to the portion of the school year the student attends;

(E) combination program: shall be prorated according to the portion of the school day the student attends each program.

(2) The attendance of these students shall be classified as ineligible and shall not be counted for purposes of allocating state funds to the district. All tuition rates shall be submitted to the commissioner of education for approval (reference the Texas Education Code, §21.0311).

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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W. N. Kirby
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For further information, please call: (512) 463-9701

Subchapter E. Board of Trustees Relationship

• 19 TAC §61.61, §61.63

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code, relating to public education.

§61.61. Training for School Board Members.

(a) In accordance with the Texas Education Code, §23.33(a), an advisory committee shall develop statewide standards on the duties of a school board member for review and adoption by the State Board of Education. Copies of the standards on the duties of a school board member shall be sent annually to the president of each local board to be distributed to all current board members, prospective board members, and the superintendent.

(b) The training required in accordance with the Texas Education Code, §23.33, applies to each member of local school boards of trustees.

(1) All board members shall participate in a local district orientation session within 60 days before or after their election or appointment; and shall complete a minimum of 20 hours of training from approved sponsors to gain a working knowledge of all the statewide standards on duties of a school board member prior to the end of their first year of service.

(2) Board members, upon completion of the initial training required in paragraph (1) of this subsection, shall annually participate in an assessment of their training needs. The assessment should consider the statewide standards on duties of a school board member, the State Board of Education's designated priority topics, local student achievement information, compliance/accreditation reports, and local district issues as affected by the statewide standards. The results of this assessment will be used to establish a training plan to address the needs of individual school board members, as well as the local board as a whole. The training plan will identify the approved training activities each board member will complete during the year. At a minimum, local board members shall participate in six hours of training activities annually.

(3) No training shall take place during a school board meeting unless that meeting is called for the delivery of school board training.

(4) Training related to each of the Statewide Standards on Duties of a School Board Member and other approved training activities shall include information that will enable the board member to understand the role and responsibility of the board, president, individual board members, and the administrative role and responsibilities of the superintendent in regard to the standard presented.

(c) Each regional education service center shall apply to the Central Education Agency for approval to sponsor and provide programs to support the training required in subsection (b) of this section. Registration for the regional education service center training programs will be open to all interested persons, including current and prospective board members.

(d) A registration fee shall be determined annually by the commissioner of education for regional education service centers to use to cover the costs of providing training programs.

(e) Private and professional organizations, school districts, government agencies, and colleges/universities may apply for approval to sponsor programs to support the training required in subsection (b) of this section to the Central Education Agency.

(f) Sponsor approval shall be based upon the sponsor's ability to deliver quality programs which are comprehensive and in compliance with the State Board of Education approved statewide standards on duties of a school board member. Sponsors are encouraged to consider a variety of delivery systems for their training programs in order to meet the varying needs of school board members. Programs are to be at least one hour in length and may be delivered in segments of not less than 30 minutes.

(g) The sponsoring agency shall provide verification of completion to the individual participant and to the participant's school district.

(h) Program instructors must have documented training and/or experience in the subject areas in which they are delivering instruction.

(i) Each education service center and other sponsors shall submit program dates to the Central Education Agency at least 30 days prior to delivery.

(j) Approved program sponsors shall be reviewed by the Central Education Agency at least every five years, with audits scheduled at any time. The Central Education Agency may also request a program evaluation from the participating board members at any time. All sponsors will maintain approved status for five years unless notified by the agency.

(k) At least 50% of the required training in subsection (b) of this section shall be designed and delivered in a group setting by persons not employed or affili-

ated with the board member's local school district. Not more than 50% of the required training that is delivered by the local district may utilize self-instructional materials provided by preapproved sponsors.

(1) Annually, at the meeting at which the call for election of board members is normally scheduled, the current president of each local board of trustees shall cause the minutes of the local board to reflect the board members who have and have not completed the required training and shall make this information available to the local media.

(m) Noncompliance with school board member training requirements shall be reviewed and dealt with by the accreditation division as a governance problem.

(n) Upon written request, the commissioner of education, in cases of extenuating circumstances, may grant an extension of time within which a local board member may complete the training requirement.

§61.63. Nomination of Trustees for Military Reservation School Districts.

(a) In nominating trustee candidates for military reservation school districts, the commanding officer of the military reservation shall:

(1) submit a list to the commissioner of education with at least three nominees for each vacancy. When two or more vacancies occur simultaneously, a list of three different nominees for each vacancy shall be submitted. In cases when the commanding officer wishes to re-appoint an existing board member(s), a list of three nominees for each vacancy must still be submitted. Nominees not selected for existing vacancies may be resubmitted as candidates for subsequent vacancies. The commanding officer may rank in the order of preference the nominees submitted for each vacancy;

(2) submit a statement that verifies that each of the nominees are qualified under the general school laws of Texas and live or are employed on the military reservation;

(3) submit a copy of a current biographical vita (resume) for each of the nominees, with a signature by the nominee attesting truth to the contents of the biographical vita;

(4) submit a statement from each of the nominees which expresses the nominee's willingness to accept appointment and to serve in such a capacity with full adherence to the state established standards on the duties and responsibilities of school board members;

(5) submit a signed statement which expresses recognition of the powers of the board of trustees to govern and manage the operations of the military reservation school districts;

(6) submit a signed statement regarding the governance and management operations of the district which expresses recognition that the role of the commanding officer of the military reservation is limited only to the duty defined by statute in the process for appointing board of trustees;

(7) submit a statement that the membership composition of the entire board of trustees is in full compliance with the provisions of the Texas Education Code, §11.28.

(b) A member of the board of trustees, who during the period of the term of office experiences a change of status which disqualifies such member for appointment under the provisions of the Texas Education Code, shall become ineligible to serve at the time of the change of 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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◆ ◆ ◆ • 19 TAC §§61.71-61.73

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code, relating to public education.

§61.71. Mineral Leases, General Provisions. The commissioner of education shall approve mineral leases for certain school districts in accordance with the Texas Education Code, §23.29, and the Texas Natural Resources Code, Chapter 71, Subtitle F.

§61.72. Mineral Leases, Common School Districts. Mineral leases executed by common school districts and rural high school districts classified as common shall be in accordance with the Texas Education Code, §22.10(b), and the Texas Natural Resources Code, Chapter 71, Subtitle F. The right to lease rests with the governing board of trustees (subject to the approval of the county school trustees or county board of education having jurisdiction over the district). Approval of such leases by the commissioner of education is not required. The revenues derived from such lease or sale shall be restricted to the expenditure purposes stated in the Texas Education Code, §22.10.

§61.73. Mineral Leases, Independent School Districts.

(a) Approval. Mineral leases executed by independent school districts shall be in accordance with the Texas Education Code, §23.29, the Texas Natural Resources Code, Chapter 71, Subtitle F, and this section. Approval of such leases by the commissioner of education is required and shall be granted upon satisfactory compliance by the district with the criteria, conditions, and procedures in this section. The revenues derived from such lease or sale shall be restricted to the expenditure purposes stated in the Texas Education Code, §23.29(d).

(b) General requirements. General requirements shall be as follows.

(1) Competitive bidding. The board of trustees shall give notice of its intention to lease any lands owned by the district by publishing a notice in a newspaper published and having a general circulation in the county where the lands are situated, once a week for a period of three consecutive weeks. The published notice shall describe the lands to be leased and designate the time and place, after the last publication, where the board shall receive and consider bids for the mineral leases. The published time at which the bids will be considered shall not be less than three calendar days following the date of the last newspaper publication. On the date specified in the published notice, the board shall receive and consider any and all bids submitted for the leasing of the lands, or any portions thereof which are advertised for leasing, and in the discretion of the board shall award each lease to the highest and best bidder submitting a bid. The board may reject all bids. No lease shall be made except upon public hearing and consideration of bids and after the notice as herein provided unless by public auction as provided in paragraph (2) of this subsection.

(2) Public auction. The board of trustees may grant mineral leases by public auction. The same publication and notice provisions applicable to sealed bid leases or sales shall apply to sales or leases by public auction.

(3) Board resolution. All leases shall be authorized by resolution of the board of trustees. The resolution shall contain a legal description of the land leased and shall specify the number of acres of land involved; the trustee authorized to execute the lease on behalf of the school district; and the name of the successful bidder to whom the land is being leased. The resolution shall incorporate the lease agreement by reference and a copy of the resolution shall be attached to the lease and made a part thereof. The copy shall be attested by the secretary of the board of trustees.

(4) Execution of lease. All leases shall be executed by the board of trustees, acting through its president.

(c) Oil, gas, and sulphur leases. In addition to the general requirements of sub-

sections (a) and (b) of this section, the following rules shall apply to all leases for oil, gas, or sulphur.

(1) Royalty retained. The district shall retain at least a 1/8 royalty on oil and gas. If sulphur is leased, the royalty retained shall not be less than \$2.00 per long ton.

(2) Pooling clause. In leases of lands consisting of less than 40 acres, the lease shall contain a pooling clause.

(3) Primary term. No lease, other than for coal or lignite, may be for a primary term of more than 10 years from the date of execution and approval of the lease by the commissioner of education. A renewal option based upon payment of additional delay rentals or bonus, or other monies shall not be approved to extend the primary term more than five additional years beyond the primary term.

(d) Coal and lignite leases. In addition to the general requirements of subsections (a) and (b) of this section, the following rules shall apply to all leases for coal and lignite.

(1) Royalty retained. No lease for coal and lignite may be executed unless the district as lessor retains at least a royalty based on one of the following or a combination of the following:

(A) a sum certain per ton;

(B) a percentage certain of the gross sale price F.O.B. at the mine site of the coal and lignite; or

(C) a sum certain for each acre-foot of coal and lignite mined and removed from the premises. Royalties paid under this paragraph may be paid as advanced mineral royalties.

(2) No "in kind" payments. Leases permitting royalty payments to be made "in kind" shall not be approved.

(3) Primary term. No lease for coal and lignite may be for a primary term of more than 35 years from the date of execution.

(e) Applications for approval. Mineral leases executed by independent school districts shall be submitted for approval by the commissioner of education in accordance with the following procedure.

(1) When a mineral lease has been fully executed by all parties thereto, the school district shall request approval of the same by letter to the commissioner of education, 1701 Congress Avenue, Austin, Texas 78701, enclosing the original and one copy of the lease with attached copies of the board resolution authorizing the lease. The request letter should contain sufficient information for the commissioner to determine whether the bidding or auction re-

quirements of this section have been met, including a publisher's affidavit certifying the dates and a copy of the published announcement that was published in a newspaper in compliance with this section.

(2) The commissioner shall review the request letter and enclosed materials upon receipt and shall determine whether the lease is in compliance with this section.

(A) If the commissioner determines that the lease is in compliance with this section, the commissioner shall attach a notarized signature of approval to the original of the lease and shall return the original to the district, retaining the request letter, one copy of the lease, and any other supporting materials for agency files.

(B) If the commissioner determines that the lease is not in compliance with this section, the commissioner shall return all copies of the lease to the district with a letter specifying the corrective action the district should take to obtain approval of the lease.

(C) Corrected leases may be resubmitted for approval as provided in paragraph (1) of this subsection, in which case the commissioner shall likewise make the determinations and take the actions as herein provided for original submissions.

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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Chapter 63. Student Services

• 19 TAC §63.11, §63.21

The Texas Education Agency (TEA) proposes new §63.11 and §63.21, concerning student services. Senate Bill 1, passed by the 71st Texas Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters must occur under the new rule-making relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. Chapter 85, Student Services, has been reviewed by the board and was proposed for repeal in the February 5, 1991, issue of the *Texas Register* (16 TexReg 641). The sections included in new Chapter 63 incorporate revised rules relating to school community guidance centers and library media standards that were previously included in Chapters 81 and 85.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, have determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be a clearer more concise statement of the agency's rule authority. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Criss Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed sections submitted in accordance with the Administrative Procedure and 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 sections has been published in the *Texas Register*.

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

§63.11. Requirements for Library Media Programs.

(a) Each local district must provide financial support for library media services that is adequate to meet the requirements of this section.

(b) The district shall provide the professional services of one or more certified library media specialists to direct and develop the library media program. The distribution of the library media specialists and library aides shall be balanced among the campuses and grade levels of the district. Required minimum staffing patterns are as follows.

(1) A district with one-374 students in average daily attendance (ADA) must make the services of a certified library media specialist available.

(2) A district with 375-499 students in ADA must provide the services of a part-time certified library media specialist and a half-time library aide.

(3) A district with 500-749 students in ADA must provide the services of a half-time certified library media specialist and a half-time library aide.

(4) A district with 750-1,000 students in ADA must provide the services of a half-time certified library media specialist and a full-time library aide.

(5) A district with over 1,000 students in ADA must provide one full-time certified library media specialist per 1,000 ADA.

(6) Where the services of a library aide are required by this subsection, the district may in all cases use the services of a certified library media specialist for the amount of time required.

(7) Districts with 1,000 or fewer in ADA may enter into a cooperative agreement to provide the services required by this subsection.

(c) The district shall provide a catalogued and centrally located collection of materials that is available to faculty members and student to support instruction and learning in the essential curriculum elements, and to satisfy individual interests.

(1) Students and faculty at the campus unit level must have ready access to a centrally housed and organized collection of resources in a variety of formats. Single-campus districts may provide one centralized library media center to house the collection and render the services.

(2) Materials shall be selected using standard selection tools, personal examination, or both.

(3) The collections shall meet at least the following minimums:

(A) books-10 books per ADA or 1,500 books total, whichever is greater; effective September 1, 1993, 10 books per ADA or 2,000 books total, whichever is greater. On single campuses with ADA over 3,000, eight books per ADA;

(B) audiovisual items-items may include filmstrips, slides, transparencies, study prints, pictures, sound recordings, maps, globes, kits, microforms, games, single-concept films, 16mm films, audio and video tapes, and microcomputer software, in a total of at least two items per ADA;

(C) If a district participates in the media services of the regional education service center, the district is required to provide on audiovisual item per student;

(D) equipment-appropriate equipment for use of the materials; and

(E) inappropriate, worn, and/or obsolete materials and equipment shall be systematically weeded from the collection.

(d) The library media center shall be open and supervised at least half of the instructional day.

(e) The districts are encouraged to work cooperatively with other community institutions that have instructional materials.

(f) The library media program shall include, but need not be limited to, the following services:

(1) an ongoing program is designed to teach and help students and faculty members to use library media materials and services;

(2) students and teachers have access to materials and services to facilitate and extend learning;

(3) students and teachers receive assistance in producing their own instructional materials;

(4) reference and bibliographic services help students and teachers to locate information and materials within the local library media center and from other sources; and

(5) faculty members are supplied with consultation and inservice programs concerning use of library media resources.

§63.21. School-Community Guidance Centers.

(a) In accordance with the Texas Education Code, Chapter 21, Subchapter P, a school-community guidance center for areas reflecting high concentrations of adjudicated persons may be established by school districts. School districts or a cooperative of school districts shall have an average daily attendance of at least 6,000 students.

(b) Should the appropriate of any biennium be insufficient to fund all eligible districts, funds will be allocated on a competitive grant basis. The commissioner of education may establish a maximum grant award and a level of funding for any selected project. Guidelines for the submission of grant proposals shall be developed by the commissioner of education. The commissioner of education shall use the following criteria to evaluate grant applications:

- (1) quality of needs assessment;
- (2) quality of objectives;
- (3) quality of proposed activities;
- (4) quality of collaboration plan;
- (5) quality of project management;
- (6) quality of evaluation plan;
- (7) efficiency of project budget.

(c) State funds allocated under this section shall be used for purposes directly related to the school-community guidance center program such as salaries, purchased and contracted services, supplies and materials, and other operating expenses limited to travel.

(d) Instructional staff must have a valid Texas teacher certificate. Other per-

sonnel in school-community guidance centers must meet certification requirements consistent with the services they are delivering to students.

(e) Before a student is admitted to a school-community guidance center, the school district must notify the student's parent or guardian verbally as to the reasons the student has been assigned to the center, and followed by written notification as soon as possible. The written notification must comply with the parental notice, consent, and access provisions in the Texas Education Code, §21.604, and the parental involvement agreement in the Texas Education Code, §21.606.

(f) A staff development plan for professional and paraprofessional personnel of school-community guidance centers shall be developed by each funded project and submitted for review as part of the standard application system. The staff development plan shall be of such quality to ensure that the objectives of the school-community guidance center are met.

(g) While in attendance at a school-community guidance center, a student shall be counted only once in the average daily attendance of the school district.

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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Chapter 65. Technology.

Subchapter A. Center for Educational Technology

• 19 TAC §§65.10, 65.20, 65.25, 65.30, 65.35

The Texas Education Agency (TEA) proposes new §§65.10, 65.20, 65.25, 65.30, and 65.35, concerning the requirements associated with the membership and governance of the Center for Educational Technology that was authorized in Senate Bill 650, passed by the 71st Texas Legislature.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, have determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the publication of the requirements associ-

ated with the membership and governance of the Center for Educational Technology. 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 Criss Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed sections submitted in accordance with the Administrative Procedure and 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 sections has been published in the *Texas Register*.

The new sections are proposed under the Texas Education Code, §14.044, which provides the State Board of Education with the authority to adopt rules regarding the development of a center for educational technology.

§65.10. Center for Educational Technology Membership Policies and Categories.

(a) The State Board of Education (SBOE) shall determine membership policies for the Texas Center for Educational Technology that establish a governing board and encourage public and private participation in the center.

(b) The SBOE shall establish membership categories to include sustaining, partnership, associate, district, and individual members.

§65.20. Membership Category Descriptions.

(a) Sustaining members. Sustaining members are those who meet the membership criteria established in §65.25 of this title (relating to Criteria for In-state Membership).

(1) Sustaining members may:

(A) participate on the center governing board;

(B) participate in policy-making decisions for the center;

(C) participate in research decisions for the center;

(D) participate in planning activities for the center;

(E) pay royalties to the center for sales of co-developed products;

(F) provide monetary support; and

(G) participate in fund raising for the center.

(2) Sustaining members may:

(A) receive guaranteed representation on the center governing board;

(B) receive options to propose, design, and implement new research labs;

(C) participate in technology transfer of staff to participate in research at the center;

(D) choose center project(s) in which to participate and/or elect monetary distribution to all research labs (based on need and/or desire);

(E) receive marketing rights for products co-developed as a result of members' financial support;

(F) receive consulting services from the center at cost;

(G) reference the center in corporate advertising;

(H) receive access to center information, such as data bases; and

(I) receive all information available for dissemination, including detailed research publications (subject to proprietary rights), catalogs, brochures, newsletters, annual reports, and non-print materials.

(b) Partnership members. Partnership members are those who meet the membership criteria in §65.25 of this title (relating to Criteria for In-state Membership).

(1) Partnership members may:

(A) participate on the center governing board;

(B) participate in research decisions for the center;

(C) participate in planning activities for the center;

(D) pay royalties to the center for sales of co-developed products; and

(E) provide various in-kind services, such as donations of equipment, software, paper for publications, printing fees, meeting facility fees, connect time, and/or studio facilities.

(2) Partnership members may:

(A) choose center project(s) in which to participate and/or elect monetary distribution to research labs based on need and/or desire;

(B) receive marketing rights for products co-developed as a result of members' financial support;

(C) receive consulting services from the center at cost;

(D) reference the center in corporate advertising;

(E) receive access to center information, such as data bases; and

(F) receive all information available for dissemination, including detailed research publications (subject to proprietary rights), catalogs, brochures, newsletters, annual reports, and non-print materials.

(c) Associate members. Associate members are those who meet criteria listed in §65.25 of this title (relating to Criteria for In-state Membership).

(1) Associate members may:

(A) participate on the center governing board; and

(B) provide various in-kind services, such as donations of equipment, software, paper for publications, printing fees, meeting facility fees, connect time, studio facilities, sponsor staff development institutes, sponsor contests, provide awards, and/or sponsor individuals' participation in institutes.

(2) Associate members may:

(A) cooperate and assist center staff in planning, implementing, and disseminating information about research and development activities;

(B) receive access to center information such as data bases;

(C) receive one copy of summary level center information, such as summarized research reports, publications, catalogs, brochures, newsletters, annual reports, and other non-print materials;

(D) purchase additional copies of summary level center information, such as summarized research reports, publications, catalogs, brochures, newsletters, annual reports, and other non-print materials at member prices; and

(E) purchase center materials at member prices.

(d) District members. District members are those who meet criteria listed in §65.25 of this title (relating to Criteria for In-state Membership).

(1) District members may participate on the center governing board.

(2) District members may:

(A) receive one free copy of center newsletters and annual reports;

(B) receive one free copy of center information, such as summarized research publications, catalogs, brochures, and other non-print materials, at member prices;

(C) participate in research activities; and

(D) purchase additional copies of summary level center information, such as summarized research publications, catalogs, brochures, newsletters, annual reports, and other non-print materials, at member prices.

(e) Individual members. Individual members are those who meet criteria listed in §65.25 of this title (relating to Criteria for In-state Membership).

(1) Individual members may participate on the center governing board.

(2) Individual members may:

(A) receive one free copy of center newsletters and annual reports;

(B) receive one free copy of center information, such as summarized research publications, catalogs, brochures, and other non-print materials, at member prices; and

(C) purchase additional copies of summary level center information, such as summarized research publications, catalogs, brochures, newsletters, annual reports, and other non-print materials, at member prices.

§65.25. Criteria for In-state Membership. Eligibility criteria for in-state membership shall be based on the following criteria.

(1) Sustaining members shall contribute a minimum of \$100,000.

(2) Partnership members shall contribute between \$25,000 and \$100,000.

(3) Associate members shall contribute between \$5,000 and \$25,000.

(4) District members fees shall be graduated according to average daily attendance figures:

(A) under 5,000-\$50;

(B) 5,000-25,000-\$200;

(C) Over 25,000-\$300.

(5) Individual members shall contribute \$25.

§65.30. Criteria for Out-of-State Membership. Eligibility criteria for out-of-state membership shall be based on the following criteria.

(1) Public educational institutions, organizations, and other entities shall contribute \$400.

(2) Out-of-state individuals shall contribute \$30.

§65.35. Governing Board.

(a) *Governing board appointments.* The governing board of the center shall be appointed by the State Board of Education and shall consist of:

(1) representatives of participating companies;

(2) a representative of each sponsoring institution of higher education;

(3) representatives of public education; and

(4) the commissioner of education or his/her representative.

(b) Guaranteed center governing board members. All sustaining members may serve on the center governing board.

(c) Selection process. The State Board of Education shall select center governing board members from nominees submitted within each membership category.

(d) Number of members per membership category. The number of center governing board members varies according to each membership category.

(1) Partnership membership members may have three members on the governing board.

(2) Associate members may have one member on the governing board.

(3) District members may have three members on the governing board.

(4) Individual members may have one member on the governing board.

(e) Length of terms of board members. Center board members shall serve varying lengths of terms dependent on membership category.

(1) Associate and individual members shall serve one year on the governing board.

(2) Partnership and district members may serve up to three years on the governing board.

(3) Associate and individual members shall be selected annually.

(4) Representatives from partnership and district membership shall randomly select terms of one, two, or three years.

(f) Permanent representation. The center governing board shall consist of permanent representatives from the sponsoring institutions of higher education and the commissioner of education or his/her designee.

(1) A representative from each sponsoring institution of higher education shall be appointed by the president of the institution.

(2) The commissioner of education or his/her designee shall be appointed by the State Board of Education.

(3) All permanent representatives will be appointed annually.

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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W. N. Kirby

Commissioner of Education

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

Chapter 67. Instructional Resources

Subchapter A. State Textbook Program

The Texas Education Agency (TEA) proposes new §§67.11, 67.13, 67.21, 67.23, 67.31, 67.33, 67.35, 67.36, 67.41, 67.43, 67.45, 67.51-67.53, 67.55-67.57, 67.61, 67.63, 67.65, 67.66-67.68, 67.71, 67.81, 67.83, 67.85-67.88, 67.91, 67.93, 67.95, 67.100, 67.102, 67.103, 67.105, 67.106, 67.121, 67.131, and 67.133, concerning instructional resources. Senate Bill 1, passed by the 71st Texas Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters must occur under the new rule-making relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. Chapter 81, concerning instructional resources, has been reviewed by the board and is being repealed in a separate submission. New Chapter 67 includes the former sections with minor revisions to the textbook rules.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government will result in an additional cost of

approximately \$16,500 per year for meals, lodging, and compensatory per diem for the additional day of meetings for state textbook subject area committees to discuss books. The section which eliminates the payment for substitute teachers will save the state approximately \$3,040 per year based on 1990 costs. The effect on local government for the first five-year period may increase costs for local districts by approximately \$3,040 per year based on 1990 costs.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, also have determined that for each year of the first five years the proposed sections will be in effect the public benefit anticipated as a result of enforcing the sections will be a clearer more concise statement of the agency's rule authority. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Criss Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9701. All requests for a public hearing on the proposed sections submitted in accordance with the Administrative Procedure and 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 sections has been published in the *Texas Register*.

General Provisions

• 19 TAC §67.11, §67.13

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

§67.11. Scope of Rules. Textbooks shall be adopted by the State Board of Education for use in the public schools of Texas in accordance with the Texas Education Code, Chapter 12 and the requirements in this subchapter. Textbooks recommended as suitable for use in bilingual education programs shall be adopted in accordance with the rules in this subchapter for regular textbook adoption. These rules shall apply to adoption of the following types of materials. The State Board of Education shall designate in the textbook proclamation the type(s) of material which shall be submitted in each subject area called for adoption:

(1) textbooks, which are bound books which may be in two or more volumes, and which may be consumable;

(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. Items included must be related by design and must be integral and essential components of the system;

(3) teacher resource book or packets which are designed to provide the teacher with instructional and resource materials;

(4) supplementary instructional materials, in any medium, which are deemed adjunctive but not essential to supplying information which will help students learn the content, concepts, and skills contained in the adopted textbooks;

(5) teacher editions which a publisher shall make available without cost for use with textbooks bid for adoption;

(6) computer software, including but not limited to, applications using computer assisted instruction, which may be interactive videodisc, other computer courseware, and magnetic media;

§67.13. Materials Available For Use With Textbooks.

(a) Publishers shall submit teacher's editions to accompany textbooks being considered for adoption in accordance with the requirements established in each textbook proclamation. Teacher's editions submitted to comply with the requirements of a textbook proclamation are considered to be part of the textbook bid and shall be supplied by the publisher at no cost to the state.

(b) All ancillary materials which publishers intend to make available to school districts at no charge to the districts shall be listed on the statement of intent to bid textbooks, and samples shall be filed in accordance with this subchapter. Ancillary materials listed on the statement of intent shall be provided to each school district which adopts the textbook, and publishers are prohibited from providing school districts with ancillary materials not listed.

(c) Materials in any medium which a publisher intends to make available for sale to schools, whether or not designed for use with an adopted textbook, are not considered to be part of the textbook and need not be adopted by the State Board of Education in accordance with rules in this subchapter. Such materials shall not contain any textual material or other subject matter previously deleted, rejected, or disapproved by State Textbook Subject Area Committees or the State Board of Education. The materials shall be made available to local districts at a price that is consistent with nationally established prices.

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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General Content Requirements and Manufacturing Standards

• 19 TAC §67.21, §67.23

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

§67.21. General Content Requirements and Limitations.

(a) All adopted textbooks shall meet the following content requirements and limitations as appropriate to each textbook category.

(1) All textbooks offered for adoption shall present the most current factual information accurately and objectively without opinionated statements or biased editorial judgments by the authors. Theories shall be clearly distinguished from fact and presented in an objective educational manner.

(2) Textbook content shall promote citizenship and understanding of the essentials and benefits of the free enterprise system, emphasize patriotism and respect for recognized authority, and promote respect for individual rights. Textbooks adopted shall be objective in content, impartial in interpretation, and shall not include selections or works which 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) Textbooks shall present positive aspects of the United States and its heritage.

(B) Textbooks shall not contain material which serves to undermine authority.

(C) When significant political and social movements in history generate contrasting points of view, textbooks shall present balanced and factual treatment of such positions.

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

(3) Textbooks presented for adoption shall not include blatantly offensive language or illustrations. Textbooks offered for adoption shall not present material

which would cause embarrassing situations or interference in the learning atmosphere of the classroom.

(4) Textbooks 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 should present a wide range of goal choices. Particular care should be taken in the treatment of ethnic groups, roles of men and women, the dignity of workers, and respect for the work ethic.

(A) Textbook content shall not encourage life styles deviating from generally accepted standards of society.

(B) Textbooks shall provide an objective view of cultural confluence, with the information necessary for developing 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 utilized to promote successful learning.

(C) The book shall present examples of men and women participating in a variety of roles and activities and shall further present the economic, political, social, and cultural contributions of both men and women, past and present.

(D) Content which treats 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 in the books should reflect varieties of work and should be treated without bias toward particular kinds of work.

(E) Traditional and contemporary roles of men, women, boys, and girls shall be included.

(5) Authors of all textbooks offered for adoption shall have expertise and experience which provide authoritative credibility to their work. Publishers are prohibited from submitting textbooks for adoption that have been authored by an employee of the Texas Education Agency.

(6) All textbooks shall, when appropriate, include illustrations that are informative, closely related to the content, and placed where they can be easily used in conjunction with the written text. Where appropriate, illustrations shall be Texas-based.

(7) Textbook content shall be organized to facilitate both teaching and learning.

(b) Textbook content and suggested readings which are in violation of the content requirements and limitations set forth

in this section shall be deleted from any adopted textbook and teacher guide, edition, or manual or other materials adopted under this subchapter prior to purchase of the textbook by the state.

§67.23. Manufacturing Standards and Specifications.

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

(b) All Smythe-sewn books shall be bound tight back. Adhesive bound books shall not be bid.

(c) Softback books will only be purchased when they have been specifically called for in the textbook proclamation.

(d) A textbook in two or more bindings may be bid only if specifically called for in the proclamation. If multiple bindings are optional in the proclamation, the price shall be comparable to the cost of a single volume. A textbook in two or more bindings, soft or hardback, shall be packaged in a sealed plastic wrapper or envelope (shrink wrap) for initial handling and shipping. Each binding must carry the uniform ownership label and a list of all the bindings shall be included in the package.

(e) All elementary texts for grades one through six offered for adoption singly or in series shall show the grade or level placement, using numbers or symbols, on the outside of the book cover. When possible, the symbols shall be placed on the spine of the book.

(f) Each publisher shall file on or before the deadline specified in the schedule for the adoption process a statement for each book submitted for adoption on a form provided by the commissioner of education, signed by an official of the company, certifying that the book meets minimum manufacturing standards. Publishers may file one statement for a series of books if all books of the series have been manufactured under identical specifications.

(g) If, during the first two years of use, the commissioner of education determines that any adopted books or nonconsumable components of learning systems have faulty manufacturing characteristics or are made of inferior materials, the books or nonconsumable components shall be replaced by the publisher at no 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.

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◆ ◆ ◆
Textbook Proclamation

• 19 TAC §§67.31, 67.33, 67.35, 67.36

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code, relating to public education.

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

(a) The State Board of Education shall issue a proclamation for new textbooks in those subjects in which contracts are not renewed. The proclamation shall serve as public notice to all Texas registered textbook publishers and to the public that bids to furnish textbooks to the state are being invited. The proclamation shall be issued 32 months in advance of the date specified in the adoption schedule for adoption of the textbooks by the State Board of Education.

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

(1) detailed specifications for the content of those textbooks for which bids are being invited; and

(2) any price limitation the board may establish for textbooks for which bids are being invited.

(c) The commissioner of education shall develop a schedule for the adoption process, including public hearings and meetings of the State Textbook Subject Area Committees, to be approved by the board.

(d) The proclamation shall be considered by the board at three meetings of the board and shall not be adopted before the third meeting. A public hearing shall be held by the board on the proclamation prior to its adoption. At the public hearing, the board will accept testimony only from residents of Texas and from non-residents who are official representatives of a publishing company who filed written requests to appear.

(e) A copy of the proclamation and the schedule for the adoption process shall be sent to all persons, firms, or corporations on whose behalf a copy has been requested.

(f) Under extraordinary circumstances, the board may adopt an emergency, supplementary, or revised proclamation without complying with the timelines and other requirements of this section. Such a

proclamation shall be issued in accordance with the Texas Education Code, §12.17, and opportunity for persons to submit written comments on such a proclamation shall be afforded prior to adoption of the proclamation.

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

(a) The commissioner of education, annually at a meeting of the State Board of Education, shall recommend one person from each State Board of Education district in this state for appointment to a textbook proclamation advisory committee for each subject area for which textbooks are to be adopted. In making these recommendations, the commissioner shall be exempt from the requirements of §161.3 of this title (relating to Committees Advisory to the Commissioner of Education) concerning consultation with members of the State Board of Education. The commissioner shall notify each board member of the names and shall furnish biographical information for each person being recommended from that member's state board district 30 days prior to the meeting at which the recommendations are presented to the board for review and approval.

(b) The commissioner of education shall ensure that all persons recommended by the commissioner for appointment to the proclamation advisory committees meet the statutory and State Board of Education rule requirements concerning qualifications for membership. All appointments to the textbook proclamation advisory committees shall be made in accordance with the Texas Education Code, §12.04. Each person appointed shall reside and/or teach in the State Board of Education district to be represented.

(c) The State Board of Education shall approve or reject the nominations; and if any name is rejected, the commissioner of education shall nominate others until one person has been selected from each State Board of Education district in this state.

(d) The commissioner of education and the State Board of Education shall solicit and accept recommendations for possible appointees to the textbook proclamation advisory committees from any school district or educational organization in the state and shall also accept recommendations from any person in the state, but shall not accept nominations from any textbook publishers, authors, or depositories; agents for textbook publishers, authors, or depositories; or any other persons who have any official positions with any of such textbook publishers, authors, depositories, or agents.

(e) All textbook publishers, authors, or depositories; agents, for textbook publishers, authors, or depositories; or any other persons who have any official positions with any such textbook 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 textbook proclamation advisory committee.

(f) Prior to employing an educator to review textbooks, sell textbooks, or otherwise represent a publishing company, the publisher shall notify the person that employment or receipt of any remuneration would negate the person's eligibility to serve on a textbook proclamation advisory committee for a two-year period following such employment or receipt of remuneration.

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

(a) Meetings.

(1) A schedule for meetings of the textbook proclamation advisory committees shall be established by the commissioner of education.

(2) Each State Textbook Proclamation Advisory Committee member shall make every effort to attend all scheduled meetings of the committee. A member who cannot attend a meeting shall not be permitted to send a substitute.

(b) Expenses.

(1) Members of each textbook proclamation advisory committee shall be reimbursed for expenses incurred in attending official meetings.

(2) Reimbursement for lodging, meals, and travel shall be in accordance with rules adopted by the State Board of Education for advisory committees.

(3) Expenses shall be paid for designated subject area proclamation advisory committee members to attend proclamation hearings before the State Board of Education and State Board of Education meetings at which proclamations are considered if attendance is requested by the board.

§67.36. Proclamation Advisory Committee Member Conduct.

(a) State Textbook Proclamation Advisory Committee members shall not accept meals, entertainment, gifts or gratuities in any form from any textbook publishers, authors, or depositories; agents for textbook publishers, authors, or depositories; or any other persons who have any official positions with any such textbook publishers, authors, depositories, or agents.

(b) Members of each State Textbook Proclamation Advisory Committee shall observe a no-contact period which shall begin with the initial communication regarding possible appointment to a text-

book proclamation advisory committee and end on the date the board issues the proclamation. During this no-contact period, members shall have no contact either directly or indirectly with any textbook publishers, authors, or depositories; agents for textbook publishers, authors, or depositories; any other persons who have any official positions with any such textbook publishers, authors, depositories, or agents; or petitioners.

(c) State Textbook Proclamation Advisory Committee members shall report immediately to the commissioner of education any communication or attempted communication by any textbook publishers, authors, or depositories; agents for textbook publishers, authors, or depositories; any other persons who have any official positions with any such textbook publishers, authors, depositories, or agents; or petitioners.

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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, 67.66-67.68, 67.71, 67.81, 67.83, 67.85-67.88, 67.91, 67.93, 67.95

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

§67.41. Balanced Adoption Cycle.

(a) Courses or subjects shall have statewide enrollment of at least 5,000 in the most recent school year for which data are available before textbooks may be adopted for those courses or subjects. The board may waive this rule on recommendation of the commissioner.

(b) If the commissioner determines that, because of changing enrollment patterns, revisions in the approved list of courses, available funding levels, or for other reasons a change is needed in the balanced adoption cycle, the commissioner shall recommend the change to the State Board of Education. All changes in the cycle shall be made in accordance with the Texas Education Code, §12.34(k).

§67.43. Review and Renewal of Contracts.

(a) The State Board of Education shall review the textbook contracts which expire on August 31 in the year following the then current year and determine which contracts are to be renewed for terms not to exceed six years and which contracts are not to be renewed. This review shall be made at a time specified by the State Board of Education.

(b) The decision to renew contracts shall be made after the State Board of Education has determined that such renewal would be in the best interest of the state and after the following factors have been considered:

- (1) budgetary control;
- (2) gradual introduction plans;
- (3) the willingness of textbook publishers to offer their books for re-adoption and a renewal of their contract; and
- (4) report of the commissioner of education.

(c) Publishers to whom contracts are awarded shall be prepared to make the adopted editions available for at least one extended contract period of not more than six years. The fact that a publisher, after receiving written notice to do so, refuses to rebid textbooks at least one time shall be just cause to refuse to award future contracts to that publisher.

§67.45. Statement of Intent to Offer Textbooks for Adoption.

(a) All publishers who intend to offer textbooks for adoption shall submit to the commissioner of education a statement of intent to offer textbooks 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. When the proclamation requires certain levels or types of books within a given category, such indication shall be specified on the intent to bid form.

(b) Publishers who wish to withdraw a textbook 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 textbook adoption process.

§67.51. State Textbook Committee: Appointment and Qualifications.

(a) Each person appointed to a subject area committee shall reside and/or teach in the state board district to be represented.

(b) The commissioner of education shall ensure that all persons recommended for appointment to the subject area committees meet the statutory and State Board of

Education rule requirements concerning qualifications for membership. In making these recommendations, the commissioner shall be exempt from the requirements of §161.3 of this title (relating to Committees Advisory to the Commissioner of Education) concerning consultation with members of the State Board of Education. The commissioner shall notify each board member of the names and shall furnish a vita for each person being recommended from that member's state board district 30 days prior to the meeting at which the recommendations are presented to the board.

(c) The commissioner of education shall solicit and accept recommendations for possible appointees to the subject area committees from any school district or educational organization in the state and shall also accept recommendations from any person in the state, but shall not accept nominations from any textbook publishers, authors, depositories, agents for textbook publishers, authors, or depositories, or any other persons who have any official positions with any of such textbook publishers, authors, depositories, or agents.

(d) All textbook publishers, authors, depositories, agents, and other persons who have any relationships or positions with such 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 the State Textbook Subject Area Committees.

(e) Before recommending any person employed in the public schools for appointment to a State Textbook Subject Area Committee, the commissioner of education shall secure from the superintendent of school district in which the individual is employed an assurance that:

- (1) the school district is willing for the individual to serve on the subject area committee; and
- (2) the school district will provide book storage space, secretarial support, and other reasonable assistance as needed by the subject area committee member.

(f) Where the proposed subject area committee member is the superintendent of a district, the assurances required in subsection (e) of this section shall be secured from the local board of trustees.

(g) Prior to employing an educator to review textbooks, sell textbooks, or otherwise represent a publishing company, the publisher shall notify the person that employment or receipt of any remuneration would negate his or her eligibility to serve a the State Textbook Subject Area Committee for a two-year period following such employment or receipt of remuneration.

§67.52. Orientation for Committee Members. The commissioner of education shall ensure that members of the State Textbook Subject Area Committee are given an orientation which includes, but need not be limited to, the following:

(1) the responsibilities of a State Textbook Subject Area Committee member, including, but not limited to, the responsibility to ensure that all books recommended for adoption in each subject area assigned to the committee meet the requirements for content specified in the proclamation and State Board of Education rules;

(2) statutes and State Board of Education rules pertaining to the textbook adoption process;

(3) the schedule of adoption procedures in the textbook proclamation;

(4) the specific content requirements in the textbook proclamation;

(5) evaluation of textbook content;

(6) contacts with publishers and their representatives; and

(7) regulatory requirements which affect the committee. Special attention of each subject area committee shall be called to Texas Civil Statutes, Article 6252-9B, titled *Standards of Conduct for State Officers and Employees* and the Texas Penal Code, §36.02, titled "Bribery." Copies of the statutes mentioned in this section and board rules relating to textbook selection shall be supplied to each subject area committee member.

§67.53. State Textbook Committee Duties and Conduct.

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

(1) examine carefully all books submitted for adoption in each subject area assigned to that committee and ensure that all books recommended for adoption in each subject area assigned to that committee meet the requirements for content specified in the textbook proclamation and in board rules; and

(2) prepare and publish a list of not less than two nor more than eight textbooks for each subject area, course, or grade level assigned to that committee, to be recommended for adoption by the State Board of Education. If available, each State Textbook Subject Area Committee shall attempt to recommend one remedial and one advanced text in each subject area, course, or grade level assigned to that committee.

(b) To be included on the list of recommendations, a book must receive a supporting vote from at least two-thirds of the total membership of the appropriate subject area committee. In the event that as many as two suitable textbooks are not offered for adoption in any one subject area,

course, or the grade level, the subject area committee may recommend one book in that subject area or course, or grade level.

(c) Prior to the voting date, the commissioner of education shall schedule one meeting for each subject area committee at which members may discuss textbooks submitted for consideration. Public testimony shall not be allowed during these meetings. Representatives of publishing companies having textbooks under consideration shall be present at the appropriate meetings in order to respond to questions from subject area committee members.

(d) State Textbook Subject Area Committee members shall refrain from attempting to influence other State Textbook Subject Area Committee members except during official meetings. Committee members shall not make endorsements of textbooks to any party. Subject area committee members shall have full opportunity to discuss all textbooks during official meetings of the committee.

(e) In making recommendations, the State Textbook Subject Area Committees shall consider written comments, oral testimony, and responses to written and/or oral testimony submitted in accordance with §67.71 of this title (relating to Public Comment on Textbooks).

(f) Each State Textbook Subject Area Committee member shall make every effort to attend all scheduled meetings of the committee. A member who cannot attend a meeting shall not be permitted to send a substitute.

(g) One or more members of each State Textbook Subject Area Committee shall be designated to be present for the textbook hearing held by the State Board of Education and for the State Board of Education meeting at which textbooks are adopted.

(h) State Textbook Subject Area Committee members shall not accept meals, entertainment, gifts, or gratuities in any form from textbook publishers, authors, or depositories; agents for textbook publishers, authors, or depositories; any other persons who have any official positions with any such textbook publishers, authors, depositories, or agents; or any person or organization interested in influencing the selection of textbooks.

§67.55. Compensatory Per Diem and Expenses.

(a) Compensatory per diem.

(1) State Textbook Subject Area Committee members shall receive a compensatory per diem for each day on which the members are engaged in or conducting scheduled activities related to their responsibilities. Such activities shall include: attendance at scheduled meetings of the subject area committee, public textbook

hearings scheduled by the Central Education Agency, and scheduled attendance at State Board of Education meetings or a committee of the board at which textbooks are considered.

(2) The total amount of compensatory per diem received by a subject area committee member shall not exceed \$1500.

(b) Expenses.

(1) State Textbook Subject Area Committee members shall be reimbursed for expenses incurred in attending official meetings including hearings held by the subject area committee. Reimbursement for room and board shall be for actual expenses in accordance with the same guidelines applicable to reimbursement for State Board of Education members.

(2) Expenses shall be paid for the designated subject area committee members to attend the textbook hearings before the State Board of Education and at State Board of Education board meetings or board committee meetings at which textbooks are considered.

(3) The commissioner of education may issue travel advances for expenses of subject area textbook committee members in accordance with the procedures and guidelines concerning advances for agency employees. Any sum issued as an advance which is found to be in excess of the amount actually due to the committee member for expenses incurred shall be repaid promptly. The commissioner of education shall deduct from the subject area committee member's compensatory per diem an amount equal to any advance, above the entitlement for expenses, which has not been repaid.

§67.56. Presentations by Publishers at Hearings of State Textbook Subject Area Committees. A public hearing before each State Textbook Subject Area Committee shall be held at the Central Education Agency offices to allow presentations by publishers to the appropriate subject area committee members. The hearings and the time allocated to each publisher shall be scheduled by the Central Education Agency. The beginning date for publisher hearings shall be specified in the schedule for the textbook adoption process.

§67.57. No-Contact Periods.

(a) State Textbook Subject Area Committee members shall observe a no-contact period between the dates specified in the schedule for the textbook adoption process. During this no-contact period, which shall begin with the initial communication regarding possible appointment to a State Textbook Subject Area Committee and end at the close of the balloting meeting, members shall have no contact either directly or indirectly with any textbook publisher or publishing company, depository,

or petitioner. This restriction is not limited to prohibit members of the State Textbook Subject Area Committees, while in session, from requesting clarification from a petitioner or a representative of a textbook publishing company.

(b) State Textbook Subject Area Committee members shall report immediately to the commissioner of education any communication or attempted communication by any textbook publisher or publishing company, depository, or petitioner or any other representative or agent, direct or indirect, of such textbook publisher or publishing company, depository, or petitioner.

(c) After the orientation provided by the Central Education Agency, subject area committee members shall have no contact with any agency subject area staff member. Any request for information or clarification shall be directed to the commissioner of education, and copies of all questions from individual members shall be distributed with the 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 staff of the Central Education Agency Textbook Division.

§67.61. Bid Prices.

(a) The official bid price shall not exceed any price limitation stated in the proclamation nor the price information submitted with the official samples.

(b) Publishers shall submit information requested by the commissioner of education within the time period required to ensure an accurate projection of the costs of adopting textbooks in a subject area.

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

(a) If only learning systems are called for adoption in any subject area course, or grade level limitations on total price and percent of consumables shall be specified in the proclamation.

(b) The bids for each learning system shall show a total wholesale price and the quantity and pricing for each component of the system. All systems will be contracted for without an exchange allowance.

(c) Consumable components of a learning system must be clearly marked as consumable.

(d) Learning systems shall be bid on the basis of one system per teacher who teaches the subject, course, and/or grade level in which the learning system is bid for adoption unless otherwise specified in the proclamation.

(e) Learning systems submitted for adoption shall be self-sufficient for the period of adoption. Nonconsumable compo-

nents shall be replaced by the publisher during the warranty period.

(f) Consumable textbooks called for adoption in any subject area, course, or grade level, shall be contracted for without an exchange allowance.

§67.65. Revised or Identical Editions.

(a) Publishers who offer books for adoption that are revisions or new copyrights of textbooks 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 which have been made in the revised version.

(b) Textbooks which are identical in content or substantially similar in content to books already adopted shall be purchased only in such quantities as are necessary to replace worn-out copies and for increased enrollment.

(c) The same textbook shall not be bid in two or more subject areas.

(d) Publishers may submit a request to the commissioner for substitution of minor revisions or a later edition of a textbook currently under contract. If a requested substitution is determined to be substantially different from the book currently under contract, the publisher may be required to provide classroom sets to school districts that have placed orders for the title. 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 two years of a textbook contract.

§67.66. Samples.

(a) Two copies of each textbook and one sample of each learning system shall be filed with each of the 20 regional education service centers on or before the date specified in the schedule for the textbook adoption process. These samples shall be available for public review. Each publisher shall mail to each service center's designated representative two copies of a packing list covering each shipment.

(b) Six official sample copies of each textbook and two samples of each learning system shall be filed with the commissioner of education on or before the date specified in the schedule for the textbook adoption process. The information required by the Texas Education Code, §12.18, shall be included in each sample. One of the six copies shall be clearly marked "official sample." One copy of all ancillary materials which publishers listed on statements of intent to bid in accordance with §67.13f(b) of this title (relating to Materials Available for Use with Textbooks) shall be filed with the Texas Education Agency on or before the date specified in the schedule for the textbook adoption process.

(c) For all submissions required by this section, samples of teacher's editions, to be furnished without cost as called for in the proclamation, shall be filed at the same time and in the same manner as the textbooks which they accompany.

(d) One copy of each textbook being submitted for adoption and one copy of each teacher's edition called for in the proclamation shall be provided to each member of the appropriate State Textbook Subject Area Committee on or before the date specified in the schedule for the adoption process. If textbooks or systems have been field tested, written evidence from the testing, showing how the results of the field tests were used in completing the book, may be provided to the appropriate State Textbook Subject Area Committee. Samples of materials submitted for adoption under these rules provided to State Textbook Subject Area Committee members may be returned to the publisher, donated to a school district, or retained by the subject area committee member. Under no circumstances shall such samples be sold. Ancillary materials which publishers listed on statements of intent to bid in accordance with §67.13(b) of this title (relating to Materials Available for Use with Textbooks) shall be distributed to the appropriate State Textbook Subject Area Committee members either during each publisher's presentation to committee members scheduled by the Central Education Agency or prior to August 1. Publishers who do not distribute ancillary materials at the time of the presentation, must distribute detailed descriptions of ancillary materials to the appropriate committee members at that time.

(e) All samples submitted shall be printed in finished format.

(f) For each official sample filed with the Texas Education Agency, the publisher shall provide, on a date specified in the schedule for the textbook adoption process, three hand-corrected copies of textbook samples with any editorial corrections to be made by the publisher. One of the hand-corrected copies shall replace and be marked the "official sample." A list in the format designated by the commissioner of education of all editorial corrections to be made by the publisher shall accompany the three hand-corrected sample textbooks. If no editorial corrections are necessary to a textbook submitted for adoption, the publisher shall file a letter to this effect on or before the deadline in the schedule for submission of hand-corrected copies.

(g) The commissioner of education, after hearing and for cause, may extend the deadlines for filing of samples in regional education service centers as required by this section for one or more publishers. If such an extension is granted, the commissioner shall be authorized to adjust other deadlines in the schedule for the adoption process to

ensure adequate time for public review of the books in question. The commissioner shall notify the State Board of Education of all such adjustments at the next meeting of the board. At its discretion the board may remove from consideration any textbook or other materials proposed for adoption which were not properly on deposit in the regional education service centers.

(h) After textbooks have been adopted, two copies of all student textbooks, teacher's editions called for in the proclamation and components of learning systems which incorporate all hand-corrections shall be submitted to the commissioner of education on or before the date specified in the schedule for the adoption process. Accompanying each set of samples submitted by a publisher shall be an affidavit signed by an official of the company verifying that all corrections made in the hand-corrected copies have been made. Such copies shall be in all respects like the texts which will be provided to local school districts after purchase.

(i) Special provisions concerning samples of learning systems are found in §67.67 of this title (relating to Special Provisions Concerning Samples of Learning Systems).

§67.67. Special Provisions Concerning Samples of Learning Systems.

(a) On or before the deadline specified in the schedule for the adoption process, each publisher who filed a statement of intent to offer learning systems for adoption shall be required to file two copies of each learning system being offered for adoption with the commissioner of education and one sample of each learning system with each of the regional education service centers. One sample of each learning system shall be provided to each member of the appropriate State Textbook Subject Area Committee on or before the deadline specified in the schedule for the adoption process. Publishers shall provide a complete description of the component parts of each learning system, including prices for each component of the system, at the time the official sample of the system is filed with the commissioner of education.

(b) Publishers shall not be required to mail samples of learning systems to schools. A list of adopted learning systems with prices and a detailed description of the component parts shall be distributed to schools by the commissioner of education. A prospectus for each learning system which meet the requirements of subsection (c) of this section shall be distributed to schools by the publisher.

(c) The prospectus for each learning system shall include:

(1) information about authors of the materials;

(2) a rationale for the system related to a specific body of research;

(3) the educational purposes for which the system is intended;

(4) a guide for the teacher's use of the material consistent with the rationale and stated purposes;

(5) evidence of field testing among various student populations and statistical treatment to support the results;

(6) evaluation criteria and procedures built into the system; and

(7) detailed content of each component including pictorial or graphic examples.

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

(a) Handling procedures.

(1) Each regional education service center director shall designate one person to supervise all textbook shipments and shall notify the commissioner of education of the name of the person designated and the address at which sample books will be received. The Central Education Agency shall provide to each designated person forms to be used in reporting receipt of sample shipments.

(2) The center's representative shall indicate on the packing lists provided by publishers only those items not received by placing the letters N.R. (not received) next to the appropriate listings. The center's representative shall date and sign each copy of the packing list, mail one copy to the publisher, and keep the second copy.

(3) On or before the date specified in the schedule for the adoption process, each service center's representative shall notify the commissioner of education of all irregularities in sample textbook shipments. Any irregularities shall be noted on the forms provided by the agency. One complete set of these forms shall be signed by the designated person, dated, and returned to the agency. The appropriate publisher shall be notified of any sample shipment irregularities reported by the regional education service centers.

(4) After the close of the balloting meeting, the commissioner of education shall provide each service center's representative a list of textbooks not recommended for adoption by the subject area committees. On or before October 1, publishers that wish to have such unadopted sample textbooks returned shall notify each service center representative in writing, and sample copies of textbooks, teacher's editions, and/or learning systems shall be returned, freight charges collect, to the publishers that have notified the service center representative to return such samples. Any remaining unadopted sample textbooks

shall be shipped, freight charges collect, to the State Textbook Depository in Austin.

(b) Public access to samples.

(1) Of the two sample copies of each textbook received by each center, one shall be retained in the center for review by interested persons there and one shall be made available to be checked out. Centers shall allow persons to check out and review not more than five titles at one time, for a maximum of five days. Recheck privileges shall be determined by each service center.

(2) Samples of learning systems shall not be removed from the regional education service centers.

(3) Regional education service centers shall ensure reasonable public access to textbook samples, including access outside of normal working hours which shall be scheduled by appointment. On or before the date specified in the schedule for the adoption process, each center shall submit a schedule for public review of materials to be approved by the commissioner of education.

(4) On or before the date specified in the schedule for the adoption process, each service center shall issue a news release publicizing the date on which textbooks will be available for review at the center and shall notify all school districts in the region of the schedule for review of materials. The notification to districts shall include information on any special provisions made by the center for review of learning systems.

§67.71. Public Comment on Textbooks.

(a) Written comments.

(1) Any resident of Texas may submit written comments for, against, about, or upon textbooks, learning systems, or teacher's materials submitted for adoption.

(2) Written comments shall be submitted to the commissioner of education. A deadline for submission of written comments shall be included in the schedule for the textbook adoption process. This deadline shall be 17 calendar days before the beginning date of the joint hearing before the commissioner of education and the State Textbook Subject Area Committee. Copies of written comments shall be mailed at least 10 days prior to the beginning date of the joint hearing to each affected publisher.

(b) Hearings before the State Textbook Subject Area Committees and the Commissioner of Education.

(1) Each State Textbook Subject Area Committee shall hold hearings if at least five Texas residents have submitted written requests to appear before the committee in accordance with 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 textbooks offered for adoption; and

(B) to assist in developing a full record for use by members of the State Textbook Subject Area Committees, the commissioner of education, and the State Board of Education.

(2) Each subject area committee hearing shall be organized so that oral comments will be heard on textbooks for one category at a time.

(3) 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 the 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 textbook adoption process. The written notice must identify the subject area and each textbook title 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.

(4) In order to contain the hearings within the designated dates, the commissioner of education may limit the time of each person testifying and may designate two or more hearing officers who will conduct hearings concurrently during the designated dates. The commissioner of education shall establish procedures concerning the hearings at least two weeks in advance of the hearings. Such procedures may include limitations on the number of persons who may speak on behalf of any organization.

(5) The commissioner of education shall have a complete record of the hearing made and transcribed and portions of the transcript pertaining to the appropriate subject area shall be mailed to each affected publisher. 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 the hearing before the commissioner and any official representative of a publishing company may submit a written response to written comments and/or any testimony presented at the hearings.

(6) Within 10 days after the record is closed, the commissioner shall send copies of transcripts of the joint hearings and responses to written and/or oral testimony to members of the State Textbook Subject Area Committees and regional education service centers.

§67.81. Report of the State Textbook Committee.

(a) In accordance with the Texas Education Code, §12.11(f), each State Textbook Subject Area Committee shall recommend to the State Board of Education a complete list of textbooks which it approves for adoption. The subject area committees shall designate not more than eight books in each subject area or grade level as books recommended for adoption.

(b) A copy of the report shall be sent to members of the State Board of Education and all publishers participating in the adoption process. Copies of written comments, a transcript of the oral testimony presented at the public hearings, and responses to written and/or oral comments shall be mailed to the members of the State Board of Education.

(c) Each Subject Area Committee shall submit to the commissioner a list of any errors of fact and corrections necessary to ensure accuracy. The list shall be adopted by the committee.

§67.83. Report of the Commissioner of Education.

(a) The commissioner of education shall review all textbooks, teacher's editions called for in the proclamation, and learning systems recommended in the reports of the State Textbook Subject Area Committees. The commissioner's review shall include, but need not be limited to, the following:

(1) per pupil prices of recommended books and learning systems;

(2) manufacturing quality of recommended books and components of learning systems;

(3) the list of recommended corrections of errors of fact and corrections necessary to ensure accuracy in the textbooks identified by the appropriate subject area committee; and

(4) whether recommended textbooks or learning systems are from a publisher who refuses to rebid textbooks or learning systems as provided in §67.43 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 which, in the judgement of the commissioner, should be made in textbooks, teacher editions, and learning systems.

(c) The commissioner shall confer with publishers concerning the list of recommended corrections of errors of fact and corrections necessary to ensure accuracy and shall ascertain which of these corrections publishers would be willing to make, should they be required by the State Board of Education.

(d) The commissioner of education shall report to the board the results of his review of the textbooks, teacher's editions, and learning systems.

(1) The report shall include information concerning each publisher's willingness or unwillingness to make corrections of errors of fact and corrections necessary to ensure accuracy recommended by the commissioner of education.

(2) The list of corrections of errors of fact and corrections necessary to ensure accuracy to which publishers have agreed shall be sent to the publisher who has agreed to the corrections, the regional education service centers, and other persons, such as braillists, needing immediate access to such information.

§67.85. 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 chairman of the State Board of Education or the commissioner of education. In no instance shall this information be furnished to members of the State Textbook Subject Area Committees prior to official recommendations by the committees. Any person attempting to do so may be subject, after hearing, to being disqualified by the State Board of Education from further participation in the adoption. The commissioner may hold preliminary fact-finding hearings (formal or informal) on official complaints and may report any findings to the board. If so directed by the chairman, the commissioner shall hold a fact-finding hearing and report any findings to the board.

(b) Upon discovery of 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 board.

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

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

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

(a) Two weeks prior to the date of board action to adopt textbooks, each pub-

lisher participating in the adoption process shall file the following documents with the commissioner of education:

(1) three copies of official bid;

(2) receipt from the state treasurer for \$2,500 deposit filed in cash, certified check, or cashier's check as earnest money to produce a valid contract provided the publisher's book or books are adopted;

(3) permit to do business certificate of existence obtained from the Texas Secretary of State; and

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

(b) On a date specified in the schedule for the textbook adoption process the State Board of Education shall hold a hearing which may, at the pleasure of the chairman of the board, be designated as an official meeting of the State Board of Education. The hearing shall be organized so that oral comments will be heard on textbooks for one subject area at one time. Testimony at the hearing will be accepted only from residents of Texas who submitted written comments or presented testimony at the joint hearings conducted by the commissioner of education and the State Textbook 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 each textbook title about which testimony will be presented. Oral responses to testimony at the hearing may be made by official representatives of publishing companies who filed written requests to appear at the hearing on or before the date specified in the schedule for the adoption process. The board reserves the right to limit the time allotted to each person testifying. The deadline for residents scheduled to speak at the hearing to file written materials for consideration by the State Board of Education 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 to the State Board of Education, appropriate members of State Textbook Subject Area Committees, publishers participating in the adoption, and residents scheduled to speak at the public hearing 13 days prior to the public hearing. Copies of speeches made at the public hearing may be distributed to members of the board. No other written material may be distributed to the board during the public hearing before the State Board of Education.

(c) At a meeting specified in the schedule for the textbook adoption process the state board of education shall consider:

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

(2) written comments, transcripts of hearings before the State Textbook Subject Area Committees, and responses to written and/or oral testimony;

(3) the report of the State Textbook Subject Area Committees; and

(4) the report of the commissioner of education.

(d) A board committee designated by the chairman of the board shall review the State Textbook Subject Area Committees' and the commissioner's reports concerning textbooks recommended for state adoption. The commissioner of education or the commissioner's representative and representatives of the State Textbook Subject Area Committees shall be available to respond to inquiries from the State Board of Education committee. The board committee shall report the results of its review to the State Board of Education.

(e) The board shall specify which of the corrections of errors of fact and corrections necessary to ensure accuracy recommended by the commissioner of education shall be made as a condition for adoption of any textbook, learning system, or teacher's edition called for in the proclamation.

(f) In accordance with the Texas Education Code, §§12.13, 12.14, 12.16, and 12.24, the State Board of Education shall adopt a list of approved textbooks.

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

§67.87. Requirement for Registers.

(a) A register shall be kept by each member of the State Board of Education, by the commissioner of education, and by the Textbook Division of the agency to record all visits, meetings, or telephone calls by publishers, their representatives, agents, authors, consultants, editors, depositories, or any other persons soliciting support for or against any book or books submitted and being considered for ultimate approval by the State Board of Education.

(b) Publishers shall file with the commissioner of education, on or before a

date specified in the schedule for the textbook adoption process, a register indicating all visits, meetings, or contacts with members of the State Board of Education, including the date, time, location, and purpose thereof.

§67.88. Preparation and Completion of Contract and Bond.

(a) The state textbook contract form as prepared by the attorney general of Texas shall not be changed or modified in any way.

(b) Contract forms prepared by the commissioner of education shall be forwarded to the publishers for signature. Signed contracts returned by the publishers shall be signed by the chairman of the board and attested to by the commissioner of education. The properly signed and attested contracts are then sent to the attorney general for approval and signature. The original copy is filed with the secretary of state, one duplicate original is filed in the Textbook Division.

(c) The bidder to whom a contract is issued must execute a bond, as required by the Texas Education Code, §12.26 and §12.27, in the amount of \$2,500 for each textbook adopted. (In setting the amount of bond a series of pamphlets for writing, drawing, band, orchestra, or chorus is considered one textbook.) The bond shall be prepared by the commissioner of education and forwarded to the publisher for execution and signature. Properly signed and executed bonds returned by the publishers shall be forwarded to the attorney general for approval and signature. The original bond shall be filed with the publisher's contract in the office of the secretary of state and a receipt shall be taken by the commissioner of education. A duplicate copy shall be filed with the commissioner of education, and a duplicate copy shall be returned to the publisher.

§67.91. Disposition of Textbooks in Unusable Condition. Those worn textbooks on the current adoption lists no longer in usable condition for instructional purposes remain the property of the state. They shall be destroyed in such a manner that the resultant material shall be sold in Austin, to the highest bidder for the purpose of recycling. Bids shall be taken for each year for a period beginning September 1 and ending August 31.

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

(a) School districts may be permitted to retain out-of-adoption textbooks as may justifiably be needed so long as they are used by the school for reference, teaching aids, or library use.

(b) The procedures by which out-of-adoption textbooks will be provided to

city and county jails, institutions within the Texas Department of Corrections, and other organizations are as follows.

(1) Each local school district shall make discontinued textbooks available to libraries maintained by city and county jails, institutions within the Texas Department of Corrections, and other state agency institutions.

(2) School officials may donate expiring adoption textbooks requested by students, adult education programs, and non-profit organizations. Under no circumstances shall expiring adoption textbooks be sold. Individuals and officials making such requests shall be responsible for transporting the textbooks.

§67.95. Availability of Textbooks. Each publisher is required to have adopted textbooks in stock and available for distribution to local school districts throughout the entire adoption period. The commissioner of education shall report the number of back ordered textbooks by publisher to the State Board of Education at the meeting when textbooks are adopted by the board. A back order is a textbook that is not in stock in the depository when ordered and is not available for distribution to the local school districts.

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 January 24, 1991.

TRD-9101762

W. N. Kirby
Commissioner of Education

Earliest possible date of adoption: March 22, 1991

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

◆ ◆ ◆ Local Operations

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

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

§67.100. Mandatory Use of Adopted Textbooks. The public schools of Texas must use the free textbooks adopted by the State Board of Education as required of district boards by law. A school district, however, may procure and use unadopted books and other materials under the conditions listed in this section. School district boards of trustees shall establish board policies for selection procedures for unadopted books or other materials. School district boards of trustees have the responsibility for deter-

mining when one or more of the following conditions exist:

- (1) there is no adopted textbook in an approved subject or course; or
- (2) field testing on a classroom basis is being conducted by the district in cooperation with a publisher or an educational institution or association; or
- (3) the adopted textbooks are not appropriate to be used by pupils with special needs; or
- (4) the method of instruction requires additional materials supplementary to the adopted textbook or does not involve the use of a textbook; or
- (5) a waiver allowing use of an unadopted textbook has been granted by the State Board of Education.

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

(a) Each publisher shall ship to the textbook coordinator of every school district in this state which offers the course or which is considering offering a subject or course a minimum of one sample of each adopted textbook, teacher's edition called for in the textbook proclamation, and one prospectus for each adopted learning system or teacher resource packet no later than December 1. No materials may be substituted for the official sample of an adopted edition. On or before December 1, publishers shall also provide each textbook coordinator with one and only one sample set of all additional ancillary materials submitted in accordance with §67.13(b) of this title (relating to Materials Available for Use With Textbooks).

(b) Additional copies of sample textbooks and teacher's editions called for in the textbook proclamation shall be provided to meet the appropriate needs of the local textbook committee. Samples of learning systems or teacher resource packets may be supplied to local districts at the discretion of the publisher. Publishers may confer with the textbook coordinator to determine the number of samples needed by the local textbook committee, but are prohibited from providing any school district with more than one set of ancillary materials submitted in accordance with §67.13(b) of this title (relating to Materials Available for Use with Textbooks). Publishers may ship the additional samples and/or learning systems directly to department chairpersons, teachers, committee members, or other district staff if they notify the textbook coordinator, in writing, to whom they are sending the additional samples.

(c) Each sample 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.

(d) Each carton of sample materials or the individual samples supplied by a

publisher shall be clearly marked with the statement "sample-not for classroom use."

(e) Each local district shall report the titles and publishers for which appropriate samples were not received in accordance with the provisions of this subsection. Each local district which does not receive the minimum of one sample textbook, teacher's edition or teacher resource book, and one prospectus for each learning system by January 2, shall report those titles directly to the publisher. Any district which does not receive all official sample material by February 1 shall report those titles and publishers to the commissioner of education.

(f) Publishers may contact the textbook coordinator to retrieve unwanted samples after local adoptions are final. Samples of ancillary materials submitted in accordance with §67.13(b) of this title (relating to Materials Available for Use with Textbooks) that are designed to accompany textbooks not adopted by a school district shall be returned to the publisher. The method of retrieval shall be determined by the publisher, and all costs of retrieval shall be at the expense of the publisher.

§67.103. Selection of Textbooks by Local School Districts.

(a) For purposes of multiple list selections, the county board of school trustees and the county superintendent have jurisdiction in each system of county schools or other schools subject to supervision by county boards of school trustees. The jurisdiction for each independent school district rests with the board of trustees and the superintendent of schools of that district.

(b) Prior to November 1, each board of trustees and each county board shall appoint a local textbook committee composed of not fewer than five and not more than 15 members. The official minutes of each board at which the appointment of a textbook committee is made must include a record of the names of persons appointed to serve on the textbook committee.

(c) Appointments to the textbook committee shall be made by the board of trustees upon the recommendation of the superintendent of schools and by the county board upon the recommendation of the county superintendent. Should any board reject any recommendation, the superintendent shall present to the board another recommendation in lieu of the one rejected.

(d) The entire personnel of each textbook committee must be professional employees of the independent school district or of the county system of school districts. The majority of each committee must be classroom teachers. The superintendent or county superintendent is a member and serves as chairman of the committee.

(e) It shall be the duty of the local textbook committee to examine all books

on the multiple lists adopted by the State Board of Education, to select the textbooks from these lists for use in its school system, and to recommend its selections to the board of trustees or county board for ratification.

(f) Each local textbook committee shall make its selections at a meeting of the committee held prior to the March board meeting. In the event selections recommended by the committee are not ratified by the local board, the committee shall make other selections at a meeting held as soon as possible following the meeting of the board at which time any of the previous selections were not ratified. The quorum of the committee for any meeting at which selections are made must consist of at least a majority of the members of the committee.

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

(h) After ratification by the board of trustees or county board, two copies of the textbook committee's report, carrying the signatures of members of the committee who participated in the selection, the board president, and the board secretary, shall be sent by the superintendent or the county superintendent to the Textbook Division not later than March 31. Forms on which such reports are to be made shall be provided by the Textbook Division. Only those books recommended by the textbook committee and ratified by the board of trustees or the county board shall be furnished by the state for use in any school.

(i) The selections as certified to the Textbook Division shall be final and, therefore, shall not be subject to reconsideration during the contract period or periods covering the books selected.

(j) Requisitions shall be developed and submitted in accordance with the Texas Education Code, §12.61, and this section. Except as otherwise provided by statute, requisitions submitted prior to the first day of school shall be approved based on the maximum number of students enrolled in the district during the previous 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. Where two or more titles are selected from a multiple list, requisitions may be made for a combined total of the selected titles. After books which have been duly selected have

been requisitioned and delivered to the school district, these books shall be continued in use during the contract period or periods. It is not permissible to return copies of one title in order to secure copies of another title on the same multiple list.

(k) High school textbooks may be distributed to seventh or eighth grade pupils enrolled in accelerated classes. The distribution of high school textbooks to high school students shall be based on subject enrollment subject to statutory quotas.

(l) Where selections have not been made from the multiple lists of prior adoptions, the current local textbook committees may select such texts if the subjects are to be taught in their systems during the ensuing school term. Such selections shall be reported with other multiple list selections on the regular form where spaces are provided for indicating them. New selections shall not be permitted from multiple lists of texts which are readopted. School district officials must continue to use the texts previously selected.

(m) Textbooks shall be supplied to pupils in special education classes with regard to level of the pupil's ability and without regard to the grade for which a book is adopted or the grade in which the pupil is enrolled.

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

§67.105. Local Accountability. Each school district shall conduct an annual physical inventory of all current adoption textbooks and learning systems which have been requisitioned and delivered to the district. The results of the inventory shall be recorded in the district's files and be available for review by Central Education Agency monitoring staff. Reimbursement shall be made to the Central Education Agency for all textbooks and learning systems which are determined to be lost during the physical inventory.

§67.106. Registration of Certain Transactions.

(a) The superintendent of each school district shall maintain records of all transactions between district employees and textbook publishers who either do business with the state or have the potential of doing business with the state or the school district if the transaction results in direct or indirect payment to the employee.

(b) Records shall include names of the employee and publisher, the type of transaction, the date of transaction, and details of payment to the employee.

(c) The superintendent of each school district shall submit to the commissioner of education such records in a form prescribed by the commissioner of education no later than November 1 of each year.

§67.121. Depository Status.

(a) To maintain approved status all depositories must:

(1) maintain evidence of financial viability adequate to ensure performance of obligations under all contracts on an annual basis;

(2) maintain adequate space to warehouse textbooks under contract or proposed to be under contract;

(3) provide staff and equipment necessary to supply textbooks to the state on demand;

(4) maintain inventory in the depository to supply textbooks immediately on request;

(5) have the ability to receive and process textbook orders generated by the Central Education Agency in an automated format and the ability to respond and/or communicate in the automated format as defined by the Central Education Agency;

(6) maintain the location of the depository's facility, from which shipments will be made, at an address approved by the State Board of Education; and

(7) follow the rules and regulations set forth by the Central Education Agency concerning shipping regulations.

(b) Any request to establish a new depository shall be submitted to the commissioner of education by September 1. Each party requesting authority to establish a new depository shall:

(1) present evidence of \$2 million in state sales annually for the prior three-year period or have current contracts which would produce \$2 million in revenues as required;

(2) provide specifications for warehouse, equipment, plans for staffing of proposed depository, and computer capability to receive and process textbook orders and communicate in the automated format defined by the Central Education Agency;

(3) submit assurances of proper stock of textbooks and teacher's materials being available;

(4) request approval of the location of the depository from the State Board of Education; and

(5) if approved location of the depository falls within boundaries designated for lot shipments, apply to the Railroad Commission for amendment to Common Carriers' Motor Freight Tariff 25, Item 7023; and

(6) submit a list of publishers under contract with the request.

(c) Any publisher, at its discretion, may change from one depository to another depository approved by the State Board of

Education pursuant to the Texas Education Code, §12.31, concerning depository approval. Requests to establish a new depository shall be submitted to the commissioner of education by September 1. The effective date for any new depositories shall be January 1 of the year following approval.

(d) Each depository shall submit a report certifying compliance with each requirement. Such report shall be submitted to the commissioner by September 1. The commissioner shall certify compliance of each depository in his report to the State Board of Education for the November board meeting. Failure to comply with the requirements of this section may be just cause for the commissioner of education to recommend denial or forfeiture of depository status.

(e) A completed, signed contract between the publisher and a depository must be filed with the commissioner of education within 15 days of signature. Receipt of this contract shall serve as notice of change of depository.

(f) 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 for books received after the effective date of this rule.

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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W. N. Kirby

Commissioner of Education

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

Special Textbooks

• 19 TAC §67.131, §67.133

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

§67.131. Special Textbooks To Be Made Available.

(a) All laws and rules which apply to textbooks provided to sighted pupils and which 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 textbooks and other instructional materials.

(b) Publishers shall grant permission to the state to have textbooks transcribed into braille and large type without penalty or royalty.

(c) All books adopted shall be made available by the state in large type. Specifications for large type textbooks shall be developed by the commissioner of education. Publishers may supply the large type editions themselves or contracts for the production of large type editions may be entered into by the commissioner of education.

(d) Gifts of textbooks and instructional materials for the education of the blind tendered by individuals, groups, or school district officials may be accepted by the State Board of Education and shall become state property and subject to the same regulations as like items purchased with state funds. Gift books may be shipped freight collect to the state depository.

(e) Copies of student editions and teacher editions of textbooks in braille and large type needed by a blind or visually handicapped person in carrying 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 the are no longer needed. Textbooks in the medium needed by a blind or visually handicapped teacher may be requisitioned by a textbook custodian after the superintendent of schools has certified to the commissioner of education:

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

§67.133. Authorization of State Funds.

(a) Monies from the state textbook fund may be used in the purchase of any braille and large type state-adopted textbook 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) Contracts or agreements are awarded to any agency, company, group, individual, association, or organization for the preparation and delivery of braille masters, copies from braille masters, and for the preparation and delivery of large type textbooks, and for the preparation and delivery of textbooks recorded on audiotape. The braille and large type versions of state-adopted textbooks are acquired at the lowest price possible for high quality materials.

(c) Large type textbooks shall meet or exceed the specifications in §67.23 of this title (relating to Manufacturing Standards and Specifications) and any additional specifications that may be prescribed when the call for bids is issued.

(d) Bids shall be submitted pursuant to a call for large type bids issued by the State Board of Education to produce

large type versions of textbooks adopted by the board. Bid prices shall be submitted in two parts as follows:

(1) a cost per page basis to include the price of the regularly adopted textbooks being enlarged and the cost of page reproduction; and

(2) a per volume binding cost.

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

(f) Contracts shall correspond to those awarded to publishers upon adoption. Such contracts shall be subject to readoptions required by the State Board of Education. 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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W. N. Kirby
Commissioner of Education

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Chapter 68. Transportation

Subchapter A. Transportation Operations

The Texas Education Agency (TEA) proposes new §§68.11, 68.12-68.14, 68.21-68.26, 68.31-68.34, and 68.111-68.113, concerning transportation. Senate Bill 1, passed by the 71st Texas Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters must occur under the new rule-making relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. The sections relating to transportation included in Chapter 85, concerning student services, have been reviewed by the board and are being repealed in a separate submission. New Chapter 68 includes the revised transportation sections that were previously in Chapter 85.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, also have determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing the sections will be a clearer more concise statement of the agency's rule authority. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Criss Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed sections submitted in accordance with the Administrative Procedure and 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 sections has been published in the *Texas Register*.

Commitment to Providing Student Transportation Services

• 19 TAC §68.11

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

§68.11. Provisions of Services: General. Student transportation may be a part of the service supporting the educational program. These services may be provided to eligible children with approval of the county or local district school board or its designee, hereafter referred to collectively as the "lawfully designated authority" in accordance with rules and regulations promulgated by the Central Education Agency as required by law.

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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Student Eligibility for Transportation Services

• 19 TAC §§68.12-68.14

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

§68.12. Regular Student Eligibility.

(a) General requirements.

(1) A student must reside in the district and attendance area (as established by the lawfully designated authority or be an approved transfer student.

(2) A transfer student may be considered an eligible rider when the school he or she would have attended in the home

district and the school he or she attends in the receiving district are both located two or more miles from his or her residence.

(3) A public school district operating a prekindergarten and/or a kindergarten program on a half-day basis may make application for bus service to transport these students to or from school at midday. When possible, all eligible bus students are expected to attend the same half-day session.

(4) Transportation of bilingual students to their assigned campuses may be approved for funding as regular transportation if these students meet regular student eligibility criteria. As provided in §75.168 of this title (relating to Summer School Programs), transportation for summer school programs is not eligible for allotment of funds.

(5) Transportation of students considered to be at risk under §75.195 of this title (relating to Alternatives to Social Promotion) may be approved for funding only if these students meet regular student eligibility criteria.

(6) School districts may elect to transport students living less than two miles from their assigned campus(es) on state funded bus routes at local expense, and may charge a reasonable fee for such services provided the district establishes procedures for waiving the fee as required by law.

(b) Districts where unusual transportation situations exist as a result of a federal court order or a school district voluntary plan for desegregation approved by the Office of Civil Rights of the Department of Education, are provided the following guidelines.

(1) A student living less than two miles from a school teaching his or her grade in what had been his or her normal attendance zone becomes eligible for state transportation if he or she, as a result of federal court order or a school district voluntary desegregation plan approved by the Department of Education, is assigned to attend another school that is two or more miles from his or her residence.

(2) A student who transfers voluntarily from the school in his or her normal attendance zone as a majority to minority transfer pursuant to the provisions of a federal court order shall be considered eligible for state transportation if the student meets all other eligibility requirements.

(3) A student who transfers voluntarily from a school in his or her normal attendance zone, and who is not a majority to minority transfer but is a full-time transfer to a magnet school program included in a federal court order or implemented as part of a voluntary plan for desegregation approved by the Office of Civil Rights of the Department of Education, shall be eligible for state transportation if the student meets all other eligibility requirements.

(4) A student who transfers voluntarily from the school in his or her normal attendance zone as a result of the provisions of a school district desegregation plan, or school district policy on transfers within the district, shall not be considered eligible for state funded transportation.

(5) Transfer students not covered in paragraphs (1), (2), and (3) of this subsection shall not be considered eligible for state funded transportation.

§68.13. Handicapped Student Eligibility.

(a) In establishing eligibility for handicapped transportation, the local special education admission, review and dismissal (ARD) committee shall be responsible for annually determining:

(1) the need for special transportation; and

(2) the type of special transportation needed.

(b) The documented record of the ARD committee's determination for providing special transportation shall then become a part of the handicapped student's individualized educational plan (IEP). The specific reason for requiring special transportation as a related service shall be written in the dated record of the committee's action.

§68.14. Vocational Student Eligibility. Regulations for determining eligibility for transportation of students in vocational education are as follows.

(1) Except for those students considered to be at risk under §75.195 of this title (relating to Alternatives to Social Promotion), a student must be assigned to a vocational program for instruction approved by the Central Education Agency.

(2) Transportation of students to attend an approved vocational program for their entire school day may be approved for funding as regular transportation if the students meet regular student eligibility criteria.

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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Types of Transportation

• 19 TAC §§68.21-68.26

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides

the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

§68.21. Provision of Services by Type of Program.

(a) General provisions.

(1) The different types of transportation programs available for eligible students are regular, prekindergarten/ kindergarten, private, handicapped, and vocational.

(2) Except for handicapped transportation, route services provided beyond the regular school year are not eligible for the allotment of state funds.

(3) Except for vocational transportation, a "bus route" is hereby defined as the service provided by one bus to transport eligible students from their home(s) to their assigned school campus(es) and/or from their assigned campus(es) to their home(s). Each bus route shall consist of one or more trips, each trip ending when the bus has completely unloaded all its riders, and shall be described to depart from and end at the last school campus served.

(4) Except for mid-day prekindergarten/ kindergarten and vocational transportation, the length (total daily mileage) of each bus route shall be reported for funding purposes as twice the round-trip mileage required to serve eligible students to their school campus(es) over the shortest route open to the public for vehicular travel.

(5) All proposed changes in a district's transportation system shall be established annually by the lawfully designated authority.

(6) Retracing side roads where children live a reasonably short distance from the main portion of the route should be reduced to a minimum. Except for safety reasons, such retracing should not be regarded as necessary where the total distance is not more than one-half mile.

(b) Basis for approval of routes. Regulations regarding funding of routes for the various school transportation programs shall include the following.

(1) Each county or school district operating a student transportation system shall be subject to an on-site survey of such services to be conducted by Central Education Agency staff.

(2) Criteria for evaluating student transportation systems shall include:

(A) compliance with all applicable statutes and rules;

(B) eligibility and efficiency of route services;

(C) maintenance of required records and other documentation.

(3) Requests for funding of eligible, new, and all special transportation programs (Handicapped, Handicapped Private, Regular Private, and Vocational) shall be submitted on forms approved by the commissioner of education.

(4) Final approval for the funding of all additional routes and route changes shall be based on the periodic survey of the requesting district's transportation system.

§68.22. Regular and Prekindergarten/Kindergarten Transportation.

(a) For funding purposes, all changes in regular route services must be implemented on or before the first Wednesday in February.

(b) For funding purposes, mid-day prekindergarten/kindergarten bus routes are considered a part of regular transportation, but all requests shall be submitted separately on forms approved by the commissioner of education. Only the actual round trip mileage, either from home to school or from school to home, shall be reported.

(c) Transportation provided solely for the purpose of serving transfer students shall not be considered eligible for funding if their grades are taught in their home district or assigned attendance zone and transportation is or can be provided by that district or zone, or their grades are not taught in their home district and transportation is provided by another receiving district approved by the lawfully designated authority and the commissioner of education.

(d) Except as provided and approved by law, a school district shall not be extend its transportation services beyond or outside its boundaries solely for the purpose of serving interdistrict transfer students.

(e) Standees.

(1) A school district may, for good cause, apply to the commissioner of education for permission to operate school buses with standees. Situations that may justify such operation include unexpected growth, natural disasters, or other comparable circumstances unforeseen by the district.

(2) If permission is granted, a school district may not operate one or more of its school buses with standees for more than 10 days during any one school year, and shall not permit more than one student per seat to stand while a bus is in motion.

(3) The commissioner of education shall respond to a school district's request to operate school buses with standees within 10 days of its receipt, or permission is considered to have been granted without regard to subsequent action by the commissioner.

(f) The following provisions have been established for determining the average ridership for each reported bus route.

(1) On the first Wednesday of each month from October-February, a school district is entitled to count the number of eligible riders on each of its approved bus routes. If school is not in session on the first Wednesday of the month, the next regular school day shall be used for counting purposes.

(2) Counts may be taken in the morning and/or afternoon, but a student can only be counted on one bus route for each count day. The district shall maintain a list of actual bus riders by route and trip number which shall include each student's name and the campus attended. This list must be signed by the route driver for each count taken and is subject to review by Central Education Agency staff.

(3) The number of two-mile eligible and hazardous-area riders reported for each bus route shall be determined by averaging the highest counts for any two of the months for which counts were taken.

(g) The district shall also determine the total daily mileage required for each route to serve eligible riders to and/or from school on the first Wednesday in February. Route descriptions for each reported route must accompany the pupil transportation report and the reported mileage must be in keeping with the mileage shown on the route description as established by the lawfully designated authority. Two separate route descriptions may be necessary for bus routes that serve both two-mile and hazardous-area students together.

(h) The district shall submit to the Central Education Agency a pupil transportation report indicating the average number of two-mile and hazardous area students and the total daily mileage required to serve them for each reported bus route.

(i) Bus riders residing less than two miles from their assigned campus (hazardous areas and ineligible riders) and any additional mileage required to serve them shall not be included in determining a district's linear density. Each district's linear density grouping shall be determined on the basis of the number of two-mile eligible riders and miles reported for the first year of each biennium to become effective for the succeeding biennium.

§68.23. Private Transportation (regular and handicapped). Regulations for the approval of routes operated in private or commercial passenger vehicles to transport eligible regular and handicapped students shall include the following.

(1) Private routes must be established on an annual basis by the lawfully designated authority and approved by the commissioner of education, which shall determine as a condition for approval that such service is justified and cost-effective.

(2) Private routes may be approved for services required to transport one or more students between their residence(s) and their assigned school campus(es), or between their residence(s) and the nearest established school bus route. Requests for regular private routes will be considered for approval only in extreme hardship cases, and then only if each student served resides two or more miles from the nearest established bus route and meets other regular student eligibility criteria.

(3) For funding purposes, all private routes shall be described to depart from and end at the residence of the first student(s) served.

(4) Requests for funding shall be made on forms approved by the commissioner to the Central Education agency each school year.

(5) In addition to those services provided under TM68.26 of this chapter (relating to Contracted Transportation Services), regular transportation services provided by private commercial bus lines for eligible students residing in isolated areas may be considered for funding as regular private routes.

(6) Where private transportation is required as a related service for handicapped students, it must be provided without cost to the parent(s). If transportation is to be provided by a designated agent of the partner(s), a signed statement of parental authorization must be on file in the student's IEP for each school year that such service is provided.

(7) If transportation is to be provided by a designated agent of the parent(s), the school district shall have a written contract with the agent that clearly specifies the terms of reimbursement and identifies the agent as an independent contractor with adequate liability insurance coverage appropriate for transporting persons for hire.

(8) Requests for approval of routes shall be made on approved forms to the Central Education Agency.

§68.24. Handicapped Transportation.

(a) For funding purposes, bus routes shall be approved to transport only eligible handicapped students as defined in §68.13 of this chapter (relating to Handicapped student Eligibility), and the total daily mileage reported for each eligible bus route shall reflect service as provided on the first school day of May of the current school year.

(b) Handicapped transportation services must be provided in accordance with applicable state and federal statutes and the requirements specified in this section. In addition to those services provided under §68.23 of this chapter (relating to Private Transportation) eligible handicapped students may be served on buses operated by a

school districts or a contracted commercial transportation company or system as provided under §68.26 of this chapter (relating to Contrace Transportation Services).

(c) Those school districts having students whose IEP requires the continuation or implementation of transportation services for an extended year program shall submit any amendments to their annual pupil transportation report provided by the commissioner of education.

(d) Each bus route shall be approved to transport eligible students from home to school and from school to home in accordance with the requirements of their IEP. When a student is to be picked up or delivered to an address other than his or her residence, a written request from the parent should be obtained in advance and kept on file.

(e) Regional day school for the deaf students are eligible for handicapped transportation allotment when they are transported within the resident district.

§68.25. Vocational Transportation.

(a) For reporting purposes, the route shall be described to depart the home campus, travel to the vocational campus(es), and then return from the vocational campus(es) to the home campus(es). Only the actual round trip mileage between campuses shall be reported.

(b) Requests for funding of eligible routes shall be submitted on forms approved by the commissioner of education.

(c) The transportation allotment for vocational bus routes is based on the number of actual miles traveled times the district's cost-per-mile for regular transportation as determined by the previous year's transportation operation cost report.

§68.26. Contracted Transportation Services.

(a) The lawfully designated authority for a school district may elect to contract with a public transit system or private commercial transportation company to provide all or any part of its school transportation services.

(b) An application for contract services must be filed with the Central Education Agency in accordance with the following requirements.

(1) All contract applications shall be submitted on forms approved by the commissioner of education.

(2) Each contract application shall include an estimate of the number of eligible students to be transported and the number of route miles required to serve them for the first school year for which contract services are to be provided.

(3) If the contract is to include student transportation for approved special programs and/or school-related activities, such provisions must be stated separately from those of the regular school transportation program.

(c) The commissioner of education shall review each application for contract services, and is authorized by the State Board of Education to approve such services only if the proposed contract is determined to be economically advantageous. A contract is considered to be economically advantageous if the lawfully designated authority certifies that the cost of the contracted services is equal to or less than the total cost to the district for providing those transportation services for which it intends to contract.

(d) Contract services shall be subject to the same survey process for review and evaluation by Central Education Agency staff as established for district-operated transportation systems.

(e) Contract services shall be approved for a maximum of five years, and all contract approvals granted under this section shall be reported to the State Board of Education at its next regularly scheduled meeting.

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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◆ ◆ ◆ Transportation Administration

• 19 TAC §§68.31-68.34

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

§68.31. Purchase of School Buses. All purchase requisitions (including those for emergency purchases) shall be submitted on forms approved by the commissioner of education for review and forwarded to the State Purchasing and General Services Commission.

§68.32. Operation of School Buses.

(a) The lawfully designated authority shall be responsible for establishing and operating an efficient and economical student transportation system in accordance with all applicable state and federal motor vehicle laws.

(b) The lawfully designated authority shall employ only those school bus drivers who meet all of the following qualifications:

(1) an acceptable physical and mental examination (conducted annually) by a duly licensed and registered physician) on current forms approved by the commissioner of education;

(2) an acceptable driving record (secured from the Texas Department of Public Safety) reviewed annually in accordance with current standards (School Bus Driver's Driving Record Evaluation) developed jointly by the commissioner of education and the Texas Department of Public Safety; and

(3) currently certified as having completed an approved school bus driver training course within the past three years, or possess a valid enrollment certificate.

(c) Except for those transportation services provided by a public transit company or system, only those bus routes operated with a school bus that met state specifications when manufactured shall be eligible for the allocation of state transportation funds, and if owned by a school district, each of these buses must have the name of the district legibly printed on the sides of the vehicle.

(d) The lawfully designated authority shall require all its school bus drivers to bring their school buses to a complete stop before crossing at grade any railroad tracks.

(e) School bus driver training shall be provided in accordance with the following requirements.

(1) The curriculum for school bus driver training will be developed and approved by the commissioner of education and the Texas Department of Public Safety.

(2) The school bus driver training program will be administered by the regional education service centers and other coordinating agents authorized by the commissioner of education.

(3) The Central Education Agency staff shall have primary responsibility for program monitoring and regulation, and for providing technical assistance to the coordinating agents in the state.

(4) The maximum allowable fee for both the basic and the refresher/renewal certification course shall be determined annually by the commissioner of education, which may be charged back to participating school districts on a pro rata basis by the coordinating agent. If a school district provides for some or all of the cost of certification training, such expenses may be deducted from the coordinating agent's established fee.

§68.33. Uses of School Buses.

(a) Except as provided in subsection (d) of this section, vehicles owned

and/or operated in whole or part with Foundation School Program funds are limited to the transportation of students enrolled in and attending public free schools of Texas, and the necessary personnel employed or appointed by school districts. State funds will not be provided to any school district that fails to recognize this restriction.

(b) If approved by the lawfully designated authority, the use of school buses for school-related activities is considered a part of the regular school program and the district shall establish appropriate regulations for their use. Such regulations must be in written form and are subject to review and approval by the commissioner of education upon request by Central Education Agency staff.

(c) State transportation funds shall not be expended for co-curricular and extra-curricular travel by school bus. For such use, trip tickets with beginning and ending odometer readings shall be kept on each bus for each trip, and the rate of reimbursement shall be based on the district's actual cost per mile as determined by their previous year's transportation operation cost report.

(d) The lawfully designated authority may contract with non-school organizations and resident students attending the nearest college or university for the use of school buses under the following provisions:

(1) a written request shall be kept on file in the administrative office of the school district;

(2) the terms of the contract shall establish a reimbursement rate not less than the school district's official cost per mile as determined by the previous year's transportation operation cost report;

(3) the school district's transportation fund shall be reimbursed for the total cost of such contracted transportation. A trip ticket shall be kept whenever a bus is used for travel under this provision;

(4) the use of school district buses to provide transportation for non-school organizations and resident college or university students shall not interfere with provisions of normal school transportation services.

§68.34. Determining Operation Costs on a Per Mile Basis.

(a) On September 1 of each year, the odometer or hubometer reading of each school district vehicle used exclusively for student transportation purposes shall be recorded in order to determine the total annual miles traveled.

(b) A school district shall report all expenditures incurred in transporting its students for the previous school year. This report shall be submitted on forms approved by the commissioner of education to the Central Education Agency, and shall be

used to establish the district's official cost per mile for regular and/or handicapped transportation.

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 B. Adoptions by Reference

• 19 TAC §§68.111-68.113

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code relating to public education.

§68.111. Program Guide for Schools Bus Driver Training in Texas. The standards for providing school bus driver training are described in the Central Education Agency publication entitled *Program Guide for School Bus Driver Training in Texas* as amended July 1989, which is adopted by reference as the Agency's official rule. A copy is available for examination and distribution during regular office hours.

§68.112. School Bus Driver's Driving Record Evaluation. The standards for evaluations a school bus driver applicant's driving record are described in the Central Education Agency publication entitled *School Bus Driver's Record Evaluation* as amended July 1988, which is adopted by reference as the Agency's official rule. A copy is available for examination and distribution during regular office hours.

§68.113. Medical Examination Report for School Bus Drivers.

(a) the standards for evaluating a school bus driver applicant's physical and mental capabilities to safely operate a school bus are specified on the Central Education Agency form entitled *Medical Examination Report for School Bus Drivers* as amended July 1988, which is adopted by reference as the Agency's official rule. A copy is available for examination and distribution during regular office hours.

(b) The medical examination report lists those physical and mental conditions for which the examining physical is directed to disqualify an applicant. Any applicant so disqualified may request special consideration from the commissioner of ed-

ucation for a waiver of medical disqualification in accordance with the following procedure.

(1) The Texas Medical Advisory Board from entitled *Release Authorization for School Bus Drivers* must be completed and signed by both the applicant and the examining physician, and must accompany each request for special consideration. A copy is available for examination and distribution during regular office hours.

(2) The applicant must request special consideration in writing and must present to the commissioner of education clear and convincing evidence that his or her functions are not impaired in any way which would reduce the applicant's effectiveness as a bus driver or endanger the safety and welfare of the children. The commissioner of education may require the applicant for special consideration to submit additional evidence or information.

(3) The commissioner of education shall forward the request for special consideration, with all supporting evidence submitted by the applicant, to the Medical Advisory Board, Texas Department of Health, for review and recommendation.

(4) After receipt of the recommendation of the Medical Advisory Board, the commissioner of education shall review the recommendation and the supporting evidence and may grant or refuse the applicant's request for special consideration. In no event shall the commissioner of education grant a request for special consideration in the absence of a report from a qualified physician indicating that the applicant is clearly able to perform the functions required of a school bus driver.

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

◆ ◆ ◆ Chapter 75. Curriculum

Subchapter C. Essential Elements-Grades Seven-Eight

• 19 TAC §75.48

The Texas Education Agency (TEA) proposes an amendment to §75.48, concerning curriculum essential elements. The amendment is needed so that school districts may update curriculum materials; publishers may develop teacher editions with references to the revised essential elements; and textbook reviewers may be able to review coverage of the revised essential elements in the textbooks that will be filed in April 1991. In addi-

tion, changes to the essential elements for courses that were approved by the State Board of Education (SBOE) in January 1990 are being moved to corresponding subsections.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five-year period the proposed section is in effect there will be some fiscal implications for local government as a result of enforcing or administering the section. The effect on local government for the next two years will be minimal. All local school districts will have to revise and reprint portions of their curriculum guides for the revised courses to reflect the changes in essential elements. Actual costs cannot be estimated because these costs will vary among school districts. There will be no fiscal implications for state government as a result of enforcing or administering the section.

Mr. Moak and Criss Cloude McCuller, director for planning coordination, have determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the publication and updating of the essential elements for courses approved by the SBOE. 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 Criss Cloude McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed section submitted in accordance with the Administrative Procedure and 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 section has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §21.101, which provides the State Board of Education with the authority to designate the essential elements of the curriculum used by state school districts.

§75.48. Social Studies, Texas, and United States History.

(a) -(c) (No change.)

(d) United States history and citizenship (civics), grade eight (early beginning through Reconstruction-one unit). Essential elements for United States history and citizenship (civics), grade eight, as described in this subsection shall be effective September 1992. United States history and citizenship (civics), grade eight, shall include the following essential elements:

(1) United States development as an independent, unified nation. The student shall be provided opportunities to:

(A) recognize the causes and effects of exploration and colonization (with emphasis on areas settled by England, Spain, and France):

(B) analyze the political and economic causes of the American Revolution;

(C) describe the major events leading to the independence and establishment of the United States:

(D) describe the causes and effects of the United States' involvement in foreign affairs and international conflicts (e.g. Louisiana Purchase, War of 1812, annexation of Texas Mexican War and Mexican cession);

(E) understand the reasons for the rise of sectionalism;

(F) explain the political, social, and economic causes of the Civil War (e.g. national sovereignty vs. states' rights, slavery, nationalism vs. sectionalism, economic differences of the North/South);

(G) analyze the effects of the Civil War and Reconstruction on the political, economic, and social life of the nation; and

(H) identify notable men and women and their contributions;

(2) geographic influences on the historical development of the United States. The student shall be provided opportunities to:

(A) locate and describe major physical features and regions;

(B) identify and describe geographic areas that were acquired to form the United States;

(C) locate and explain the importance of selected historic sites; and

(D) recognize the influence of physical features and the distribution of natural resources on population movements, patterns of settlement, and economic development;

(3) economic development and growth of the United States. The student shall be provided opportunities to:

(A) explain the principles of the mercantile system and its effects on European colonies;

(B) describe the emergence and impact of the free enterprise (capitalist) system (including its major con-

cepts and benefits) on the economic development and growth of the United States;

(C) analyze the impact of technological innovations on business, industry, labor, transportation, agriculture, and the environment; and

(D) explain the impact of wars on the American economic system;

(4) social and cultural developments of the United States. The student shall be provided opportunities to:

(A) analyze Native American cultures and the effect of European colonization on Native Americans;

(B) identify ethnic, racial, and cultural groups that settled in the United States and reasons for immigration;

(C) recognize the contributions of ethnic, racial, and cultural groups and individual men and women;

(D) identify social reform movements leaders, issues, and results;

(E) analyze the impact of the institution of slavery on slaves, slave families, slave owners, and American society and culture;

(F) describe developments in art, music, literature, drama, and other culturally related activities;

(G) describe religious leaders and groups (including their motivations) involved in exploration, colonization, immigration, and social movements; and

(H) analyze issues and episodes of religious intolerance, evolution of religious pluralism, and development of religious freedom;

(5) political development of the United States. The student shall be provided opportunities to:

(A) identify the political, economic, and social ideas in the United States Constitution, the Bill of Rights, the Declaration of Independence and selected Federalist Papers;

(B) evaluate arguments for and against ratification of the Constitution proposed by Federalists and Anti-Federalists;

(C) describe the structure and functions of the three branches of the federal government;

(D) explain the system of checks and balances at all levels of government;

(E) identify ways of maintaining a division of power among the local, state, and national governments;

(F) analyze the historical development of political parties;

(G) describe major political campaigns, elections, issues, and leaders;

(H) interpret the concept that the United States has a "government of law, not men;"

(I) describe rights and obligations of an American citizen; and

(J) analyze major historic documents relating to the development of the United States;

(6) respect for self and others. The student shall be provided opportunities to:

(A) respect beliefs of other individuals, groups, and cultures;

(B) recognize how societal values affect individual beliefs and values; and

(C) recognize that some things are valued more in some groups than in others;

(7) democratic beliefs and personal responsibility. The student shall be provided opportunities to:

(A) recognize that individuals must accept the consequences of their decisions and actions;

(B) support the principles that underlie the United States Constitution (including the Bill of Rights and all other amendments) and the Declaration of Independence;

(C) recognize the necessity of balancing legal rights with civic responsibilities;

(D) value open-mindedness, tolerance of different opinions, civic participation, and compromise as important aspects of democratic behavior;

(E) respect the laws of one's society and work responsibly to change laws one judges to be unjust;

(F) understand the importance of individual participation in civic affairs;

(G) judge self-interest and public interest when making political decisions;

(H) acknowledge that participation and decision making in civic affairs requires knowledge, time, and personal effort;

(I) support the democratic processes of the republican form of government;

(J) support the basic civic values of American society (e.g., justice, responsibility, political and religious freedom, diversity, privacy, private property rights, voluntary exchange, and respect for the law);

(K) support the rules and laws of the school, community, state, and nation; and

(L) identify responsibilities of and legal rights and protection afforded to juveniles and adults;

(8) support for the American economic system. The student shall be provided opportunities to:

(A) recognize the contributions of the American economic system to the standard of living of Americans;

(B) support the role of profit in the American economic system;

(C) believe in the right of individuals to acquire, responsibly use and dispose of property;

(D) support the freedom of consumers to choose how to spend their income;

(E) recognize that citizens can influence economic decisions made by government through legal political activities;

(F) support economic competition as it affects the quantity and quality of goods and services;

(G) acknowledge the role of government in regulating competition of both producers and consumers;

(H) recognize that as individuals act in their own economic interest they may also serve the economic interest of others; and

(I) compare the control and treatment of public and private property;

(9) application of social studies skills. The student shall be provided opportunities to:

(A) analyze, synthesize, and evaluate information;

(B) interpret visual materials (e.g., charts, maps, graphs, and pictures);

(C) distinguish fact from opinion;

(D) sequence historical data;

(E) perceive cause/effect relationships;

(F) use problem-solving skills; and

(G) apply decision-making skills.

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

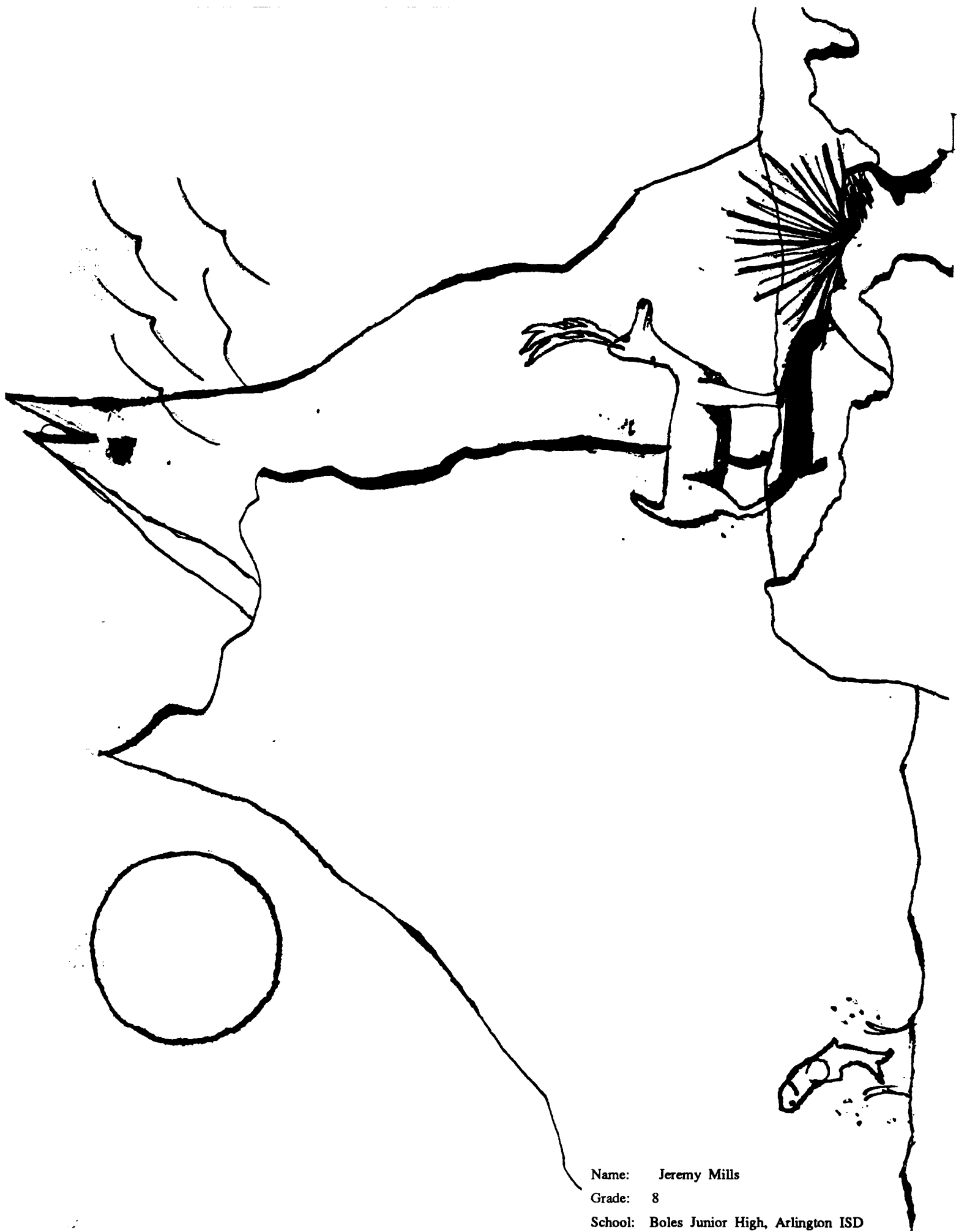
Issued in Austin, Texas, on January 24, 1991.

TRD-9101772 W. N. Kirby
Commissioner of Education

Earliest possible date of adoption: March 22, 1991

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

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Subchapter D. Essential Elements-Grades Nine-12

- 19 TAC §§75.61, 75.63, 75.64, 75.68, 75.70

The Texas Education Agency (TEA) proposes amendments to §§75.61, 75.63, 75.64, 75.68, and 75.70, concerning curriculum essential elements. The amendments are needed so that school districts may update curriculum materials; publishers may develop teacher editions with references to the revised essential elements; and textbook reviewers may be able to review coverage of the revised essential elements in the textbooks that will be filed in April 1991. In addition, changes to the essential elements for courses that were approved by the State Board of Education (SBOE) in January 1990 are being moved to corresponding subsections.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five-year period the proposed sections are in effect there will be some fiscal implications for local government as a result of enforcing or administering the sections. The effect on local government for the next two years will be minimal. All local school districts will have to revise and reprint portions of their curriculum guides for the revised courses to reflect the changes in essential elements. Actual costs cannot be estimated because these costs will vary among school districts. There will be no fiscal implications for state government as a result of enforcing or administering the sections.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, also have determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the publication and updating of the essential elements for courses approved by the SBOE. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Criss Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed sections submitted in accordance with the Administrative Procedure and *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 sections has been published in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §21.101, which provides the State Board of Education with the authority to designate the essential elements of the curriculum used by state school districts.

§75.61. English Language Arts.

(a)-(ff) (No change.)

(gg) English I (one unit). Essen-

tial elements for English I as described in this subsection shall be effective September 1992. English I shall include the following essential elements which include recursive processes as well as products within integrated strands of English language arts:

(1) Integrated writing and language concepts and skills, using written and oral composing processes to plan and generate both oral and written compositions for a variety of purposes and in a variety of modes. The student shall be provided opportunities to:

(A) prewrite and plan for specific purposes and modes, using material from sources such as personal experience and literature and using idea-generating strategies, including conferencing where appropriate:

(B) draft compositions for specific audiences and purposes in a variety of modes:

(i) expressive, informative, persuasive, and literary purposes;

(ii) narrative, descriptive, classificatory, and evaluative modes; and

(iii) paragraphs, multi-paragraph compositions, multi-paragraph compositions incorporating information from sources other than personal experience; and

(C) revise compositions using self-assessment, peer interaction, conferences, and individualized techniques:

(i) evaluate content, organization, topic development, appropriate transition, clarity of language, and appropriate word and sentence variety according to the purpose and audience for which the piece is intended; and

(ii) proofread written work for effective use of parts of speech; conventional usage and syntax; conventional punctuation, capitalization, spelling, and manuscript form as well as legibility;

(D) choose appropriate words to convey intended meaning while recognizing the meanings and uses of colloquialism, slang, idiom, and jargon;

(E) share products of written composition in a variety of ways; and

(F) apply language concepts and strategies in the context of oral

composition;

(2) integrated literature and reading concepts and strategies. Using meaningful, culturally diverse pieces of literature, the student shall be provided opportunities to:

(A) understand and analyze the major differences among poems, short stories, plays, and nonfiction as the characteristics of each genre contribute to the meaning of the individual work;

(B) understand and analyze sound devices and figurative language as they contribute to meaning;

(C) recognize cultural attitudes and customs in literary selections;

(D) understand and analyze the elements of fiction as they contribute to meaning;

(E) participate in cooperative learning and a variety of oral activities to elicit meaning from literature;

(F) expand vocabulary through determining word meanings by context clues and using specialized dictionaries for determining word meaning;

(G) develop comprehension skills by;

(i) identifying the stated or implied main idea of a selection;

(ii) recognizing relevant details;

(iii) identifying the sequential order of events;

(iv) perceiving cause and effect relationships;

(v) distinguishing between fact and nonfact;

(vi) drawing conclusions and making inferences (for example, in determining characterization and theme); and

(vii) predicting outcomes and future actions (for example, in anticipating plot sequence);

(H) develop study skills by;

(i) locating information using the format and organization of a book and appropriate reference material such as the dictionary, atlas, encyclope-

dia, almanac, and bibliographies; and

(ii) varying rate of reading according to purpose.

(hh) English II (one unit). Essential elements for English II as described in this subsection shall be effective September 1992. English II shall include the following essential elements which include recursive processes as well as products within integrated strands of English language arts:

(1) integrated writing and language concepts and skills, using written and oral composing processes to plan and generate both oral and written compositions for a variety of purposes and in a variety of modes. The student shall be provided opportunities to:

(A) prewrite and plan for specific purposes and modes, using material from sources such as personal experience and literature and using idea-generating strategies, including conferencing where appropriate;

(B) draft compositions for specific audiences and purposes in a variety of modes:

(i) expressive, informative, persuasive, and literacy purposes, including character sketches and stories as forms of literary discourse;

(ii) narrative, descriptive, classificatory, and evaluative modes; and

(iii) paragraphs of increasing length and complexity, multi-paragraph compositions incorporating outside information with documentation;

(C) revise compositions using self-assessment, peer interaction, conferences, and individualized techniques:

(i) evaluate content, organization, and topic development, appropriate transition, clarity of language, and appropriate word and sentence variety according to the purpose and audience for which the piece is intended; and

(ii) proofread written work for effective use of parts of speech; conventional usage and syntax; conventional punctuation, capitalization, and manuscript form as well as legibility;

(D) choose appropriate words to convey intended meaning while recognizing the meanings and uses of colloquialism, slang, idiom, and jargon;

(E) share products of written composition in a variety of ways; and

(F) apply language con-

cepts and skills in the context of oral composition;

(2) integrated literature and reading concepts and skills. Using meaningful, culturally diverse pieces of literature, the student shall be provided opportunities to:

(A) understand and analyze the major differences among poems, short stories, plays, and non-fiction as the characteristics of each genre contribute to the meaning of the individual work;

(B) understand and analyze sound devices and figurative language as they contribute to meaning;

(C) recognize point of view in literary selections and its contribution to meaning;

(D) identify use of basic symbols in literary selections and their contribution to meaning;

(E) understand and analyze the development of an overall theme in a literary work;

(F) understand and analyze the elements of fiction as they contribute to meaning;

(G) participate in cooperative learning and a variety of oral activities to elicit meaning from literature;

(H) expand vocabulary and understand analogous relationships of words;

(I) develop comprehension skills by:

(i) selecting the main idea of a selection;

(ii) recognizing relevant details;

(iii) arranging events in sequential order;

(iv) differentiating between fact and nonfact;

(v) making inferences and drawing conclusions;

(vi) evaluating and making judgments; and

(vii) perceiving cause and effect relationships; and

(J) develop study skills by:

(i) locating information using selected sections of advanced and

specialized dictionaries and using appropriate reference materials such as the atlas, encyclopedia, almanac, and bibliographies;

(ii) following complex directions; and

(iii) adjusting reading rate according to purpose.

(ll) English III (one unit). Essential elements for English III as described in this subsection shall be effective September 1992. English III shall include the following essential elements which include recursive processes as well as products within integrated strands of English language arts:

(1) integrated writing and language concepts and skills, using written and oral composing processes to plan and generate both oral and written compositions for a variety of purposes and in a variety of modes. The student shall be provided opportunities to:

(A) prewrite and plan for specific purposes and modes, using material from sources such as personal experience and literature and using idea-generating strategies including conferencing where appropriate;

(B) draft compositions reflecting rhetorical choices based on specific audiences, purposes, and modes;

(i) expressive, informative, persuasive, and literary purposes;

(ii) narrative, descriptive, classificatory, and evaluative modes; and

(iii) multi-paragraph compositions and multi-paragraph compositions incorporating outside information with documentation;

(C) revise compositions using self-assessment, peer interaction, conferences, and individualized techniques:

(i) refine sentences and paragraphs into compositions exhibiting unity, clarity, and coherence;

(ii) revise written work for content, organization, topic development, appropriate transition, clarity of language, and appropriate word and sentence variety according to the purpose and audience for which the piece is intended;

(iii) proofread written work for effective use of parts of speech; conventional usage and syntax; conventional punctuation, capitalization, spelling, and manuscript form as well as legibility; and

(iv) evaluate one's own writing as well as that of others;

(D) share products of written composition in a variety of ways;

(E) choose appropriate words to convey intended meaning;

(F) describe the history and major features of American dialects and recognize the sociological functions of language; and

(G) produce oral discourse and share written discourse orally;

(2) integrated literature and reading concepts and skills. Using meaningful, culturally valuable pieces of literature, the student shall be provided opportunities to:

(A) read primarily from the major authors, periods, forms and works in American literature;

(B) understand and analyze language used denotatively and connotatively in literary selections;

(C) understand and analyze the basic sound devices and figurative language as they contribute to meaning;

(D) broaden and deepen his or her experience through imaginative and emotional engagement with literature;

(E) identify and analyze irony, tone, mood, allusion, and symbolism in literary selections and their contribution to meaning;

(F) understand and analyze the elements of fictions as they contribute to meaning;

(G) participate in cooperative learning and a variety of oral activities to elicit meaning from literature;

(H) acquire advanced vocabulary through development of facility with word analogies and use of advanced dictionaries in determining pronunciations and meanings of words;

(I) develop comprehension skills by:

(i) expressing main idea in one sentence;

(ii) distinguishing between fact and nonfact, grounded and ungrounded belief, and rational thought and rationalization;

(iii) perceiving cause and effect relationships;

(iv) evaluating the author's point of view; and

(J) develop study skills by:

(i) following complex directions;

(ii) using specialized dictionaries independently;

(iii) adjusting reading procedures, techniques, and rate according to purpose.

(J) English IV (one unit). Essential elements for English IV as described in this subsection shall be effective September 1992. English IV shall include the following essential elements which include recursive processes as well as products within integrated strands of English language arts:

(1) integrated writing and language concepts and skills, using written and oral composing processes to plan and generate both oral and written compositions for a variety of purposes and in a variety of modes. The student shall be provided opportunities to:

(A) prewrite and plan for specific purposes and modes, using material from sources such as personal experience and literature and using idea-generating strategies including conferencing where appropriate;

(B) draft compositions reflecting rhetorical choices based on specific audiences, purposes, and modes;

(i) expressive, informative, persuasive, and literary purposes;

(ii) narrative, descriptive, classificatory, and evaluative modes; and

(iii) multi-paragraph compositions and longer compositions incorporating outside information with documentation;

(C) revise compositions using self-assessment, peer interaction, conferences, and individualized techniques:

(i) refine sentences and paragraphs into compositions exhibiting unity, clarity, and coherence;

(ii) achieve precision in meaning through sophisticated language and rhetorical choices;

(iii) analyze the presentation of ideas in written discourse, including forms of logical reasoning, common fallacies of reasoning, and techniques of persuasive language;

(iv) revise written work for content, organization, topic development, appropriate transition, clarity of language, and appropriate word and sentence variety according to the purpose and audience for which the piece is intended;

(v) proofread written work for effective use of parts of speech; conventional usage and syntax; conventional punctuation, capitalization, spelling, and manuscript form as well as legibility; and

(vi) evaluate one's own writing as well as that of others;

(D) share products of written composition in a variety of ways;

(E) exhibit sophisticated and precise word choice to convey meaning;

(F) describe the major features of the origins and development of the English language and recognize the sociological functions of language;

(G) acquire advanced vocabulary through development of facility with word analogies; and

(H) produce oral discourse and share written discourse orally;

(2) integrated literature and reading concepts and skills. Using meaningful, culturally valuable pieces of literature, the student shall be provided opportunities to:

(A) read primarily from the major authors, periods, forms, and works in British literature;

(B) understand and analyze language used denotatively and connotatively in literary selections;

(C) understand and analyze the major types of figurative language and sound devices as they contribute to meaning;

(D) broaden and deepen his or her experience through imaginative and emotional engagement with literature;

(E) understand and analyze irony, tone, mood allusion, and symbolism in literary selections and their contribution to meaning;

(F) understand and analyze characteristics of various literary genres,

and genre contributes to meaning;

(G) understand and analyze recurring themes in literary selections;

(H) understand and analyze the elements of fiction as they contribute to meaning;

(I) participate in cooperative learning and a variety of oral activities to elicit meaning from literature;

(J) develop comprehension skills by:

(i) identifying main idea and supporting details;

(ii) determining the author's point of view, purpose, and qualification;

(iii) recognizing the devices of propaganda;

(iv) perceiving cause and effect relationships;

(v) predicting probable future outcomes; and

(vi) making generalizations from a given series of assumptions; and

(K) develop study skills by:

(i) using advanced and special dictionaries;

(ii) using various reference materials; and

(iii) adjusting rate and purpose for type of reading.

(kk) Correlated Language Arts I (one unit). Essential elements for Correlated Language Arts I as described in this subsection shall be effective September 1992. Correlated Language Arts I shall include the following essential elements which include recursive processes as well as products within integrated strands of English language arts:

(1) Integrated writing and language concepts and skills, using written and oral composing processes to plan and generate both oral and written compositions for a variety of purposes and in a variety of modes. The student shall be provided opportunities to:

(A) prewrite and plan for specific purposes and modes, using material from sources such as personal experience and literature and using idea-generating strategies, including conferencing where appropriate;

(B) draft compositions for

specific audiences and purposes in a variety of modes;

(i) expressive, informative, persuasive, and literary purposes;

(ii) narrative, descriptive, classificatory, and evaluative modes; and

(iii) paragraphs, multi-paragraph compositions, multi-paragraph compositions incorporating information from sources other than personal experience;

(C) revise compositions using self-assessment, peer interaction, conferences and individualized techniques:

(i) evaluate content, organization, topic development, appropriate transition, clarity of language, and appropriate word and sentence variety according to the purpose and audience for which the piece is intended; and

(ii) proofread written word for effective use of parts of speech; conventional usage and syntax; conventional punctuation, capitalization, spelling, and manuscript form as well as legibility;

(D) choose appropriate words to convey intended meaning while recognizing the meanings and uses of colloquialism, slang, idiom, and jargon;

(E) share products of written composition in a variety of ways; and

(F) apply language concepts and strategies in the context of oral composition;

(2) Integrated literature and reading concepts and strategies. Using meaningful, culturally diverse pieces of literature, the student shall be provided opportunities to:

(A) understand and analyze the major differences among poems, short stories, plays, and nonfiction as the characteristics of each genre contribute to the meaning of the individual work;

(B) understand and analyze sound devices and figurative language as they contribute to meaning;

(C) recognize cultural attitudes and customs in literary selections;

(D) understand and analyze the elements of fiction as they contribute to meaning;

(E) participate in coopera-

tive learning and a variety of oral activities to elicit meaning from literature;

(F) expand vocabulary through determining word meaning by context clues and using specialized dictionaries for determining word meaning;

(G) develop comprehensive skills by:

(i) identifying the stated or implied main idea of a selection;

(ii) recognizing relevant details;

(iii) identifying the sequential order of events;

(iv) perceiving cause and effect relationships;

(v) distinguishing between fact and nonfact;

(vi) drawing conclusions and main inferences (for example, in determining characterization and theme); and

(vii) predicting outcomes and future actions (for example, in anticipating plot sequence);

(H) develop study skills by:

(i) locating information using the format and organization of a book and appropriate reference material such as the dictionary, atlas, encyclopedia, almanac, and bibliographies; and

(ii) varying rate of reading according to purpose.

(11) Correlated Language Arts II (one unit). Essential elements for Correlated Language Arts II as described in this subsection shall be effective September 1992. Correlated Language Arts II shall include the following essential elements which include recursive processes as well as products within integrated strands of English language arts:

(1) Integrated writing and language concepts and skills, using written and oral composing processes to plan and generate both oral and written compositions for a variety of purposes and in a variety of modes. The student shall be provided opportunities to:

(A) prewrite and plan for specific purposes and modes, using material from sources such as personal experience and literature and using idea-generating strategies, including conferencing where appropriate;

(B) draft composition for specific audiences and purposes in a variety of modes:

(i) expressive, informative, persuasive, and literary purposes, including character sketches and stories as forms of literary discourse;

(ii) narrative, descriptive, classificatory, and evaluative modes; and

(iii) paragraphs of increasing length and complexity, multi-paragraph compositions incorporating outside information with documentation;

(C) revise compositions using self-assessment, peer interaction, conference, and individualized techniques:

(i) evaluate content, organization, and topic development, appropriate transition, clarity of language, and appropriate word and sentence variety according to the purpose and audience for which the piece is intended; and

(ii) proofread written work for effective use of parts of speech; conventional usage and syntax; conventional punctuation, capitalization, and manuscript form as well as legibility;

(D) choose appropriate words to convey intended meaning while recognizing the meanings and uses of colloquialism, slang, idiom, and jargon;

(E) share products of written composition in a variety of ways; and

(F) apply language concepts and skills in the context of oral composition;

(2) Integrated literature and reading concepts and strategies. Using meaningful, culturally diverse pieces of literature, the student shall be provided opportunities to:

(A) understand and analyze the major differences among poems, short stories, lays, and non-fiction as the characteristics of each genre contribute to the meaning of the individual work;

(B) understand and analyze the basic sound devices and figurative language as they contribute to meaning;

(C) recognize point of view in literary selections and its contribution to meaning;

(D) identify use of basic symbols in literary selections and their contribution to meaning;

(E) understand and analyze the development of an overall theme in a literary work;

(F) understand and analyze the elements of fiction as they contribute to meaning;

(G) participate in cooperative learning and a variety of oral activities to elicit meaning from literature;

(H) expand vocabulary and understand analogous relationships of words;

(I) develop comprehension skills by:

(i) selecting the main idea of a selection;

(ii) recognizing relevant details;

(iii) arranging events in sequential order;

(iv) differentiating between fact and nonfact;

(v) making inferences and drawing conclusions;

(vi) evaluating and making judgements; and

(vii) perceiving cause and effect relationships; and

(J) develop study skills by:

(i) locating information using selected sections of advanced and specialized dictionaries and using appropriate reference materials such as the atlas, encyclopedia, almanac, bibliographies;

(ii) following complex directions; and

(iii) adjusting reading rate according to purpose.

(mm) Correlated Language Arts III (one unit). Essential elements for Correlated Language Arts III as described in this subsection shall be effective September 1992. Correlated Language Arts III shall include the following essential elements which include recursive processes as well as products within integrated strands of English language arts:

(1) integrated writing and language concepts and skills, using written and oral composing processes to plan and generate both oral and written compositions for a variety of purposes and in a variety of modes. The student shall be provided opportunities to:

(A) prewrite and plan for specific purposes and modes, using material from sources such as personal experience and literature and using idea-generating strategies, including

conferencing where appropriate;

(B) draft compositions reflecting rhetorical choices based on specific audiences, purposes, and modes:

(i) expressive, informative, persuasive, and literary purposes;

(ii) narrative, descriptive, classificatory, and evaluative modes; and

(iii) multi-paragraph compositions and multi-paragraph compositions incorporating outside information with documentation;

(C) revise compositions using self-assessment, peer interaction, conferences, and individualized techniques:

(i) refine sentences and paragraphs into compositions exhibiting unity, clarity, and coherence;

(ii) revise written work for content, organization, topic development, appropriate transition, clarity of language, and appropriate word and sentence variety according to the purpose and audience for which the piece is intended;

(iii) proofread written work for effective use of parts of speech; conventional usage and syntax; conventional punctuation, capitalization, spelling, and manuscript form as well as legibility; and

(iv) evaluate one's own writing as well as that of others;

(D) share products of written composition in a variety of ways;

(E) choose appropriate words to convey intended meaning;

(F) describe the history and major features of American dialects and recognize the societal functions of language; and

(G) produce oral discourse and share written discourse orally;

(2) Integrated literature and reading concepts and skills. Using meaningful, culturally, valuable pieces of literature, the student shall be provided opportunities to:

(A) read primarily from the major authors, periods, forms, and works in American literature;

(B) understand and analyze language used denotatively and connotatively in literary selections;

(C) understand and analyze sound devices and figurative language as they contribute to meaning;

(D) broaden and deepen his or her experience through imaginative and emotional engagement with literature;

(E) identify and analyze irony, tone, mood, allusion and symbolism in literary selections and their contribution to meaning;

(F) understand and analyze the elements of fiction as they contribute to meaning;

(G) participate in cooperative learning and a variety of oral activities to elicit meaning from literature;

(H) acquire advanced vocabulary through development of facility with word analogies and use of advanced dictionaries in determining pronunciations and meanings of words;

(I) develop comprehension skills by:

(i) expressing main idea in one sentence;

(ii) distinguishing between fact and nonfact, grounded and ungrounded belief, and rational thought and rationalization;

(iii) perceiving cause and effect relationships;

(iv) evaluating the author's point of view; and

(J) develop study skills by:

(i) following complex directions;

(ii) using specialized dictionaries independently;

(iii) adjusting reading procedures, techniques, and rate according to purpose.

(nn) Correlated Language Arts IV (one unit). Essential elements for Correlated Language Arts IV as described in this subsection shall be effective September 1992. Correlated Language Arts IV shall include the following essential elements which include recursive processes as well as products within integrated strands of English language arts:

(1) Integrated writing and language concepts and skills, using written and oral composing processes to plan and generate both oral and written compositions for a variety of purposes and in a variety of modes. The student shall be

provided opportunities to:

(A) prewrite and plan for specific purposes and modes, using material from sources such as personal experience and literature and using idea-generating strategies, including conferencing where appropriate;

(B) draft compositions reflecting rhetorical choices based on specific audiences, purposes, and modes:

(i) expressive, informative, persuasive, and literary purposes;

(ii) narrative, descriptive, classificatory, and evaluative modes; and

(iii) multi-paragraph compositions and longer compositions incorporating outside information with documentation;

(C) revise compositions using self-assessment, peer interaction, conferences, and individualized techniques:

(i) refine sentences and paragraphs into compositions exhibiting unity, clarity, and coherence;

(ii) achieve precision in meaning through sophisticated language and rhetorical choices;

(iii) analyze the presentation of ideas in written discourse, including forms of logical reasoning, common fallacies of reasoning, and techniques of persuasive language;

(iv) revise written work for content, organization, topic development, appropriate transition, clarity of language, and appropriate word and sentence variety according to the purpose and audience for which the piece is intended;

(v) proofread written work for effective use of parts of speech; conventional usage and syntax; conventional punctuation, capitalization, spelling, and manuscript form as well as legibility; and

(vi) evaluate one's own writing as well as that of others;

(D) share products of written composition in a variety of ways;

(E) exhibit sophisticated and precise word choice to convey meaning;

(F) describe the major features of the origins and development of the English language and recognize the sociological functions of language;

(G) acquire advanced vocabulary through development of facility with word analogies; and

(H) produce oral discourse and share written discourse orally;

(2) Integrated literature and reading concepts and strategies. Using meaningful, culturally diverse pieces of literature, the student shall be provided opportunities to:

(A) read primarily from the major authors, periods, forms, and works in world literature, including British literature;

(B) understand and analyze language used denotatively and connotatively in literary selections;

(C) understand and analyze the major types of figurative language and sound devices as they contribute to meaning;

(D) broaden and deepen his or her experience through imaginative and emotional engagement with literature;

(E) understand and analyze irony, tone, mood, allusion, and symbolism in literary selections and their contribution to meaning;

(F) understand and analyze characteristics of various literary genres, as genre contributes to meaning;

(G) understand and analyze recurring themes in literary selections;

(H) understand and analyze the elements of fiction as they contribute to meaning;

(I) participate in cooperative learning and a variety of oral activities to elicit meaning from literature;

(J) develop comprehension skills by:

(i) identifying main idea and supporting details;

(ii) determining the author's point of view, purpose, and qualification;

(iii) recognizing the devices of propaganda;

(iv) perceiving cause and effect relationships;

(v) predicting probable future outcomes; and

(vi) making generalizations from a given series of assumptions; and

(K) develop study skills by:

(i) using advanced and special dictionaries;

(ii) using various reference materials; and

(iii) adjusting rate and purpose for type of reading.

§75.63. Mathematics.

(a)-(z) (No change.)

(aa) Informal geometry (one unit). Essential elements for informal geometry as described in this subsection shall be effective September 1992. Informal geometry shall include the following essential elements:

(1) concepts and skills involving linear measurement. The student shall be provided opportunities to:

(A) develop the concept of measurement using measuring instruments with both metric and customary units;

(B) develop skills in estimating measures; and

(C) solve relevant measurement problems, choose appropriate units of measurement, and convert between units when appropriate;

(2) geometric figures and shapes. The student shall be provided opportunities to:

(A) identify, describe, and classify plane and solid figures according to their properties;

(B) use the properties of plane and solid figures to solve relevant problems;

(C) identify and use the line segments associated with triangles including altitudes, angle bisectors, medians, and the perpendicular bisectors of sides to solve application problems;

(D) build models of solids from examples, pictures, and diagrams; and

(E) draw three-dimensional figures from different perspectives using dot paper and/or computer graphics;

(3) parallelism and perpendicularity. The student shall be provided opportunities to:

(A) identify and use parallel and perpendicular lines with associated facts regarding the angles formed; and

(B) identify and use key facts (standard theorems) about common quadrilaterals such as rectangles, parallelograms, rhombuses, squares, and trapezoids and their applications in relevant problem-solving situations;

(4) concepts of congruence and similarity using manipulatives, models, scale drawings, and computer graphics. The student shall be provided opportunities to:

(A) identify figures that are similar and intuitively justify the similarity;

(B) identify figures that are congruent and intuitively justify the congruence;

(C) write ratios and use proportions to solve for missing parts in geometric figures;

(D) apply the use of maps and scale drawings to relevant problem situations; and

(E) investigate tessellations of the plane;

(5) formal and informal constructions using paper folding, compass/straightedge, computer graphics, and/or other methods. The student shall be provided opportunities to:

(A) use paper folding to make constructions involving angles, parallel and perpendicular lines, segments, etc.;

(B) use a compass and straightedge to make constructions involving angles, parallel and perpendicular lines, segments, etc.;

(C) use computer graphics to make constructions involving angles, parallel and perpendicular lines, segments, etc.; and

(D) construct regular polygons using paper folding, compass/straightedge, computer graphics, and/or other methods;

(6) basic coordinate geometry.

The student shall be provided opportunities to:

(A) graph points, lines, and polygons on the Cartesian coordinate plane, using computer graphics where appropriate;

(B) determine and use the coordinates of the midpoint, the slope of a line segment, and the distance between two points to solve problems, using computer graphics where appropriate;

(C) use locus to describe geometric figures; and

(D) use reflection, rotation, translation, and size or scale change of figures in the plane and in space to solve relevant problems, using computer graphics where appropriate;

(7) area and perimeter. The student shall be provided opportunities to:

(A) develop the perimeter and area formulas intuitively with models;

(B) solve relevant perimeter and area problems involving triangles, parallelograms, trapezoids, and regular polygons;

(C) estimate answers, solve application and nonroutine problems involving linear and square units, and use the estimate to check the reasonableness of the answer;

(D) approximate perimeters and areas of irregularly shaped figures and apply to problem situations; and

(E) investigate the relationship between the perimeter and area of a figure and the perimeter and area of its image under reflection, rotation, translation, size change, and scale change;

(8) the right triangle. The student shall be provided opportunities to:

(A) apply the Pythagorean Theorem and its converse; and

(B) solve right triangle problems using the properties of 30-60-90 and 45-45-90 triangles and indirect measurement;

(9) circles and spheres. The student shall be provided opportunities to:

(A) use the parts of circles and spheres such as radius, diameter, arc, chord, tangent, secant, and sector and apply to relevant problems;

(B) use concrete models to develop the formulas for the circumference and area of a circle;

(C) use concrete models to develop the formulas for the surface area and volume of a sphere; and

(D) engage in problem-solving activities involving measurement of circles and spheres;

(10) volume and surface area. The student shall be provided opportunities to:

(A) develop the formulas for lateral and surface area of common solids using concrete models and/or computer software;

(B) estimate answers; solve application and nonroutine problems involving lateral area, surface area, and volume; and use the estimate to check the reasonableness of the answer;

(C) use models and manipulatives to develop and generalize the concept of the volume for prisms/cylinders with polygonal/circular bases as the product of the base and height;

(D) use models and manipulatives to develop and generalize the concept of the volume for cones/pyramids as one-third the product of the area of the base and the height;

(E) solve application problems involving the surface area and volume of irregular shaped figures; and

(F) solve application problems involving the surface area and volume of geometric solids composed of more than one common solid using a computer where appropriate.

(bb) Mathematics of money (1/2-one unit). Essential elements for mathematics of money as described in this subsection shall be effective September 1992. (The mathematics of money course will replace the mathematics of consumer economics course.) Mathematics of money shall include the following essential elements:

(1) problem solving/decision making. The student shall be provided opportunities to:

(A) make decisions in problem situations involving the free enterprise system (earning, spending, borrowing, and investing money);

(B) make mathematical models for given problem situations;

(C) consider various points of view in problem situations (e.g. employee, employer, government, etc.);

(D) make a convincing argument based on criteria for choosing a particular option;

(E) make decisions based on interpretation of statistical data;

(F) use programmable graphing calculators and/or computers (e.g., electronic spreadsheets) to solve relevant problems;

(G) investigate topics using real-life data through individual or group projects;

(H) select appropriate strategies from a variety of approaches;

(I) reflect on the problem-solving process and the solution of a problem by evaluating outcomes for reasonableness (including appropriateness of units), making revisions as needed, describing and discussing the process and solution, and making a decision based on the solution; and

(J) generate and extend problems;

(2) earning money. The student shall be provided opportunities to:

(A) determine gross and net income considering compensation (salary, hourly wage, commission, piece rate, etc.) and deductions (FICA, withholding, insurance, profit sharing, etc.), using calculators or computers;

(B) solve problems comparing various commission options;

(C) investigate and calculate values of fringe benefits;

(D) evaluate and choose from among various employment options considering financial factors, personal satisfaction, etc.;

(E) investigate the income

tax system and complete income tax forms, including standard deduction forms as well as itemized deduction forms;

(F) prepare a payroll using a spreadsheet;

(G) consider an employer's viewpoint with regard to wages, overhead, profit, and related management decisions, culminating in the development of one or more spreadsheets;

(H) model total costs (e.g., total cost to sales volume) using equations;

(I) construct break-even charts by graphing total cost equations with the line $y = x$ (cost = sales);

(J) use linear programming to solve maxima and minima problems relating to cost and profit; and

(K) solve problems involving compound interest that can be computed numerically using calculators, modeled algebraically, or solved graphically with graphing calculators or computers;

(3) spending money. The student shall be provided opportunities to:

(A) evaluate and choose from various financial institutions, considering service options, costs, etc.;

(B) create and use a simulated checking account, including making deposits, writing checks, reconciling, etc.;

(C) create budgets from a simple personal budget to that of a small business, using a spreadsheet where appropriate;

(D) use ratio and proportion (unit pricing) with real data, making decisions concerning purchases that meet individual needs;

(E) investigate, compare, and evaluate information and costs relative to buying a new or used car, considering a down payment, insurance, monthly payment, maintenance, etc.;

(F) in relation to housing, use linear regression to determine the relationship between size and cost, location and cost, age and cost, amenities and cost, etc.;

(G) use equations that model percent increase or percent decrease in various problem situations;

(H) trace the effects of the Federal Reserve System on consumer prices;

(I) use linear programming to solve maxima and minima problems relating to allocation of resources;

(J) use systems of equations to model problem situations; and

(K) use systems of inequalities to model problem situations;

(4) borrowing money. The student shall be provided opportunities to:

(A) solve problems comparing the costs of credit card purchases, considering average daily balance, finance charges, annual fee, etc.;

(B) graph the relationship between payments and APR;

(C) use compound interest formulas to compute interest, using calculators or computers;

(D) use appropriate formulas to determine and compare costs of personal loans from various lending institutions and to evaluate suitability;

(E) investigate and make decisions regarding financing a car and a home, including comparing amortization schedules for various time periods;

(F) make and justify decisions concerning the relative effect of changes in principal, rate, and time on the total cost and monthly payments of car and home loans, using a calculator and/or spreadsheet; and

(G) investigate, compare, and evaluate information and cost relative to buying versus leasing housing, including down payment, points, property taxes, income tax advantages, maintenance, insurance, etc.;

(5) investing money. The student shall be provided opportunities to:

(A) compute and compare the return on various types of savings instruments (i.e., passbook, CDs, money market, bonds, etc.);

(B) calculate future value

(e.g., Rule of 72, mathematical modeling, etc.) of investments such as planning for college expenses, retirement, etc., using a calculator or computer where appropriate;

(C) apply probability and statistics concepts related to returns on investments;

(D) use geometric progressions to investigate inflation and its effect on investments, including exploration of the consumer price index;

(E) investigate stock and bond markets including terms, fees, interest, dividends, rates of return, interpretation of quotes, etc. necessary to solve problems such as graphing the relationship of commission to total price paid, using a calculator or computer where appropriate;

(F) qualitatively and quantitatively compare various life insurance options, including unit cost, cash/investment value, etc.; and

(G) explore the impact of early and consistent participation in retirement plans such as IRAs, tax sheltered annuities, etc., using a calculator or computer where appropriate.

(cc) Pre-Algebra (one unit). Essential elements for pre-algebra as described in this subsection shall be effective September 1992. Pre-Algebra shall include the following essential elements:

(1) problem solving. Experience in solving problems by selecting and matching strategies to given situations. The student shall be provided opportunities to:

(A) communicate an understanding of a problem by describing and discussing the problem and recording the relevant information;

(B) select appropriate strategies from a variety of approaches such as: act it out; make a model; draw a picture; systematically guess and check; make a diagram, chart, or graph; simplify the problem; find a pattern; or work backwards;

(C) select appropriate methods and materials for solving problems including concrete manipulatives, models, mental computation, paper and pencil, and calculator and/or computer;

(D) solve a problem, evalu-

ate the outcome for reasonableness (including appropriateness of units), make revisions as needed, describe and discuss the process and solution, and make a decision based on the solution; and

(E) generate, extend, and generalize problems and solutions;

(2) number and numeration concepts. Concepts and skills associated with the understanding of numbers and the place value system. The student shall be provided opportunities to:

(A) use scientific notation and extend to applications with calculators;

(B) find factors, prime factors, and multiples using divisibility rules;

(C) understand and apply concepts involving least common multiple and greatest common factor to fractions and algebraic monomials;

(D) identify and use the properties and characteristics of subsystems of the real number system;

(E) simplify polynomials by combining like terms and using the distributive property; and

(F) write symbolic expressions for word phrases;

(3) operations and computation. Basic operations on numbers, their properties, and their uses. The student shall be provided opportunities to:

(A) use basic operations and properties of integers, decimals, and fractions to solve relevant problems using mental techniques, pencil/paper, and a calculator, as appropriate;

(B) use the order of operations to simplify expressions and solve multistep problems;

(C) evaluate expressions that contain absolute values;

(D) use the laws of exponents and their applications including zero and negative integral exponents;

(E) simplify and estimate numeric radical expressions involving square roots using a calculator when appropriate;

(F) solve simple linear equations and inequalities involving rational numbers;

(G) estimate and solve application problems by writing and solving simple two-step equations;

(H) evaluate expressions and formulas containing variables, using a calculator when appropriate; and

(I) estimate and solve problems using ratios, proportions, and percent, and check the reasonableness of the result;

(4) geometry and measurement. Concepts and skills using metric and customary units. The student shall be provided opportunities to:

(A) identify and classify geometric figures, solids, and their characteristics;

(B) use metric and customary units to find distance, perimeter, circumference, area, surface area, and volume in problem situations;

(C) use indirect measurement with similar figures;

(D) solve right triangle problems using the Pythagorean theorem and its converse; and

(E) apply algebraic techniques to geometric situations;

(5) probability, statistics, and graphing. Use of probability and statistics to collect and interpret data. The student shall be provided opportunities to:

(A) construct a sample space by listing, using a tree diagram, etc.;

(B) investigate various ways to determine the number of possible outcomes for a given situation;

(C) find the probability of independent and dependent events;

(D) collect, organize, and graph data relevant to pre-algebra problems;

(E) interpret graphs and analyze data to solve relevant problems; and

(F) determine measures of central tendency and their uses in relevant problem situations;

(6) concepts and skills involved in the analysis and graphing of relations and functions. The student shall be provided opportunities to:

(A) graph solution sets of equations and inequalities on a number line, using computer graphics when appropriate;

(B) graph linear equations and inequalities on a coordinate plane, and explore the characteristics of these graphs with computer graphics;

(C) find the slope and intercept of the graph of a linear equation; and

(D) solve systems of linear equations by graphing.

§75.64. Science.

(a)-(b) (No change.)

(c) Physics I (one unit). Physics I shall be a laboratory-oriented course and shall include the following essential elements:

(1) manipulative laboratory skills and equipment. The student shall be provided opportunities to: [demonstrate-the-safe-use-of-physics laboratory-equipment-and-supplies.]

(A) demonstrate the safe use of physics equipment, supplies, and models; and

(B) design and construct models appropriate to physics experiments and investigations;

(2) the use of skills in acquiring data through the senses. The student shall be provided opportunities to: [observe-physics phenomena.]

(A) observe phenomena resulting from physics investigations and experiments; and

(B) observe similarities and differences in objects and events;

(3) the use of classification skills in ordering and sequencing data. The student shall be provided opportunities to:

(A) classify physics [physical] interactions according to similarities and differences; and

(B) arrange physics events and activities in a sequential order [sequence-a-physics-investigation];

(4) experience in oral and written communication of data in appropriate form. The student shall be provided opportunities to: [describe-physical-processes.]

(A) describe physics processes and interactions; and

(B) explain meaningful arrangements of physics information and materials; and

(C) record and interpret data on graphs, tables, and other displays;

(5) experience in concepts and skills of measurement using relationships to standards. The student shall be provided opportunities to:

(A) measure and compare physics [physical] quantities; and

(B) plot physics-related experimental data on graphs and other displays;

(6) the use of skills in drawing logical inferences, predicting outcomes, and forming generalized statements. The student shall be provided opportunities to:

(A) predict the outcome of a physics investigation [from-trends in-data] using inference, extrapolation, or interpolation; and

(B) deduce a physics hypothesis from experimental data [cause-and-effect relationships];[.]

(C) examine scientific evidence and information to test, modify, verify, or refute physics theories;

(7) experience in skills in relating objects and events to other objects and events. The student shall be provided opportunities to:

(A) analyze and evaluate [scale] models, apparatuses and principles [of-vector-problems]; and

(B) compare and contrast behaviors of objects and events [the functions-of-electronic-circuits]; and

(C) resolve physics discrepancies [compare-the-electrical efficiency-of-appliances];

(8) experience in applying defined terms based on observations. The stu-

dent shall be provided opportunities to: [clarify-operational definitions-used-in-explaining-physics-processes.]

(A) clarify operational definitions used in explaining physics systems and processes; and

(B) relate and use terms and processes employed in research;

(9) (No change.)

(10) application of science in daily life. The student shall be provided opportunities to:

(A) apply principles of physics to technology [an investigation]; and

(B) (No change.)

(d)-(g) (No change.)

(h) Physics II (one unit). Physics II shall be a laboratory-oriented course and shall include the following essential elements:

(1) manipulative laboratory skills and equipment. The student shall be provided opportunities to:

(A) demonstrate the safe use of advanced-level physics [laboratory] equipment and supplies and models; and

(B) design and construct models appropriate to advanced-level physics experiments and investigations [demonstrate-advanced-level-physics-laboratory-techniques];

(2) the use of skills in acquiring data through the senses. The student shall be provided opportunities to:

(A) observe phenomena resulting from advanced-level physics investigations and experiments [advanced-level-physics reactions]; and

(B) observe similarities and differences in objects and events [examine-advanced-level-physics-processes];

(3) the use of classification skills in ordering and sequencing data. The student shall be provided opportunities to:

(A) classify advanced-level physics interactions [actions], according to similarities and differences; and

(B) arrange advanced-level physics-related events and activities in a sequential order [sequence-an-advanced-level-physics investigation];

(4) experience in oral and writ-

ten communication of data in appropriate form. The student shall be provided opportunities to [describe-advanced-level-physics-processes.]

(A) describe advanced-level physics processes and interactions;

(B) explain meaningful arrangements of advanced-level physics-related information and materials; and

(C) record and interpret data on graphs, tables, and other displays;

(5) experience in concepts and skills of measurement using relationships to standards. The student shall be provided opportunities to:

(A) measure and compare advanced-level physics quantities; and

(B) plot advanced-level physics experimental data on graphs and other displays;

(6) the use of skills in drawing logical inferences, predicting outcomes, and forming generalized statements. The student shall be provided opportunities to:

(A) predict the outcome of an advanced-level [a] physics investigation [activity] using inference, extrapolation, or interpolation [trends-in-data]; [and]

(B) deduce [formulate a] an advanced-level physics hypothesis from experimental data; and

(C) examine scientific evidence and information to test, modify, verify, or refute advanced-level physics theories;

(7) experience in skills in relating objects and events to other objects and events. The student shall be provided opportunities to:

(A) analyze and evaluate models, apparatuses, and principles [compare-physical-interactions-under-varied-conditions;-and];

(B) compare and contrast behaviors of objects and events; and [evaluate-the-electrical-efficiency-of-machines.]

(C) resolve advanced-level physics discrepancies;

(8) experience in applying defined terms based on observations. The stu-

dent shall be provided opportunities to: [demonstrate-the-use-of-operational-definitions-in-explaining-advanced-level-physics processes.]

(A) clarify operational definitions used in explaining advanced-level physics systems and processes; and

(B) relate and use terms and processes employed in physics research;

(9) experience in identifying and manipulating the conditions of investigations. The student shall be provided opportunities to:

(A) identify the variables remaining constant, the variables being manipulated, and the variables responding in an investigation in advanced-level physics; and

(B) select [develop-and-analyze] an experimental design to test an advanced-level physics hypothesis;

(10) application of science in daily life. The student shall be provided opportunities to: [evaluate-the-applications-and-career implications-of-physics-principles-and-the-findings-of-research.]

(A) apply principles of advanced-level physics technology; and

(B) evaluate applications and career implications of advanced-level physics principles and research findings.

(i) Geology (1/2-one unit). Geology shall be a laboratory-oriented course and shall include the following essential elements:

(1) manipulating [Manipulative] laboratory skills and equipment. The student shall be provided opportunities to:

(A) -(B) (No change.)

(2)-(10) (No change.)

(j)-(s) (No change.)

(t) Applied biology (one unit). Essential elements for applied biology as described in this subsection shall be effective September 1992. (The applied biology course will replace the introductory biology course.) Applied biology shall be a laboratory-oriented course and shall include the following essential elements:

(1) manipulating laboratory skills and equipment. The student shall be provided opportunities to:

(A) demonstrate accepted and safe laboratory procedures to con-

duct biological investigations;

(B) use materials and devices in a safe manner;

(C) practice conservation in the use of biological materials and resources; and

(D) identify and use scientific materials and equipment to monitor biological processes;

(2) the use of skills in acquiring data through the senses. The student shall be provided opportunities to:

(A) develop techniques for observing biological processes and interactions in laboratory field activities; and

(B) use observation skills in collecting data to recognize patterns in nature;

(3) the use of classification skills in ordering and sequencing data. The student shall be provided opportunities to:

(A) use data to classify living things according to similarities and differences; and

(B) sequence the procedures of biological investigations;

(4) experience in oral and written communication of data in appropriate form. The student shall be provided opportunities to:

(A) interpret meaningful arrangements of biological data;

(B) describe the relationship between biological sciences and other sciences;

(C) record data and write inferences from biological investigations; and

(D) illustrate the relationships of science, technology, and society;

(5) Experience in concepts and skills of measurement using relationships to standards. The student shall be provided opportunities to:

(A) measure the levels of functions in biological processes; and

(B) plot biological data on charts, graphs, and other displays;

(6) the use of skills in drawing

logical inferences, predicting outcomes, and forming generalized statements. The student shall be provided opportunities to:

(A) draw inferences based on biological data related to promotional materials for products, services, and advertisements;

(B) form biological hypotheses;

(C) draw inferences based on biological data from experiments; and

(D) examine scientific evidence and information to test, modify, or refute biological theories;

(7) experience in skills in relating objects and events to other objects and events. The student shall be provided opportunities to:

(A) study the relationship between scientific research findings and their impact on society and the environment;

(B) relate traits and behaviors of living things to the environment; and

(C) resolve biological discrepancies;

(8) experience in applying defined terms based on observations. The student shall be provided opportunities to:

(A) form operational definitions of biological systems and processes; and

(B) use operational definitions as they relate to basic biological research;

(9) experience in identifying and manipulating the conditions of investigations. The student shall be provided opportunities to:

(A) design and conduct biological experiments and activities; and

(B) manipulate and control variables and recognize the variables responding in biological investigations;

(10) application of science in daily life. The student shall be provided opportunities to:

(A) evaluate biology-related career choices;

(B) apply biological knowledge in a manner that benefits self, society, and environment;

(C) apply data collection, organization, and interpretation skills to the study of resource management;

(D) analyze the relationship between expectations of consumers and the responsibility of producers;

(E) recognize the limitations in the development of technological instruments and products; and

(F) analyze the impact of biological research and technological advancement on society and the environment.

§75.68. Social Studies, Texas and United States History.

(a)-(l) (No change.)

(m) United States history (from Reconstruction to the present-one unit). Essential elements for United States history as described in this subsection shall be effective September 1992. United States history shall include the following essential elements:

(1) emergence of the United States as a world power. The student shall be provided opportunities to:

(A) describe the causes and effects of United States involvement in foreign affairs, international conflicts, and international cooperative efforts (political, humanitarian, economic, and military);

(B) analyze the foreign policies of the United States and their impact; and

(C) describe overseas expansion of trade;

(2) geographic influences on the historical development of the United States. The student shall be provided opportunities to:

(A) understand the causes and effects of urbanization;

(B) describe the national government land and environmental policies and their historical significance;

(C) examine the uses, abuses, and preservation of natural resources and the physical environment;

(D) describe the influences of physical features and the distribution of natural resources on population movements and patterns of settlement; and

(E) explain the importance of selected historic sites;

(3) economic development and growth of the United States. The student shall be provided opportunities to:

(A) analyze the impact of new developments in science and technology on business, labor, industry, agriculture, transportation, communications, and the environment;

(B) explain the impact of various wars;

(C) explain the development and importance of new business structures and labor organizations;

(D) identify notable business, industrial, and labor leaders;

(E) understand the impact of business cycles, panics, depressions and recessions, and deflation and inflation;

(F) analyze the changing relationship of government and the economy; and

(G) understand the development of the United States banking system;

(4) social and cultural developments of the United States. The student shall be provided opportunities to:

(A) describe the long-term social impact of the Civil War and Reconstruction;

(B) explain the causes for and impact of immigration, past and present;

(C) recognize the contributions of ethnic, racial, cultural, and religious groups and individuals, both men and women, to the growth and development of the United States;

(D) identify reform movements, leaders, issues, and results (e.g., the struggle for equal rights, temperance, housing, and education);

(E) analyze the impact of science and technology on social and cultural developments;

(F) describe developments in art, music, literature, drama, and other culturally related activities; and

(G) analyze religious leaders, groups, movements, and issues from the post-Civil War era to the present;

(5) political development of the United States. The student shall be provided opportunities to:

(A) describe the long-term political effects of the Civil War and Reconstruction (e.g., the one-party South, Jim Crowism, and disenfranchisement of Blacks);

(B) describe major political campaigns, elections, issues, leaders, and results;

(C) understand major political reform movements, leaders, issues, and results (e.g., changing political alignments, minor political parties, special interest groups, and the Progressive movement);

(D) evaluate constitutional developments reflected by amendments and court decisions;

(E) analyze major historic documents relating to the development of the United States; and

(F) analyze growth and development of the three branches of federal government;

(6) respect for self and others. The student shall be provided opportunities to:

(A) respect beliefs of other individuals, groups, and cultures;

(B) recognize how societal values affect individual beliefs and values; and

(C) recognize that some things are valued more in some groups and cultures than in others;

(7) democratic beliefs and personal responsibility. The student shall be provided opportunities to:

(A) recognize that individuals must accept the consequences of their decisions and actions;

(B) support the principles that underlie the United States Constitution (including the Bill of Rights and all other amendments) and the Declaration of Independence;

(C) judge self-interest and public interest when making political decisions;

(D) value open-mindedness, tolerance of different opinions, and civic participation and compromise as important aspects of democratic behavior;

(E) respect the laws of one's society and work responsibly to change laws one judges to be unjust;

(F) understand the importance of individual participation in civic affairs;

(G) recognize the necessity of balancing legal rights with civic responsibilities;

(H) acknowledge that participation and decision making in civic affairs requires knowledge, time, and personal effort;

(I) support the democratic processes of the republican form of government;

(J) support the basic civic values of American society (e.g., justice, responsibility, political and religious freedom, diversity, privacy, private property rights, voluntary exchange, and respect for the law); and

(K) support the rules and laws of the school, community, state, and nation;

(8) support for the American economic system. The student shall be provided opportunities to:

(A) recognize the contributions of the American economic system to the standard of living of Americans;

(B) support the role of profit in the American economic system;

(C) acknowledge the right of individuals to acquire, responsibly use, and dispose of property;

(D) support the freedom of

consumers to choose how to spend their income;

(E) recognize that citizens can influence economic decisions made by government through legal political activities;

(F) support economic competition as it affects the quantity and quality of goods and services;

(G) acknowledge the role of government in regulating competition of both producers and consumers;

(H) recognize that economic self-interest may also serve the economic interest of others; and

(I) compare the control and treatment of public and private property;

(9) application of social studies skills. The student shall be provided opportunities to:

(A) analyze, synthesize, and evaluate information;

(B) interpret visual materials (e.g., charts, graphs, pictures, maps);

(C) distinguish fact from opinion;

(D) sequence historical data;

(E) perceive cause/effect relationships;

(F) use problem-solving skills; and

(G) apply decision-making skills.

§75.70. Business Education.

(a)-(n) (No change.)

(o) Shorthand (1/2-one unit). Shorthand shall include the essential elements in this subsection. Shorthand offered for one semester must include the elements in paragraphs (1)-(3) of this subsection. Shorthand offered for two semesters must include all of the elements in this subsection:

(1) shorthand theory. According to the theory system used, the [The] student shall be provided opportunities to:

(A) learn shorthand symbols, abbreviations, and outlines;

(B) automatize brief forms/speed forms;

(C) write phonetically, abbreviated longhand, alphabetically, or a combination; and

(D) (No change.)

(2) techniques. The student shall be provided opportunities to:

(A) develop the appropriate body position for [learn-the-correct] writing [position];

(B) develop correct methods and procedures of reading, writing, [techniques] and transcribing outlines; and

(C) (No change.)

(3) skill development (should be emphasized both semesters). The student shall be provided opportunities to:

(A) read familiar and unfamiliar copy under timing;

(B) construct [write] familiar and unfamiliar outlines;

(C)-(E) (No change.)

(F) [construct-unfamiliar outlines];

(G) improve concentration and retention; and

(G)[(H)] write for extended periods of time and increase dictation speed levels;

(4) transcription and related skills. The student shall be provided opportunities to:

(A) demonstrate skill in keyboard entry and transcribing [transcribe-at-the-typewriter];

(B) demonstrate and improve proofreading and correcting techniques;

(C) refine subskills [increase-skill] in capitalization, punctuation, word division, spelling, and grammar and number usage; [and]

(D) produce [copy-in] mailable copy for varying business forms [under-timed-situations] including

subskills of estimating length of copy, formatting of copy for varying business correspondence and styles of letters, and handling of special instructions or notations; and

(E) develop speed and accuracy;

(5) electronic information processes. The student shall be provided opportunities to discuss how the skill of shorthand can expedite the flow of information in the automated office.

(p)-(r) (No change.)

(s) Introduction to business (1/2-one unit). Essential elements for introduction to business as described in this subsection shall be effective September 1992. (The introduction to business course will replace the personal business management and the career exploration courses.) Introduction to business shall include the following essential elements;

(1) principles of economic systems. The student shall be provided opportunities to:

(A) understand the resource basis for economics-natural, human, and capital;

(B) understand the determination of what, how, and for whom goods and services are provided;

(C) understand the types of systems-market (capitalism), custom (socialism), directed (communism); and

(D) understand measurements and cycles of a system;

(2) characteristics of a business. The student shall be provided opportunities to:

(A) discuss types of businesses;

(B) examine the role of wants and needs;

(C) examine the role of profit and loss; and

(D) discuss rewards to employee and employer;

(3) forms of business ownership. The student shall be provided opportunities to:

(A) understand characteristics of sole proprietorships;

(B) understand characteristics of partnerships;

(C) understand characteristics of corporations;

(D) understand characteristics of cooperatives; and

(E) understand characteristics of franchises;

(4) process and function of structures within a business. The student shall be provided opportunities to:

(A) discuss the organization (formal, informal, departmental) and the function of organization within a business;

(B) examine the management of human resources including recruiting, interviewing, and hiring or firing;

(C) discuss types of production (goods and/or services), quality, and inventory control; and

(D) understand marketing functions—planning, marketing mix, promotion, and consumer impact;

(5) career planning. The student shall be provided opportunities to:

(A) assess individual interests, abilities, and aptitudes;

(B) understand the impact of social and lifestyle needs and desires;

(C) identify information sources;

(D) analyze skills, career choices, and options;

(E) investigate educational training and financial requirements;

(F) investigate education training and financial sources; and

(G) develop an individual career and/or education preparation plan;

(6) personal business issues. The student shall be provided opportunities to:

(A) explore and examine consumer issues for the individual-planning purchases for housing, food,

transportation, insurance, medical care; and

(B) understand financial issues for the individual-planning for banking, saving, investing, borrowing, and taxes;

(7) work-related business issues. The student shall be provided opportunities to:

(A) discuss readiness, attitudes, behavior, job satisfaction, and adaptability to changes in the job world;

(B) understand the concept of voluntary exchange relating to employment;

(C) understand the employment process—applications, interviews, testing; and

(D) discuss types of compensation and benefits, training, appraisal, and promotion;

(8) technology for personal and business use. The student shall be provided opportunities to:

(A) discuss the use of electronic equipment in business;

(B) examine appropriate hardware and software for business settings; and

(C) discuss computer applications in business and employment opportunities.

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 January 24, 1991.

W. N. Kirby Commissioner of Education

Earliest possible date of adoption: March 22, 1991

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

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Subchapter H. Promotion and Alternatives to Social Promotion

• 19 TAC §75.195

The Texas Education Agency (TEA) proposes an amendment to §75.195, concerning alternatives to social promotion. The section is being amended to require parental consent for the retention of students and for grade placement decisions.

Lynn Moak, deputy commissioner for re-

search and development, 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.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be increased parental involvement in decisions affecting the retention of students for grade placement. 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 Criss Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed sections submitted in accordance with the Administrative Procedure and 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 sections has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §21.721, which provides the State Board of Education with the authority to adopt rules prescribing alternatives to social promotion for students.

§75.195. Alternatives to Social Promotion.

(a)-(i) (No change.)

(j) Students in prekindergarten and kindergarten shall not be retained without parental consent. With parental consent, six year-old students determined by the school not to be developmentally ready for first grade may be assigned to a grade as deemed appropriate by the school. No student shall be retained more than one time in grades prekindergarten through four [one-four and] nor more than one time in grades five through eight [five-eight]. [Students in prekindergarten and kindergarten shall not be retained.] In exceptional classes, with approval of a committee consisting of at least the student's teacher or teachers and two administrators, one of whom shall be assigned above the campus level, and the permission of the parent, a second retention within either grades prekindergarten through four [one-four] or grades five through eight [five-eight] may be allowed.

(k)-(s) (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 January 24, 1991.

TRD-9101769 W. N. Kirby
Commissioner of Education

Earliest possible date of adoption: March 22, 1991

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

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Chapter 137. Teacher Education

Subchapter M. 1987 Program Requirements for Preparation of School Personnel for Initial Certificates and Endorsements

• 19 TAC §137.555

The Texas Education Agency (TEA) proposes an amendment to §137.555, concerning special education certificates. The section is being amended to implement standards for the preparation of speech-language therapists in approved programs at institutions of higher education. The standards are recommended by the Commission on Standards for the Teaching Profession and agency staff.

Lynn Moak, deputy commissioner for research and development, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, also have determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the publication of the standards for speech-language therapists in approved programs at institutions of higher education. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the section as proposed cannot be determined. Less than 30 persons statewide will seek certification in 1991 without a master's degree. This number has been steadily declining over the past three years as more and more colleges only offer programs leading to the master's degree. For these few persons, there will be added educational costs to pursue a master's degree instead of a bachelor's degree. These costs will vary depending on the school and courses attended and other factors relating to the specific college program.

Comments on the proposal may be submitted to Criss Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed section submitted in accordance with the Administrative Procedure and 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 section has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §13.032, which provides the State Board of Education with the authority to develop standards for programs in teacher education.

§137.555. Special Education Certificates.

(a) The special education certificates shall be based upon completion of a teacher education program as described in §137.551(a), (b), and (c)(1) and (2) of this title (relating to Preparation Required in all

Programs. In accordance with the Texas Education Code, §13.036(b), additional semester hours in education are permissible for certification in special education. The program shall include at least one of the following specializations.

(1) (No change.)

(2) School speech-language pathology [Speech and language therapy] shall prepare the individual to teach pre-kindergarten through grade 12 in programs designed to serve students with communication disorders [the speech impaired]. This certificate shall be based upon completion of a master's degree in speech-language pathology, which includes teacher education preparation from an accredited or approved college or university and shall require:

(A) 60 semester hours (undergraduate and graduate) in courses appropriate to the study of speech-language pathology;

(i) 30 semester hours of courses acceptable toward a graduate degree by the college or university in which they were taken;

(ii) 21 graduate semester hours in the area of speech-language pathology required for Texas licensure in speech-language pathology;

(iii) six semester hours in audiology to include:

(I) three semester hours habilitative/rehabilitative procedures with speech and language problems associated with hearing impairment; and

(II) three semester hours in the study of the pathologies of the auditory system and assessment of auditory disorders;

(iv) information pertaining to the normal development and use of speech, language, and hearing;

(v) information pertaining to the evaluation, habilitation, and rehabilitation of speech, language, and hearing disorders, including augmentative and assistive technology;

(vi) information pertaining to related areas that augment the work of practitioners in speech-language pathology except that no more than three semester hours in any of the following areas may be accepted: statistics; beyond the introductory level course; academic study of the administrative organization of speech-language pathology and audiology programs; courses that provide an overview or research; or academic credit for thesis or dissertation; and

[(A) 36 semester hours in courses specifically designed for speech and language therapy and shall include a survey course in special education; and]

(B) 300 clock hours of supervised clinical experience of which 100 clock hours must be in a public school setting and may be completed concurrently with student teaching;

[(B) 200 clock hours of clinical practicum, 100 of which must be in a public school setting and may be completed concurrently with student teaching.]

(C) successful completion of the National Teacher's Examination in Speech-Language Pathology and the Texas ExCET test in professional development.

(b) The professional development sequence for special education certificates, shall consist of 18 semester hours of upper-division courses. For the school speech-language pathology certificate, the 18 semester hours shall consist of upper-division or graduate level courses. Reading, which may be offered beyond the 18 semester hours of professional development courses, must be included. Reading instruction will be developmental and corrective, and will incorporate identification, teaching strategies, and resources for dyslexia and related disorders and other reading disorders. The following three components must be included:

(1) -(2) (No change.)

(3) field experience requirements which shall provide for the application of teaching-learning theories and shall include:

(A) Pre-student teaching experiences. A planned sequence of not fewer than 45 clock hours in field experience shall be a prerequisite for admission to student teaching. For the school speech-language pathology certificate, a planned sequence of 75 clock hours in applied experience shall be a prerequisite for admission to student teaching.

(i) Pre-student teaching field experiences shall include observing and working with elementary and secondary school children in a school or schools accredited or recognized by the Central Education Agency. For the school speech-language pathology certificate, pre-student teaching field experiences shall include observing and working with pre-school, elementary, or secondary school-aged children birth through 21. Pre-student teaching field experiences in speech-language pathology must include 25 clock hours of observation, and 50

clock hours of supervised clinical experience with elementary or secondary school-aged children birth through 21.

(ii) (No change.)

(B) Student teaching. The institution shall provide for each student a student teaching experience involving a period of major responsibility for instruction and learning in the school classroom environment in the area of the certificate sought. Student teaching should verify student performance capabilities developed through prior components of the teacher education program. For the school speech-language pathology certificate, the institution shall provide for each student a student teaching experience involving a period of major responsibility for instruction and learning in the school's speech-language pathology class environment. Student teaching should verify student performance capabilities developed through prior components of the school speech-language pathology certification program.

(i) The student teaching experience shall occur in a school or schools accredited or recognized by the Central Education Agency and shall be designed in compliance with the Texas Education Code, §13.906, and this subchapter.

(I)-(II) (No change.)

(III) Student teaching shall be supervised by both the institution and the school district to guarantee that the needs of students in the learning situation are met. For the school speech-language pathology certificate, supervision shall be provided by personnel holding valid Texas licensure in speech-language pathology.

(IV) (No change.)

(V) Student teachers should maintain the same daily schedule and calendar required of the public school supervising teachers to whom they are assigned. For the school speech-language pathology certificate, student teachers should maintain the same daily schedule and calendar required of the public school supervising speech-language pathologist to whom they are assigned.

(ii) (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 January 24, 1991.

TRD-9101768

W. N. Kirby
Commissioner of Education

Earliest possible date of adoption: March 22, 1991

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

Chapter 141. Teacher Certification

Subchapter O. Reprimand, Suspension, Cancellation, and Reinstatement of Certificates

• 19 TAC §141.327

The Texas Education Agency (TEA) proposes new §141.327, concerning the request and notification for cancellation or suspension of a teacher certificate. Senate Bill 1, passed by the 71st Texas Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters must occur under the new rule-making relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. Former §61.145, Request and Notification for Cancellation or Suspension of a Certificate, has been reviewed by the board and was proposed for repeal in the February 5, 1991, issue of the *Texas Register* (16 TexReg 636). The new section has been placed in Chapter 141, Teacher Certification because it more appropriately relates to the subject matter of the chapter.

Lynn Moak, deputy commissioner for research and development, 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.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, also have determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a clearer more concise statement of the agency's rule authority. 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 Criss Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed sections submitted in accordance with the Administrative Procedure and 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 sections has been published in the *Texas Register*.

The new section is proposed under Senate Bill 1, §2.25, passed by the 71st Texas Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19 Texas Administrative Code, relating to public education.

§141.327. Report and Notification for Cancellation or Suspension of a Certificate.

(a) The board of trustees of a

school district may request the cancellation or suspension of a certificate by filing a complaint with the commissioner of education.

(b) The superintendent or the president of the local board of trustees of a school district shall notify the commissioner of education whenever a certified employee is terminated by action of the board of trustees and the termination is related to the individual's commission of an act which involves:

(1) any form of sexual or physical abuse of a minor child, or any other illegal conduct with a minor child;

(2) possession, transfer, sale, or distribution of a controlled substance or illegal drug;

(3) illegal transfer, appropriation, or expenditure of school property or funds;

(4) an attempt by fraudulent or authorized means to obtain or alter any certificate or permit which would entitle the individual to a professional position or to receive additional compensation associated with a position; or

(5) commission of a crime occurring in whole or in part on school property or at a school sponsored event.

(c) The superintendent of a school district shall notify the commissioner of education when a certified employee resigns and reasonable evidence exists which would support a recommendation by the superintendent to terminate the employee for one of the circumstances specified in subsection (b) of this section. Before an employee's resignation which requires notice under this subsection is accepted, the superintendent shall inform the individual in writing that a report will be made to the commissioner of education which may result in sanctions against that employee's certificate. The superintendent shall notify the local board of trustees prior to filing a report with the commissioner of education as required by this subsection.

(d) The superintendent or the president of the local board of trustees of a school district shall notify the commissioner of education when made aware of a certified employee's convictions of any felony, or conviction of a misdemeanor for an act or acts directly related to the categories cited in subsection (b) of this section.

(e) The Central Education Agency, upon considering a request for cancellation or suspension, or upon receiving notification submitted pursuant to this section, may commence sanction proceedings as provided in §§141.321-141.326 of this title (relating to Reprimand, Suspension, Cancellation, and Reinstatement of Certificates) and Chapter 157 of this title (relating to Hearings and Appeals.)

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 January 24, 1991.

TRD-9101770 W. N. Kirby
Commissioner of Education

Earliest possible date of adoption: March 22, 1991

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

Chapter 149. Education Personnel Development

Subchapter B. Inservice Education

• 19 TAC §149.22

The Texas Education Agency (TEA) proposes new §149.22, concerning teacher inductions. The new section begins the initial series of rules and guidelines necessary to implement a statewide induction program for beginning teachers starting in the 1992-1993 school year.

Lynn Moak, deputy commissioner for research and development, 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. No additional state funds have been requested to implement this program for the 1991 fiscal year. However, the State Board of Education biennial budget request for fiscal year 1992-1993 is \$26 million. More comprehensive requirements for this program will be implemented in the 1992-1993 school year, provided that adequate state funding is appropriated by the 72nd Legislature.

Mr. Moak and Criss Cloudt McCuller, director for planning coordination, also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the publication of the rules and guidelines for the statewide teacher induction program. 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 Criss Cloudt McCuller, Office of Planning Coordination, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed sections submitted in accordance with the Administrative Procedure and 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 sections has been published in the *Texas Register*.

The new section is proposed under the Texas Education Code, §13.038, which provides the State Board of Education with the authority to develop a comprehensive teaching induction program for the probationary period.

§149.22. Induction Program for Beginning

Teachers.

(a) General provisions. Effective with the 1991-1992 school year, all beginning teachers without any prior teaching experience earned in employment with an entity listed in §121.33 of this title (relating to Entities Recognized for Creditable Service) shall be assigned a mentor teacher.

(b) Induction training for beginning teachers. All beginning teachers shall participate in teacher orientation which may include specialized induction year program activities that are approved by the district for school year 1991-1992.

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 January 24, 1991.

TRD-9101771 W. N. Kirby
Commissioner of Education

Earliest possible date of adoption: March 22, 1991

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

TITLE 22. EXAMINING BOARDS

Part V. Texas State Board of Dental Examiners

Chapter 101. Pertaining to Dentistry

Qualifications of Applicants

• 22 TAC §101.1

The Texas State Board of Dental Examiners proposes an amendment to §101.1, concerning statutory qualifications. The amendment is being proposed to clarify the rules.

C. Thomas Camp, executive director, 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.

Mr. Camp also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. 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 C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 4551d, which provides the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the

performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§101.1. General [Statutory] Qualifications.

(a) Any person desiring to practice dentistry in the State of Texas must possess a license issued by the Texas State Board of Dental Examiners as required by the law.

(b) An applicant for licensure from the Texas State Board of Dental Examiners shall:

(1) make written application to the board which shall be received not later than 30 days prior to the announced examination date;

(2) have attained the age of 21 years of age;

(3) furnish evidence of good moral character with the submission of three letters of personal reference;

(4) present proof of graduation from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or if the applicant has not completed his or her last term of dental school prior to making application, the dean of the accredited school shall certify that the applicant is a candidate for graduation to occur prior to the examination date;

(5) present proof of successful completion of a course in basic cardiac life support given by the American Heart Association or the American Red Cross within 12 months of the applicants's examination for licensure;

(6) pay an examination and licensure fee as required by law and the rules and regulations of the board;

(7) satisfactorily pass either an oral, written, or clinical practical examination or any combination thereof as may be determined by the board; and

(8) satisfactorily pass a written examination prepared by the Texas State Board of Dental Examiners. [An applicant for a license to practice dentistry in this state shall be not less than 21 years of age, and shall present proof of graduation from a reputable dental college and evidence of good moral character. A dental college shall be held reputable whose entrance requirements and course of instruction are as high as those adopted by the better class dental colleges of the United States, and whose course of instruction shall be the equivalent of no less than four terms of eight months each. Said dental college must be accredited by the accrediting agency of the American Dental Association. The board will examine all applicants for license to practice dentistry in Texas. Each person applying for an examination shall pay to the board a fee as required by law and shall be granted a

license to practice dentistry in this state upon his satisfactorily passing an examination before the board on subjects and operations pertaining to dentistry as the board may in its discretion require. The examination shall be given either orally or in writing, or by giving a practical demonstration of the applicant's skill, or by any combination of such methods or subjects.]

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 February 11, 1991.

TRD-9101803 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

Qualifications of Applicants

• 22 TAC §101.2

(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 State Board of Dental Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas State Board of Dental Examiners proposes the repeal of §101.2, concerning CPR Course. This rule is being repealed because all pertinent information is covered in other rules.

C. Thomas Camp, executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Camp, also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal as proposed will be to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. 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 C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4551d which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§101.2. CPR Course.

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 February 11, 1991.

TRD-9101804 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

• 22 TAC §§101.2-101.5

The Texas State Board of Dental Examiners proposes new §§101.2-101.5, concerning types of dental license; scope of practice, and licensure advisory committees. New rules are being adopted to allow for specialty licenses.

C. Thomas Camp, executive director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Camp, also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections are proposed will be to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The new sections are proposed under Texas Civil Statutes, Article, 4551d which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§101.2. Type of Dental License.

(a) General dental license. An applicant may obtain a general dental license if he/she meets the qualifications under §101.1 of this title (relating to Statutory Qualifications) and satisfactorily passes a general dental licensing examination as determined by the board.

(b) Specialty dental license. An applicant may obtain a specialty dental license if he/she meets the qualifications under §101.1 and this section and satisfactorily passes a specialty licensing examination as determined by the board.

(1) No licensee shall announce to the public as a specialist or as limiting his or her practice to a specific area of dentistry unless he or she complies with the requirements established by the board and has been issued a specialty license.

(2) A current Texas licensee who meets the criteria of training for a dental specialist as defined in the American Dental Association Guidelines of the Council on Dental Education or one who is able to document that prior to January 1, 1965, he or she claimed to be a specialist or held himself or herself out to the public as one who limited his or her practice to a specific area of dentistry recognized as a dental specialty by the American Dental Association shall be issued a specialty dental license upon the annual renewal of his or her general dental license.

(3) The board recognizes the following dental specialties and their scope of practice.

(A) Public health. Public health is the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice which serves the community as a patient rather than the individual. It is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care programs as well as the prevention and control of dental diseases on a community basis.

(B) Endodontics. Endodontics is the branch of dentistry which is concerned with the morphology, physiology, and pathology of the human dental pulp and periradicular tissues. Its study and practice encompass the basic and clinical sciences including biology of the normal pulp, the etiology, diagnosis, prevention, and treatment of diseases and injuries of the pulp and associated periradicular conditions.

(C) Oral and maxillofacial surgery. Oral and maxillofacial surgery is the specialty of dentistry which includes the diagnosis, surgical, and adjunctive treatment of diseases, injuries, and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial regions.

(D) Oral pathology. Oral pathology is that branch of science which deals with the nature of the diseases affecting the oral and adjacent regions, through study of its causes, its processes, and its effects, together with the associated alterations of oral structure and function. The practice of oral pathology shall include the development and application of this knowledge through the use of clinical, microscop-

ic, radiographic, biochemical, or other such laboratory examinations or procedures as may be required to establish a diagnosis and/or again other information necessary to maintain the health of the patient, or to correct the result of structural or functional changes produced by alterations from the normal.

(E) Orthodontics. Orthodontics is that area of dentistry concerned with the supervision, guidance, and correction of the growing or mature dentofacial structures, including those conditions that require movement of teeth or correction of malrelationships and malformations of their related structures and the adjustment of relationships between and among teeth and facial bones by the application of forces and/or the stimulation and redirection of functional forces within the craniofacial complex. Major responsibilities of orthodontic practice include the diagnosis, prevention, interception, and treatment of all forms of malocclusion of the teeth and associated alterations in their surrounding structures; the design, application, and control of functional and corrective appliances; and the guidance of the dentition and its supporting structures to attain and maintain optimum occlusal relations in physiologic and esthetic harmony among facial and cranial structures.

(F) Pediatric dentistry. The specialty of pediatric dentistry is the practice and teaching of comprehensive preventive and therapeutic oral health care of children from birth through adolescence. It shall be construed to include care for special patients beyond the age of adolescence who demonstrate mental, physical, and/or emotional problems.

(G) Periodontics. Periodontics is that branch of dentistry which deals with the diagnosis and treatment of diseases of the supporting and surrounding tissues of the teeth. The maintenance of the health of these structures and tissues, achieved through periodontal treatment procedures, is also considered to be the responsibility of the periodontist. The scope shall be limited to preclude permanent restorative dentistry. sp>(H) Prosthodontics. Prosthodontics is that branch of dentistry pertaining to the restoration and maintenance of oral functions, comfort, appearance, and health of the patient by the restoration of natural teeth and/or the replacement of missing teeth and contiguous oral and maxillofacial tissues with artificial substitutes.

(4) Specific qualifications. The applicant for specialty dental licensure shall:

(A) meet the general qualifications of §101.1;

(B) pass Part I and II of the National Dental Board Examination;

(C) provide proof of completion of specialty training in an American Dental Association Council on Dental Education accredited program;

(D) possess a current general dental license from any state and is certified by the American Dental Association recognized national certification board in that specialty; or shall:

(E) possess a current general dental license from any state and applies to the board for specialty licensure within a two-year period from the date of completion of training in an American Dental Association accredited specialty program; or shall:

(F) possess a current Texas general dental license if the applicant is not board-certified by the national certifying board for that specialty or has not applied to the Texas State Board of Dental Examiners within a two-year period after completion of his or her specialty training.

(c) Facility dental license.

(1) A facility license shall be granted by the board to an American Dental Association accredited Texas dental school.

(2) A facility license may be granted by the board to an American Dental Association Council on Dental Education accredited graduate training program.

(3) Members of the full-time faculty of a Texas dental school or an accredited graduate training program with a facility license granted by the board may practice dentistry under the facility license only for teaching or academic purposes and cannot participate in an "extramural" or "intramural" practice associated with the school or graduate training program unless the faculty member has a current Texas general or specialty dental license.

(4) "Extramural" or "intramural" practice is defined as the practice of dentistry by a faculty member on a fee for service basis in which the faculty member benefits from a salary augmentation.

(5) Undergraduate students of a dental school may practice dentistry under the facility license of a Texas dental school only for academic purposes. The student shall perform dental procedures under the supervision of a faculty member of that school and may not receive personal "fee-for-service" compensation.

(6) A graduate student (intern, resident, or fellow) in an American dental Association Council on Dental Education accredited graduate training program may practice dentistry under the facility license

of that program only for academic purposes. The graduate student shall perform dental procedures under the supervision of a faculty member of that program and may not receive personal "fee-for-service" compensation. A fixed salary shall not be construed as a fee-for-service.

(7) A graduate training program with a facility license granted by the board shall be responsible for annual submission to the board of the name(s) of any graduate student practicing dentistry under their facility license. The original date for name submission is the date that graduate student begins his or her training.

(d) Temporary license. A temporary dental license for a specific time period, to be determined by the board, may be granted by the board to dental licensees of other jurisdictions for the purpose of their demonstration of professional techniques on patients at scientific/clinical meetings if the following conditions are met:

(1) applicant submits a written request to the board not less than 30 days prior to said meeting;

(2) applicant presents proof of licensure in another jurisdiction; and

(3) applicant presents a written summary of the techniques to be performed. A temporary license is not required if the demonstration is sponsored and supervised by a Texas dental school or a graduate training program maintaining a current facility license granted by the board.

§101.3. Scope Of Practice.

(a) General dental license.

(1) A licensee in general dentistry may perform any treatment for a patient for which he/she has appropriate training and experience as prescribed by the Texas Dental Practice Act.

(2) A licensee in general dentistry may advertise to the public the availability of any dental service that one may offer and perform as prescribed by the Texas Dental Practice Act so long as they shall state the services are being provided by a general dentist and shall not announce available services in such a manner which is false, deceptive, or misleading to the public.

(b) Specialty dental license.

(1) A specialty licensee may practice the scope of the specialty recognized by the American Dental Association definition for that specialty and that definition approved by the board.

(2) No specialty license shall be issued unless the applicant presents satisfactory proof to the board that he or she will limit his or her practice to that specialty.

(3) Upon failure of a specialty

licensee to limit his or her practice to that specialty, the board may recall the specialty license and the privilege of announcing to the public that one is especially qualified in, or is limiting his or her practice to, such specialty.

§101.4. Licensure Advisory Committees.

(a) General dental advisory committee.

(1) The board may appoint general dentists to assist in the administration of the general dental licensing examinations and to advise the board as necessary.

(2) An advisory committee general dentist shall:

(A) have pass or fail authority:

(B) be a reputable, licensed practicing dentist who has resided in the State of Texas for five years preceding his or her appointment; and

(C) serve a staggered term of three years.

(b) Specialty dental advisory committees.

(1) The board shall appoint three dental specialists in each recognized specialty who shall review specialty license applications and credentials, administer the specialty licensing examination, and provide a recommendation to the board for applicant licensure.

(2) An advisory specialist shall:

(A) have no pass or fail authority;

(B) be a reputable, licensed practicing specialist who has resided in the State of Texas for five years preceding his or her appointment;

(C) serve a staggered term of three years and shall be appointed annually in January. A specialist shall serve as chairman of the committee in the third year; and

(D) be certified in that specialty by the American board recognized by the American Dental Association.

§101.5. Examinations. The following examinations shall be administered annually by the Texas State Board of Dental Examiners:

- (1) written examination;
- (2) general dental clinical examination;
- (3) specialty dental examination.

tion. Application forms and information regarding the examinations specified in this section may be obtained by written request to the board.

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 February 11, 1991.

TRD-9101805

C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

◆ ◆ ◆
Examination-Application

• 22 TAC §§101.11-101.15

(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 State Board of Dental Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas State Board of Dental Examiners proposes the repeal of §§101.11-101.15, concerning date and place of examination; applicant categories; application forms and fees; assignment of applicants; examination check-in. These rules are being repealed because all pertinent information is covered in other rules.

C. Thomas Camp, executive director, 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. Camp also has 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 to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. 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 C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The repeals are proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§101.11. Date and Place of Examination.

§101.12. Applicant Categories.

§101.13. Application Forms and Fees.

§101.14. Assignment of Applicants.

§101.15. Examination Check-In.

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 February 11, 1991.

TRD-9101806

C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

◆ ◆ ◆
Patient-Procedures

• 22 TAC §101.21, §101.22

(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 State Board of Dental Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas State Board of Dental Examiners proposes the repeal of §101.21 and §101.22, concerning examination patients, and examination procedures. These rules are being repealed because all pertinent information is covered in other rules.

C. Thomas Camp, executive director, 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. Camp also has 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 to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. 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 C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The repeals are proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§101.21. Examination Patients.

§101.22. Examination Procedures.

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 February 11, 1991.

TRD-9101807 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

Conduct-Grading

• 22 TAC §101.31, §101.32

(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 State Board of Dental Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas State Board of Dental Examiners proposes the repeal of §101.31 and §101.32, concerning performance grading and application forms. These rules are being repealed because all pertinent information is covered in other rules.

C. Thomas Camp, executive, director 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. Camp also has 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 to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. 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 C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The repeals are proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§101.31. Performance Grading.

§101.32. Application Forms.

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 February 11, 1991.

TRD-9101808 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

Jurisprudence/Preclinical Examination

• 22 TAC §101.41

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

The Texas State Board of Dental Examiners proposes the repeal of §§101.41, concerning jurisprudence. This rule is being repealed because all pertinent information is covered in other rules.

C. Thomas Camp, executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Camp also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§101.41. Jurisprudence.

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 February 11, 1991.

TRD-9101809 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

Denture Set-Up, Diagnosis and Treatment Plan/Preclinical Examination

• 22 TAC §101.51, §101.52

(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 State Board of Dental Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas State Board of Dental Examiners proposes the repeal of §§101.51-101.52, concerning denture set-up; diagnosis and treatment plan and patient history. These rules are being repealed because all pertinent information is covered in other rules.

C. Thomas Camp, executive director, 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. Camp also has 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 to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. 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 C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The repeals are proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§101.51. Denture Set-up.

§101.52. Diagnosis and Treatment Plan and Patient History.

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 February 11, 1991.

TRD-9101810 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

Specific Examination Information for Dentists

• 22 TAC §101.61

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

The Texas State Board of Dental Examiners proposes the repeal of §101.61, concerning specific examination information for dentists. This rule is being repealed because all pertinent information is covered in other rules.

C. Thomas Camp, executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Camp also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§101.61. Dental Applicants Information.

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 February 11, 1991.

TRD-9101811
C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

Use of Assistants

• 22 TAC §101.71

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

The Texas State Board of Dental Examiners proposes the repeal of §101.71, concerning examination-dental assistants, equipment and supplies. This rule is being repealed because all pertinent information is covered in other rules.

C. Thomas Camp, executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Camp also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§101.71. Examination-Dental Assistance, Equipment and Supplies.

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 February 11, 1991.

TRD-9101812
C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

Other Examination Information

• 22 TAC §101.81

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

The Texas State Board of Dental Examiners proposes the repeal of §101.81, concerning information from the Texas dental schools. This rule is being repealed because all pertinent information is covered in other rules.

C. Thomas Camp, executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal

implications for state or local government as a result of enforcing or administering the repeal.

Mr. Camp also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§101.81. Information from the Texas Dental Schools.

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 February 11, 1991.

TRD-9101813
C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

Chapter 107. Dental Board Procedures

Procedures Governing Grievances, Hearings, and Appeals

• 22 TAC §107.61

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

The Texas State Board of Dental Examiners proposes the repeal of §107.61, concerning effective date. This rule is being repealed because all pertinent information is covered in other rules.

C. Thomas Camp, executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Camp also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§107.61. Effective Date.

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 February 11, 1991.

TRD-9101814

C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

• 22 TAC 107.63

The Texas State Board of Dental Examiners proposes an amendment to §107.63, concerning informal disposition. The amendment is being proposed to clarify the rules.

C. Thomas Camp, executive director, 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.

Mr. Camp, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. There will be no effect on small business. 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 C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 4551d which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules

and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§107.63. *Informal Disposition.* Pursuant to the Administrative Procedure and Texas Register Act, §13(e), ultimate disposition of any complaint or matter pending before the board may be made by stipulation, agreed settlement, or consent order. Such informal dispositions will facilitate the expeditious change or correction of dental practice patterns which constitute violations of the Dental Practice Act or the rules of the board.

(1)-(2) (No change.)

(3) Consideration by the board.

[(A) The name and license number of the licensee will not be made available to the board until after the board has reviewed and made a decision on the settlement conference.]

[(A)][(B)] Upon an affirmative majority vote, the board shall enter an order approving the proposed settlement agreements. Said order shall bear the signature of the president and secretary of the board, or of the officer presiding at such meeting and shall be included in the minutes of the board.

[(B)][(C)] If the board does not approve a proposed settlement agreement, the licensee shall be so informed. The matter shall be referred by the board to the secretary and executive director for consideration of appropriate.

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 February 11, 1991.

TRD-9101815

C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

Chapter 109. Conduct

Fair Dealing

• 22 TAC §109.144

The Texas State Board of Dental Examiners proposes an amendment to §109.144, concerning records and their transfer. This rule is being amended to provide the Texas State Board of Dental Examiners the authority to exam dental records on demand.

C. Thomas Camp, executive director, 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.

Mr. Camp, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. There will be no effect on small business. 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 C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 4551d which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§109.144. Records and Their Transfer.

(a) Dental records shall be made available for inspection on demand by the officers, agents, or employees of the Texas State Board of Dental Examiners.

(b)[(a)] A Texas dental licensee practicing dentistry in Texas shall make, maintain, and keep adequate records of the diagnosis made and the treatment performed for and upon each of his dental patients for reference, identification, and protection of the patient and the dentist for a period of not less than five years, and such records shall be available for inspection by the patient after and upon appointment with the dentist [and also by the officers, agents, or employees of the Texas State board of Dental Examiners]. This shall not prohibit the transfer of records to another dentist for continued treatment or to an agreed designated consultant for ascertainment of facts.

(c)[(b)] Dental records are the sole property of the dentist who performs the dental service. A dentist who leaves a location, whether by retirement, sale, or otherwise, shall either take all said dental records with him or a written transfer to the succeeding dentist shall be made and the Texas State Board of Dental Examiner's central office shall be notified within 15 days any such event, giving full information concerning the dentists and location(s) involved. The information in this subsection does not apply to a dental employee of another dentist where the dental records belong to the employing dentist.

(d)[(c)] The dispensing, administering, or prescribing of narcotic drugs, dangerous drugs, or controlled substances to or

for a dental patient shall be made a part of such patient's dental record. The entry in the patients' dental record shall be in addition to any record keeping requirements of the Triplicate Prescription Program. All such drugs and substances which are kept in the dental office or under the control of the dentist are to be maintained by a centralized inventory which shall indicate dates acquired, description and quality of drugs, date, method, quantity, dispensed, and the patient to whom the drug is dispensed.

(e)[(d)] All records pertaining to controlled substances and dangerous drugs shall be maintained in accordance with the Texas Controlled Substances Act.

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 February 11, 1991.

TRD-9101817 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

Definitions

• 22 TAC §109.211

The Texas State Board of Dental Examiners proposes an amendment to §109.211, concerning unprofessional, dishonorable, immoral conduct. This rule is being amended to add nitrous oxide to the list of drugs in which a dentist can only prescribe or provide for his other dental patient for dental purposes.

C. Thomas Camp, executive director, 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.

Mr. Camp, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. There will be no effect on small business. 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 C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 4551d which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the

practice of dentistry to protect the public health and safety.

§109.211. *Unprofessional, Dishonorable, and Immoral Conduct.* Unprofessional conduct, dishonorable conduct, and immoral conduct are synonymous terms when applied to the conduct of a dental licensee and include the following:

(1)-(8) (No change.)

(9) prescribing or dispensing narcotic drugs, dangerous drugs, nitrous oxide, or controlled substances to or for a person who is not his dental patient, or not for a dental or maxillofacial surgery problem;

(10)-(13) (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 February 11, 1991.

TRD-9101816 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Earliest possible date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

Chapter 116. Dental Laboratories

• 22 TAC §§116.1-116.4

The Texas State Board of Dental Examiners proposes amendments to §§116.1-116.4, concerning dental student, dental technicians, requirements, and continuing education. These rules are being amended to eliminate unnecessary wording and to add procedures to the list of permitted services.

C. Thomas Camp, executive director, has determined that for the first five-year period the section is in effect there will be no fiscal implications as a result of enforcing or administering the sections. There will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Camp also has determined that for the first five-year period the sections are in effect the public benefit anticipated as a result of enforcing the sections as proposed will be to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The amendments are proposed under Texas

Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§116.1. *Dental Student.* In this chapter, a dental student is defined as a person enrolled as a full-time student in an accredited dental school.

§116.2. *Dental Technician.* A dental technician shall be considered an employee working on the premises of the dental laboratory if said dental technician is working a minimum of 30 hours per week at a specific laboratory and not more than 10 hours per week at any other laboratory.

§116.3. Requirements.

(a) a dental laboratory shall be registered according to the provisions of Texas Civil Statutes, Article 4551f (6)(a)-(c), if it is a place where a person undertakes to perform or accomplish any act or service listed in Texas Civil Statutes, Article 4551f(1). Permitted services to be performed under a written order from a dentist include:

(1) selecting appropriate materials and processes for permitted restorations after personal examination of the dental patient; and

(2) providing computer imaging services to simulate the cosmetic results of the completed dental restoration.

(b) (No change.)

(c) The Dental Laboratory Certification Council shall adopt guidelines for recommending the approval of registrations.

§116.4. Continuing Education.

(a) (No change.)

(b) The continuing education shall be comprised of business management, infection control, and technical competency courses presented in seminars or clinics as accepted by a nationally recognized organization of dentistry or dental technology. All qualifying employees must complete at least one course in infection control and no more than one course in business management annually. Self-study in a course approved by the Dental Laboratory Certification Council may be taken for credit of not more than four hours of the annual requirement.

(c) (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 February 11, 1991.

TRD-9101818

C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

Chapter 117. Faculty-Students in Accredited Dental Schools

• 22 TAC §117.1

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

The Texas State Board of Dental Examiners proposes the repeal of §117.1, concerning exemptions. This rule is being repealed because all pertinent information is covered in other rules.

C. Thomas Camp, executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Camp also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§117.1. Exemptions.

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 February 11, 1991.

TRD-9101819

C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

Chapter 119. Special Areas of Dental Practice

• 22 TAC §§119.2-119.8

The Texas State Board of Dental Examiners proposes amendments to §§119.2-119.8, concerning endodontics; oral pathology; oral surgery; orthodontics; pediatric dentistry; periodontology; and prosthodontics. The amendments are proposed due to clarification in wording.

C. Thomas Camp, executive director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Camp also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§119.2. Endodontics. Endodontics is the branch of dentistry which is concerned with the morphology, physiology, and pathology of the human dental pulp and periradicular tissues. Its study and practice encompass the basic and clinical sciences including biology of the normal pulp, the etiology, diagnosis, prevention, and treatment of diseases and injuries of the pulp and associated periradicular conditions.

[(a) Endodontics is that branch of dentistry which is concerned with the etiology, prevention, diagnosis, and treatment of the diseases and injuries that affect the pulp and periapical tissues. It has as its primary objective the maintenance of the oral and systemic health of the public.

[(b) Its scope encompasses pulp capping, pulpotomy, and pulp extirpation; the treatment of infected root canals and periapical tissues, and the subsequent filling of the canals; the surgical removal of patho-

logic tissues when indicated; the restoration of the natural appearance of the crown when discolored; and the replantation of teeth which have been avulsed or luxated.]

§119.3. Oral Pathology. Oral pathology is that branch of science which deals with the nature of the diseases affecting the oral and adjacent regions, through study of its causes, its processes, and its effects, together with the associated alterations of oral structure and function. The practice of oral pathology shall include the development and application of this knowledge through the use of clinical, microscopic, radiographic, biochemical, or other such laboratory examinations or procedures as may be required to establish a diagnosis and/or gain other information necessary to maintain the health of the patient, or to correct the result of structural or functional changes produced by alterations from the normal.

[(a) Oral pathology is that branch of science which deals with the nature of oral disease, through study of its causes, its processes, and its effects, together with the associated alterations of oral structure and function.

[(b) The practice of oral pathology is the application of this scientific knowledge to maintain the health of the patient or to correct the result of structural or functional changes produced by alterations in the normal. The oral pathologist need not treat the disease directly; but through knowledge of the disease guides other members of the health services team to more effective therapy.]

§119.4. Oral [Surgery] and Maxillofacial Surgery. Oral and maxillofacial surgery is the specialty of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries, and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial regions.

[(a) Oral surgery is that part of dental practice which deals with the diagnosis, the surgical, and adjunctive treatment of the diseases, injuries, and defects of the human jaws and associated structures.

[(b) The scope of the specialty of oral surgery shall include the diagnosis, the surgical and adjunctive treatment of the diseases, injuries, and defects of the human jaws and associated structures within the limits of the professional qualifications and training of the individual practitioner and within the limits of agreements made at the local level by the health team concerned with the total health care of the patient.]

§119.5. Orthodontics. Orthodontics is that area of dentistry concerned with the supervision, guidance, and correction of the growing or mature dentofacial struc-

tures, including those conditions that require movement of teeth or correction of malrelationships and malformations of their related structures and the adjustment of relationships between and among teeth and facial bones by the application of forces and/or the stimulation and redirection of functional forces within the craniofacial complex. Major responsibilities of orthodontic practice include the diagnosis, prevention, interception, and treatment of all forms of malocclusion of the teeth and associated alterations in their surrounding structures; the design, application, and control of functional and corrective appliances; and the guidance of the dentition and its supporting structures to attain and maintain optimum occlusal relations in physiologic and esthetic harmony among facial and cranial structures. [Orthodontics is a science which includes the study of oral and dental development. It seeks to determine the factors which control growth processes to the end that a normal functional and anatomical relationship of these parts may be realized, and aims to learn the influences necessary to gain such conditions when once established.]

§119.6. Pediatric Dentistry. The specialty of pediatric dentistry is the practice and teaching of comprehensive preventive and therapeutic oral health care of children from birth through adolescence. It shall be construed to include care for special patients beyond the age of adolescence who demonstrate mental, physical, and/or emotional problems. [The practice of pediatric dentistry implies the limitation of treatment to patients possessing a developing dentition (primary, mixed, and young permanent). Such practice includes the use of pediatric appliances to prevent or intercept malocclusions.]

§119.7. Periodontology. Periodontics is that branch of dentistry which deals with the diagnosis and treatment of diseases of the supporting and surrounding tissues of the teeth. The maintenance of the health of these structures and tissues, achieved through periodontal treatment procedures, is also considered to be the responsibility of the periodontist. The scope shall be limited to preclude permanent restorative dentistry.

[(a) Periodontology is the science and art dealing with the health and diseases of the investing and supporting structures of the teeth and oral mucous membrane with their treatment.

[(b) Periodontology emphasizes the biologic knowledge of the tissues comprising the oral region and should be considered as the clinical projection or oral pathology to the treatment of diseases affecting the attachment apparatus of the teeth and those diseases now grouped under stomatology.]

§119.8. Prosthodontics. Prosthodontics is that branch of dentistry pertaining to the restoration and maintenance of oral functions, comfort, appearance, and health of the patient by the restoration of natural teeth and/or the replacement of missing teeth and contiguous oral and maxillofacial tissues with artificial substitutes. [The practice of that branch of dental art and science pertaining to the suitable restoration and maintenance of oral function, health, comfort, and appearance by the replacement of missing natural teeth and associated tissues via fixed or removable artificial substitutes and the application or prescription of proper medicinals.]

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 February 11, 1991.

TRD-9101820

C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

◆ ◆ ◆
**Chapter 121. Dental Interns
and Dental Residents**

• 22 TAC §§121.1-121.6

(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 State Board of Dental Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas State Board of Dental Examiners proposes the repeal of §§121. 1-121.6, concerning definition of dental intern; types of dental internships; duties of dental interns; definition of dental resident; duties of dental residents; and state licensure. These rules are being repealed because all pertinent information is covered in other rules.

C. Thomas Camp, executive director, 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. Camp also has 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 to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. 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 C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The repeals are proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§121.1. Definition of Dental Intern.

§121.2. Types of Dental Internships.

§121.3. Duties of Dental Interns.

§121.4. Definition of Dental Resident.

§121.5. Duties of Dental Residents.

§121.6. State Licensure.

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 February 11, 1991.

TRD-9101821

C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

◆ ◆ ◆
**Chapter 123. Requirements for
the Approval of Hospital
Dental Internships and
Residencies**

General

• 22 TAC §123.1

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

The Texas State Board of Dental Examiners proposes the repeal of §123.1, concerning general principles. This rule is being repealed because all pertinent information is covered in other rules.

C. Thomas Camp, executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Camp also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to provide for the protection of public health and welfare and enhance the quality of dental health care

in Texas, and to provide the public access to information. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§123.1. General Principles.

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 February 11, 1991.

TRD-9101822 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985.

◆ ◆ ◆ Requirements for the Approval of Hospital Dental Intern- ships

◆ 22 TAC §§123.11-123.19

(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 State Board of Dental Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas State Board of Dental Examiners proposes the repeal of §§123. 11-123.19, concerning definition; purpose; training; general scope of activities; dental library; record of intern's activities; miscellaneous; hospitals eligible for approval; and application for approval. These rules are being repealed because all pertinent information is covered in other rules.

C. Thomas Camp, executive director, 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. Camp also has 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 to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. 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 C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The repeals are proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§123.11. Definition.

§123.12. Purpose.

§123.13. Training.

§123.14. General Scope of Activities.

§123.15. Dental Library.

§123.16. Record of Intern's Activities.

§123.17. Miscellaneous.

§123.18. Hospitals Eligible for Approval.

§123.19. Application for Approval.

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 February 11, 1991.

TRD-9101823 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

◆ ◆ ◆ ◆ 22 TAC §§123.31-123.41

(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 State Board of Dental Examiners or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas State Board of Dental Examiners proposes the repeal of §§123. 31-123.41, concerning definition; purpose; staff; training program; library; board requirements; personnel record; miscellaneous; hospitals eligible for approval; application for approval; and evidence of approval. These rules are being repealed because all pertinent information is covered in other rules.

C. Thomas Camp, executive director, 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. Camp also has 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 to provide for the protection of public health and welfare and enhance the quality of dental health care in Texas, and to provide the public access to information. 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 C. Thomas Camp, Executive Director, 327 Congress Avenue, Suite 500, Austin, Texas 78701.

The repeals are proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§123.31. Definition.

§123.32. Purpose.

§123.33. Staff.

§123.34. Training Program.

§123.35. Library.

§123.36. Board Requirements.

§123.37. Personnel Record.

§123.38. Miscellaneous.

§123.39. Hospitals Eligible for Approval.

§123.40. Application for Approval.

§123.41. Evidence of Approval.

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 February 11, 1991.

TRD-9101824 C. Thomas Camp
Executive Director
Texas State Board of
Dental Examiners

Proposed date of adoption: May 1, 1991

For further information, please call: (512) 477-2985

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 7. Corporate and Financial Regulations

Subchapter A. Examination and Corporate Custodian and Tax

• 28 TAC §7.75

The State Board of Insurance proposes new §7.75, concerning annual and quarterly statement diskette filing requirements for financial activities by insurance companies and certain other entities regulated by the board. Section 7.75 was adopted on an emergency basis and became effective on December 27, 1990. Notice of the emergency adoption appeared in the January 8, 1991, issue of the *Texas Register* (16 TexReg 76). The new section is necessary to facilitate appropriate reporting by affected entities and to provide for timely and reliable review of financial data from each entity's annual and quarterly statements. Rapid and reliable review can produce fast action when necessary to maintain a regulated entity in sound financial condition that will protect policyholders and other consumers. Section 7.75 would require that, in 1991, certain regulated entities must provide the National Association of Insurance Commissioners with machine-readable diskettes containing financial information concerning activities during the 1990 and 1991 calendar years. The section would refer regulated entities to manuals which specify the form and content of computerized data that the regulated entities must provide on the diskettes. The manuals require information concerning the financial condition and business operations of the regulated entities. The board has filed with the Office of the Secretary of State, Texas Register Section, copies of the manuals and specifications proposed for adoption by reference. Other copies of these manuals and specifications as proposed are available for inspection at the Office of the Chief Clerk in Room 406 of the State Insurance Building at 1110 San Jacinto Boulevard in Austin.

Scott Nance, deputy insurance commissioner for financial analysis, has determined that, for the first five-year period the proposed section will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the section, and there will be no effect on local employment or local economy. The anticipated economic cost to small businesses and other persons who are required to comply with the proposed section depends on the method of compliance the regulated entity selects. If a regulated entity elects to purchase electronic data processing equipment and to prepare diskettes internally, the anticipated maximum cost of compliance would be \$7,500 for the first year, and \$1,200 for each of the next four years. If the regulated entity chooses to use an independent consultant or vendor to prepare a diskette adequate to comply with the requirements of this section, the anticipated possible economic cost of compliance would be between \$600 and \$3,500 for each year of the first five years that the proposed section will be in effect, with the exact cost de-

pending on the fee schedule of the independent consultant or vendor whom the regulated entity chooses to utilize. On the basis of cost per hour of labor, there is no expected difference in cost of compliance between small businesses and larger businesses affected by the section.

Mr. Nance also has determined that, for each year of the first five years the section is in effect, the public benefit anticipated as a result of enforcing the section will be the adoption of requirements and instructions to facilitate appropriate reporting by regulated entities and to facilitate review by the board of reported information. The anticipated economic cost to persons who are required to comply with the proposed section will be the same as that described previously as the cost to small businesses.

Comments on the proposal may be submitted to Scott Nance, Deputy Insurance Commissioner for Financial Analysis, Mail Code 015-3, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The new section is proposed under the Insurance Code, Articles 1.04, 1.11, 3.07, 6.11, 6.12, 8.07, 8.08, 8.21, 8.24, 10.30, 11.06, 11.19, 15.15, 15.16, 17.22, 17.25, 18.12, 19.08, 20.02, 21.21, 21.43, 21.54, 22.06, and 22.18, and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 1.04, authorizes the State Board of Insurance to determine policy and rules. The Insurance Code, Article 1.11, authorizes the board to make such changes in the form of annual and quarterly statements as shall seem to it best adapted to elicit a true exhibit of the condition and methods of transacting business of regulated entities, and also requires certain entities to file annual and quarterly statement information on machine-readable diskettes with the National Association of Insurance Commissioners. The Insurance Code, Article 21.21, prohibits any person engaged in the business of insurance from filing with any public official any false statement of financial condition of an insurer with intent to deceive and requires that all statements made by persons in the business of insurance be truthful and not misleading. The Insurance Code, Article 21.43, requires that the provisions of the Insurance Code are conditions on which foreign insurance corporations are permitted to do business in this state and requires foreign insurers to comply with the provisions of the Insurance Code. The Insurance Code, Articles 3.07, 6.11, 6.12, 8.07, 8.08, 8.21, 8.24, 10.30, 11.06, 11.19, 15.15, 15.16, 17.22, 17.25, 18.12, 19.08, 20.02, 21.54, 22.06, and 22.18, requires the filing of financial reports and other information by certain specific entities regulated by the board, applies particular statutory law respecting reports to those entities, and specifies particular rule-making authority relating to those specific entities. Texas Civil Statutes, Article 6252-13a, §4, authorize and require each state administrative agency to adopt rules of practice setting forth the nature and requirements of available procedures. Section 5 prescribes the procedure for adoption of rules by any state administrative agency.

§7.75. Requirements for Annual and Quarterly Statement Diskette Filing in 1991

Concerning Financial Activities during 1990 and 1991.

(a) This section applies to the following entities:

- (1) stock life companies;
- (2) mutual life companies;
- (3) group hospital service corporations;
- (4) stipulated premium companies;
- (5) stock fire companies;
- (6) stock casualty companies;
- (7) stock fire and casualty companies;
- (8) mutual fire companies;
- (9) mutual casualty companies;
- (10) mutual fire and casualty companies;
- (11) county mutual companies;
- (12) Lloyds;
- (13) reciprocals;
- (14) risk retention groups; and
- (15) fraternal benefit societies.

(b) Concerning activities during calendar years 1990 and 1991, each and every stock life company, mutual life company, group hospital service corporation, and stipulated premium company shall provide the National Association of Insurance Commissioners with machine-readable diskettes containing computerized financial data. In 1991, each of these entities shall file the diskettes in addition to and at the time of filing its Form I annual statement and its quarterly statements with the National Association of Insurance Commissioners. The data on the diskettes shall be in the form and content specified in the current annual statement diskette filing specifications for life, accident, and health for the year ended December 31, 1990, and the 1991 quarterly statement diskette filing specifications which the board adopts by reference under this subsection. These specifications are published by the State Board of Insurance and may be obtained from the Publications Division, Mail Code 009-10, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

(c) Concerning activities during calendar years 1990 and 1991, each and every stock fire company, stock casualty company, stock fire and casualty company, mutual fire company, mutual casualty company, mutual fire and casualty company, county mutual company, Lloyds, reciprocal, and risk retention group shall provide the National Association of Insurance Commissioners with machine-readable diskettes containing computerized financial data. In 1991, each of these entities shall file the diskettes in addition to and at the time of filing its Form 2 annual statement and its

quarterly statements with the National Association of Insurance Commissioners. The data on the diskettes shall be in the form and content specified in the current annual statement diskette filing specifications for fire and casualty for the year ended December 31, 1990, and the 1991 quarterly statement diskette filing specifications, which the board adopts by reference under this subsection. These specifications are published by the State Board of Insurance and may be obtained from the Publication Division, Mail Code 009-10, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

(d) Concerning activities during calendar year 1990, each and every fraternal benefit society shall provide the National Association of Insurance Commissioner with machine-readable diskettes containing computerized financial data. In 1991, each of these entities shall be in the form and content specified in the current annual statement diskette filing specifications for fraternal for the year ended December 31, 1990, which the board adopts by reference under this subsection. These specifications are published by the State Board of Insurance and may be obtained from the Publications Division, Mail Code 009-10, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

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 February 12, 1991.

TRD-9101796 Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption: March 22, 1991

For further information, please call: (512) 463-6327

Part II. Texas Workers' Compensation Commission

Chapter 147. Dispute Resolution-Agreements, Settlements, Commutation

• 28 TAC §§147.1-147.10

The Texas Workers' Compensation Commission proposes new §§147.1-147.10, concerning the ways in which disputes over workers' compensation benefits can be resolved through agreements (which are entered into to resolve one or more issues that can arise in a claim for benefits), or through settlements (which are entered into to resolve all issues that can arise in a claim for benefits). The sections contemplate that agreements and settlements can be accomplished at any step in the benefit review or formal hearings process, or will be used to resolve disputes without going through a benefit review or formal

hearings proceeding.

New §147.1 defines the two different terms "agreement" and "settlement" as having the meanings given them in the Texas Workers' Compensation Act (the Act), Texas Civil Statutes, Article 8308, §1.03; that is, an agreement disposes of one or more issues within a disputed benefit claim, and a settlement is a full resolution of all issues within a disputed benefit claim that are permitted to be resolved under the terms of the Act.

New §147.2 requires a settlement or written agreement to be on specific forms prescribed and promulgated by the commission.

New §147.3 deals with the execution of written agreements and settlements, and requires the claimant's representative, as well as the parties, to sign the written agreement or settlement. The new section prohibits a claimant's representative from signing a settlement or agreement in place of the claimant, unless the director of the division of hearings makes a finding that extraordinary circumstances exist. The section requires the insurance carrier's representative to sign as an agent of the insurance carrier and makes the insurance carrier bound to the agreement or settlement as provided by the Act, §6.15.

New §147.4 deals with filing agreements with the commission. The new section permits parties to sign a written agreement before a benefit proceeding is scheduled. The agreement must be sent to the commission field office that is handling the claim. If the parties include a request for commission approval, the agreement is effective and binding on the date approved by the commission. The new section provides that if a written agreement is reached after a benefit proceeding has been scheduled, whether or not the hearing has been held, or during the proceeding, then it must be sent to the presiding officer who must review it for compliance with the Act and the rules. The section requires the presiding officer to sign an agreement that complies with the Act, and give copies to the parties, and provides that this agreement binds the parties from the date the presiding officer signs it. The section also states that an oral agreement is binding on the parties when made during a benefit contested case hearing, from the date the agreement is preserved in the record of the hearing. A written or oral agreement made in accordance with the proposed section is fully binding on a carrier and a claimant who is represented by an attorney, unless the agreement is set aside because a court or the commission finds fraud, newly-discovered evidence, or other good and sufficient cause for not holding the parties to the agreement. The agreement is also binding on a claimant who is not represented by an attorney, while the claim is pending before the commission, unless it set aside for good cause by the commission. The new section provides for a penalty if either party intentionally breaks an agreement that has been approved by the commission.

New §147.5 deals with filing settlements with the commission. The new section requires a settlement that is reached before a benefit proceeding has been scheduled to be sent to the commission field office handling the claim. A settlement reached after a benefit proceeding has been scheduled must be sent to the presiding officer. Upon receipt of the written settlement, a commission employee is

required to sign it, date stamp, it and file it with the director of hearings. A settlement that is properly completed and executed shall be deemed filed with the commission on the second day after it is filed with the commission field office or the presiding officer as appropriate according to this section. If the director of the division of hearings finds that a settlement complies with the requirements established in the Act, §4.33(e), he is required to approve it. He must either approve the settlement or reject it within 15 days of the date the settlement was received, and give copies of the approved or rejected settlement to the parties by first class mail or personal delivery. A rejected settlement is required to be accompanied by a written statement of the reasons for rejection. The section provides that unless previously rejected by the director of the division of hearings, a settlement is effective and binding on the date approved by the director of the division of hearings, or the 16th day after the settlement was filed with him, whichever is earlier.

New §147.6 allows the director of the division of hearings to reject a settlement made by an unrepresented employee until an informal conference between the employer and commission employee is held.

New §147.7 addresses the effect of a written agreement on previously entered decisions and orders. The section provides that a written agreement acts to set aside a presiding officer's decision or order, including an interlocutory order, on the date approved by the presiding officer. The section provides that a settlement acts to set aside a presiding officer's decision or order, but not an interlocutory order, on the date the settlement is received by the director of the division of hearings. If the settlement is rejected, the decision or order is immediately re-entered. An interlocutory order is set aside by a settlement when the settlement becomes effective.

New §147.8 permits a party to withdraw from a settlement any time before it becomes effective by notifying the division of hearings in Austin. The section provides that an employee's death acts as a withdrawal regardless of notice to the division of hearings.

New §147.9 sets out the requirements for both agreements and settlements, and indicates limitations on what each may do. The section makes clear that neither an agreement nor a settlement may limit or terminate an employee's right to medical benefits nor may either provide for commutation of any unaccrued income benefits, except for accelerations, advances, and impairment income benefits as provided by the Act, §4.27. The section provides that an agreement that resolves a dispute about an impairment rating, or a settlement may not be made until the employee has reached maximum medical improvement, and must adopt an impairment rating established by a doctor pursuant to the Act, §4.26. The new section specifically requires that a settlement must establish that the carrier is liable for the claim, that the claim is compensable, and that the employee is entitled to income benefits. A settlement must also restate all prior oral agreements between the parties, must incorporate by reference all prior written agreements between the parties, must state that a final resolution has been reached on all issues in the claim,

and that the parties waive their rights to subsequent commission proceedings, other than those necessary to resolve medical benefit disputes or to enforce compliance with the terms of the settlement.

New §147.10 allows an employee to request a lump-sum payment of impairment income benefits (instead of weekly payments) when the employee has returned to work for at least three months, earning at least 80% of his or her average weekly wage. The new section lists the information that the employee must provide when he or she requests the lump-sum; the employee can contact the commission to get the information to be included in the request. The request must be made on a commission form; this form must include a warning to the employee that getting the lump sum payment will prevent him or her from getting further income benefits. The section requires that the employee must file a copy of the request with the commission field office managing the claim and send the request to the insurance carrier, which must approve or deny the request in writing no later than seven days after the receipt of the request. If the request is approved, the carrier must pay the commuted impairment income benefits, but if the carrier denies lump-sum payment, it must explain its reasons in writing. The carrier has to file the approval or denial notice with the commission field office managing the claim. The section provides that an employee can request a benefit review conference if the carrier denies the lump-sum payment; the request for the benefit review conference must be made as provided by §141.1 of this title (relating to Requesting and Setting a Benefit Review Conference).

R. Glenn Looney, manager of planning and analysis, has determined that for the first five-year period that most of the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections. For proposed §147.2 and §147.10, there may be fiscal implications for state and local governments who are self-insured for workers' compensation. Those costs will be additional costs for printing prescribed forms. Total costs are not determinable as they are dependent upon volume and printing, but may range from \$150 to \$240 for 1,000 forms. There is no anticipated impact on employment, locally or statewide as a result of implementing the section.

Mr. Looney also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the implementation of the Workers' Compensation Act adopted by recent legislation. There will be no effect on small businesses as a result of compliance with most of the sections. However, the cost of compliance with §147.2 and §147.10 for small businesses will be additional costs for printing prescribed forms. Total costs are not determinable as they are dependent on the volume and method of printing but may range from \$150 to \$240 for 1,000 forms. There is no anticipated additional economic cost to persons who are required to comply with most sections as proposed, however, there may be economic costs to persons required to comply with proposed §147.10. These costs may be telephone expense for obtaining the form, and

requesting assistance in completing the form; and postage for mailing the request for commutation of impairment income benefits to the insurance carrier and commission.

Costs to parties will be outweighed by the benefits of reducing settlements and agreements in writing in order to clarify the resolution of the dispute.

Comments on the proposal may be submitted to Susan M. Kelley, General Counsel, Texas Workers' Compensation Commission, 4000 South IH-35, Austin, Texas 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new sections are proposed under Texas Civil Statutes, Article 8308, §2.09(a), which authorize the commission to adopt rules necessary to administer the Texas Workers' Compensation Act.

§147.1. Definitions. The terms "agreement" and "settlement" have the meanings defined in the Texas Workers' Compensation Act, §1.03.

§147.2. Form.

(a) A settlement or a written agreement shall be on a form prescribed by the commission.

(b) Settlements shall be prepared on Form TWCC-25, "Benefit Dispute Settlement."

(c) Written agreements shall be prepared on Form TWCC-24, "Benefit Dispute Agreement."

§147.3. Execution.

(a) In addition to the parties, the employee's representative, if any, shall sign the written agreement or settlement.

(b) An employee's representative shall not sign a written agreement or settlement on behalf of the employee except upon a finding of extraordinary circumstances by the director of the division of hearings.

(c) The insurance carrier's representative shall sign a written agreement or settlement as the agent of the insurance carrier, and the insurance carrier shall be bound by the written agreement or settlement as provided by the Texas Workers' Compensation Act.

§147.4. Filing Agreements with the Commission; Effective Dates.

(a) An agreement reached before a benefit proceeding has been scheduled may be reduced to writing and sent to the commission field office handling the claim. If the parties include a request for commission approval, the agreement is effective and binding on the date approved by the commission.

(b) A written agreement reached after a benefit proceeding has been scheduled,

whether before, during, or after the proceeding has been held, shall be sent or presented to the presiding officer. The presiding officer will review the agreement to ascertain that it complies with the Texas Workers' Compensation Act and these rules; if so, sign it, and furnish copies to the parties. A written agreement is effective and binding on the date signed by the presiding officer.

(c) An oral agreement reached during a benefit contested case hearing and preserved in the record is effective and binding on the date made.

(d) A signed written agreement, or one made orally, as provided by subsection (c) of this section, is binding on:

(1) a carrier and a claimant represented by an attorney through the final conclusion of all matters relating to the claim, whether before the commission or in court, unless set aside by the commission or court on a finding of fraud, newly-discovered evidence, or other good and sufficient cause; and

(2) a claimant not represented by an attorney through the final conclusion of all matters relating to the claim while the claim is pending before the commission, unless set aside by the commission for good cause.

(e) Breach of an agreement approved by the commission, done knowingly, is a Class C administrative violation, with a penalty not to exceed \$1,000.

§147.5. Filing Settlements with the Commission; Effective Dates.

(a) A settlement reached before a benefit proceeding has been scheduled shall be sent to the commission field office handling the claim.

(b) A settlement reached after a benefit proceeding has been scheduled, whether before, during, or after the proceeding has been held, shall be sent or presented to the presiding officer.

(c) The commission employee receiving a settlement will sign it, mark it with the date received, and forward it to the director of the division of hearings.

(d) A properly completed and executed settlement shall be deemed received by the director of the division of hearings on the second day after it is filed with any commission field office, as provided by subsection (a) of this section, or any presiding officer, as provided by subsection (b) of this section.

(e) The director of the division of hearings shall approve a settlement determined to be in compliance with the requirements established in the Texas Workers' Compensation Act, §4.33(e).

(f) The director may, within 15 days of the date the settlement was re-

ceived:

(1) approve it by signing it, and marking it with the date signed; or

(2) reject it by marking it "Rejected," signing it, and marking it with the date signed.

(g) The director shall promptly furnish copies of the approved or rejected settlement to all parties by first class mail or personal delivery. A rejected settlement shall be accompanied by a written statement of the reasons for rejection.

(h) Unless previously expressly rejected by the director of the division of hearings, a settlement is effective and binding on the earlier of:

(1) at the close of business day of the date approved by the director of the division of hearings; or

(2) the 16th day after the date filed with the director of the division of hearings.

§147.6. Settlement Conference. The director of the division of hearings may reject a settlement by an unrepresented employee pending an informal conference between the employee and an employee of the commission.

§147.7. Effect on Previously Entered Decisions and Orders.

(a) A written agreement on one or more disputed issues addressed in a presiding officer's decision or order, including an interlocutory order, sets aside the decision or order, as it relates to the agreement, on the date the agreement is approved by the presiding officer.

(b) A settlement filed before a presiding officer's decision becomes final sets aside a presiding officer's decision or order, except for an interlocutory order, on the date received by the director of the division of hearings. If the director of the division of hearings rejects the settlement, the decision or order shall be immediately re-entered.

(c) A settlement sets aside an interlocutory order on the date the settlement becomes effective.

§147.8. Withdrawal From Settlement.

(a) A party to a settlement may withdraw from the settlement at any time before it becomes effective by notifying the division of hearings in the commission's Austin office.

(b) The employee's death shall be considered the employee's withdrawal from the settlement regardless of notice to the division of hearings.

§147.9. Requirements for Agreements and Settlements.

(a) An agreement or settlement may not:

(1) limit or terminate the employee's right to medical benefits; or

(2) provide for commutation of any unaccrued income benefits, except for advances, accelerations, or payments of impairment income benefits, as provided by the Texas Workers' Compensation Act, (the Act), §4.27.

(b) An agreement resolving a dispute about impairment rating, or a settlement:

(1) may not be made until the employee has reached maximum medical improvement; and

(2) must adopt an impairment rating established by a doctor pursuant to the Act, §4.26.

(c) A settlement:

(1) must establish that the carrier is liable for the claim;

(2) must establish that the claim is compensable;

(3) must establish that the employee is entitled to benefits;

(4) must incorporate by reference all prior oral and written agreements between the parties; and

(5) must state that a final resolution has been reached on all issues in the claim, and that the parties waive their rights to subsequent commission proceedings, other than those necessary to resolve medical benefit disputes or to enforce compliance with the terms of the settlement.

§147.10. Commutation of Impairment Income Benefits.

(a) An employee may elect to commute impairment income benefits when the employee has returned to work for at least three months, earning at least 80% of the employee's average weekly wage.

(b) A request to commute must:

(1) be in writing on a commission-prescribed form;

(2) state the date the employee reached maximum medical improvement; the impairment rating; and the employee's weekly impairment income benefit;

(3) be sent to the carrier; and

(4) be filed with the commission field office managing the claim.

(c) The commission-prescribed form shall include a warning to the employee that commutation terminates the employee's entitlement to additional income benefits for the injury.

(d) The employee may contact the commission field office managing the claim to obtain or verify the information required

to be included in the request.

(e) The carrier shall send a notice of approval or denial of the request to the employee no later than seven days after receipt of the request. A notice of approval shall include payment of the commuted impairment income benefits. A notice of denial shall include the carrier's reasons for denial. A copy of the notice shall be filed with the commission field office managing the claim.

(f) If the carrier denies the request, the employee may request the commission to schedule a benefit review conference to resolve the issue, as provided by §141.1 of this title (relating to Requesting and Setting a Benefit Review Conference).

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 February 13, 1991.

TRD-9101827

Susan M. Kelley
General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: March 22, 1991

For further information, please call: (512) 440-3973

◆ ◆ ◆
TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 10. Family Self-support Services

Child Care Management Services Statewide Implementation

• 40 TAC §10.3413

(Editor's Note: The Texas Department of Human Services proposes for permanent adoption the amended section it adopts on an emergency basis in this issue. The text of the amended section is in the Emergency Rules section of this issue.)

The Texas Department of Human Services (DHS) proposes an amendment to §10.3413, concerning Child Care Management Services Statewide Implementation, in its Family Self-support Services chapter. The purpose of the amendment is to add eligibility criteria for clients who are not receiving Aid to Families with Dependent Children (AFDC) benefits and who may qualify to receive At-Risk Title IV-A funded child care services. New federal child care funds of \$300 million annually are authorized under the Omnibus Budget Reconciliation Act (OBRA) of 1990 for fiscal years 1991 through 1995. A preliminary estimate of the Texas annual share is \$23 mil-

tion. This new Title IV-A capped entitlement is to be used to provide child care to children of low-income families who are not receiving AFDC benefits and who need child care to continue working. Without child care these families would otherwise be at risk of becoming dependent upon AFDC. The department is simultaneously adopting this amendment on an emergency basis in this issue of the *Texas Register*.

Burton F. Raiford, chief financial officer, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state government as a result of enforcing or administering the section. Because of current budget constraints, DHS is only able to provide a state match of \$5,122,015 to draw down approximately \$9 million of the \$23 million in federal funds available for fiscal year 1991. A transfer of state general revenue funds in the Title XX program is necessary to satisfy the state match requirement to draw down available new federal funds. This transfer will result in

the shift of approximately 4,183 spaces for full-day child care to the new At-Risk Title IV-A child care funding source. Children currently enrolled in these 4,183 full day care spaces meet the proposed eligibility requirements for At-Risk Title IV-A funded child care and will not lose their child care services as a result of the transfer of these spaces. The effect on state government for the first five-year period the section will be in effect is an estimated additional cost of \$0.00 in fiscal year (FY) 1991-92; \$22,686,116 in FY 1992-93; \$14,096,774 in FY 1993-94; \$14,315,552 in FY 1994-95; and \$14,382,570 in FY 1995-96. There is no anticipated effect on local government as a result of enforcing or administering the section.

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be additional funds available to purchase child care for families who satisfy the DHS eligibility requirements. There will be no effect on small

businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of this proposal may be directed to Charlotte Brantley at (512) 450-4179 in DHS's Client Self-support Services Division. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-038, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 44, which authorizes the department to administer public and day care programs.

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 February 12, 1991.

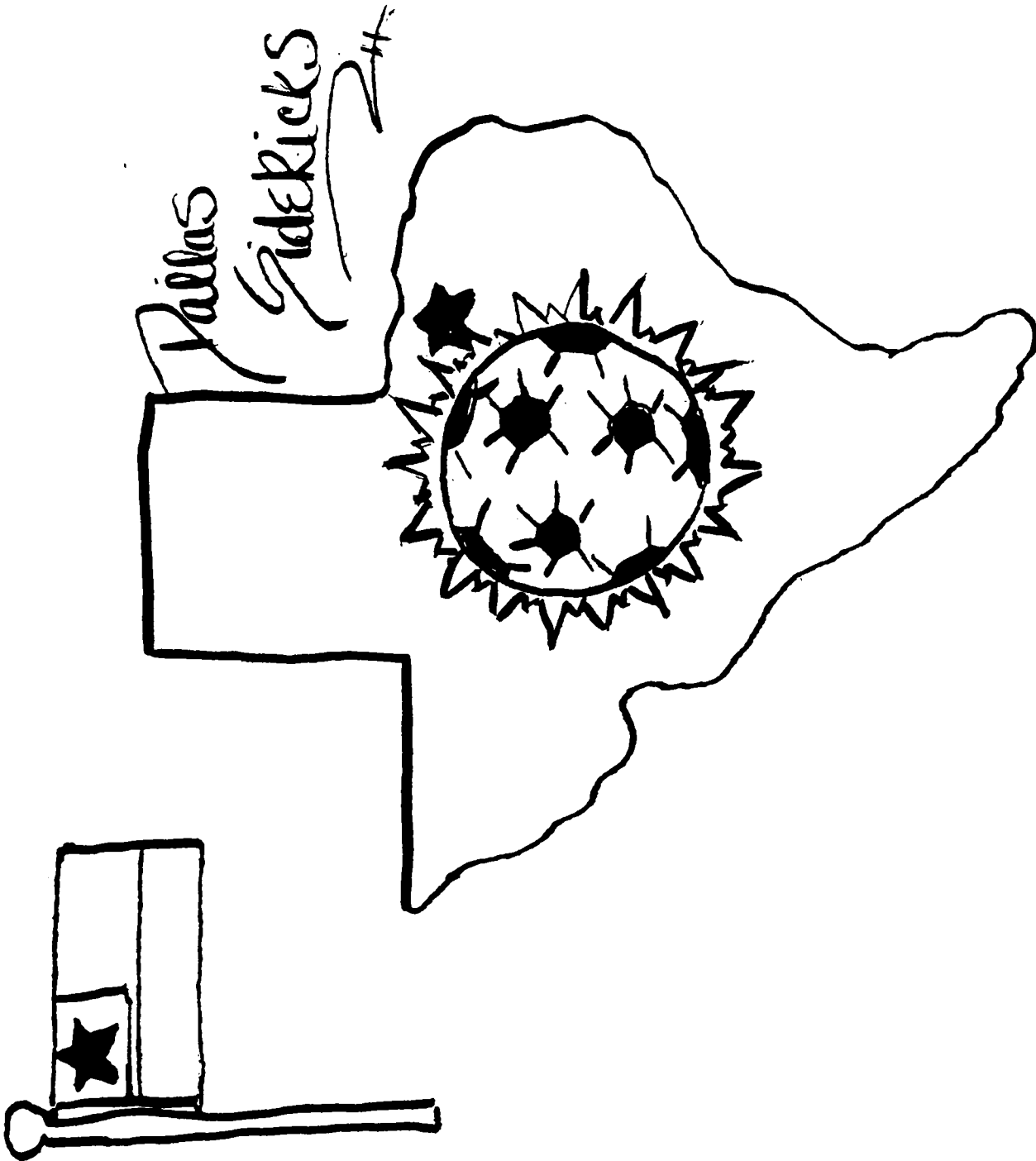
TRD-9101731

Nancy Murphy
Agency liaison, Policy and
Document Support
Texas Department of
Human Services

Proposed date of adoption: May 3, 1991

For further information, please call: (512) 450-3765

◆ ◆ ◆



Name: Nicole Dalrymple

Grade: 9

School: Boles Junior High, Arlington ISD

Withdrawn Sections

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a section by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing or 20 days after filing. If a proposal is not adopted or withdrawn six months after 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 IV. Texas Department of Licensing and Regulation

Chapter 79. Vehicle Storage Facilities

- 16 TAC §79.101

The Texas Department of Licensing and Regulation has withdrawn from consideration for permanent adoption a proposed amendment to §79.101 which appeared in the November 2, 1990, issue of the *Texas Register* (15 TexReg 6279). The effective date of this withdrawal is February 12, 1991.

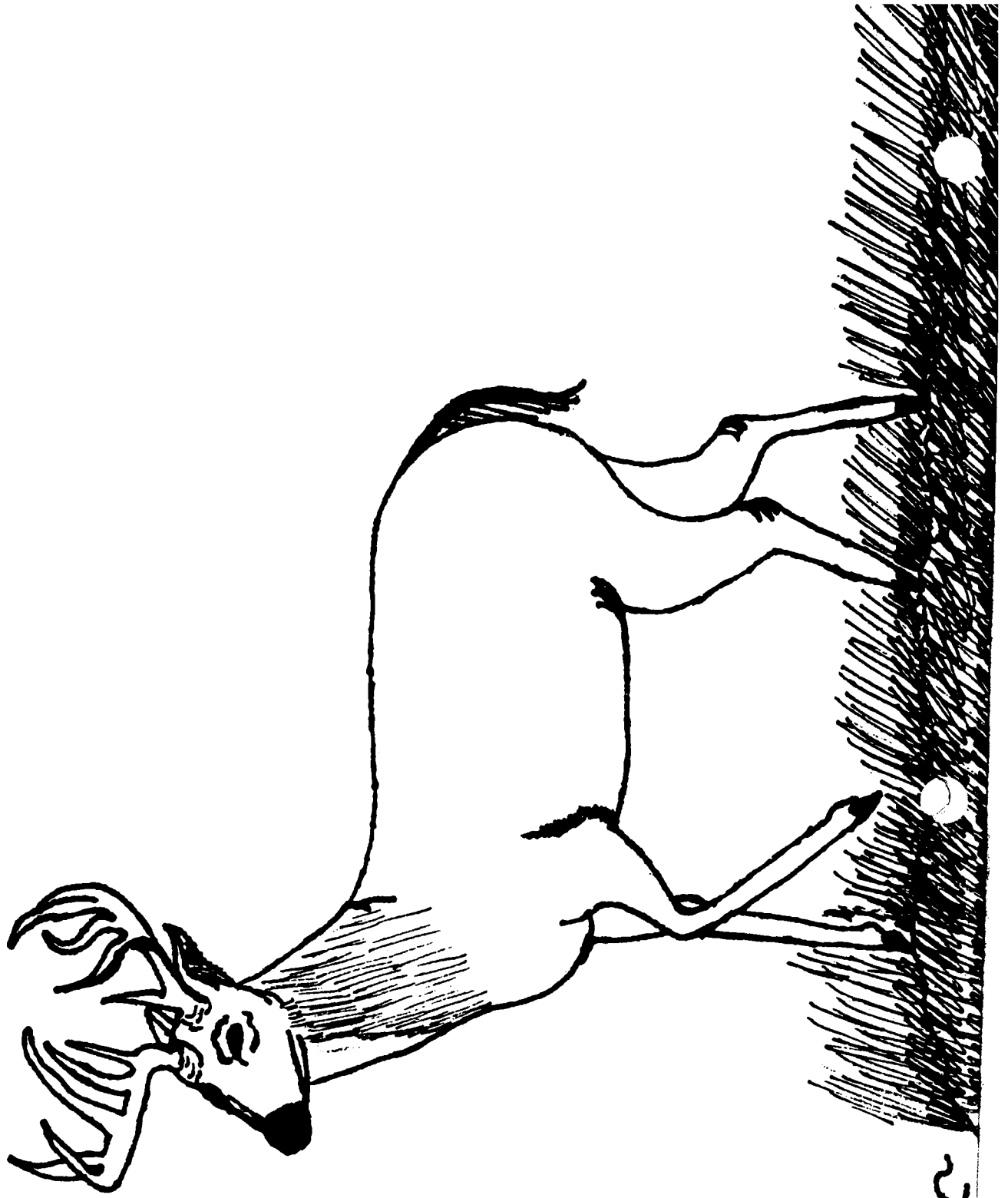
Issued in Austin, Texas, on February 12, 1991.

TRD-9101733 Elvis G. Schulze
 General Counsel
 Texas Department of
 Licensing and
 Regulation

Effective date: February 12, 1991

For further information, please call: (512)
483-3127





Name: Tiffany Jackson
Grade: 8
School: Boles Junior High, Arlington ISD

Adopted Sections

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 25. HEALTH SERVICES

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 401. System Administration

Subchapter B. Interagency Agreements

• 25 TAC §401.53

The Texas Department of Mental Health and Mental Retardation (TDMHMR) adopts an amendment to Exhibit J, which is adopted by reference in §401.53, without changes to the proposed text as published in the August 17, 1990, issue of the *Texas Register* (15 TexReg 4679). The text of the section will not change.

The plan for fiscal year (FY) 1991, which has been approved by the Interagency Council on ICF/MR Facilities, replaces the plan for FY 1990. The plan for FY 1991 also includes amendments to the FY 1990 plan. Beds from the FY 1990 plan that have not been licensed and certified will be utilized prior to beds from the FY 1991 plan.

The amendment is adopted under Texas Civil Statutes, Article 5547-202, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers, and under the provisions of Senate Bill 1426 of the 71st Texas Legislature, which requires TDMHMR to adopt the ICF/MR bed plan by rule.

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 February 8, 1991.

TRD-9101657
Pattilou Dawkins
Chairman
Texas Board of Mental
Health and Mental
Retardation

Effective date: March 1, 1991

Proposal publication date: August 17, 1990

For further information, please call: (512) 465-4670

Chapter 402. Client Assignment and Continuity of Services

Subchapter E. Preadmission Screening and Annual Residency Review (PASARR)

• 25 TAC §§402.151, 402.153, 402.155-402.159

The Texas Department of Mental Health and Mental Retardation (TDMHMR) adopts amendments to §§402.151, 402.153, and 402.155-402.159, without changes to the proposed text as published in the January 1, 1991, issue of the *Texas Register* (16 TexReg 35).

The purpose of the amendments is to implement Public Law 101-508, the Omnibus Budget Reconciliation Act (OBRA) of 1990. OBRA reclassifies activities formerly designated "active treatment" with the term "special services." The amendments update the references and the distribution section.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 5547-202, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

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 February 8, 1991.

TRD-9101659
Pattilou Dawkins
Chairman
Texas Board of Mental
Health and Mental
Retardation

Effective date: March 1, 1991

Proposal publication date: January 1, 1991

For further information, please call: (512) 465-4670

Chapter 405. Client (Patient) Care

Subchapter A. Employment of Independent Contractors

• 25 TAC §§405.1-405.9

The Texas Department of Mental Health and Mental Retardation (TDMHMR) adopts the repeal of §§405.1-405.9, without changes to the proposed text as published in the October

19, 1990, issue of the *Texas Register* (15 TexReg 6118).

The purpose of the repeal is to remove sections which have been determined no longer necessary for agency operations. The provisions of the sections are now included in Chapter 402, Subchapter A, relating to admissions, transfers, absences, and discharges.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 5547-202, which provide the Texas Board of Mental Health and Mental Retardation with rulemaking powers.

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 February 8, 1991.

TRD-9101658
Pattilou Dawkins
Chairman
Texas Board of Mental
Health and Mental
Retardation

Effective date: March 1, 1991

Proposal publication date: October 19, 1990

For further information, please call: (512) 465-4670

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 1. Rules of Practice and Procedure

• 28 TAC §1.51

The State Board of Insurance adopts an amendment to §1.51, without changes to the proposed text as published in the November 30, 1990, issue of the *Texas Register* (15 TexReg 6821).

Section 1.51 concerns appeals to the State Board of Insurance from the actions of certain associations or other entities. The amendment is necessary to clarify what constitutes the timely filing of an appeal of an act of the Texas Workers' Compensation Assigned Risk Pool, the Texas Catastrophe Property Insurance Association, or the Texas Medical Liability Underwriting Association, whose decisions are required by statute to be appealed within a specified time.

The amendment changes the title of the section and reformats the present language in §1.51 to become subsection (a). New lan-

guage is made subsection (b) . The amendment states that such an appeal is deemed to be adequately and timely filed if the appeal is sent to the chief clerk of the board by first-class United States mail or by certified or registered mail in an envelope or wrapper properly addressed and stamped and deposited in the mail one day or more before the last day for filing the appeal and if the appeal is received by the chief clerk not more than 10 days subsequent to the due date for filing.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 1.04, which provides the board with the authority to determine rules in accordance with the laws of this state; under the Insurance Code, Article 5.76(j), which provides for appeals to the board of acts of the Texas Workers' Compensation Assigned Risk Pool; under the Insurance Code, Article 21.49, §5A, pursuant to which the board may, after notice and hearing, issue any orders necessary to carry out the purposes of the Texas Catastrophe Property Insurance Pool Act; and under the Insurance Code, Article 21.49, §9, which, among other matters, specifies certain procedures for filing appeals to the board of decisions of the Texas Catastrophe Property Insurance Association; under the Insurance Code, Article 21.49-3, §7(b), which specifies procedures for filing appeals to the board of decisions of the Texas Medical Liability Underwriting Association; and under Texas Civil Statutes, Article 6252-13a, §4(a), which require the board to adopt rules of practice setting forth the nature and requirements of all formal and informal procedures.

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 February 12, 1991.

TRD-9101798 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: March 6, 1991

Proposal publication date: November 30, 1990

For further information, please call: (512) 463-6327



Chapter 5. Property and Casualty Insurance

Subchapter E. Texas Catastrophe Property Insurance Association

Plan of Operation

• 28 TAC §5.4001

The State Board of Insurance adopts an amendment to §5.4001, without changes to the proposed text as published in the November 30, 1990, issue of the *Texas Register* (15 TexReg 6821).

Section 5.4001 concerns the plan of operation of the Texas Catastrophe Property Insurance Association (the association). The amendment is necessary to add provisions concerning notices of appeal of decisions of the association.

The amendment reformats subsection (d)(4)(D) so that subparagraph (D) is divided into clauses (i) and (ii). Clause (i) of

subparagraph (D) and adds a provision requiring the association to notify a person whose claim is denied of certain new provisions respecting appeals as set out in new clause (ii). Clause (ii) adds new language which states that an appeal of an act, ruling, or decision of the association is deemed to be timely filed if the appeal is sent to the chief clerk of the State Board of Insurance by first-class United States mail or by certified or registered mail in an envelope or wrapper properly addressed and stamped and deposited in the mail one day or more before the last day for filing the appeal, if the appeal is received by the chief clerk not more than 10 days subsequent to the due date for filing.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 21.49 §5A, pursuant to which the board may, after notice and hearing, issue any orders necessary to carry out the purposes of Article 21.49, and under the Insurance Code, Article 21.49, §9, which, among other matters, specifies procedures for filing appeals of the association's decisions.

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 February 12, 1991.

TRD-9101797 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: March 6, 1991

Proposal publication date: November 30, 1990

For further information, please call: (512) 463-6327



State Board of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.)

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)

The State Board of Insurance has approved Agenda Item 8-90 presented at the August 29, 1990, annual fire hearing and at a Board

meeting held on January 31, 1991, affecting the endorsement forms of the Texas Homeowners Policy. The agenda item approved is as follows.

Agenda Item 8-90 amended Form HO-101, Reimbursement For Replacement of Personal Property to clarify the coverage provided by the endorsement. In addition, the Form HO-101 was revised to exclude replacement cost coverage for watercraft, including outboard motors, for values in excess of \$2,500; and replacement cost coverage is excluded for any property that is not actually replaced. Property that is not replaced will be subject to loss settlement based on the actual cash value of the property. The amendment to the form eliminates an open invitation to fraudulent claims whereby claims are paid on a replacement cost basis without the property being replaced producing cash profits to an individual.

This change is to be effective April 1, 1991.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register 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 February 12, 1991.

TRD-9101795 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: April 1, 1991

For further information, please call: (512) 463-6327



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 prior to 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 named 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. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

Texas Department on Aging

Thursday, February 28, 1991, 1:30 p.m. The Options for Independent Living Advisory Committee of the Texas Department on Aging will meet at the Texas Department on Aging, 1949 IH-35 South, Third Floor, Austin. According to the complete agenda, the committee will call the meeting to order; approve minutes of previous meeting; review 1990 Statewide Options for Independent Living Program report; progress reports from options projects; discuss new business; and adjourn.

Contact: Polly Sowell, 1949 South IH-35, Austin, Texas 78741, (512) 444-2727.

Filed: February 13, 1991, 10:30 a.m.
TRD-9101828

Texas Department of Agriculture

Thursday, February 28, 1991, 10:30 a.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, Expressway 83, Two Blocks West of Morningside Road, San Juan. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et. seq. by Krio Produce as petitioned by S & S Produce Farms.

Contact: Bruce Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7589.

Filed: February 12, 1991, 2:02 p.m.
TRD-9101737

Thursday, February 28, 1991, 11:30 a.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, Expressway 83, Two Blocks West of Morningside Road, San Juan. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et. seq. by Krio Produce as petitioned by Seal Produce Sales.

Contact: Bruce Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7589.

Filed: February 12, 1991, 2:02 p.m.
TRD-9101738

Thursday, February 28, 1991, 1 p.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, Expressway 83, Two Blocks West of Morningside Road, San Juan. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et. seq. by Four Kings Produce as petitioned by Mission Shippers, Inc.

Contact: Bruce Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7589.

Filed: February 12, 1991, 2:03 p.m.
TRD-9101739

Thursday, February 28, 1991, 2 p.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, Expressway 83, Two Blocks West of Morningside Road, San Juan. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et. seq. by Mexican Blue Eyes Produce as petitioned by Disbro Farms.

Contact: Bruce Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7589.

Filed: February 12, 1991, 2:03 p.m.
TRD-9101740

Thursday, February 28, 1991, 3 p.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, Expressway 83, Two Blocks West of Morningside Road, San Juan. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §103.001, et. seq. by Robert Ruiz, Inc. as petitioned by Amerifresh.

Contact: Bruce Fant, P.O. Box 12847, Austin, Texas 78711, (512) 463-7589.

Filed: February 12, 1991, 2:03 p.m.
TRD-9101741

Texas Alcoholic Beverage Commission

Monday, February 25, 1991, 2 p.m. The Texas Alcoholic Beverage Commission will meet at 5806 Mesa Drive, Room 180, Austin. According to the complete agenda, the commission will approve minutes of January 21, 1991 meeting; hear administrator's and staffs' report of agency activity; and approve affidavit of destruction of tested alcoholic beverages.

Contact: W. S. McBeath, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

Filed: February 12, 1991, 1:42 p.m.
TRD-9101734

State Bar of Texas

Wednesday, February 20, 1991, 10:30 a.m. The Board of Directors of the State Bar of Texas will meet at the Texas Law Center, Room 104, 1414 Colorado Street, Austin. According to the agenda summary, the board will have invocation; meet in executive session; hear reports of the chairman of the board; president; president elect; executive director; general counsel; board committees (administrative advisory, general counsel advisory, minority representation), bar committees/sections/divisions; and hear other reports.

Contact: Pat Hillar, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1463.

Filed: February 12, 1991, 4:42 p.m.
TRD-9101782

Bond Review Board

Thursday, February 21, 1991, 10 a.m. The Bond Review Board will meet at the State Capitol, Sergeant's Committee Room, Austin. According to the complete agenda, the board will call the meeting to order; approve minutes; consideration of proposed issues: application of Board of Regents of the University of Texas System Revenue Financing System Refunding Bonds; dis-

cuss other business: presentation on state debt; approval of proposed rule change for Bond Review Board rules; and adjourn.

Contact: Tom K. Pollard, 506 Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 463-1741.

Filed: February 13, 1991, 2:58 p.m.

TRD-9101857

Texas Department of Criminal Justice

Tuesday-Friday, February 19-22, 1991, 10 a.m. The Board of Pardons and Paroles of the Texas Department of Criminal Justice will meet at 2503 Lake Road, Suite 2, Huntsville. According to the agenda summary, a panel (composed of 3 board members) will receive, review and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Juanita Liames, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 450-2744.

Filed: February 7, 1991, 3:42 p.m.

TRD-9101596

Monday-Friday, February 25-29, 1991, 10 a.m. The Board of Pardons and Paroles of the Texas Department of Criminal Justice will meet at 2503 Lake Road, Suite 2, Huntsville. According to the agenda summary, a panel (composed of 3 board members) will receive, review and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Juanita Liames, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 450-2744.

Filed: February 7, 1991, 3:43 p.m.

TRD-9101597

Interagency Council on Early Childhood Intervention

Friday, February 22, 1991, 9 a.m. The Interagency Council on Early Childhood Intervention will meet at the Texas Department of Health, 1100 West 49th Street, Room M-652, Austin. According to the complete agenda, the council will hear public comments; approve minutes of last meeting; consider and possibly act on: funding priorities for fiscal year 1992; use and application of lapsed funds for fiscal year 1991; continuation of respite grant; and medicaid issues.

Contact: Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7673.

Filed: February 13, 1991, 10:49 a.m.

TRD-9101835

The Finance Commission of Texas

Thursday, February 21, 1991, 9:30 a.m. The Finance Commission of Texas will meet at the Finance Commission Building, 2601 North Lamar Boulevard, Third Floor Hearing Room, Austin. According to the agenda summary, the commission will consider committee and staff reports; consider individual departmental status and operational reports from the banking, savings and loan, and consumer credit departments; and an executive session in regard to supervisory, litigation and personnel matters will also be held.

Contact: Mark H. Holland, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: February 12, 1991, 4:41 p.m.

TRD-9101781

Fire Department Emergency Board

Friday, February 15, 1991, 1:30 p.m. The Fire Department Emergency Board will meet at the Republic Plaza Center, Tower Two, 333 Guadalupe Street, Room 411, Austin. According to the complete agenda, the board will take roll call; approve minutes; discuss old business: adoption of proposed rules and amendments on an emergency basis; presentation of board seal; hear report of committees; operating budget, amended; reading of communications; discuss unfinished business; review of budget and oversight hearing; discuss new business including review of legislative issues and discussion/action on possible Attorney General opinion request; reading and consideration of application; and adjournment.

Contact: Barbara Jenkins, Room 412, Republic Plaza Center Two, Austin, Texas 78701, (512) 322-4378.

Filed: February 7, 1991, 3:22 p.m.

TRD-9101591

Texas Department of Health

Thursday, February 28, 1991, 10 a.m. The Dental Technical Advisory Committee of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room T-407, Austin. According to the complete agenda, the committee will approve minutes of the last meeting; hear report on periodontal survey; consider and possibly act on: committee position regarding indigent care funds; statement on safety of amalgam; position on

safety and benefits of fluoride; legislation concerning county health committees; regulations and standards governing dental services in long-term care facilities; and publicity for year 2000 dental objectives.

Contact: Norvell King, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7323.

Filed: February 13, 1991, 10:49 a.m.

TRD-9101834

Texas Higher Education Coordinating Board

Thursday, February 28, 1991, 10:30 a.m. The Administrative Council of the Texas Higher Education Coordinating Board will meet at the Chevy Chase Building One, Room 1.102, 7700 Chevy Chase Drive, Austin. According to the complete agenda, the council will meet for final adoption of proposed amendment to §25.34, Basic Procedural and Administrative Procedures (Retiree Insurance); final adoption of proposed amendment to §25.34, Basic Procedural and Administrative Practices (Medicare Part B Purchase Requirement); final adoption of proposed amendments to §25.50, Coverage for Dependents (Surviving Spouse/Dependent Coverage), §25.72, ORP Standards (ORP Vesting Issues), §25.33, Basic Coverage Standards (Changes to Basic Coverage Standards); Institutional Program Review; discussion and consideration of legislative matters; and report of ORP participation during fiscal year 1990 and staff report.

Contact: Kathy Lewis, P.O. Box 12788, Austin, Texas 78711, (512) 483-6192.

Filed: February 12, 1991, 4:02 p.m.

TRD-9101750

Texas Historical Commission

Saturday, March 2, 1991, 9 a.m. The State Board of Review of the Texas Historical Commission will meet at the Gethsemane Lutheran Church, 1510 Congress Avenue, Austin. According to the agenda summary, the board will make announcements; approve minutes of previous meeting; and review of nominations to the National Register.

Contact: Marlene Casarez, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: February 13, 1991, 2:16 p.m.

TRD-9101846

Texas Housing Agency

Friday, February 15, 1991, 10 a.m. The Joint Committee Meeting of Finance and

Planning and Personnel and Programs of the Texas Housing Agency will meet at 811 Barton Springs Road, Suite 300, Austin. According to the agenda summary, the committees will consider and possibly act on the following items: responses to request for proposals for bond counsel and underwriters; resolution for signature authority on THA documents; budget; 1989 GNMA Single Family Bond Program known as Program 38; 1989B GNMA Single Family Bond Program known as Program 41A and 41B; request from Moran and Company to permit the refunding of 1983 Series A and B bonds and 1985 Series A bonds; meet in executive session to consider duties, evaluation and discipline of employees; and act on executive session items as required in open session.

Contact: Richard H. Garza, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: February 7, 1991, 5:19 p.m.

TRD-9101608

Friday, February 15, 1991, 1 p.m. The Low Income Tax Credit Committee of the Texas Housing Agency will meet at 811 Barton Springs Road, Suite 300, Austin. According to the agenda summary, the committee will consider and possibly act on low income tax credit program for year 1990 and 1991; public hearings; draft of low income tax credit rules; and draft of low income tax credit allocation plan.

Contact: Richard H. Garza, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: February 7, 1991, 5:21 p.m.

TRD-9101409

Friday, February 15, 1991, 3 p.m. The Audit Committee of the Texas Housing Agency will meet at 811 Barton Springs Road, Suite 300, Austin. According to the agenda summary, the committee will consider and possibly act on responses to request for proposals for Legal Resource Group and Hazard Insurance; internal audit charter; annual internal audit plan; audit by Deloitte and Touche and state auditors; and resolution for signature authority on THA documents.

Contact: Richard H. Garza, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

Filed: February 7, 1991, 5:22 p.m.

TRD-9101610

Thursday, February 21, 1991, 10 a.m. The Board of Directors of the Texas Housing Agency will meet at 811 Barton Springs Road, Suite 300, Austin. According to the agenda summary, the board will consider and possibly act on the following items: minutes; public comment period; board organization; signature authority; executive session tapes; work activities and accomplishments; general accounting office visit;

San Jacinto Gardens; Program Number 42; contract authorization; Internal Auditor's report; temporary assignments; interim executive administrator; Sunset Commission report; requests for proposal for legal resource group, hazard insurance, bond counsel and underwriters; audit plans and reports; low income tax credit program for the year 1990 and 1991; budget adjustments; program 41A and 41B; 1983 Series A and B bonds, and 1985 Series A bonds; Carpenter-Oxford and Dallas-Oxford developments; Cranston-Gonzalez Act. While in executive session consider pending or contemplated litigation and personnel matters; and act on executive session items as required in open session.

Contact: Patricia F. Broline, 811 Barton Springs Road, Suite 300, Austin, Texas 78704, (512) 474-2974.

Filed: February 13, 1991, 4:47 p.m.

TRD-9101864

Texas Department of Human Services

Thursday, February 21, 1991, 9:30 a.m. The Hospital Payment Advisory Committee of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, East Tower, Public Hearing Room, Austin. According to the complete agenda, the committee will hear opening comments; approve minutes; DRG 386-390 repayments; status report on THA lawsuit; status report on second dispro system; report on February 12, 1991 joint advisory committee meeting on budget; open discussion; set next meeting date; and adjourn.

Contact: Carolyn Howell, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3053.

Filed: February 13, 1991, 9:46 a.m.

TRD-9101825

Department of Information Resources

Thursday, February 21, 1991, 1:30 p.m. The Department of Information Resources will meet at One Capitol Square, Suite 1300, 300 West 15th Street, Austin. According to the complete agenda, the department will call the meeting to order; take roll call and witness registration; discuss proposed rules for specification review; discuss TEAA Services; other business; hear public testimony; and adjourn.

Contact: Debra Williams, 300 West 15th Street, Suite 1300, Austin, Texas 78701, (512) 371-1120.

Filed: February 12, 1991, 4:19 p.m.

TRD-9101780

State Board of Insurance

Thursday, February 21, 1991, 9 a.m. The State Board of Insurance will meet at the State Insurance Building, 1110 San Jacinto Street, Room 460, Austin. According to the agenda summary, the board will consider requests for exemption from the small premium policy plan; appointment of Governing Committee for the Texas Workers' Compensation Insurance facility; petitions by Texas Automobile Insurance service office for amendments to Rule 38 of the Texas Automobile Manual and the reference notes of the Standard Provisions for automobile policies; final action on new 28 TAC §§21.1001-21.1004 and amendment to 28 TAC §3.3040; proposed action on rules concerning chemical dependency coverage pursuant to Article 3.51-9 of the Insurance Code; board orders on several different matters; discuss personnel matters; litigation; and solvency matters.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: February 13, 1991, 3:39 p.m.

TRD-9101858

Lamar University System

Thursday, February 14, 1991, 9 a.m. The Board of Regents Committees of the Lamar University System met at the John Gray Institute, Map Room, 855 Florida, Beaumont. According to the emergency revised agenda summary, the Building and Grounds Committee met to consider approval of project scope and appointment of architect for renovations to music building at Lamar-Beaumont; academic affairs committee; finance and audit committee; athletic committee; development/public relations committee; personnel committee; and met in executive session held under provisions of Vernon's Civil Statutes, Article 6252-17, §2(3)(e), legal and (g), and personnel. The emergency status was necessary as money for renovation project received from private donor February 12 to allow project to proceed.

Contact: George McLaughlin, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: February 13, 1991, 1:02 p.m.

TRD-9101840

Texas Board of Professional Land Surveying

Friday-Saturday, February 22-23, 1991, 8 a.m. and 9 a.m. respectively. The Texas Board of Professional Land Surveying will meet at 7701 North Lamar Boulevard, Suite 400, Austin. According to the complete agenda, the board will approve the minutes

of the previous meeting; discuss correspondence, conduct interviews; select the April, 1991 examinations; hear committee reports; elect a chairman and vice-chairman; discuss standards; conduct two formal hearings on complaints 89-17 and 89-19; and consider new business.

Contact: Sandy Smith, 7701 North Lamar Boulevard, Suite 400, Austin, Texas 78752, (512) 452-9427.

Filed: February 8, 1991, 10:41 a.m.

TRD-9101628

Texas State Board of Medical Examiners

Thursday, February 21, 1991, 8:30 a.m. The Disciplinary Process Review Committee of the Texas State Board of Medical Examiners will meet at 1110 Camino La Costa, Suite 201, Austin. According to the agenda summary, the committee will approve minutes from January meeting; hear January 1991 Enforcement report; report on current employee vacancies and recruitment activities; review selected files; meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 4.05(d), 5.06(s)(1), and Attorney General Opinion 1974, Number H-484.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: February 13, 1991, 2:22 p.m.

TRD-9101851

Thursday, February 21, 1991, 8:30 a.m. The Examination Committee of the Texas State Board of Medical Examiners will meet at 1101 Camino La Costa, Suite 201, Austin. According to the agenda summary, the committee will discuss licensure investigation; review of examination applicant; recommendation of ineligibility; review of the December 1990 FLEX/Jurisprudence Examination results; review of examination applicants complete for consideration of licensure; review of new Texas Medical Jurisprudence Examination; meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Attorney General Opinion 1974, Number H-484.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: February 13, 1991, 2:23 p.m.

TRD-9101852

Thursday, February 21, 1991, 8:30 a.m. The Reciprocity Committee of the Texas State Board of Medical Examiners will meet at 1101 Camino La Costa, Suite 201, Austin. According to the agenda summary, the committee will review December, 1990 SPEX examination statistics; reciprocity applicants to be considered for permanent licensure; recommendations of ineligibility; review of reciprocal endorsement appli-

cants; meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 4.05(d), 5.06(s)(1), and Attorney General Opinion 1974, Number H-484.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: February 13, 1991, 2:23 p.m.

TRD-9101853

Thursday, February 21, 1991, 10:30 a.m. The Legislative Committee of the Texas State Board of Medical Examiners will meet at 1101 Camino La Costa, Suite 201, Austin. According to the agenda summary, the committee will discuss TMA's proposed legislation on impaired physicians; discussion of corporate/hospital practice of medicine; meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 4.05(d), 5.06(s)(1), and Attorney General Opinion 1974, Number H-484.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: February 13, 1991, 2:22 p.m.

TRD-9101850

Thursday, February 21, 1991, 11 a.m. The Public Information Committee of the Texas State Board of Medical Examiners will meet at 1101 Camino La Costa, Suite 201, Austin. According to the agenda summary, the committee will hear staff reports on media forum; booth display; agenda and press release mailing lists; and meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1), and Attorney General Opinion 1974, Number H-484.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: February 13, 1991, 2:21 p.m.

TRD-9101849

Thursday, February 21, 1991, 11 a.m. The Ad Hoc Committee on Weight Control of the Texas State Board of Medical Examiners will meet at 1101 Camino La Costa, Suite 201, Austin. According to the agenda summary, the committee will discuss weight control programs; and meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 4.05(d), 5.06(s)(1), and Attorney General Opinion 1974, Number H-484.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: February 13, 1991, 2:20 p.m.

TRD-9101847

Thursday, February 21, 1991, 11:30 a.m. The Finance Committee of the Texas State Board of Medical Examiners will meet at 1101 Camino La Costa, Suite 201, Austin. According to the agenda summary, the committee will review and discuss financial statements and budgets; discussion of possi-

ble change in reciprocity fees; meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 4.05(d), 5.06(s)(1), and Attorney General Opinion 1974, Number H-484.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: February 13, 1991, 2:21 p.m.

TRD-9101848

Thursday-Saturday, February 21-23, 1991, 1 p.m. and 8 a.m. respectively. The Texas State Board of Medical Examiners will meet at 1101 Camino La Costa, Suite 201, Austin. According to the agenda summary, the board will meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 4.05(d), 5.06(s)(1), and Attorney General Opinion 1974, Number H-484; board hearing; approvals-agreed orders; minutes; new hearing examiners; discuss remedial pharmacology courses; contracts with outside consultants; TMA's proposed legislation on impaired physicians; corporate/hospital practice of medicine; executive director's report-meetings; medical school visits; 1992-1993 budget; legislative mandates, A.G. course for board members; federation meeting; legislative appearances; licensure; computer; enforcement; public hearings on proposed rule changes; and approval of duplicate licenses.

Contact: Pat Wood, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: February 13, 1991, 2:23 p.m.

TRD-9101854

Texas National Guard Armory Board

Friday, February 15, 1991, 1 p.m. The Texas National Guard Armory Board will meet at Camp Mabry, 2200 West 35, Building 64, Austin. According to the agenda summary, the board will approve minutes of previous meeting; discuss administrative matters; construction/renovation/maintenance; property/leases; and establish date of next meeting.

Contact: Sandra Hille, P.O. Box 5426, Austin, Texas 78763, (512) 451-6143.

Filed: February 7, 1991, 2:05 p.m.

TRD-9101586

State Pension Review Board

Tuesday, March 5, 1991, 8:30 a.m. The Legislative Advisory Committee of the State Pension Review Board will meet at the State Capitol Building, Senate Sergeant's Committee Room, Austin. According to the complete agenda, the committee will prepare impact statements on pension legislation for which actuarial information

is available by meeting time, and for which requests have been received from legislative committees.

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: February 12, 1991, 10:38 a.m.

TRD-9101715

Tuesday, March 12, 1991, 8:30 a.m. The Legislative Advisory Committee of the State Pension Review Board will meet at the State Capitol Building, Senate Sergeant's Committee Room, Austin. According to the complete agenda, the committee will prepare impact statements on pension legislation for which actuarial information is available by meeting time, and for which requests have been received from legislative committees.

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: February 12, 1991, 10:39 a.m.

TRD-9101716

Tuesday, March 19, 1991, 8:30 a.m. The Legislative Advisory Committee of the State Pension Review Board will meet at the State Capitol Building, Senate Sergeant's Committee Room, Austin. According to the complete agenda, the committee will prepare impact statements on pension legislation for which actuarial information is available by meeting time, and for which requests have been received from legislative committees.

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: February 12, 1991, 10:41 a.m.

TRD-9101718

Tuesday, March 26, 1991, 8:30 a.m. The Legislative Advisory Committee of the State Pension Review Board will meet at the State Capitol Building, Senate Sergeant's Committee Room, Austin. According to the complete agenda, the committee will prepare impact statements on pension legislation for which actuarial information is available by meeting time, and for which requests have been received from legislative committees.

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: February 12, 1991, 10:41 a.m.

TRD-9101719

Texas State Board of Physical Therapy Examiners

Friday, March 1, 1991, 8 a.m. The Texas State Board of Physical Therapy Examiners will meet at 313 East Rundberg Lane, #113, Austin. According to the agenda summary, the examiners will approve minutes of December 3, 1991 board meeting; elect officers; discuss proposal to amend Physical

Therapy Practice Act; discussion of PTAs working for medical doctors; licensure status of PTs deployed for Desert Storm; federal legislation concerning evaluation for restraints; hear committee reports; executive director's report; chairperson's report; and discuss new business.

Contact: Sherry L. Lee, 313 East Rundberg Lane, #113, Austin, Texas 78753, (512) 835-1846.

Filed: February 12, 1991, 10:43 a.m.

TRD-9101721

State Board of Plumbing Examiners

Monday, February 25, 1991, 10 a.m. The Committee on Plumbing Inspector Exam and Qualifications will meet at 929 East 41st Street, Austin. According to the complete agenda, the committee will study and discuss plumbing inspector examinations and qualifications.

Contact: Lynn Brown, 929 East 41st Street, P.O. Box 4200, Austin, Texas 78765, (512) 458-2145.

Filed: February 7, 1991, 10:30 a.m.

TRD-9101580

Public Utility Commission of Texas

Wednesday, February 13, 1991, 9 a.m. The Public Utility Commission met at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete emergency revised agenda, the commissioners considered the appeal of Examiner's Order-oral ruling made on January 31, 1991 in Docket Number 9850-application of Houston Lighting and Power Authority to change rates. The emergency status was necessary as prompt commission action was necessary to preserve jurisdiction over the subject matter of the appeal.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 12, 1991, 3:12 p.m.

TRD-9101743

Monday, March 4, 1991, 2 p.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, (CHR), Austin. According to the complete agenda, the commission will hear public comments and consider adoption of the staff's long-term electric peak demand and capacity resource forecast for Texas 1990.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 13, 1991, 3:50 p.m.

TRD-9101859

Tuesday, March 26, 1991, 10 a.m. The Hearings Division of the Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 9760-application of Southwestern Bell Telephone Company to introduce operator services in section 17 of the Intrastate access service tariff.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 12, 1991, 3:14 p.m.

TRD-9101745

Monday, April 29, 1991, 10 a.m. The Hearings Division of the Public Utility Commission will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 9992-petition of Fannin County Electric Cooperative, Inc. for authority to change rates.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 12, 1991, 3:13 p.m.

TRD-9101744

Railroad Commission of Texas

Wednesday, February 20, 1991, 10 a.m. The Railroad Commission of Texas will meet at the William B. Travis Building, 1701 North Congress Avenue, 12th Floor Conference Room, Austin. According to the agenda summary, the commission will hold a statewide hearing on oil and gas.

Contact: Paula Middleton, P.O. Box 12967, Austin, Texas 78711, (512) 463-6729.

Filed: February 8, 1991, 10:47 a.m.

TRD-9101633

Texas National Research Laboratory Commission

Wednesday, February 20, 1991, 9 a.m. The Texas National Research Laboratory Commission will meet at the Ennis Chamber of Commerce, 108 Wagonwheel Drive, Ennis. According to the agenda summary, the commission will take roll call of members; meet in executive session to discuss land acquisition, personnel; hear Chairman's report-J. Fred Bucy; Executive Director's report-Edward C. Bingler; special report-Peter O'Donnell, Jr.; General Counsel's report-Michael J. Shearn; and committee reports on budget and finance; land acquisition; commissioner reports; regional

planning; and research and development.

Contact: Karen Chrestay, 1801 North Hampton Street, #400, DeSoto, Texas 75115, (214) 709-3800.

Filed: February 12, 1991, 4:07 p.m.

TRD-9101751

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Texas Council on Vocational Education

Wednesday, February 27, 1991, 8 a.m. The Texas Council on Vocational Education will meet at the Austin Community College District Administration Office, 5930 Middle Fiskville Road, Austin. According to the agenda summary, the council will hold a public forum to receive public testimony on issues relevant to vocational education.

Contact: Will Reece, P.O. Box 1886, Austin, Texas 78767, or 1717 West 6th Street, Suite 360, Austin, Texas 78703, (512) 463-5490.

Filed: February 12, 1991, 10:42 a.m.

TRD-9101720

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Texas Southern University

Thursday, February 21, 1991, 4 p.m. The Finance Committee of Texas Southern University will meet at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the committee will consider matters relating to financial reporting systems, and budgets; fiscal reports from the administration; investments; and informational items.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: February 13, 1991, 9:05 a.m.

TRD-9101789

Tuesday, February 19, 1991, 5 p.m. The Development Committee of Texas Southern University will meet at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the committee will consider reports from the administration on university fund raising.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: February 13, 1991, 9:05 a.m.

TRD-9101790

Tuesday, February 19, 1991, 4 p.m. The Building and Grounds Committee of Texas Southern University will meet at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the com-

mittee will consider construction change orders; payment to architects contractors and engineers; authorization and ratification of contracts and awards; and review of on going construction and current contractual relations.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: February 13, 1991, 9:06 a.m.

TRD-9101791

Wednesday, February 27, 1991, 5:30 p.m. The Board of Regents Academic Affairs and Personnel Committees of Texas Southern University will meet at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the committees will consider report on progress of academic activities and programs; and personnel actions.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: February 13, 1991, 9:07 a.m.

TRD-9101793

Friday, March 1, 1991, 8:30 a.m. The Board of Regents of Texas Southern University will meet at Texas Southern University, 3100 Cleburne Avenue, University Library, Fifth Floor, Houston. According to the complete agenda, the board will consider and approve minutes; budget changes; investments; budgets for restricted and/or grants and projects funds; construction change orders; authorization and ratification of contracts and awards; review of on going construction and current contractual relations; personnel actions; report on progress of academic activities and programs; report of the president; and meet in executive session.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: February 13, 1991, 9:06 a.m.

TRD-9101792

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University of Houston

Monday, February 18, 1991, 2 p.m. The Animal Care Committee of the University of Houston will meet at the University of Houston, 4800 Calhoun Boulevard, S&R II, Room 201, Houston. According to the agenda summary, the committee will discuss and/or act upon the following: review and approve minutes from January 21, 1991 meeting; and review new protocols.

Contact: Julie T. Norris, 4800 Calhoun Boulevard, Houston, Texas 77204, (713) 749-3412.

Filed: February 12, 1991, 10:45 a.m.

TRD-9101723

Texas Water Commission

Thursday, February 14, 1991, 10 a.m. The Texas Water Commission met at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 123, Austin. According to the emergency revised agenda summary, the commission considered the executive director's report on agency administration, policy, budget procedures, and personnel matters. The emergency action was necessary to ensure adequate water service to protect the health and welfare of the public.

Contact: Gloria Barrera, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: February 13, 1991, 4:07 p.m.

TRD-9101863

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Regional Meetings

Meetings Filed February 12, 1991

The Bexar Appraisal District Appraisal Review Board will meet at 535 South Main Street, San Antonio, February 19, 1991, at 8:30 a.m. Information may be obtained from Beverly M. Houston, 535 South Main Street, San Antonio, Texas 78204, (512) 224-8511. TRD-9101736.

The Burnet County Appraisal District Board of Directors will meet at 223 South Pierce Street, Burnet, February 21, 1991, at 6:30 p.m. Information may be obtained from Barbara Ratliff, P.O. Drawer E, Burnet, Texas 78611, (512) 756-8291. TRD-9101725.

The Deep East Texas Private Industry Council, Inc. will meet at the Lufkin City Hall, Room 202, Lufkin, February 20, 1991, at 2 p.m. Information may be obtained from Charlene Meadows, P.O. Box 1423, Lufkin, Texas 75901, (409) 634-4432. TRD-9101728.

The Deep East Texas Private Industry Council, Inc. Worker Adjustment Committee will meet at the Lufkin City Hall, Room 202, Lufkin, February 20, 1991, at 1:30 p.m. Information may be obtained from Charlene Meadows, P.O. Box 1423, Lufkin, Texas 75901, (409) 634-4432. TRD-9101727.

The Education Service Center, Region XIII Board of Directors met at The Education Service Center, Region XIII, Conference Room 201, 5701 Springdale Road, Austin, February 18, 1991, at 12:45 p.m. Information may be obtained from Dr. Joe Parks, 5701 Springdale Road, Texas 78723, (512) 929-1300. TRD-9101735.

The Harris County Appraisal District Board of Directors will meet at 2800 North Loop West, Eighth Floor, Houston, February 20, 1991, at 9:30 a.m. Information may be obtained from Margie Hilliard, P.O. Bo.

920975, Houston, Texas 77292-0975, (713) 957-5291. TRD-9101729.

The Hunt County Appraisal District Board of Directors will meet at the Hunt County Appraisal District, Board Room, 4801 King Street, Greenville, February 19, 1991, at 7 p.m. Information may be obtained from Mildred Compton or Shirley Smith, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510. TRD-9101746.

The Liberty County Central Appraisal District Board of Directors will meet at 315 Main Street, Liberty, February 27, 1991, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (489) 336-5722. TRD-9101722.

The Texas Rural Communities Board of Directors will meet at 314 Highland Mall Boulevard, Austin, March 7, 1991, at 9 a.m. Information may be obtained from Leslie Janca, 314 Highland Mall Boulevard, Austin, Texas 78752, (512) 458-1016. TRD-9101726.

The Trinity River Authority of Texas Resources Development Committee met at 5300 South Collins Street, Arlington, February 18, 1991, at 10:30 a.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9101724.



Meetings Filed February 13, 1991

The Austin Transportation Study Executive Committee, Policy Advisory Committee will meet at the Travis County Administration Building, 314 West 11th Street, First Floor Conference Room, Austin, February 19, 1991, at 6 p.m. Information may be obtained from Joseph P. Gieselman, 811 Barton Springs Road, Suite 700, Austin, Texas 78704, (512) 472-7483. TRD-9101838.

The Bexar-Medina-Atascosa Counties Water Control Seven Board of Directors met at the District Office, Highway 81, Natalia, February 18, 1991, at 9 a.m. Information may be obtained from C. A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-232. TRD-9101794.

The Central Texas Council of Governments Executive Committee will meet at

302 East Central, Belton, February 28, 1991, at 12:45 p.m. Information may be obtained from A. C. Johnson, P.O. Box 729, Belton, Texas 76513, (817) 939-1801. TRD-9101788.

The Education Service Center, Region VI Board of Directors will meet at the Briarcrest Country Club, Bryan, February 21, 1991, at 5 p.m. Information may be obtained from Bobby Roberts, 3332 Montgomery Road, Huntsville, Texas 77340, (409) 295-9161. TRD-9101842.

The Erath County Appraisal District Board of Directors will meet at the Board Room, 1390 Harbin Drive, Stephenville, February 20, 1991, at 9:30 a.m. Information may be obtained from Trecia Perales, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9101841.

The Guadalupe-Blanco River Authority Board of Directors will meet at the Authority's Offices, 933 East Court Street, Seguin, February 21, 1991, at 10 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78156-0271, (512) 379-5822. TRD-9101787.

The Henderson County Appraisal District Board of Directors met at 1751 Enterprise, Athens, February 18, 1991, at 7:30 p.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise, Athens, Texas 75751, (903) 675-9296. TRD-9101802.

The Hockley County Appraisal District Board of Directors will meet at 1103-C Houston Street, Levelland, February 18, 1991, at 7 p.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654. TRD-9101844.

The Limestone County Appraisal District Board of Directors will meet at the Limestone County Courthouse, Meeting Room, Second Floor, Groesbeck, February 20, 1991, at 5:10 p.m. Information may be obtained from Clydene Hyden, P.O. Drawer 831, Groesbeck, Texas 76642, (817) 729-3009. TRD-9101843.

The Palo Pinto Appraisal District Agricultural Appraisal Advisory Board will meet at the Palo Pinto County Courthouse, Palo Pinto, February 19, 1991, at 7 p.m. Information may be obtained from Jack Samford, P.O. Box 250, Palo Pinto, Texas 76072, (817) 659-1234. TRD-9101837.

The Palo Pinto Appraisal District Board of Directors will meet at the Palo Pinto County Courthouse, Palo Pinto, February 29, 1991, at 3 p.m. Information may be obtained from Jack Samford, P.O. Box 250, Palo Pinto, Texas 76072, (817) 659-1234. TRD-9101836.

The Region 12 Education Service Center Administrative Committee will meet at the Waco Hilton-113 University Parks Drive, Waco, February 21, 1991, at noon. Information may be obtained from Dr. Harry J. Beavers, P.O. Box 1249, Waco, Texas 76703-1249, (817) 756-7494. TRD-9101839.

The Trinity River Authority of Texas Administration Committee will meet at 5300 South Collins Street, Arlington, February 19, 1991, at 10:30 a.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9101831.

The Trinity River Authority of Texas Central Regional Wastewater System Right-of-Way Committee will meet at 5300 South Collins Street, Arlington, February 19, 1991, at 11:45 a.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9101832.

The Trinity River Authority of Texas Legal Committee will meet at 5300 South Collins Street, Arlington, February 19, 1991, at 1:30 p.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9101830.

The Wood County Appraisal District Appraisal Review Board will meet at the Wood County Appraisal District, 217 North Main Street, Conference Room, Quitman, February 19, 1991, at 9 a.m. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 951, Quitman, Texas 75783, (903) 763-4891. TRD-9101786.

The Wood County Appraisal District Board of Directors will meet at the Wood County Appraisal District, 217 North Main Street, Conference Room, Quitman, February 19, 1991, at 9 a.m. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 951, Quitman, Texas 75783, (903) 763-4891. TRD-9101785.





Name: Blake Mycoskie
Grade: 8
School: Boles Junior High, Arlington 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 Banking

Notice of Application

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On February 8, 1991, the banking commissioner received an application to acquire control of Caprock Bancshares, Inc., Shallowater, thereby acquiring control of the First State Bank, Shallowater, by David D. Workman, Shallowater, and Mark A. Workman, Lubbock.

Additional information may be obtained from: William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas, on February 8, 1991.

TRD-9101686 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: February 11, 1991

For further information, please call: (512) 479-1200



Texas Department of Commerce

Bi-Weekly Report on the 1991 Allocation of the State Ceiling on Certain Private Activity Bonds

The Tax Reform Act of 1986 (the Tax Act) imposes a volume ceiling on the aggregate principal amount of private activity bonds that may be issued within the State of Texas during any calendar year. The state ceiling for Texas, imposed by the Tax Act for calendar year 1991 is \$852,990,250.

State legislation, Texas Civil Statutes, Article 5190.9a (the Act), established the allocation process for the State of Texas. The Act specifies that thirty-three percent of the state ceiling is to be made available to qualified mortgage bonds and of that amount, one-third is available to the Texas Housing Agency and two-thirds is available to local issuers. Fifteen percent of the state ceiling is available to state-voted issues, ten percent of the state ceiling is available for issuers of bonds for manufacturing and related facilities, and the balance of the state ceiling is available for issuers of bonds for manufacturing and related facilities, and the balance of the state ceiling is available for all other issuers of bonds requiring an allocation.

Pursuant to the Act, the aggregate amount for qualified mortgage bond subceiling is \$281,486,783 with \$187,657,855 available to local housing authorities and \$93,828,928 is available to the Texas Housing Agency. The aggregate amount for state-voted issues is

\$127,948,537, the amount for manufacturing and related facilities is \$85,299,025, and the amount for all other bonds requiring an allocation is \$358,255,905.

Generally, the state ceiling is allocated by lottery for applications received from January 2-January 10, and thereafter on a first-come first-served basis, with the Texas Department of Commerce administering the allocation system.

The information that follows is a report of the allocation activity for the period, January 21, 1991-February 1, 1991.

Total amount of state ceiling remaining unreserved for the \$281,486,783 subceiling for qualified mortgage bonds under the Act as of February 1, 1991: \$209,714,283.

Total amount of state ceiling remaining unreserved for the \$127,948,537 subceiling for state-voted issues under the Act as of February 1, 1991: \$102,937,705.

Total amount of state ceiling unreserved for the \$85,299,025 subceiling for manufacturing and related facilities under the Act as of February 1, 1991: \$55,599,025.

Total amount of state ceiling remaining unreserved for the \$358,255,905 subceiling for all other bonds under the Act as of February 1, 1991: \$247,222,500.

Total amount of the \$852,990,250 state ceiling remaining unreserved as of February 1, 1991: \$615,473,513.

Comprehensive listing of bond issues which have received a reservation date pursuant to the Act from January 21, 1991-February 1, 1991: Texas Higher Education Coordinating Board, Qualified Applicants, Student Loan Bonds, \$25,010,832; Gainesville Industrial Development Corporation, GTE Valenite Corporation, Qualified Small Issue, \$5,000,000; Caldwell County Industrial Development Corporation, America Provides Foundation, Qualified Small Issue, \$9,500,000; Travis County Housing Finance Corporation, The Prime Group The Ridge Apartments, Multi-Family Housing, \$11,400,000; San Antonio Housing Finance Corporation, Turtle Creek Apartment Investors Wolfcreek Apartments, Multi-Family Housing, \$9,000,000; San Antonio Housing Finance Corporation, The Prime Group Walnut Apartments, Multi-Family Housing, \$31,900,000; Brazos River Authority, Twin Oaks Steam Electric, Solid Waste Disposal Facility, \$50,000,000; San Antonio Housing Finance Corporation, Salado Investment Corporation Lamplighter Apartments, Multi-Family Housing, \$1,000,000; Alamo Area Housing Finance Corporation, Qualified Borrowers, Mortgage Revenue Bonds, \$20,797,500; Harlingen Housing Finance Corporation, Qualified Borrowers, Mortgage Revenue Bonds, \$11,752,500; Denton County Housing Finance Corporation, Qualified Borrowers, Mortgage Revenue Bonds, \$17,165,000; Central Texas Housing Finance Corporation, Qualified Borrowers, Mortgage Revenue Bonds, \$22,057,500; Hidalgo County Industrial Development Corporation, Apollo Manufacturing, Inc., Qualified Small Issue, \$10,000,000; Harris County Industrial Development Corporation, Precision General, Inc., Qualified Small Issue, \$5,200,000; Travis County Housing Finance Corpora-

tion, The Prime Group Quail Ridge Apartments, Multi-Family Housing, \$4, 900,000; San Antonio Housing Finance Corporation, The Prime Group Sunray Apartments, Multi-Family Housing, \$2,833,405.

Issued in Austin, Texas, on February 7, 1991.

TRD-9101698 William D. Taylor
Executive Director
Texas Department of Commerce

Filed: February 11, 1991

For further information, please call: (512) 472-5059

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**Texas Department of Human Services
Notice of Public Hearing**

The Texas Department of Human Services will conduct a public hearing to receive comments on the department's proposed reimbursement rates for the Rehabilitative Services and the Day Activity and Health Services Programs. The hearing is held in compliance with the provisions of HRC, §32.028, which require a public hearing on proposed reimbursement rates for medical assistance programs. The public hearing will be held on March 12, 1991, at 9 a.m. in the public hearing room of the John H. Winters Center (701 West 51st Street, Austin, First Floor, East Tower). Interested parties may request to have mailed to them or may pick up a briefing package on or after February 26, 1991, concerning the proposed reimbursement rates by contacting Kathy E. Hall, MC E-601, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3702.

Issued in Austin, Texas, on February 13, 1991.

TRD-9101799 Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: February 13, 1991

For further information, please call: (512) 450-3765

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Notice of Rescheduled Public Hearing

The Texas Department of Human Services (TDHS) will not receive comments on the department's proposed reimbursement rates for the Rehabilitative Services Program at the public hearing to be held on February 27, 1991. Comments will be received on the reimbursement rates for the Rehabilitative Services Program at a hearing to be held by TDHS on March 12, 1991. The hearing is held in compliance with the provisions of HRC, §32.028, which require a public hearing on proposed reimbursement rates for medical assistance programs. The March 12, 1991, public hearing will be held at 9 a.m. in the public hearing room of the John H. Winters Center (701 West 51st Street, Austin, First Floor, East Tower). Interested parties may request to have mailed to them or may pick up a briefing package on or after February 26, 1991, concerning the proposed reimbursement rates by contacting Kathy E. Hall, MC E-601, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3702.

Issued in Austin, Texas, on February 12, 1991.

TRD-9101800 Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: February 13, 1991

For further information, please call: (512) 450-3765

Public Notice Open Solicitation

Pursuant to 40 TAC §19.2004, in the September 11, 1990, issue of the *Texas Register* (15 TexReg. 5315), and Title 2, Chapters 22 and 32 of the Human Resources Code, the Texas Department of Human Services (TDHS) is announcing the reopening of the open solicitation period for Bosque County, County Number 018, identified in the November 21, 1989, issue of the *Texas Register* (14 TexReg 6144). Potential contractors desiring to construct a 90-bed nursing facility in the above referenced area must submit a written reply (as described in 40 TAC §19.2004) to TDHS, Gary L. Allen, Institutional Programs Section, Long Term Care Department, Mail Code W-519, P.O. Box 149030, Austin, Texas 78714-9030. Upon receipt of a reply from a potential contractor, TDHS will place a notice in the *Texas Register* to announce the closing date of the reopened solicitation period.

Issued in Austin, Texas, on February 12, 1991.

TRD-9101732 Nancy Murphy
Agency Liaison, Policy and Document
Support
Texas Department of Human Services

Filed: February 12, 1991

For further information, please call: (512) 450-3765

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**Texas Water Commission
Notice of Application For Waste
Disposal Permit**

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of February 4-8, 1991.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7906.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

Amoco Chemical Company: Texas City: a tank farm and dock area: approximately 3,200 feet east of the termination of the Barge Canal, Galveston County; 00452; renewal.

Baroid Management Company: Houston: wastewater treatment facilities: approximately 2.5 miles west of U.S. Highway 59, on Morales Road about 2,000 feet south of Sam Houston Parkway on a tract designated as 3000 North Sam Houston Parkway East in Harris County; 12046-01; renewal.

Johannes De Jong, J & I Dairy, Inc.; Winnsboro; a dairy; approximately one and one half miles east of the intersection of FM Road 154 and FM 2869 in Wood County; 03255; new.

Hans Ulbe Degroot; Sulphur Springs; a dairy; approximately 1.6 miles south of the intersection of State Highway 11 and County Road 2331 and approximately 1.8 miles southwest of the intersection of State Highway 11 and FM Road 1870 in Hopkins County; 03265; new.

City of Diboll; wastewater treatment facilities; approximately 1,500 feet west of the crossing of White Oak Creek by U.S. Highway 59 on the south side of Diboll in Angelina County 10288-01; renewal.

Gore's Inc. doing business as Hillcrest Dairy; Comanche; a dairy; approximately 0.8 mile east of State Highway 16 and approximately one mile south of U.S. Highway 377 in Comanche County; 03312; new.

Phillips 66 Company; Borger; approximately one mile west of FM Road 1336, near Borger in Hutchinson County; HW-50271, EPA LD. Number TXD-091263558; new closure and post-closure permit and a compliance plan; 45-day notice.

Roy Roy Dairy, Inc.; Midland; a dairy; approximately two miles south of the intersection of U.S. Highway 80 and Midkiff Road in Midland County; 03175; new.

Sagerton Milk Producers, Inc.; a dairy; approximately four miles southeast of Rule, approximately three miles south of U.S. Highway 380 on an unnamed county road in Haskell County; 03307; new.

City of the Colony; wastewater treatment facilities; approximately 2.7 miles north and 0.2 mile east of the intersection of State Highway 121 and FM road 423, near Stewart Creek in the City of the Colony in Denton County; 11570-01; amendment.

United States Department of Energy; DeSoto; wastewater treatment plant; approximately 1,000 feet north of the intersection of FM Road 1446 and Hoyt Road, approximately 4.5 miles west of the intersection of Interstate Highway 35E and FM 1446 in Ellis County; 13557-01; new.

Curtis Voss; Stephenville; a dairy; approximately two miles southwest of the intersection of FM Road 914 and FM Road 847 in Erath County; 03286; new.

Vulcan Materials Company; San Antonio; a quarry producing crushed limestone and an asphalt plant; approximately 2.25 miles southeast of the City of Eastland and adjacent to Lake Olden, Eastland County; 03329; new.

J. C. Walter, Jr.; Houston; wastewater treatment facilities; approximately 3, 300 feet southeast of the intersection of Freeman Road (FM Road 529) and Stockdick Road in Harris County; 13146-01; renewal.

Issued in Austin, Texas, on February 11, 1991.

TRD-9101702

Brenda W. Foeter
Chief Clerk
Texas Water Commission

Filed: February 11, 1991

For further information, please call (512) 463-7906

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**Texas Workers' Compensation
Commission**

Correction of Error

The Texas Workers' Compensation submitted adopted new 28 TAC §122.2 for publication in the January 11, 1991, issue of the *Texas Register* (16 TexReg 173).

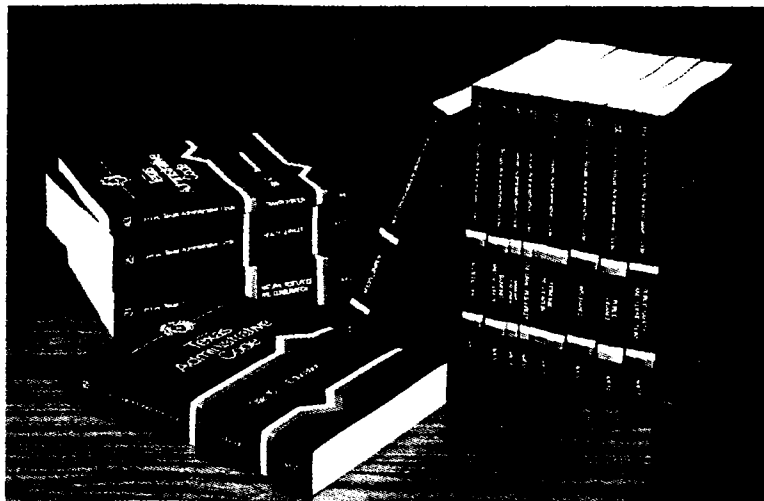
In the preamble, fifth paragraph, last sentence, a typographical error misspells the word "identity". The sentence should read: "The commission disagrees, as the identity of witnesses are important to prompt payment or investigation of the claim."

In the seventh paragraph, the words "of time" should be inserted between the words "length" and "after". The sentence should read as follows: "The commission further clarified the penalty provisions under subsection (f) by including the length of time after which filing a claim may preclude benefits."

In §122.2(f), the phrase "from the incident" was omitted. The sentence should read as follows: "Failure to file a claim for compensation with the commission no later than one year from the incident shall relieve the employer's insurance carrier from liability."

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