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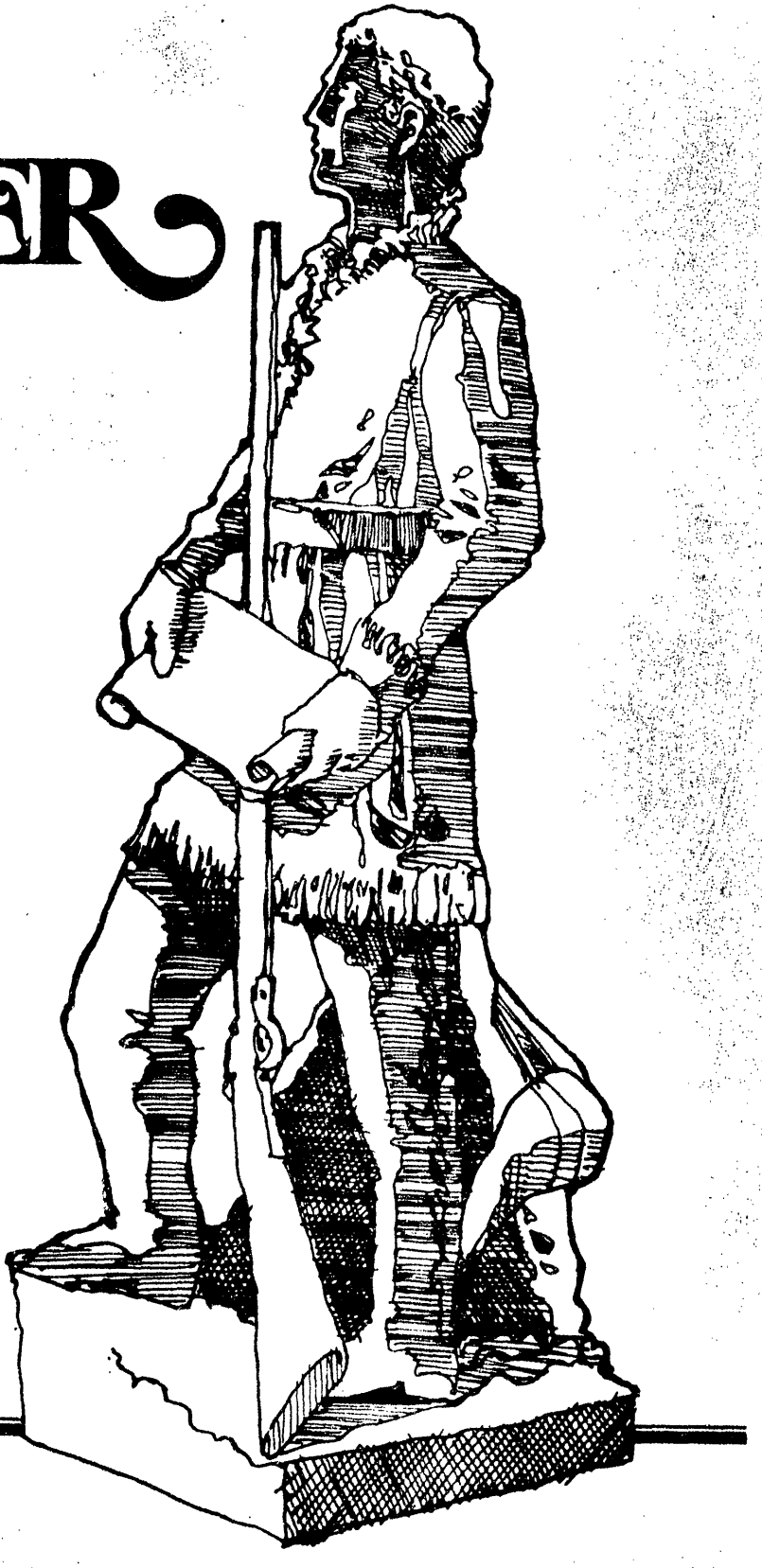
Pages 3443 - 3528

TEXAS REGISTER



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Texas Board of Irrigators adopts emergency rules concerning procedures, examinations, registrations, and certification; effective date—September 18 3448

Emergency amendments adopted by Real Estate Commission concerning licensure as real estate broker; effective date—September 18 . 3453

Texas Education Agency proposes amendments to goals for public school education; proposed date of adoption—November 10 3455

New rules and amendments concerning care for mentally retarded children, basic child care, and therapeutic camps proposed by Department of Human Resources; proposed date of adoption—November 5 3469

Texas State Board of Public Accountancy proposes new rules of professional conduct and board procedures; proposed date of adoption—October 26 3494

Department of Corrections adopts rules concerning inmate conduct; effective date—October 8 3501

Office of the Secretary of State

NOTES ON THE ISSUE

The Texas State Board of Public Accountancy proposes for permanent adoption new rules which it adopted on an emergency basis in the September 11 issue. Among the proposals are new rules of professional conduct which the board is required to promulgate under the Public Accountancy Act of 1979, passed by the 66th Legislature. To govern the practice of accounting by persons regulated by the board, these rules include descriptions of (1) the information which may be included in an advertisement for accounting services; (2) the situations in which a certified public accountant or public accountant may solicit prospective clients; and (3) the occasions when competitive bidding by persons regulated by the board is prohibited.

The senate proposes to study three state agencies (the Department of Human Resources, the Office of the Comptroller of Public Accounts, and the State Purchasing and General Services Commission) in order to determine ways to reduce state-generated paperwork, to better organize and store information gained from such paperwork, and to consolidate computer use by state agencies. Reducing paperwork will involve conducting a complete inventory of all forms, statements, and reports; eliminating obsolete forms; and consolidating and shortening forms in use. Determining efficient ways of organizing and storing of information will involve study of storage methods, of space requirements, of utilization of stored information, and of possibilities of information sharing between state agencies. The computer use study will involve a listing of all computers used by the target agencies and exploring the feasibility of consolidation, reduction, and elimination. Contingent upon the results of this study, an extension of the project to all state agencies is possible. A discussion of the proposed study appears in the In Addition section.

Cover illustration represents Elisabet Ney's statue of Stephen F. Austin, which stands in the foyer of the State Capitol.

Artwork: Gary Thornton

TEXAS REGISTER

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Secretary of State

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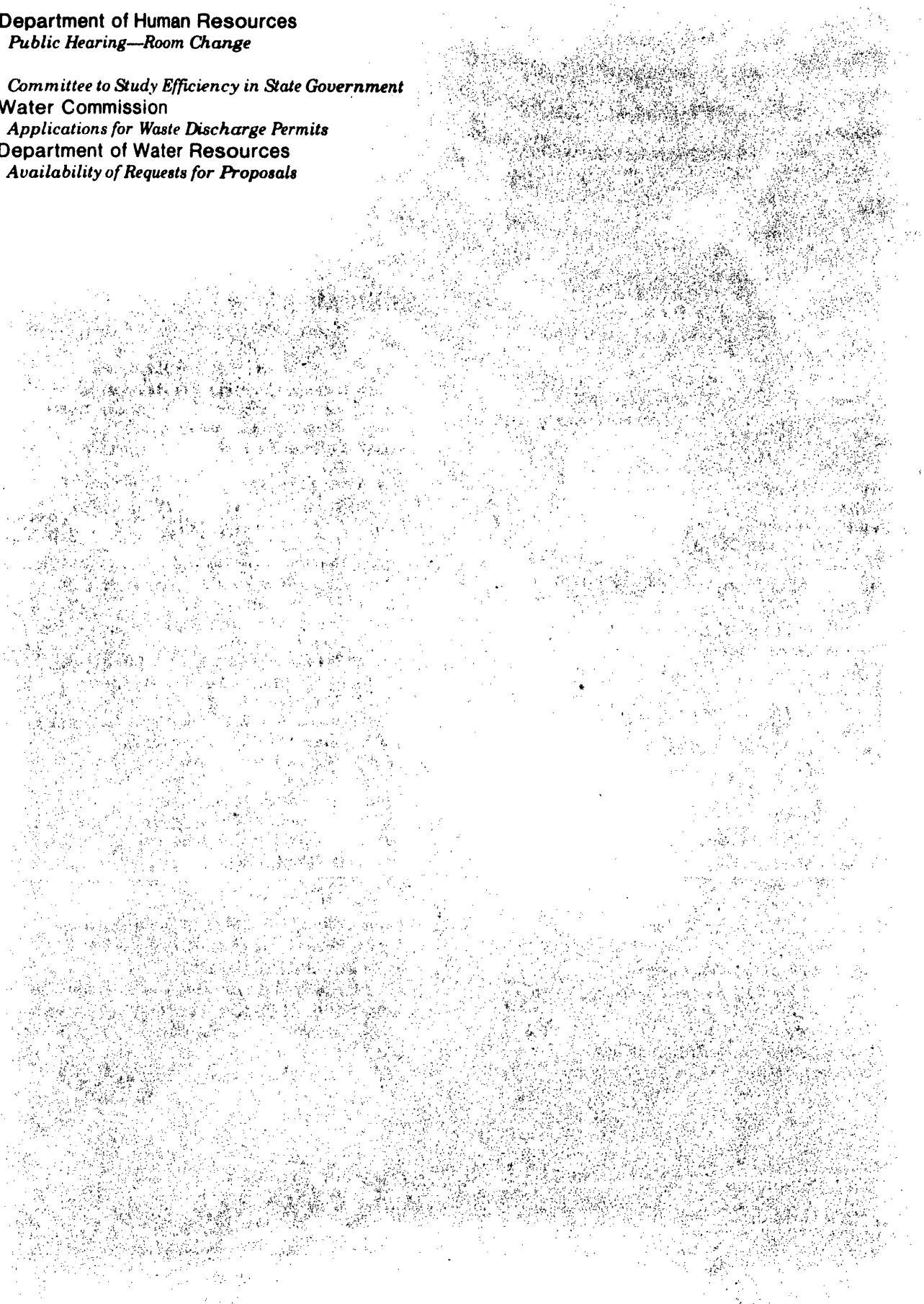

Article 4399, Vernon's Texas Civil Statutes, requires the attorney general to give written opinions to certain public officials. The Texas Open Records Act, Article 6252-17a, Section 7, Vernon's Texas Civil Statutes, requires that a governmental body which receives a request for release of records seek a decision of the attorney general if the governmental body determines that the information may be withheld from public disclosure. Opinions and open records decisions issued under the authority of these two statutes, as well as the request for opinions and decisions, are required to be summarized in the *Texas Register*.

Copies of requests, opinions, and open records decisions may be obtained from the Opinion Committee, Attorney General's Office, Supreme Court Building, Austin, Texas 78701, telephone (512) 475-5445.

Opinions

Summary of Opinion MW-56

Request from M. L. Brockette, commissioner of education, Texas Education Agency, Austin, concerning whether a school district may employ relatives of the school superintendent without violating the nepotism laws.

Summary of Opinion: A school district may employ relatives of the superintendent where he exercises no control over who is selected and does not himself appoint or hire his relatives.

Doc. No. 796115

Summary of Opinion MW-57

Request from James M. Windham, chairman, Texas Board of Corrections, Livingston, concerning construction of a new prison.

Summary of Opinion: The Department of Corrections may purchase a site for a new prison solely from the appropriation for prison construction. Those funds are not burdened with geographic limitations.

Doc. No. 796129

Open Records Decisions

Summary of Open Records Decision ORD-226

Request from Jerome Chapman, commissioner, Texas Department of Human Resources, Austin, concerning whether information in employee's IRS Form W-2 is public under the Open Records Act.

Summary of Decision: Information on a public employee's W-2 form revealing the amount of federal income tax withheld, FICA tax withheld, and total FICA wages is not required to be released under the Open Records Act.

Issued in Austin, Texas, on September 17, 1979.

Doc No. 796170

C. Robert Heath
Opinion Committee Chairman
Attorney General's Office

For further information, please call (512) 475-5445.

An agency may adopt emergency rules after determining what it considers to be an imminent peril to the public health, safety, or welfare. These rules may be effective immediately on filing with the secretary of state for no more than 120 days, renewable once for no more than 60 days. An agency must submit written reasons, published in the *Register*, for the emergency adoption of rules.

Numbering System—Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the chapter of rules to which the rule belongs. The third unit (two digits) indicates the subchapter of rules, if any, within the chapter. The fourth unit (three digits) indicates the individual rule.

Symbology—Changes to existing material are indicated in ***bold italics***. [Brackets] indicate deletion of existing material.

Texas Board of Irrigators

Pursuant to the authority granted by the Texas Laws 1979, Chapter 197, Section 7, the Texas Board of Irrigators has resolved that, due to the recent enactment of Chapter 197 and appointment of the Texas Board of Irrigators pursuant thereto and the need to have effective rules pertaining to the board, its examination and registration of irrigators and installers, and the board's administration of complaints and violations of Chapter 197 and the board's rules, adoption of emergency rules on fewer than 30 days' notice is necessary. The Texas Board of Irrigators adopts on an emergency basis, the following rules relating to the board, its examination and registration of irrigators and installers, the certificate of registration and seal, and procedures regarding complaints of violations of Chapter 197 and the board's rules.

Introductory Provisions

General Provisions 409.01.01

Rules 409.01.01.001 and .005 are adopted under the authority of Texas Laws 1979, Chapter 197, Section 7.

.001. Definitions. In these rules:

(a) "Person" means a natural person.

(b) "Board" means the Texas Board of Irrigators.

(c) "Executive director" means the executive director of the Texas Department of Water Resources.

(d) "Executive secretary" means the executive secretary of the board.

(e) "Commission" means the Texas Water Commission.

(f) "Irrigation system" means an assembly of component parts permanently installed with and for the controlled distribution and conservation of water for the purpose of irrigating any type of landscape vegetation in any location or for the purpose of dust reduction or erosion control.

(g) "Irrigator" means a person who maintains a regular place of business and who by himself or through a person in his employ sells, designs, consults, installs, maintains, alters, repairs, or services an irrigation system or yard sprinkler system including connections in and to a private or public raw or potable water supply or water supply system.

(h) "Licensed irrigator" means an irrigator registered under Article 8751, Vernon's Texas Civil Statutes, pursuant to these rules.

(i) "Installer" means a person who performs the actual connection to private or public raw or potable water supply systems.

(j) "Licensed installer" means an installer registered under Article 8751, Vernon's Texas Civil Statutes, pursuant to these rules.

.005. Purposes of Rules. The purposes of these rules, regulations, and policies are to implement the powers and duties assigned to the Texas Board of Irrigators and its executive secretary by Article 8751, Vernon's Texas Civil Statutes, and other laws of this state, and to establish the general policies which are specifically applicable to the board. These rules shall be given a reasonable, fair, and impartial interpretation.

Doc. No 796171

General Provisions Affecting Board 409.01.05

Rules 409.01.05.001, .005, .010, .015, .020, .025, .030, .035, .040, and .045 are adopted under the authority of Texas Laws 1979, Chapter 197, Section 7.

.001. Office. The official place of business of the board shall be the office of its executive secretary in Austin, Texas, that is approved by the executive director.

.005. Person for Service of Process. The executive secretary, at the address of the board's official place of business, shall be the person upon whom service of process may be served in judicial proceedings against the board.

.010. Official Seal. The official seal of the board will bear the words "Texas Board of Irrigators" encircling the oak and olive branches common to other official seals.

.015. Meetings and Notices Thereof.

(a) The board shall hold at least two regular meetings each year at times and places designated by its chairman.

(b) The board may hold other meetings at times and places considered necessary by a majority of the members of the board or the chairman of the board.

(c) The board shall give notice of its meetings and shall hold its meetings in accordance with the open meetings law, Article 6252-17, Vernon's Texas Civil Statutes.

.020. Quorum. Four members of the board shall constitute a quorum for the transaction of business. The chairman of the board is a voting member.

.025. Officers and Employees.

(a) The board shall elect a chairman who shall hold office for two years or until his successor shall have been elected. The chairman may be removed by the board for cause, but his removal does not disqualify him from continuing as a member of the board. When present, the chairman shall preside at all meetings, sign all certificates of registration issued, and perform all other duties pertaining to the office.

(b) The board may elect a vice chairman who shall hold office for two years. In the absence of the chairman, the vice chairman shall fulfill all responsibilities of the chairman.

(c) The board may employ an executive secretary approved by the executive director to serve at the will of the

board. The executive secretary shall perform the duties and functions provided by Article 8751, Vernon's Texas Civil Statutes, and as directed by the board. The board shall arrange for necessary office space with the executive director to house the staff and records.

(d) The executive secretary is authorized to request personnel assistance from the executive director.

.030. Official Records.

(a) Among other official records required by law, or by rules of other agencies, there shall be kept in the office of the executive secretary accurate and current records, including but not limited to:

(1) Minutes—a record containing, in chronological order, minutes of all meetings of the board.

(2) Record of registrants—a record containing the name and registration number of all persons to whom certificates of registration are issued, the last known address of all registrants, and a record of all current renewals effected through annual registrations.

(3) Registrant records—an individual record for each registrant containing the original application, relevant verification and evaluation data, records of examinations and grades, date of original registration and a record of annual registrations and fees received after original registration, and when applicable, records of alleged violations, suspensions, and revocations.

(4) Finances—a system of record-keeping correctly and currently indicating funds budgeted, committed, spent, and remaining, as well as projects of appropriate requests for consideration in budget development.

(b) Subject to the limitations provided in the Open Records Act, Article 6252-17a, Vernon's Texas Civil Statutes, information collected, assembled, or maintained by the board or its executive secretary is public information open to inspection and copying during regular business hours.

.035. Signing Certificates. Each certificate of registration shall be signed by the chairman of the board and shall bear the seal of the Texas Board of Irrigators.

.040. Liaison with Secretary of State. The general counsel of the Texas Department of Water Resources or, in his absence, his designated representative shall be the liaison through whom all required documents may be submitted on behalf of the board to the secretary of state for filing and publication.

.045. Irrigation Standards and Testing Procedures. The board shall remain current on national irrigation testing procedures as well as national and state requirements governing irrigation systems.

Doc. No. 796172

Registration of Irrigators and Installers

Application for Registration 409.02.01

Rules 409.02.01.001, .005, .010, .015, .020, .025, .030, and .035 are adopted under the authority of Texas Laws 1979, Chapter 197, Section 7.

.001. Eligibility for Certificates of Registration.

(a) The board may issue certificates of registration only to individuals who are eligible for registration as irrigators or installers under Article 8751, Vernon's Texas Civil Statutes, and these rules. No certificate of registration may be issued to any firm, partnership, corporation, or other group of persons.

(b) No individual is eligible to receive an irrigator's or installer's certificate of registration unless he has applied for it pursuant to these rules and:

(1) the board has determined that he is a person of good moral character who has passed a uniform, reasonable examination for irrigators or installers, as applicable, administered by the board in accordance with these rules; or

(2) the board has determined that he is registered as an irrigator or an installer in another state or country that has requirements for registration that are substantially equivalent to the requirements of Texas and that extends the same privilege of reciprocity to licensed irrigators or licensed installers registered in Texas.

.005. Applications for Certificates of Registration.

(a) Every person applying for an irrigator's or installer's certificate of registration shall complete a required application form and submit it to the executive secretary with the required application fee or examination fee.

(b) In addition to submitting his completed application form and application fee, an irrigator or installer holding a certificate of registration in another state or country who wishes to be considered for registration in Texas under reciprocity, shall submit to the executive secretary his certification record from the state or country in which he is registered.

(c) Upon request, the executive secretary shall furnish the required application form and instructions for an irrigator's or installer's certificate of registration.

.010. Application Fees; Form of Payment. Persons applying for an irrigator's certificate of registration shall remit an application or examination fee of $50. Persons applying for an installer's certificate of registration shall remit an application or examination fee of $35. Payments shall be made by personal check, money order, or cashier's check made payable to the Texas Board of Irrigators. These fees shall not be refundable.

.015. Application Processing.

(a) Applications for registration by examination may be made at any time but must be received by the executive secretary at least 30 days prior to the applicant's examination date.

(b) The board shall verify and evaluate each submitted application, and if the board or the executive secretary should require additional relevant information from the applicant, the applicant shall submit such information within the time and form requested in writing.

(c) When received in a complete form and accompanied by the required application or examination fee, as applicable, applications shall be entered into the board's records.

(d) Rejection of an application for registration shall be by letter sent by certified mail to the applicant explaining the board's reasons for rejection, outlining the procedures under which reconsideration may be possible, and explaining the applicant's right to a hearing.

.020. Determination of Application for Registration under Reciprocity. The board's approval of an application for registration under reciprocity shall be given by letter which assigns the applicant a registration number. A certificate of

registration and identification card shall be issued upon the applicant's compliance with Rules 409.03.05.001 and .005.

.025. Incomplete Application Returned. If an applicant submits an incomplete application after the executive secretary has returned the application to the applicant with written instructions to completely answer all parts of the application, the executive secretary may return the application to the applicant again without any further action or explanation.

.030. Rejection of Application.

(a) The board or the executive secretary on behalf of the board may reject an application if:

(1) the applicant has not completely filled in the required application form and submitted it to the executive secretary in accordance with these rules; or

(2) the applicant has failed to remit the required application or examination fee in accordance with these rules.

(b) The board may reject an application if the board finds that the applicant is not of good moral character.

.035. Hearing on Rejected Application.

(a) If the board rejects an application for a certificate of registration, the affected applicant may request a hearing by the board on the board's reasons for rejection as stated in the letter of rejection.

(b) The affected applicant must request a hearing in writing within 10 days after the applicant receives his letter of rejection.

(c) The board shall hold its hearing on the reasons for rejection after it receives the written request for the hearing.

(d) During the hearing, the board shall hear and consider any relevant evidence and argument presented by the affected applicant in support of his application.

(e) The board shall inform the affected applicant of its final decision on his application by certified mail. If the final decision is to uphold its rejection of the application, the board shall state in its final decision the reasons and relevant facts for rejection.

Doc. No. 796173

Examinations 409.02.05

Rules 409.02.05.001, .005, .010, .015, .020, .025, .030, and .035 are adopted under the authority of Texas Laws 1979, Chapter 197, Section 7.

.001. Eligibility for Written Examinations. The board, or any board members or the executive secretary on behalf of the board, shall administer written examinations only to persons who the board has determined to be of good moral character and who have completed the required application form and have submitted it and the required examination fee to the executive secretary in accordance with these rules.

.005. Notification of Examination, Date, Time, and Place. The executive secretary shall notify each eligible person of his examination date, time, and place by first class mail.

.010. Study Materials. Upon request, the executive secretary shall furnish information regarding study materials to persons eligible to take the written examination.

.015. Appearance for Examination; Failure to Appear. Applicants shall appear personally with adequate identification for the written examination at the designated date, time, and place. An applicant who fails to appear for an examination shall forfeit the required examination fee.

.020. Examination Conditions. Examinations shall be conducted under conditions warranting honest and best results. The executive secretary, individual board members, or their designees shall monitor all tests. Examinees shall not be permitted to communicate with anyone except proctors during the examination period.

.025. Grading; Minimum Passing Score. A score of 70% or more on the applicable examination is required for registration as an irrigator or installer.

.030. Notification of Examination Results and Performance. Within 30 days after the day on which an applicant completed an examination, the executive secretary, on behalf of the board, shall send the applicant his examination results by first class mail. If requested in writing by an applicant who fails the examination, the executive secretary, on behalf of the board, shall send to the applicant, within 30 days after the day on which the request is received by the board, an analysis of the applicant's performance on the examination.

.035. Re-Examination; Fee. An applicant who fails the written examination must repeat the entire examination, including full payment of the required fee.

Doc. No. 796174

Certificate of Registration and Seal

Certificate of Registration 409.03.01

Rules 409.03.01.001, .005, .010, .015, .020, .025, .030, and .035 are adopted under the authority of Texas Laws 1979, Chapter 197, Section 7.

.001. Issuance of Certificate; Initial Fee.

(a) Once the board has determined that an applicant has passed the board's written examination, has paid to the executive secretary the initial registration fee in accordance with subsection (b) of this rule, and has complied with Rules 409.03.05.001 and .005 as applicable, the executive secretary shall issue a certificate of registration and identification card to the applicant.

(b) The initial registration fee shall be the applicable amount specified in Rule .030 of this subchapter prorated on a monthly basis from the month during which the board informed the applicant that he passed the examination through the following August. Payment shall be made by personal check, money order, or cashier's check made payable to the Texas Board of Irrigators.

.005. Description of Certificate. Certificates of registration shall identify the registrant by name and registration number, show effective date and year, confirm the registrant's qualifications, and acknowledge the registrant as a licensed irrigator or installer.

.010. Display of Certificate. Every person holding a certificate of registration shall display it at his place of business or employment and be prepared to substantiate annual registration renewal for the current year.

.015. Replacement of Certificate. A certificate of registration or identification card may be issued to a registrant to replace a lost or destroyed certificate or card provided that:

(1) his current annual registration renewal is effective;

(2) the registrant makes proper request for such replacement certificate or card and submits a notarized affidavit containing an acceptable explanation of the loss or destruction of the original certificate or card; and

(3) the registrant pays the $10 replacement fee for each certificate or card.

.020. Expiration of Certificate. Certificates of registration shall expire on August 31 of each year.

.025. Notice of Certificate Expiration; Change of Address.

(a) The executive secretary shall notify each licensed irrigator and licensed installer of the date of expiration of his certificate and the amount of the fee that is required for the annual renewal of registration. Such notice shall be sent by first class mail by June 30 of each year to each licensed irrigator's or licensed installer's last known address.

(b) Licensed irrigators and licensed installers shall immediately notify the executive secretary of any change in mailing address.

.030. Renewal of Certificate; Same Registration Number.

(a) A licensed irrigator or a licensed installer may renew his certificate of registration at any time during the months of July and August of each year by payment of a renewal fee in the amount of $50 for a licensed irrigator or $50 for a licensed installer. Payment shall be made by personal check, money order, or cashier's check made payable to the Texas Board of Irrigators.

(b) Renewal certificates of registration shall carry the same registration number as the original certificate.

.035. Failure to Renew Certificate of Registration; Notice; Penalty.

(a) Failure of a licensed irrigator or a licensed installer to renew his certificate of registration by August 31 of each year does not deprive him of the right to renewal, but his registration shall be automatically suspended and the fee paid for renewal of a certificate of registration after the August 31 expiration date shall be increased 10% for each month or part of a month that the renewal payment is delayed. If the licensed irrigator or licensed installer fails to renew within 90 days after the date of expiration of his last certificate of registration, his registration shall automatically expire and he must requalify under Article 8751, Section 8, Vernon's Texas Civil Statutes, and must reapply and successfully complete a new examination pursuant to these rules to act as a licensed irrigator or licensed installer.

(b) The executive secretary shall immediately notify each licensed irrigator and licensed installer who has failed to renew his certificate of registration by August 31 of such failure by certified mail sent to his last known address.

(c) Any irrigator or installer who acts as a licensed irrigator or licensed installer when his registration has been automatically suspended or has automatically expired pursuant to these rules is in violation of Article 8751, Vernon's Texas Civil Statutes, and is subject to the penalties provided in Section 12 thereof.

Doc. No. 796175

Seal 409.03.05

Rules 409.03.05.001, .005, .010, .015, and .020 are adopted under the authority of Texas Laws 1979, Chapter 197, Section 7.

.001. Seal Required.

(a) Each licensed irrigator, upon registration and before issuance of his certificate of registration, shall obtain a seal of the design authorized by the board. The seal shall be placed on all professional documents, including contracts, maps, plans, designs, drawings, specifications, estimates and reports, issued by a registrant for use in this state.

(b) Each licensed irrigator shall file with the board in duplicate a sample impression of the seal on letterhead which he proposes to use. A licensed irrigator shall notify the board of any changes in his seal.

(c) Until December 31, 1979, a licensed irrigator who was licensed by the Texas Board of Landscape Architects and whose current annual registration renewal is effective may use the seal authorized by that board for the purposes authorized by that board for the purposes authorized and required by these rules in lieu of the seal required by these rules.

.005. Seal Type and Design; Rubber Stamp Facsimile.

(a) The seal required shall be circular and not less than 1-1/2 inches in diameter. The words "State of Texas" shall be at the top between the two knurled circles and the words "Licensed Irrigator" shall be in a like position at the bottom. The licensed irrigator's name shall be placed horizontally in the circular field accompanied by his certificate number. Letters and figures shall be as bold as possible to insure legibility and durability.

(b) A rubber stamp facsimile of the seal may be used and is encouraged for application on all tracings to produce legible reproduction of all copies or prints made from said tracings.

.010. Authorized Use of Seal.

(a) The licensed irrigator shall sign his legal name on each professional document and shall personally affix the imprint of his seal over that signature. If a rubber stamp facsimile of the seal is used, the licensed irrigator shall affix his signature to the documents and shall stamp the documents with the rubber seal over the signature. The presence of the registrant's seal over his signature on any document constitutes proof that he accepts all professional responsibility for the work accomplished.

(b) The registrant is responsible for the security of his seal.

.015. Unauthorized Use of Seal. The seal impression shall be used only by the licensed irrigator responsible to the board for authorship of the documents thus identified. No person other than the licensed irrigator represented shall use or attempt to use the prescribed seal, and no unregistered person shall be authorized to use the prescribed seal.

.020. Required Use of Seal. Each licensed irrigator must affix his seal to the original index page identifying all drawings covered, to the original cover and index page identifying all specification pages covered, and to other documents of service as well, which are developed and issued under the direction or authorship of the licensed irrigator. In the absence of index pages or covers identifying all pages bound, each page of all original contract documents of service, including draw-

ings, must have the seal of the responsible licensed irrigator affixed thereto. The absence of a seal affixed to any contract documents or plans shall be considered a violation of these rules and regulations.

Doc. No. 796176

Violation of Statute or Board Rules

Complaint Process 409.04.01

Rules 409.04.01.001, .005, .010, .015, and 020 are adopted under the authority of Texas Laws 1979, Chapter 197, Section 7.

.001. Complaint.

(a) Any person aggrieved by any alleged violation of Article 8751, Vernon's Texas Civil Statutes, or of these rules may file a written complaint with the board.

(b) Any person aggrieved by any alleged act of a licensed irrigator or licensed installer which may constitute gross negligence, incompetency, or misconduct while he is acting as a licensed irrigator or licensed installer may file a written complaint with the board.

(c) The written complaint shall set forth the name of the person against whom the complaint is filed and the person against whom the complaint is filed and the alleged facts, and shall be notarized.

.005. Board's Receipt of Complaint. Upon the board's receipt of the complaint, the executive secretary shall:

(1) file three copies of the complaint with the executive director;

(2) send one copy of the complaint by certified mail to the person against whom the complaint is filed; and

(3) if the complaint is filed against a licensed irrigator or licensed installer, set the date of the board's meeting during which the board shall consider whether the information contained in the complaint is sufficient to support further action on the complaint by the commission.

.010. Complaint against Nonregistrant. If a complaint is filed against a person other than a licensed irrigator or licensed installer, the board may take steps to secure the person's voluntary compliance with Article 8751, Vernon's Texas Civil Statutes, and these rules, and, if necessary, may request either the executive director or the Texas Attorney General, or both, to enforce Article 8751 and these rules by appropriate legal action.

.015. Notice of Complaint against Registrant. The licensed irrigator or licensed installer against whom a complaint is filed shall be given notice by certified mail not less than 10 days before the board's meeting at which the sufficiency of the complaint will be determined. The notice shall include the date, time, and place of the hearing; the legal authority and jurisdiction under which the hearing is to be held; a reference to the particular sections of the statutes and rules involved; and a short and plain statement of the matters asserted and the issue to be decided.

.020. Board Hearing on Complaint; Order.

(a) During its hearing on a complaint against a licensed irrigator or licensed installer, the board may hear relevant arguments on whether the information contained in the complaint is sufficient to support further action on the complaint by the commission.

(b) After hearing relevant arguments, the board shall enter its order stating whether or not it is referring the complaint to the commission for further action and the reasons therefore. Copies of the order shall be filed with the executive director and sent by certified mail to the complainant and the person against whom the complaint is filed.

Doc. No. 796177

Revocation of Registration 409.04.05

Rules 409.04.05.001 and .005 are adopted under the authority of Texas Laws 1979, Chapter 197, Section 7.

.001. Grounds for Revocation of Registration. As provided by law, the commission may revoke the registration of any licensed irrigator or licensed installer after giving due notice and an opportunity for hearing as required by law, if it finds that he is guilty of:

(1) violations of Article 8751 or these rules;

(2) fraud or deceit in obtaining a certificate of registration; or

(3) gross negligence, incompetency, or misconduct while acting as a licensed irrigator or licensed installer.

.005. Surrender of Certificate and Pocket Card; Seal. Upon the revocation of an irrigator's or installer's registration by the commission, the affected irrigator or installer shall immediately surrender his certificate of registration and pocket identification card to the board and shall cease using the official seal and any rubber stamp facsimile of the seal in the irrigator's possession.

Issued in Austin, Texas, on September 13, 1979.

Doc. No. 796178 Bruce Bigelow
General Counsel
Texas Department of Water Resources

Effective Date: September 18, 1979
Expiration Date: January 16, 1980
For further information, please call (512) 475-4338.

Railroad Commission of Texas

Oil and Gas Division

Rules Having Statewide General Application to Oil, Gas, and Geothermal Resource Operations within the State of Texas 051.02.02

The Railroad Commission of Texas has adopted an emergency amendment to Rule 051.02.02.038, by adding a new subsection (d). The amendment relates to the obtaining of an "effective and efficient" finding as described in 18 Code of Federal Regulations 271.305(b)(2), promulgated by the Federal Energy Regulatory Commission (FERC) under authority of the Natural Gas Policy Act of 1978 (NGPA), Public Law 95-621. The amendment provides procedures for administratively processing the finding with a minimum of delay while ensuring that the commission has an adequate evidentiary basis for making the finding. The amendment was adopted on an emergency basis because final rules relating to Section 103 of the NGPA were adopted by the FERC, effective August 20, 1979. Thousands of wells in Texas are potentially affected by the FERC's rules, making an effective

and efficient procedure for processing requests for "effective and efficient" findings absolutely essential.

The amendment is promulgated under the authority of Title III, Texas Natural Resources Code.

.038. *Well Densities.*

(a)-(c) (No change.)

(d) NGPA finding (reference 18 Code of Federal Regulations 271.305(b)(2)). An operator may seek a finding that a well is necessary to effectively and efficiently drain a portion of a reservoir covered by a previously existing proration unit which cannot be effectively and efficiently drained by an existing well within the previously existing proration unit. The well must be eligible under state law for a regular drilling permit, based on the applicability of a new proration unit assigned pursuant to field rules or other commission action. The following procedures shall apply:

(1) The operator shall file with the director, Oil and Gas, at the commission's Austin office, a request for the finding, together with a copy of his application to drill (Form W-1) and plat and an affidavit with appropriate supporting geological, engineering, and other technical data upon which he relies in seeking the finding.

(2) The finding must be obtained prior to spudding the well.

(3) The finding may be made administratively by the commission staff if it is supported by the evidence submitted. If the staff is of the opinion that the evidence submitted will not support the requested finding, the operator shall be given the opportunity to file additional evidence and to request a formal adjudicatory hearing before an examiner. Without hearing, if supported by the additional evidence, or after hearing, if supported by the evidence of record, the finding may be made administratively by the commission staff. Alternatively, and in all instances in which denial of the requested finding is recommended, the matter may be submitted after hearing to the commission for final action pursuant to commission rules and state law.

Doc. No. 796153

Natural Gas Policy Act (NGPA) Determination Procedures 051.02.03

The Railroad Commission of Texas has adopted an emergency amendment to Rule 051.02.03.003, by adding a new paragraph (4) to subsection (c). Also in this *Register* the commission has published notice of an emergency amendment to Rule 051.02.02.038. That amendment relates to the obtaining of an "effective and efficient" finding as described in 18 Code of Federal Regulations 271.305(b)(2), promulgated by the Federal Energy Regulatory Commission (FERC) under the authority of the Natural Gas Policy Act of 1978 (NGPA), Public Law 95-621. This amendment merely cross-references readers of the commission's NGPA rules to related provisions in its statewide rules. The amendment was adopted on an emergency basis because final rules relating to Section 103 of the NGPA were adopted by the FERC, effective August 20, 1979. Thousands of wells in Texas are potentially affected by the FERC's rules, making an effective and efficient procedure for processing requests for "effective and efficient" findings absolutely essential.

The amendment is promulgated under the authority of Title III, Texas Natural Resources Code.

.003. *Documents Supporting Application.*

(a)-(b) (No change.)

(c) New onshore production wells under Section 103.

(1)-(3) (No change.)

(4) Persons desiring to obtain an "effective and efficient" finding as described in 18 Code of Federal Regulations 271.305(b)(2) should refer to Rule 051.02.02.038(d), Rules Having Statewide General Application to Oil, Gas, and Geothermal Resource Operations within the State of Texas.

(d)-(e) (No change.)

Issued in Austin, Texas, on September 17, 1979.

Doc. No. 796154

James E. (Jim) Nugent
Commissioner
Railroad Commission of Texas

Effective Date: September 17, 1979
Expiration Date: January 15, 1980
For further information, please call (512) 445-1281.

Texas Real Estate Commission

Provisions of the Real Estate License Act

Education, Experience, Educational Programs, Time Periods, and Type of License 402.03.07

The Texas Real Estate Commission is adopting, on an emergency basis, an amendment to Rule 402.03.07.003 to establish application requirements for those persons seeking real estate broker licensure on the basis of having completed 60 semester hours of real estate or related courses. The rule becomes effective immediately on filing and remains in effect until November 23, 1979.

Under recent amendments to the Real Estate License Act, Article 6573a, Vernon's Texas Civil Statutes, applicants for real estate broker licensure may qualify by meeting the educational requirements that will be effective on and after January 1, 1985—60 semester hours of real estate or related courses accepted by the commission. The commission has already proposed to amend Rule .003 to provide, among other things, that of the 60 semester hours, the commission shall require not less than 12 semester hours in courses reflecting course titles or course descriptions in the real estate disciplines. Final action on this proposal is still pending. However, the commission has received applications for broker licensure from persons who have completed 60 semester hours of various courses, and the commission must make determinations as to the eligibility of these applicants. Therefore, the commission finds that public necessity requires emergency adoption of this amendment to Rule .003. For the limited duration of the rule, the commission will require of applicants furnishing evidence of completion of 60 semester hours not less than 12 semester hours in courses reflecting course titles or course descriptions in the real estate disciplines.

This amendment is promulgated under the authority of Article 6573a, Vernon's Texas Civil Statutes.

.003. Section 7(c): [Competency:] Brokers: Education and Experience.

(a)-(s) (No change.)

(t) (Reserved for expansion.)

(u) With respect to the education requirement of 60 semester hours in effect on and after January 1, 1985, the commission shall require not less than 12 semester hours (180 classroom hours) in courses reflecting course titles or course descriptions in the real estate disciplines, including but not limited to the statutory subject areas identified in Section 7(a) and Section 7(k) of the Act.

Issued in Austin, Texas, on September 17, 1979.

Doc. No. 796185 Andy James
Administrator
Texas Real Estate Commission

Effective Date: September 18, 1979
Expiration Date: November 23, 1979
For further information, please call (512) 475-6693.

Provisions of the Residential Service Company Act

Application for License 402.05.07

The Texas Real Estate Commission is adopting Rule 402.05.07.001 on an emergency basis, effective on filing with the secretary of state. The rule adopts by reference application Form RSC 1-0 which may be used by persons applying for licensure as a residential service company and remains in effect for 120 days.

Due to the enactment of House Bill 962, effective August 27, 1979, the commission is charged with the responsibility of the administration of the Residential Service Company Act, Article 6573b, Vernon's Texas Civil Statutes. The Act requires persons doing business as residential service companies to file an application for licensure within 90 days of the effective date of the Act. Persons not presently engaged in the residential service company business must apply for licensure and be licensed before engaging in business. The Texas Real Estate Commission therefore finds public necessity requires an emergency adoption of Rule .001.

This rule is promulgated under the authority of Article 6573b, Vernon's Texas Civil Statutes.

.001. Section 7(a): Application Form RSC 1-0. The Texas Real Estate Commission adopts by reference application Form RSC 1-0 approved by the commission in September 1979. This document is published by and available from the Texas Real Estate Commission, 4920 North Interregional Highway, Austin, Texas.

Doc. No. 796130

Fees 402.05.24

The Texas Real Estate Commission is adopting Rule 402.05.24.001 on an emergency basis, effective on filing with the secretary of state and remaining in effect for 120 days. The rule sets the fee for filing an original application for licensure of a residential service company at $3,500. Due to the enactment of House Bill 962, effective August 27, 1979, the commission is charged with the responsibility of the administration of the Residential Service Company Act, Article 6573b, Vernon's Texas Civil Statutes. The Act requires persons doing business as residential service companies to file an application for licensure within 90 days of the effective date of the Act. Persons not presently engaged in the residential service company business must apply for licensure and be licensed before engaging in business. Section 7(a)(1) of the Act gives the commission authority to determine the fee for filing an original application for licensure, and Section 24 provides that the fee may not exceed $3,500. The Texas Real Estate Commission therefore finds public necessity requires emergency adoption of Rule .001.

This rule is promulgated under the authority of Article 6573b, Vernon's Texas Civil Statutes.

.001. Section 24(a): Original Application Fee. The fee for filing an original application for licensure of a residential service company is $3,500.

Issued in Austin, Texas, on September 14, 1979.

Doc. No. 796131 Andy James
Administrator
Texas Real Estate Commission

Effective Date: September 17, 1979
Expiration Date: January 15, 1980
For further information, please call (512) 475-6693.

An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, except where a federal statute or regulation requires implementation of a rule on shorter notice.

An agency, on request, shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling considerations urged against the agency's decision.

Numbering System—Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the chapter of rules to which the rule belongs. The third unit (two digits) indicates the subchapter of rules, if any, within the chapter. The fourth unit (three digits) indicates the individual rule.

Symbology—Changes to existing material are indicated in ***bold italics***. [Brackets] indicate deletion of existing material.

Texas Education Agency

Goals

Goals for Public School Education in Texas 226.31.01

The Texas Education Agency proposes to amend Rules 226.31.01.010 and .020, concerning the goals for public school education in Texas. The goals for public school education in Texas were first adopted by the State Board of Education in 1970. They are reviewed every second year. The proposed amendments add references to the free enterprise system to the goals concerning intellectual discipline and economic and occupational competence. Knowledge about the United States and Texas systems of government and skills for communicating with public officials at different levels of government are added to the goal concerning citizenship and political understanding and competence. The goals for organizational efficiency are amended to add that each local school board of trustees should have a thorough understanding of its responsibilities as a policy body, and each school district should develop a communications system to disseminate information about school goals, finance, programs, needs, and student achievement, and to solicit views of parents and other citizens.

The Texas Education Agency does not anticipate the proposed amendment to Rules .010 and .020 will have state or local fiscal implications.

Public comment on the proposed amendments is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules 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 rules has been published in the *Texas Register*.

These amendments are promulgated under the authority of Sections 11.24, 11.26(a), and 11.52(b)(c) and (1), Texas Education Code.

.010. Goals for Student Development.

(a) Policy. The public schools should help each student to develop personal knowledge, skills, and competence to maximum capacity, and to learn behavior patterns which will make each a responsible member of society. In terms of their individual ability, all students should achieve:

(1) Intellectual discipline.

(A) Knowledge of the traditionally accepted fundamentals *of* [such as] reading, writing, and arithmetic in the early elementary grades, accompanied by studies in higher mathematics, science, history, ***free enterprise system,*** English, and other languages, as they progress through the upper grades. These should be accompanied by a wide variety of optional courses.

(B)-(C) (No change.)

(D) Competence in reading, communication, and other language arts skills according to grade level and individual ability.

(2) Economic and occupational competence.

(A) Knowledge of the fundamental economic structure and processes of the American system, ***of the contributions of free enterprise,*** and of the opportunities for individual participation and success in the system.

(B)-(C) (No change.)

(3) Citizenship and political understanding and competence.

(A) ***Knowledge about the United States and Texas systems of government and their political subdivisions.***

(B) Knowledge about comparative political systems with emphasis on democratic institutions, the American heritage, and the responsibilities and privileges of citizenship.

(C) ***Skills for communicating with public officials at different levels of government.***

(D) Skill for participating in the processes of public and private political organizations and for influencing decisions made by such organizations.

(E) Competence in judging the merits of competing political ideologies and candidates for political position.

(4) Physical and environmental health, ecological balance, and safety.

(A)-(C) (No change.)

(D) Knowledge and experiences to provide information and develop ***skills and*** values needed to perform daily activities ***in a safe manner*** free from injury or other losses.

(5) (No change.)

(6) Competence in personal and social relations.

(A)-(B) (No change.)

(C) Competence *for* [of] adjusting to changes in personal status and social patterns.

(D) Skills for coping with stress and pressure.

(E) Development of a self-image that builds self-concepts of a positive nature.

(7) Use of leisure time. Competence and skill in creative and responsible use of leisure time.

(b) Administrative procedure. (Reserved for expansion.)

.020. Goals for Organizational Efficiency.

(a) Policy. The public school system of Texas should be organized and operated so that the public, faculty, and students will accept and support its objectives and processes.

(1) (No change.)

(2) ***The board of trustees should have a thorough understanding of its responsibilities as a policy body. Both administrators and classroom teachers*** [Professional faculty members] should be consulted in the decision-making processes for implementing the educational goals of the system and determining the environmental conditions in which they work.

(3)-(4) (No change.)

(5) Each school district should develop a communications system targeted at parents and the community, and designed to disseminate information about school goals, finance, programs, needs, and student achievement. The school district should devise a plan to solicit input regularly from parents and other citizens in each of these areas.

(b) Administrative procedure. (Reserved for expansion.)

Doc. No. 796188

Student Services

Commitment to Providing Student Transportation Services 226.34.61

The Texas Education Agency proposes to amend Rule 226.34.61.010, concerning the provision of transportation services. The proposed change clarifies that school districts are not required to provide transportation for pupils. If transportation is provided, however, it must be provided to all eligible pupils, and must be provided in accordance with applicable laws and Texas Education Agency regulations.

The Texas Education Agency does not anticipate the proposed amendment to Rule .010 will have state or local fiscal implications.

Public comment on the proposed amendment is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules 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 rules has been published in the *Texas Register*.

This amendment is proposed under the authority of Section 16.005, Texas Education Code.

.010. Provision of Services: General. [Commitment to Providing Pupil Transportation Services.]

(a) Policy. ***Student*** [Pupil] transportation ***may*** [shall] be a part of the services supporting the educational program. These services ***may*** [shall] be provided to eligible children through the county ***or*** [and] school district boards of trustees in accordance with law and procedures administered by the Texas Education Agency.

(b) Administrative procedure. (Reserved for expansion.)

Doc. No. 796189

Student Eligibility for Transportation Services 226.34.62.010, .020

The Texas Education Agency proposes to amend Rules 226.34.62.010 and .020, concerning student eligibility for transportation services. The amendment adds provision for students residing in hazardous areas to be eligible for transportation services although they reside within the two-mile limit. Rule .020 concerns the eligibility of handicapped students for special transportation services. Specific criteria for each handicapping condition are being deleted from the rule. Reference is made instead to the definitions as contained in Policy and Administrative Procedure Series 35.70, Special Education. Eligibility for special transportation shall be determined and documented annually by the local special education admission, review, and dismissal committee. No handicapped student is eligible for special transportation for more than 175 days of any school year.

The Texas Education Agency does not anticipate the proposed amendment to Rules .010 and .020 will have state or local fiscal implications.

Public comment on the proposed amendment is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules 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 rules has been published in the *Texas Register*.

These amendments are proposed under the authority of Section 16.005, and Chapter 16, Subchapter F, Texas Education Code.

.010. Regular Student [Pupil] Eligibility.

(a) Policy. Eligibility for regular ***students*** [pupils] shall be determined as defined by law and procedures as established by the commissioner of education.

(b) Administrative procedure. Regulations for determining regular ***student*** [pupil] eligibility are as follows:

(1) General requirements.

(A) The ***student*** [pupil] must reside ***two or more*** [at least two] miles from the ***assigned campus of regular attendance*** [school he attends] as measured by the ***shortest publicly traveled route from the students home to his or her school*** [nearest commonly traveled public road].

(B) The ***student*** [pupil] must reside in the district and attendance area (as designated by the district board of trustees); or ***be an approved transfer student.***

[(*i*) be an approved transfer pupil (Rule 226.23.04.030); or

[(*ii*) be assigned as a vocational education student to another campus within a district, to another secondary public school or an area vocational school, or to an approved post-secondary institution under a contract for instruction approved by the Central Education Agency; or

[(iii) be assigned as a bilingual education student from one campus to another within a district or to an approved bilingual education program in another district if the home district does not provide bilingual education.]

(C) A transfer *student* [pupil] is eligible 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 [than two] miles from his *or her* residence.

(D) A public school district operating a kindergarten program on a one-half day basis may make application for bus service to transport these *students* [pupils] to or from school at midday. All such eligible bus *students* [pupils] are expected to attend the same half-day session. If the school district is unable to accommodate all eligible kindergarten bus *students* [pupils] in the same half-day, special approval must be secured from the commissioner of education.

(E) No student is eligible for transportation reimbursement for more than *175 days of any school year* [three quarters of any one year].

(2) Special requirements.

(A) To be eligible for private transportation, *students* [pupils] must live two or more miles from an established school bus route in addition to other regular *student* [pupil] eligibility requirements.

(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 Health, Education, and Welfare are provided the following guidelines:

(i) a *student* [pupil] 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 purposes if he *or she*, as a result of a federal court order or a school district voluntary desegregation plan approved by the Department of Health, Education, and Welfare, is assigned to attend another school that is two or more miles from his *or her* residence.

(ii) a *student* [pupil] 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 transportation purposes.

(iii) a *student* [pupil] 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* [he] meets all other eligibility requirements.

(C) Students residing in hazardous areas shall be eligible if a hazardous condition exists where no walkway is provided and children must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition.

(i) For students residing in hazardous areas to become eligible, each board of trustees shall provide to the commissioner:

(I) the definition of hazardous conditions applicable to that district; and

(II) identity of the specific hazardous area for which the allocation is requested.

(ii) The legally designated authority shall identify the bus routes serving the specific hazardous areas.

(iii) The maximum allowable mileage shall be computed based on the district's maximum allowable allocation for hazardous mileage divided by the district's group cost. Consideration shall not be given to the approval of mileage in excess of the maximum allowable.

.020. Handicapped Student [Exceptional Pupil] Eligibility.

(a) Policy. Eligibility for *handicapped students* [exceptional pupils] shall be determined when a *student* [pupil] is eligible for or when enrolled in a special education class and is unable to attend class without special transportation. The commissioner of education shall establish procedures for determining eligibility [(Special Transportation for Exceptional Pupils, Policy .010 and Policy 226.35.72.100)].

(b) Administrative procedure. [Regulations for determining exceptional pupil eligibility are as follows:]

(1) [General guidelines.] Consideration for *student* [pupil] eligibility is based upon the definitions for *handicapped* [exceptional] children as contained in Policy and Administrative Procedure *Series 35.70* [226.35.71.020].

(2) Students [Pupils] may live within the school district, within one of the school districts in a cooperative program, or be transferred to a district where special education services are available. The child who is eligible for and placed in special education classes does not automatically qualify for special transportation reimbursement. Specific reasons why a child needs special transportation and the type of special transportation required and furnished shall be documented annually in the *student's* [pupil's] eligibility file. [No student is eligible for exceptional children transportation reimbursement for more than three quarters of any one year.]

(3) Handicapped children eligible for special education and who can utilize regular transportation shall be transported if eligible on regular routes (Regular Student Eligibility, Policy 34.62.010).

(4) No handicapped student is eligible for special transportation reimbursement for more than 175 days of any school year.

(5)[(2)] Committee determination of transportation eligibility. The local special education admission, review, and dismissal committee shall annually be responsible for:

(A) determining the need for special transportation; and

(B) determining the type of special transportation needed.

The documented record of this determination shall then become a part of the *handicapped student's* [pupil's special education] eligibility file. The specific reason for special transportation shall be written in the dated record of the committee's action above the committee members' signatures.

[(3) Specific guidelines. The following guidelines relative to pupil characteristics should be taken into consideration in determining individual eligibility for special transportation.

[(A) Visually handicapped. Visually handicapped pupils who may be eligible for special transportation services

are those who either have no vision or whose visual impairments after correction result in educational handdicaps requiring special provisions for maximal educational achievement. The primary factor in determining the need for special transportation is the pupil's safety. Sufficient mobility skills for safe travel on a regular school bus preclude special transportation services.

[(B) Orthopedically handicapped and other health impaired. This includes all children who have orthopedic handicaps or other health impairments and whose physical conditions and/or special health problems result in the need for special provisions for educational purposes. Major consideration for determining the pupil's need for transportation should be the safety limiting characteristics

[(i) the pupil using a wheelchair, crutches, and/or braces which may either be of danger to the child or other children while riding a regular school bus;

[(ii) certain severely involved cerebral palsied children,

[(iii) children of extreme low vitality or other health reasons, and

[(iv) certain children who may be so hyperactive they cannot be safely transported on a regular bus

[Consideration should be given to the feasibility of providing special transportation to certain homebound students so they may attend a class of physically handicapped children in school.

[(C) Auditorially handicapped. Children who are deaf or severely hard of hearing and are eligible for special services may be considered for special transportation services. An inability of the child to communicate successfully, as well as safety factors, may necessitate special transportation

[(D) Trainable mentally retarded. Because of an inability to acquire necessary skills as determined by a substantially reduced rate of intellectual development, the trainable mentally retarded may be considered for special transportation. Generally, the majority of these pupils will not be able to ride regular transportation for social and/or safety reasons. However, there may be some cases of older trainable children in which it would be desirable both for social and economic reasons for them to ride regular transportation.

[(E) Educable mentally retarded. The educable mentally retarded (EMR) are those children who reveal a reduced rate of intellectual development and a mental capacity and level of academic achievement below that of their peer group as evidenced by significant deficits in all essential learning processes. Under certain circumstances, they may be considered for special transportation:

[(i) the younger educable retardate whose mental age may be 3-1/2 to 5 years;

[(ii) the educable retardate who, because of epilepsy or some similar health impairment, may find it necessary to use special transportation for his own safety and the safety of other children;

[(iii) certain social factors may deem it necessary for the EMR to use special transportation.

[One of the objectives in the training and education of the educable mentally retarded is the acquisition of vocational proficiency. The ability to find one's way is a prerequisite to this objective. Special transportation will be approved only where there is a proven manifested need.

[(F) Emotionally disturbed. Emotionally disturbed children are those whose emotional condition is such that they cannot learn at the expected rate and level for their age and/or adjust adequately socially in a regular school program. These children may be considered for special transportation due to:

[(i) hyperactive behavior which may result from over stimulus of peer group activity and which may involve the factor of safety for himself and for others;

[(ii) an inability to react favorably with his environmental conditions especially due to impulsive responses, to depression, or withdrawal;

[(iii) overaggressive behavior. losing contact with reality may also interfere with a child's use of regular transportation.

[A primary goal for the emotionally disturbed child, however, is the development of his social/emotional adaptability in all areas of self-help.

[(G) Language and/or learning disabilities. Language and or learning disabled children are those who are deficient in the acquisition of language and/or learning skills, including but not limited to the ability to reason, think, speak, read, write, spell, or to make mathematical calculations. These may include children diagnosed as having specific developmental dyslexia. Special transportation may be considered for these children who are at a young age and whose acquisition of language, speech, reading, and reasoning are so impaired that the use of regular transportation may be impractical. Children whose problems of perception are severely impaired may also find it necessary for special transportation.

[(H) Multihandicapped. The multihandicapped are those children who have a combination of two or more handicapped conditions, one or both of which may be so severe that special transportation may be considered. Criteria for determining special transportation for these children should be based on the suggested reasons as set forth in the above paragraphs for the various handicapping conditions.

[(I) Pregnancy. Pregnant students may be considered for special transportation where it is determined that regular transportation may be hazardous to the safety of the unborn child.]

Doc. No. 796190

226.34.62.030

The Texas Education Agency proposes to adopt Rule 226.34.62.030, concerning eligibility of students in vocational and bilingual education programs for transportation services. Vocational students must be assigned to another campus within a district, to another secondary public school or an area vocational school, or to an approved post-secondary institution under a contract for instruction approved by the Texas Education Agency to be eligible for transportation. Bilingual education students must be assigned from one campus to another within a district or to an approved bilingual education program in another district if the home district does not provide bilingual education.

The Texas Education Agency does not anticipate the proposed adoption of Rule .030 will have state or local fiscal implications.

Public comment on the proposed adoption of the new rule is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules 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 rules has been published in the *Texas Register*.

This new rule is proposed under the authority of Section 16.005 and Chapter 16, Subchapter F, Texas Education Code.

.030. Vocational and Bilingual Student Eligibility.

(a) Policy. Procedures for determining eligibility of students in vocational and bilingual education programs for transportation shall be developed by the commissioner of education.

(b) Administrative procedure. Regulations for determining eligibility are as follows:

(1) The student must be assigned as a vocational student to another campus within a district, to another secondary public school or an area vocational school, or to an approved post-secondary institution under a contract for instruction approved by the Texas Education Agency; or

(2) The student must be assigned as a bilingual education student from one campus to another within a district or to an approved bilingual education program in another district if the home district does not provide bilingual education.

(3) No student is eligible for transportation for more than 175 days of any school year.

Doc. No. 796191

Types of Transportation 226.34.63.010

The Texas Education Agency proposes to amend Rule 226.34.63.010, concerning the provision of transportation services. The proposed amendment deletes the text of the administrative procedure portion of the rule. Procedures concerning regular, private, contracted, and commercial transportation, and transportation to the nearest college and university, are found in proposed Rules .020-.060.

The Texas Education Agency does not anticipate the proposed amendment to Rule .010 will have state or local fiscal implications.

Public comment on the proposed amendment is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules 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 rules has been published in the *Texas Register*.

This amendment is proposed under the authority of Section 16.005, Texas Education Code.

*.010. **Provision of Services by Type.** [Types of Transportation.]*

(a) Policy. The types of transportation which shall be provided for eligible ***students*** [pupils] are regular, private, contracted, and commercial (Special Transportation Provisions for Certain Educational Programs, ***34.64*** [226.34.64.010]). The commissioner of education shall establish in accordance with state and federal law the procedures by which these types of transportation shall be provided to ***students*** [pupils].

(b) Administrative procedure. The procedures by which these types of transportation are operated are ***found in Administrative Procedures 34.63.020-.060.*** [as follows:]

[(1) Regular transportation.

[(A) General guidelines.

[(i) The school transportation program shall provide the most economical system for serving all of the eligible students residing in the school district.

[(ii) All proposed additions to or changes in the transportation program shall be reported to the Texas Education Agency as soon as approved by the lawful designated authority.

[(B) Requirements for establishing routes. School bus routes for the following school year shall be established by June 1 as required by Section 16.203, Texas Education Code.

[(C) Basis for approval of routes.

[(i) Request for the approval of additional bus routes shall be on forms furnished by the Texas Education Agency. There must be a complete route description for each new route requested and a statement explaining why the route is necessary.

[(ii) Each request for an additional school bus route shall be subject to a survey by a Texas Education Agency staff member. The survey will include an examination of the district's total transportation program and need of the additional route in relation thereto, utilizing the criteria listed and other appropriate data that may be furnished by local school officials such as information on local traffic conditions and the times of day when traffic is the heaviest, the specific driving time for each bus operated, and the number, if any, of ineligible pupils transported.

[(iii) A county or district requesting Texas Education Agency approval of one or more short length routes must justify the approval request on the basis that: (1) there is no other route with which the new route can be combined for a two-trip route or, (2) the time required to service the route due to local traffic conditions make a two-trip combination route impractical.

[(iv) Transferred pupils shall not be considered in the approval of a bus route, if their grades are taught in their home district and transportation is provided by another receiving district over a route approved by the lawful designated authority.

[(v) Duplicate routes and/or services must be approved by the lawful designated authority having jurisdiction and by the state commissioner of education. Factors to be considered in approving duplication of services and/or routes are economy and geographic barriers.

[(vi) Applications for new bus routes for schools operating transportation systems in the first three quarters must be approved by the lawful designated authority and received by the Texas Education Agency on or before December 22 of the current school year. Routes operated by districts in the fourth quarter must be approved by the commissioner of education.

[(D) Regulations for length of routes.

(a) All school bus routes should be measured from the last school served. The length of an individual bus route will be twice the distance from the last school served over the nearest practical route required to serve the eligible students and return to school.

(b) The length of the individual school bus route should be consistent with that of the typical school bus route as defined in Section 16.206(b), Texas Education Code (45 to 55 miles of daily travel).

(c) Retracing side roads where children live a reasonable distance from the main route should be reduced to a minimum. Such retracing cannot be regarded as necessary where the distance is not more than one half mile and shall not be included in calculating the length of the bus route. Where retracing seems absolutely unavoidable, it must be fully justified and must be approved by the state commissioner of education.

(d) A student will not be expected to spend in excess of one hour each morning and one hour each afternoon on a school bus unless the area of the school district and the location of the student's residence makes a longer period of time on the bus mandatory.

(E) Method for determining school bus capacity for funding purposes. School bus capacity refers to the actual number of eligible pupils regularly transported and not to the manufacturer's rated capacity. If a bus route includes two or more trips, the number of eligible pupils transported on any one trip may be used as the bus capacity. If the bus capacity varies because pupils are transported to two or more schools, the largest number of eligible pupils on the bus at any one time shall be considered as the bus capacity. The capacity for the pupil transportation report is determined by the following options:

(a) Schools operating only three quarters will select one of the following:

(I) the number of eligible students who regularly ride the bus on the first Monday in February; or

(II) the number of eligible students who regularly ride the bus on the last day of the second quarter; or

(III) the average number of eligible students who regularly ride the bus on the last day of each of the first three quarters of the current school year.

(b) Schools operating four quarters will use the following:

(I) the average number of eligible students who regularly ride the bus on the last day of each of the first three quarters of the current school year; and

(II) each school district operating buses in the fourth quarter shall report the number of eligible students who regularly ride the bus on June 15 or the nearest school day.

(F) Special regulations for cooperative arrangements. Regular transportation may be provided by a public tax-supported college or a public tax-supported school district under a cooperative arrangement to provide transportation services for pupils who are enrolled and in attendance in either institution. Transportation may be provided by a public school district or county to and from the nearest college or university for residents of the district who are enrolled in the college or university.

(G) Procedure relating to the annual pupil transportation report.

(a) Districts reporting the number of eligible students who regularly ride the bus on the first Monday in February or the last day of the second quarter file the pupil tranportation report on or before March 15 of the current school year.

(b) Districts reporting the average number of eligible students who ride the bus on the last day of each of the first three quarters file the pupil transportation report on or before June 15 of the current school year.

(c) Districts serving eligible students who regularly ride the bus in the fourth quarter submit a supplement to the annual pupil transportation report on or before July 1 of the current school year.

(2) Private transportation (Policy 226.41.07, Transportation, provides allotments from the Foundation School Program). Regulations for the approval of a private transportation service (service provided for eligible pupils transported by privately owned passenger vehicles) of a county or individual school district shall include:

(A) Applications must be approved by the local lawful authority and the Texas Education Agency.

(B) Annual applications must be submitted prior to or on the date the service becomes effective.

(C) A pupil may only be transported to and from his residence and the school he attends by private vehicle.

(D) Forms for the final application for funds for private transportation shall be mailed annually to the district on or before May 15.

(E) Final application for funds for private tranportation shall be due annually on or before June 15.

(3) Contracted transportation. Contracted transportation services are those services provided by a public transportation company operating under a contract with a county or school district board of trustees to transport eligible pupils. Contractive transportation services for all or any part of the district's transportation program may be provided under the following conditions:

(A) A contract service application shall be filed with the Texas Education Agency on or before June 15 for the next school year. All contract applications shall be filed on forms designed and supplied by the agency and shall furnish information on the approved length of each bus route to be contracted and the number of eligible pupils to be transported.

(B) A copy of the proposed contract with the public transportation company shall be submitted with each contract request. If the contract is to include provisions for the transportation of students to and from approved school activities, such provisions and the cost therefore must be separate and apart from the contract cost for regular school transportation on approved school bus routes.

(C) The contract price for the bus routes to be served by the public transportation company must be less than the projected cost of the same service under the regular transportation allotment formula.

(D) The projected cost under the regular transportation formula for the routes to be contracted as determined from the contract service application shall be subject to field examination by staff members of the Transportation Section and/or members of the field audit staff before a recommendation is made from the Transportation Section to the commissioner of education.

(E) The commissioner of education shall submit his recommendations on applications for contract bus service to the State Board of Education each year at the July meeting of the board.

[(F) When a contract is approved by the State Board of Education, the contract price for the service shall be included in the estimated annual transportation cost allotment for the county or district.

[(G) Each county or school district board of trustees shall file the regular annual transportation report for the approved bus routes covered in the contract (Transportation Allocations, Policy 226.41.060).

[(4) Commercial transportation. Commercial transportation services are those services provided by regular commercial bus lines for isolated groups of eligible pupils. Regulations for the approval of services by commercial bus lines for eligible pupils are:

[(A) Application for commercial transportation must be approved by the local lawful authority and the commissioner of education.

[(B) Annual applications for commercial transportation must be submitted on or before the date the service becomes effective (Transportation Allocation, Policy 226.41.07.050).]

Doc. No. 796192

226.34.63.020, .030, .040, .050, and .060

The Texas Education Agency proposes to adopt Rules 226.34.63.020, .030, .040, .050, and .060, concerning transportation. This material, with revisions, was previously in Rule .010. Rule .020 provides guidelines for regular transportation. Except as provided in this rule, a district which receives funding under Section 16.206 of the Texas Education Code may not require or allow a child to stand on a school bus that is in motion. Rule .030 concerns private transportation. Applications for funds are due by June 1 of each school year. Rules .040 and .050, regarding contracted and commercial transportation, have no substantive changes from the material in Rule .010. Rule .060 concerns transportation to nearest college or university which districts may furnish. Doing so will not affect the transportation allocation under the Foundation School Program.

The Texas Education Agency does not anticipate the proposed adoption of Rules .020, .030, .040, .050, and .060 will have state or local fiscal implications.

Public comment on the proposed adoption of the new rules is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules 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 rules has been published in the *Texas Register*.

These new rules are proposed under the authority of Section 16.005, Texas Education Code.

.020. Regular Transportation.

(a) General guidelines. The school transportation program shall provide the most economical system for serving all of the eligible students residing in the school district. All proposed additions to or changes in the transportation program shall be reported to the Texas Education Agency as soon as approved by the lawful designated authority.

(b) Requirements for establishing routes. School bus routes for the following school year shall be established by June 1 as required by Section 16.202(b)(2), Texas Education Code, and route descriptions furnished annually to the Texas Education Agency for each route operated. If notification of revised routes is not received by June 1, the program for the following school year will be approved in keeping with the route mileages rendered on the annual student transportation report for the current year.

(c) Basis for approval of routes.

(1) Request for the approval of additional bus routes shall be on forms furnished by the Texas Education Agency. There must be a complete route description for each new route requested and a statement explaining why the route is necessary.

(2) Each request for an additional school bus route or route revision shall be subject to a survey by a Texas Education Agency staff member. The survey will include an examination of the district's total transportation program and need of the additional route, utilizing the criteria listed and other appropriate data that may be furnished by local school officials such as information on local traffic conditions, the times of day when traffic is the heaviest, the specific driving time for each bus operated, and the number, if any, of ineligible students transported.

(3) Transferred students shall not be considered in the approval of a bus route, if their grades are taught in their home district and transportation is provided or can be provided by that district, or their grades are not taught in their home district and transportation is provided by another receiving district over a route approved by the lawful designated authority and by the commissioner of education.

(4) Duplicate routes and/or services must be approved by the lawful designated authority having jurisdiction and by the state commissioner of education. Factors to be considered in approving duplication of services and/or routes are economy and geographic barriers.

(5) Applications for new bus routes for schools operating transportation systems must be approved by the lawful designated authority and received by the Texas Education Agency on or before December 22 of the current school year. Routes operated by districts in the fourth quarter of the 1979-80 school year must be approved by the commissioner of education.

(6) Standees.

(A) Except as otherwise provided by this section, a school district that receives funding under Section 16.206(i) of the Texas Education Code may not require or allow a child to stand on a school bus that is in motion.

(B) A school district may apply to the commissioner of education for permission to operate a school bus with standees. The request must be supported by comments in regard to the situation that developed which caused standees to be evident on school buses as well as the district's plan to bring the district into compliance with 21.173(a) of the Texas Education Code. If the commissioner finds good cause, the commissioner may order that the district be permitted to operate the school bus with standees.

(C) Within seven days of receipt of the district's request to be allowed to operate buses with standees, the commissioner shall respond to the district's request by letter. If the commissioner has not responded to the district's request within seven days, permission to operate buses with standees

is considered to have been granted without regard to subsequent action by the commissioner.

(D) If a district has been granted permission to operate buses with standees, it may not operate one or more buses with standees for more than a total of 10 school days during any school year, and the district may not permit more than one child per seat to stand while a bus is in motion.

(E) Situations justifying operation of a bus or buses with standees:

(*i*) unexpected rapid growth,

(*ii*) natural disaster,

(*iii*) other comparable conditions.

(d) Regulations for lengths of routes.

(1) A bus route is administratively defined as being the service provided by one bus to transport eligible bus students.

(2) All school bus routes should be measured from the last school served within the district. The length of an individual bus route will be twice the distance from the last school served, except mid-day kindergarten, over the nearest practical route required to serve the eligible students and return to school. The distance will not be doubled for mid-day kindergarten.

(3) Retracing side roads where children live a reasonable distance from the main route should be reduced to a minimum. Such retracing cannot be regarded as necessary where the distance is not more than one-half mile and shall not be included in calculating the length of the bus route. Where retracing seems absolutely unavoidable, it must be fully justified and must be approved by the state commissioner of education.

(4) A student will not be expected to spend in excess of one hour each morning and one hour each afternoon on a school bus unless the area of the school district and the location of the student's residence make a longer period of time on the bus mandatory.

.030. Private Transportation. Regulations for the approval of a private transportation service (service provided for eligible students transported by privately owned passenger vehicles) of a county or individual school district shall include:

(1) Applications must be approved by the local lawful authority and the Texas Education Agency.

(2) Applications must be submitted prior to or on the date the service becomes effective.

(3) A student may only be transported to and from his or her residence and the school the student attends by private vehicle.

(4) Forms for the final application for funds for private transportation shall be mailed annually to the district on or before May 1.

(5) Final application for funds for private transportation shall be due annually on or before June 1.

.040. Contracted Transportation.

(a) Contracted transportation services are those services provided by a public transportation company operating under a contract with a county or school district board of trustees to transport eligible students.

(b) Contractive transportation services for all or any part of the district's transportation program may be provided under the following conditions:

(1) A contract service application shall be filed with the Texas Education Agency on or before June 15 for the next school year. All contract applications shall be filed on forms designed and supplied by the agency and shall furnish information on the approved length of each bus route to be contracted and the number of eligible students to be transported.

(2) A copy of the proposed contract with the public transportation company shall be submitted with each contract request. If the contract is to include provisions for the transportation of students to and from approved school activities, such provisions and the cost therefore must be separate and apart from the contract cost for regular school transportation on approved school bus routes.

(3) The contract price for the bus routes to be served by the public transportation company must be equal to or less than the total cost to the school district for providing its own complete bus service.

(4) The projected total cost to the district for the routes to be contracted as determined from the contract service application shall be subject to field examination by staff members of the Transportation Section and/or members of the field audit staff before a recommendation is made from the Transportation Section to the commissioner of education.

(5) The commissioner of education shall submit recommendations on applications for contract bus service to the State Board of Education each year at the July meeting of the board.

(6) When a contract is approved by the State Board of Education, the portion of the annual transportation allotment which is to be used to finance the contract for alternative transportation services shall be included in the estimated annual transportation cost allotment for the county or district.

(7) Each county or school district board of trustees shall file the regular annual transportation report of the approved bus routes covered in the contract.

.050. Commercial Transportation. Commercial transportation services are those services provided by regular commercial bus lines for isolated groups of eligible students. Regulations for the approval of services by commercial bus lines for eligible students are:

(1) Application for commercial transportation must be approved by the local lawful authority and the commissioner of education.

(2) Annual applications for commercial transportation must be submitted on or before the date the service becomes effective.

.060. Transportation to Nearest College or University.

(a) Any school district may furnish transportation by school bus or other conveyance to and from the nearest college or university for residents of the district who are enrolled at the college or university. Neighboring school districts may contract with each other to provide this transportation service for residents of the districts.

(b) Nothing in this section affects the transportation cost allotment to which any school district is entitled under the Foundation School Program

Doc. No. 796193

Foundation School Program

Transportation 226.41.07.020, .031, .040, .050, .060, .070, .080, .090

The Texas Education Agency proposes to amend Rules 226.41.07.020 .031, .040, .050, .060, .070, .080, and .090, concerning transportation funds. In Rule .020, school districts may furnish transportation to the nearest college or university for residents of the district enrolled at the college or university. Furnishing such transportation will not affect the district's transportation allocation. Rule .031 is amended to reflect changes in funding system as required by Senate Bill 350, 66th Legislature. Funding is based on linear density groupings. Districts may apply for additional funding to be used for children within the two-mile limit who would be subject to hazardous traffic conditions if they walked to school. In Rule .040, the special reimbursement formula for mid-day kindergarten is deleted. Kindergarten is part of the overall transportation formula. In Rule .050, the funding limit for private and commercial transportation is raised from $80 to $600 per eligible student per year. In Rule .060, funding for contracts with a public transportation company also will be computed under the regular transportation formula. In Rule .070, funding rates for handicapped students are also amended to reflect changes made by Senate Bill 350. The wording in Rules .080 and .090 has been clarified.

The Texas Education Agency anticipates the following increased costs will be incurred for the implementation of the transportation provisions of Senate Bill 350 over the next five years:

1979-80	$14,500,000
1980-81	$15,000,000
1981-82	$15,000,000
1982-83	$15,000,000
1983-84	$15,000,000

These costs will be shared by state and by local school districts under funding provisions of the Foundation School Program, Chapter 16, Texas Education Code.

Public comment on the proposed amendments is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules 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 rules has been published in the *Texas Register*.

These amendments are proposed under the authority of Section 16.005 and Section 16, Subchapter F, Texas Education Code.

.020. Transportation to Nearest College or University. [Cooperative Traansportation Agreement with Colleges.]

(a) Policy.

(1) Any school district may furnish transportation by school bus or other conveyance to and from the nearest college or university for residents of the district who are enrolled at the college or university. Neighboring school districts may contract with each other to provide this transportation service for residents of the districts.

(2) Nothing in this section affects the transportation cost allotment to which any school district is entitled under the minimum Foundation School Program.

[Public tax-supported junior colleges and public tax-supported school districts may enter into contracts with each other for the transportation of students who are enrolled and in attendance in either institution.]

(b) Administrative procedure. ***(Reserved for expansion.)***

[(1) State funds are appropriated only for the transportation of public school pupils. Districts where students are transported on college buses are entitled to funds equal to the actual cost of these services, not to exceed $80 per eligible student per year in 1977-78 and $84 in 1978-79. These amounts shall be prorated for any student enrolled for less than the full year. Districts must have documentation available to verify the actual costs for these services.

[(2) All funds allocated for transportation of public school students by colleges must be paid by the district to the college. Any amount mutually agreeable to both the college and the public school transportation unit may be charged for college students transported by public schools.

[(3) College student transportation payments are deposited in the county or district transportation fund and used for the payment of transportation costs.]

.031. Regular Routes.

(a) Policy. The calculation of cost allotments for transportation services shall be as specified by law.

(b) Administrative procedure.

(1) For the ***1979-80 and 1980-81*** [1977-78] school ***years*** [year], the allowable total base cost of maintenance, operation, salaries, depreciation, and other costs for each ***approved*** [provided] bus route ***shall be*** [is]:

Linear Density Grouping	*Allocation Per Mile of Approved Route*
2.40 and above	*$ .94*
1.65 to 2.40	*$ .75*
1.15 to 1.65	*$ .68*
.90 to 1.15	*$ .59*
.65 to .90	*$ .52*
.40 to .65	*$ .48*
up to .40	*$ .44*

(2) Density grouping shall be based on the 1977-78 data compiled by the commissioner of education pursuant to Section 10, Chapter 1, Acts of the 65th Legislature, First Called Session, 1977.

(3) For the 1981-82 school year and thereafter, the commissioner of education shall determine the daily cost per regular eligible student of operating and maintaining the regular transportation system based on the linear density of that system. In determining the cost, the commissioner shall give consideration to factors affecting the actual cost of providing these transportation services in each district. The average actual cost is to be computed by the commissioner of education and included for consideration by the Foundation School Program Committee and the legislature in the General Appropriations Act.

(4) The allocation for eligible regular students transported by the regular transportation system shall be increased by 5.0% for any district or county board which has complied with the provisions of Section 21.173 of the Texas Education Code.

(5) The total allocation for a district or county transportation unit for the 1979-80 or 1980-81 school year shall not be less than the total allocation received for the 1978-79 school year based on an equal number of state-approved bus routes. If the district or county has deleted routes, the minimum allocation shall be proportionately reduced.

(6) A district may apply for and, on approval of the commissioner of education, receive an additional amount of up to 10% of its regular transportation allotment to be used for the transportation of children living within two miles of the school they attend who would be subject to hazardous traffic conditions if they walked to school. Each board of trustees shall provide to the commissioner the definition of hazardous conditions applicable to that district and shall identify the specific hazardous areas for which the allocation is requested.

[Capacity of Bus	Base Cost Per Year
72 or more	$5,701
60-71	$5,492
49-59	$5,283
42-48	$5,074
30-41	$4,866
20-29	$4,657
15-19	$3,821
1-14	$161 per pupil per year

[(2) For the 1978 school year and thereafter, the allowable total base cost of maintenance, operation, salaries, depreciation, and other costs for each bus route shall be 105% multiplied by the allowable total base cost for each bus during the 1977-78 school year. Adjustments to base cost are made as follows:

[(A) For each 1.0% of travel over dirt roads in excess of 40% of the total route length, one-half of 1.0% of base cost allowable is added.

[(B) For each five miles or major fraction of five miles in total route length in excess of 55 miles, 1.0% of the total base cost allowable is added.

[(C) For each five miles or major fraction of five miles in total route length less than 45 miles, 1.0% of the total base cost allowable is deducted.

[(D) For routes operated less than the full school year, the allowable, including all adjustments, is prorated on the portion of the school year the route operated.

[(3) If pupils who attend districts which receive transportation funds from the Foundation School Program are transported on buses operated by "budget balance" school districts, each pupil's pro rata share of the allowable cost, including adjustments of the bus route over which he is transported, will be paid to the district he attends.]

.040. Transportation of Kindergarten Students [Pupils] at Mid-Day.

(a) Policy. Reimbursement for additional regular transportation routes necessary to transport eligible kindergarten *students* [pupils] to or from school at mid-day shall be on the basis of [50% of that allocated under] the regular transportation formula.

(b) Administrative procedure. *(Reserved for expansion.)* [Reimbursement for additional regular transportation routes necessary to transport eligible kindergarten pupils to or from school at mid-day shall be on the basis of 50% of that allocated under the regular transportation formula.]

.050. Private and Commercial Transportation.

(a) Policy. The commissioner of education may approve private or commercial transportation for individual children who live in isolated areas and in cases of extreme hardship.

[Reference Section 16.206, Texas Education Code.]

(b) Administrative procedure. Private and commercial transportation applications are approved individually. Districts where students are transported by private or commercial transportation are entitled to funds equal to the actual cost of these services, not to exceed *$600* [$80] per eligible *student* [pupil] per year in *the 1979-80 and 1980-81 school years* [1977-78 and $84 in 1978-79]. These amounts shall be prorated for any students enrolled for less than the full year. Districts must have documentation available to verify the actual costs for these services. *The per student per year allowable for the 1981-82 school year and thereafter shall be determined by the commissioner of education and included for consideration by the Foundation School Program Committee and the legislature in the General Appropriations Act.*

.060. Contract with Public Transportation Company.

(a) Policy. Funds may be allocated to transportation units which have, with the approval of the State Board of Education, contracted all or part of their transportation services to a public transportation company.

[Reference Section 16.62, Texas Education Code.]

(b) Administrative procedure. [If] The Foundation School Program transportation allotment *will be* [as] computed from the annual transportation report under the regular transportation formula [is less than the cost of the contract with the public transportation company, the total payment to the district shall be limited to the formula allotment].

.070. Transportation for Handicapped Students [Exceptional Children].

(a) Policy. The commissioner of education may allocate funds for the transportation of *handicapped students* [exceptional children] as specified by law (*Handicapped Students* [Exceptional Pupil] Eligibility, Policy 34.62; *Child-Centered Educational Process, Policy and Administrative Procedure 35.72.060* [Special Transportation for Exceptional Pupils, Policy 35.72)].

[Reference Section 16.206, Texas Education Code.]

(b) Administrative procedure.

(1) A school district that provides special transportation services for eligible handicapped students is entitled to a state allocation. Allocations for handicapped transportation in district- or county-operated school buses shall be paid on the previous year's cost per mile. For the 1979-80 and 1980-81 school years, the maximum allowable per-mile cost will be $.80. For the 1981-82 and 1982-83 school years and thereafter, the maximum rate per-mile allowable shall be recalculated based on data gathered from the first year of each preceding biennium. Districts may use a portion of their support allocation to pay transportation costs, if necessary.

(2) The commissioner of education may grant an amount not to exceed $.18 per mile or a maximum of $600 per student per year for private transportation to reimburse parents or their agents for transporting eligible

handicapped students. For the 1981-82 and 1982-83 school years and thereafter, the rate per mile and the maximum allowable per student will be determined by the commissioner of education for consideration by the Foundation School Program Committee and the legislature in the General Appropriations Act. The mileage allowed shall be computed along the shortest public road from the student's home to school and back, morning and afternoon. The need for this type transportation shall be determined on an individual basis and shall be approved only in extreme hardship cases.

(3) Districts serving eligible handicapped students who ride the bus during the fourth quarter of the 1979-80 school year shall submit a supplement to the final application requesting funds prior to July 1, 1980. A handicapped student is eligible for special school bus transportation for a maximum of 175 days during any school year.

[(1) Districts providing transportation services for eligible exceptional students are entitled to funds equal to the actual cost of these services not to exceed $278 in 1977-78 or $292 in 1978-79 and thereafter for each exceptional student transported. Districts must have available documentation to verify the actual costs for these services.

[(2) An allotment is computed from a listing of pupils transported at the end of the third quarter. This report is due June 15 and contains a certification that all pupils transported meet the requirements of the Act. Districts operating an exceptional children transportation program in the fourth quarter shall file a supplement to the final application requesting funds for students being transported on June 15 in that quarter. This supplement is due on or before July 1.]

(4)[(3)] Funds appropriated may be used only for the transportation of ***handicapped students*** [exceptional pupils] and must be properly accounted for in the fiscal records of the transporting unit.

.080. Transportation for Vocational Education Students.

(a) Policy. The commissioner of education shall reimburse school districts for the transportation of vocational education students based on the number of actual miles traveled times the district's official extracurricular travel-per-mile rate as set by their local board of trustees and approved by the commissioner of education.

(b) Administrative procedure.

(1) (No change.)

(2) Each approved bus route serving ***students*** [pupils] enrolled in an approved vocational program is subject to survey by the Texas Education Agency.

(3) A separate application is made for the reimbursement of funds. [Reimbursement is based on the number of actual miles traveled times the district's official extracurricular travel-per-mile rate as set by the local board of trustees and approved by the Texas Education Agency.]

(4) The Texas Education Agency shall reimburse the district based on the number of miles required to transport students from the home campus to the vocational campus and return times the district's official extracurricular travel-per-mile rate as set by the local board of trustees and approved by the Texas Education Agency.

.090. Transportation for Children Enrolled in Required Statewide Bilingual Education Programs.

(a) Policy. Each school district operating an approved program of bilingual education for children of limited English-speaking ability shall be reimbursed for the cost of transporting eligible students from one campus to another within a district or from one district to another when the home district does not offer a bilingual education program.

[Reference Section 21.460, Texas Education Code.]

(b) Administrative procedure. The procedures by which funds are allocated for the transportation of eligible bilingual education students are:

(1)-(3) (No change.)

(4) The Texas Education Agency shall reimburse the district based on the number of miles required to transport students from the home campus to the bilingual campus and return times the district's official extracurricular travel-per-mile rate as set by the local board of trustees and approved by the Texas Education Agency.

[Reimbursement shall be based on the number of actual miles traveled times the district's official extracurricular travel-per-mile rate as set by the local board of trustees and approved by the Texas Education Agency.]

Doc. No. 796194

226.41.07.100

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Texas Education Agency, 201 East 11th, Austin, or in the Texas Register Division office, 503E Sam Houston Building, Austin.)

The Texas Education Agency proposes to repeal Rule 226.41.07.100, concerning old age and survivors insurance for bus drivers. Previously, the employer's portion of this insurance was paid to county school superintendents' offices. The state no longer provides funds for the offices of county school superintendents. Therefore, the rule is being repealed.

The Texas Education Agency anticipates the proposed repeal of Rule .100 will not have state or local fiscal implications.

Public comment on the proposed repeal is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules 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 rules has been published in the *Texas Register*.

This repeal is proposed under the authority of 16.005, Texas Education Code.

.100. Old Age and Survivors Insurance for Bus Drivers.

Doc. No. 796103

Teacher Education

Commission on Standards for the Teaching Profession 226.61.02

The Texas Education Agency proposes to amend Rules 226.61.02.010, .020, .030, .040, .050, .060, .070, and .080 by changing the name of the State Board of Examiners for Teacher Education to the Commission on Standards for the Teaching Profession. The name change reflects actions of the 66th Legislature. In Rule .090, policy and procedure matters shall be initiated by the commission and recommended through the commissioner of education to the State Board of Education for approval, rejection, or return for further consideration.

The Texas Education Agency does not anticipate the proposed amendment of Rules .010, .020, .030, .040, .050, .060, .070, and .080 will have state or local fiscal implications.

Public comment on the proposed amendments is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701. All requests for a public hearing on proposed rules 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 rules has been published in the *Texas Register*.

These amendments are proposed under the authority of Sections 13.031(a) and 13.032(a)-(b), Texas Education Code.

.010. Definitions.

(a) Policy. Those terms used throughout this policy are defined to mean the following:

(1) (No change.)

(2) "Professional teacher" means a person who is qualified to teach in the public schools of Texas by virtue of possession of a valid Texas teaching certificate (for purposes of eligibility to serve on the ***Commission on Standards for the Teaching Profession*** [State Board of Examiners]).

(3)-(5) (No change.)

(b) (No change.)

.020. Policy and Purpose.

(a) Policy. It is the purpose of this policy to establish a ***Commission on Standards for the Teaching Profession*** [State Board of Examiners for Teacher Education] to recommend standards to the State Board of Education for teacher education and teacher certification for certified personnel in public school districts operating elementary and/or secondary schools.

(b) (No change.)

*.030. Composition of **Commission on Standards for the Teaching Profession** [State Board of Examiners].*

(a) Policy.

(1) There is hereby created a 16-member ***Commission on Standards for the Teaching Profession*** [State Board of Examiners for Teacher Education] which shall consist of:

(A)-(E) (No change.)

(2) All members of the ***Commission on Standards for the Teaching Profession*** [Board of Examiners] shall be residents of the State of Texas.

(3) Those persons serving on the ***Commission on Standards for the Teaching Profession*** [Board of Examiners] in the positions listed in Rule .030(1)(A)-(D) shall have professional teacher education background, be presently employed in the appropriate employment category, and have five years' experience in the field of education.

(4) (No change.)

(b) (No change.)

*.040. Selection of **Commission on Standards for the Teaching Profession** [Members of Board of Examiners] and Term of Office.*

(a) Policy.

(1) Members of the ***Commission on Standards for the Teaching Profession*** [Board of Examiners for Teacher Education] shall be appointed by the State Board of Education upon the recommendation of the commissioner of education from a list of qualified individuals. Professional organizations in the teaching profession shall be invited to nominate persons for appointment, and the commissioner shall seek the advice of the ***Commission on Standards for the Teaching Profession*** [Board of Examiners for Teacher Education] on ***the commissioner's*** [his] recommendations.

[(2) The commissioner of education shall appoint an initial advisory committee to consider recommendations for the original membership on the State Board of Examiners.]

(2)[(3)] The term of office of all members of the ***Commission on Standards for the Teaching Profession*** [Board of Examiners] shall be three years commencing on January 1 of the year following their appointment, except that original appointments shall be staggered terms of one, two, and three years. No person shall serve for more than two full consecutive terms as a member of the ***Commission on Standards for the Teaching Profession*** [board]. Any member may be recommended to the commissioner for removal by a two-thirds vote of the ***Commission on Standards for the Teaching Profession*** [board] for failure to attend three consecutive meetings, or for other cause. Any change which results in failure to maintain eligibility requirements of a person for a particular position shall cause a vacancy in that position.

(3)[(4)] When vacancies occur during the term of a person serving on the ***Commission on Standards for the Teaching Profession*** [State Board of Examiners], the State Board of Education shall fill the vacancy by appointment of a person recommended by the commissioner of education from a current list of qualified individuals, including nominees from professional organization in the teaching profession, after seeking the advice of the ***Commission on Standards for the Teaching Profession*** [Board of Examiners].

(b) Administrative procedure.

(1) Initial service on the ***Commission on Standards for the Teaching Profession*** [Board of Examiners] shall be determined by drawing for terms in each categorical designation.

(2) Rotation of initial term of office.

(A)-(C) (No change.)

.050. Authority.

(a) Policy. The ***Commission on Standards for the Teaching Profession*** [State Board of Examiners for Teacher Education] shall have the following authority:

(1)-(2) (No change.)

(3) Advise the commissioner of education and State Board of Education.

(A) Advise the commissioner on appointments for the ***Commission on Standards for the Teaching Profession*** [State Board of Examiners].

(B)-(C) (No change.)

(4) Perform other functions as delegated by the State Board of Education. All actions affecting teacher education and certification require approval of the ***Commission on Standards for the Teaching Profession*** [Board of Examiners] before final ***adoption*** [acceptance] by the State Board of Education except for matters on appeal to the State Board of Education.

(b) (No change.)

.060. Organization of the Commission on Standards for the Teaching Profession [State Board of Examiners].

(a) Policy.

(1) The commissioner of education shall, in consultation with the ***Commission on Standards for the Teaching Profession*** [State Board of Examiners for Teacher Education], select a staff person to serve the ***Commission on Standards for the Teaching Profession*** [Board of Examiners] as director. The ***Commission on Standards for the Teaching Profession*** [Board of Examiners] shall direct the activities of this individual provided by the State Board of Education through the Texas Education Agency. The director shall be a senior-level administrator within the Texas Education Agency directly responsible to the commissioner, and shall be independent of the Texas Education Agency staff in adopting agendas, organizing, and appointing committees. Texas Education Agency staff shall provide support services and liaison between the State Board of Education and the ***Commission on Standards for the Teaching Profession*** [State Board of Examiners].

(2) The ***Commission on Standards for the Teaching Profession*** [State Board of Examiners] shall elect its own chairman and establish its own rules of procedure. The chairman of the ***Commission on Standards for the Teaching Profession*** [Board of Examiners] will be elected from the membership for a one-year term. The chairman will be eligible for re-election, but will be limited to two successive terms.

(3) The agenda will be established cooperatively by the agency staff and the ***Commission on Standards for the Teaching Profession*** [Board of Examiners] and posted in accordance with the Open Meetings Law.

(4) Meetings will be held at least six times per year at the call of the chairman or upon the call of a majority of the members of the ***Commission on Standards for the Teaching Profession*** [State Board of Examiners]. A majority of the members of the ***Commission on Standards for the Teaching Profession*** [State Board of Examiners] will constitute a quorum. No proxies shall be permitted. The first meeting of the ***Commission on Standards for the Teaching Profession*** [Board of Examiners] will be held within two months of the effective date of this policy.

(5) Each member of the ***Commission on Standards for the Teaching Profession*** [Board of Examiners] shall identify five advisors with whom to consult on matters pertaining to teacher education and certification.

(b) (No change.)

.070. Expenses.

(a) Policy. Members of the ***Commission on Standards for the Teaching Profession*** [Board of Examiners] will receive no compensation for their services, but will be reimbursed for their actual expenses incurred in attending official meetings of the ***Commission on Standards for the Teaching Profession*** [State Board of Examiners].

(b) (No change.)

.080. Funding.

(a) Policy. Budget recommendations will be made by the commissioner of education to the State Board of Education after consultation and planning with the ***Commission on Standards for the Teaching Profession*** [Board of Examiners].

(b) (No change.)

.090. Relationships with Other Bodies.

(a) Policy.

(1) State Board of Education.

(A) Policy and procedure matters shall be initiated by the ***Commission on Standards for the Teaching Profession*** [Board of Examiners] and recommended ***through the commissioner of education*** to the state board for approval, rejection, or return for further consideration. Implementation of policy shall be reported to the state board but not be subject to further consideration except as they may be appealed.

(B) The State Board of Education in its appeals process through the commissioner of education shall accept appeals on actions from the ***Commission on Standards for the Teaching Profession*** [State Board of Examiners].

(C) The State Board of Education shall refer matters, including policies, needing consideration to the ***Commission on Standards for the Teaching Profession*** [State Board of Examiners] for study, review, and recommendation.

(2) Commissioner of education.

(A) The commissioner of education shall make recommendations regarding all proposals forwarded from the ***Commission on Standards for the Teaching Profession*** [State Board of Examiners] to the State Board of Education.

(B) The commissioner of education shall refer matters regarding the preparation and certification of school personnel to the ***Commission on Standards for the Teaching Profession*** [State Board of Examiners] for consideration.

(C)-(D) (No change.)

(3) Agency staff members. The relationship between the agency staff members and the ***Commission on Standards for the Teaching Profession*** [Board of Examiners] will be clearly delineated in both the rules of procedure of the ***Commission on Standards for the Teaching Profession*** [Board of Examiners] and the policies of the State Board of Education and their corresponding administrative procedures.

(b) (No change.)

Issued in Austin, Texas, on September 17, 1979.

Doc. No. 796195 A. O. Bowen
Commissioner of Education

Proposed Date of Adoption: November 10, 1979
For further information, please call (512) 475-7077.

Texas Department of Human Resources

24-Hour Care Licensing

(Editor's note: Lengthy new rules, amendments, and repeals recently proposed by the Texas Department of Human Resources in its chapters of rules entitled Day Care Licensing, 24-Hour Care Licensing, and General Licensing Procedure are being published serially beginning in the September 11 issue. The Proposed Rules section of the September 7 issue (4 TexReg 3178) listed the subchapter titles and rule numbers within each of the above chapters affected by this action. The proposed date of adoption for the serialized proposals is November 5, 1979. The subchapters and rules indicated below in the department's rule chapter entitled 24-Hour Care Licensing appear in this issue.)

Standards for Institutions Serving Mentally Retarded Children
326.91.06.001-.063

Standards for Institutions Providing Basic Child Care
326.91.07.001-.031

Standards for Therapeutic Camps
326.91.08.001-.025, .028-.052

The Texas Department of Human Resources proposes to amend, repeal, and add to its rules derived from standards for the following 24-hour and day care facilities:

institutions providing basic child care
institutions serving mentally retarded children
residential treatment centers
therapeutic camps
emergency shelters
halfway houses
foster group homes
foster family homes
day care centers
kindergartens and nursery schools
grades kindergarten and above
group day care homes
registered family homes
child placing agencies (day care only)
family day homes

The Child Care Licensing Act of 1975 requires the department to periodically review standards. An attempt has been made to reduce standards by deleting unnecessary requirements, duplications, and informational narrative which has been determined to be of little or no value. Rules have been rewritten and reorganized for clarity and all of the requirements of records and reports in existing rules have been integrated into the appropriate program sections.

The only substantive changes being proposed, which could be viewed as more stringent, are those rules which relate to character/investigation of employees. The department has received recommendations from a number of providers, advisory groups, and interested individuals pointing out the need for more carefully screening the background of individuals entering into the field of child care. The proposed changes include a prohibition of employment for any staff member working with children who has been convicted within the preceding 10 years of any: (1) felony, (2) misdemeanor classified as an offense against the person, or (3) violation of any law enacted to protect children. Additional rules will be published subsequently by the department to outline methodology for showing proof of rehabilitation and will serve as a basis for requesting a variance to the proposed standard prohibiting employment if proof of rehabilitation can be shown. The proposed changes also require the reassignment or removal from direct child care activities of any employee against whom an indictment or official complaint alleging commission of (1) a felony, or (2) complaint of a misdemeanor classified as an offense against the person, or (3) violation of any law enacted to protect children is returned. Such reassignment or removal shall remain in effect pending resolution of the charges.

The department has determined that these proposed changes represent a reduction of requirements and will therefore have no fiscal implications for the state or local units of government.

The following is a list of the public meetings which have been scheduled for discussion of these rule changes.

Date	Location	Time
September 25	Holiday Inn Market Square 318 West Durango San Antonio	1 and 7 p.m.
September 26	Corpus Christi State School Pavilion Meeting Room 902 Airport Road Corpus Christi	1 and 7 p.m.
September 27	Hilton Hotel Houston Room 2721 South 10th Street McAllen	1 and 7 p.m.
October 2	Moody Center Room 211 (A.B.C.) Hardin-Simmons University 2200 Hickory Street Abilene	1 and 7 p.m.
October 3	Garden and Arts Center 4215 University Lubbock	1 and 7 p.m.
October 4	Midtown Holiday Inn Gateway East at Ranel El Paso	1 and 7 p.m.
October 9	Ramada Inn 700 Lamar Blvd. East Arlington	1 and 7 p.m.
October 10	Holiday Inn Interstate 20 and Estes Parkway Box 7758 Longview	1 p.m.
October 11	First United Methodist Church 805 East Dennan Lufkin	1:30 and 7 p.m.
October 15	Downtown Civic Center Beaumont	1:30 and 7 p.m.
October 16	2913 Louisiana Houston	9 a.m. and 1:30 p.m.

A public hearing has been scheduled on September 24, 1979, at 9 a.m., Department of Human Resources, Room 406, John H. Reagan Building, Austin. Written comments are also invited and may be sent to Susan L. Johnson, assistant chief, Systems and Procedures Bureau—250, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 60 days of publication in this *Register*.

Standards for Institutions Serving Mentally Retarded Children 326.91.06.001-.033

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, John H. Reagan Building, Austin, or in the Texas Register Division office, 503E Sam Houston Building, Austin.)

The repeal of Rules 326.91.06.001-.033 is proposed under the authority of the Human Resources Code, Chapter 42.

.001. *Objectives.*
.002. *Governing Body Responsibilities.*
.003. *Fiscal Accountability.*
.004. *Policies.*
.005. *Administrator Qualifications and Responsibilities.*
.006. *Staffing.*
.007. *Qualifications and Responsibilities of Staff.*
.008. *Training.*
.009. *Admission Policies.*
.010. *Intake Study.*
.011. *Emergency Placement.*
.012. *Placement in Foster or Adoptive Homes.*
.013. *Plan of Service.*
.014. *Daily Care.*
.015. *Money.*
.016. *Community Relationships.*
.017. *Education, Work, and Training.*
.018. *Children's Rights.*
.019. *Medical and Dental Care.*
.020. *Nutrition.*
.021. *Discharge.*
.022. *Health and Safety.*
.023. *Environment.*
.024. *Food Preparation, Storage, and Equipment.*
.025. *Childrens' Records.*
.026. *Staff Records.*
.027. *Emergency Reports and Records.*
.028. *Reports.*
.029. *Definitions.*
.030. *Retardation Charts.*
.031. *Additional Minimum Standards for Institutions Serving Mentally Retarded Children with Primary Medical Needs.*
.032. *Temporary Exemptions.*
.033. *Serving Children and Adults.*

Doc. No. 795611

326.91.06.034-.063

These new rules are proposed under the authority of the Human Resources Code, Chapter 42.

.034. Legal Basis for Operation.

(a) Institutions (other than those owned by a sole proprietor) serving mentally retarded children shall make available documentation of their legal basis for operation to the Licensing Branch of the Department of Human Resources. The Licensing Branch shall be notifed of any changes in the legal basis for operation. The legal basis for operation shall be documented in one of the following ways:

(1) A corporation shall make available a copy of the the articles of incorporation and certificate of incorporation.

(2) Institutions operated by state agencies or other governmental entities shall make available documentation of enabling legislation and a copy of a constitution or bylaws, if such exists.

(3) Institutions operated by a partnership or association shall make available partnership agreements or documents reflecting the existence or creation of an association.

(b) Corporations and churches shall make available to the department a copy of the resolution authorizing the operation of the facility.

.035. Governing Body Responsibilities.

(a) All facilities shall have a governing body that is responsible for and has authority over the policies and activities of the institution. If an institution is owned by a partnership, the partners shall be regarded as the governing body for the purposes of this subsection. If an institution is owned by a sole proprietor, the responsiblities imposed on a governing body by this subsection shall be borne by that proprietor. Institutions that are owned corporately shall provide the deparment with a list of names, addresses, and titles of the officers and/or executive committee of the governing body. Institutions that are owned jointly or individually shall provide the department with a list of names and addresses of the partners or owner. The Licensing Branch shall be notified of any changes.

(b) The governing body shall be responsible for policies and programs, for ensuring adequate financing, and for ensuring compliance with minimum standards.

(c) The institution shall operate in accordance with its written policies. Copies of policies required by minimum standards shall be made available to staff.

(d) The governing body shall reassign or remove from direct child care activity any licensed administrator against whom is returned:

(1) an indictment alleging commission of any felony; or

(2) an indictment or official criminal complaint alleging commission of a misdemeanor classified as an offense against the person; or

(3) an indictment or official criminal complaint alleging violation of any law enacted to protect children.

(e) Such reassignment or removal shall remain in effect pending resolution of the charges. Notification of such action shall be made to the licensing branch within 24 hours or the next working day.

.036. Fiscal Accountability.

(a) The institution shall maintain complete financial records. Books shall be audited annually by a certified public accountant. A copy of the accountant's statement of income and disbursements and the opinion letter from the audit report shall accompany the license application for licensed facilities.

(b) New institutions shall submit a letter from a certified public accountant stating that the bookkeeping system will be set up so that an audit can be made at the end of each fiscal year.

(c) New institutions shall submit a 12-month budget to the licensing branch when the signed application is submitted.

(d) New institutions shall have predictable funds sufficient for the first year of operation. It shall have reserve funds or documentation of available credit equal to the

operating costs for the first three months. A 12-month budget shall be submitted.

.037. *Placement in Foster or Adoptive Homes.* An institution shall be licensed for child placing activity before it places individuals in care into foster or adoptive homes or another institution.

.038. *Emergency Reports and Records*

(a) Any serious incident involving a child shall be reported immediately to the parents or managing conservator. Documentation of notification of the child's parents or managing conservator shall be included in the child's record.

(b) The institution shall complete written incident reports concerning serious occurrences involving staff or children. Each report shall include the date and time of occurrence, the staff member or children involved, the nature of the incident and the circumstances surrounding it. A copy of the report shall be filed at the institution and shall be available for review by the staff of the Licensing Branch.

(c) The following types of serious occurrences shall be reported to the Licensing Branch within 24 hours or the next working day: suicide attempts, incidents of cruel or abusive treatment, incidents which critically injure or permanently disable a child, and death of a child.

(d) Absences without permission shall be reported to the parents or managing conservator when it is determined that the child is a runaway. Documentation of notification of the child's parents or managing conservator shall be included in the child's record.

(e) Disasters or emergency situations which require closure of the living unit shall be reported to the Licensing Branch of the department within 24 hours or the next working day.

(f) The administrator of the child-caring institution shall submit reports to the Licensing Branch of the department concerning:

(1) any change in administrator;

(2) any impending change that would necessitate a change in the condition of the license.

(g) The institution shall allow the department to visit and inspect the institution at all reasonable times.

(h) The institution's records shall be available at the facility and open for review by the Licensing Branch.

(i) The license shall be displayed at the institution.

.039. *Personnel Policies.*

(a) Institutions shall have written job descriptions which specify what duties employees are expected to perform. A copy of the job descriptions shall be available to employees and to the Licensing Branch.

(b) If volunteers or sponsoring families are used, institutions shall have written policies stating the qualifications for volunteers or sponsoring families and the procedures for selecting these individuals or families. A copy of the policies and procedures shall be available for review by the Licensing Branch.

.040. *Administrator Qualifications and Responsibilities.*

(a) The administrator shall be licensed as provided by the Human Resources Code, Chapter 42.

(b) The administrator is responsible for implementing the policies adopted by the governing body, the ongoing operations of the institution, and compliance with the "Minimum Standards for Institutions Serving Mentally Retarded Children."

(c) If the administrator is involved in activities that cause frequent or extended absences from the institution, an assistant shall be retained to take responsibility for the program and administer the general affairs of the institution. This shall be included in the job descriptions and written plans for staffing. If responsiblity for the program of the institution is delegated to an assistant administrator, he or she shall also be licensed.

(d) The licensed administrator shall make available to staff organizational charts and written plans for staffing.

(e) The licensed adminstrator shall reassign or remove from direct child care activities any employee against whom is returned:

(1) an indictment alleging commission of any felony; or

(2) an indictment or official criminal complaint alleging commisssion of a misdemeanor classified as an offense against the person; or

(3) an indictment or official criminal complaint alleging violation of any law enacted to protect children.

(f) Such reassignment or removal shall remain in effect pending resolution of the charges. Notification of such action shall be made to the Licensing Branch within 24 hours or the next working day.

.041. *Staffing.*

(a) In the administrator's absence, a person or persons shall be designated responsible for the institution.

(b) The institution shall employ and supervise staff necessary to ensure the health and safety of the children in its care.

(c) The insitution shall have staff coverage throughout the 24-hour period.

(1) When children of different ages, developmental levels, or social needs are grouped together for any purpose there shall be sufficient staff supervision to prevent children abusing or mistreating one another.

(2) There shall be at least one child care worker on duty during waking hours for every four children under the age of five, and one child care worker for every eight children five years old and older.

(3) The staff-child ratio applies to the total facility and includes children of staff who live in child care units. Staff shall be available to children in care. Only child care staff or volunteers meeting the same qualifications may be counted in the staff-child ratio.

(4) During sleeping hours one child care worker shall be in the living unit for every 16 children. However, if night staff is awake, one child care worker shall be in the living unit for every 24 children. In addition to required staff, at least one staff person shall be on call in case of an emergency.

(d) Tasks which conflict or interfere with child care responsiblities shall not be assigned to child care staff. Job descriptions and staff assignments shall show no conflicts in assignments to child care staff.

(e) The institution shall have a psychologist available for diagnosis, treatment, and consultation.

(1) This shall be a psychologist as defined by the Psychologists' Certification and Licensing Act.

(2) If the psychologist is not on the staff of the institution, the psychologist shall document that his or her services are available on at least a continuing consulting basis.

.042. *Qualifications and Responsibilities.*

(a) No one may serve as a staff member working with children who has been convicted within the preceding 10 years of any felony or of any misdemeanor classified as an offense against the person or of violation of any law enacted to protect children.

(b) The personal qualifications of employees shall be verified.

(1) At least three references shall be obtained for each potential employee prior to employment. Information obtained from references shall be written and filed whether the interview is conducted in person or by telephone.

(2) Each employee shall submit a statement to the facility providing information concerning felony and/or misdemeanor convictions, if any, within the preceding 10 years and of pending criminal charges, if any.

(c) Persons with symptoms of communicable disease shall not be allowed at the institution.

(d) Persons whose behavior endangers the children shall not be allowed at the institution.

(e) Staff members or household members shall have a tuberculosis test within 12 months prior to employment. A report of a negative skin test or a negative chest x-ray is mandatory. Any additional testing shall be based on recommendations of the Texas Department of Health or local public authorities.

(f) Child care staff shall be at least 18 years old and be able to read and write.

(g) Every staff member, employee, or volunteer who regularly prepares or serves food in the institution shall have a health certificate signed by a licensed physician. The health certificate shall have been obtained and dated within the previous 12 months. It shall be renewed yearly.

.043. *Training.*

(a) The institution shall provide orientation for all new staff.

(b) All staff working with children shall receive annually at least 15 hours of in-service training related to mentally retarded children's services. This shall include training in carrying out a daily training and treatment program designed to preserve and improve self help skills and independent functioning and to prevent, insofar as possible, any deterioration of functioning. In-service training for staff working with children shall be documented. This shall include the date, the subject, and name of the person who conducted the training.

(c) First aid training is required for child care staff who are not licensed/certified heath professionals.

(1) First aid training received or scheduled shall be documented for child care staff.

(2) Training shall be conducted by a Red Cross instructor or a licensed/certified health professional. First aid training courses approved by the Texas Department of Health also constitute compliance.

(3) First aid training shall be updated at least every three years. Certificates or statements of training shall document that training has been updated.

.044. *Staff Records.* Personnel records shall be maintained for each employee of the institution. These records shall contain information on:

(1) qualifications for the position;

(2) tuberculosis test reports for all staff;

(3) health certifcate, if applicable;

(4) conviction record statement;

(5) date, name of contact, and information received from preemployement references;

(6) date of employment;

(7) date and reason for separation;

(8) forwarding address of separated employees.

.045. *Admission Policies.*

(a) An institution shall admit only those individuals for whom it has an operational program and who meet the admission policies. The admission policies shall specify whether the institution will admit residents whose needs are primarily medical in nature.

(1) The institution shall have written admission policies which specify the age, sex, and type of children served. A copy of the admission policies shall be submitted to the Licensing Branch when the signed application is submitted.

(2) If a change in the admission policies is adopted which requires changes in the conditions of the license, the institution shall apply to the department for a new license.

(b) Institutions that provide care for mentally retarded children whose needs are primarily medical are required to meet the appropriate standards.

(c) An institution shall not accept more children than the number specified on the license or children whose age and sex are inconsistent with the conditions of the license.

(d) An institution serving mentally retarded children shall not offer, at the same time and in the same facility, two types of care that conflict with the best interests of the children, the use of staff, or the use of the facility. The institution shall document that there is no such conflict.

(e) No child shall be admitted to an institution exclusively serving mentally retarded children unless that child is below average in intellectual functioning and also has deficits in adaptive behavior.

(1) Intellectual functioning shall be determined by standardized tests for all children.

(2) The level of adaptive behavior shall be determined by published scales or by a licensed pyschologist who has experience with mental retardation.

(f) No child shall be denied admission to the institution based on race.

(g) The institution shall not provide care for a child who has not had a medical examination by a licensed physician within 30 days prior to admission or within 30 days after admission. Children being transferred from an agency who have had a medical examination within the past year are exempt. The medical examination shall be documented in the child's record. The medical examination report must document the appropriateness of the child's placement in the institution and include instructions for meeting any special medical or nutritional needs of the child.

(h) Children three years old or older shall have had a dental examination by a licensed dentist within six months prior to admission or arrangements shall be made for one within 30 days after admission. Children being transferred from an agency who have had a dental examination within the past year are exempt. Documentation of the exam shall be in the child's medical record.

(i) Children shall be tested for tuberculosis according to the recommendations of the Texas Department of Heath or local public health authorities.

.046. Intake Study.

(a) Except in an emergency placement, the institution shall not accept a child until an intake study has been made and the institution has determined that the placement meets the needs and best interests of the child and his or her family.

(b) The intake study shall be developed by a person having one of the following qualifications.

(1) a master's degree in social work from an institution accredited by the Council on Social Work Education and a minimum of one year experience in children's or family services;

(2) a graduate degree in behavioral or social science from an accredited college or university and two years experience in children's or family services;

(3) a bachelor's degree in social work from an accredited college or university and two years experience in children's or family services;

(4) a bachelor's degree from an accredited college or university and three years experience in children's or family services;

(5) a bachelor's degree from an accredited college or university and current, direct supervision from a person meeting one of the above qualifications.

(c) The intake study shall be filed in the child's record and shall include at least the following information:

(1) a description of family relationships and the family's circumstances that make the placement necessary;

(2) the child's developmental and medical history;

(3) the parents' or managing conservator's expectations of placement;

(4) the child's understanding of placement;

(5) A description of the child's personality, behavior, and interests;

(6) the child's school history;

(7) history of previous placement;

(8) a statement about the child's legal status;

(9) a psychological examination, including a psychometric evaluation, done within the past 12 months;

(10) a statement of the child's needs;

(11) the immediate and long-range goals of the placement;

(12) name of family member or managing conservator who will be responsible for the relationship with the institution and the child.

(d) The intake process shall include a discussion about placement with the child and his or her parents or managing conservator. This discussion shall be documented.

(e) The institution's policies and procedures shall document the staff responsible for reviewing the intake study and determining which applicants shall be admitted.

(f) At the time of placement, a written agreement shall be made between the institution and the child's parents or managing conservator. A copy of this agreement shall be in the child's record. The agreement shall include:

(1) authorization to care for the child;

(2) a medical consent form signed by a person authorized to give consent.

(g) Before admission, or at the time of placement, the institution shall provide written material to the child's parents or managing conservator which specifies:

(1) rules regarding visits, mail, gifts, and telephone calls;

(2) information on the nature and frequency of reports to the child's parents or managing conservator;

(3) the institution's policy concerning discipline;

(4) the institution's policy or program concerning religious training;

(5) the name of the person or office that parents or managing conservators can contact if they feel their child's rights have been violated;

(6) information regarding trips;

(7) if the institution has a school program, information concerning its accreditaion, approval, or lack thereof by the Texas Education Agency.

(h) The institution shall provide orientation for new children.

.047. Emergency Placement. When an emergency placement has been made an intake study shall be completed within 30 days.

(1) The institution shall document the conditions that make emergency placement necessary.

(2) The institution shall document that the intake study was initiated within five days of admission.

.048. Children's Records.

(a) Accurate and current records shall be maintained for each child in care. In addition to other required documentation, each child's record must include name, date of birth, place of birth, sex, religion, race, names and addresses of parents, brothers, and sisters, names and addresses of other persons who have a significant relationship with the child, date of admission, birth certificate or other document which establishes identity if available (records without these documents shall reflect correspondence generated at least every three months to obtain such), a copy of any court order related to managing or possessory conservatorship, and date of discharge.

(b) The institution shall ensure that case records are kept confidential and inaccessible to unauthorized persons.

(1) Information in case records shall be disclosed only for direct and authorized services to the child or the administration of the insititution.

(2) These records shall be at the insitituion and avialable to the department for review.

.049. Plan of Service.

(a) Within 30 days of admission, an initial plan of service shall be developed by the institution after conferring with the child and the child's parents or managing conservator. The plan shall be filed in the child's case record with copies or a summary given to the child's parents or managing conservator. The names of the persons participating in the formulation of the plan shall be listed in the child's record.

(1) The plan of service shall specify the child's needs and the way these needs shall be met.

(2) The plan of service shall include the objectives of placement and the estimated length of stay.

(3) The plan of service shall be shared with staff working with the child.

(b) There shall be a conference every six months for the purpose of reviewing and updating the plan. The conference shall include a representative of the institution, the child's parents or managing conservator, and the child. Advance notice of the date of the conference shall be given to the child's parents or managing conservator. Documentation of this notification shall be included in the child's record. Results of the review shall be filed in the child's case record.

(1) The updated plan shall note achieved or changed objectives. A copy or summary shall be given to the child's parents or managing conservator.

(2) The names of persons participating in the conference shall be listed. If those listed did not participate, a copy of the plan shall be sent for their response.

(c) Each child's intellectual functioning shall be reevaluated at least annually by a person professionally qualified to provide psychological services until the child is 10 years old and every two years thereafter. This person shall be a psychologist as defined by the Psychologists' Certification and Licensing Act.

(d) The institution shall obtain professional consultation and treatment for children with developmental disabilities and or problems of adjustment in the social, home, and/or school environment. Any record of specialized testing or treatment shall be documented in the child's record.

(e) Institutions providing care for children and adults are required to meet the standards in Rule .061.

(f) Institutions that provide care for mentally retarded children whose needs are primarily medical are required to meet the standards in Rule .062.

.050. Daily Care.

(a) The daily schedule shall be developed to meet children's needs and relate to the normalization principle. The schedule shall show understanding of normal child development and the use of time to enhance the child's physical, emotional, and social development in order to help the developmentally disabled child obtain an existence as normal as possible.

(b) Food service practices for children, including nonmobile children, shall encourage self help and development.

(1) Children shall eat or be fed in the dining areas unless there are medical orders to the contrary.

(2) Infants shall be held during feedings unless there are medical orders to the contrary.

(c) The institution shall see that each child is supplied with personal clothing suitable to the child's age and size. It shall be comparable to the clothing of other children in the community. Children shall have some choice in selecting their clothing.

(d) Children shall be given training in personal care, hygiene, and grooming. Each child shall be supplied with personal care, hygiene, and grooming equipment.

(e) Children shall have outside activities daily, weather permitting, unless there are medical orders to the contrary.

(f) The institution shall provide supervised indoor and outdoor recreation and equipment so that every child may participate. Training programs for nonambulatory children shall include physical fitness development that prescribes a variety of body positions and changes in the environment unless there are medical orders to the contrary.

(g) The institution shall encourage and arrange for children to participate in community functions and recreational activities. Children shall be encouraged to form friendships with persons outside the institution.

.051. Money.

(a) The institution shall provide children wih guidance in money management.

(b) Money earned by a child or received as a gift or an allowance shall be his or her personal property. A child's money shall be accounted for separately from the institution's funds.

(c) A child shall not be required to use earned money to pay for room, board, and clothing unless it is a part of the treatment plan and approved by the parents or managing conservator and the director.

.052. Trips Away from the Institution.

(a) The chidren shall be accompanied by a sufficient number of staff to adequately meet their needs.

(b) Special provisions shall be made for transporting nonambulatory children. When necessary this shall include locks for wheelchairs and hydraulic lifts.

(c) The institution's staff-child ratio shall be maintained for overnight trips.

(d) The administrator shall ensure that individuals on trips are properly fed, lodged, and supervised, and that safety, medical care, and programming are provided.

.053. Education, Work, and Training.

(a) The institution shall arrange an education for each child.

(b) The institution shall make an annual written appraisal of each child's educational progress and continuing educational needs.

(1) The appropriate institutional personnel shall document their appraisal of the child's educational progress including the school's evaluation and recommendation in the child's record.

(2) Career planning shall be included in setting objectives for older adolescents. The adolescent shall be involved in setting these objectives. Objectives for career planning shall be recorded in the child's record.

(c) As a part of normalization, visual, auditory, and tactile stimulation shall be provided for each child to enhance his or her physical, neurological, and emotional development. A minimum of one hour per day of stimulation shall be provided for each child.

(d) The institution shall provide for the social and educational needs of the children.

(e) The institution shall distinguish between tasks which children are expected to perform as part of living together, jobs to earn spending money, and jobs performed for vocational training.

.054. Children's Rights.

(a) The staff of the institution shall allow privacy for each child.

(b) Each child shall have access to a quiet area where he or she can withdraw from the group when appropriate.

(c) Contacts between the child and his or her parents or managing or possessory conservator shall be allowed while the child is in care unless the rights of the parents have been terminated by court order or family contact is not in the child's best interest. The frequency of contact shall be based on the needs of the child, and shall be determined with the participation of his or her family or managing or possessory conservator, and institutional staff.

(1) Children shall be allowed to send and receive mail and have telephone conversations with family members or managing or possessory conservators unless the best interests of the child or a court order necessitates restrictions.

(2) If restrictions on communcations or visits are necessary, they shall be evaluated monthly by a psychiatrist, licensed psychologist, social worker with a master's degree in social work, or a licensed administrator. These monthly evaluations shall be documented in the child's record giving reasons for limitations.

(3) If limits are put on communication or visits for practical reasons, the limits shall be determined with the participation of the child and his or her parents or managing conservator. These limitations shall be filed in the child's record.

(d) The institution shall have clearly written polices regarding visits, gifts, mail, and telephone calls between the child and his or her family or managing or possessory conservator. These policies shall be available for review by the Licensing Branch.

(e) A child shall be allowed to bring personal possessions to the institution and to acquire others. If limits are put on the kinds of possessions a child may or may not receive, these shall be discussed with the child and his or her parents or managing conservator.

(f) The institution shall not place a child in a position of having to acknowledge his or her dependency, destitution, or neglect. The institution shall not require the child to make statements regarding his or her background or dependence on the institution.

(g) The institution shall not require a child to make public statements to acknowledge gratitude to the institution.

(h) Children shall not be required to perform at public gatherings.

(i) Pictures, reports, or identification that humiliate, exploit, or invade the privacy of a child or his or her family or managing conservator shall not be made public. The institution shall not use reports or pictures from which chidren can be identified without written consent from the child and the parents or managing conservator.

(j) There shall be no racial discrimination by the institution.

(k) The opinions and recommendations of the children in care shall be considered in the development and evaluation of the program and activities. The procedure for this shall be documented. A copy of the procedure shall be available for review by the Licensing Branch.

(l) The institution shall have written policies for the discipline of the children in care. Copies shall be available to staff. Copies of the institution's discipline policies shall be submitted to the department with each application for a license.

(m) Discipline shall be consistent with the policies of the institution and shall not be physically or emotionally damaging.

(1) Only adult staff members shall discipline children.

(2) Children shall not be subjected to cruel, severe, unusual,or unecessary punishment.

(3) Children shall not be subjected to remarks that belittle or ridicule them or their families.

(4) Children shall not be denied food, mail, or visits with their families as punishment.

(5) Any discipline or control shall fit the needs of each child.

(6) Children shall not be punished by shaking, striking, or spanking.

(n) Physical and mechanical restraint shall be used only when necessary to protect the child from injury to self or others.

(1) In an emergency, only physical holding shall be used unless a physician orders mechanical restraint.

(2) The need for restraint, the type of restraint used, and the length of time the restraint was used shall be recorded in the child's case record.

(3) If physical restraint is to be used other than in an emergency, it shall be used only upon the orders of a licensed physician.

(4) An order for physical restraint shall designate the type of restraint to be used, the circumstances under which it is to be used, and the duration of its use.

(5) A staff member shall observe the resident in restraints on a regular and frequent basis in accordance with physician's orders. Each observation shall be documented.

(6) Physician's orders for restraint shall be renewed on at least a quarterly basis. The physician shall see the child, determine the need for physical restraint, and sign written instructions at least every three months.

(o) Children in care shall not be placed in a locked room.

(p) Children in care shall not act as or be employed as staff.

.055. Medical and Dental Care.

(a) The institution shall have written policies and procedures for obtaining diagnosis and treatment of medical and dental problems.

(1) Copies of the written policies and procedures shall be available for reveiw by the Licensing Branch.

(2) The institution shall make known to all staff members the policies and procedures to be followed in a emergency.

(b) All children shall be examined annually by a licensed physician. Treatment shall be provided as indicated. Documentations of the examination signed by a licensed physician shall be filed in the child's record. The medical examination report must document the appropriateness of the child's continued placement in the institution and include specific instructions for meeting any special medical or nutritional needs.

(c) Facilities for medical isolation shall be available.

(d) Children three years old or older shall have a dental examination at least once a year.

(e) Provisions shall be made for emergency medical and dental care.

(f) The institution shall comply with laws, rules, and regulations regarding immunization of children. Current immunization records shall be maintained.

(g) The institution shall comply with laws, rules, and regulations regarding aquisition, storage, and administration of medications.

(h) Medication records shall include the medications given, the time, the dosage, and the name of the person administering the medications. Prescribed medicines shall be given by an adult staff member.

(i) Current medical and dental records shall be maintained for each child. The following shall be included in each child's medical record:

(1) a record of each visit to a physician or dentist including diagnosis, recommended treatment, and recommendations regarding follow-up visits;

(2) medication records including all medicines given, dosages, times given, and the name of the person adminstering the medicine;

(3) all seizures, injuries, and abnormal occurrences shall be recorded. The time of occurrence, type of incident, action taken, and person involved shall be recorded.

.056. Nutrition. Children shall be provided food of adequate quality and in sufficient quantity to supply the nutrients needed for growth and development.

(1) "Food for Fitness—A Daily Food Guide," developed by the United States Department of Agriculture, shall be used as a basis for meeting these standards.

(2) Children shall have a minimum of three meals daily and snacks.

(3) Menus, as served, shall be retained on file for one month after use.

(4) If special diets are prescribed by a physician, menus shall be planned by a consultant dietitian.

(5) All milk and milk products shall be Grade A pasteurized or from sources approved by the Texas Department of Health.

(6) No more than 14 hours shall pass between the last meal or snack of one day and the serving of the first meal of the following day.

.057. Discharge.

(a) The following personnel shall be involved in planning the discharge of a child from the institution:

(1) the child;

(2) the child's parents or managing conservator;

(3) institution staff.

(b) Before discharging a child, the institution shall review the objectives of the plan of service and determine which objectives have been met.

(c) In the event of an emergency discharge and the institution is unable to plan for the discharge with the appropriate persons, the institution shall document the circumstances surrounding the emergency discharge in the child's record.

(d) The institution shall not discharge a child to anyone other than the parent or managing conservator, except on written authorization from the parent or managing conservator.

(e) The discharge plan for the child shall be recorded in the child's record. The circumstances surrounding the discharge shall be documented in the case record. The name, address, and relationship of the person to whom the child is discharged shall be recorded.

.058. Health and Safety.

(a) Documentation of current and approved fire, health, and safety inspections shall be on file at the institution. Copies of the inspection reports shall be submitted to the Licensing Branch when the signed application for licensure is submitted and annually thereafter. The required annual inspections are:

(1) Fire inpections which must meet requirements of the local fire marshal. In areas where there is no certified fire inspector the state fire marshal shall be requested to make the inspection.

(2) Health inspections which must meet regulations set by the local health ordinances and Texas Department of Health.

(3) Gas pipes must be pressure tested by the local gas company or a licensed plumber.

(4) Liquefied petroleum gas systems must be inspected by the Liquefied Petroleum Gas Division of the Texas Railroad Commission.

(b) There shall be written plans and procedures for meeting disasters and emergencies. Staff members shall know the procedures for meeting disasters and emergencies.

(c) No exit doors or windows shall be locked without written approval of the fire marshal.

(d) An outdoor swimming pool shall have a fence. Entrances and exits to outdoor and indoor pools shall be locked when not in use. Machinery rooms shall be locked to prevent children from entering.

(e) A certified lifeguard shall be on duty when the facility's swimming area is in use. Certification shall be documented in the personnel records.

(f) When nonambulatory children or children subject to seizures are swimming, there shall be at least one child care staff member or volunteer for each such child in the swimming area in addition to the lifeguard on duty.

.059. Environment.

(a) Buildings and grounds shall be maintained, repaired, and cleaned so that they are not hazardous to health and safety.

(1) Outdoor areas shall be well drained.

(2) Windows and doors used for ventilation shall be screened.

(3) Equipment and furniture shall be safe and sturdy.

(4) Anything flammable or poisonous shall be in locked storage away from heat and out of children's reach. This includes paints containing lead and poisonous gases.

(5) Explosive materials, fire arms, and projectiles must be in locked storage out of the children's reach.

(b) Animals on the premises shall be vaccinated and treated according to the recommendations of a licensed veterinarian in order to protect the health of the children. Vaccinations and treatments shall be provided as the veterinarian recommends. Documentation of vaccinations and treatment shall be on file at the facility.

(c) Institutions shall take measures to keep the facility free of rodents, insects, and stray animals.

(d) There shall be indoor areas where children can gather. For ambulatory and mobile nonambulatory children, there shall be a minimum area of 40 square feet per child exclusive of bedrooms, halls, kitchen, and any rooms not available to children. For nonmobile nonambulatory children there shall be an activity area containing a minimum of 40 square feet of floor space per child using the area at any one time.

(e) A sleeping room shall contain at least 60 square feet per ambulatory occupant. Bedrooms for single occupants shall have at least 90 square feet of floor space.

(f) The sleeping area for nonambulatory children shall have a minimum of three feet between beds and aisle space of at least five feet.

(g) Sketches of floor plans showing dimensions and purposes of all rooms shall be sumbitted to the Licensing Branch when the signed application is submitted.

(h) Furniture in living areas shall not block exits.

(i) Each child shall have his or her own bedstead and mattress. Beds shall be kept clean and comfortable. Mattresses shall have covers or protectors.

(1) Nonambulatory children and those subject to seizures shall not use the top bunk of bunk beds.

(2) Linens and blankets shall be laundered before assigning a new occupant to a bed.

(j) There shall be personal storage space for each child's clothing and possessions which are within easy reach of children who are able to look after their own possessions and needs.

(k) No child over six years old shall share a bedroom with a person of the opposite sex.

(l) There shall be one lavatory, one tub or shower with hot and cold running water, and one toilet for every eight children.

(1) Bathrooms shall be located near the sleeping area.

(2) Bathrooms shall be thoroughly cleaned daily.

(3) Bathrooms used by physically handicapped children shall be appropriately equipped with wide doors and handbars.

(m) Separate toilet and bath facilities shall be provided for boys and girls over six years old unless the plan of use is documented and has the approval of the department.

(n) Physically handicapped children shall use specially equipped bathrooms unless there are medical orders to the contrary.

.060. Food Preparation, Storage, and Equipment. All food and drink shall be of safe quality.

(1) Food preparation, dining, and storage area, equipment, and furniture shall be kept clean and in good repair.

(2) All food items shall be stored off the floor in covered containers that are insect and rodent proof or refrigerated.

(3) Animals shall not be permitted in food storage, preparation, and dining areas.

(4) One time use paper and plastic dishes, utensils, and containers shall not be reused.

.061. Additional Minimum Standards for Institutions Serving Mentally Retarded Children and Adults.

(a) Institutions serving mentally retarded children and adults shall ensure that the required staff-child ratio is maintained for the children in care. This shall be accomplished by one of two alternatives.

(1) Specific staff shall be assigned to work exclusively with the children in care. Job descriptions and staffing assignments shall show no conflicts in assignments to child care staff.

(2) If staffing assignments are such that staff must be responsible for children and adults, then the required staff-child ratio shall be maintained for all residents in care.

(b) Adult residents cannot be counted as staff in the staff-child ratio.

(c) Institutions serving mentally retarded children and adults shall ensure that the required 40 square feet of indoor area per child is maintained for the children in care. The indoor areas are places where ambulatory children can gather for relaxation, entertainment, or recreation. This shall be acomplished by one of two alternatives.

(1) A specific indoor area shall be assigned to be used exclusively by the children in care.

(2) If children and adults must share the living area, then the required minimum square footage shall be maintained for all residents in care.

(d) Institutions serving mentally retarded children and adults shall ensure that the required 60 square feet of bedrooom space for ambulatory occupants is maintained for children in care. This shall be accomplished by one of two alternatives.

(1) Specific bedroom areas shall be assigned to be used exclusively by the children in care.

(2) If bedroom areas are shared by children and adults, then the minimum sqaure footage shall be maintained for all the residents in care.

(e) The institution shall complete written incident reports concerning serious occurrences involving staff or residents. Each report shall include the date and time of occurrence, the staff member or resident involved, the nature of the incident, and the circumstances surrounding it. A copy of the report shall be filed at the institution and shall be available for review by the staff of the Licensing Branch.

(f) Any incident which critically injures, permanently disables, or results in death to a resident shall be reported to the Licensing Branch within 24 hours or the next working day.

(g) If adults are allowed responsiblity for their own medication, the institution shall establish safeguards to prevent children in care from having access to the medications.

(h) Adults in care shall have a tuberculosis test within 12 months prior to admission. A report of a negative skin test, or a negative chest x-ray is mandatory. Any additional testing shall be based on recommendations of the Texas Department of Health or local health authorities.

.062. Additional Minimum Standards for Institutions Serving Mentally Retarded Children with Primary Medical Needs.

(a) Definition of care. Institutions serving mentally retarded children whose needs are primarily medical shall ensure that medical supervision and nursing care are available to children admitted for care. Children whose need for care is primarily medical in nature include:

(1) those children who are unable to swallow secretions sufficient to maintain an open airway;

(2) those children who require feeding tubes or parenteral route to sustain life;

(3) those children who have other life threatening conditions, making them dependent on the services of others and/or mechanical supports to sustain life; and

(4) those children who require sterile techniques or specialized procedure to promote healing, prevent infection, cross-infection, or contamination, and to prevent breakdown of tissues.

(b) Admission policies.

(1) Institutions offering care to children with primary medical needs shall outline in writing their available services and their plan for providing licensed medical personnel to perform the prescribed medical services.

(2) Admissions shall be made upon the written orders of a licensed physician.

(c) Medical care.

(1) Each child shall be evaluated by the attending physician within 72 hours before or after admission. This evaluation shall be documented in the child's medical record.

(2) Each child shall have written orders which meet his or her medical needs. The written orders shall include orders for all medications, treatments, diet, range-of-motion program at stated intervals, habilitation as appropriate, and any special medical procedures.

(3) Nonmobile children shall be turned every two hours to increase circulation and to prevent bedsores or contractures unless there are medical orders to the contrary. This procedure shall be documented in the child's medical record.

(4) Each child shall have his or her medical needs reviewed by the treating physician as often as necessary or at least every 90 days The review shall be documented.

(d) Nursing services.

(1) Nursing services shall be under the direction of a registered nurse currently licensed to practice in Texas.

(2) The director of nursing services shall be employed full time and shall work during the day. The person in this position may be relieved on days off by a licensed vocational nurse.

(3) Awake nursing personnel shall be available at the facility on a 24-hour basis Nursing personnel shall include a licensed vocational nurse or registered nurse.

(4) All specialized nursing procedures shall be done by nurses who are licensed for such skills. Specialized nursing procedures include: using sterile techniques, irrigating openings, using injectables, suctioning patients, inserting naso-gastric tubes, or making clinical observations.

(e) Nutrition services.

(1) Children shall eat in an upright positon unless there are physician's orders to the contrary.

(2) Children shall eat or be fed according to their medical and developmental needs.

(3) Tube feeding shall be used only when prescribed by a licensed physician.

(A) The staff responsible for formula preparation shall be under the supervision of a licensed physician, nutritionist, or registered nurse.

(B) Tube feeding formulas shall supply the recommended dietary allowance for each child.

(C) Unless each tube feeding formula is prepared immediately before administration, the formula shall be prepared no more than 24 hours prior to feeding and stored in bacteriologically safe, sanitized, and covered containers, and maintained at less than 40 degrees Fahrenheit.

(4) Only a licensed physician or registered nurse shall insert a tube for feeding. The date of each insertion shall be documented.

(5) Tubes for feeding shall not be left in place longer than seven days.

(6) Staff assigned to administer tube feeding formulas shall be trained by a licensed physician or registered nurse. The licensed physician or registered nurse shall document that the staff members assigned to administer tube feeding formulas have been trained and have demonstrated competence in adminstering tube feeding formulas.

(7) Each child shall be weighed monthly and his or her height measured quarterly. Weight and height shall be recorded in the child's medical records.

(8) A consultant dietitian shall plan diets prescribed by the physician.

.063. Glossary. Terms found in standards for institutions serving mentally retarded children are the following:

(1) Adaptive behavior—the effectiveness or degree with which an individual meets the standards of personal independence and social repsonsiblity expected of his age and cultural group.

(2) Ambulatory—able to walk independently and without assistance.

(3) Child care facility—a facility providing care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit, and whether or not the facility makes a charge for the service offered by it.

(4) Child care unit—a building or part of a building where a group of children live.

(5) Dentist—refers only to a licensed dentist.

(6) Emergency placement—an emergency exists if a child is in danger; a child is a danger to others; or a child is abandoned and does not have a place to stay.

(7) Hospital—refers only to a licensed or accredited facility.

(8) Child caring institution serving mentally retarded children—one which serves those children or adolescents who are significantly below average in general intellectual function and who also have deficits in adaptive behavior.

(9) Mobile nonambulatory—unable to walk without assistance, but able to move from place to place with the use of devices.

(10) New institutions—refers to an institution which is not in operation.

(11) Nonambulatory—unable to walk independently and without assistance; applies to both mobile nonambulatory and nonmobile individuals.

(12) Nonmobile—unable to move from place to place.

(13) Normalization principle—the principle of helping the developmentally disabled to obtain an existence as close to the normal as possible; making available to them the patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society. Specifically, the use of means that are as culturally normative as possible to elicit and maintain behavior that is as culturally normative as possible.

(14) Physician—refers only to a physician duly registered and licensed under the Medical Practice Act or practicing on a U.S. military installation.

(15) Psychologist—psychologist as defined by the Psychologists' Certification and Licensing Act.

(16) Significantly below average intellectual functioning—performance which is two or more standard deviations from the mean or average of the tests (usually 68 on Stanford-Binet or Cattell and 70 on the Wechsler).

(17) Supervise—to be aware and responsible for the ongoing activity of a child. Supervision requires the presence of a staff member who has knowledge of program and children's needs, and who is accountable for service delivery.

(18) Trip—an excursion that is overnight or longer.

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Standards for Institutions Providing Basic Child Care 326.91.07.001-.015, .017-.027, .029, .031

These rule changes are proposed under the authority of the Human Resources Code, Chapter 42.

.001. Legal Basis for Operation. [Objectives.]

(a) Institutions (other than those owned by a sole proprietor) shall make available documentation of their legal basis for operation to the Licensing Branch of the Department of Human Resources. The Licensing Branch shall be notified of any changes in the legal basis for operation. The legal basis for operation shall be documented in one of the following ways:

(1) A corporation shall make available a copy of the articles of incorporation and constitution or bylaws, and certificate of incorporation.

(2) Institutions operated by state agencies or other governmental entities shall make available documentation of enabling legislation and a copy of a constitution or bylaws if such exists.

(3) Institutions operated by a partnership or association shall make available partnership agreements or documents reflecting the existence or creation of an association.

(b) Corporations and churches shall make available to the department a copy of the resolution authorizing the operation of the facility.

[An incorporated institution shall state its purposes in the articles of incorporation. A corporation shall make available a copy of the articles of incorporation and certificate of incorporation for review by the State Department of Public Welfare. The department shall be notified of any changes in the articles of incorporation.]

.002. Governing Body Responsibilities.

(a) All facilities shall have a governing body that is responsible for and has authority over the policies and activities of the institution. If an institution is owned by a partnership, the partners shall be regarded as the governing body for the purposes of this rule. If an institution is owned by a sole proprietor, the responsibilities imposed on a governing body by this rule shall be borne by that proprietor [except those responsibilities described in (c) and (d) of this rule]. Institutions that are owned corporately[, jointly, or individually] shall provide the department with a list of names, addresses, [telephone numbers,] and titles of *officers and/or executive committee* [members] of the governing body[, partners, or owner]. *Institutions that are owned jointly or individually shall provide the department with a list of names and addresses of the partners or owners. The Licensing Branch shall be notified of any changes.*

(b) *The governing body shall be responsible for policies and programs, for ensuring adequate financing, and for ensuring compliance with minimum standards.* [The governing body shall be responsible for the program and standard of service of the institution. It also shall be responsible for the program and standard of service of any related foster homes, foster group homes, institutions, or child-placing agencies.

[(1) The governing body shall review and approve all policies. Approval shall be recorded in the official minutes of the governing body.

[(2) The governing body is responsible for ensuring that the program complies with "Minimum Standards for Institutions Providing Basic Child Care."]

(c) *The institution shall operate in accordance with its written policies. Copies of policies required by minimum standards shall be made available to facility staff.* [The governing body shall meet as often as is necessary to ensure proper operation of the institution and care of the children. It must meet at least twice a year and document these meetings in the minutes. A copy of the constitution or bylaws shall be filed at the institution.]

(d) The governing body shall reassign or remove from direct child care activity any licensed administrator against whom is returned:

(1) an indictment alleging commission of any felony; or

(2) an indictment or official criminal complaint alleging commission of a misdemeanor classified as an offense against the person; or

(3) an indictment or official criminal complaint alleging violation of any law enacted to protect children.

Such reassignment or removal shall remain in effect pending resolution of the charges. Notification of such action shall be made to the Licensing Branch within 24 hours or the next working day. [Minutes of each meeting of the governing body that relate to the operation of the institution shall be filed at the institution.

[(e) The governing body shall be responsible for the funding of the program.

[(1) The governing body shall ensure availability of funds for the entire operation.

[(2) If the institution is fully funded by its own endowment, or by a bank serving as trustee of a trust, the trustee shall be responsible.

[(f) The policies of the institution shall be current and clearly written.

[(1) Copies shall be made available to staff. These copies shall include policies concerned with personnel, admission, child care, development, and training. Copies of these policies shall be submitted to the department when the signed application is submitted.

[(2) When changes are approved by the governing body, copies of revised policies shall be submitted to the department.]

.003. Fiscal Accountability.

(a) The institution shall maintain complete financial records. Books shall be audited annually by a certified public accountant. A copy of the accountant's statement of income and disbursements *(Human Resources Code, Chapter 42) and the opinion letter from the audit report* shall accompany the license application for *licensed* [operating] facilities [(Texas Revised Civil Statutes Annotated, Article 695a-3)].

(b) New institutions shall submit a letter from a certified public accountant stating that the bookkeeping system will be set up so that an audit can be made at the end of each fiscal year.

[(b) Sufficient funds shall be available to ensure adequate care of the children and promote financial stability.]

(c) New institutions shall submit a 12-month budget to the Licensing Branch when the signed application is submitted.

(d) [A] New *institutions* [institution] shall have predictable funds sufficient for the first year of operation. *They* [It] shall have reserve funds, or documentation of available credit, equal to the operating costs for the first three months. [A 12-month budget shall be submitted.]

.004. Personnel Policies.

(a) *Institutions shall have written job descriptions which specify what duties employees are expected to perform. A copy of job descriptions shall be available to employees and to the Licensing Branch.* [Institutions shall have written personnel policies and shall make them available to employees. Written job descriptions shall be available to employees specifying the person to whom they are responsible and what duties they are expected to perform. The personnel policies shall be available to the department.]

(b) ***If volunteers or sponsoring families are used, institutions shall have written policies stating the qualifications for volunteers or sponsoring families and the procedures for selecting these individuals or families. A copy of the policies and procedures shall be available for review by the Licensing Branch.*** [Children in care shall not be used as employees. Individuals in care are permitted to perform tasks for which they are paid if the tasks teach them responsibility and they are supervised.

[(c) Institutions shall have written policies stating the qualifications for volunteers or sponsoring families and the procedures for selecting these individuals or families. These policies and procedures shall be developed to ensure the safety and well-being of the children. The volunteers may be used to provide program enrichment. Sponsoring families may provide holiday, weekend, or vacation visits for children in care.]

.005. Administrator Qualifications and Responsibilities.

(a) The administrator shall be licensed as provided by ***the Human Resources Code, Chapter 42*** [Texas Revised Civil Statutes Annotated, Article 695a-1].

(b) The administrator is responsible for implementing the policies adopted by the governing body, the ongoing operations of the institution, and compliance with the "Minimum Standards for Institutions Providing Basic Child Care." [The administrator cannot delegate these responsibilities to an unlicensed staff member. An unlicensed staff member may be in charge during the administrator's absence, but he or she would not assume all the administrator's responsibilities.]

(c) If the administrator is involved in [fund raising or other] activities that cause frequent or extended absences from the institution, an assistant shall be retained to take responsibility for the program and administer the general affairs of the institution. This shall be included in the job descriptions and written plans for staffing.

[(d)] If responsibility for the program of the institution is delegated to an assistant administrator, he or she shall also be licensed.

(d)[(e)] A designated, responsible person or persons shall be on the premises of the institution at all times. This shall be written in the plans for staffing.[The licensed administrator shall make available to staff organizational charts and written plans for staffing.

(e) The licensed administrator shall reassign or remove from direct child care activities any employee against whom is returned:

(1) an indictment alleging commission of any felony; or

(2) an indictment or official criminal complaint alleging commission of a misdemeanor classified as an offense against the person; or

(3) an indictment or official criminal complaint alleging violation of any law enacted to protect children.

Such reassignment or removal shall remain in effect pending resolution of the charges. Notification of such action shall be made to the Licensing Branch within 24 hours or the next working day.

.006. Staffing.

(a) ***In the administrators absence, a person or persons shall be responsible for the institution.*** [The institution shall provide staff necessary to ensure the health and safety of the children in its care. Institutional staff shall meet the qualifications outlined in these standards.]

(b) ***The institution shall employ and supervise staff necessary to ensure the health and safety of the children in its care.*** [There shall be at least one child care worker on duty during waking hours for every four children under the age of five, and one child care worker for every eight children five years old and over.

[(1) The staff-child ratio applies to the total facility and includes children of stafff who live in child care units. Staff shall be available to children in care. Only child care staff or volunteers meeting the same qualifications may be counted in the staff-child ratio.

[(2) The institution shall have coverage throughout the 24-hour period.]

(c) ***The institutional shall have staff coverage throughout the 24-hour period.***

(1) There shall be at least one child care worker on duty during waking hours for every four children under the age of five, and one child care worker for every eight children five years old and over.

(2) The staff-child ratio applies to the total facility and includes children of staff who live in child care units. Staff shall be available to children in care. Only child care staff or volunteers meeting the same qualifications may be counted in the staff-child ratio.

(3) During sleeping hours, one child care worker shall be in the living unit for every 16 children. However, if night staff is awake, one child care worker in the living unit for every 24 children is required. In addition to required staff, at least one staff person shall be on call in case of an emergency.

[During sleeping hours, one child care worker shall be in the living unit for every 16 children. However, if night staff is awake, one child care worker in the living unit for every 24 children is required.

[(1) Staff members are in the living unit to supervise and shall be available to all children in the living unit.

[(2) If staff members sleep in the unit, they shall be located in the best place to support or supervise.

[(3) In addition to required staff, someone shall be on call in case of an emergency.]

(d) (No change.)

.007. Qualifications and Responsibilities.

(a) No one may serve as a staff member working with children who has been convicted within the preceding 10 years of any felony or of any misdemeanor classified as a violation of any law enacted to protect children.

(b)[(a)] The personal qualifications of employees shall be verified [through character references].

[(1) ***At least three references shall be obtained for each potential employee prior to employment. Information obtained from the references shall be written and filed whether the interview is conducted in person or by telephone.*** [At least three references shall be obtained for each applicant. These shall be written and filed whether the interview is conducted in person or by telephone.]

[(2) ***Each employee shall submit a statement to the facility providing information concerning felony and/or misdemeanor convictions, if any, within the preceding 10 years and of pending criminal charges, if any.*** [References shall not be from relatives of the applicant or department employees. A reference from the department, as an agency, may be requested.

[(b) Child care staff shall have a pre-employment physical examination within six months prior to employment. Persons who may endanger the health and well-being of children shall not be present.]

(c) *Persons* [Staff members, volunteers, visitors, or parents] with symptoms of communicable disease[, or whose behavior endangers the children] shall not be allowed at the institution.

(d) Persons whose behavior endangers the children shall not be allowed at the institution.

(e)[(d)] Staff members or household members shall have a tuberculosis test within *12* [six] months prior to employment [and annually thereafter]. A report of *a negative* [the] skin test [with follow-up] or a negative chest x-ray is mandatory. ***Any additional testing shall be based on recommendations of the Texas Department of Health or local public health authorities.***

(f) Every staff member, employee, or volunteer who regularly prepares or serves food in the institution shall have a health certificate signed by a licensed physician. The health certificate shall have been obtained and dated within the previous 12 months. It shall be renewed yearly.

(g)[(e)] Child care staff shall be at least 18 years old and be able to read and write.

.008. Training.

(a) (No change.)

(b) ***All staff working with children shall receive annually at least 15 hours of in-service training related to children's services.*** [At least 15 hours of in-service training shall be provided annually for all staff working with children.]

(1) In-service training for staff working with children shall be documented. This shall include the date, the subject, [method of training,] and the name of the person who conducted the training. [The content of training shall include helping staff understand the individual nneeds of children, children's growth and development, the meaning of separation to the child and the family, and state licensing standards.

[(2) The institutional licensing representative may also verify in-service training by direct observation.

[(3) When the institution offers conferences and special opportunities for training, staff attendance shall be documented.]

(2)[(4)] If the policy of the institution permits physical punishment of children in care, in-service training for staff shall include alternatives to physical punishment. [Alternative methods of discipline can be used to help children develop appropriate behavior.

[(c) The institution shall provide supervision to the child-caring staff enabling them to provide day-to-day guidance to the children.]

(c)[(d)] First aid training is required for child care staff ***who are not licensed/certified health personnel.***

(1) (No change.)

(2) Training shall be conducted by a Red Cross instructor or a licensed*/certified* health professional. [First aid training courses approved by the Texas Department of Health Resources also constitute compliance.]

(3) First aid training shall be ***updated at least every three years*** [current]. Certificates or statements of training shall document that [first aid] training ***has been*** [is] updated [at least every three years].

.009. Admission Policies.

(a) An institution shall admit only those children for whom it has an operational program and who meet the admission policies.

(1) The institution shall have written admission policies ***which specify the age, sex, and type of children served. A copy of the admission policies shall be submitted to the Licensing Branch when the signed application is submitted.***

(2) (No change.)

(b) An institution shall not accept more children than the maximum number specified on the license or children whose age and sex are inconsistent with the condition of the license.

(c)[(b)] An institution shall not offer, at the same time and in the same facility, two types of care that conflict with the best interests of the children, the use of staff, or the use of the facility. The institution shall document that there is no such conflict.

(d)[(c)] No child under five years of age shall be cared for in an institution except when it is in the child's best interest and meets his or her particular needs in group care [such as keeping siblings together]. If a child under five years of age is in care, the intake study and the plan of service shall document why this plan of care was in the child's best interest.

(e)[(d)] No child shall be denied admission to the institution based on race.

[(e) An institution shall not accept more children than] the maximum number specified on the license. The institution shall apply to the department for authorization to increase capacity before additional persons are accepted for care.]

(f) The institution shall not care for a child who has not had a medical examination *by a licensed physician* within 30 days prior to admission or with *30* [seven] days after admission. Children being transferred from an agency who have had a medical examination within the past year are exempt. ***The medical examination*** [It] shall be documented in the child's record.

(g) Children three years old or older shall have had a dental examination *by a licensed dentist* within six months prior to admission or arrangements shall be made for one within 30 days after admission. ***Children being transferred from an agency who have had a dental examination within the past year are exempt.*** Documentation of ***the dental exam*** [this] shall be in the child's medical record.

(h) Children shall be tested for tuberculosis according to the recommendations of the Texas Department of Health [Resources, which vary because incidents of the disease differ from area to area. The nearest Department of Health Resources office] or local health ***authorities*** [department office shall be contacted for appropriate recommendations].

.010. Intake Study.

(a) Except in an emergency placement, the institution shall not accept a child for care until an intake study has been made and the institution has determined that the placement meets the needs and best interests of the child and his or her family. [The intake study shall include the following information:

[(1) a description of family relationships and the family's social, economic, and cultural circumstances that make the placement necessary;

|(2) the child's developmental history and medical history, including current immunization record;

|(3) a description of the child's personality, behavior, and interests;

|(4) the child's school history;

|(5) history of previous placements;

|(6) the child's legal status;

|(7) an assessment of the child's needs;

|(8) the immediate and long-range goals of the placement;

|(9) name of family member or managing conservator who will be responsible for the relationship with the institution and the child.|

(b) The intake study|, including gathering and evaluating information,| shall be *developed* |made| by a *person* |staff member| having one of the following qualifications:

(1) a masters degree in social work from an institution accredited by the Council on Social Work Education and a minimum of one year |of supervised| experience in children's services or family services; |or|

(2) a graduate degree in behavioral or social science from an accredited college or university and two years |of supervised| experience in children's or family services; |or|

(3) a bachelors degree in social work from an accredited college or university and *two years* |one year| of |supervised| experience in children's or family services; |or|

(4) a bachelors degree from an accredited college or university and three years of |supervised| experience in children's or family services; |or|

(5) a bachelors degree from an accredited college or university |plus one year of supervised experience in children's or family services,| and current, direct supervision from a person meeting one of the above qualifications. |or

|(6) a staff member of a recognized social agency who meets the criteria stated above.|

(c) ***The intake study shall be filed in the child's record and shall include at least the following information:***

(1) a description of family relationships and the family's circumstances that make the placement necessary;

(2) the child's developmental history and medical history;

(3) the parents' or managing conservator's expectations of placement;

(4) the child's understanding of placement;

(5) a description of the child's personality, behavior, and interest;

(6) the child's school history;

(7) history of previous placements;

(8) a statement about the child's legal status;

(9) a statement of the child's needs;

(10) the immediate and long-range goals of the placement;

(11) name of family member or managing conservator who will be responsible for the relationship with the institution and the child.

|The intake process shall include a discussion about placement with the child and his or her parents or managing conservator. This discussion shall be documented in the intake study and include:

|(1) the reasons for placement;

|(2) the parents' or managing conservators' expectations of placement;

|(3) the child's understanding of placement.|

(d) The intake process shall include a discussion about placement with the child and his or her parents or managing conservator. This discussion shall be documented.

(e)|(d) Institutional staff shall review the intake study to determine whether the admission is appropriate.| The institution's policies and procedures shall document the staff responsible for reviewing the intake study and determining which applicants shall be admitted.

(f)|(e)| At the time of placement, a written agreement shall be made between the institution and the child's parents or managing conservator. A copy of this agreement shall be in the child's record. The agreement shall include:

(1) (No change.)

(2) ***a medical consent form signed by a person authorized to give consent by the Texas Family Code, Chapter 35, Section 35.01;*** |authorization to obtain medical care for the child;

|(3) financial agreement when a charge is made for care;

|(4) rules regarding visits, mail, gifts, and telephone calls;

|(5) information on the nature and frequency of reports to the child's family or managing conservator;

|(6) plans related to the child's discharge from the facility.

|(f) The institution's policies on trips away from the facility shall be made known to the parents or managing conservator when a child is placed in care.|

(g) Before admission, or at the time of placement, the institution shall provide written material to the child's parents or managing conservator which specifies:

(1) rules regarding visits, mail, gifts, and telephone calls;

(2) information on the nature and frequency of reports to the child's parents or managing conservator;

(3) the institution's policy concerning discipline;

(4) the institution's policy or program concerning religious training;

(5) the name of the person or office that parents or managing conservators can contact if they feel their child's rights have been violated;

(6) information regarding trips;

(7) if the school has a school program, information concerning its accreditation, approval, or lack thereof by the Texas Education Agency.

|(1) Written permission from the parents or managing conservator shall be required for the child to travel.

|(2) In no event shall a facility cease operation at the licensed location while groups are participating in trips away from the facility.

|(3) Written permission from the parents or managing conservator shall be required for trips out of Texas.|

(h)|(4)| The institution's child-staff ratio shall be maintained for overnight trips.

(i)|(5)| The administrator shall ensure that individuals on trips are properly fed, lodged, and supervised and that safety precautions, medical care, and programming are provided.

(j)|(g)| The institutions shall provide orientation for new children. |The orientation shall include:

|(1) tour of the facility;

|(2) introduction to staff;

[(3) discussion of rules, regulations, and discipline;

[(4) discussion concerning the tasks which individuals are expected to perform as a part of group living.]

.011. *Emergency Placement.* When an emergency placement has been made, an intake study shall be completed within 30 days.

(1) (No change.)

(2) The institution shall document that the intake study was initiated within five days of admission. [Examples of such documentation are letters to obtain the child's history and other records and written reports of contracts with the parents or managing conservator.]

.012. *Placement in Foster or Adoptive Homes.* An institution shall be licensed for child-placing activity before it places individuals in care into foster or adoptive homes or another institution (*Human Resources Code, Chapter 42* [Texas Revised Civil Statutes Annotated, Article 695a-3]).

.013. *Plan of Service.*

(a) ***Within 30 days of admission, an initial plan of service shall be developed by the institution after conferring with the child and the child's parents or managing conservator. The plan shall be filed in the child's case record with copies of a summary given to the child's parents or managing conservator.*** A plan of service shall be developed which specifies each child's needs and the way these needs will be met. The plan shall be recorded in the child's case record.

(1) The plan shall specify ***the child's*** [which] needs ***and the way these needs shall be met*** [the institution can meet, which it cannot meet, and which can be met through community resources. The need for the following might be identified: special education, psychological testing, individual tutoring, vocational training, psychiatric counseling, and family therapy].

(2) (No change.)

(3) The plan of service shall [include specific instructions and shall] be shared with staff working with the child.

[(4) The plan of service shall be developed within 30 days after admission.]

(b) ***There shall be a conference every six months for the purpose of reviewing and updating the plan. The conference shall include a representative of the institution, the child's parents or managing conservator, and the child. The child's parents or managing conservator shall be notified of the conference in advance. Documentation of notification of the child's parents or managing conservator shall be included in the child's record. Results of the conference shall be filed in the child's case record.***

(1) The updated plan shall note achieved or changed objectives. A copy or summary shall be given to the child's parents or managing conservator.

(2) The names of persons participating in the conference shall be listed. If those listed in this rule did not participate, a copy of the updated plan shall be sent for their response.

[The plan of service shall be reviewed at least every six months by the institution, the referring agency, the child's parents or managing conservator, and the child. Results of the review shall be filed in the child's case record.

[(1) The review shall note progress toward achieving or changing objectives based on new information about the child and his or her family.

[(2) The names of persons included in the review shall be listed. If those listed in (b) above were not included, the reasons shall be filed in the record.]

(c) ***The institution shall obtain or provide professional consultation and treatment for children with developmental disabilities and/or problems of adjustment in the social, home, and/or school environment. Any record of specialized testing or treatment shall be documented in the child's record.*** [The institution shall obtain professional consultation and treatment for children with special needs. A child's need for professional consultation and treatment shall be determined by his or her lack of adjustment in the social, home, and school environment. When these services are obtained, they shall be documented in the child's case record.]

(d) (No change.)

.014. *Daily Care.*

(a) The daily schedule shall be developed to meet children's needs. [The daily schedule shall show understanding of normal child development and the use of time to enhance the child's physical, mental, emotional, and social development.]

(b) Child care staff shall be responsible for keeping a record of significant occurrences for each child. This record shall be available for review by the Licensing Branch.

(c)[(b)] The institution shall see that each child is supplied with personal clothing suitable to the child's age and size. It shall be comparable to the clothing of other children in the community.

[(1) If the family cannot provide adequate clothing, the institution shall obtain it.

[(2)] Children shall have some choice in selecting their clothing.

[(3) The institution shall list the type and amount of clothing it considers adequate for children in care.]

(d)[(c)] Children shall be given training in personal care, hygiene, and grooming. Each child shall be supplied with personal care, hygiene, and grooming equipment.

(e)[(d)] The institution shall ***make available*** [provide] supervised indoor and outdoor recreation ***and equipment*** so that every child may participate.

(f) The institution shall encourage and arrange for children to participate in community functions and recreational activities. Children shall be encouraged to form friendships with persons outside the institution.

[(e) There shall be equipment to assist children in muscular coordination and physical development.]

.015. *Money.*

(a) The institution shall ***provide children with guidance in money management*** [teach children the value and use of money].

(b) Money earned by a child or received as gift or allowance shall be his or her personal property. A child's money shall be accounted for separately from the institution's funds.

[(1) The institution shall document the procedure for handling the children's money.

[(2) A child shall not be required to use earned money to pay for room and board unless it is a part of the treatment plan and approved by the parent or managing conservator and the director of the program.]

.017. Education, Work, and Training.

(a) The institution shall arrange an education appropriate for each child.

[(1) Community educational resources or th institution's resources shall be used to meet the educational needs of children who cannot attend regular classes.

[(2) If the educational program is not accredited or approved by the Texas Education Agency, this shall be stated in information given to applicants.

[(3) If the institution operates a school program accredited or approved by the Texas Education Agency, documentation of this shall be on file at the institution.]

(b) The institution shall provide for the ***social and*** educational needs of the children [in social living, sex education, consumer education, and career planning].

(c) The institution shall distinguish between tasks which children are expected to perform as part of living together, jobs to earn spending money, and jobs performed for vocational training.

[(1) The tasks children are expected to perform as a part of living together shall be made known to the child during orientation. These tasks shall not preclude leisure time and recreational activities.

[(2) No policy or practice concerning the children's work shall be in conflict with Rule .004(b).]

.018. Childrens' Rights.

(a) The staff of the institution shall allow privacy for each child. [The facility's space and furnishings shall be designed and planned with respect for the children's right to privacy. The facility's design shall also provide supervision according to the ages and needs of the children.]

(b) Each child shall have access to a quiet area where he or she can withdraw from the group when appropriate.

(c)[(b)] Contacts between the child and his or her parents or managing conservator shall be allowed while the child is in care unless the rights of the parents have been terminated by court order or family contact is not in the child's best interest. The frequency of contact shall be ***based on*** [determined by] the needs of the child and ***shall be determined with the participation of*** his or her family or managing conservator ***and institutional staff. Any limitations shall be filed in the child's case record.***

(d)[(1)] The institution shall have clearly written policies regarding visits, gifts, mail, and telephone calls between the child and his or her family or managing conservator. These policies shall be ***available for review by the Licensing Branch*** [made known to the child and his or her parents or managing conservator prior to admission].

(1)[(2)] Children shall be allowed to send and receive mail and have telephone conversations with ***their*** family members or managing conservator unless the best interests of the child or a court order necessitates restrictions.

(2)[(3)] If restrictions on communications or visits are necessary, these shall be evaluated monthly by a psychiatrist, licensed psychologist, social worker with a masters degree in social work, or a licensed administrator. ***These monthly evaluations shall be documented in the child's record giving reasons for restrictions.***

(3)[(4)] If limits are put on communication or visits for practical reasons (such as expense), these shall be determined with the participation of the child and his or her family or managing conservator. These limitations shall be filed in the child's record.

(e)[(c)] A child shall be allowed to bring personal possessions to the institution and may acquire personal possessions. ***If limits are put on the kinds of possessions a child may or may not receive, these shall be discussed with the child and his or her family or managing conservator.*** [Prior to admission, information shall be made available to the child and his or her parents or managing conservator concerning what possessions a child may bring to the institution and the kinds of gifts he or she may receive. Articles children cannot have or receive while at the institution shall be specified.]

(f) The institution shall not place a child in a position of having to acknouledge his or her dependency, destitution, or neglect. The institution shall not require the child to make statements regarding his or her background or dependence on the institution.

(g) The institution shall not require a child to make public statements to acknouledge gratitude to the institution.

(h) Children in care shall not be required to perform at public gatherings.

(i) Pictures, reports, or identification that humiliate, exploit, or invade the privacy of a child or his or her family or managing conservator shall not be made public. The institution shall not use reports or pictures from which children can be identified without written consent from the child and the parents or managing conservator.

(j) There shall be no racial discrimination by the child-caring institution.

(k) The opinions and recommendations of the children in care shall be considered in the development and evaluation of the program and activities. The procedure for this shall be documented. A copy of the procedure shall be available for review by the Licensing Branch.

(l) Children in care shall not act as or be employed as staff.

[(d) There shall be no racial discrimination by the child-caring institution.

[(e) The opinions and recommendations of the children in care shall be considered in the development and evaluation of the program and activities. The procedure for this shall be documented.]

(m)[(f)] The institution shall have written policies for the discipline of children in care. Copies of the discipline policies shall be provided to staff [and to the children's parents or managing conservators. The institutions shall also provide written information to the parents or managing conservators that identifies the person or office that parents or managing conservators can contact if they feel their children's rights have been violated]. Copies of the institution's discipline policy shall be submitted to the department with each application for a license [and resubmitted at any time a change is made in policy]

(1) (No change.)

(2) [Children shall not be submited to verbal remarks that belittle or ridicule them or their families.

[(3) Children shall not be denied food, mail, or visits with their families as punishment.

[(4) Discipline shall fit the needs of the child.

[(5)] Children shall not be subject to cruel, harsh, unusual, or unnecessary punishment.

(3)[(6)] The reason for the physical punishment and for the imposition of restrictions to the facility that exceed 24

hours shall be made clear to the child and shall be recorded. A complete description of the physical punishment administered shall be recorded.

(4) Children shall not be subjected to verbal remarks that belittle or ridicule them or their families.

(5) Children shall not be denied food, mail, or visits with their families as punishment.

(6) Discipline shall fit the needs of the child.

(7)-(9) (No change.)

[(10) No form of discipline, control, or punishment shall be administered to children that violates state laws that protect children from abuse and neglect.]

(n)[(g)] Physical holding *as a form of restraint* shall be used only to protect the child from injury to self or others. The use of physical holding and the length of time used shall be recorded in the child's case record. Mechanical restraints shall not be used.

(o)[(h)] Children in care shall not be placed in a locked room.

[(i) The institution shall not place a child in a position of having to acknowledge his or her dependency, destitution, or neglect. The institution shall not require the child to make statements regarding his or her background or dependence on the institution.

[(j) The institution shall not require a child to make public statements to acknowledge gratitude to the institution.

[(k) Children in care shall not be required to perform at public gatherings.

[(l) Pictures, reports, or identification that humiliate, exploit, or invade the privacy of a child or his or her family or managing conservator shall not be made public. The institution shall not use reports or pictures from which children can be identified without written consent from the child and the parents or managing conservator.]

.019. Medical and Dental Care.

(a) The institution shall have written policies and procedures for obtaining diagnosis and treatment of medical and dental problems.

(1) Copies of the policies and procedures shall be available *for review by the Licensing Branch* [to the Department].

(2) [The institution shall ensure access to 24-hour, seven-day per week medical coverage by hospitals, physicians, and dentists.

[(3)] The institution shall make known to all staff members the policies and procedures to be followed in an emergency.

(b) All children shall be examined annually by a licensed physician. *Documentation of the examination signed by a licensed physician shall be filed in the child's medical record.* [Treatment shall be provided as indicated.]

(c) (No change.)

(d) All children [three years old or older] shall have a dental examination *by a licensed dentist* at least once a year. *Documentation of the examination shall be filed in the child's medical record.*

(e) [When dental treatment is required, a plan for providing it shall be documented in the child's medical record.

[(f)] Provisions shall be made for emergency medical and dental care.

(f)[(g)] The institution shall comply with laws, rules, and regulations regarding immunization of children (*Human Resources Code, Chapter 42* [Texas Revised Civil Statutes Annotated, Article 695a-3]). Current immunization records shall be maintained. (See Rule 326.92.99.600 for immunizations.)

(g)[(h)] The institution shall comply with laws, rules, and regulations regarding acquisition, storage, and administration of medications. (See Rule 326.91.12.001.)

(h)[(i)] Medication records shall include the medication given, the time, the dosage, and the name of the person administering the medication.

(1) Prescribed medication shall be given by an adult staff member *according to the instructions on the label* [as directed by a licensed physician].

(2) (No change.)

(i)[(j)] Current medical and dental records shall be maintained for each child. The *record shall include a* [following shall be included in each child's medical record:

[(1) a medical consent form signed by a person authorized to give consent by the Texas Family Code, Chapter 35, Section 35.01;

[(2) record of medical examinations;

[(3) record of dental examinations;

[(4) immunization record;

[(5)] record of each visit to *a* physician or dentist and recommended treatment. *Treatment shall be provided as indicated.* [(See Texas Family Code, Chapter 35, Section 35.03.)]

.020. Nutrition. Children shall be provided food of adequate quality and in sufficient quantity to supply the nutrients needed for growth and development.

(1)-(3) (No change.)

(4) All milk products and milk shall be Grade A pasteurized or from sources approved by the Texas Department of Health [Resources].

(5) (No change.)

.021. Discharge.

(a) The following persons shall be involved in planning the discharge of a child from the institution:

(1)-(3) (No change.)

[(4) Staff of a social or health agency when continued service is recommended.]

Before discharging a child, the institution shall review the objectives of the plan of service and determine which objectives have been met. [Social or health agency staff shall be contacted for follow-up services when recommended.]

(b) In the event of an emergency discharge for which the institution is unable to plan with the persons listed in (a) above, the institution shall document circumstances surrounding the emergency discharge in the child's record.

(c)[(b)] The institution shall not discharge a child to any one other than the parent or managing conservator, except on *written* [notorized] authorization from the parent or managing conservator.

(d)[(c)] The discharge plan for the child shall be recorded in his or her record. The circumstances surrounding the discharge shall be documented in the case record. The name, address, and relationship of the person to whom the child is discharged shall be recorded.

.022. Health and Safety.

(a) ***Documentation of current and approved fire, health, and safety inspections shall be on file at the in-***

stitution. Copies of the inspection reports shall be submitted to the Licensing Branch when the signed application for licensure is submitted and annually thereafter. The required annual inspections are:

(1) Fire inspections which must meet requirements set by the local fire marshal. In areas where there is no certified fire inspector, the state fire marshal shall be requested to make the inspection.

(2) Health inspections which must meet regulations set by the local health ordinances and the Texas Department of Health.

(3) Gas pipes must be pressured tested by the local gas company or a licensed plumber.

(4) Liquefied petroleum gas systems must be inspected by the Liquefied Petroluem Gas Division of the Texas Railroad Commission.

|An institution shall comply with fire, health, and safety laws, ordinances, and regulations.

(b) *There shall be written plans and procedures for meeting disasters and emergencies such as fires or severe weather. Staff members shall know the procedures for meeting disasters and emergencies.* |Institutions shall have all gas pipes pressure tested annually by the local gas company or a licensed plumber. A report of this inspection, including the date, findings, and recommendations, shall be filed at the institution. It shall be submitted to the department on request.|

(c) *An outdoor swimming pool shall have a fence. Entrances and exits to outdoor and indoor pools shall be locked when pools are not in use. Machinery rooms shall be locked to prevent children from entering.* |Any institution using liquefied petroleum gas shall have an annual inspection by the Liquefied Petroleum Gas Division of the Texas Railroad Commission. A report of this inspection, including the date, findings, and recommendations, shall be filed at the institution. It shall be submitted to the department on request.|

(d) *A certified lifeguard shall be on duty when the facility's swimming area is in use. Certification shall be*

|(1) The institution shall request the necessary inspections and comply with any resulting recommendations.

|(2) The fire inspection shall meet requirements set by the local fire marshal and the local ordinances where applicable. In areas where there is no certified fire inspector, the state fire marshal shall be asked to make the inspection.

|(3) The health inspection shall meet or exceed regulations set by the local health ordinances where applicable. It may never be less than those regulations set by the Texas Department of Health Resources.

|(4) Documentation that fire, health, and safety laws, ordinances, and regulations are met shall be on file at the institution. Copies shall be submitted to the department on request.|

documented in the personnel records. |There shall be written plans and procedures for meeting disasters and emergencies such as fires or severe weather. Staff members shall know the procedures for meeting disasters and emergencies.

|(e) An outdoor swimming pool shall have a fence. Entrances and exits to outdoor and indoor pools shall be locked when not in use. Machinery rooms shall be locked to prevent children from entering.

|(f) A certified lifeguard shall be on duty when the facility's swimming area is in use. Certification shall be documented in the personnel record.

|(g) Written plans and procedures for water safety are required. These shall be available to staff and the department.|

.023. *Environment.*

(a) Building and grounds shall be maintained, repaired, and cleaned so that they are not hazardous to health and safety.

(1)-(3) (No change.)

(4) ***Institutions shall ensure that children in care are provided adequate protection from flammable and poisonous substances.*** |Anything inflammable or poisonous shall be stored away from heat and out of children's reach. This includes paints containing lead and poisonous gases or fumes.|

(5) (No change.)

(b) ***Animals on the premises shall be vaccinated and treated according to the recommendations of a lice. sed veterinarian in order to protect the health of the children. Vaccinations and treatment shall be provided as the veterinarian recommends. Documentation shall be on file at the facility.*** |A licensed veterinarian shall evaluate animals annually and determine which need examinations and vaccinations. Examinations, vaccinations, and treatment shall be provided as the veterinarian recommends.

|(1) Documentation of evaluation and vaccinations of animals shall be on file at the facility.

|(2) The premises shall be kept free of stray animals.|

(c) Institutions shall take measures to keep the facility free of rodents, |and| insects, ***and stray animals.***

(d) There shall be indoor areas where children can gather |for quiet, reading, study, relaxation, and entertainment or recreation|. There shall be a minimum area of 40 square feet per child. Bedrooms, halls, kitchens, and any rooms not available to children shall not be included in the minimum space requirement.

|(1) Sketches of floor plans showing dimensions and purpose of rooms shall be submitted as documentation.

|(2) Indoor recreation areas can be counted in the requirement as can living rooms in buildings where children live.

|(3) Furniture in living areas shall not block exit ways.|

(e) A sleeping room shall contain at least 60 square feet per occupant. Bedrooms for single occupants shall have at least 90 square feet of floor space. |Sketches of floor plans showing the dimensions and purpose of rooms shall be submitted as documentation.|

(f) Sketches of floor plans showing dimensions and purposes of all rooms shall be submitted to the Licensing Branch when the signed application is submitted.

(g) Furniture shall not block exit ways.

(h)|(f)| Each child shall have his or her own bedstead and mattress. Beds shall be kept clean and comfortable. ***Mattresses shall have covers or protectors.***

|(1) Linens shall be changed as often as required for cleanliness and sanitation or at least once a week.

|(2) All mattresses shall have covers or protectors.

|(3) Bedwetters shall have their linens changed as often as they are wet.|

(i)|(g)| There shall be personal storage space for each child's clothing and possessions ***which is accessible to the child.*** |Storage space shall be within easy reach of children who are able to look after their own possessions and needs.|

(j)|(h)| No child over six years of age shall share a bedroom with a person of the opposite sex.

(k)|(i)| There shall be one lavatory, one tub or shower with hot and cold running water, and one toilet for every eight children.

(1)-(3) (No change.)

.024. Food Preparation, Storage, and Equipment.

(a) All food and drink shall be of safe quality ***and prepared and served in a sanitary manner.***

(1)|(a)| Food preparation, dining, and storage areas, equipment, and furniture, shall be maintained in a state of cleanliness and good repair.

(2)|(b)| All food items shall be stored off the floor in covered containers that are insect and rodent proof ***or refrigerated.***

(3)|(c)| Animals shall not be permitted in food storage, preparation, and dining areas.

(4)|(d)| One-time-use paper and plastic dishes, utensils, and containers shall not be reused.

(b) Cleaning supplies shall be clearly marked and kept separate from food.

.025. Children's Records.

(a) Accurate and current records shall be maintained for each child in care. ***In addition to other required documentation, each child's record must include: the child's*** |The record shall include the following basic information:

|(1)| name, date of birth, place of birth, sex, religion ***(if known),*** race; names and addresses of parents, brothers, and sisters; names, addresses|, and relationships| of other |responsible| persons ***who have a significant relationship with the child,*** date of admission, ***birth certificate or other document which establishes identity if available (records without these documents shall reflect correspondence generated at least every three months to obtain such), and*** date of discharge.

|(2) intake information required by Rule .010(a);

|(3) documentation of discussion with the child and his or her parents or managing conservator as required by Rule .010(c);

|(4) placement agreement between the institution and the child's parents or managing conservator as required by Rule .010(e);

|(5) medical records as required by Rule .019(j);

|(6) copy of the child's birth certificate, if such exists, or a document that establishes the child's identity and birth date;

|(7) a copy of the court order related to managing or possessory conservatorship;

|(8) a neurological, psychological, psychiatric evaluation if the intake study or medical examination indicates a need for such;

|(9) a copy of the initial treatment plan and six month re-evaluation and revisions;

|(10) record of specialized testing or treatment obtained;

|(11) discharge plan required by Rule .021(c);

|(12) travel form as required by Rule .010(f);

|(13) consent for pictures required by Rule .018(m), if granted.|

(b) ***The institution shall ensure that case records are kept confidential and inaccessible to unauthorized persons.*** |Case records shall be held confidential and kept in a locked file.|

(1) Information in case records shall |only| be disclosed ***only*** for direct and authorized services to the child or the administration of the institution.

(2) (No change.)

|(c) A monthly record shall be kept by the institution showing the number of children in care, the number of out-of-state children in care, the number admitted and discharged, and the children's ages and sex. This information shall be submitted to the department if requested.

|(d) Child care staff shall be responsible for keeping a dated log or record of significant occurrences involving each child.

|(1) A record of significant occurrences shall include events which may affect the well-being of the child.

|(2) This log shall be available for review by the department.|

.026. Staff Records. Personnel records shall be maintained for each employee of the institution. These records shall contain information on:

(1)|(a)| qualifications for the position;

|(b) written report of pre-employment physical examination for all child care staff;|

(2)|(c)| tuberculosis test reports for all staff as required by Rule .007*(e)*|(d)|;

(3) health certificate, if applicable (as required by Rule .007(f));

(4)|(d)| ***date, name of contact, and information received from*** pre-employment references;

(5)|(e)| ***conviction record statement*** |evaluations of performance|;

(6)|(f)| date of employment;

(7)|(g)| date and reason for separation;

(8)|(h)| forwarding address of separated employees.

.027. |Emergency| Reports and Records.

(a) ***Any serious incident involving a child shall be reported immediately to the parents or managing conservator. Documentation of notification of the child's parents or managing conservator shall be included in the child's records.*** |Any serious occurrence involving a child shall be reported immediately to the parents or managing conservator and to other appropriate agencies or individuals. The time the incident occurred, the person reporting it, and the person or agency to whom the report was made shall be noted in the child's case record.|

(b) ***The institution shall complete written incident reports concerning serious occurrences involving staff or children. Each report shall include the date and time of occurrence, the staff member or children involved, the nature of the incident, and the circumstances surrounding it. A copy of the report shall be filed at the institution and shall be available for review by the staff of the Licensing Branch.*** |Any serious occurrences involving a child shall be reported to the department.

|(1) A life-threatening accident, suicide attempt, incident of cruel or abusive treatment, dangerous situation, or death shall be reported to the Licensing Division of the department within 24 hours or the next working day.

|(2) This report shall be documented in the child's record.

|(3) Any case of suspected abuse or neglect shall be reported immediately to the State Department of Public Welfare (Texas Family Code, Chapter 34).|

(c) The following types of serious occurrences shall be reported to the Licensing Branch within 24 hours or the next working day: suicide attempts, incidents of cruel or abusive treatment, incidents which critically injure or permanently disable a child, and death of a child.

(d)[(c)] Absences without permission shall be reported to the parents or managing conservator when it is determined that the child is a runaway. *Documentation of notification of the child's parents or managing conservator shall be included in the child's record.*

(e)[(d)] Disasters or emergency situations *which require closure of the living unit,* such as fires or severe weather, shall be reported to the Licensing *Branch* [Division] of the department within 24 hours or the next working day.

(f) The administrator of the child-caring institution shall submit reports to the Licensing Branch of the department concerning:

(1) any change in administrator;

(2) any impending change that would necessitate a change in the conditions of the license.

(g) The institution shall allow the department to visit and inspect the institution at all reasonable times (Human Resources Code, Chapter 42).

(h) The institution's records shall be available at the facility and open for review by the Licensing Branch.

(i) The license shall be displayed at the institution (Human Resources Code, Chapter 42).

[(e) Institutions shall maintain a record of serious occurrences. Any serious occurrence involving staff or children shall be recorded. Each report shall include the date and time of occurrence, the staff member or children involved, the nature of the incident, and the circumstances surrounding it.]

.029. Definitions.

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

(f) Health certificate. A health card signed by a licensed physician, a food handler's card signed by licensed physician, a report of a negative TB test signed by a licensed physician, or a statement signed by a licensed physician that the person is in good health.

(g)[(f)] Hospital. Refers only to a licensed or accredited facility.

(h)[(g)] Physician. Refers only to a physician duly registered and licensed under the Medical Practice Act or practicing on a U.S. military installation.

(i)[(h)] Psychologist. Psychologist as defined by the Psychologist Certification and Licensing Act (Texas Revised Civil Statutes Annotated, Article 4512c).

(j)[(i)] Supervise. To be aware and responsible for the ongoing activity of a child. Supervision requires the presence of a staff member who has knowledge of program and children's needs and who is accountable for service delivery.

(k)[(j)] Trip. An excursion that is overnight or longer.

.031. Providing Care for Children and Adults.

(a)-(b) (No change.)

(c) Institutions providing care for children and adults shall ensure that the required 40 square feet of indoor area per child is maintained for the children in care. [The indoor areas are places where children can gather for quiet, reading, study, relaxation, entertainment, or recreation. Bedrooms, halls, kitchens, and any rooms not available to children in care shall not be included in the minimum space requirements.] This shall be accomplished by one of two alternatives:

(1)-(2) (No change.)

(d)-(f) (No change.)

(g) Adults in care shall have a tuberculosis test within *12* [six] months prior to admission [and annually thereafter]. A report of the skin test with follow-up or a negative chest x-ray if appropriate is mandatory. *Any additional testing shall be based on recommendations of the Texas Department of Health or local public health authorities.*

Doc. No. 795613

326.91.07.016, .028, .030

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, John H. Reagan Building, Austin, or in the Texas Register Division office, 503E Sam Houston Building, Austin.)

The repeal of Rules 326.91.07.016, .028, and .030 is proposed under the authority of the Human Resources Code, Chapter 42.

.016. Community Relationships.
.028. Reports.
.030. Temporary Exemptions.

Doc. No. 795614

Standards for Therapeutic Camps 326.91.08.001-.025, .028

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, John H. Reagan Building, Austin, or in the Texas Register Division office, 503E Sam Houston Building, Austin.)

The repeal of Rules 326.91.08.001-.025, and .028 is proposed under the authority of the Human Resources Code, Chapter 42.

.001. Objectives.
.002. Governing Body Responsibilities.
.003. Fiscal Accountability.
.004. Policies.
.005. Administrator Qualifications and Responsibilities.
.006. Staffing.
.007. Qualifications and Responsibilities.
.008. Training.
.009. Admission Policies.
.010. Intake Study.
.011. Placement in Foster or Adoptive Homes.
.012. Trips Away from the Therapeutic Camp.
.013. Plan of Service.
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.015. Money.
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.017. Medical and Dental Care.
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.020. Health and Safety.
.021. Camper's Records.

.022. *Staff Records.*
.023. *Emergency Reports.*
.024. *Reports.*
.025. *Definitions.*
.028. *Temporary Exemptions.*

Doc No. 795615

326.91.08.029-.052

These new rules are proposed under the authority of the Human Resources Code, Chapter 42.

.029. Legal Basis for Operation.

(a) Therapeutic camps (other than those owned by a sole proprietor) shall make available documentation of their legal basis for operation to the Licensing Branch of the Texas Department of Human Resources. The Licensing Branch shall be notified of any changes in the legal basis for operation. The legal basis for operation shall be documented in one of the following ways:

(1) A corporation shall make available a copy of the articles of incorporation and certificate of incorporation.

(2) Therapeutic camps operated by state agencies or other governmental entities shall make available documentation of enabling legislation and a copy of a constitution or bylaws, if such exists.

(3) Therapeutic camps operated by partnership or association shall make available partnership agreements or documents reflecting the existence or creation of an association.

(b) Corporations and churches shall make available to the department a copy of the resolution authorizing the operation of the facility.

.030. Governing Body Responsibilities.

(a) All facilities shall have a governing body that is responsible for and has authority over the policies and activities of the therapeutic camp. If a therapeutic camp is owned by a partnership, the partners shall be regarded as the governing body for the purposes of this subsection. If a therapeutic camp is owned by a sole proprietor, the responsibilities imposed on a governing body by this subsection shall be borne by that proprietor. Therapeutic camps that are owned corporately shall provide the department with a list of names, addresses, and titles of the officers and/or executive committee of the governing body. Therapeutic camps that are owned jointly or individually shall provide the department with a list of names and addresses of the partners or owner. The Licensing Branch shall be notified of any changes.

(b) The governing body shall be responsible for policies and programs, for ensuring adequate financing, and for ensuring compliance with the minimum standards.

(c) The governing body shall visit the therapeutic camp site at least once a year to observe the operation of the program and the activities of the campers. This shall be documented in the camp records.

(d) The therapeutic camp shall operate in accordance with its written policies. Copies of policies required by minimum standards shall be made available to facility staff.

(e) The governing body shall reassign or remove from direct child care activity any licensed administrator against whom is returned:

(1) an indictment alleging commission of any felony; or

(2) an indictment or official criminal complaint alleging commission of a misdemeanor classified as an offense against the person; or

(3) an indictment or official criminal complaint alleging violation of any law enacted to protect children.

Such reassignment or removal shall remain in effect pending resolution of the charges. Notification of such action shall be made to the Licensing Branch within 24 hours or the next working day.

.031. Fiscal Accountability.

(a) The therapeutic camp shall maintain complete financial records. Books shall be audited annually by a certified public accountant. A copy of the accountant's statement of income and disbursements and the opinion letter from the audit report shall accompany the license application for licensed facilities.

(b) New therapeutic camps shall submit a letter from a certified public accountant stating that the bookkeeping system will be set up so that an audit can be made at the end of each fiscal year.

(c) New therapeutic camps shall submit a 12-month budget to the Licensing Branch when the signed application for licensure is submitted.

(d) A new therapeutic camp shall have predictable funds sufficient for the first year of operation. It shall have reserve funds, or documentation of available credit, equal to the operating costs for the first three months.

.032. Placement in Foster or Adoptive Homes. A therapeutic camp shall be licensed for child-placing activity before it places children in care into foster or adoptive homes or institutions.

.033. Reports and Records.

(a) Any serious incident involving a camper shall be reported immediately to the parents or managing conservator. Documentation of notification of the camper's parents or managing conservator shall be included in the camper's record.

(b) The therapeutic camp shall complete written incident reports concerning serious occurrences involving staff or children. Each report shall include the date and time of occurrence, the staff member or children involved, the nature of the incident, and the circumstances surrounding it. A copy of the report shall be filed at the therapeutic camp and shall be available for review by the Licensing Branch.

(c) The following types of serious occurrences shall be reported to the Licensing Branch within 24 hours or the next working day: suicide attempts, incidents of cruel or abusive treatment, incidents which critically injure or permanently disable a camper, and death of a camper.

(d) Absences without permission shall be reported to the parents or managing conservator when it is determined that the camper is a runaway. Documentation of notification of the camper's parents or managing conservator shall be included in the child's record.

(e) Disasters or emergency situations, such as fires or severe weather, which require closure of the living unit shall be reported to the Licensing Branch of the department within 24 hours or the next working day.

(f) The administrator of the therapeutic camp shall report to the Licensing Branch of the department:

(1) any change in administrator;

(2) any impending change that would necessitate a change in the conditions of the license.

(g) The therapeutic camp shall allow the department to visit and inspect the therapeutic camp at reasonable times.

(h) The therapeutic camp's records shall be available at the camp and open for review by the Licensing Branch.

(i) The license shall be displayed at the camp.

.034. Personnel Policies. Therapeutic camps shall have written job decriptions which specify what duties employees are expected to perform. A copy of the job descriptions shall be available to employees and to the Licensing Branch.

.035. Administrator Qualifications and Responsibilities.

(a) The administrator shall be licensed as provided by the Human Resources Code, Chapter 42.

(b) The administrator is responsible for implementing the policies adopted by the governing body, the on-going operation of the therapeutic camp, and compliance with the "Minimum Standards for Therapeutic Camps."

(c) If the administrator is involved in activities that cause frequent or extended absences from the camp, an assistant shall take responsibility for the program and administer the general affairs of the camp. This shall be included in the job descriptions and written plans for staffing. If responsibility for the program of the therapeutic camp is delegated to an assistant administrator, he or she shall also be licensed.

(d) The licensed administrator shall make available to staff organizational charts and written plans for staffing.

(e) The licensed administrator shall reassign or remove from direct child care activities any employee against whom is returned:

(1) an indictment alleging commission of any felony; or

(2) an indictment or official criminal complaint alleging commission of a misdemeanor classified as an offense against the person; or

(3) an indictment or official criminal complaint alleging violation of any law enacted to protect children. Such reassignment or removal shall remain in effect pending resolution of the charges. Notification of such action shall be made to the Licensing Branch with 24 hours or the next working day.

.036. Staffing.

(a) In the administrator's absence, a person or persons shall be designated responsible for the camp.

(b) The therapeutic camp shall employ and supervise staff necessary to ensure the health and safety of the campers in its care.

(c) The therapeutic camp shall have staff coverage throughout the 24-hour period.

(1) There shall be at least one child care staff member on duty during waking hours for every six campers.

(2) Staff shall be available to campers. Only child care staff members may be counted in the staff-camper ratio.

(3) If volunteers are used as child care staff, they shall meet the same requirements as the regular child care staff.

(4) Teachers who supervise campers' activities may be counted in the staff-camper ratio.

(5) During sleeping hours at least one child care staff member shall be in the group living area for every 12 campers.

(6) Staff shall be located in the best possible place to supervise the therapeutic group.

(d) Child care staff or supervisory staff shall be available at all times so that no group will be without supervision by the required staff-camper ratio. At no time shall there be fewer than two child care staff members in each camping group.

(e) Tasks which conflict or interfere with child care responsibilities shall not be assigned to child care staff. Job descriptions and staff assignments shall show no conflicts in assignments to child care staff.

.037. Qualifications and Responsibilities.

(a) No one may serve as a staff member working with children who has been convicted within the preceding 10 years of any felony or of any misdemeanor classified as a violation of any law enacted to protect children.

(b) The personal qualifications of employees shall be verified.

(1) At least three references shall be obtained for each potential employee prior to employment. Information obtained for the references shall be written and filed whether the interview is conducted in person or by telephone.

(2) Each employee shall submit a statement to the facility providing information concerning felony and/or misdemeanor convictions, if any, within the preceding 10 years and of pending criminal charges, if any.

(c) Persons with symptoms of communicable disease shall not be allowed on the premises.

(d) Persons whose behavior appears to endanger the campers shall not be allowed on the premises.

(e) Staff members or household members shall have a tuberculosis test within 12 months prior to employment. A report of a negative skin test or a negative chest x-ray report is mandatory. Any additional testing shall be based on recommendations of the Texas Department of Health or local public health authorities.

(f) Every staff member, employee, or volunteer who regularly prepares or serves food in the camp shall have a health certificate signed by a licensed physician. The health certificate shall have been obtained and dated within the previous 12 months. It shall be renewed yearly.

(g) Child care staff shall be at least 18 years old and be able to read and write.

.038. Training.

(a) The therapeutic camp shall provide orientation for all new staff.

(b) All staff working with campers shall receive annually at least 15 hours of in-service training related to children's services. In-service training for staff working with campers shall be documented. This shall include the date, the subject, and the name of the person who conducted the training.

(c) First aid training is required for all child care staff who are not licensed/certified health professionals.

(1) First aid training received or scheduled shall be documented for child care staff.

(2) Training shall be conducted by a Red Cross instructor or a licensed/certified health professional.

(3) First aid training shall be updated at least every three years. Certificates or statements of training shall document that training has been updated.

.039. Staff Records. Personnel records shall be maintained for each employee of the therapeutic camp. These records shall contain information on:

(1) qualifications for the position;

(2) tuberculosis test reports for all staff;

(3) health certificate, if applicable;

(4) date, name of contact, and information received from pre-employment references;

(5) conviction record statement;.

(6) date of employment;

(7) date and reason for separation;

(8) forwarding address of separated employees.

.040. Admission Policies.

(a) The therapeutic camp shall admit only those campers for whom it has an operational program and who meet the admission policies.

(1) The therapeutic camp shall have written admission policies which specify the age, sex, and types of campers served. A copy of the admission policies shall be submitted to the Licensing Branch when the signed application is submitted.

(2) If a change in the admission policies is adopted which requires changes in the conditions of the license, the therapeutic camp shall apply to the department for a new license.

(b) A therapeutic camp shall not accept more campers than is specified on the license, or campers whose age and sex are inconsistent with the conditions of the license.

(c) No child under seven years of age shall be cared for in a therapeutic camp.

(d) No camper shall be denied admission to the therapeutic camp because of race.

(e) The therapeutic camp shall not offer, at the same time and in the same facility, two types of care that conflict with the best interest of the campers, the use of staff, or the use of the facility. The camp shall document that there is no such conflict.

(f) The therapeutic camp shall not care for a camper who has not had a medical examination by a licensed physician within 30 days prior to admission or within 30 days after admission. Campers being transferred from an agency who have had a medical examination within the past year are exempt. The medical examination shall be documented in the camper's record.

(g) Campers shall have had a dental examination by a licensed dentist within the six months prior to admission or arrangements shall be made for one within 30 days after admission. Campers being transferred from an agency who have had a dental examination within the past year are exempt. Documentation of the dental examination shall be in the camper's medical record.

(h) Campers shall be tested for tuberculosis according to the recommendations of the Texas Health Department or local public health authorities.

(i) There can be no emergency placement of a camper into a therapeutic camping program.

(j) Campers who need 24-hour surveillance shall not be admitted to a therapeutic camp if staff is not awake at night.

.041. Intake Study.

(a) The therapeutic camp shall not accept a camper for care until an intake study has been made and the therapeutic camp has determined that the placement meets the needs and best interests of the camper and his or her family.

(b) The intake study shall be developed by a person having one of the following qualifications:

(1) a master's degree in social work from an institution accredited by the Council on Social Work Education and a minimum of one year experience in children's services or family services; or

(2) a graduate degree in behavioral or social science from an accredited college or university and two years experience in children's or family services; or

(3) a bachelor's degree in social work from an accredited college or university and two years experience in children's or family services; or

(4) a bachelor's degree from an accredited college or university and three years experience in children's or family services; or

(5) a bachelor's degree from an accredited college or university and current, direct supervision from a person meeting one of the above qualifications.

(c) The intake study shall be filed in the camper's record and shall include at least the following information:

(1) a description of family relationships and the circumstances that make the placement necessary;

(2) the camper's developmental and medical histoy;

(3) the parents' or managing conservator's expectations of placement;

(4) the camper's understanding of placement;

(5) a description of the camper's personality, behavior, and interests;

(6) the camper's school history;

(7) histories of previous placements;

(8) a statement about the camper's legal status;

(9) a statement of the camper's needs;

(10) the immediate and long-range goals of placement;

(11) the name of the family member or the managing conservator who will be responsible for the relationship with the therapeutic camp and the camper.

(d) The intake process shall include a discussion about placement with the camper and his or her parents or managing conservator. When feasible, it shall include a visit to the camp. This discussion shall be documented.

(e) The therapeutic camp's policies and procedures shall document the staff responsible for reviewing the intake study and determining which applicants shall be admitted.

(f) At the time of placement, a written agreement shall be made between the therapeutic camp and the child's parents or managing conservator. A copy of this agreement shall be in the camper's record. The agreement shall include:

(1) authorization to care for the camper;

(2) a medical consent form signed by a person authorized to give consent.

(g) Before admission, or at the time of admission, the therapeutic camp shall provide written material to the camper's parents or managing conservator which specifies:

(1) rules regarding visits, mail, gifts, and telephone calls;

(2) information on the nature and frequency of reports to the camper's parents or managing conservator;

(3) the camp's policy concerning discipline;

(4) the camp's policy or program concerning religious training;

(5) the name of the person or office that parents or managing conservators can contact if they feel their child's rights have been violated;

(6) information regarding trips;

(7) if the therapeutic camp has a school program, information concerning its accreditation, approval, or lack thereof by the Texas Education Agency.

(h) The therapeutic camp shall provide orientation for new children.

.042. Camper's Records.

(a) Accurate and current records shall be maintained for each camper in care. In addition to other required documentation, each camper's record must include: name, date of birth, place of birth, sex, religion, race, names and addresses of parents, brothers, and sisters; names and addresses of other persons who have a significant relationship with the child; date of admission, date of discharge, birth certificate or other document which establishes identity, if available. Records without these documents shall reflect correspondence generated at least every three months to obtain such, and a copy of any court order related to managing or possessory conservatorship.

(b) The camp shall ensure that case records are kept confidential and inaccessible to unauthorized persons.

(1) Information in case records shall be disclosed only for direct and authorized services to the camper or the administration of the camp.

(2) These records shall be at the therapeutic camp headquarters and available to the Licensing Branch for review.

.043. Plan of Service.

(a) Within 30 days of admission, an initial plan of servicing shall be developed by the therapeutic camp after conferring with the camper and the camper's parents or managing conservator. The plan shall be filed in the camper's case record with copies or a summary given to the camper's parents or managing conservator. The names of the person participating in the formulation of the plan shall be listed in the camper's record.

(1) The plan of service shall specify the camper's needs and the way these needs shall be met.

(2) The plan of service shall include the objectives of placement and the estimated length of stay.

(3) The plan of service shall be shared with staff working with the camper.

(4) A written appraisal of the camper's educational needs shall be a part of the plan of service. The plan shall provide educational experiences for each camper. The plan shall provide for the social and educational needs of the camper.

(b) There shall be a conference every four months for the purpose of reviewing and updating the plan. The conference shall include a representative of the camp, the camper's parents or managing conservator, and the camper. Results of the conference shall be recorded in the camper's case record. Advance notice of the conference shall be given to the parents or managing conservator. Documentation of notification of the parents or managing conservator shall be included in the camper's record.

(1) The updated plan shall note achieved or changed objectives. A copy or summary shall be given to the camper's parents or managing conservator.

(2) The names of persons participating in the conference shall be listed. If those listed in this standard did not participate, a copy of the updated plan shall be sent to them for their response.

(c) The therapeutic camp shall obtain or provide professional consultation and treatment for campers with special needs. When these services are obtained, they shall be documented in the camper's case record.

.044. Daily Care.

(a) The daily schedule shall be developed to meet camper's needs.

(b) Child care staff shall be responsible for keeping a record of significant occurrences for each camper. This record shall be available for review by the Licensing Branch.

(c) The therapeutic camp shall see that each camper is supplied with personal clothing suitable to the child's age and size and the season. Campers shall have some choice in selecting their clothing.

(d) Campers shall be given training in habits of personal care, hygiene, and grooming. Each camper shall be supplied with personal care, hygiene, and grooming equipment.

.045. Money.

(a) The therapeutic camp shall provide campers guidance in money management.

(b) Money earned by a camper or received as a gift or allowance shall be the camper's personal property. A camper's money shall be accounted for separately from the camp's funds.

(c) A camper shall not be required to use earned money to pay for room, board, and clothing unless it is part of the treatment plan and is approved by the parent or managing conservator and the director of the program.

.046. Trips Away from the Therapeutic Camp.

(a) The therapeutic camp's staff-camper ratio shall be maintained for overnight trips.

(b) The administrator shall ensure that campers on trips are properly fed, lodged, and supervised; and that safety precautions, medical care, and programming are provided.

.047. Camper's Rights and Privileges.

(a) The staff of the therapeutic camp shall allow privacy for each camper.

(b) Campers shall have access to a quiet, private area where they can withdraw from the group when appropriate.

(c) Contacts between the camper and his or her parents or managing conservator shall be allowed unless the rights of the parents have been terminated by court order or it is not in the camper's best interest. The frequency of contact shall be based on the needs of the camper and shall be determined with the participation of his or her family or managing conservator, and camp staff. Any limitations shall be filed in the campers record.

(1) Campers shall be allowed to send and receive mail and have telephone conversations with family members or managing conservator unless the best interests of the camper or a court order necessitates restrictions.

(2) Restrictions on communications or visits shall be evaluated monthly by a psychiatrist, licensed psychologist, social worker with a master's degree in social work, or a licensed administrator. These monthly evaluations shall be documented in the child's record giving reasons for restrictions.

(3) If limits are put on communication or visits for practical reasons, the limits shall be determined with the participation of the camper and his or her family or managing conservator.

(d) The therapeutic camp shall have clearly written policies regarding visits, gifts, mail, and telephone calls between the camper and his or her family or managing conservator. These policies shall be available for review by the Licensing Branch.

(e) A camper shall be allowed to bring personal possessions to the therapeutic camp and to acquire possessions. If limits are put on the kinds of possessions a camper may or may not receive, these shall be discussed with the camper and his or her parents or managing conservator.

(f) The therapeutic camp shall not place a camper in a position of having to acknowledge his or her dependency, destitution, or neglect. The therapeutic camp shall not require the camper to make statements about his or her background or dependence on the camp.

(g) The therapeutic camp shall not require a camper to make public statements to acknowledge gratitude to the therapeutic camp.

(h) Campers shall not be required to perform at public gatherings.

(i) Pictures, reports, or identification that humiliate, exploit, or invade the privacy of a child or his or her family or managing conservator shall not be made public. The therapeutic camp shall not use reports or pictures from which campers can be identified without written consent from the camper and the parents or managing conservator.

(j) There shall be no racial discrimination by the therapeutic camp.

(k) The opinions and recommendations of the campers shall be considered in the development and evaluation of the camping program and activities. The procedure for this shall be documented. A copy of the procedures shall be available for review by the Licensing Branch.

(l) The therapeutic camp shall have clearly written policies for the discipline of campers. Copies shall be available to staff. Copies of the camp's discipline policy shall be submitted to the Licensing Branch with each application for a license.

(m) Discipline shall be consistent with the policies of the therapeutic camp and shall not be physically or emotionally damaging.

(1) Only adult staff members shall discipline campers.

(2) Campers shall not be subjected to cruel, severe, unusual, or unnecessary punishment.

(3) Campers shall not be subjected to remarks that belittle or ridicule them or their families.

(4) Campers shall not be denied food, mail, or visits with their families as punishment.

(5) Any discipline or control shall fit the needs of each camper.

(6) Campers shall not be punished by shaking, striking, or spanking.

(n) Campers shall not be placed in a locked room.

(o) Physical and mechanical restraint shall be used only when necessary to protect the camper from injury to self or others.

(1) In an emergency, only physical holding shall be used unless a physician orders mechanical restraint.

(2) Physical holding or mechanical restraints shall be used only to protect the child from injury to self or others.

(3) The need for restraint, the type used, and the length of time used shall be recorded in the child's case record.

(4) If physical restraint is to be used other than in an emergency, it shall be upon orders of a licensed physician.

(5) An order for physical restraint shall designate the restraint to be used, the circumstances under which it is to be used, duration, and frequency of observation.

(6) A staff member shall observe the camper in restraints on a regular and frequent basis, in accordance with physician's orders. Each observation shall be documented.

(7) Physician's orders for restraints shall be renewed each 24 hours. The physician shall see the camper, determine the need for physical restraint, and sign written instructions each 24 hours.

(p) Campers shall not act as or be employed as staff.

.048. Medical and Dental Care.

(a) The therapeutic camp shall have written policies and procedures for obtaining diagnosis and treatment of medical and dental problems.

(1) Copies of the policies and procedures shall be made available for review by the Licensing Branch.

(2) The therapeutic camp shall make known to all staff members the policies and procedures to be followed in an emergency.

(b) All campers shall be examined annually by a licensed physician. Documentation of the examination signed by a licensed physician shall be filed in the camper's medical record.

(c) Facilities for medical isolation shall be available on the premises of the therapeutic camp or at a facility recommended by a physician. No person with a contagious disease shall remain at the camp during the contagious period.

(d) All campers shall have a dental examination by a licensed dentist at least once a year. Documentation of the examination shall be filed in the camper's medical record.

(e) Provisions shall be made for emergency medical and dental care.

(f) The therapeutic camp shall comply with laws, rules, and regulations regarding immunization of children. Current immunization records shall be maintained.

(g) The therapeutic camp shall comply with laws, rules, and regulations for acquiring, storing, and administering medication.

(1) Medicines shall be contained in a locked cabinet or metal box at the therapeutic camp.

(2) The medicine cabinet or box shall have a separate compartment for storing poisons and drugs for external use only.

(3) Rule 326.91.12.001, Procedural Guide for Pharmaceutical Services in the Child-Caring Institution, shall be followed with the exception of those requirements in subsection (c) which cannot be adapted to a therapeutic camp site.

(h) First aid supplies shall be available and administered by a trained counselor. Supplies in each therapeutic camp shall equal the 16-unit first aid kit recommended by the Red Cross.

(i) Medication records shall include the medication given, the time, the dosage, and the name of the person administering the medication. Prescribed medication shall be given by an adult staff member according to the instructions on the label.

(j) Current medical and dental records shall be maintained for each camper. The records shall include a record of each visit to a physician or dentist and recommended treatment. Treatment shall be provided as indicated.

.049. Nutrition. Campers shall be provided food of adequate quality and in sufficient quantity to supply the nutrients needed for growth and development as indicated in the following:

(1) "Food for Fitness—A Daily Food Guide," developed by the United States Department of Agriculture, shall be used as a basis for meeting these standards.

(2) Campers shall have a minimum of three meals daily and snacks.

(3) Menus, as served, shall be retained on file for one month after use.

(4) All milk and milk products shall be Grade A pasteurized or from sources approved by the Texas Department of Health.

(5) No more than 14 hours shall pass between the last meal or snack of one day and the serving of the first meal of the following day.

.050. Discharge.

(a) The following persons shall be involved in planning the discharge of a camper from the therapeutic camp:

(1) the camper;

(2) the camper's parents or managing conservator;

(3) therapeutic camp staff.

Before discharging campers, the staff shall review the objectives of the plan and determine which objectives have been met.

(b) If, in the event of an emergency discharge, the therapeutic camp is unable to plan for the discharge with the appropriate person, the therapeutic camp shall document circumstances surrounding the emergency discharge in the camper's record.

(c) The therapeutic camp shall not discharge a camper to any one other than the parent or managing conservator except on written authorization from the parent or managing conservator.

(d) The discharge plan for the camper shall be recorded in his or her record. The circumstances surrounding the discharge shall be documented in the case record. The name, address, and relationship of the person to whom the camper is discharged shall be recorded.

.051. Health and Safety.

(a) Documentation of current and approved fire, health, and safety inspections shall be on file at the therapeutic camp. Copies of the inspection reports shall be submitted to the Licensing Branch when the signed application for licensure is submitted and annually thereafter. The required annual inspections are:

(1) Fire inspections which must meet requirements of the local fire marshal. In areas where there is no local certified fire inspector, the state fire marshal shall be requested to make the inspection.

(2) Health inspections which must meet regulations set by local health ordinances and the Texas Department of Health.

(3) Gas pipes must be pressure tested by the local gas company or a licensed plumber.

(4) Liquefied petroleum gas systems must be inspected by the Liquefied Petroleum Gas Division of the Texas Railroad Commission.

(b) There shall be written plans and procedures for meeting disasters and emergencies such as fires or severe weather. All staff members shall know the procedures for meeting disasters and emergencies.

(c) A certified lifeguard shall be on duty when the camp's swimming area is in use. Certification shall be documented in the personnel records.

.052. Definitions. The following are definitions associated with therapeutic camps:

(1) Base camp—the permanent place where one or more camp sites are located, and which is the location for which the license is issued.

(2) Camp site—the location where a group of campers live.

(3) Dentist—refers only to a licensed dentist.

(4) Emergency placement—an emergency exists if a child is in danger; a child is a danger to others; or a child is abandoned and does not have a place to stay.

(5) Hospital—refers only to a licensed or accredited facility.

(6) New therapeutic camp—refers to a facility which is not in operation.

(7) Physician—refers only to a physician duly registered and licensed under the Medical Practice Act or practicing on a U.S. military installation.

(8) Psychologist—psychologist as defined by the Psychologist Certification and Licensing Act.

(9) Supervise—to be aware and responsible for the ongoing activity of a child. Supervision requires the presence of a staff member who has knowledge of program and children's needs, and who is accountable for service delivery.

(10) Therapeutic camp—a therapeutic camp is a child-caring institution which provides a camping program with a therapeutic nonpunitive environment and an experience curriculum for children seven years of age and older who cannot function in the home or school community.

(11) Trip—an excursion that is overnight or longer.

Issued in Austin, Texas, on August 29, 1979.

Doc. No. 795616

Jerome Chapman
Commissioner
Texas Department of Human Resources

Proposed Date of Adoption: November 5, 1979
For further information, please call (512) 475-4601.

Texas State Board of Public Accountancy

Professional Conduct 401.33.00

The Texas State Board of Public Accountancy (the board) is proposing to adopt Rules 401.33.00.021-.023, .101-.105, .201-.203, .301, .302, and .401-.409, which are rules of professional conduct governing the practice of persons regulated by the board. These rules are proposed because the Public Accountancy Act of 1979, which became effective on September 1, 1979, makes substantial changes concerning the board's duties in promulgating rules of professional conduct. The Public Accountancy Act of 1979 mandates that the board promulgate "rules of professional conduct in order to establish and maintain high standards of competence and integrity in the practice of public accountancy and to insure that the conduct and competitive practices of licensees serve the purposes of the Act and the best interests of the public." The board has determined that the public welfare demands a set of rules governing the conduct of persons practicing public accountancy so that the public is not overreached or misled by the conduct or competitive practices of licensees under the Public Accountancy Act of 1979.

These rules were adopted on an emergency basis on September 1, 1979. Slight modifications were made to Rules .021 and .405. In the first sentence of the third paragraph of Rule .021, "all citizens" has been replaced by the words "the general public" for the sake of clarity. Rule .405(b) was inadvertently worded incorrectly when it was adopted on an emergency basis. The words "are in violation of law and may not be competitively bid" have been replaced by "may not be competitively bid in violation of law."

The adoption of these rules will have no fiscal implications (source: board staff).

Public comment on these proposed rules is invited, orally and in writing. A public hearing on these rules is scheduled for 10 a.m. on October 25, 1979. The board asks those wishing to be heard to provide copies of their comments to the board's office at least two days prior to the hearing. Comments of individual participants will be limited to 10 minutes until all have been heard. Written comments on the proposed rules are welcome until October 25, 1979, and should be submitted to Bob E. Bradley, Texas State Board of Public Accountancy, 940 American Bank Tower, Austin, Texas 78701.

The following rules are proposed under the authority of Section 6 of the Public Accountancy Act of 1979.

.021. Preamble. These rules of professional conduct are promulgated under the Public Accountancy Act of 1979, which empowers the Texas State Board of Public Accountancy to promulgate rules of professional conduct "in order to establish and maintain high standards of competence and integrity in the practice of public accountancy and to insure that the conduct and competitive practices of licensees serve the purposes of [the] act and the best interest of the public."

The services usually and customarily performed by those in the public practice of accountancy involve a high degree of skill, education, trust, and experience which are professional in scope and nature. The use of professional designations carries an implication of possession of the competence associated with a profession. The public, in general, and the business community, in particular, rely on this professional competence by placing confidence in reports and other services of accountants. The public's reliance, in turn, imposes obligations on persons utilizing professional designations, both to their clients and to the public in general. These obligations include maintaining independence of thought and action, continuously improving professional skills, observing, where applicable, generally accepted accounting principles and generally accepted auditing standards, promoting sound and informative financial reporting, holding the affairs of clients in confidence, upholding the standards of the public accountancy profession, and maintaining high standards of personal and professional conduct in all matters affecting fitness to practice public accountancy. The board has an underlying duty to the public to insure that these obligations are met in order to achieve and maintain a vigorous profession capable of attracting the bright minds essential to serving adequately the public interest.

These rules recognize the First Amendment rights of the general public as well as licensees and do not restrict the availability of accounting services. However, public accountancy, like other professional services, cannot be exploited commercially without the public being harmed. While information as to the availability of accounting services and qualifications of licensees is desirable, overly aggressive salesmanship and hucksterism generally affect the public negatively. Accounting services cannot be subject to the auction techniques of the commercial market place without a loss of the vital elements of accountant independence and public confidence.

The rules are intended to have application to all kinds of professional services performed for the public in the practice of public accountancy, including services relating to accounting, auditing, taxation, and management advice and consultation, to mention only the broad areas in which services are currently being offered by those in the practice of public accountancy. A licensee who is engaged in the practice of public accountancy outside the United States may conduct that practice in accordance with the standards of professional conduct applicable to the country in which he is practicing. However, if a licensee's name is associated with financial statements so as to indicate that the licensee is acting as an independent public accountant using principles applicable in this country, he shall comply with Rule .202.

In the interpretation and enforcement of these rules, the board may consider relevant interpretations, rulings, and opinions issued by the boards of other jurisdictions and appropriate committees of professional organizations, but will not be bound thereby.

.022. Definitions. For purposes of these rules, the following terms have the meanings indicated:

(1) Advertisement. A public communication by a licensee having reference to the availability of the licensee or the licensee's firm to perform professional services.

(2) Board. The Texas State Board of Public Accountancy.

(3) Client. The person or entity which retains a licensee for the performance of professional services.

(4) Competitive bid. A public communication or private communication by a licensee which is a proposal by the licensee to a prospective client to perform professional services when such proposal quotes the compensation to be

received for such services and the proposal is given with the knowledge that similar proposals are being sought concurrently from one or more other licensees. The fact that a licensee is invited to make a proposal by a person not already a client is indicative that similar proposals are being invited from other licensees and it shall be incumbent upon the licensee to ascertain by direct inquiry whether other proposals have been or will be invited. Any proposal which meets the criteria of this definition is a competitive bid whether the proposed compensation is stated as a lump sum, a maximum amount, or any form of unit price, including per diem or per hour rates with or without a maximum sum.

(5) Enterprise. Any person or entity, whether organized for profit or not, for which a licensee performs professional services.

(6) Firm. A proprietorship, partnership, or professional corporation engaged in the practice of public accountancy.

(7) Financial statements. Statements and related footnotes that purport to show financial position at a specified point in time or change in financial position during a specified period of time, including statements which use the cash or other incomplete basis of accounting. The term includes balance sheets, statements of income, statements of retained earnings, statements of changes in financial position, and statements of change in owners' equity, or combinations thereof, but does not include incidental financial data included in management advisory or consulting services reports to support recommendations to a client, nor does it include tax returns and supporting schedules.

(8) He, his, him. Masculine pronouns when used herein also include the feminine and the neuter.

(9) Licensee. An individual, partnership, or corporation holding a license issued by the board, pursuant to the Public Accountancy Act of 1979. The term includes each firm of which a licensee is a partner, officer, or shareholder, and each partner, officer, or shareholder of a firm which is a licensee.

(10) Person. An individual, sole proprietorship, partnership, corporation, or other entity.

(11) Practice of public accountancy. Performing or offering to perform for a person one or more types of services requiring accounting or auditing skills, including the use of such skills in preparing tax returns or providing advice on federal, state, and other tax matters, or performing or offering to perform management advisory or consulting services, or any other service performed by professional accountants for the public.

(12) Private communication. All communications which are not public communications.

(13) Professional services. Any services performed or offered to be performed by a licensee for a client in the course of the practice of public accountancy.

(14) Public communication. A message transmitted orally or by any written or electronic medium to multiple persons which is recorded, transcribed, or otherwise preserved for later review. The message must be in identical form and the name of the addressee is considered to be a part of the message.

(15) Solicitation. A private communication by a licensee which has reference to the performance of professional services by the licensee or the licensee's firm for the person or persons to whom the message is transmitted.

.023. Applicability. All of the rules of professional conduct shall apply to and be observed by licensees engaged in the practice of public accountancy. Notwithstanding anything herein to the contrary, only Rules .101, .102, .301, .401, .402, and .408 shall apply to and be required to be observed by licensees not in public practice.

.101. Independence. A licensee shall not express an opinion on financial statements of an enterprise in such a manner as to imply that he is acting as an independent public accountant with respect thereto unless he is independent with respect to such enterprise. A licensee who signs or uses his name in connection with a professional service as to which he is not independent as contemplated hereby shall indicate clearly that he is not independent by use of a title to reflect his status or by some other means. Independence will be considered to be impaired if, for example:

(1) During the period of professional engagement or at the time of expressing the opinion, the licensee:

(A) had or was committed to acquire any direct or material indirect financial interest in the enterprise; or

(B) was a trustee of any trust or executor or administrator of any estate if such trust or estate owned or was committed to acquire any direct or material indirect financial interest in the enterprise; or

(C) had any joint, closely-held business investment with the enterprise or any officer, director, or principal stockholder thereof which was material in relation to the net worth of either the licensee or the enterprise; or

(D) had any loan to or from the enterprise or any officer, director, or principal stockholder thereof other than loans of the following kinds made by a financial institution under normal lending procedures, terms, and requirements.

(*i*) loans obtained by the licensee which are not material in relation to the net worth of the borrower; and

(*ii*) home mortgages; and

(*iii*) other secured loans, except those secured solely by a guarantee of the licensee.

(2) During the period covered by the financial statements, during the period of the professional engagement, or at the time of expressing an opinion, the licensee:

(A) was connected with the enterprise as a promoter, underwriter, or voting trustee, a director or officer, or in any capacity equivalent to that of an owner, a member of management, or of any employee; or

(B) was a trustee for any pension or profit sharing trust of the enterprise.

The foregoing examples are not intended to be all inclusive. For the purposes of this rule, the licensee, his spouse, descendants, and relatives living in the same household shall be considered together. Any relationship other than those stated in the preceding sentence will be examined in light of the attending circumstances.

.102. Integrity and Objectivity. A licensee in the performance of professional services shall neither knowingly misrepresent facts nor subordinate a judgment to that of others. In tax practice, however, a licensee may resolve doubt in favor of the client as long as there is reasonable support for the position.

.103. Commissions. A licensee shall not pay a commission to obtain a client or accept a commission for a referral to a client of products or services of others. This rule does not prohibit payments for the purchase of all, or a part, of an ac-

counting practice, or retirement payments to persons formerly engaged in the practice of public accountancy, or payments to the heirs or estates of such persons.

.104. *Contingent Fees.* A licensee shall not offer or perform professional services for a fee which is contingent upon the findings or results of such services; provided, however, this rule does not apply to professional services involving federal, state, or other taxes in which the findings are those of the tax authorities and not those of the licensee, nor does it apply to professional services for which the fees are to be fixed by courts or other public authorities and which are therefore indeterminate in amount at the time the professional services are undertaken.

.105. *Incompatible Occupations.* A licensee shall not concurrently engage in the practice of public accountancy and in any other business or occupation which impairs independence or objectivity in rendering professional services, or which is conducted so as to augment or benefit the accounting practice unless these rules are observed in the conduct thereof.

.201. *Competence.* A licensee shall not undertake any engagement for the performance of professional services which he cannot reasonably expect to complete with due professional competence, including compliance, where applicable, with Rule .202.

.202. *Auditing Standards and Accounting Principles.* In the practice of public accountancy, a licensee shall comply with generally accepted auditing standards, generally accepted accounting principles, and other professional standards, including those issued, defined, and interpreted by the American Institute of Certified Public Accountants and the Financial Accounting Standards Board or its predecessor or successor entities.

.203. *Forecasts.* A licensee shall not in the performance of professional services permit his name to be used in conjunction with any forecast of future transactions in a manner which may reasonably lead to the belief that the licensee vouches for the achievability of the forecast.

.301. *Confidential Client Information.* A licensee shall not without the consent of his client disclose any confidential and privileged information pertaining to such client obtained in the course of performing professional services. Information relating to the methods or procedures used in: (1) the preparation of a financial statement; (2) management advisory or consulting services; or (3) tax returns and supporting schedules shall not be deemed confidential and privileged.

This rule does not relieve a licensee of any obligations under Rule .202; nor does this rule (1) prohibit disclosures in an action against a licensee by the client or entity employing him, (2) prohibit disclosures in any disciplinary investigation or proceeding conducted by the board or its authorized agents, (3) prohibit disclosures in any criminal investigation or proceeding, (4) prohibit disclosures in the course of a quality review of a licensee's professional services conducted by persons who have obligated themselves to keep such information confidential and privileged, (5) prohibit disclosure of documentary information, books, or records in an examination by any agency of the State of Texas conducted pursuant to authority granted by law.

.302. *Records.* For a reasonable charge, a licensee shall furnish to his client or former client, upon request made within a reasonable time after original issuance of the document in question:

(1) a copy of any tax return of the client; and

(2) a copy of any report, or other document, issued by the licensee to or for such client; and

(3) any accounting or other records belonging to, or obtained from or on behalf of, the client which the licensee removed from the client's premises or received for the client's account, but the licensee may make and retain copies of such documents when they form the basis for work done by him; and

(4) a copy of the licensee's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client.

.401. *Discreditable Acts.* A licensee shall not commit any act that reflects adversely on his fitness to engage in the practice of public accountancy.

.402. *Acting through Others.* A licensee shall not permit others to carry out on his behalf, either with or without compensation, acts which, if carried out by the licensee, would place him in violation of these rules of professional conduct.

.403. *Advertising.*

(a) Licensees shall have the right to advertise. However, licensee shall not use or participate in the use of any public communication or advertisement which contains a false, fraudulent, misleading, deceptive, or unfair statement or claim. A false, fraudulent, misleading, deceptive, or unfair statement or claim includes but is not limited to a statement or claim which:

(1) contains a misrepresentation of fact; or

(2) is likely to mislead or deceive because it fails to make full disclosure of relevant facts; or

(3) contains any testimonial or laudatory statement, or other statement or implication that the licensee's professional services are of exceptional quality, or statements intended to attract clients by use of showmanship, hucksterism, slogans, jingles, or other garish language; or

(4) is intended or likely to create false or unjustified expectations of favorable results; or

(5) implies educational or professional attainments or licensing recognition not supported in fact; or

(6) states or implies that the licensee has received formal recognition as a specialist or claims any specialized expertise in any aspect of the practice of public accountancy, if this is not the case; or

(7) states or implies that the licensee's ingenuity and/or prior record are principal factors likely to determine the results of the services rather than the merit of the facts involved, or contains statistical data or information so as to reflect past performance or predict future success; or

(8) represents that professional services can or will be completely performed for a stated fee when this is not the case, or makes representations with respect to fees for professional services that do not disclose all variables affecting the fees that will in fact be charged; or

(9) contains other representations or implications beyond those set forth below that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(b) A licensee may use or participate in the use of a public communication which states in a dignified manner the following information about the licensee and any associated licensees:

(1) name, firm name, address, telephone numbers, office hours, and telephone-answering hours;

(2) biographical and educational background;

(3) professional memberships and attainments;

(4) description of services offered;

(5) foreign language ability;

(6) acceptable credit arrangements;

(7) the limitation of practice to certain areas of service;

(8) the opening or change in location of any office and changes in personnel;

(9) fees charged for the initial consultation, for specific services of average complexity, and hourly rates. Quoted fees must be effective for at least 30 days after the publication.

(c) All licensees shall retain recordings, transcripts, or copies of all public communications by date of publication for a period of at least five years.

.404. Soliciting.

(a) A licensee may make a solicitation if and only if:

(1) the solicitation is made to a person or entity who is at that time a client of the licensee or his firm; or

(2) the solicitation is invited by the person or entity to whom it is made; or

(3) the solicitation is made to a person or entity seeking to secure the performance of professional accounting services and not then served by another licensee.

(b) A licensee making a solicitation shall have the burden of ascertaining and proving that it was made to a client, that it was invited, or that it was made to a person or entity seeking the performance of professional accounting services and not then served by another licensee.

(c) A licensee may not make any private communication or solicitation which would violate Rule .403 if it were a public communication or an advertisement, or which involves the use of coercion, duress, compulsion, intimidation, threats, overreaching, or vexatious or harrassing conduct.

.405. Competitive Bidding.

(a) Licensees shall have the right to engage in competitive bidding on contracts or engagements for professional services except as stated herein.

(b) Contracts or engagements for professional services with any state agency, political subdivision, county, municipality, district, authority, or publicly owned utility may not be competitively bid in violation of law.

(c) Contracts or engagements for the preparation of or opinion on any financial statement which is or can be used by or given to a person or entity not a party to the contract or engagement for the purpose of inducing reliance thereon may not be competitively bid. This prohibition does not apply to (1) services for entities having sales or other revenues for the most recent complete fiscal year of not more than $300,000 (adjusted on the first day of each calendar year by the percent change from January 1, 1979, in the Consumer Price Index for All Urban Consumers, published by the Department of Labor); (2) tax or consulting services; or (3) engagements for the United States government or any of its agencies.

.406. Form of Practice. A licensee may practice public accountancy only in a proprietorship, a partnership, or a professional corporation organized in accordance with the Texas Professional Corporation Act.

.407. Firm Names. A licensee shall not practice public accountancy under a firm name which is misleading in any way, as to the legal form of the firm, or as to the persons who are partners, officers, or shareholders of the firm, or as to any matter with respect to which public communications are restricted by Rule .403. The name or designation any firm may assume or use shall contain the personal name or names of one or more individuals presently or previously members thereof, and the name or designation any individual may assume or use shall contain his name. No trade name or descriptive words indicating character or grade of service offered may be used or included. If the firm is incorporated, the firm name must include "Corporation," "Incorporated," "Professional Corporation, " or "Company" or an abbreviation thereof. "Professional Corporation" or "P.C." must appear in or with the firm name each time it is used. The designation "and Company" or "and Associates" or abbreviations thereof may be used by licensees as long as there are at least two licensees involved in the practice. A partner surviving the death or withdrawal of all other partners may continue to practice under a partnership name for up to two years after becoming a sole practitioner.

.408. Responses. A licensee shall, when requested, respond to communications from the board within 30 days of the mailing of such communications by registered or certified mail.

.409. Sign. There shall at all times be prominently displayed in each office of a firm a sign in letters no smaller than one inch in height, the contents of which shall contain the name, mailing address, and telephone number of the board and which shall contain a statement informing consumers that complaints can be directed to the board. A sign shall be deemed to be prominently displayed when it is visible to all persons entering the office of a firm through the main entrance of the office.

Doc. No. 796209

Definitions 401.41.00

(Editor's note: The Texas State Board of Public Accountancy is proposing for permanent adoption Rules 401.41.00.100 and .200, which it recently adopted on an emergency basis. The texts of the proposed rules are identical to the emergency rules published in the September 11 issue (4 TexReg 3197) and will therefore not be republished in this issue.)

The Texas State Board of Public Accountancy (the board) proposes to adopt new definitions identified as Rules 401.41.00.100 and .200. These rules were adopted on an emergency basis on September 1, 1979. The board is proposing to adopt these rules because the Public Accountancy Act of 1979 which became effective on September 1, 1979, requires changes in the board's definitions previously in force.

The adoption of these rules will have no fiscal implications (source: board staff).

Public comment on the proposed rules is invited. Persons should submit their comments in writing to Bob E. Bradley, executive director, Texas State Board of Public Accountancy, 940 American Bank Tower, Austin, Texas 78701, by October 25, 1979.

Rules .100 and .200 are proposed under the authority of Section 6 of the Public Accountancy Act of 1979.

Doc. No. 796210

The Board 401.42.00

(Editor's note: The Texas State Board of Public Accountancy is proposing for permanent adoption Rules 401.42.00.100, .200, .300, .400, .500, .600, .700, .800, and .900, which it recently adopted on an emergency basis. The proposed rules are identical to the emergency rules published in the September 11 issue (4 TexReg 3198) and will therefore not be republished in this issue.)

The Texas State Board of Public Accountancy (the board) proposes to adopt new rules identified as Rules 401.42.00.100, .200, .300, .400, .500, .600, .700, .800, and .900, which specify the duties, powers, and structure of the board. These rules were adopted on an emergency basis on September 1, 1979. The board is proposing to adopt these rules because the Public Accountancy Act of 1979, which became effective on September 1, 1979, requires changes in the board's rules previously in force.

The adoption of these rules will have no fiscal implications (source: board staff).

Public comment on the proposed rules is invited. Persons should submit their comments in writing to Bob E. Bradley, executive director, Texas State Board of Public Accountancy, 940 American Bank Tower, Austin, Texas 78701, by October 25, 1979.

Rules .100, .200, .300, .400, .500, .600, .700, .800, and .900 are proposed under the authority of Section 6 of the Public Accountancy Act of 1979.

Doc. No. 796211

Employees of the Board 401.43.00

(Editor's note: The Texas State Board of Public Accountancy is proposing for permanent adoption Rules 401.43.00.100, .200, .300, and .400, which it recently adopted on an emergency basis. The proposed rules are identical to the emergency rules published in the September 11 issue (4 TexReg 3199) and will therefore not be republished in this issue.)

The Texas State Board of Public Accountancy (the board) proposes to adopt new rules identified as Rules 401.43.00.100, .200, .300, and .400, which specify who may be employed by the board and describe the responsibilities of such persons. These rules were adopted on an emergency basis on September 1, 1979. The board is proposing to adopt these rules because the Public Accountancy Act of 1979 which became effective on September 1, 1979, requires changes in the board's rules previously in force.

Adoption of these rules will have no fiscal implications (source: board staff).

Public comment on the proposed rules is invited. Persons should submit their comments in writing to Bob E. Bradley, executive director, Texas State Board of Public Accountancy, 940 American Bank Tower, Austin, Texas 78701, by October 25, 1979.

Rules .100, .200, .300, and .400 are proposed under the authority of Section 6 of the Public Accountancy Act of 1979.

Doc. No. 796212

Licenses 401.48.00

The Texas State Board of Public Accountancy (the board) proposes to adopt new rules identified as Rules 401.48.00.100, .200, .300, .400, .500, and .600, which specify who must hold a license, when the license should be obtained, how to reinstate a cancelled license, and also that the board has no authority to waive the collection of any fee or penalty. These rules were adopted on an emergency basis on September 1, 1979. The board is proposing to adopt these rules because the Public Accountancy Act of 1979 which became effective on September 1, 1979, requires changes in the board's rules previously in force.

There was a slight modification made to Rule .600 since its emergency adoption. There was a typographical error in the title of the rule. The title is "No Waiver of Fee or Penalty" rather than "No Waiver of Fee for Penalty." Further, "imposed by this rule" was struck from the end of this rule inasmuch as it limited the scope of the rule more than was intended by the board.

Adoption of these rules will have no fiscal implications (source: board staff).

Public comment on the proposed rules is invited. Persons should submit their comments in writing to Bob E. Bradley, executive director, Texas State Board of Public Accountancy, 940 American Bank Tower, Austin, Texas 78701, by October 25, 1979.

The following rules are proposed under the authority of Section 6 of the Public Accountancy Act of 1979.

.100. Annual License. With the exception of an individual who is practicing public accountancy in Texas on a temporary basis incident to his regular practice outside the state, all individuals certified by this board, and all individuals, partnerships, and corporations registered with the board must obtain a license to practice public accountancy and must renew that license annually on or before December 31 of each calendar year.

.200. Initial License. Each individual or firm which is certified or registered after the effective date of the Act shall upon approval of his application for certification or registration, pay the annual license fee for the year in which certification or registration is granted. The initial license will expire on December 31 of the year in which it is issued.

.300. License Renewal for Individuals. Prior to December 1 of each year, the executive director shall mail license renewal forms to all individuals licensed under the Act. The licensee shall return the notice with the appropriate renewal fee on or before December 31 and failure to do so shall automatically cancel the license.

.400. Renewal of License of Firm. At the same time that renewal notices are mailed to individuals certified or registered under the Act, the executive director shall mail to each firm registered under the Act an annual renewal form, stating the appropriate renewal fee. The firm shall return the renewal fee and appropriate documents to the executive director on or before December 31 of that year, and failure to do so shall automatically cancel the license of the firm. The annual license of a firm shall not be renewed until such time as all members of the firm who are certified or registered under this Act shall have renewed their individual licenses.

.500. Reinstatement.

(a) A licensee whose annual license has been cancelled for failure to pay the annual renewal fee on or before December 31 may secure reinstatement of the license at any time within the next calendar year upon payment of the delinquent license fee, together with a penalty of $20.

(b) After expiration of the next calendar year, a licensee whose license has been cancelled for failure to timely pay the annual renewal fee may secure reinstatement of his license only upon application and examination satisfactory to the board together with the payment of delinquent fees and a penalty to be assessed by the board. An application for reinstatement shall be made under oath and shall state that the licensee has never been charged or convicted by any court or other body of any crime, misdemeanor, or discreditable act of which the board has not been notified. Application shall also include a statement explaining why the licensee failed to obtain timely an annual license.

.600. No Waiver of Fee or Penalty. The board shall have no authority and may not waive the collection of any fee or penalty.

Doc. No. 796213

Temporary Practice in Texas 401.49.00

(Editor's note: The Texas State Board of Public Accountancy is proposing for permanent adoption Rules 401.49.00.100 and .200, which it recently adopted on an emergency basis. The proposed rules are identical to the emergency rules published in the September 11 issue (4 TexReg 3199) and will therefore not be republished in this issue.)

The Texas State Board of Public Accountancy (the board) proposes to adopt new rules identified as Rules 401.49.00.100 and .200, which define temporary practice in Texas and explain how to get a temporary permit. These rules were adopted on an emergency basis on September 1, 1979. The board is proposing to adopt these rules because the Public Accountancy Act of 1979 which became effective on September 1, 1979, requires changes in the board's rules previously in force.

Adoption of these rules will have no fiscal implications (source: board staff).

Public comment on the proposed rules is invited. Persons should submit their comments in writing to Bob E. Bradley, executive director, Texas State Board of Public Accountancy, 940 American Bank Tower, Austin, Texas 78701, by October 25, 1979.

Rules .100 and .200 are proposed under the authority of Section 6 of the Public Accountancy Act of 1979.

Doc. No. 796214

Fee Schedule 401.51.00

(Editor's note: The Texas State Board of Public Accountancy is proposing for permanent adoption Rules 401.51.00.100, .200, .300, .400, .500, and .600, which it recently adopted on an emergency basis. The proposed rules are identical to the emergency rules published in the September 11 issue (4 TexReg 3200) and will therefore not be republished in this issue.)

The Texas State Board of Public Accountancy (the board) proposes to adopt new rules identified as Rules 401.51.00.100, .200, .300, .400, .500, and .600, which set forth the fees charged by the board. These rules were adopted on an emergency basis on September 1, 1979. The board is proposing to adopt these rules because the Public Accountancy Act of 1979 which became effective on September 1, 1979, requires changes in the board's rules previously in force.

The adoption of these rules will have no fiscal implications (source: board staff).

Public comment on the proposed rules is invited. Persons should submit their comments in writing to Bob E. Bradley, executive director, Texas State Board of Public Accountancy, 940 American Bank Tower, Austin, Texas 78701, by October 25, 1979.

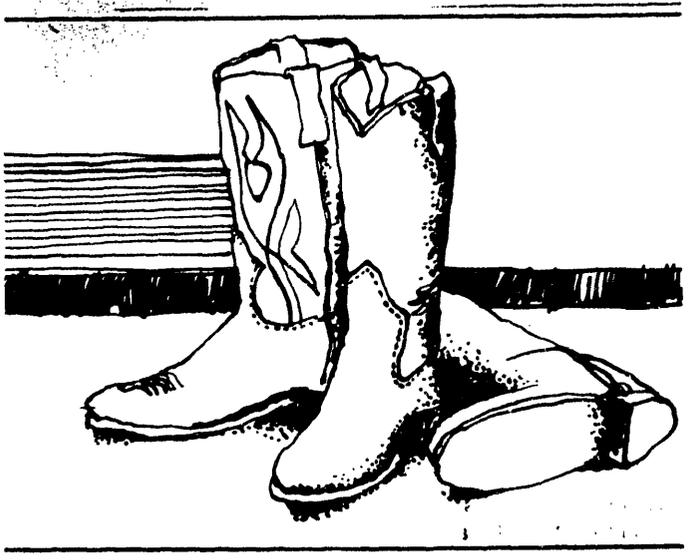
Rules .100, .200, .300, .400, .500, and .600 are proposed under the authority of Section 6 of the Public Accountancy Act of 1979.

Issued in Austin, Texas, on September 19, 1979.

Doc. No. 796215

Bob E. Bradley
Executive Director
Texas State Board of Public Accountancy

Proposed Date of Adoption: October 26, 1979
For further information, please call (512) 476-6971.



An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, and the adoption may go into effect no sooner than 20 days after filing, except where a federal statute or regulation requires implementation of a rule on shorter notice.

An agency, on request, shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling considerations urged against the agency's decision.

Numbering System—Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the chapter of rules to which the rule belongs. The third unit (two digits) indicates the subchapter of rules, if any, within the chapter. The fourth unit (three digits) indicates the individual rule.

Texas Adult Probation Commission

Standards 608.01.00

The Texas Adult Probation Commission adopts the following amendment to Rule 608.01.00.040(d).

There are no fiscal implications to this rule. (source: Texas Adult Probation Commission staff).

This rule is promulgated under the authority of Article 42.121, Section 4, Texas Code of Criminal Procedure.

.040. Caseloads.

(a)-(c) (No change.)

(d) Caseload. A caseload average with a department should be calculated by dividing the number of cases under direct supervision by the number of officers within the department devoting 80% or more of their time to direct case supervision. The average caseload of a probation officer should not exceed 200 cases on January 1, 1979; 150 cases on June 1, 1979; 100 cases on January 1, 1981.

Issued in Austin, Texas, on September 18, 1979.

Doc. No. 796180 Don R. Stiles
Executive Director
Texas Adult Probation Commission

Effective Date: October 9, 1979
Proposal Publication Date: June 19, 1979
For further information, please call (512) 475-1374.

Texas Air Control Board

Volatile Organic Compounds

Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities 131.07.54

Pursuant to the authority of Section 3.09(d) of the Texas Clean Air Act, Article 4477-5, Vernon's Texas Civil Statutes, the undersigned members of the Texas Air Control Board hereby approve the amendment to Rule 131.07.54.105 of Regulation V (Control of Air Pollution from Volatile Organic Compounds) to read as follows:

.105. Compliance Schedule and Counties. The provisions of this subchapter shall apply in Bexar, Brazoria, Dallas, Galveston, Harris, and Tarrant Counties.

(1) All affected persons in Bexar, Brazoria, Galveston, and Harris Counties shall be in compliance by August 31, 1978, except for the vent-line restriction requirement of Rule 54.102(4), for which compliance is extended to December 31, 1981.

(2) All affected persons in Dallas and Tarrant Counties shall be in compliance as soon as practicable but no later than February 29, 1980, except for the vent-line restriction requirement of Rule 54.102(4), for which compliance is extended to December 31, 1981.

Issued in Austin, Texas, on September 7, 1979.

Doc. No. 796134 John L. Blair
Chairman
Texas Air Control Board

Effective Date: October 8, 1979
Proposal Publication Date: May 18, 1979
For further information, please call (512) 451-5711, ext. 350.

Texas Commission on Alcoholism

State Planning 303.04.00

The Texas Commission on Alcoholism adopts the following rule under the authority of Article 5561c, Texas Civil Statutes:

.001. State Plan. In compliance with Public Law 94-371, this rule adopts by reference all rules contained in the 1979 Texas State Plan for the Prevention, Treatment, and Control of Alcohol Abuse and Alcoholism, which is attached to this rule as Exhibit A, and is available upon request at the offices of the Texas Commission on Alcoholism, 809 Sam Houston State Office Building, Austin, Texas 78701, and for public inspection at the Texas Register Division of the secretary of state, located on the fifth floor, Sam Houston State Office Building, Austin, Texas 78701.

Issued in Austin, Texas, on September 17, 1979.

Doc. No. 796138 Ross Newby
Executive Director
Texas Commission on Alcoholism

Effective Date: October 8, 1979
Proposal Publication Date: N/A
For further information, please call (512) 475-2577.

Texas Department of Corrections

Rules and Regulations and Grievance Procedures Governing Inmate Conduct

Standards and Behavior Codes 202.01.30

The Texas Board of Corrections has adopted Rule 202.01.30.011 defining participation in unauthorized activities, forming an unapproved organization, attempting to hold unauthorized meetings of an organization, soliciting other inmates concerning membership in unauthorized

organizations, and preparing, circulating, or soliciting the preparation of group grievances or petitions for the redress of grievances as specific disciplinary infractions. As a result of comments received, the proposed rule was changed to stipulate that nothing in the regulation shall be construed so as to prevent an individual inmate from exhausting administrative remedies of a complaint or so as to deprive such inmate of access to the courts.

This amendment is adopted by the Texas Board of Corrections under authority of Article 6166g, Vernon's Annotated Civil Statutes.

.011. Specific Disciplinary Infractions. All inmates shall act to enhance the order and discipline of daily life and routine of the institution, and shall carry out such instructions as shall be given by the institutional authorities. The violation by an inmate of any provision of these rules and regulations will subject such inmate to disciplinary action by the officials of the Texas Department of Corrections, as provided in these rules and regulations. Officers of the Texas Department of Corrections are required to report all violations of rules and regulations immediately. In addition to any other acts prohibited by these rules and regulations, the following acts are prohibited:

(1)-(19) (No change.)

(20) Participation in unauthorized activities, forming an unapproved organization, attempting to hold unauthorized meetings of an organization, soliciting other inmates concerning membership in unauthorized organizations, preparing, circulating, or soliciting the preparation of group grievances or petitions for the redress of grievances. Nothing in this regulation shall be construed so as to prevent an individual inmate from filing a request for the administrative remedy of a complaint or so as to deprive such inmate of access to the courts.

Doc. No. 796135

Request for Public Information

Open Records Request 202.02.10

The Texas Board of Corrections has adopted Rules 202.02.10.001-.007 governing the Texas Department of Corrections response to requests for public information under the provisions of the Texas Open Records Act (Article 6252.17A, Vernon's Annotated Texas Civil Statutes). These rules are adopted by the Texas Board of Corrections under authority of Article 6166g, Vernon's Annotated Texas Civil Statutes.

.001. Personal Inspection of Documents.

(a) Documents defined as public information may be personally inspected by the applicant, at no cost, at the Public Information Office of the Texas Department of Corrections, 815 11th Street, Huntsville, Texas.

(b) Prior written notice of three days, excluding weekends and holidays, is requested, and a reasonable time may be required to determine whether the information is public and to enable the information to be brought to the Public Information Office for inspection.

.002. Application for Public Information.

(a) The application for public information shall be addressed to the director of the Texas Department of Corrections, attention: Public Information Office, P.O. Box 99, Huntsville, Texas 77340.

(b) The application must contain a full and complete description of the specific records to be examined or copied. A completed application shall be required before any information is provided. Proper identification of the applicant may be required.

.003. Unavailable Records. If the information is in active use or storage and therefore not available at the time a person seeks to examine it, the director or his designate shall certify this fact in writing to the applicant and set a date and hour within a reasonable time when the record will be available.

.004. Copies of Documents.

(a) One noncertified copy of records selected by the applicant will be provided at a cost of $ .55 for the first page and $ .15 for each additional page. No state sales tax will be charged for single copies of public records. Additional copies of the same document are subject to the state sales tax. Such additional copies of the same document shall be provided at a cost of $ .15 per each additional page copied.

(b) If a request is made for access to, or copies of, public records comprised in any form other than standard or legal size pages, the availability of this information will be determined as with any other application. Charges for access to this information shall be set after consultation between the director, or his designate, and the State Board of Control, giving due consideration to the expenses involved in providing the public records, making every effort to match the charges with the actual cost of providing the records.

(c) The Texas Department of Corrections' documents for sale and distribution to the general public, including Texas Department of Corrections' rules and regulations, are subject to the state sales tax.

(d) Upon the receipt of an application for copies of public documents, the Texas Department of Corrections will advise the applicant of the total cost of such copies. Payment of the total cost shall be required in cash, money order, or cashier's check, payable to the Texas Department of Corrections, before any documents will be copied.

.005. Mail Requests.

(a) Although the department is not required by the Texas Open Records Act to mail documents to a requesting party, the director, or his designate, is authorized to approve requests for information submitted by mail where a personal appearance by the applicant at the department would present a hardship to the applicant and the interests of the department are best served by such a procedure.

(b) A mail request for copies of public records may be submitted by mail addressed to the director of the Texas Department of Corrections, attention: Public Information Office, Texas Department of Corrections, P.O. Box 99, Huntsville, Texas 77340.

(c) Only complete documents will be provided in response to mail requests. The department will not select information from complete documents in response to an application by mail.

(d) For any document required to be mailed, the department shall charge for the actual postage involved and must receive advance payment for all sums due prior to producing the information, as described in Rule .004.

.006. *Removal of Original Documents.* No person may remove original documents of public records from the offices of the Texas Department of Corrections without the written permission of the director or his designate.

.007. *Legislative Requests.*

(a) Requests for information from members of the legislature will be processed efficiently and without delay.

(b) Requests by members of the legislature for information excepted from required public disclosure (such as information made confidential by law) should contain a statement of the specific legislative purpose for the request so as to give the requester an overriding right of access.

(c) No charge shall be made for one copy of any public record requested by members of the legislature in performance of their duties.

Issued in Huntsville, Texas, on September 12, 1979.

Doc. No. 796136 Robert E. De Long, Jr.
Assistant Director for General Counsel
Texas Department of Corrections

Effective Date: October 8, 1979
Proposal Publication Date: September 10, 1979
For further information, please call (713) 295-6371.

Texas State Board of Dental Examiners

Extension of Duties of Auxiliary Personnel

(Editor's note: To overcome the possibility of having differences of opinion on prior notices, the board voted to amend its rules on pit and fissure sealants, Rule 382.31.01.002 and Rule 382.31.02.001, by issuing new proposals. These were published in the August 10, 1979, issue (4 TexReg 2776). Thereafter, on September 13, 1979, according to previously published proposals, the rules were amended, a new hearing was held, and after a full hearing, the rules on pit and fissure sealants were permanently adopted. The amended rules must be implemented by the board in publishing guidelines for the courses required.)

Dental Hygiene 382.31.01

This amendment is promulgated under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

.002. *Permitted Duties.* A dental hygienist may perform the following services and procedures in the dental office of her dentist employer under his general supervision, direction, and responsibility, to wit:

(1)-(17) (No change.)

Note A: The fitting, adaptation, seating, and cementation of any fixed dental appliance or restoration, including but not limited to inlays, crowns, bands, space maintainers or regainers, habit devices, or splints, whether temporary or permanent, shall only be done by the dentist.

Doc No 796225

Dental Assistants 382.31.02

This amendment is promulgated under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

.001. *Definition and Permitted Duties.* A dental assistant is one who is employed by and works in the office of a licensed, registered, and practicing dentist, and who performs one or more of the following acts or services for such dentist under his general supervision, direction, and responsibility, to wit:

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

Note A: The fitting, adaptation, seating, and cementation of any fixed dental appliance or restoration, including but not limited to inlays, crowns, bands, space maintainers or regainers, habit devices, or splints, whether temporary or permanent, shall only be done by the dentist.

Issued in Austin, Texas, on September 18, 1979.

Doc. No. 796226 Carl C. Hardin, Jr.
Executive Director
Texas State Board of Dental Examiners

Effective Date: October 10, 1979
Proposal Publication Date: August 10, 1979
For further information, please call (512) 475-2443.

Dental Hygiene 382.31.01

This amendment is promulgated under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

.002. *Permitted Duties.* A dental hygienist may perform the following services and procedures in the dental office of her dentist employer under his general supervision, direction, and responsibility, to wit:

(1)-(17) (No change.)

(18) Under the direct supervision of the dentist, apply pit and fissure sealants.

Note A: The fitting, adaptation, seating, and cementation of any fixed dental appliance or restoration, including but not limited to inlays, crowns, bands, space maintainers or regainers, habit devices, or splints, whether temporary or permanent, shall only be done by the dentist.

Note B: Pit and fissure sealants may only be applied by the dentist and by a dental hygienist who has successfully completed a course of instruction approved by the Texas State Board of Dental Examiners.

Doc. No. 796227

Dental Assistants 382.31.02

This amendment is promulgated under the authority of Article 4551d of the Revised Civil Statutes of Texas as amended.

.001. *Definition and Permitted Duties.* A dental assistant is one who is employed by and works in the office of a licensed, registered, and practicing dentist, and who performs one or more of the following acts or services for such dentist under his general supervision, direction, and responsibility, to wit:

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

Note A: The fitting, adaptation, seating, and cementation of any fixed dental appliance or restoration, including but not limited to inlays, crowns, bands, space maintainers or regainers, habit devices, or splints, whether temporary or permanent, shall only be done by the dentist.

Note B: Pit and fissure sealants may only be applied by the dentist and by a dental hygienist who has successfully completed a course of instruction approved by the Texas State Board of Dental Examiners.

Issued in Austin, Texas, on September 18, 1979.

Doc. No. 796228 Carl C. Hardin, Jr.
Executive Director
Texas State Board of Dental Examiners

Effective Date: October 11, 1979
Proposal Publication Date: August 10, 1979
For further information, please call (512) 475-2443.

Texas Education Agency

Regional Education Service Centers

Administration and Operation of Regional Education Service Centers 226.21.02

The Texas Education Agency has amended Rule 226.21.02.041, concerning funding for regional education service centers. The reference to funding for crime prevention and drug education service centers has been deleted from the rule. No funds were provided for these services by the 66th Legislature. Public review and discussion of the proposed rule were held. The rule is adopted with no change from the text as proposed.

This rule is promulgate under the authority of Section 11.32 (a), Texas Education Code.

.041. State and Local Funds.

(a) Policy. The education service centers shall be supported by: (1) a basic support allotment from the Foundation School Program Fund; (2) state and local funds on a matching basis for media services; (3) state funds as provided by law for computer services; (4) state funds as provided by law for local school bus driver training; and (5) other funds as they become available.

(b) Administrative procedure.

(1) State funds for basic support of regional education service centers may be used to pay for regional education services, regional education planning services, and basic administrative costs necessary to support these services.

(2) State funds provided for media services are used to purchase, maintain, and service materials or equipment for the center as approved by its board and the Texas Education Agency. Matching funds for media services from school districts and other funds which are eligible may be used to pay the cost of administration and operation of the center as well as to purchase educational media and equipment. Annually, the centers forward copies of Local School Commitment forms plus a regional application for state funds for the support of regional media services. The center meets criteria adopted by the State Board of Education in order to receive funds. Initial and continued approval of funds for the center is based in part on the following criteria:

(A) demonstrated capability for planning, operating, and evaluating instructional media collections, services, and activities;

(B) compliance with applicable policies and procedures for collections, services, and activities established by the State Board of Education;

(C) maintenance of effective working relationships among schools served by the center; and

(D) participation in agency-sponsored statewide studies and activities for improving competencies of the staff.

(3) The funds for computer services are distributed on an annual plan basis.

(4) State funds provided for support of training for local school bus drivers may be used for salaries for instructors and supportive personnel, materials, and other necessary costs related to the training program.

Doc No 796196

Comprehensive Instruction

Community Education 226.32.71

The Texas Education Agency has adopted Rule 226.32.71.010, concerning community education. The new rule replaces material previously in Rule 226.36.21.010, which has been repealed. Community education projects shall involve the people of the community in identifying needs and resources, while promoting more effective use of public elementary and secondary school facilities. School districts which have in the previous or current year achieved a certain level of community education service may upon application and pursuant to regulations be reimbursed for partial supervisory units to support community education. Funding is also available for a limited number of initial implementation projects.

Public review and discussion of the proposed rule were held. The rule is adopted with changes from the text as proposed. The reference to "pilot programs" has been deleted. Rather, the rule provides for school districts to initially implement the community school concept and establish eligibility for receiving Foundation School Program funding.

This rule amendment is promulgated under the authority of Sections 11.18, 21.111, and 21.902, Texas Education Code.

.010. Community Schools.

(a) Policy.

(1) The community school concept shall be provided with state support in public elementary and secondary school systems identified throughout the state to initially implement the concept and/or establish eligibility for receiving Foundation School Program funding.

(2) School districts which have in the previous or current year achieved a level of community education services prescribed by the Texas Education Agency may upon application and pursuant to regulations be reimbursed from the Foundation School Program Fund for partial supervisory units to support community education.

(3) Community education projects shall involve the people of the community in identifying community and neighborhood needs and resources, while promoting more effective use of public elementary and secondary school facilities and other public facilities for the purpose of providing and meeting educational, recreational, cultural, and other community services and concerns. Community education projects shall provide an opportunity for persons of all ages to participate in educational, recreational, cultural, and other community services based upon community and school district needs.

(4) The commissioner of education shall develop procedures and guidelines for funding in accordance with law.

Reference: Sections 11.18, 21.111, and 21.902, Texas Education Code

(b) Administrative procedure.

(1) Initial implementation of the community schools concept.

(A) The Texas Education Agency will solicit from school districts proposals for projects for initial implementation of the community education concept and will, within the funds available, fund a limited number of such projects.

(B) The agency will, within the resources available, provide upon request technical assistance to help school districts implement community school programs.

(C) Community school programs shall be locally designed to meet community needs for all age groups, using state guidelines for projects supported by state or federal funds.

(2) Foundation School Program Fund supervisory units.

(A) The agency will make partial supervisory units available to selected school districts, based on evidence of meeting eligibility requirements in the current or previous year.

(B) Approved projects, in addition to satisfying the minimum eligibility requirements determined by the agency, will be projects that most effectively satisfy the criteria for community education development at the campus and/or district-wide level. Selection for funding will also be based on community participation, involvement of all ages, degree of interrelationship with the regular school program, scope of service and activities, community needs, degree of correlation of services with community needs and all age groups to be served, cooperation between agencies and organizations, and community school enrollments.

(C) Verification and review of local education agency eligibility will be documented through annual reports, on-site monitoring, periodic evaluations, and an agency review committee.

(D) The agency will, within resources available, provide staff development and technical assistance services to public elementary and secondary schools with community education.

Doc. No. 796197

Instructional Resources

Process for State Adoption of Textbooks 226.33.34.010

The Texas Education Agency has adopted Rule 226.33.34.010, concerning the process for state adoption of textbooks. The rule tracks the provisions of Senate Bill 350 (66th Legislature) directing the State Board of Education to develop and implement a balanced adoption cycle for textbooks, planned on the basis of a cost of not less than $15 per student for the first year of the cycle, with inflation adjustments thereafter.

Public review and discussion of the proposed rule were held. The rule is adopted with no change from the text as proposed.

This rule amendment is promulgated under the authority of Section 12.34(k), Texas Education Code.

.010. Balanced Adoption Cycle.

(a) Policy. "The State Board of Education shall develop and implement a balanced adoption cycle for proclamation of needs for textbooks and other instructional materials. At a minimum, the adoption cycle shall:

(1) extend over a period of [illegible]rs determined by the State Board of Education to be the most beneficial and desirable time span to meet the textbook needs of Texas public schools;

(2) be planned on the basis of a cost to the State of Texas of not less than $15 per scholastic population for the first year of the cycle and adjusted thereafter to account for increasing costs due to inflation of the economy;

(3) be so arranged that the total cost of new adoptions shall be approximately equal for each year of the proposed cycle, except as adjusted for increasing costs and a growing scholastic population;

(4) be all-inclusive of all subjects required by statute or approved by the State Board of Education to be used in public school systems of Texas during the period of time encompassed by the cycle;

(5) be developed in such a manner that it will operate on a continuing basis so that providers of textbooks and other instructional materials shall be kept advised in advance of the subjects to be called for adoption each year; and

(6) provide that except under emergency conditions deemed necessary by the State Board of Education, all changes or amendments in the cycle shall be made in such manner and at such time as to give notice of the change to the providers of textbooks and other instructional materials as far in advance as possible." (Section 12.34(k), Texas Education Code)

(b) Administrative procedure. The commissioner of education prepares and submits to the State Board of Education a balanced adoption cycle.

Doc. No. 796198

226.33.34.070

The Texas Education Agency has amended Rule 226.33.34.070, concerning the process for state adoption of textbooks.

Public review and discussion of the proposed rule were held. The rule is adopted with several changes from the text as proposed. The changes add references to learning systems and supplementary materials, as well as textbooks. The commissioner of education may remove books from the list of recommended books if per pupil prices are much higher than average in the subject. The method for calculating the per pupil price is specified. Use of the generic "he" has been eliminated.

This rule amendment is promulgated under the authority of Sections 12.12, 12.14, and 12.15, Texas Education Code.

.070. Recommendations of Textbooks for State Adoption by the Commissioner of Education.

(a) Policy.

(1) The commissioner of education in considering the textbooks, learning systems, and supplementary materials (as defined in Policy 33.31) listed by the State Textbook Com-

mittee which have been protested shall give full consideration to the petitioners' bills of particulars, the publishers' answers, the record of the hearing before the commissioner, and the record of the special meeting of the State Textbook Committee.

(2) The commissioner of education shall submit to the State Board of Education the lists of textbooks, learning systems, and supplementary materials received from the State Textbook Committee together with a report of those textbooks, learning systems, and supplementary materials which the commissioner has deleted. The commissioner shall not place on the lists any textbooks, learning systems, or supplementary materials not recommended by the committee, not reduce to a single adoption any list for a specific grade or subject in which multiple adoption is recommended by the committee. The commissioner shall also inform the board of changes, corrections, deletions, substitutions, and additions to the textbooks, learning systems, or supplementary materials which publishers will be asked to make before purchase by the state.

(3) The commissioner of education may remove any textbook, learning system, or supplementary material from the committee's lists for any of the following reasons:

(A) per pupil prices are much higher than average in the subject;

(B) manufacturing quality is below specifications;

(C) content material is unsatisfactory;

(D) textbooks, learning systems, or supplementary materials are from a publisher who refuses to rebid his textbooks, learning systems, or supplementary materials;

(E) textbooks, learning systems, or supplementary materials are from a publisher unwilling or unable to make the changes recommended by the commissioner; or

(F) in the commissioner's judgment, textbooks, learning systems, or supplementary materials are unsuitable for adoption.

In calculating the per pupil price, the commissioner shall use the total cost of the designed usage of a unit of the books, system, or materials, including consummables and replacement items or books, over the expected period of adoption, adjusted for the number of pupils that the unit is designed to serve, as specified in the proclamation issued by the State Board of Education. As soon as it is available, a copy of the official report of the commissioner of education on textbooks shall be sent to the State Board of Education, the petitioners, and publishers.

(b) Administrative procedure

(1) The commissioner of education, upon finding a book subject to removal from the committee's recommended list, confers with the publisher to determine if adjustment or changes can be made to avoid its removal.

(2) In the event that a book from the list of five books in each adoption category recommended by the committee is removed by action of the commissioner or the State Board of Education, the book ranked next in order of preference by the committee on the alternate list shall be placed on the recommended list of five books in that adoption category.

(3) The commissioner prepares a list of changes which the publisher is asked to make in a book. This list is transmitted to the State Board of Education, the publisher making the changes, the regional education service centers, and other persons, such as Braillists, needing immediate access to such information.

.Doc. No. 796199

State Textbook Committee 226.33.35

The Texas Education Agency has amended Rules 226.33.35.010 and .030, concerning the State Textbook Committee. Rule .010 requires that the Textbook Committee be appointed on or before the second Saturday in May, rather than the first Monday in May. This change reflects the provisions of Senate Bill 789, 66th Session. Rule .030 requires that at least one member of the committee be knowledgeable in the field of special education.

Public review and discussion of the proposed rules were held. The rules were adopted with no change from the text as proposed.

These rule amendments are promulgated under the authority of Section 12.11, Texas Education Code.

.010. Appointment.

(a) Policy. On or before the second Saturday in May the State Board of Education shall appoint the State Textbook Committee. The 15 committee members shall be recommended by the commissioner of education for a one year term.

(b) Administrative procedure. The commissioner of education, after assuring himself that each person has all the qualifications required by law and State Board of Education policy, recommends 15 people for appointment to the committee. Should the State Board of Education refuse to appoint any of them, the commissioner of education recommends eligible alternates.

.030. Qualifications.

(a) Policy. Only one committee member shall be appointed from any one congressional district, the majority must be engaged in classroom teaching and each member must:

(1)-(3) (No change.)

(4) At least one member shall be knowledgeable in the field of special education.

(b) Administrative procedure. The commissioner of education determines that each proposed committee member meets the qualifications as required by statute.

Issued in Austin, Texas, on September 17, 1979.

Doc. No. 796200 A. O. Bowen
Commissioner of Education

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Proposal Publication Date: August 3 & 7, 1979
For further information, please call (512) 475-7077

Textbooks for Blind and Visually Handicapped Pupils and Personnel 226.33.38

The Texas Education Agency has amended Rule 226.33.38.080, which concerns the provision of textbooks to blind and visually handicapped teachers. The amendment provides that student editions of textbooks in Braille and large type shall be furnished to public school teachers without cost. Reference to provision of "other apparatus" is being

deleted. The amendment more accurately reflects those materials which the Texas Education Agency is authorized under law to provide.

Public review and discussion of proposed amendment were held. The rule is adopted with no change from the text as proposed.

This amendment is promulgated under the authority of Section 12.35(b), Texas Education Code.

.080. Textbooks for Blind and Visually Handicapped Teachers.

(a) Policy. Copies of student 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.

(b) Administrative procedure. 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 Textbook Division:

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

The materials are to be loaned to the public school districts as long as needed and are to be returned to the state when they are no longer needed.

Issued in Austin, Texas, on September 14, 1979.

Doc. No. 796096 A. O. Bowen
Commissioner of Education

Effective Date: October 5, 1979
Proposal Publication Date: August 3, 1979
For further information, please call (512) 475-7077.

Student Services

Student Services in General 226.34.11

The Texas Education Agency has amended Rule 226.34.11.010, concerning student services as part of the public education program. The amendment distinguishes between those services which school districts are required to provide, in accordance with the Principles, Standards, and Procedures for the Accreditation of School Districts (Chapter 37.15) and those services which districts may provide but which are not required.

Public review and discussion of the proposed rule were held. The rule is adopted with one change from the text as proposed. A note is added to item (a)(2) indicating that certain school districts are required by law to participate in the National School Breakfast Program.

This rule amendment is promulgated under the authority of Sections 11.02(a) and 11.26(a)(5), Texas Education Code.

.010. Scope of Student Services

(a) Policy.

(1) As part of the public education program, student services shall include guidance services, student health services, and attendance services (Principles, Standards, and Procedures for the Accreditation of School Districts, Policy 37.15, 5E).

(2) Student services may also include home/school coordination, school psychological services, school lunch and child nutrition services, and transportation.

Note: Certain school districts are required to participate in the National School Breakfast Program in accordance with Section 21.914, Texas Education Code.

(3) Districts which provide services listed in (2) above shall comply with relevant law and State Board of Education policies and their corresponding administrative procedures.

(b) Administrative procedure. (Reserved for expansion.)

Doc. No. 796220

Guidance Services 226.34.12

The Texas Education Agency has amended Rule 226.34.12.010, concerning guidance services as part of the educational program in Texas public schools. The amendment clarifies that guidance services shall be provided in accordance with the Principles, Standards, and Procedures for the Accreditation of School Districts (Chapter 37.15). Guidance services shall be coordinated with other student services and with related instructional programs.

Public review and discussion of the proposed rule were held. The rule is adopted with one editorial change from the proposed text as it was published in the *Texas Register* (4 TexReg 2781). In subsection (b)(5) of the rule, there should be a comma after the word "classroom." There are no other changes from the text as proposed.

This rule amendment is promulgated under the authority of Sections 11.02(a) and 11.26(a)(5), Texas Education Code.

.010. Provision of Services.

(a) Policy. Guidance services shall be considered as part of the educational program for the school children of Texas. These services shall be provided to all children through the local education agencies in accordance with the Principles, Standards, and Procedures for the Accreditation of School Districts (Policy 37.15). The local education agency shall ensure appropriate coordination of all elements of guidance services, other student services, and related instructional programs.

(b) Administrative procedure. Guidance services shall be provided in accordance with the Principles, Standards, and Procedures for the Accreditation of School Districts, Policy 37.15 (5E), policies approved by the local board of school trustees, and the following procedures:

(1) The program of guidance services shall provide for counseling, consultation, coordination, and student appraisal to meet the educational, vocational, and personal-social needs of students.

(2) The guidance prrogram operating with central coordination shall be a cooperative effort of the entire staff and be coordinated with the comprehensive educational program so that together they shall be a unified educational process.

(3) The guidance program shall be coordinated with other student services and with related instructional programs, as appropriate, to focus on the needs of students.

(4) Guidance services shall be accessible to students and assist teachers in working with individual students.

"Where counselors are employed, the counselors shall devote the major portion of their time to conferring with and giving help to students, parents, and teachers." (Policy 37.15, 5E(2))

(5) Teachers shall use opportunities in the classroom, in extra-curricular activities, and in contacts with parents to achieve local guidance objectives.

(6) Physical facilities, equipment, and materials needed to conduct guidance services are provided.

Doc. No. 796221

School Health Services 226.34.13

The Texas Education Agency has amended Rule 226.34.13.010, concerning the school health services program. The amendment clarifies that school health services shall be provided in accordance with the Principles, Standards, and Procedures for the Accreditation of School Districts (Chapter 37.15). School health services shall be coordinated with other student services and with related instructional programs.

Public review and discussion of the proposed rule were held. The rule amendment is adopted with one change from the text as proposed. In item (b)(2)(A), the legal reference has been corrected to read Article 4477, Vernon's Texas Civil Statutes, rather than 4418D. The "and" at the end of this item has been deleted.

This rule amendment is promulgated under the authority of Sections 11.02(a) and 11.26(a)(5), Texas Education Code.

.010. Health Services Program.

(a) Policy. School health services shall be considered as part of the educational program of the school children of Texas. These services shall be provided to all children through local education agencies, in accordance with the Principles, Standards, and Procedures for the Accreditation of School Districts (Policy 37.15) and standards established by the Texas State Department of Health and in accordance with applicable laws. The local education agency shall ensure appropriate coordination of school health services, other student services, and related instructional programs.

(b) Administrative procedure. The program of school health services shall be maintained in accordance with the following requirements:

(1) The school health services program shall be devised and described in accordance with the Principles, Standards, and Procedures for the Accreditation of School Districts and policies approved by the local board of education.

(2) School health services are addressed by policies of the local board of trustees. Local policies shall address:

(A) exclusion and reporting of students or employees who have communicable diseases (Article 4477, Vernon's Texas Civil Statutes);

(B) emergency care of the sick;

(C) immunization (Section 2.09, Texas Education Code);

(D) reporting child abuse (Article 34.01 et seq., Vernon's Texas Civil Statutes);

(E) authority to make health appraisals of pupils; and

(F) administration of medication by school personnel (Section 21.914, Texas Education Code).

(3) School health services shall include the following special functions designed to enhance and improve the learning process of students:

(A) planning and development;

(B) health counseling;

(C) screening;

(D) prevention and control of communicable diseases;

(E) provision for emergency cases;

(F) consultation and coordination with other student services and related instructional programs to focus on the health-related needs of students and their families;

(G) liaison with community health resources;

(H) referral;

(I) health appraisals for students; and

(J) maintenance of pupil health records.

Issued in Austin, Texas, on September 19, 1979.

Doc. No. 796222 A. O. Bowen
Commissioner of Education

Effective Date: October 10, 1979
Proposal Publication Date: August 10, 1979
For further information, please call (512) 475-7077.

School Psychological Services 226.34.16

The Texas Education Agency has adopted Rule 226.34.16.010, concerning school psychological services. School districts are not required to provide such services, but districts which choose to provide them must do so in accordance with the Principles, Standards, and Procedures for the Accreditation of School Districts (rules in Chapter 37.15) and with Rule .010.

Public review and discussion of the proposed rule were held. The rule is adopted with no change from the text as proposed.

This rule is promulgated under the authority of Sections 11.02(a) and 11.26(a)(5), Texas Education Code.

.010. Provision of Services.

(a) Policy. School psychological services may be provided as a part of the educational program for the school children of Texas. These services may be provided to children through the local education agencies in accordance with the Principles, Standards, and Procedures for the Accreditation of School Districts (Policy 37.15) and Policies and Administrative Procedures for the Education of Handicapped Students (Policy and Administrative Procedure 35.71-35.75). The local education agency shall ensure appropriate coordination of psychological services with other student services and related instructional programs and psychological services for special populations.

(b) Administrative procedure. When school psychological services are provided, the program shall be in accordance with the following requirements:

(1) School psychological services shall be provided by qualified personnel.

(2) These services shall include:

(A) providing consultation to parents, school personnel, and community personnel concerning students' psychological development;

(B) coordinating school psychological services with other student services, related instructional programs, and programs for students with special needs;

(C) providing staff development for school personnel about psychological growth as it relates to learning and personal development;

(D) cooperating with community agencies which provide psychological services to children and educational opportunities for parents to develop psychological knowledge, attitudes, and skills that affect child development;

(E) assessing student needs to determine appropriate educational and psychological services;

(F) planning and managing a program of services, including psychological counseling for students and parents; and

(G) assisting other student services and related instructional programs personnel in conducting research and evaluation.

Doc No 796097

Adaptations for Special Populations

Compensatory Education in General 226.35.61

The Texas Education Agency has amended Rules 226.35.61.040 and .050, concerning compensatory education. The provision that local school district evaluations of all compensatory programs must be made annually has been deleted. The change is consistent with revised federal guidelines.

Public review and discussion of the proposed rules were held. The rules are adopted with no change from the text as proposed

These rules are promulgated under the authority of Sections 16.005 and 16.176, Texas Education Code, and Public Law 89-10 as amended.

.040. Planning and Evaluation.

(a) Policy.

(1) (No change.)

(2) An evaluation of all compensatory programs including information required by and submitted to the Texas Education Agency shall be made. The evaluation shall encompass both the education process and the extent of growth and achievement evidenced by pupils

(3) (No change.)

(b) Administrative procedure.

(1)-(3) (No change.)

(4) An evaluation report of progress made toward meeting compensatory education objectives shall be submitted to TEA by the local district as required by law.

(5) Evaluation of compensatory programs shall use procedures that produce valid measurements of the program's objectives. The results shall be used in determining future activities or re directing existing programs.

(6) The evaluation report to the Texas Education Agency shall be submitted on forms developed by TEA to produce consistent statewide data. Variations to this format may be requested if appropriate

(7) (No change.)

Reference. Section 16.176, Texas Education Code; Section 141(a)(6)(7), Public Law 89-10 as amended.

.050. Public Access to Information.

(a) Policy. Information contained in an application for compensatory education program funds and in the evaluation of such programs is public information and must be made available to the public upon request unless exempted by law.

(b) (No change.)

Reference: Section 414(a)(8) and (14)(D), Public Law 89-10 as amended.

Doc. No. 796098

Compensatory Education Program 226.35.63

The Texas Education Agency has amended Rule 226.35.63.030, concerning the State Compensatory Education Program. The amended rule deletes reference to the State Compensatory Education Program application from the administrative procedure section of the rule. This application will no longer be used by the Texas Education Agency.

Public review and discussion of the proposed rule were held. The rule is adopted with no change from the text as proposed.

This rule amendment is promulgated under the authority of Sections 16.005 and 16.176, Texas Education Code.

.030. State Compensatory Eduucation Assistance.

(a) (No change.)

(b) Administrative procedure.

(1)-(2) (No change.)

(3) The State Compensatory Education Program must be based upon the most recent available data. The program should reflect sound planning and practices which, if properly implemented, give hope of success.

(4)-(5) (No change.)

Reference. Section 16.176, Texas Education Code

Issued in Austin, Texas, on September 14, 1979.

Doc. No. 796099 A. O. Bowen
Commissioner of Education

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For further information, please call (512) 475-7077.

Emerging Programs

Community Education 226.36.21

The Texas Education Agency has repealed Rule 226.36.21.010, concerning community education. Policies and administrative procedures concerning community education may now be found in new Rule 226.32.71.010. The repeal of Rule 226.36.21.010 moves the policy and administrative procedure on community schools from the rule chapter entitled Emerging Programs.

Public review and discussion on the proposed repeal of Rule .010 were held.

This repeal is effected under the authority of Sections 11.18, 21.111, and 21.902, Texas Education Code.

Issued in Austin, Texas, on September 17, 1979.

Doc. No. 796201 A. O. Bowen
Commissioner of Education

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For further information, please call (512) 475-7077.

Planning and Accreditation

Principles, Standards, and Procedures for the Accreditation of School Districts—1977 226.37.15.340

The Texas Education Agency has amended Rule 226.37.15.340, the list of approved subjects and courses, grades 7-12. American Sign Language has been added to the list of approved subjects and courses. The addition of American Sign Language to the list of approved subjects and courses is in accordance with the provisions of Senate Bill 609, 66th Legislature. There are no other changes in the text of the rule.

This rule amendment is promulgated under the authority of Section 21.121, Texas Education Code.

.340. List of Approved Subjects and Courses, Grades 7-12.
(a)-(e) (No change.)

(The following is an excerpt from the section of the list entitled Foreign Languages. No other part of the list is changed.)

List of Approved Subjects and Courses, Grades 7-12
Quarter Plan

Subjects Courses	Grade Placement	Quarter Time (7-8) or Credit (9-12)	Prerequisite and Other Information
Foreign Languages			
Latin I-VI	7-12	(7-8) 135 clock hours (9-12) 3, 6, 9, 12 quarters	Taken in sequence through Level III
French I-VI	7-12	(7-8) 135 clock hours (9-12) 3, 6, 9, 12 quarters	Taken in sequence through Level III
German I-VI	7-12	(7-8) 135 clock hours (9-12) 3, 6, 9, 12 quarters	Taken in sequence through Level III
Russian I-IV	7-12	(7-8) 135 clock hours (9-12) 3, 6, 9, 12 quarters	Taken in sequence through Level III
Spanish I-VI	7-12	(7-8) 135 clock hours (9-12) 3, 6, 9, 12 quarters	Taken in sequence through Level III
Czech I-II	7-12	(7-8) 135 clock hours (9-12) 3, 6 quarters	Taken in sequence
American Sign Language	7-12 7-12	(7-8) 45-135 clock hours each year offered (9-12) 1-3 quarters	Taken in sequence

Doc. No. 796100

226.37.15.370

The Texas Education Agency has amended Rule 226.37.15.370, concerning requirements for assignment of teachers. The amendment adds an administrative procedure section to the rule. The administrative procedure concerns adaptations of the standards in Rule .370 for nonpublic schools seeking accreditation. No changes were made in the policy section of the rule other than renumbering of subsections or in the tables, Requirements for Assignment of Teachers, Grades Seven and Eight Departmentalized, or Requirements for Assignment of Teachers, Grades 9-12. Public review and discussion of the proposed rule were held. The rule is adopted with no change from the text as proposed.

This rule is promulgated under the authority of Section 11.26(a)(5), Texas Education Code, and Rule .110.

.370. Requirements for Assignment of Teachers.
(a) Policy.

(1) All professional personnel are graduates of colleges and universities which are approved by the Texas Education Agency for teacher education programs or otherwise recognized by the Texas Education Agency for public school professional employment purposes. Exception: Certain exceptions are specified in agency Bulletin 753, "Guidelines for School Personnel: Certification, Allocations, and Records."

(2) All professional personnel hold valid Texas teachers certificates appropriate for their current assignments.

(3) Teachers are assigned in areas or subjects for which they have completed an approved program of teacher education.

(A) An individual who met standards which were in effect for teaching a subject prior to September 1, 1966, shall remain eligible to teach the subject without additional preparation. Requirements in effect for particular years prior to September 1, 1966, are detailed in Columns II and III in the List of Requirements for Assignment of Teachers.

(B) An individual receiving a secondary certificate dated after September 1, 1966, must have the proper teaching field on the certificate in order to meet standards for teaching the subject in grades 7-12. Where teaching fields have been added after September 1, 1966, that modify minimum requirements for teaching a subject, such modifications are explained in footnotes on the appropriate page(s) of the List of Requirements for Assignment of Teachers.

(C) An individual who met the preparation requirements in effect for a subject in the List of Approved Subjects and Courses, Grades 7-12, on the date of issuance of the individual's certificate shall remain eligible to teach the subject even though additional preparation requirements may be subsequently added.

(D) If grades six, seven, and eight are organized on a "self-contained" basis, the preparation of the teacher must comply with the standards applicable to elementary teachers. "Self-contained" is defined as a class which is taught by one teacher for 50% or more of the school day.

(E) Teachers in departmentalized grades seven and eight must have either the elementary, all level, or secondary certificate with appropriate preparation as specified in Columns II, III, IV, and V. Teachers with an elementary area of specialization must meet the semester hour requirements shown in Column III in the List of Requirements for Assignment of Teachers, Grades Seven and Eight Departmentalized.

(F) If grade six is organized on a departmentalized basis, a subject may be taught by (1) a teacher with a secondary certificate with the appropriate preparation (See Columns II, III, IV, and V) or (2) a teacher with an elementary

certificate. (Note: Although teachers with an elementary certificate are not required to have a specific number of hours to teach a subject in a grade six departmentalized organization, the district is encouraged to give careful attention to the preparation of teachers so assigned.)

(G) When emergency conditions require, a teacher may be assigned without the required preparation in accordance with regulations specified in agency Bulletin 753, "Guidelines for School Personnel: Certification, Allocations, and Records," and further provided each teacher assigned under these conditions is reported to the school board.

(H) Teachers certified in English, foreign languages, or bilingual education may be assigned to teach English for Speakers of Other Languages, Levels I-III. (Note: In-service training in English for Speakers of Other Languages methodology should be provided for English, foreign language, and bilingual education teachers assigned to teach the course.)

(I) Teachers in a CVAE program assigned to the academic phase of either the junior high or high school programs may have an elementary certificate or a high school certificate provided that the teacher has some identifiable and specific training or competence in remedial instruction.

(J) Remedial reading.

(*i*) Teachers who are assigned to teach remedial reading at the middle school, junior high school, or high school level must possess one of the following:

(I) reading specialist certificate (all level);

(II) teaching field in reading;

(III) elementary certificate with area of specialization in reading;

(IV) secondary certificate with a teaching field in reading; or

(V) a valid certificate with transcript showing nine advanced hours in the teaching of reading with at least one course in diagnostic reading techniques.

(*ii*) Persons currently teaching remedial reading will continue to be qualified to teach the subject. Any person possessing an elementary certificate may teach reading in the elementary school.

(K) Title I teachers must meet the same requirements as non-Title I teachers.

(b) Administrative procedure. For nonpublic schools desiring accreditation, the following requirements for assignment of teachers shall apply:

(1) All professional personnel are graduates of colleges and universities which are approved by the Texas Education Agency for teacher education programs or otherwise reccognized by the Texas Education Agency for publiic school professional employment purposes. Exception: Certain exceptions are specified in agency Bulletin 753, "Guidelines for School Personnel: Certification, Allocations, and Records."

(2) Teachers are assigned in areas or subjects for which they have completed an approved program of teacher education or the semester hours specified in Columns II and III of the table Requirements for the Assignment of Teachers based on the date of the first bachelor's degree.

(Note: Teachers in nonpublic schools are not required to hold Texas teacher's certificates.)

(Editor's note: The two tables included in this rule are not shown. There are no changes proposed in either table.)

Issued in Austin, Texas, on September 14, 1979.

Doc. No. 796102 A. O. Bowen
Commissioner of Education

Effective Date: October 5, 1979
Proposal Publication Date: August 3, 1979.
For further information, please call (512) 475-7077.

Foundation School Program

Allocation of Personnel Units 226.41.03

The Texas Education Agency has amended Rules 226.41.03.015, .016, .043, and .044, concerning the allocation of personnel units under the Foundation School Program. Rule .015 concerns adjustments in personnel units for districts which experience a marked increase or decrease in average daily attendance. The administrative procedure section is being amended to require that, where adjustments are made because of the high enrollment of migrants, these children must be classified as currently eligible migratory children in the Migrant Student Record Transfer System. Rule .016 concerns the new minimum staffing authorization mandated by Senate Bill 350. This authorization guarantees minimum personnel unit allocations to certain small school districts. The 66th Legislature repealed the statutory authorization to the commissioner of education to allocate up to 200 additional personnel units at his discretion to districts needing such units to meet accreditation standards. Language implementing this provision has been deleted from the rule. Rule .043 is amended to clarify that rehabilitation units are also allocated personnel units, rather than "exceptional teacher units." The amendment to Rule .044 implements House Bill 508, 66th Legislature, which provides that schools shall operate on the semester system beginning with the 1980-81 school year.

Public review and discussion of the proposed rules were held. The rules are adopted with no change from the text as proposed.

These rule amendments are promulgated under the authority of Sections 16.005, 16.102(i) and (m), 21.008, and Chapter 26, Texas Education Code.

.015. Adjustment in Personnel Unit Allocations for Districts with a Marked Increase or Decrease in ADA.

(a) Policy. Where a school district is consolidated or contracted with another district, or annexed in whole or part to another district or districts, or where the number of grades taught has been reduced, or where the scholastics are transferred to another district, or where there is an annual fluctuation in the attendance in the district, or where for any reason there is a marked increase or decrease in the attendance of any school district, adjustments in professional allotments shall be made by the state commissioner of education.

Reference: Section 16.102(m), Texas Education Code

(b) Administrative procedure.

(1) In districts having enrollments which include 10% or more children of migratory agricultural workers and

fishermen, the district's ADA for computing personnel units shall be based on the best four six-week reporting periods.

(2) For purposes of this adjustment, in calculating the percentage of migrant children in the district, districts shall count only those children who have moved with their families from one school district to another in order that a parent or other member of the immediate family might secure employment in agriculture or related food processing activities or in the fishing industry. These children must be classified as currently eligible migratory children in the Migrant Student Record Transfer System (MSRTS), as either Status 1, 2, 4, or 5.

Reference: Section 16.102(m), Texas Education Code

.016. Minimum Staffing Authorization

(a) Policy. Personnel units shall be allocated as specified by law.

Reference: Section 16.102(i), Texas Education Code

(b) Administrative procedure.

(1) A school district that has 1,000 or fewer students in average daily attendance shall be allotted not less than 12 personnel units if it offers a kindergarten through grade 12 program and has a prior year's average daily attendance of at least 90 students or is 30 miles or more by bus route from the nearest high school district campus.

(2) A district offering a kindergarten through grade eight program whose prior year average daily attendance was at least 50 students or is 30 miles or more by bus route from the nearest high school campus shall be allotted not less than 7.2 personnel units.

(3) Not less than 4.2 personnel units shall be allotted if a district offers a kindergarten through grade six program and has a prior year's average daily attendance of at least 40 students or is 30 miles or more by bus route from the nearest high school campus.

(4) In addition, each school district less than 1,000 ADA shall be allotted .6 personnel unit to be used cooperatively with other districts to provide support services necessary to meet accreditation standards.

.043. Rehabilitation Districts

(a) Policy. Rehabilitation districts shall be allocated personnel units as specified in Chapter 26, Texas Education Code .

(b) Administrative procedure (Reserved for expansion.)

.044. Funding the Semester System.

(a) Policy.

(1) Beginning with the 1980-81 school year, each school district shall operate for either two or three semesters during each school year, at the option of the district.

(2) The semester must provide the required number of days of instruction for student and in-service education and preparation for teachers, except as provided under Section 16.052(B), Texas Education Code.

Reference: Section 21.008, Texas Education Code

(b) Administrative procedure.

(1) School districts on the semester system are funded based on the required days of instruction and teacher in-service training and preparation as prescribed in Section 16.051, Texas Education Code.

(2) If a district offers two semesters, the two semesters will consist of 87 and 88 days. Variations of more than five days should be approved in advance by the deputy commissioner for administrative services.

(3) If a district offers three semesters, the three semesters will consist of approximately 58 days. Variations of more than three days should be approved by the deputy commissioner for administrative services.

Issued in Austin, Texas, on September 19, 1979.

Doc. No. 796223 A. O. Bowen
Commissioner of Education

Effective Date: October 10, 1979
Proposal Publication Date: August 14, 1979
For further information, please call (512) 475-7077.

State Available School Fund 226.41.08.010

The Texas Education Agency has amended Rule 2266.41.08.010 concerning state available school funds. The amended rule provides that state available funds shall be distributed directly to school districts, rather than to counties. Allocations are made in monthly payments, beginning September 1 of each year. Public review and discussion of the proposed rule amendment were held. The rule is adopted with no change from the text as proposed.

This rule is promulgated under the authority of Sections 12.02, 15.01, 15.10, and 16.005, Texas Education Code.

.010. Distribution to School Districts.

(a) Policy.

(1) The funds certified by the State Comptroller of Public Accounts to be available for the support of the public schools shall be apportioned among the school districts of the state after deductions have been made for the support of the State Textbook Fund. (Policy 33.32, Funding the State Textbook Program)

(2) The amount of State Available School Fund certified by the State Comptroller of Public Accounts to be available for distribution on the first working day of each month shall be apportioned and paid to the various school districts of the state.

Reference: Sections 12.02, 15.01, and 15.10, Texas Education Code

(b) Administrative procedure.

(1) On or before July 1 of each year the State Comptroller of Public Accounts certifies his estimate of the amount of the State Available School Fund to be available during the coming school year.

(2) The amount to be apportioned among the school districts of the state is determined by dividing the amount to be apportioned by the total number of pupils in average daily attendance during the previous year in the state including those enrolled in special education classes to determine the amount to be apportioned per pupil in average daily attendance.

(3) The total amount from the State Available School Fund apportioned to each district of the state is determined by multiplying the amount apportioned per pupil in the state by the number of pupils in average daily attendance the prior year.

(4) State Available Funds are distributed in monthly payments starting September 1 of each year.

Doc. No. 796123

226.41.08.020, .030

The Texas Education Agency has repealed Rules 226.41.08.010-.030 concerning the state available funds (Rule .020). Funds for county administration are no longer deducted from state available funds. Material from Rule .030 has been incorporated into Rule .010. Public review and discussion of the proposed rules were held.

This repeal is effected under the authority of Section 16.005, Texas Education Code.

Issued in Austin, Texas, on Sebtember 14, 1979.

Doc. No. 796124 A. O. Bowen
Commissioner of Education

Effective Date: October 5, 1979
Proposal Publication Date: August 3, 1979
For further information, please call (512) 475-7077.

Local Fund Assignment 226.41.10

The Texas Education Agency has amended Rules 226.41.10.010 and .020, concerning calculation of school district local fund assignments under the Foundation School Program. For 1979-80, a district's local fund assignment is either .0015 times full market value or .00175 times index value, whichever amount is less. For 1979-80, market value is the 1979 School Tax Assessment Practices Board market value minus intangible personal property, category H (motor vehicles), personal property exempt from taxation under Article VIII, Section 1, of the constitution, and homestead exemptions. No district's local fund assignment shall exceed 120% of the prior year local fund assignment.

Public review and discussion of the proposed rules were held. The rules are adopted with one change from the text proposed. The last paragraph in Rule .020 has been deleted because it was redundant.

These rules are promulgated under the authority of Sections 16.005 and 16.252, Texas Education Code.

.010. Local Share of Program Cost.

(a) Policy. The local share of the cost of the foundation program shall be determined as specified in law.

(b) Administrative procedure.

(1) For the 1979-80 school year, each school district's share of its guaranteed entitlement under the Foundation School Program shall be an amount equal to the product of an index rate of .0015 multiplied by the full market value of property in the district or the product of an index rate of .00175 multiplied by the index value of property determined pursuant to Section 16.252 of the Texas Education Code, whichever amount is smaller.

(2) For the 1980-81 school year, each school district's share of its guaranteed entitlement under the Foundation School Program shall be an amount equal to the product of .0016 multiplied by the index value of property as prescribed in Section 16.252 of the Texas Education Code.

(3) For the 1981-82 school year and each year thereafter, each school district's share of its guaranteed entitlement under the Foundation School Program shall be an amount equal to the product of an index rate of .0016 multiplied by the index value of property determined pursuant to Section 11.86, Texas Education Code. The commissioner of education shall utilize the official biennial report of the School Tax Assessment Practices Board estimates of index value in each school district for determining the local fund assignment.

(4) For the 1979-80 school year and each school year thereafter, no district's local fund assignment shall exceed 120% of its prior year's local fund assignment.

(5) A district need not raise its local share of its program cost.

.020. Determination of Valuation of Property.

(a) Policy. The value of property in each school district shall be determined as specified in law.

(b) Administrative procedure. For the 1979-80 and 1980-81 school years, the estimates of full market values and index values shall be determined by the commissioner of education as follows:

(1) Full market value of property. Utilize the official 1979 report of the School Tax Assessment Practices Board estimates of market value with the following adjustments:

(A) deduction of Category N (intangible personal property); and

(B) deduction of that portion of Category M (personal property) which represents the estimated value of household and farm personal property exempt under the provision of Article VIII, Section 1, of the Texas Constitution;

(C) deduction of that portion of Category H (motor vehicles) which represent the estimated value of motor vehicles exempt from school district taxation under the provisions of House Bill 1060, Acts of the 66th Legislature, Regular Session, 1979;

(D) deduction of estimates of the value of homestead exemptions granted under the provisions of House Bill 1060, Acts of the 66th Legislature, Regular Session, 1979.

(2) Index value of property. Make the following adjustments to the full market value of the district:

(A) deduction of the market value of open-space land devoted to agricultural production; and

(B) addition of the agricultural productivity value of open-space land devoted to agricultural production.

(3) The commissioner of education shall adjust the values reported in the official report of the School Tax Assessment Practices Board to reflect reductions in taxable value of property resulting from natural or economic disaster after January 1 in the year in which the valuations are determined. The decision of the commissioner of education shall be final. Appeals of district values shall be held pursuant to Subsection (d) of Section 11.86, Texas Education Code.

Issued in Austin, Texas, on September 17, 1979.

Doc. No. 796202 A. O. Bowen
Commissioner of Education

Effective Date: October 9, 1979
Proposal Publication Date: August 14, 1979
For further information, please call (512) 475-7077.

State Allocations to Regional Education Service Centers 226.41.15.010

The Texas Education Agency has amended Rule 226.41.15.010, concerning financial support for regional education service centers. The amended rule deletes the pro-

vision that formulas for the allocation of basic support will be developed by the commissioner of education. The formula for basic allocation is now in law.

The amended rule brings the Texas Education Agency's regulations into conformity with current statutes. Public review and discussion of the proposed rule were held. The rule is adopted with no change from the text as proposed.

This rule is promulgated under the authority of Section 11.32(a), Texas Education Code.

.010. Basic Financial Support for Regional Education Services.

(a) Policy. Funds shall be allocated from the Foundation School Program Fund in accordance with the formula established in law for the basic costs of providing regional education services to school districts, the coordination of educational planning in the region, and administrative costs necessary to support these services. Beyond a basic support allocation, any additional funds shall be allocated to the centers on the basis of average daily attendance, with the exception of special projects assigned to a specific center, or as approved by the board.

(b) Administrative procedure. (Reserved for expansion.)

Issued in Austin, Texas, on September 14, 1979.

Doc. No. 796125 A. O. Bowen
Commissioner of Education

Effective Date: October 5, 1979
Proposal Publication Date: August 7, 1979
For further information, please call (512) 475-7077.

226.41.15.040

The Texas Education Agency has repealed Rule 226.41.15.040, concerning funding for regional crime prevention and drug education services. No funds were appropriated for these services by the 66th Legislature. Public discussion and review of the proposed repeal of Rule .040 were held.

This repeal is effected under the authority of Section 11.32(a), Texas Education Code.

Issued in Austin, Texas, on September 17, 1979.

Doc. No. 796203 A. O. Bowen
Commissioner of Education

Effective Date: October 9, 1979
Proposal Publication Date: August 14, 1979
For further information, please call (512) 475-7077.

Student Attendance

Student Attendance Allowed 226.51.01

The Texas Education Agency has amended Rule 226.51.01.010, concerning pupil attendance. The amended rule reflects the provisions of Senate Bill 1218, passed by the 66th Legislature, which concerned attendance of children placed in foster care by an authorized agency of the state or a political subdivision. No durational residence requirement may be used to prohibit such a child from fully participating in any activity sponsored by a school district.

Public review and discussion of the proposed rule were held. The rule is adopted with one change from the text proposed. In subsection (a)(4), the last sentence has been amended to allow school districts to pay tuition charges for school age children of employees of facilities of the Texas Youth Council out of any funds appropriated to the facility by the legislature in accordance with law.

This rule amendment is promulgated under the authority of Section 21.031(3), Texas Education Code.

.010. Free Attendance in General.

(a) Policy.

(1) (No change.)

(2) A child is not eligible for enrollment in the first grade unless: (A) he or she is at least six years of age at the beginning of the scholastic year (September 1); or (B) he or she is at least five years of age on September 1 aand has been enrolled in the public schools in another state prior to moving into a Texas public school district. A child not eligible under provision (B) above may be assigned to the first grade before age six, but the attendance of the child must be maintained in a kindergarten register. Likewise, a child may be assigned to kindergarten after age six, but the attendance of the child must be maintained in a first grade register. Such assignments are the decision of the local district, with the consent of the child's parent or guardian.

(3) (No change.)

(4) A school age child of an employee of a facility of the Texas Youth Council is entitled to attend school in a school district adjacent to the district in which the child resides free of any charge to the child's parents or guardian. Any tuition charge required by the admitting school district shall be paid by the school district from which the student transfers out of any funds appropriated to the facility by the legislature.

(5) School-age children placed in foster care by an authorized agency of the state or a political subdivision shall be permitted to attend the public free schools in the district in which the foster parents reside free of any charge to the foster parents or the agency. No durational residence requirement may be used to prohibit such a child from fully participating in any activity sponsored by the school district. Any agency of the state or political subdivision placing handicapped students eligible for special education instruction or related services authorized by Texas Education Code, Section 16.104, shall observe policies and administrative procedures of the State Board of Education.

(b) (No change.)

Issued in Austin, Texas, on September 14, 1979.

Doc. No. 796104 A. O. Bowen
Commissioner of Education

Effective Date: October 5, 1979
Proposal Publication Date: August 7, 1979
For further information, please call (512) 475-7077.

Compulsory Student Attendance 226.51.02

The Texas Education Agency has amended Rule 226.51.02.010, concerning compulsory pupil attendance. In accordance with the Texas Education Code, the amendment adds to the list of persons exempted from the compulsory attendance law those students who have been expelled and

those handicapped children who cannot be appropriately served by the resident school district, as provided in Section 21.032, Texas Education Code. The upper age limit for compulsory attendance is amended to be 17 years. This corrects an error in the Texas Education Agency rules as they were originally filed.

Public review and discussion of the proposed amendment were held. The rule amendment is adopted with three changes from the text proposed. Use of the generic "he" has been eliminated because it was redundant and renumbering was done on the remaining sections of the rule. New paragraph (4) has been reworded for clarity.

This rule is promulgated under the authority of Sections 21.032 and 21.033, Texas Education Code.

.010. General Provisions.

(a) Policy. Each child who is seven years of age and not more than 17 years of age and who is not excused from attendance must be enrolled in and in attendance in a public school for a minimum of 165 days of the 175 days the child is eligible for attendance per school year. (School district responsibility for compulsory attendance is found in Policy 23.04.) A person between the ages of 7 and 17 who is excused from attending the public schools is one who:

(1) has graduated from a recognized high school;

(2) attends a nonpublic school recognized for compulsory attendance purposes in accordance with Policy 24.01;

(3) holds a certificate from a qualified physician stating a bodily or mental condition exists making it unfeasible to attend school;

(4) is more than 15 years of age and is enrolled in a technical-vocational training program, a work-study program, or an apprenticeship program approved by the child's parent or guardian and the superintendent of the public school the child would otherwise attend;

(5) any child who is handicapped, as defined in Section 16.104, Texas Education Code, and who cannot be appropriately served by the resident district in accordance with the requirements of Section 21.032, Texas Education Code; or

(6) any child expelled in accordance with the requirements of law.

(b) Administrative procedure. The provisions of the Texas Education Code concerning compulsory school attendance refer to a child's age on his or her birthday, whether the child reaches the age during or prior to the beginning of the scholastic year (September 1).

Reference: Attorney General Opinion No. WW-1056, May 12, 1961
Sections 21.032 and 21.033, Texas Education Code

Issued in Austin, Texas, on September 17, 1979.

Doc. No. 796204 A. O. Bowen
Commissioner of Education

Effective Date: October 9, 1979
Proposal Publication Date: August 14, 1979
For further information, please call (512) 475-7077.

Texas State Board of Public Accountancy

Interpretations of Rules of Professional Conduct

Solicitation and/or Encroachment 401.25.06

The Texas State Board of Public Accountancy (the board) has adopted the repeal of all rules in the subchapter, Solicitation and/or Encroachment, Rules 401.25.06.001 and .002. The above referenced rules interpreted the board's rules of professional conduct which have now been repealed and replaced with an entirely new set of rules of professional conduct. Therefore, the interpretations of the old rules are being repealed. The proposed repeal was published in the June 29, 1979, issue of the *Texas Register* (4 TexReg 3247).

Pursuant to the authority of Section 6 of the Public Accountancy Act of 1979, the Texas State Board of Public Accountancy has repealed all rules in the subchapter, Solicitation and/or Encroachment, Rules .001 and .002.

Doc. No. 796216

Advertising 401.25.09

The Texas State Board of Public Accountancy (the board) has adopted the repeal of all rules in the subchapter, Advertising, Rules 401.25.09.002-.006. The above referenced rules interpreted the board's rules of professional conduct which have now been repealed and replaced with an entirely new set of rules of professional conduct. Therefore, the interpretations of the old rules are being repealed. The proposed repeal was published in the June 29, 1979, issue of the *Texas Register* (4 TexReg 2347).

Pursuant to the authority of Section 6 of the Public Accountancy Act of 1979, the Texas State Board of Public Accountancy has repealed all rules in the subchapter, Advertising, Rules .002-.006.

Doc. No. 796217

Substantial Interest 401.25.12

The Texas State Board of Public Accountancy (the board) has adopted the repeal of all rules in the subchapter, Substantial Interest, Rule 401.25.12.002. The above referenced rule interpreted the board's rules of professional conduct which have now been repealed and replaced with an entirely new set of rules of professional conduct. Therefore, the interpretations of the old rules are being repealed. The proposed repeal was published in the June 29, 1979, issue of the *Texas Register* (4 TexReg 2347).

Pursuant to the authority of Section 6 of the Public Accountancy Act of 1979, the Texas State Board of Public Accountancy has repealed all rules in the subchapter, Substantial Interest, Rule .002.

Doc. No. 796218

Feeder to Practice 401.25.15

The Texas State Board of Public Accountancy (the board) has adopted the repeal of all rules in the subchapter, Feeder to Practice, Rule 401.25.15.001. The above referenced rule interpreted the board's rules of professional conduct which have now been repealed and replaced with an entirely new set of rules of professional conduct. Therefore, the interpretations of the old rules are being repealed. The proposed repeal was published in the June 29, 1979, issue of the *Texas Register* (4 TexReg 2347).

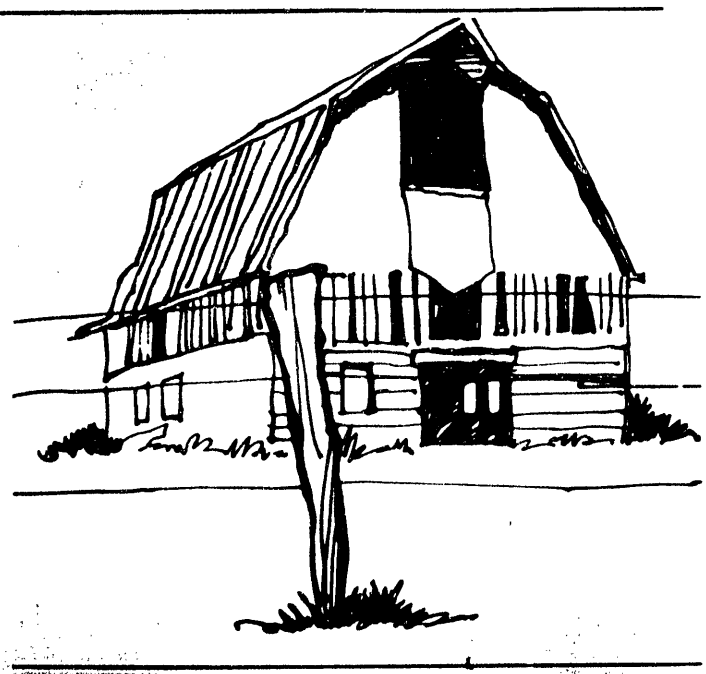
Pursuant to the authority of Section 6 of the Public Accountancy Act of 1979, the Texas State Board of Public Accountancy has repealed all rules in the subchapter, Feeder to Practice, Rule .001.

Issued in Austin, Texas, on September 19, 1979.

Doc. No. 796219

Bob E. Bradley
Executive Director
Texas State Board of Public Accountancy

Effective Date: October 10, 1979
Proposal Publication Date: June 29, 1979
For further information, please call (512) 476-6971.



The Open Meetings Act (Article 6252-17, Texas Civil Statutes) requires that an agency with statewide jurisdiction have notice posted for at least seven days before the day of a meeting. A political subdivision covering all or part of four or more counties, or an institution of higher education, must have notice posted for at least 72 hours before the scheduled meeting time. Notice of an emergency meeting or an emergency addition or amendment to an agenda must be posted for at least two hours before the meeting is convened. Although some notices may be received and filed too late for publication before the meetings are held, all filed notices will be published in the *Register*. Each notice published includes an agenda or a summary of the agenda as furnished for publication by the agency and the date and time of filing. Notices are posted on the bulletin board outside the offices of the secretary of state on the first floor in the East Wing of the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.

Texas Air Control Board

Monday, October 1, 1979, 1:30 p.m. The Ad Hoc Committee for Oversight of Motor Vehicle Emissions Inspection/Maintenance Activities of the Texas Air Control Board will meet in Conference Room 106, Texas Transportation Institute, Texas A&M University, College Station. According to the agenda summary, the committee will discuss with the Texas Transportation Institute staff the role of the program manager in the vehicle emission testing pilot program for Harris County.

Additional information may be obtained from John B. Turney, 8520 Shoal Creek, Austin, Texas 78758, telephone (512) 451-5711, extension 350.

Filed: September 18, 1979, 3:24 p.m.
Doc. No. 796186

Texas Commisssion on the Arts

Saturday and Sunday, September 29 and 30, 1979, 9 a.m. and 2 p.m. respectively. The Texas Commission on the Arts will meet at the San Antonio Art Institute, 6000 New Braunfels, San Antonio. According to the agenda summary, the meeting includes chairman's report; committee reports; executive director's report; recess to conduct public hearing on state arts plan, apporoval of state arts plan; approval of revised guide to assistance; and approval of 1980 budget.

Additional information may be obtained from Pat McCabe Leche, P. O. Box 13406, Austin, Texas 78711, telephone (512) 475-6593.

Filed: September 18, 1979, 10:15 a.m.
Doc. No. 796206

State Board of Barber Examiners

Monday, October 1, 1979, 8 a.m. The State Board of Barber Examiners will meet in Room H-111, 5555 North Lamar, Austin. According to the agenda, the board will consider the following: minutes of previous meeting; interview out-of-state applicants; letters; propose new rule on hours required for reciprocity with other states; vacancies on inspector staff; inspectors' meeting; presentation by Board of Control Computer Services; report on meeting with Cosmetology Commission; and meet in executive session.

Additional information may be obtained from Mary Jo McCrorey, 5555 N. Lamar, Room H-111, Austin, Texas 78751, telephone (512) 458-2241.

Filed: September 19, 1979, 1:31 p.m.
Doc. No. 796229

Texas Commission for the Deaf

Saturday, September 29, 1979, 10 a.m. The Texas Commission for the Deaf will meet in Room 100, 2201 Post Road, Austin, to consider the following items: overview of commission activities; establishment of policy on operations; election of officers; appointment of chief administrative officer; ratification of actions taken at the September 4 meeting, including signature authorizations for fiscal transactions, approval of contracts, and special request for interpreting services for Mental Health and Deafness Workshop; interpreter fee schedule; interpreter service guidelines, Title XX contract with Department of Human Resources for fiscal year 1980; guidelines for establishment of operation of Interpreter Evaluation Board; guidelines for the establishment of Technical Advisory Council. The commission will also meet in executive session.

Additional information may be obtained from Michael L. Moore, 510 South Congress Avenue, Room 106, Austin, Texas 78704, telephone (512) 475-2492.

Filed: September 19, 1979, 4:52 p.m.
Doc. No. 796241

Texas State Board of Dental Examiners

Friday, October 5, 1979, 5 p.m. The Texas State Board of Dental Examiners will meet in the Downtown Holiday Inn, El Paso. According to the agenda, the board will consider the adoption of or amendments to the rules and regulations pertaining to dentists and all persons or businesses under its jurisdiction.

Additional information may be obtained from Carl C. Hardin, 718 Southwest Tower, 7th and Brazos, Austin, Texas 78701.

Filed: September 19, 1979, 2:23 p.m.
Doc. No. 796230

Texas Education Agency

Thursday and Friday, September 27 and 28, 1979, 1 p.m. and 8 a.m., respectively. The Texas Advisory Committee on Energy and Environmental Education of the Texas Education Agency will meet in the Highland Room, Lago Vista World of Resorts Inn, at the World of Resorts Country Club. The meeting includes survey of instructional programs and resources; recognition of name change of advisory committee; status of

Bulletin 709; environmental education awards; report on environmental education course survey; report on guidelines for proposed university recognition award; TEA division efforts; Texas Parks and Wildlife; air quality resources; report on resource committee; environmental education workshop; time and location of spring meeting; and Wildlife Wilderness Basin Workshop at Wildlife Wilderness Basin.

Additional information may be obtained from Joe Huckstein, 201 East 11th Street, Austin, Texas 78701, telephone (512) 475-3653.

Filed: September 18, 1979, 4:18 p.m.
Doc. No. 796187

Office of the Firemen's Pension Commissioner

Thursday, October 4, 1979, 8:30 a.m. The Administrative Division of the Office of the Firemen's Pension Commissioner will meet at the Hilton Inn, 6255 Interstate Highway 37, Corpus Christi. According to the agenda, the division will hold a one day workshop for the fully paid fire departments participating in the Fire Fighter's Relief and Retirement Fund under House Bill 258. The topics to be discussed will include state and federal fire fighter death benefits, investment counseling services, actuarial services, funds management, and an open panel discussion.

Additional information may be obtained from Hal H. Hood, 503F Sam Houston Building, Austin, Texas 78701, telephone (512) 475-5879.

Filed: September 18, 1979, 9:38 a.m.
Doc. No. 796164

Good Neighbor Commission

Friday, October 5, 1979, 9 a.m. The Good Neighbor Commission will meet at the Airport Marina Hotel, DFW Airport. According to the agenda summary, the commission will conduct its fourth quarterly meeting.

Additional information may be obtained from Eddie Aurispa, P.O. Box 12007, Austin, Texas 78711, telephone (512) 475-3581.

Filed: September 20, 1979, 10:32 a.m.
Doc. No. 796245

Texas Department of Health

Saturday, September 29, 1979, 9:30 a.m. The Congenital Heart Disease Program Advisory Committee of the Texas Department of Health will meet in Conference Room T-507, 1100 West 49th Street, Austin. According to the agenda summary, the committee will consider a review and discussion of the three program approved cardiac centers which have received on-site evaluations—Providence Hospital, El Paso; Driscoll and Memorial Hospitals, Corpus Christi; and Texas Children's Hospital, Houston.

Additional information may be obtained from Punman Myer, M.D., 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7241.

Filed: September 20, 1979, 10:29 a.m.
Doc. No. 796246

Saturday, October 6, 1979, 9 a.m. The Hospital Licensing Advisory Council of the Texas Department of Health will meet in Board Room T-607, 1100 West 49th Street, Austin. According to the agenda summary, the council will consider the following items: introduction of membership; orientation of new members; organization of council including rules and procedures, election of officers, and establishment of meetings; and report of hospital licensing activities.

Additional information may be obtained from Walter Dick, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7245.

Filed: September 20, 1979, 10:30 a.m.
Doc. No. 796247

Texas Health Facilities Commission

Thursday, September 27, 1979, 10 a.m. The Texas Health Facilities Commission will meet in Suite 305, The Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider applications for certificate of need for the following: Driscoll Foundation Children's Hospital, Corpus Christi, AH79-0712-019; St. David's Hospital, Austin, AH79-0521-003; A. W. Schlesinger Home Health Service Agency, Laredo, AS79-0511-007; and Baybrook Village Convalescent Center, League City, AN79-0406-015.

For more information, contact Dan R. McNery, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: September 19, 1979, 4:11 p.m.
Doc. No. 796240

State Department of Highways and Public Transportation

Wednesday and Thursday, September 26 and 27, 1979, 9 a.m. daily. The State Highway and Public Transportation Commission will meet in the large hearing room, first floor, and Room 207, State Highway Building, 11th and Brazos Streets, Austin. According to the agenda summary, the commission will consider the following: presentations in the large hearing room, first floor, by the public for various highway, bridge and farm-to-market road requests—Harris County, Shelby County, and Harrison County; meet in Room 207 to execute awards and routine minute orders; consider decisions on presentations from public hearing dockets; and review staff reports relative to planning and construction programs and projects.

Additional information may be obtained from the Office of the Engineer-Director, Room 203, 11th and Brazos Streets, Austin, Texas, telephone (512) 475-3525.

Filed: September 18, 1979, 9:48 a.m.
Doc. No. 796168

State Board of Insurance

Wednesday, September 26, 1979, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 342, 1110 San Jacinto, Austin, to consider whether the title insurance agent's license of Pearson Abstract and Title Company, Henderson, should be suspended or revoked for failure to furnish a statistical report within the time required.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-4353.

Filed September 17, 1979, 4:01 p.m.
Doc No 796156

Wednesday, September 26, 1979, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 342, 1110 San Jacinto, Austin, to consider whether the title insurance agent's license of Armstrong Abstract Company should be suspended or revoked for failure to furnish a statistical report within the time required.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-4353.

Filed September 17, 1979, 4:01 p.m.
Doc No 796157

Thursday, September 27, 1979, 9 a.m. The State Board of Insurance will meet in rescheduled session in Room 408, 1110 San Jacinto, Austin, to hear appeal of Vantage Insurance company from Commissioner's Order 79-2037, dated June 27, 1979. The hearing was originally scheduled for September 21, 1979.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed September 18, 1979, 10:54 a.m.
Doc. No. 796179

Thursday, September 27, 1979, 9:30 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a hearing in Room 342, 1110 San Jacinto, Austin, to consider name protest lodged by Financial Life Insurance Company, Sugar Land, against American Financial Life Insurance Company, Dallas.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-4353.

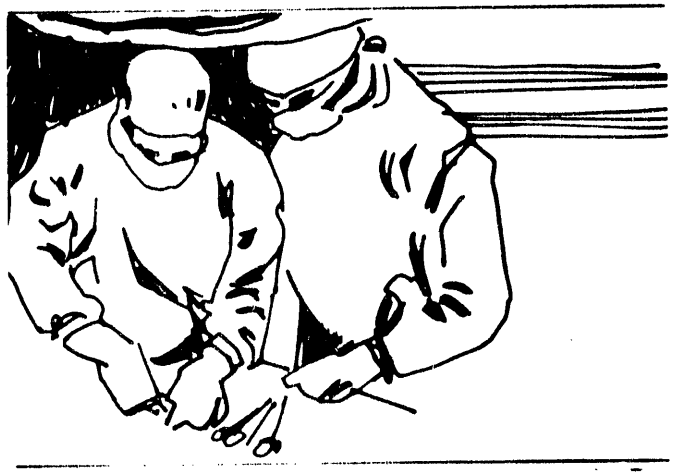
Filed: September 17, 1979, 4:01 p.m.
Doc. No. 796158

Texas State Board of Medical Examiners

Thursday-Saturday, September 20-22, 1979, 8 a.m. daily. The Texas State Board of Medical Examiners made emergency additions to meetings held at 211 East 7th Street, Austin. According to the agenda, the board considered the following: in addition to discussion of possible promulgation of rules regarding physician's assistants and standing orders, the board discussed possible promulgation of rules relating to foreign medical graduates and reduction of the annual registration fee for physicians.

Additional information may be obtained from Jean Davis, 211 East 7th Street, Austin, Texas 78701, telephone (512) 475-0741.

Filed: September 18, 1979, 9:42 a.m.
Doc No 796165



Merit System Council

Friday, September 28, 1979, 1:30 p.m. The Merit System Council will conduct an appeal hearing in Room 507, Brown Building, Eighth and Colorado Streets, Austin.

Additional information may be obtained from Leo F. Brockman, P. O. Box 1389, Austin, Texas 78767, telephone (512) 477-9665.

Filed: September 17, 1979, 3:44 p.m.
Doc. No 796151

Texas Optometry Board

Wednesday, September 19, 1979, 8:30 a.m. The Texas Optometry Board made an emergency addition to a meeting held in the Marriott Hotel, Austin. According to the agenda, the addition concerned meeting in executive session for private consultation with and asking the advice of the attorney general, with respect to any matters relating to the pending litigation styled Dr. N. J. Rogers vs. Texas Optometry Board. The executive session was called pursuant to Section 2(e) of the Open Meetings Act, Article 6252-17.

Additional information may be obtained from Lois Ewald, 5555 N. Lamar, Suite H-101, Austin, Texas 78751, telephone (512) 458-2141 or Tex-An 524-1595.

Filed: September 18, 1979, 2:37 p.m.
Doc. No. 796182

Board of Pardons and Paroles

Monday-Friday, October 1-5, 1979, 9 a.m. daily. The Board of Pardons and Paroles will meet Room 711, Stephen F. Austin Building, Austin. The board will review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole; review procedures affecting the day-to-day operation of support staff; review and initiate needed rule changes relating to general operation; review executive clemency, parole, and all hearings conducted by this agency; and take action on gubernatorial directives.

Additional information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, telephone (512) 475-3363.

Filed: September 18, 1979, 9:07 a.m.
Doc. No. 796161

Wednesday, October 3, 1979, 9 a.m. The Board of Pardons and Paroles will meet in the Diagnostic Unit, Texas Department of Corrections, Huntsville, to conduct parole violation hearings. The parole panel consists of members of the board and members of the Texas Parole Commission.

Additional information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, telephone (512) 475-3363.

Filed: September 18, 1979, 9:08 a.m.
Doc. No. 796162

Texas Parks and Wildlife Department

Wednesday, September 26, 1979, 10 a.m. The commission of the Texas Parks and Wildlife Department will meet in Building B, Texas Parks and Wildlife Department Headquarters Complex, 4200 Smith School Road, Austin. According to the agenda summary, the commission will consider the following: quail bag limits; 1979-80 Statewide Hunting, Fishing, and Trapping Proclamation amendments; Sea Rim National Wildlife Refuge (steel shot zone); Aircraft Predator Control Proclamation amendment; Transporting, Shipping and Exporting Bobcat Pelts Regulation 127.70.15.001-.004 amendment; fiscal year 1980 construction repairs, wildlife; ingress/egress prospect permit request, Kenneth Maultsby, Black Gap Wildlife Managment Area; Palmetto Bend Park Site Phase A facilities development funding, Jackson County; Fort Richardson State Historical Park interpretive development, Jack County; Magoffin Home State Historic Site supplemental funding for stabilization of structural wall instability, El Paso County; and briefing item—Caprock Canyons State Park development concept plan, Briscoe County.

Additional information may be obtained from Maurine Ray, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4954.

Filed: September 18, 1979, 9:35 a.m.
Doc. No. 796163

Public Utility Commission of Texas

Wednesday, September 26, 1979, 2 p.m. The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, in Docket 2800, inquiry of Public Utility Commission into actions of Hillcrest Water Company concerning rates charged within Johnson County.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: September 17, 1979, 4 p.m.
Doc. No. 796155

Monday, October 1, 1979, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 400N, 7800 Shoal Creek Boulevard, Austin, in Docket 2180: application of Southwestern Electric Service Company for a rate increase, (as required by Commission Procedural Rule 052.01.00.024 concerning appearances in major rate cases).

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: September 18, 1979, 9:42 a.m.
Doc. No. 796166

Thursday, October 11, 1979, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, in Docket 2738: application of Gulf States Utilities Company for an order amending COCN No. 30076 to authorize applicant to lease and operate Nelson 6 generating unit; declaring the lease agreement to be an operating lease, disclaiming jurisdiction over the owner trustee, the equity participants, the loan participant, the indenture trustee, and pollution bond trustee; and authorizing, to the extent of commission jurisdiction, all of the transactions contemplated by this application.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: September 18, 1979, 9:43 a.m.
Doc. No. 796167

Thursday, November 1, 1979, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 400N, 7800 Shoal Creek Boulevard, Austin, in Docket 2636: application of City of Troy to amend its certificate of convenience and necessity within Bell County.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: September 20, 1979, 9:07 a.m.
Doc. No. 796289

State Securities Board

Monday, October 1, 1979, 10 a.m. The securities commissioner will conduct a hearing in Room 709, LBJ Building, 111 East 17th Street, Austin, for the purpose of determining whether a cease and desist order should be issued prohibiting the sale of securities issued by Harp & Associates, Inc.

Additional information may be obtained from Patrick Lanier, Room 709, LBJ Building, Austin, Texas.

Filed September 19, 1979, 3 29 p m
Doc No 796239

Board for Lease of State-Owned Lands

Wednesday, September 26, 1979, 11:45 a.m. The Board for Lease of State Owned Lands will meet in Room B 2, Texas Parks and Wildlife Building, 4200 Smith School Road, Austin The meeting includes consideration of pipeline easement applications

Additional information may be obtained from Linda Fisher, 1700 N. Congress Avenue, Austin, Texas 78701, telephone (512) 475-2071

Filed September 18, 1979, 5 04 p m
Doc No 796205

Sunset Advisory Commission

Tuesday, September 25, 1979, 10 a.m. The Sunset Advisory Commission will meet in Room 301, Capitol Building, Austin, for an organizational meeting

Additional information may be obtained from Bill Wells, 704 Sam Houston Building, Austin, Texas 78701, telephone (512) 475-6565.

Filed: September 17, 1979, 5:13 p.m.
Doc. No. 796159

Texas A&M University System

Tuesday, September 25, 1979, 8:30 a.m. The Planning and Building Committee of the Board of Regents of Texas A&M University System will meet in the MSC Annex, Texas A&M University, College Station, to consider matters relating to construction and demolition of buildings within the Texas A&M University System.

For more information, contact Robert G. Cherry, Texas A&M University System, College Station, Texas 77843, telephone (713) 845-4334.

Filed: September 20, 1979, 10:02 a.m.
Doc. No. 796253

Tuesday, September 25, 1979, 11 a.m. The Committee for Service Units of the Board of Regents of Texas A&M University System will meet in the MSC Annex, Texas A&M University, College Station, to consider matters relating to clarification of titles and responsibilities.

For more information, contact Robert G. Cherry, Texas A&M University System, College Station, Texas 77843, telephone (713) 845-4334.

Filed: September 20, 1979, 10:03 a.m.
Doc. No. 796254

Tuesday, September 25, 1979, 1:30 p.m. The Executive Committee of the Board of Regents of Texas A&M University System will meet in the MSC Annex, Texas A&M University, College Station, to consider matters relating to sale of bonds; vending machine contracts, endowments; oil, gas, and sulphur leases, easement; holidays; appointment, promotion, and termination of personnel; acceptance of gifts; purchase of real estate in the City of Houston for the use and benefit of the nursing program of Prairie View A&M University.

For more information, contact Robert G. Cherry, Texas A&M University System, College Station, Texas 77843, telephone (713) 845-4334

Filed September 20, 1979, 10 02 a.m.
Doc No 796255

Tuesday, September 25, 1979, 3 p.m. The Committee for Adademic Campuses of the Board of Regents of Texas A&M University System will meet in the MSC Annex, Texas A&M University, College Station, to consider matters relating to granting emeritus status; naming of buildings; appropriations for longevity pay; and student fees.

For more information, contact Robert G. Cherry, Texas A&M University System, College Station, Texas 77843, telephone (713) 845-4334.

Filed September 20, 1979, 10:02 a.m.
Doc No 796256

Wednesday, September 26, 1979, 8:30 a.m. The Board of Regents of Texas A&M University System will meet in the MSC Annex, Texas A&M University, College Station. According to the agenda summary, the board will consider the following items: construction and demolition of buildings within the Texas A&M University System; sale of bonds; vending machine contracts; endowments; oil, gas, and sulphur leases; easements; holidays; appointment, promotion, and termination of personnel; acceptance of gifts; granting emeritus status; naming of buildings; appropriations for longevity pay; student fees; clarification of titles and responsibilities; resolutions; purchase of real estate in the City of Houston for the use and benefit of the nursing program of Prairie View A&M University.

For more information, contact Robert G. Cherry, Texas A&M University System, College Station, Texas 77843, telephone (713) 845-4334.

Filed: September 20, 1979, 10:01 a.m.
Doc. No. 796257

Texas Southern University

Wednesday, October 3, 1979, 9:30 a.m. The Board of Regents of Texas Southern University will meet in Room 117, Hannah Hall, 3201 Wheeler Avenue, Houston. According to the agenda summary, the board will conduct a routine meeting to receive enrollment and curricula data from the administration.

Additional information may be obtained from Everett O. Bell, 3201 Wheeler Avenue, Houston, Texas 77004, telephone (713) 529-8911.

Filed: September 20, 1979, 10:06 a.m.
Doc. No. 796249

Wednesday, October 3, 1979, 10:30 a.m. The Building and Grounds Committee of the Board of Regents of Texas Southern University will meet in Room 117, Hannah Hall, 3201 Wheeler Avenue, Houston. According to the agenda summary, the committee will approve contracts for payment, acquisition of real estate, and the awarding of contracts.

Additional information may be obtained from Everett O. Bell, 3201 Wheeler Avenue, Houston, Texas 77004, telephone (713) 529-8911.

Filed: September 20, 1979, 10:10 a.m.
Doc. No. 796250

Wednesday, October 3, 1979, 1:30 p.m. The Finance Committee of the Board of Regents of Texas Southern University will meet in Room 117, Hannah Hall, 3201 Wheeler Avenue, Houston. According to the agenda summary, the committee will conduct a routine meeting to consider monthly financial reports from the administration.

Additional information may be obtained from Everett O. Bell, 3201 Wheeler Avenue, Houston, Texas 77004, telephone (713) 529-8911.

Filed: September 20, 1979, 10:09 a.m.
Doc. No. 796251

Thursday, October 4, 1979, 10 a.m. The Board of Regents of Texas Southern University will meet in Room 203, Student Life Center, 3201 Wheeler Avenue, Houston. According to the agenda summary, the board will consider fiscal and curriculum reports from the administration and approval of short-term investments as recommended by the Finance Committee.

Additional information may be obtained from Everett O. Bell, 3201 Wheeler Avenue, Houston, Texas 77004, telephone (713) 529-8911.

Filed: September 20, 1979, 10:06 a.m.
Doc. No. 796252

Texas State Technical Institute

Monday and Tuesday, October 1 and 2, 1979, 2 p.m. and 9 a.m., respectively. The Board of Regents of the Texas State Technical Institute will meet at the TSTI campus in Waco. According to the agenda summary, the board will consider the following items: election of officers; budget change requests; renewed least agreement for Building 6200 at TSTI—Amarillo; amendments to contract with professional food management at TSTI—Harlingen and TSTI—Sweetwater; approval of plans and specifications and authorization to advertise for and take bids for construction of Employment Skill Development Center at TSTI—Amarillo; approval of plans and specifications and authorization to advertise for and take bids for construction of Central Energy Plant at TSTI—Amarillo; approval of preliminary plans for Phase II modification of Industrial Technology Center and approval of appointment of architect at TSTI—Waco; standards for TSTI employees' waivers in insurance coverage; implementation of longevity pay for TSTI employees; report of Special Committee on Management; and the president's recommendations.

Additional information may be obtained from Theodore A. Talbot, Texas State Technical Institute, Waco, Texas 76705.

Filed: September 20, 1979, 10:11 a.m.
Doc. No. 796248

University of Texas System

Saturday, September 22, 1979, 2:30 p.m. The Special Committee of the Buildings and Grounds Committee of the Board of Regents of the University of Texas System met in the regents meeting room, ninth floor, Ashbel Smith Hall, 201 West 7th Street, Austin. According to the agenda, the special committee meeting concerned a proposed award of contract for Texas Department of Corrections Hospital at the University of Texas Medical Branch at Galveston.

Additional information may be obtained from Betty Anne Thedford, Box N, Austin, Texas 78712, telephone (512) 471-1265.

Filed: September 18, 1979, 2:15 p.m.
Doc. No. 796181

Texas Water Commission

Thursday, September 27, 1979, 9 a.m. The Texas Water Commission will meet in Room 119, Stephen F. Austin Building, 1700 N. Congress Avenue, Austin. According to the summarized agendas, the commission will consider the following applications:

City of Garrison for renewal of Permit 11304 authorizing discharge of treated domestic sewage effluent

City of Palacios for an amendment to Permit 10593 authorizing an increase of sewage discharge from its plant

City of Hico for renewal of Permit 10188 authorizing discharge of treated domestic sewage effluent

La Gloria Oil & Gas Company, Tyler, for an amendment to Permit 01590 authorizing a discharge of uncontaminated storm water runoff

City of Normangee for renewal of Permit 10356 authorizing discharge of treated domestic sewage effluent

City of Frankston for renewal of Permit 10441 authorizing a discharge of treated domestic sewage effluent

LaJitas Utility Company, Inc., c/o The Mischer Corporation, Houston, for a permit authorizing a new discharge

Additional information may be obtained from David Hume, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-2711.

Filed: September 19, 1979, 2:05 p.m.
Doc. No. 796231-796237

Monday, October 22, 1979, 2 p.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 N. Congress Avenue, Austin. According to the agenda summary, the commission will consider an application to extend time to commence and complete construction under Permit 2925, as amended by Houston Lighting and Power Company

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: September 17, 1979, 2:59 p.m.
Doc. No. 796147

Friday, October 26, 1979, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 N. Congress Avenue, Austin. According to the agenda summary, the hearing concerns Application 3997 of Stiles Land Corporation, a Texas Corporation, for a permit to construct and maintain 16 on-channel reservoirs on an unnamed tributary of Spring Creek, tributary Rowlett Creek, tributary East Fork Trinity River, tributary Trinity River, Trinity River Basin; and to impound and use waters for recreational purposes in Collin County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: September 17, 1979, 2:59 p.m.
Doc. No. 796148

Friday, October 26, 1979, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 N. Congress Avenue, Austin. According to the agenda summary, the commission will consider Application 3996, Edward S. Rothrock, Trustee of the Elizabeth Stockton Rothrock Trust, who seeks a permit to construct and maintain an on-channel dam and reservoir on an unnamed tributary of San Bernard River, Brazos-Colorado Coastal Basin, and to impound not to exceed 293 acre-feet of water; to construct and maintain an off-channel reservoir and impound not to exceed seven acre-feet of water; and to divert and use water stored for irrigation purposes in Wharton County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512)475-4514.

Filed: September 17, 1979, 3 p.m.
Doc. No. 796149

Thursday, November 1, 1979, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 N. Congress Avenue, Austin. According to the agenda summary, the commission will consider an application by Henry H. Dickerson, Jr., and Threadgill-Dowdey & Associates, seeking approval of preliminary plans for construction of certain improvements on Furneaux Creek, tributary of Elm Fork of Trinity River in Dallas County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: September 17, 1979, 3 p.m.
Doc. No. 796150

Regional Agencies

Meetings Filed September 18, 1979

The Region XI Education Service Center, Board of Directors, will meet at 3001 North Freeway, Fort Worth, on September 25, 1979, at 8 p.m. Further information may be obtained from R. P. Campbell, Jr., 3001 North Freeway, Fort Worth, Texas 76109, telephone (817) 625-5311.

The Region XIII Education Service Center, Board of Directors, met at the Education Service Center, Conference Room 101, 7703 North Lamar, Austin, on September 24, 1979 at 6 p.m. Further information may be obtained from Joe Parks, 7703 North Lamar, Austin, Texas 78752, telephone (512) 458-9131.

The Lower Colorado River Authority met at 3700 Lake Austin Boulevard, Austin, on September 20, 1979, at 9 a.m. Further information may be obtained from Charles Herring, P.O. Box 220, Austin, Texas 78767.

Doc. No. 796160

Meetings Filed September 19, 1979

The Texas Deepwater Port Authority, Board of Commissioners, will meet at 3131 West Alabama, Suite 500, Houston, on September 27, 1979, at 1:30 p.m. Further information may be obtained from Carole Speranza, 3131 West Alabama, Suite 500, Houston, Texas 77098, telephone (713) 523-2202.

Doc. No. 796207

Meetings Filed September 20, 1979

The Amarillo MH/MR Regional Center, Executive Committee of the Board of Trustees, will meet at the Work Evaluation and Training Center, 4th and Jefferson, Amarillo, on September 27, 1979, at 10:30 a.m. Further information may be obtained from Don Pipes, P.O. Box 3250, Amarillo, Texas 79106, telephone (806) 353-7235.

The Amarillo MH/MR Regional Center, Board of Trustees, will meet at the Work Evaluation and Training Center, 4th and Jefferson, Amarillo, on September 27, 1979, at 12:30 p.m. Further information may be obtained from Don Pipes, P.O. Box 3250, Amarillo, Texas 79106, telephone (806) 353-7235.

The Brazos River Authority, Board of Directors—Lake Management Committee, will meet at the Project Supervisor's Office, Lake Limestone, on September 27, 1979, at 10 a.m. Further information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76710, telephone (817) 776-1441.

The Central Texas MH/MR Center, Board of Trustees, will meet at 308 Lakeway Drive, Brownwood, on September 25, 1979, at 4:30 p.m. Further information may be obtained from Janie Clements, P.O. Box 250, Brownwood, Texas 76801, telephone (915) 646-9574, ext. 35.

The Region XV Education Service Center, Board of Directors, will meet at the San Angelo ISD Administration Building, 100 North Magdalen, San Angelo, on September 27, 1979, at 1:30 p.m. Further information may be obtained from Clyde Warren, P.O. Box 5199, San Angelo, Texas 76902, telephone (915) 655-6551.

The Tri-Region Health Systems Agency, West Central Texas Cardiovascular Task Force, will meet at the Tri-Region HSA Office, 2642 Post Oak Road, Abilene, on October 2, 1979, at 7 p.m. Further information may be obtained from Taras Hetzel, 2642 Post Oak Road, Abilene, Texas 79605, telephone (915) 698-9481.

The Tri-Region Health Systems Agency, W.C.T. Maternal and Child Health Task Force, will meet at the West Central COG Office, 1025 E. North 10th Street, Abilene, on October 3, 1979, at 7 p.m. Further information may be obtained from Phyllis Duggan, 2642 Post Oak Road, Abilene, Texas 79605, telephone (915) 698-9481.

Doc. No. 796244

Texas Adjutant General's Department

Texas Court of Military Appeals

Notice of Issuance and Availability of Opinion

On July 23, 1979, the Texas Court of Military Appeals issued its second opinion, Hagood, et al. *v.* State, Nos. 78-2 and 78-3. Copies of this opinion are being distributed to law school libraries in Texas and to the State Law Library.

Individual requests for one copy of the opinion will be honored upon receipt of a check or money order in the amount of $2.50, payable to Texas Adjutant General's Department. The mailing address for such requests is:

Texas Adjutant General's Department
(Attention: AGTEX-JAG)
P.O. Box 5218
Austin, Texas 78763

Issued in Austin, Texas, on September 14, 1979.

Doc. No. 796152

Jack L. Slayton
Major, TexANG
Judge Advocate General

Filed: September 17, 1979, 3:45 p.m.
For further information, please call (512) 475-5057.

Texas Air Control Board

Applications for Construction Permits

Notice is given by the Texas Air Control Board of applications for construction permits received during the period of September 10-14, 1979.

Information relative to these applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the Central Office of the Texas Air Control Board, 8520 Shoal Creek Boulevard, Austin, Texas 78758.

A copy of all material submitted by the applicant is available for public inspection at the Central Office of the Texas Air Control Board at the address stated above and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility (if available); permit number; and type of application—new source or modification.

Week Ending September 14, 1979

Air Products and Chemicals, Inc., Pasadena; boiler; 412 Davison Road; 7937; new source

Kirby Forest Industries, Inc., Cleveland; plywood plant modifications; 6192A; modification

Union Carbide Corp., Port Lavaca; LPPE-11 masterbatch; Seadrift Plant—Highway 185; 6141B; modification

Halliburton Services, Sabine Pass; bulk cement handling plant; Sabine Pass Dock; 7936; new source

Mobay Chemical Corp., Baytown; aromatic isacyanate addition products shipping; 2005B; modification

Cavness Hog Farm, Azle; sow to finish hog farm; 7932; new source

Centex Oil and Gas, Inc., Sabine Pass; offshore natural gas processing platform; 12 miles southwest; 7933; new source

H&H Distributors, Stanton; fertilizer blend plant; 101 S. St. Peter; 7931; new source

Dowell Div., Dow Chemical Co., Tye; oil field service facility; Pacific and Market Street; 6693A; modification

Delhi Gas Pipeline Corp., Bakersfield; gas treating plant; White Treating Plant; 3061A; new source

Re-Cycle Plastics, Inc., Texas City; fluidized bed cleaning furnace; 4800 Johnny Palmer Road; 7925; new source

Texas Industries, Inc., Clodine; lightweight aggregate production facility; intersection FM 1093—Harlem Road; 4534B; modification

Radcliff Materials, Inc., Galena Park; asphaltic concrete drum mix plant; 922 Mayo Shell Road; 7922; new source

Crouse-Hinds, Inc., Amarillo; Gray-Iron Foundry—core making facility; 7917; new source

Crouse-Hinds, Inc., Amarillo; Gray Iron Foundry—melting and pouring facility; 7918; new source

Crouse-Hinds, Inc., Amarillo; Gray-Iron Foundry—sand and shakeout facility; 7919; new source

Crouse-Hinds, Inc., Amarillo; Gray-Iron Foundry—casting cleaning facility; 7920; new source

Crouse-Hinds, Inc., Amarillo; Gray-Iron Foundry—coating facility; 7921; new source

Allied Chemical Corp., Orange; polyethylene manufacture—expansion of existing unit; Farm Road 1006; 7923; modification

Union Carbide Corp., Port Lavaca; masterbatch, LPPE-1 loading station; Highway 185—Seadrift Plant; 7924; new source

Odessa Natural Corp., Carbon; cryogenic separations unit at compressor station; ONX—Carbon Station; 7926; new source

Marathon Oil Co., Texas City; topper crude unit; 6th Street; 7929; new source

Andover Corp., Jasper; production of asphaltic concrete; East Milam Street; 6499B; new source

Moore Asphalt Company, Tyler; production of asphaltic concrete; FM 2493; 7930; new source

Hercules, Inc., Clear Lake; polypropylene manufacture; Bay Area Blvd.; 7927; modification

City Rendering Co., Devine; rendering facility; 7928; new source

Ring Around Products, Inc., Plainview; delinting plant (H2S04); State Highway 194; 7934; new source

Warren Petroleum Co., a div. of Gulf Oil, Gladewater; hot oil heater in gas processing plant; 7935; new source

Lubrizoil Corp., Pasadena; detergent manufacturing expansion; 7938; new source

Issued in Austin, Texas, on September 14, 1979.

Doc. No. 796208 John B. Turney
Hearing Examiner
Texas Air Control Board

Filed: September 19, 1979, 9:44 a.m.
For further information, please call (512) 451-5711, ext. 354.

Comptroller of Public Accounts

Administrative Decision

Summary of Administrative Decision 10290

For copies of the following opinion selected and summarized by the Legal Services Division, contact Harriet Burke, Legal Services Division, P.O. Box 13528, Austin, Texas 78711. Copies will be edited to comply with confidentiality statutes.

Summary of Decision: When a Texas vendor agreed to produce advertising brochures for a Texas purchaser and to be responsible for delivering them to a mailing service selected and paid by the vendor who sent the brochures directly to the purchaser's customers outside of Texas, the transactions were exempt from Texas sales tax under Texas Taxation—General Annotated, Article 20.04(G)(1), because the purchaser did not take possession within Texas.

Issued in Austin, Texas, on September 12, 1979.

Doc. No. 796183 Harriet Burke
Hearings Section
Comptroller of Public Accounts

Filed: September 18, 1979, 1:35 p.m.
For further information, please call (512) 475-2148.

Office of the Governor

Consultant Proposal Requests

The Governor's Office invites offers for consulting services as described below. The consultant chosen will be expected to initiate and complete tasks within his scope in response to specific requests from the governor. The consulting services desired are a continuation of services previously performed by private consultants.

Amount of Contracts. The amount of salary to be paid these consultants shall be "0" dollars but all reasonable and necessary expenses incurred by him or her shall be reimbursed up to $20,000 per 12-month period.

Term of Contracts. The term of the contracts for these services shall be two years.

Person to Contact. Persons wishing to respond to these offers should do so in writing addressed to Bernie Bernhard, Governor's Accounting Office, Room 207, Sam Houston Building, Austin, Texas 78711.

Deadline for Offers. Offers must be received by 5 p.m. seven days after the publication date of this *Texas Register.*

Consultant Services to Advise the Governor on Matters concerning State Agencies

Description. In the area of state affairs, consultant services will include advising the governor on topics concerning state agencies, liaison work with such agencies, and aiding in effectuating the governor's policy of more efficient state government.

Procedure of Selection. That offeror having, in the opinion of the Governor's Office, the broadest knowledge and expertise in the area of state government.

Doc. No. 796132

Consultant Services in the Field of Gubernatorial Appointments

Description. In the field of gubernatorial appointments, the consultant chosen will be expected to actively recruit and investigate for recommendation qualified candidates for gubernatorial appointment.

Procedure of Selection. That offeror having, in the opinion of the Governor's Office, the broadest knowledge and expertise in the area of high caliber personnel recruitment.

Issued in Austin, Texas, on September 14, 1979.

Doc. No. 796133 Dary Stone
Deputy General Counsel
Office of the Governor

Filed: September 14, 1979, 4:38 p.m.
For further information, please call (512) 475-3021.

Texas Department of Human Resources

Public Hearing

Notice of Room Change

A public hearing notice on the Department of Human Resources' Primary Home Care Program was published in the September 4, 1979, issue of the *Texas Register* (4 TexReg 3167). The hearing will be held on Wednesday, September 26, 1979, at 9 a.m. However, the meeting room has been rescheduled from Room 411 to Room 100-C in the John H. Reagan Building.

Issued in Austin, Texas, on September 18, 1979.

Doc. No. 796184 Jerome Chapman
Commissioner
Texas Department of Human Resources

Filed: September 18, 1979, 1:16 p.m.
For further information, please call (512) 475-4601

Senate

Committee to Study Efficiency in State Government

Senate Resolution 599 establishes a Senate Interim Study Committee to reduce state-generated paperwork, to better

organize and store information gained from such paperwork, and to consolidate computer use by state agencies. The senate proposes to study three state agencies (the Department of Human Resources, the Office of the Comptroller of Public Accounts, and the State Purchasing and General Services Commission) in order to determine the feasibility of extending the study to the remainder of the state agencies. Each of the above-stated goals are set out in greater detail below. If there are any questions regarding this bid, please contact Dave Cummings in Senator Jack Ogg's office at (512) 475-2261.

Paperwork Reduction. Reduction in paperwork will involve a complete inventory of all forms, statements, reports, etc., and coding same on computer. Obsolete forms are to be eliminated and other forms are to be consolidated or shortened. The State of Minnesota will provide to Texas a computer program to accomplish this task. Some familiarity with the Minnesota study will be essential.

Organization and Storage of Information. Information management is closely related to forms management. Areas of concern will be present storage methods, space requirements for present storage needs, utilization of stored information, and possibilities of information sharing between state agencies. It is hoped that a more efficient, less costly method of information management can be ascertained; the use of computer output microfiche seems to be a likely possibility.

Computer Inventory. A listing of all computers used by the target agencies will be compiled and the feasibility of consolidation, reduction, or elimination explored.

General Information. The state will provide office space, secretarial and clerk assistance, a computer, and other necessary supplies and materials. The amount appropriated for consultation services is $39,150. The project should be completed and a report ready by March 1, 1980. Contingent upon the results of the study, an extension of the project to the remainder of the state agencies is possible. Any bid should include a prospective time table, charge to the state per day, and number of days anticipated to complete study. Applications received will be reviewed and determined on prior experience, familiarity with the Minnesota study, and total cost to the state. Bids must be received by 3 p.m. October 5, 1979.

Issued in Austin, Texas, on September 14, 1979.

Doc. No. 796169 Jack Ogg
Texas Senate

Filed: September 15, 1979, 10:25 a.m.
For further information, please call (512) 475-2261.

Texas Water Commission

Applications for Waste Discharge Permits

Notice is given by the Texas Water Commission of public notices of waste discharge permit applications issued during the period of September 10-14, 1979.

No public hearing will be held on these applications unless an affected person who has received notice of the applications has requested a public hearing. Any such request for a public hearing shall be in writing and contain (1) the name, mailing address, and phone number of the person making the request; (2) a brief factual statement of the nature of the interest of the requester and an explanation of how that interest would be affected by the proposed actions; and (3) the names and addresses of all persons whom the requester represents. If the commission determines that the request sets out legal or factual questions within the jurisdiction of the commission and relevant to the waste discharge permit decision, 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 45 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 writing Larry R. Soward, assistant chief hearings examiner, Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711, telephone (512) 475-1311.

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.

Week Ending September 14, 1979

Aransas Shrimp Cooperative, Aransas Pass, Aransas County; shrimp unloading and transfer; 407 Bigelow Street; 02007; amendment

George Godfrey, doing business as Beacon Seafood, Aransas Pass, San Patricio County; shrimp unloading and transfer; 433 Bigelow Street; 02008; amendment

Joseph Militillo, doing business as Aransas Shrimp Company, Aransas Pass, San Patricio County; shrimp unloading and transfer; Huff Street and Wheeler Avenue; 02006; amendment

Herndon Marine Products, doing business as Gulf King Shrimp Co., Aransas Pass, Aransas County; shrimp unloading and transfer; 170 Huff Street; 02010; amendment

Coastal Freezing, Inc., Aransas Pass, Aransas County; shrimp unloading and transfer; 190 Huff Street; 02009; amendment

Tommy Matulik, doing business as Evelyn's Fish Market, Port Lavaca, Calhoun County; shrimp and oyster unloading and transfer; 601 Broadway Street; new permit

Johnson and Johnson, Inc., Aransas Pass, San Patricio County; shrimp unloading and transfer; 832 Bigelow Street; 02012; amendment

Herndon Marine Products, Inc., Aransas Pass, Aransas County; shrimp unloading and transfer; 162 Huff Street; 02011; amendment

Harris County WCID No. 75, Seabrook, Harris County; sewage treatment plant; intersection of Red Bluff Road and Kirby Road; 10106; renewal

City of Linden, Cass County; sewage treatment plant; intersection of State Highway 155 and Hamilton Street; 10429-02; renewal

City of Uvalde, Uvalde County; sewage treatment plant; three miles southwest of Uvalde; 10306; renewal

City of Celina, Collin County; sewage treatment plant; northwest of Celina; 10041; renewal

City of Richland Springs, San Saba County; sewage treatment plant; northeast of Richland Springs; 10665; renewal

City of Cushing, Nacogdoches County; sewage treatment plant; intersection of Fourth Street and Maple Avenue; 10437; renewal

Victoria County Airport Commission, Victoria, Victoria County; sewage treatment plant; on U.S. Highway 59 at Aloe field; 10856-01; amendment

Warren Independent School District, Warren, Tyler County; sewage treatment plant; on the grounds of Warren High School on Blue Berry Hill Road; 11307; renewal

City of McKinney, Collin County; sewage treatment plant; west of Southern Pacific right-of-way north of U.S. Highway 380; 10432-02; renewal

City of Robert Lee, Coke County; sewage treatment plant; southwest of the Coke County Courthouse; 10603-02; renewal

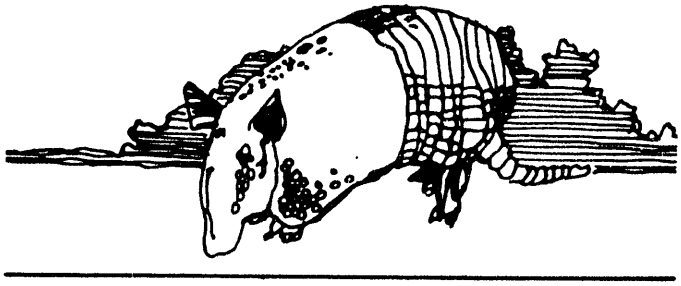
Victoria County Airport Commission, Victoria, Victoria County; sewage treatment plant; north side of U.S. Highway 59 at Foster Field; 10856-02; renewal

City of Rule, Haskell County; sewage treatment plant; two miles southwest of Rule; 10265-01; amendment

Issued in Austin, Texas, on September 14, 1979.

Doc. No. 796122 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: September 14, 1979, 4:01 p.m.
For further information, please call (512) 475-1311.



Texas Department of Water Resources

Availability of Requests for Proposals

The Texas Department of Water Resources is in receipt of a grant from the U.S. Environmental Protection Agency to undertake a study in the Lake Austin watershed as part of the National Urban Runoff Program. The general objectives of the proposed study include the documentation of existing impacts of urban-related runoff loadings upon receiving water quality in the study area and an assessment of the effectiveness of selected structural and nonstructural control measures in affecting the quality of the runoff prior to discharge to the study area watersheds. The Texas Department of Water Resources proposes to contract with the City of Austin for the accomplishment of the study, and the City of Austin, in cooperation with the Texas Department of Water Resources, has developed a general work plan for the study. It has been determined that certain portions of the general work plan can best be accomplished by a consultant(s).

On behalf of the City of Austin, the Texas Department of Water Resources is currently requesting proposals from any interested consultants. The proposals must be received (not posted) by October 26, 1979. A copy of the request for proposals may be obtained and inquiries concerning this study may be made by contacting Troy Ulmann, City of Austin, Engineering Department, 301 West 2nd Street, P.O. Box 1088, Austin, Texas 78767, telephone (512) 477-6511, extension 2526.

Payment for services pursuant to the proposed contract(s) will be funded by a planning grant from the U.S. Environmental Protection Agency to the Texas Department of Water Resources. Execution of the proposed contract(s) between the selected contractor(s) and the City of Austin is subject to the prior accomplishment of (1) contract negotiating between the Texas Department of Water Resources and the City of Austin, (2) EPA approval of the aforementioned contract, (3) Texas Department of Water Resources approval of the contract proposed under this request, and (4) EPA approval of the contract proposed under this request.

Issued in Austin, Texas, on September 19, 1979.

Doc. No. 796224 Bruce Bigelow
General Counsel
Texas Department of Water Resources

Filed: September 19, 1979, 11:41 a.m.
For further information, please call (512) 475-7836.