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# TEXAS REGISTER

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TEXAS DOCUMENTS

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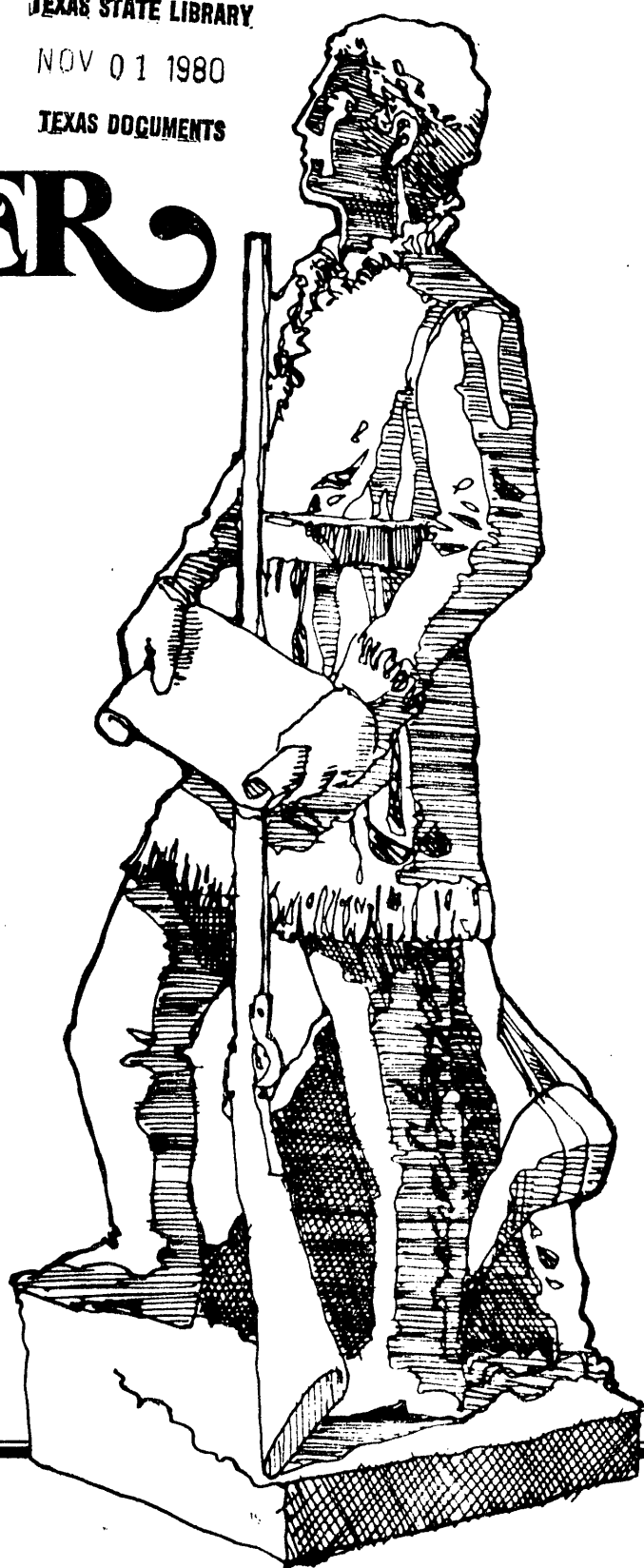
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Office of the Secretary of State

The *Texas Register* is currently in the process of converting to the numbering system found in the *Texas Administrative Code* (TAC). To aid the reader in this conversion, both the 10-digit *Register* number and the new TAC number will be listed for agencies whose rules have been published in the TAC. Emergency, proposed, and adopted rules sections of the *Register* are divided into two classifications: codified and noncodified. Codified rules appear in title number order. Non-codified rules appear in alphabetical order as they have in the past. An "Index of TAC Titles Affected" appears at the end of this issue.

Titles 1, 4, 7, 10, 13, 16, 22, 31, 34, 37, and 43 only of the TAC have now been published. Documents classified in the *Texas Register* to titles not yet published and certain documents affecting titles of the code have been accepted in the non-TAC format and may be renumbered or revised, or both, when initially codified in the TAC.

Under the TAC scheme, each agency rule is designated by a TAC number. For example, in the citation 1 TAC §27.15:

1 is the title (agencies grouped together by subject title which are arranged alphabetically)  
 TAC is the *Texas Administrative Code*  
 §27.15 is the section number (27 represents the chapter number and 15 represents the individual rule within the chapter)

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Latest Texas Code Reporter  
 (Master Transmittal Sheet): No. 3, Aug. 80

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**HOW TO CITE:** Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document published on page 2404 of Volume 4 is cited as follows: 4 TexReg 2404.

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

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# TEXAS REGISTER

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George W. Strake, Jr.  
 Secretary of State

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## Appointments

### Hospital Licensing Advisory Council

*For a six-year term to expire December 7, 1985:*

C. Richard Stasney, M.D.  
Suite 710  
Park Plaza Professional Building  
1213 Hermann Drive  
Houston, Texas 77004

Dr. Stasney is replacing Dr. Sidney Schnur of Houston, Harris County, whose term expired.

### Sabine Bar, Pass, and Tributaries

*To be branch pilots, effective October 1, 1980, for four-year terms to expire September 30, 1984:*

William J. Baran  
5148 West Parkway  
Groves, Texas 77619

Michael J. Casey  
5148 West Parkway  
Groves, Texas 77619

Michael J. Gerdes  
5148 West Parkway  
Groves, Texas 77619

Thomas B. Smith  
5148 West Parkway  
Groves, Texas 77619

Captains Baran, Casey, Gerdes, and Smith have completed their 12-month training program and are qualified to serve as branch pilots.

### State Seed and Plant Board

*For a term to expire October 6, 1981:*

E.C.A. (Ed) Runge, Ph.D.  
Professor and Department Head  
Department of Soil and Crop Sciences  
Texas A&M University  
College Station, Texas 77843

Dr. Runge will be replacing Dr. Morris E. Bloodworth of College Station, Brazos County, whose term expired and who is no longer head of the Department of Soil and Crop Sciences at Texas A&M University

*For a two-year term to expire October 6, 1982:*

J. Owen Gilbreath, President  
R. C. Young Seed and Grain Company  
624 27th Street  
Lubbock, Texas 79404

Mr. Gilbreath is replacing Grady C. Clark, Jr., of Corpus Christi, Nueces County, whose term expired.

Issued in Austin, Texas, on October 20, 1980.

Doc. No. 808055 William P. Clements, Jr.  
Governor of Texas

For further information, please call (512) 475-3021.

## Proclamations

### 41-1783

WHEREAS, Article 6701d, Section 169B, Vernon's Texas Civil Statutes, provides that the State Highway and Public Transportation Commission may establish temporary maximum prima facie speed limits applicable to all highways in this state, including highways under the control of the Texas Turnpike Authority, incorporated cities and towns, and counties if certain circumstances are found to be existing and if specific problems and proper notice to the public are followed in establishing such speed limits; and

WHEREAS, Article 6701d, Section 169B(b)(4), Vernon's Texas Civil Statutes, provides that the State Highway and Public Transportation Commission may issue an order establishing temporary maximum prima facie speed limits if "The failure to alter State speed limits will prevent the State from receiving revenue for highway purposes from the federal government."; and

WHEREAS, The United States Congress has enacted, and the President has signed into law, Public Law 93643, 23 United States Code 154, which Act provides that unless a state establishes a maximum speed limit of 55 miles per hour for any highway within its jurisdiction, the Secretary of Transportation has the authority to withhold federal highway funds from any such state so failing to comply; and

WHEREAS, the State Highway and Public Transportation Commission of the State of Texas issued its Finding or Minute Order 77823 dated October 15, 1980, finding that a specified maximum speed limit of 55 miles per hour is required by federal law, and that unless the State of Texas establishes a maximum speed limit of 55 miles per hour, the State of Texas is threatened with the loss of federal highway funds and so fixed the maximum speed limit on all highways in the State of Texas, within and outside the limits of incorporated cities, at 55 miles per hour effective on October 31, 1980, at 12:01 a.m. for a period of 120 days or until such time as such order is amended or repealed for reasons consistent with federal laws and directives or state law.

WHEREAS, said finding or minute order having been filed in my office, and I having independently found that the failure to alter our state speed limits to a maximum speed limit of 55 miles per hour will prevent the State of Texas from receiving revenue for highway purposes from the federal government.

NOW, THEREFORE, I do hereby proclaim that the facts necessary to support the issuance of the State Highway and Public Transportation Commission's Finding or Minute Order 77823 exist and the commission's finding or minute order shall take effect on October 31, 1980, at 12:01 a.m.

Issued in Austin, Texas, on October 20, 1980.

Doc. No. 808134 William P. Clements, Jr.  
Governor of Texas

For further information, please call (512) 475-3021.

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.

## Requests for Opinions

### Summary of Request for Opinion RQ-455

Request from Harvey Davis, executive director, Texas Department of Water Resources, Austin.

**Summary of Opinion:** Does a Texas county have authority under state law to incur short-term and long-term indebtedness to finance the construction costs of sewage treatment works, insure adequate operation and maintenance of the works throughout its jurisdiction, and carry out its responsibilities under an areawide water quality management plan in accordance with the Federal Construction Grant Program?

Doc. No. 808145

### Summary of Request for Opinion RQ-456

Request from Carl A. Parker, chairman, Senate Committee on Financial Institutions, Austin.

**Summary of Request:** Does Article 16, Section 11, of the Texas Constitution require that legislation tying the interest rate to a moving index fix an absolute maximum rate?

Doc. No. 808116

### Summary of Request for Opinion RQ-457

Request from Chet Brooks, chairman, Senate Committee on Human Resources, Austin.

**Summary of Request:**

(1) Is there any prohibition against an agency expunging employment records relating to termination and changing a record to reflect resignation?

(2) Would the described procedure in question 1, changing employment records, expose the agency and the revenues of the state to liability and future lawsuits?

(3) Must the agency in question do this upon request of the employee?

Doc. No. 808117

### Summary of Request for Opinion RQ-458

Request from W. Kent Johnson, chief, Legal Services Division, Texas Department of Mental Health and Mental Retardation, Austin.

**Summary of Request:**

(1) Are reports of MH/MR internal investigation relating to dismissal of employee excepted from public disclosure by Section 3(a)(3) and (11) of the Open Records Act?

(2) Are tape recordings of employees' voices obtained in such an investigation excepted from public disclosure under Sections 3(a)(2) and 3(a)(3) of the Act?

Doc. No. 808118

### Summary of Request for Opinion RQ-459

Request from Joe Resweber, county attorney, Harris County.

**Summary of Request:**

(1) Is the Harris County Commissioners Court required to give written notices of a meeting wherein a change in the boundary of one or more county election precincts will be considered? If so, may such notice merely state that a boundary change will be considered, or must the notice include the nature of the proposed boundary change and/or an accurate description of the boundaries of the proposed precinct?

(2) Is written notice sufficient when it is deposited in the mail on August 18, 1980, advising the recipient of a meeting to take place on August 25, 1980, whereat changes in election precinct boundaries will be considered?

(3) If the required notices as to certain election precincts were not timely given, although as to others they were, is the change of boundaries of those election precincts as to which notices were not given void, and is the change of boundaries of those election precincts as to which notices were timely given valid?

(4) Assuming that the required notices as to several election precincts were not timely given prior to a boundary change meeting held on August 25, 1980, although as to other precincts they were, does the action of the commissioners court on September 22, 1980, ratifying and confirming the boundary changes as to the precincts for which notices were assumed to have been timely given, validate those boundary changes?

(5) Assuming that some or all the election precinct boundary changes made by the commissioners court on August 25 are null, may the commissioners court hold another meeting before the beginning of the the upcoming voting year, after delivering the required written notices, in order to change the boundaries of certain election precincts?

Doc. No. 808119

### Summary of Request for Opinion RQ-460

Request from W. O. Shultz, general attorney and associate general counsel, University of Texas System, Austin.

**Summary of Request:** Is correspondence between the University of Texas international office and the government of Bahrain relating to students from that country excepted from public disclosure by Section 3(a)(1) or (14) of the Open Records Act?

Doc. No. 808120

### Summary of Request for Opinion RQ-461

Request from Joe Resweber, county attorney, Harris County.

**Summary of Request:** Are veterans' organizations such as the American Legion, American Veterans of World War II, Veterans of Foreign Wars of the United States, Disabled American Veterans, Jewish War Veterans, Catholic War Veterans, or the American G.I. Forum entitled to an exemption from ad valorem taxation of the buildings (including the land that is reasonably necessary for use of, access to, and ornamentation of the buildings) that are owned and primarily used by that organization if the property is not used to produce revenue or held for gain?

Doc. No. 808121

### Summary of Request for Opinion RQ-462

Request from Tim Curry, criminal district attorney, Tarrant County.

**Summary of Request:** Are results of blood alcohol test performed on police officer available from hospital district or police department?

Doc. No. 808122

### Summary of Request for Opinion RQ-463

Request from George N. Rodriguez, Jr., county attorney, El Paso County.

**Summary of Request:**

(1) Does the town of Socorro still exist by virtue of its incorporation by special law in 1871?

(2) If so, could it become a general law city by a 2/3 vote of its town council?

Doc. No. 808123

### Summary of Request for Opinion RQ-464

Request from W. Kent Johnson, chief of legal services, Texas Department of Mental Health and Mental Retardation, Austin.

**Summary of Request:** Are survey reports of the Texas Department of Mental Health and Mental Retardation, Standards Compliance and Quality Assurance Division, concerning its mental hospitals, its internal hospital committee reports, and other intra-agency memorandums concerning inspections of its mental hospitals, excepted from disclosure under Section 3(a)(3) and (11) of Article 6252-17a, Vernon's Texas Civil Statutes?

Doc. No. 808181

### Summary of Request for Opinion RQ-465

Request from Joe Resweber, county attorney, Harris County.

**Summary of Request:**

(1) Does the Commissioners Court of Harris County have the authority or duty to set the salary of the criminal district courts manager?

(2) Does the Commissioners Court of Harris County have the authority to create or abolish the position of criminal district courts manager?

Doc. No. 808182

### Summary of Request for Opinion RQ-466

Request from Henry Wade, Dallas.

**Summary of Request:** When a person leaves the employ of one peace officer to work for another, does Article 4413(29aa), Vernon's Texas Civil Statutes, require that he be re examined prior to taking the second employment?

Doc. No. 808183

## Open Records Decisions

### Summary of Open Records Decision ORD-256 (RQ-384)

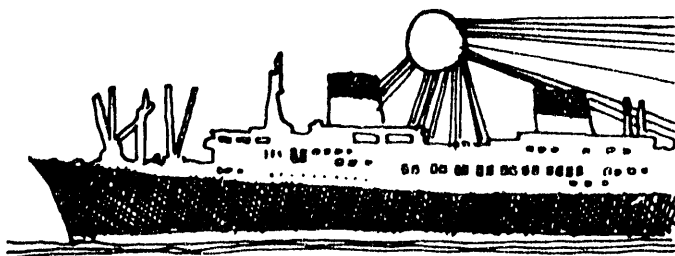
Request from Lee Holt, city attorney, Dallas, concerning whether information held by a city concerning job market survey is public under the Open Records Act.

**Summary of Decision:** The City of Dallas obtained information from private employers on salaries they paid photographers and darkroom technicians. This information and an interoffice memorandum giving the results of the survey were requested under the Open Records Act. Information stating salaries paid by private companies were excepted from disclosure by Section 3(a)(10) of the Open Records Act. The factual portions of the memorandum did not identify individual companies and were available to the public. The portion of the memorandum which drew conclusions and made recommendations regarding the wages of city photographers were excepted from disclosure by Section 3(a)(11) of the Open Records Act.

Issued in Austin, Texas, on October 23, 1980.

Doc. No. 808144 Susan Garrison, Acting Chairwoman  
Opinion Committee  
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.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."

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

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## NONCODIFIED

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### Texas Education Agency

#### Comprehensive Instruction

#### Allocation of Vocational Teacher Units 226.32.33

The Texas Education Agency is renewing the effectiveness of the emergency adoption of amended Rule 226.32.33.020 for a 16-day period, effective October 29, 1980. The text of the amended rule was originally published in the July 8, 1980, issue of the *Texas Register* (5 TexReg 2688).

Issued in Austin, Texas, on October 17, 1980.

Doc. No. 808069      Beverly J. Bardsley, Policy Analyst  
Division of Policies and Services  
Texas Education Agency

Effective Date: October 29, 1980

Expiration Date: November 14, 1980

For further information, please call (512) 475-7077.



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.

Upon request, an agency shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement from the agency before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling objections to the agency's decision.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."

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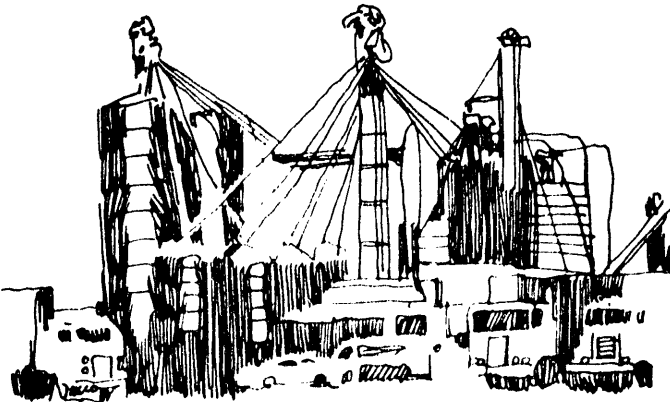
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## CODIFIED

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## TITLE 16. ECONOMIC REGULATION

### Part II. Public Utility Commission of Texas

#### Chapter 23. Substantive

#### Special

The Public Utility Commission of Texas proposes to amend §23.52 (052.02.05.052) of this title to add a subsection concerning the direct allocation of municipal franchise fees to customers living within cities.

The commission estimates that there will be no cost to implementing and enforcing the section as amended and that there will be no cost incurred by any unit of local government of the state as a result of the amended section. This statement is submitted pursuant to Article 6252-13a, Section 56(a)(4), Vernon's Annotated Civil Statutes.

Public comments are invited. Comments may be submitted to Philip F. Ricketts at 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757.

This amendment is proposed under the authority granted the commission pursuant to Article 1446c, Section 16, Vernon's Annotated Civil Statutes.

§23.52 (052.02.05.052). *Electric Utilities.*

(a)-(i) (No change.)

(j) *Franchise fees.* All franchise fees charged electric utilities by a municipality shall be allocated directly to the customers located within the city limits of the city imposing such fees, and at the option of the utility may be either shown separately on the bill or included in the electric rate shown on the bill.

Issued in Austin, Texas, on October 28, 1980.

Doc. No. 808189 Philip F. Ricketts  
Secretary of the Commission  
Public Utility Commission of Texas

Proposed Date of Adoption: December 18, 1980  
For further information, please call (512) 458-0100.

## TITLE 22. EXAMINING BOARDS

### Part XIX. Polygraph Examiners Board

#### Chapter 391. Polygraph Examiner Internship

The Polygraph Examiners Board proposes to amend §391.3(13) (397.01.00.003(13)) of this title which contains the listing of approved polygraph schools. The proposed amendment does not change the existing section except to add one additional school approved by the board. This amendment is proposed with board approval of the polygraph scholastic curriculum of the school indicated.

The Polygraph Examiners Board has determined that there will be no fiscal implications involved in amending this section.

Public comment on the proposed amendment is invited and may be submitted by telephoning the board office at (512) 227-6100, or by writing the Polygraph Examiners Board at 111 West Laurel, Suite 115, San Antonio, Texas 78212.

This amendment is proposed under authority of Section 6(a), Article 4413(29cc), Vernon's Civil Statutes (Polygraph Examiners Act).

§391.3 (397.01.00.003) *Internship Training Schedule* The following internship training schedule has been approved and adopted by the board as the minimum requirements of any internship training program and set out the minimum instructional time excluding all reading or study time.

(1)-(12) (No change.)

(13) All intern polygraph examiners are required to take and pass an intern examination prescribed by the board.

No intern may administer an actual polygraph examination until he has met these requirements. Interns who have not graduated from a recognized polygraph school must wait at least 30 days from the time of board approval of their internship program before they are eligible to take the intern test. Such approved polygraph schools include the following:

(A)-(M) (No change.)

(N) **Munford Institute of Polygraph.**

(14)-(18) (No change.)

Doc. No. 808175

The Polygraph Examiners Board proposes to amend §391.4(e) (397.01.00.004(e)) of this title which relates to the grading of state board examinations. This section will facilitate grading procedures by authorizing a passing grade when a majority of the board members give a passing grade of 70% or better to an examination. It will provide for more exactness in scoring by requiring addition of the total grades and averaging them when a majority of the board members do not give a passing grade to an examination. It will be more fair to interns who have obtained marginally passing or failing grades by grading board members.

The Polygraph Examiners Board has determined that there will be no fiscal implications involved in adopting this amendment.

Public comment on this proposed amendment is invited. Comments may be submitted by telephoning (512) 227-6100, or by writing the Polygraph Examiners Board at 111 West Laurel, Suite 115, San Antonio, Texas 78212.

This amendment is proposed under authority of Section 6(a), Article 4413(29cc), Vernon's Civil Statutes (Polygraph Examiners Act).

**§391.4 (397.01.00.004). State Examinations for Polygraph Examiner License.**

(a)-(d) (No change.)

(e) **If a majority of the board members give an intern passing grades on the final examination, he shall pass. If there is not a majority giving passing grades, the grades given by all grading members will be totaled and averaged and a grade of 70% must be obtained in order to pass.** [Passing score on the state examination shall be 70% correct answers on both the objective and essay portions of the examination.]

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

Issued in San Antonio, Texas, on October 27, 1980.

Doc. No. 808176      Ryerson D. Gates  
System Administrator  
Polygraph Examiners Board

Proposed Date of Adoption: December 5, 1980  
For further information, please call (512) 227-6100.

## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration

##### Subchapter O. Sales Tax Division—State Taxes

The Comptroller of Public Accounts proposes to amend §3.291 (026.02.20.011) of this title. The section is being

amended to clarify the exemptions allowed contractors when improving real property belonging to exempt organizations.

Sales Tax §3.291 (011) of this title, concerning contracts, is being amended to extend tax exemption to all property used in the performance of a contract for an exempt organization. Currently, only items directly used to perform exempt contracts are considered exempt.

The amendment broadens the definition of exempt items to include all supplies used indirectly or incidentally to perform exempt contracts. Examples of items not previously exempted include office supplies, portable toilets, transportation equipment, equipment used to maintain ice for road building, and portable buildings used for offices.

From discussions with Associated General Contractors, auditors, and professionals in the field of construction, the total fiscal impact from the broadened exemption will be from 1.0% to 2.0% of total receipts from exempt construction. Based on the assumption that overhead supplies represent 2.0% of total construction receipts, the maximum fiscal impact over the next five years will be as follows:

Year	Fiscal Effect
1981	\$3,044,800
1982	\$3,180,800
1983	\$3,323,200
1984	\$3,472,800
1985	\$3,628,000

Information on total tax exemption construction receipts is from the *Census of Construction Industries and Construction Review*. Projections are based on increases in these receipts from 1972-1979. Similar fiscal effects will continue as long as these provisions of the section are in effect.

In addition, if all contractors take advantage of the refund provision, around \$14 million will have to be refunded for the past four years (again assuming a maximum of 2.0% for indirect uses of material and equipment). However, not all contractors are likely to request a refund. To be entitled to a refund, contractors must prove that the use of supplies on incidental equipment was exclusively used for an exempt contract, or what portion involved an exempt use. Many contractors do not maintain records sufficient to prove the total amount of exempt uses, since they are involved in contracts for both public and private entities. The degree to which contractors would apply for refunds cannot be estimated (source: revenue estimating staff, Comptroller of Public Accounts).

Public comment is invited. Persons should submit their comments in writing to Jim Phillips, Drawer SS, Austin, Texas 78711.

These amendments are proposed under the authority of Texas Taxation—General Annotated, Article 20.11(A).

**§3.291 (026.02.20.011). Contracts (Texas Taxation—General Annotated, Articles 20.01(T), 20.04(H) and (Y)).**

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

(c) Tax responsibilities of contractors improving real property for exempt customers.

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

(4) Transactions exempt from sales and use taxes include:

(A) (No change.)

(B) The purchase, rental, or lease by a contractor of all materials, supplies, equipment, and other tangible per-

sonal property [directly] used *in the performance of the contract with the exempt customer* [to incorporate such materials into the property being improved].

(5) Transactions on which sales and use taxes are due: The purchase, rental, or lease by a contractor of overhead supplies and supplies used indirectly or incidentally to perform a contract with an exempt organization.]

(5)(6) An exemption certificate may be issued to suppliers for the purchase, rental, or lease by a contractor of those items identified in subsection (c)(4)(3). (See §3.287 (.007) of this title (relating to exemption certificates).) Under "reasons said purchaser is claiming this exemption," a contractor must identify the exempt entity and the project for which the equipment, materials, and supplies are being purchased or rented.

(6)(7) Nonexempt uses of equipment: tax due: method of computation:

(A) The purchase, rental, or lease of equipment for use in performing a nonexempt contract is subject to tax. No credits, refunds, or offsets of tax are applicable if the equipment is subsequently used in performing an exempt contract.

(B) If a contractor purchases, rents, or leases materials or supplies tax free for use in performing a contract with an exempt organization and uses the items in some manner or for some purpose other than the improvement to realty for an exempt organization, the contractor is, at the time of such nonexempt use, liable for tax based upon the purchase price of the items. The tax should be reported and remitted to the comptroller for the reporting period in which the taxable use occurred. (For local tax responsibilities, see Local §3.377 (026.02.22.007) of this title (relating to purchaser's liability—exemption certificates).)

(C) *Equipment used on nonexempt job.*

(i) Equipment purchased for use on an exempt job and subsequently used on a nonexempt job is subject to tax for the period of nonexempt use. The amount of tax due shall be based on the equipment's value, as determined by straight-line depreciation, for the period of nonexempt use.

(ii) When a piece of equipment or machinery has been depreciated to 10% of its cost, this 10% of cost figure times the period of nonexempt use will be used as its taxable value for any and all future periods of nonexempt use.

(iii) The total amount of tax due from the nonexempt use of machinery or equipment initially purchased tax free by the issuance of an exemption certificate shall never exceed the total amount of tax that would otherwise have been due at the time of purchase.

(D) To qualify for exemption from tax on materials, supplies, and/or equipment claimed to have been used in the performance of exempt contracts, a contractor must keep records which clearly substantiate such exempt use. The records must identify the item claimed to be exempt, and designate each job upon which it has been used. To qualify for a partial exemption from tax on equipment claimed to have been used on both exempt and nonexempt jobs, the records must identify the equipment, designate each job upon which it has been used, and indicate the date of use and the length of time the equipment was used on each exempt or nonexempt job. Tax is due on the full purchase price of the materials, supplies, and/or equipment unless such records are maintained.

Doc. No. 808095

The Comptroller of Public Accounts proposes to amend §3.340 (026.02.20.060) of this title. The Multistate Tax Commission has recommended that the Wyoming Supreme Court's decision in the case *Sinclair Pipe Line Company v. State of Wyoming*, 605 P. 2d 377, not be followed. Therefore, the section is being amended to adopt the commission's recommendation.

There are no significant fiscal implications expected from the proposed amendments (source: revenue estimating staff, Comptroller of Public Accounts).

Public comment is invited. Persons should submit their comments in writing to Jim Phillips, Drawer SS, Austin, Texas 78711.

These amendments are proposed under the authority of Texas Taxation—General Annotated, Article 20.11(A).

§3.340 (026.02.20.060). *Multistate Tax Credits (Texas Taxation—General Annotated, Article 20.04(J), Texas Revised Civil Statutes Annotated, Article 7359a).*

(a) (No change.)

(b) Credits.

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

(4) Use tax *collected by* [paid to] the State of Texas will [not] be refunded *or allowed as a credit on subsequent sales and use tax returns to the extent* [because] of a subsequent payment of use tax *to another state, if the other state's use tax was imposed as a result of the property's use in that state prior to its use in Texas* [imposed by and paid to another state].

(5) (No change.)

(6) Credit against the Texas use tax will not be allowed for any gross receipts tax imposed on retailers in another state, which *tax is not customarily separated from the sales price of taxable items and is not passed on directly to customers as tax* [considered a "like tax"].

Issued in Austin, Texas, on October 24, 1980.

Doc. No. 808096      Bob Bullock  
Comptroller of Public Accounts

Proposed Date of Adoption: December 5, 1980  
For further information, please call (512) 475-1720.

## Part III. Teacher Retirement System of Texas

### Chapter 29. Benefits

#### Service Retirement

The Teacher Retirement System of Texas proposes to amend §29.11 (334.05.01.012) of this title of the Texas Administrative Code relating to actuarial tables. The purpose is to adopt more current tables to replace tables adopted in 1979.

The proposed amendment to §29.11 has no fiscal implications for the state or for units of local government (source: staff of Teacher Retirement System of Texas).

Public comment is invited. Persons should submit their comments in writing to Bruce Hineman, acting executive secretary, Teacher Retirement System of Texas, 1001 Trinity, Austin, Texas 78701.

This amendment is proposed under the authority of Section 3.59, Texas Education Code.

§29.11 (334.05.01.012). *Actuarial Tables.* Actuarial tables furnished by the Wyatt Company, consulting actuaries, will be used for computation of benefits. Factors for ages or types of annuities not included in the tables will be computed from the same data by the same general formulas. The Teacher Retirement System adopts by reference the Wyatt Company's *January 1, 1981*, [February 1979] factors for retirement options and the early age reduction factors based on 1977 legislative changes and 6-3/4% [6.0%] interest. These actuarial tables shall be effective beginning *January 1, 1981* [September 1979]. Information regarding and/or copies of these tables may be obtained by contacting Teacher Retirement System of Texas, 1001 Trinity, Austin, Texas 78701, telephone (512) 477-9711.

Issued in Austin, Texas, on October 29, 1980.

Doc. No. 808231      Bruce Hineman  
Acting Executive Secretary  
Teacher Retirement System of Texas

Proposed Date of Adoption: December 12, 1980  
For further information, please call (512) 477-9711, ext. 213.

## Part VII. State Property Tax Board

### Chapter 161. Valuation Procedures

The State Property Tax Board is proposing to adopt by reference at the January 1981 board meeting amendments to §161.1 (237.08.00.001) of this title. The proposal will amend the previously adopted Section III of Guidelines for the Valuation of Open-Space Land by adding to that section of the guidelines new subsections (6) and (7) to aid chief appraisers/tax assessor-collectors in the verification of land presented as land qualified for open space land valuation.

The original guidelines as adopted by reference and dated February 1980 included Sections I through VII with subsection (5) of Section III containing procedural statements concerning verification. The proposed subsections (6) and (7), containing definitions and specific rules to apply to given situations, shall serve as definitive addendum to these verification procedures.

The board determined that there will be no fiscal implications to the state or units of local government as a result of these amendments.

Public comment on the proposed amendments is invited. Persons should submit their comments in writing to H. Jack Woods, general counsel, State Property Tax Board, P.O. Box 15900, Austin, Texas 78761.

These amendments are proposed pursuant to rulemaking authority granted by Texas Revised Civil Statutes Annotated, Article 7174A, Section 2(d), and Article 7174B, Section 3(b) (Vernon Supplement 1980).

§161.1 (237.08.00.001) *Valuation of Open-Space and Timber Lands.* The *State Property Tax Board* [School Tax Assessment Practices Board] adopts by reference the Guidelines for the Valuation of Open-Space Land as *amended January 23, 1981, the amendment to be effective on February 2, 1981* [published in June 1979]. This document is published by and

available from the *State Property Tax Board* [School Tax Assessment Practices Board], *9501 North IH 35, P.O. Box 15900*, [3301 Northland Drive.] Austin, Texas **78761** [78731].

Issued in Austin, Texas, on October 22, 1980.

Doc. No. 808090      H. Jack Woods  
General Counsel  
State Property Tax Board

Proposed Date of Adoption: February 2, 1981  
For further information, please call (512) 837-8622.

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part III. Texas Youth Council

#### Chapter 81. General Provisions

##### Standards for Service Delivery

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Youth Council, 8900 Shoal Creek, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The Texas Youth Council (TYC) proposes to repeal §81.32 (203.01.03.013) of this title (relating to security). Currently, several sections pertaining to security and solitary confinement of youth appear in several chapters of the agency's rules. To avoid the possibility of misinterpretation of policy and procedure through oversight or confusion, §81.196 (203.01.13.008) of this title (relating to security and solitary confinement) is being proposed to consolidate all related sections into a single section.

The content of this section pertains to the standards and requirements to be met by staff and physical facilities for security of students, staff, and residents of communities surrounding TYC programs. Its provisions are contained substantially unchanged in the proposed section. However, proposed §81.196 (203.01.13.008) of this title defines specifically the persons who may admit a student to security or solitary confinement and it adds due process protections in admissions.

The repeal as proposed has no fiscal implications for state or local government (source: legal council of Texas Youth Council).

Comments on the proposed repeal are invited. They should be submitted in writing to Debby Gardner, attorney, Texas Youth Council, P.O. Box 9999, Austin, Texas 78766.

This repeal is proposed under the authority of Chapter 61, Human Resources Code.

§81.32 (203.01.03.013). *Security.*

Doc. No. 808185

## Control of Youth

The Texas Youth Council (TYC) proposes §81.196 (203.01.13.008) of this title. The purpose of the proposed section is to combine into a single section in general provisions all TYC policy about security and solitary confinement of TYC students. Currently, the dispersion of these related sections among several chapters may lead a reader to misunderstand policy by overlooking pertinent policy.

The related sections that are consolidated in this proposed section are proposed for repeal at this time. They are: §81.32 (203.01.03.013) relating to security; §81.196 (.006) relating to confinement of delinquents; §81.197 (.007) relating to approval of security placements for periods exceeding 10 days; §89.161 (203.20.17.001) relating to solitary confinement; §89.162 (203.20.17.002) relating to security; §89.163 (203.20.17.003) relating to dormitory confinement; and §89.164 (203.20.17.003) all of this title, relating to conditions of solitary confinement, security, and dormitory confinement.

While the content of those sections being repealed is substantially unchanged, the proposed section does contain several changes. The number of staff authorized to admit a student to security or solitary confinement is specifically defined. Additional due process protections in admission to security and solitary confinement are added. Also, if admission is for total disruption of institutional programs, the required documentation made at the time of admission is defined. The goals set for the students' release by the person admitting the student must be rationally related to the incident for which the student is admitted. Dormitory confinement is no longer permitted.

While the administration of agency security and solitary confinement policies requires agency resources, the adoption of this section will not change the costs to state or local government (source: legal council of Texas Youth Council).

Comments regarding this proposed section are welcomed. They should be submitted in writing within 30 days of this publication to Debby Gardner, attorney, Texas Youth Council, P.O. Box 9999, Austin, Texas 78766.

This section is proposed under the authority of Chapter 61, Human Resources Code.

### *§81.196 (203.01.13.008). Security and Solitary Confinement.*

#### (a) Policy.

(1) Security is defined as the placing of TYC students in a locked or otherwise secure facility which contains one or more solitary confinement rooms.

(2) Solitary confinement is defined as placing a TYC student alone in a locked or otherwise secured room other than a room in the student's own dormitory.

(3) Dormitory confinement is defined as placing a TYC student in a locked or otherwise secured room in his own dormitory.

(4) Security will be used as a disciplinary tool to deal with serious misbehavior and serve as an adjunct to the regular treatment program. Because the regular rehabilitation program is designed to meet the student's needs, sound justification must be made to remove a student from it.

(5) Most security placements will be short term, resulting in a speedy return of the student to his regular program.

(6) Each security facility shall have a written daily schedule of activities which covers every hour of operation. Programmatic explanations shall be part of this schedule. A log shall record events as they occur within the schedule. Records of dates and times of security staff coverage shall be maintained for the preceding two calendar years.

(7) Each security facility shall have a written line of authority describing staff responsibility for its operations. Every aspect of the security operation shall be monitored, with special attention given to written documentation, and availability of responsible supervision. The monitoring system of each security facility shall be approved by the director of institutions and the institutional superintendent.

#### (b) Procedure.

##### (1) Criteria for security referral and admission.

(A) No TYC student shall be placed in security unless such confinement is:

- (i) clearly necessary to prevent imminent physical harm to the student or other persons, or
- (ii) clearly necessary to prevent imminent and substantial destruction of property, or
- (iii) clearly necessary to prevent escape, or
- (iv) clearly necessary to restrain behavior that creates substantial disruption of the routine of the institution.

(B) Appropriate referrals and admissions—examples and discussion. A student may be referred to security by any staff member who believes behavior justifying confinement has occurred. It is not intended that each TYC student referred be admitted to security. A student may be admitted to security only by his caseworker or, in his absence, by an appropriate substitute as defined in §81.196(b)(2)(I) (.008(b)(2)(I)) of this title, below. The majority of students referred to security will have just exhibited such serious disruptive behavior as: temper outbursts including loud continuous verbal abuse; physical striking out including oppositional behavior strong enough to require the complete attention of the supervising staff; destructiveness; and escape or attempted escape. Security may be used to detain a student who is being reviewed for transfer to another institution, or who is awaiting transportation to another institution, if staff has reason to believe that detention is necessary in order to prevent escape or violent behavior. A student received by an institution after an escape, transfer, or revocation who has exhibited violent behavior while in custody may be placed in security for a brief observation period pending staff evaluation of the student's status. The observation period should not exceed one day in the absence of behavior in security which would normally indicate an extended stay.

(i) Imminent or actual harm to the student or other persons.

(i) A clear-cut attack by one or more students on another person qualifies as an assaultive act, and thus is justification for a security referral. If other methods are deemed equally effective in managing the situation, security placement is not the preferred approach.

(ii) Imminent harm to self or others is reason for security referral if:

(a) the student has a history of such behavior making it likely that his threatening behavior will result in an assault; or

(b) the student has a weapon; or

(c) the behavior continues even after alternative management techniques have been tried.

(III) If it appears an assault has occurred, staff will evaluate the need for a security placement by relying on evidence such as statements of witness, bruises, or weapons. If there are no witnesses, staff will rely on knowledge of the individual's past behaviors including truthfulness of the individuals, assaultive histories, and circumstantial evidence.

(IV) Security referrals are not appropriate for incidents of sexual acts between consenting individuals. Lack of consent can constitute harm to another. In evaluating the degree of consent, staff shall consider:

(a) discrepancy in the size of the parties leads to suspicion of intimidation;

(b) discrepancy in age leads to suspicion of exploitation;

(c) evidence of actual rape;

(d) possibility of sexual debasement in exchange for favors.

(V) Discovery near a student of an item which might be a potential weapon would not by itself qualify as a reason for security referral. However, circumstances such as discovery of the potential weapon and disclosure of an escape or assault plan indicates imminent harm, and a security referral may be appropriate.

(i) Imminent and substantial destruction of property.

(I) Destructive behavior may justify a referral. If there are no witness to the destructive act the situation should be assessed using the following considerations:

(a) witness statements;

(b) history of destructiveness on the part of the suspected student;

(c) presence of destruction which would not likely be accidental.

(II) If establishing responsibility for destructiveness requires several days of investigation, it would probably not be effective to place a student in security. This decision would depend on the following considerations:

(a) amount and extent of destruction;

(b) likelihood of further destruction, based on student history and staff opinion.

(III) Restitution for damages may be an effective alternative to security placement.

(i) Prevention of escape.

(I) If a student actually escapes or is obviously in the act of escaping, referral is appropriate. If circumstances make it unclear whether an attempted escape is occurring, the following guidelines should be used in making a decision:

(a) the student has a history of escape attempts;

(b) the student has been observed by staff or peers to be planning an escape.

(II) A referral to security is not required for escape or attempted escape. Staff may decide that other approaches are equally effective in resolving the incident.

(i) Substantial disruption of the routine. Program disruption is usually the result of escalated confrontation between a student and staff. When a staff member must focus all attention on one student and other staff must be called to supervise the other students and restore order to the program, total disruption has occurred. In this situation it is appropriate to refer the first student to security to regain control of himself before returning him to the regular pro-

gram. The following criteria shall be used to determine the appropriateness of a security referral:

(I) the situation is volatile to the point of being dangerous to staff and students; and

(II) all appropriate alternative solutions have either been attempted or considered and have not resolved the problems. These alternatives, such as staff counseling with the student, group counseling with the student, room restrictions, and loss of privileges must be documented in the cottage or school log.

(2) Admission procedures.

(A) If a student is thought to have engaged in behavior requiring a security referral, he will be notified by a staff member that he is being referred to security, and will be notified of the reason for the referral.

(B) The student will be taken to the security building.

(C) The incident report (CCS Form 021) must accompany the student when he goes to security, or must be provided within 50 minutes thereafter. If the reason for referral is disruption of program, the information required to be in the cottage or school log by §81.196(b)(1)(B)(iv)(II) (008(b)(1)(B)(iv)(II)) of this title, above, must be included in the incident report.

(D) The student's caseworker will decide whether or not to admit the student unless he is not available, or unless he referred the student. If the caseworker is not available or if he referred the student, an appropriate substitute as defined in §81.196(b)(2)(I) (008(b)(2)(I)) of this title, below, will make the decision and do everything else in this section which the caseworker would be otherwise required to do.

(E) The caseworker will interview the student to determine what the student thinks happened. If the student acknowledges the behavior, he will be asked to give an explanation. Then the caseworker may speak to witnesses to the events leading to the referral. A student who denies the alleged misbehavior will be allowed to call witnesses in his defense. The number of witnesses interviewed will depend upon relevancy, volatility of the current situation, and repetitiousness of the accounts. The student will be offered an opportunity to discuss the incident with the referring staff member before admission, unless in the opinion of the caseworker, it would create an unreasonable risk to staff, students, or program.

(F) If, at the end of these deliberations, the caseworker has resolved the problem that led to the referral, the student may be returned to the program. The 021 Incident Report will be modified to reflect that the student was not admitted.

(G) If the caseworker believes the student should be admitted, the Admission to Security form (CCS-022) will describe the behavior for which the student was referred, a summary of the information on the basis of which the decision was made, and a statement of the goals which the student must meet for release from security. The goals for release must bear a rational relationship to the behavior for which the student is admitted.

(H) If the student arrives at the security building in a significantly upset, exhausted, or angry state, the foregoing procedures can be postponed until the student has regained control, or for up to 50 minutes, whichever is shorter. If the student does not regain control within 50

minutes, the Admission to Security form (CCS-022) must reflect why the delay occurred.

(1) If the student's caseworker is not available or if he referred the student, any of the following may serve as a substitute:

- (i) another caseworker;
- (ii) casework supervisor;
- (iii) medical psychiatric caseworker.

(3) Release procedures.

(A) The caseworker establishes the conditions for the student's release from security when he completes the Form 022, Admission to Security.

(B) A student will be released from security when his caseworker determines that he is ready to conduct himself responsibly in his regular program and that he has reached the goals established at the time of his admission and documented in the Form 022, Admission to Security.

(C) The decision to release will be based on behavior observed by professional staff, reports of the security staff, and the caseworker's experience with the student.

(D) Extended stay.

(i) If the admission is to be for longer than 24 hours, the caseworker must justify the length of stay to the director of security. Justifications for confinement beyond 24 hours are:

(1) Student continuing disruptive behavior while in security;

(II) Staff judgment that the student will resume negative behavior if released to the regular program following a short security stay. This judgment shall be supported by documentation of the student's previous behavior.

(III) A highly volatile referring offense that would make an early return the regular program dangerous for the student, staff, program, or peers.

(IV) These same factors should be addressed for each additional day of extension in security and the director will need to approve such extensions.

(V) Based on changing circumstances and responsiveness of the student, release can occur at any time even though a 24-hour extension time may not have been completed.

(ii) Three-day letter. If the student's caseworker feels that a stay beyond 72 hours is justified by one or more of the preceding reasons, he must send the three-day (CCS-022) letter addressed to the executive director. The director of institutions shall direct the release of any student whose admission as reported in the three-day letter is inconsistent with the admission procedures of §81.196(b)(2) (008(b)(2)) of this title, above.

(iii) Six-day letter. On the sixth day of confinement, if the staff feels continued security placement is justified, the caseworker will send notification to the executive director (using CCS Form 022). The director of institutions shall direct the release of any student whose admission as reported in the six-day letter is inconsistent with the admission procedures of §81.196(b)(2) (008(b)(2)) of this title, above.

(iv) Approval of security placements exceeding 10 days. The following procedures will be followed if the staff of the facility deem it necessary to extend a youth's placement in security.

(1) On the 10th day of the child's confinement in security, the child's caseworker shall notify the superintendent who shall call the executive director's office requesting approval.

(II) Information about the request will be forwarded to the hearings department. The administrator of hearings department will review the six-day letter submitted earlier regarding the placement and will attach it to his recommendation regarding approval.

(III) The administrator of the hearings department will forward the letter submitted on the sixth day with his recommendations to the director of institutions who will likewise review the placement and attach his recommendation. If the director of institutions does not recommend approval of the extended placement, he will direct the child's immediate release and indicate that action in his attachment.

(IV) The director of institutions will forward the six-day letter with the two recommendations to the executive director who will indicate his approval or disapproval of the extended placement and return it with the sixth day letter and attachments to the director of institutions for follow-up action, if required, and filing. The executive director may delegate his final approval or disapproval to the assistant executive director for child care.

(4) Security program standards.

(A) Food service.

(i) Students in security will be given the opportunity to have three well-balanced nutritious meals and snacks each day. The meals shall be similar to those offered to students in the regular treatment program.

(ii) Within the limits of safety for students and staff, students will be allowed the use of appropriate eating utensils.

(iii) Meals will be at a table rather than in students' rooms if possible.

(iv) Under no circumstances will restricted or punitive diets be used.

(v) Appropriate medical or weight reduction diets will be continued.

(B) Visitation.

(i) Family involvement including visits to the security facility will be encouraged. Parents and legal guardians will normally be allowed to visit with their children. The visits may be observed by staff members. Disruptions resulting from the visits may justify curtailing visits.

(ii) Students will have access to their attorneys. Visitation by student's attorneys is encouraged, and all efforts will be made to reasonably comply with requests for visitation.

(iii) Visitation within the security cottage by parents, legal guardians, and attorneys is confined to the hours of 9 a.m. to 5 p.m. daily. Additional hours may be designated at the discretion of the superintendent or staff member delegated with such authority by the superintendent. Counseling sessions (to include group meeting) will not be disrupted upon the arrival of a visitor, but that visitor will be received at the earliest possible time after the counseling session.

(iv) Students are allowed to receive and send mail while in security. Incoming mail may be opened in the presence of a staff member to check for contraband items. Under no circumstances will Texas Youth Council employees censor incoming or outgoing mail.

(C) Counseling services.

(i) Counseling services will continue with emphasis on increased counseling and access to expanded counseling alternatives. A student in security shall receive counseling appropriate in the professional opinion of the caseworker involved, and shall meet with that caseworker at least once every 24 hours.

(ii) Each student confined for a period to exceed 24 hours shall be observed or counseled with by designated professional personnel including but not limited to the staff psychologist, a master's level social worker, or the institution's consulting psychiatrist.

Group counseling will take place daily unless the student is out of control.

(iii) If, in the professional opinion of the staff member involved, a need for specialized counseling services exists, orders should be left or documentation filed with appropriate instructions being left for security staff.

(D) Educational program.

(i) Each student's individual education plan (IEP) will be continued during confinement. Lessons should be prepared in cooperation with the student's regular teachers, and even though the actual instruction, practice, and monitoring may be performed by a special teacher assigned to security, the regular teaching staff shall receive a report of the student's learning activities and any products produced. This information will be included in the student's educational folder for consideration in future reviews of the IEP.

(ii) Students in security will spend at least the same length of time at their lessons each day as do students in the regular program.

(iii) Student work, unless it is part of the student's pre-existing individual education plan, and directly related to career and/or vocational training, shall not be part of the security education program. Educational activities will be conducted a minimum of four hours each day.

(E) Exercise. Each student will be given the opportunity for at least one hour of supervised large muscle exercise on a daily basis. The exercise may be dispensed with by a physician or the institution's consulting psychiatrist upon written orders.

(F) Use of physical force or restraint in security and solitary confinement will be in accord with GOPP 90.50.060.

(G) Search.

(i) Each student admitted to security shall be searched in compliance with TYC policy in GOPP 90.50.070 (Search) and 90.41.010 (Student Rights).

(ii) Each room in security shall be searched on a regular basis to ensure safety of confined students. Contraband shall be confiscated in compliance with 90.41.010 (Student Rights).

(H) Sleep. A bed, mattress, appropriate bedding, and access to a toilet shall be provided for all students in the place where they sleep.

(I) Security staff.

(i) Director of security.

(i) The director of security will be the psychologist, the medical psychiatric caseworker, or the caseworker supervisor. The director of security will be responsible directly to the chief treatment officer of the facility and will have line authority over security staff.

(ii) There will be a designated substitute for the director of security. The substitute must be thoroughly trained in security policies and procedures, must have experience in making security admissions and releases, must have access to student records, and must be able to use student records to assist in decision making.

(iii) Either the director of security or the designated substitute will be on duty or on call at all times.

(IV) The director of security or designated substitute will be responsible for the following duties:

(a) training of security staff in all security policies and procedures;

(b) monitoring security staff and security operations to make sure personnel and program are in compliance with agency security standards;

(c) training other staff members quarterly on security policies and procedures;

(d) checking all admissions to ensure that they follow guidelines and standards;

(e) calling appropriate staff to clarify, modify, or rewrite admissions and other documents which are inaccurate, poorly written, and are otherwise outside acceptable criteria;

(f) approving extended stays.

(g) releasing students if admissions or extended stay justifications are insufficient, or if circumstances and student behavior so indicate;

(h) coordinating and monitoring the preparation and dispatch of three-, six-, and 10-day letters.

(ii) Security staff.

(i) There will be a minimum of two staff members at all times for security coverage.

(ii) Security staff numbers will vary appropriately as the number of students in security varies.

(iii) Both male and female security staff will be working when both male and female students are in security.

(iv) All security staff will meet minimum training standards including Red Cross first aid certification.

(5) Security monitoring.

(A) Ongoing inspections shall be conducted in security programs to ensure adequate safety of confined students, physical facilities, and staff, and to ensure that treatment programs are carried out.

(B) Fire, safety, and health inspections by agencies outside the Texas Youth Council.

(i) There shall be an annual inspection by the State Fire Marshal.

(ii) In those security units located within communities having a fire marshal, the community or county fire marshal shall annually inspect the security cottage.

(iii) The Attorney General's Office of Accident Prevention shall inspect the security cottage annually.

(C) Internal inspection by TYC staff.

(i) The superintendent or his designee shall inspect security every day. This will be documented in the security log.

(ii) A nurse or doctor shall examine each student in security every day. This will be documented in the security log.

(iii) The psychologist or psychiatrist or masters level social worker will consult daily with each student confined in security or solitary confinement for more than one



day and afford him such treatment as indicated. This will be documented in the security log.

(iv) The institution's principal shall inspect security each week and document in the security log the adequacy of the academic program in security.

(v) The institutional plant engineer shall inspect the security unit every month and document repairs necessary or the absence of the need for repairs in the security log.

(vi) The department of institutions staff shall inspect each security facility quarterly and document the visit in the security log.

(vii) The Texas Youth Council director of institutions shall inspect each security facility quarterly and document the visit in the security log.

(viii) The Central Office food services consultant will inspect security and its Food Services Program semiannually and document the visit in the security log.

(ix) The institutional chaplain (in those institutions having chaplains) shall make regular counseling or pastoral visits to security.

(6) Solitary confinement in the security building.

(A) No TYC student shall be placed in solitary confinement unless such confinement is clearly necessary to prevent imminent physical harm to the student, to other persons, or is clearly necessary to prevent imminent and substantial destruction of property.

(B) The student's caseworker or a substitute as defined in §81.196(b)(2)(1) (008(b)(2)(1) of this title, above, must immediately complete an incident report (CCS-021) if a student is placed in solitary confinement.

(C) The student shall be visited by his caseworker or substitute for 10 minutes each hour between 7 a.m. and 10 p.m. from the time he is placed in solitary confinement until the time he is released.

(D) An employee with a key to the place of solitary confinement must be within calling distance of the student so confined at all times.

(E) Security staff will visually check the student every five minutes and document this in the security log.

(7) Prohibition of dormitory or cottage confinement. A TYC student may not be confined in a locked or otherwise secured room in his dormitory or cottage.

(8) TYC security units will be operated in compliance with the standards of appropriate external regulatory agencies.

(A) DHR/Minimum Standards for Juvenile Correctional Institutions, Section 4600.

(B) DHR/Minimum Standards for Juvenile Reception Centers, Section 4400.

(C) DHR/Minimum Standards for Juvenile Correctional Camps, Section 4600.

Doc. No. 808187

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Youth Council, 8900 Shoal Creek Boulevard, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The Texas Youth Council proposes to repeal §81.196 (203.01.13.006) of this title (relating to confinement of delinquents) and §81.197 (007) of this title (relating to approval of security placements for periods not exceeding 10 days).

These are two of seven sections being proposed for repeal at this time. They relate to the general topic of security and solitary confinement. There is a section being proposed at this time that consolidates the seven related sections.

Section 81.196 (006) of this title (relating to confinement of delinquents) contains the conditions of and criteria for confinement procedure. Section 81.197 (007) of this title (relating to approval of security placements for periods exceeding 10 days) describes the special notification procedures to and permission from the TYC Central Office an institution superintendent must follow to hold a student in security confinement in excess of 10 days. The content of these two sections is substantially unchanged in the proposed new §81.196 (008) of this title (relating to security and solitary confinement). The provision in the proposed section regarding confinement for disruption of institutional programs now requires more explicit and descriptive documentation than in that being repealed.

This proposed repeal will have no fiscal effect on current operations at the state or local level (source: legal council of Texas Youth Council).

Public comments are invited. Written comments should be sent within 30 days of this publication to Debby Gardner, attorney, Texas Youth Council, P.O. Box 9999, Austin, Texas 78766.

This repeal is proposed under authority of Chapter 61, Human Resources Code.

§81.196 (203.01.13.006). *Confinement of Delinquents.*  
§81.197 (203.01.13.007). *Approval of Security Placements for Periods Exceeding 10 Days.*

Doc. No. 808186

## Chapter 89. Institutional Services for Children Committed for Delinquent Behavior

### Solitary Confinement, Security, and Dormitory Confinement

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Youth Council, 8900 Shoal Creek Boulevard, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The Texas Youth Council (TYC) proposes to repeal the following sections pertaining to security and placements of students in solitary confinement. Currently, seven separate sections appear in the agency's rules relating to this topic. A new section being proposed at this time, §81.196 (203.01.13.008) of this title (relating to security and solitary confinement), will have the same content as in the four sections proposed for repeal. These four contain the policies, procedures, and criteria for placement of a student in the several types of confinement and the conditions to be met for that placement. The content of these four sections will appear in subsection (b)(1) and (2) of the proposed new section. The consolidation is deemed necessary to avoid misinterpretation or over-look rules located in the several chapters.

These proposed repeals will have no fiscal effect on the operations of state and local government (source: legal council of Texas Youth Council).

Comments on this repeal are welcomed and should be submitted in writing within 30 days of this publication to Debby Gardner, attorney, Texas Youth Council, P.O. Box 9999, Austin, Texas 78766.

This repeal is proposed under authority of Chapter 61, Human Resources Code.

§89.161 (203.20.17.001). *Solitary Confinement.*  
 §89.162 (203.20.17.002). *Security.*  
 §89.163 (203.20.17.003). *Dormitory Confinement.*  
 §89.164 (203.20.17.004). *Conditions of Solitary Confinement, Security, and Dormitory Confinement.*

Issued in Austin, Texas, on October 23, 1980.

Doc. No. 808188      Ron Jackson  
                                  Executive Director  
                                  Texas Youth Council

Proposed Date of Adoption: December 5, 1980  
 For further information, please call (512) 452-8111.

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## NONCODIFIED

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### Texas Education Agency Adaptations for Special Populations General Educational Development 226.35.44.010, .021, .030

The Texas Education Agency proposes to amend Rules 226.35.44.010 and .030 concerning the General Educational Development (GED) Program and proposes new Rule .021 relating to official testing centers for the General Educational Development (GED) Program. Under the agency's present rules for the General Educational Development Program, certain individuals are eligible to take the GED test but are not eligible to receive the certificate of high school equivalency without waiting until they have been withdrawn from school for a full calendar year. These rules now apply to the following:

- (1) 18 year-olds,
- (2) 17 year-olds in military service, and
- (3) 17 year-olds in the process of being rehabilitated.

The proposed amendments and new rule provide that anyone who is eligible to be tested in the program is also eligible to receive the certificate of high school equivalency provided he or she achieves the minimum required test score and follows proper application procedures as outlined in the rules.

The Texas Education Agency does not anticipate that the proposal will have state or local fiscal implications.

Public comment is invited. Comments may be submitted by telephoning the office of Dr. Beverly J. Bardsley, policy analyst, Department of Policies and Services, at (512) 475-7077, or by writing to her 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 and new rule are proposed under the authority of Section 11.35, Texas Education Code.

#### .010. *Policy.* [Authorization.]

(a) *Policy.* The Texas Education Agency shall be the only agency in Texas authorized to issue a certificate of high school equivalency on the basis of the general educational development (GED) tests. Tests shall be administered by authorized contracted testing centers [to adult residents] in accordance with applicable state law, regulations of the American Council on Education, and *the* State Board of Education [policy].

#### (b) *Administrative procedure.*

(1) *State administrator.* The deputy commissioner for programs and personnel development is the designated state administrator of the General Educational Development (GED) Testing and Certificate of High School Equivalency Programs.

(2) *Official testing center.* Official testing centers are established by annual contract at an accredited high school or institution of higher learning upon authorization of the Texas Education Agency. The chief administrative officer of a school or institution desiring to provide the GED testing service to citizens in the community requests authorization to do so from the Texas Education Agency. If the need for a testing center in the location exists, the appropriate agency official, in writing, informs the American Council on Education that the establishment of an official testing center is authorized at that particular institution. The center will be sent four copies of an annual contract by the American Council on Education together with order forms and other material relating to the operation of the testing center. The contract forms must be signed by the chief administrative officer of the school or institution. The administrative officer of a school district must designate a certified counselor and the officer of an institution of higher education must designate a professional person with a background in testing and counseling to serve as chief examiner. The chief administrative officer must obtain prior authorization from the Texas Education Agency to change the chief examiner or the location of a testing center. The authorization to function as an official testing center may be withdrawn by the Texas Education Agency when a center has failed to maintain the integrity of the testing program.

(3) *Issuance of certificate.* Official testing centers send by mail a report signed by the chief examiner containing data as required by the Texas Education Agency. Following review for eligibility and approval, certificates are issued directly to clients. No fee is assessed for issuance or reissuance of certificates. A permanent file is maintained for all issued certificates.]

**.021. Official Testing Centers.**

(a) Official testing centers are established by annual contract at an accredited high school or institution of higher learning upon authorization of the Texas Education Agency. The chief administrative officer of a school or institution desiring to provide the GED testing service to residents in the community requests authorization to do so from the Texas Education Agency. If the need for a testing center in the location exists, the appropriate agency official, in writing, informs the American Council on Education that the establishment of an official testing center is authorized at that particular institution. The center will be sent four copies of an annual contract by the American Council on Education, together with order forms and other material relating to the operation of the testing center. The contract forms must be signed by the chief administrative officer of the school or institution. The administrative officer of a school district must designate a certified counselor and the officer of an institution of higher education must designate a professional person with a background in testing and counseling to serve as chief examiner. The chief administrative officer must obtain prior authorization from the Texas Education Agency to change the chief examiner or the location of a testing center.

(b) The authorization to function as an official testing center may be withdrawn by the Texas Education Agency when a center has failed to maintain the integrity of the testing program.

(c) Official testing centers may charge a fee for test administration. The amount of the fee shall be determined by the administration or by the board of the school district or institution.

**.030. Eligibility for [To Receive] a Texas Certificate of High School Equivalency.**

(a) Policy.] The requirements which applicants for the certificate of high school equivalency shall meet are as follows:

(1) Residence—Must be a resident of the state or a member of the United States Armed Forces stationed at a Texas installation when tested.

(2) Age—Must be 18 [19] years old **and officially withdrawn from school**. A 17 [or 18] year-old is eligible provided that he or she has been officially withdrawn from school for one calendar year. **If a 17 year-old presents evidence that he or she has officially withdrawn from school to enter military service or is in the process of being rehabilitated, the year requirement is waived with parental or guardian consent.**

(3) Educational status—**Must not have received a high school diploma.**

(4)(3) Minimum test scores—Must achieve a standard score of 40 or above on each of the five parts of the test or achieve an average standard score of 45 on all five parts of the test.

(4) Method of applying—Must request that the testing center send the official testing report to the Texas Education Agency. Test scores shall be accepted as official only when reported directly by official testing centers, the Defense Activity for Nontraditional Education Support, directors of Veterans Administration hospitals, and in special cases by the General Educational Development Testing Service.

(5) Fee—No fee shall be assessed for the issuance of certificates.]

Doc. No. 808070

**226.35.44.020**

(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 Street, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The Texas Education Agency proposes to repeal Rule 226.35.44.020 concerning eligibility to take the general educational development (GED) test. Under the agency's present rules, certain individuals are eligible to take the GED test but are not eligible to receive the certificate of high school equivalency without waiting until they have been withdrawn from school for a full calendar year.

Proposed amendments to the series of rules in Chapter 35.44 provide that anyone who is eligible to be tested in the program is also eligible to receive the certificate of high school equivalency provided he or she achieves the minimum required test score and follows proper application procedures as outlined in the rules.

Eligibility for the certificate of high school equivalency is addressed in Rule .030. The rule setting out separate criteria for eligibility to be tested is proposed for repeal.

The Texas Education Agency does not anticipate the proposed repeal of Rule .020 will have state or local fiscal implications.

Public comment on the proposed repeal is invited. Comments may be submitted by telephoning the office of Dr. Beverly J. Bardsley, policy analyst, Department of Policies and Services, at (512) 475-7077, or by writing to her 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 Section 11.35, Texas Education Code.

**.020. Eligibility To Be Tested.**

Doc. No. 808139

**226.35.44.040, .050**

The Texas Education Agency proposes to adopt Rules 226.35.44.040 and .050 concerning procedures for issuance of the GED certificate and the designation of the state administrator for the General Educational Development Program. Procedures on issuance were previously included in Rule .030. They are being recodified with no substantive change. The associate commissioner for professional development and instructional services is designated as the state administrator for the GED Program.

The Texas Education Agency does not anticipate the proposed adoption of Rules .040 and .050 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. Beverly J. Bardsley, policy analyst, Department of Policies and Services, at (512) 475-7077, or by writing to her 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 rules are proposed under the authority of Section 11.35, Texas Education Code.

*.040. Issuance of Certificate.*

(a) The applicant requests that the testing center send the official test report to the Texas Education Agency. Test scores shall be accepted as official only when reported directly by official testing centers, the Defense Activity for Nontraditional Education Support, directors of Veterans Administration hospitals, and in special cases by the General Educational Development Testing Service.

(b) Following review for eligibility and approval, certificates are issued directly to clients. No fee is assessed for issuance or reissuance of certificates. A permanent file is maintained for all issued certificates.

*.050. State Administrator.* The associate commissioner for professional development and instructional services is the designated state administrator of the General Educational Development (GED) Testing and Certificate of High School Equivalency Programs.

Doc. No. 808071

## Teacher Certification

### Emergency Teaching Permits, Special Assignment Permits, and Temporary Classroom Assignment Permits 226.62.22.001

The Texas Education Agency proposes to adopt Rule 226.62.22.001, a policy statement concerning emergency teaching permits, special assignment permits, and temporary classroom assignment permits. The new policy statement is the first in a series of amendments to the rules in Chapter 62.22. The proposed changes provide for permits to be activated by local school districts with required documentation kept in local school district files. At present, documentation concerning permits is maintained in the files of both the local school district and the Teacher Certification Division of the Texas Education Agency. The proposed amendments make no change in the requirements for teaching permits.

The Texas Education Agency does not anticipate the proposed adoption of Rule .001 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. Beverly J. Bardsley, policy analyst, Department of Policies and Services, at (512) 475-7077, or by writing to her 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 rule is proposed under the authority of Sections 13.032 and 13.045, Texas Education Code.

*.001. Policy.* Emergency teaching permits, special assignment permits, and temporary classroom assignment permits, valid for not more than one scholastic year, may be authorized in accordance with applicable law under requirements and procedures adopted by the State Board of Education upon recommendations of the commissioner of education.

Doc. No. 808072

### 226.62.22.010, .020, .030, .050, .060, .090

The Texas Education Agency proposes to amend Rules 226.62.22.010, .020, .030, .050, .060, and .090. The amendments provide for teaching permits to be activated by local school districts, with required documentation kept in local school district files. At present, documentation concerning permits is maintained in the files of both the local school district and the Teacher Certification Division of the Texas Education Agency. The amendments make no change in the requirements for teaching permits.

The Texas Education Agency anticipates the proposed amendments will make possible a saving in state funds of approximately \$25,000 per year for the next five years. The amended rules are not expected to have local fiscal implications.

Public comment on the proposed amendments is invited. Comments may be submitted by telephoning the office of Dr. Beverly J. Bardsley, policy analyst, Department of Policies and Services, at (512) 475-7077, or by writing to her 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*.

The rules are proposed for amendment under the authority of Sections 13.032 and 13.045, Texas Education Code.

*.010. General Provisions.*

(a) Policy. Emergency teaching permits and permits for special assignment valid for not more than one scholastic year may be issued in accordance with applicable law under requirements and procedures adopted by the State Board of Education upon recommendation of the commissioner of education.

(b) Administrative procedure.]

(a)(1) A superintendent who is unable to secure an appropriately certified individual to fill a vacant position may pursue one of the following options:

(1)(A) *activate* [request] an emergency teaching permit (*Form TCER-024*) for an individual who is not certified at the appropriate level for regular teacher of young children, elementary, junior high, or high school classroom assignments (226.62.22.030, .040).

(2)(B) **activate** [request] a special assignment permit (*Form TCER-024*) for an individual who is not certified for an assignment to a professional service, special education, bilingual education, or kindergarten position (226.62.22.050 .061 [.060]); or

(3)(C) activate a temporary classroom assignment permit (*Form TCER-012*) for a teacher who is certified to teach in grades 6-12, but who will be assigned outside the certified area(s) at the secondary level (226.62.22.090).

(b) **All vocational permits must be requested (*Form TCER-009*) from and issued or renewed by the Division of Teacher Certification as specified in Rule 226.62.22.040.**

(c)(2) A permit is **authorized for** [issued to] the local public school district, **and is not the property of** [not to] the individual for whom the permit was [requested or] activated.

(d)(3) A permit is **authorized** [issued] on the basis of the teacher's having completed the requirements for the permit requested.

(e)(4) A permit is valid only for the remainder of the scholastic year during which it is **activated** [issued] and only in the school system through which the application for the permit was made.

(f)(5) If a [the requested] permit **issued by the Texas Education Agency** is not utilized, it should be returned to the Division of Teacher Certification for cancellation.

(g)(6) A permit may be **authorized** [issued] on a hardship basis for an individual who does not meet full permit requirements **only if written approval has been received from the Division of Teacher Certification. The district must:** [ provided that:]

(1)(A) **document** [complete documentation of] local conditions which necessitate the assignment of an individual who does not meet permit requirements [is on file with the Division of Teacher Certification];

(2)(B) **verify that** the individual **will be enrolled in the first available course(s) listed on the deficiency plan** [can meet full permit requirements prior to renewal]; and

(3)(C) request [for] renewal [is made] directly **from** [to] the Division of Teacher Certification **only if permit renewal requirements are not met.**

(h)(7) An appropriately certified applicant who was not employed for a position that was filled by an individual for whom a permit was **activated** [requested] by the superintendent may appeal the decision of a local school board directly to the commissioner of education.

020. *General Requirements of an Individual for Whom a Permit is Activated [Requested].* The individual for whom a permit is **activated** [requested] must:

(1) hold a bachelor's degree from an accredited institution of higher learning, or **for permits authorized on a hardship basis, a minimum of 90 semester hours from an accredited institution of higher learning in lieu of a degree; or** for some vocational permits, specified work experience in lieu of a degree (specific requirements for vocational permit: 226.62.22.040);

(2) (5) (No change.)

030. *Emergency Teaching Permits: Requirements and Procedures*

(a) Requirements. An emergency teaching permit **may be activated** [is available] for an individual who is not certified or who is not certified at the level of the assignment, provided that the following requirements are met:

(1) If the permit [requested] is for teaching at the elementary level, the individual must have completed 12 semester hours specifically designated as elementary education; or if the permit [requested] is for teaching at the secondary level, the individual must have completed minimum requirements for one teaching field and the permit can be **authorized** [issued] only for teaching in that field; and

(2) The individual must be able to complete all requirements for certification within three scholastic years from the date [of issuance of] the initial permit **is activated.** (Exception: some vocational education areas, as specified in procedure number 226.62.22.040 [226.62.10.040].)

(3) A bilingual permit may be **activated** [issued] for a person who meets requirements for the level of assignment and who:

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

(4) A Reserve Officer Training Corps permit may be **activated** [issued by the Texas Education Agency] for a person who teaches ROTC and meets the requirements of the Reserve Officer Training Corps.

(5) (No change.)

(6) Individuals who have completed a program for teaching the severely/profoundly handicapped (including but not limited to deaf/blind) children, but do not hold a valid Texas teacher certificate, may be placed on an emergency teaching permit to teach severely/profoundly handicapped children until all certification requirements are met. These provisions are in effect only until August 31, 1982 [1980].

(7) An emergency teaching permit **may be activated** [is available] for an individual who is assigned to teach the deaf and/or severely hard of hearing, provided that:

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

(8) An emergency teaching permit **may be activated** [is available] for an individual who is assigned to teach speech and hearing therapy, provided that:

(A) the employing school district or cooperative has one or more fully certified speech and hearing therapy **teachers** [teacher(s)] serving in this instructional program;

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

(b) Application procedure for initial permit.

(1) The superintendent **or authorized representative** of a school district **may activate** [makes application for] an emergency teaching permit. The **permit is activated** [application is submitted] **by submitting** to the Division of Teacher Certification **the following items** [and includes]:

(A) **a duplicate of an emergency teaching/special assignment permit (*Form TCER-024*) completed prior to the date the individual's teaching duties began** [an accurately completed application form];

(B) an affidavit stating that the superintendent is unable to secure a person fully certified **and** [ / ] qualified for the position and that the individual for whom the permit is **activated** [requested] is the best qualified person available;

(C) **college** deficiency plan (*TCER-003*) for completion of certificate requirements, verifying that the individual meets the grade point average required for admission to the teacher education program, and all requirements for the certificate can be completed within the following three years; **and**

(D) fee, [; and]

(E) official transcripts.]

(2) **The school district will maintain the following items in the teacher's personnel file:**

(A) the original Emergency Teaching/Special Assignment Permit form (TCER-024) completed prior to the date the individual's teaching duties began;

(B) deficiency plan as described above; and

(C) official transcripts showing completion of permit requirements.

(3) If the individual meets full permit requirements, the permit will be authorized with no Texas Education Agency action required.

(4) If the individual does not meet full permit requirements, written approval from the Division of Teacher Certification must be in the district's personnel files before the permit will be authorized.

(5)(c) The Texas Education Agency [Division of Teacher Certification] will use as the effective date of the initial emergency teaching permit the date the application is signed by the superintendent or authorized representative and notarized [in the local school district office or 60 days prior to the date that it was received in the Division of Teacher Certification].

(c) Renewal procedures.

(1) (No change.)

(2) The superintendent of a public school district is authorized to renew emergency teaching permits a maximum of two consecutive times provided that the following renewal requirements and procedures are met:

(A) (No change.)

(B) An emergency teaching permit [permits] is [are] renewed by placing the following items in the teacher's personnel file in the local district office:

(i) renewal form completed on reverse side of original Emergency Teaching/Special Assignment Permit form (TCER-024) prior to beginning date of teaching duties; and

(ii) deficiency plan for completion of certificate requirements, verifying that the individual meets the grade point average required for admission to the teacher education program, and all requirements for the certificate can be completed within the following two years; and

(iii)(iv) official transcripts [transcript(s)] showing a minimum of six semester hours or 1/3 of the deficiencies for the target certificate have been removed each year.

(3) Requests for renewal of emergency teaching permits must be submitted to the Division of Teacher Certification when:

(A) the initial permit was issued on a hardship basis;

(B)(C) all renewal requirements have not been completed;

(B)(C) the renewal is for a change of assignment and/or school district;

(C)(D) the renewal is for nonconsecutive years; or

(D)(E) the renewal is for a vocational assignment. Request must be submitted on Form TCER-009, as revised.

(E)(F) The following items must be submitted with the renewal request:

(i) a duplicate of an Emergency Teaching/Special Assignment Permit form (TCER-024) completed prior to the date the individual's teaching duties began [an accurately completed application];

(ii)-(iv) (No change.)

.050. Special Assignment Permits: General Provisions.

(a) The superintendent or authorized representative of a school district may activate a special assignment permit [may be issued to an employing school district] for an individual who holds a valid Texas teacher certificate but needs additional preparation in the area of assignment.

(1) The superintendent of a school district applies for the special assignment permit by submitting:

(A) an accurately completed application form;

(B) an affidavit stating that the superintendent is unable to secure a person fully certified/qualified for the position and that the individual for whom the permit is requested is the best qualified person available; and

(C) a deficiency plan for completion of certificate requirements verifying that all requirements can be completed by the end of the second permit year;

(D) no fee (fee for school psychologist and associate school psychologist only).

(b)(2) The special assignment permit is valid only for the remainder of the scholastic year during which it is *activated* [issued], only in the school system [through] which *activates* [the application for] the permit [is made], and only for the specific assignment for which the permit was *authorized* [requested].

(b) One renewal of the special assignment permit is available provided that all requirements for renewal are completed. The following items must be submitted to the Division of Teacher Certification for renewal:

(1) an accurately completed application; and

(2) official transcripts showing completion of a minimum of six semester hours of deficiencies.]

(c) The special assignment permit may be authorized on a hardship basis for a teacher who does not meet full permit requirements only if written approval has been received from the Division of Teacher Certification.

(d)(e) Exceptions to the general special assignment permit provisions are stated in procedure number 226.62.22.060.

060. Special Assignment Permits: Specific Requirements.

(a) (b) (No change.)

(c) Bilingual education:

(1) Valid Texas teacher certificate; and

(2) Six semester hours in an approved bilingual teacher preparation program at an institution in higher education; or

(3) have demonstrated professional-level oral and written proficiency in the language of the target population as measured by an examination approved by the Texas Education Agency; or

(4) have successfully completed six semester hours in the study of the language of the target population at an institution of higher education.

(3)(5) Renewal requirements. A special assignment permit for bilingual education may be renewed a maximum of *two* [three] times. To renew the permit which allows a person to continue an assignment in an approved bilingual education program, the *school district must maintain the following in the teacher's personnel file* [individual must]:

(A) verification of [identify] regular progress, a minimum of six semester hours, in an approved bilingual teacher preparation program at an institution of higher education; and

(B) **demonstration of** [demonstrate] progress toward professional level oral and written proficiency in the language of the target population **as shown by** [showing an] improved **scores** [score] on **examinations** [an examination] approved by the Texas Education Agency.

(d) (No change.)

(e) Counselors.

(1) (2) (No change.)

(3) Vocational counselor.

(A) (C) (No change.)

**(D) To establish an individual's eligibility to serve on a special assignment permit, a statement of qualifications, teacher service record, and official transcript(s) must be submitted to an institution approved for the preparation of vocational counselors. The institution will verify the statement of qualifications and, if approved, prepare a deficiency plan (TCER-003).**

**(E)(D)** To obtain an initial special assignment permit, **the district submits an application (TCER-009), official transcript(s), and a copy of the deficiency plan to the Division of Teacher Certification.** [a statement of qualifications is submitted to the Division of Teacher Certification along with a notarized teacher service record and college transcript. The applicant is notified of the results of the review and, if approvable, any additional requirements necessary for permanent certification.]

**(F)(E)** Course work must be completed at a rate of not less than six semester hours per year until the requirements for [a] professional counselor and vocational counselor certificates are met. The 12 hours identified as vocational counselor courses must be completed first.

(f) Supervisors.

(1) (2) (No change.)

(3) Vocational supervisor

(A) (B) (No change.)

**(C) To establish an individual's eligibility to serve on a special assignment permit, a statement of qualifications, teacher service record, and official transcript(s) must be submitted to an institution approved for the preparation of vocational supervisors. The institution will verify the statement of qualifications, and if approved, prepare a deficiency plan (TCER-003).**

**(D)(C)** To obtain an initial special assignment permit, **the district submits an application (TCER-009), official transcript(s), and a copy of the deficiency plan to the Division of Teacher Certification.** [a statement of qualifications is submitted to the Division of Teacher Certification along with a notarized teacher service record. The applicant is notified of the results of the review and, if approvable, any additional requirements for permanent certification.]

**(E)(D)** Course work must be completed at a rate of not less than six semester hours per year until full certification requirements are completed.

(g) (g) (No change.)

#### 090 Temporary Classroom Assignment Permits

(a) (d) (No change.)

(e) An emergency teaching permit **may** [will] not be **activated** [issued] for a certified **teacher** [individual] who does not meet TCAP requirements.

(f) Requirements for a teacher who will be assigned on a TCAP

(1) (No change.)

(2) **A TCAP must be activated for a teacher to teach in a subject for which the teacher is not currently certified if:**

**(A) Assigned to two or more class periods in that subject. Completion of 12 semester hours of course work toward an appropriate teaching field is required.**

**(B) Assigned to only one class period in a subject for which fewer than 12 semester hours toward an appropriate teaching field have been completed.**

[To teach two or more class periods in subject(s) for which the teacher is not currently certified, 12 semester hours of course work toward completion of each teaching field is required for assignment.]

[3] If assigned to teach only one class period in a field for which the teacher is not currently certified, completion of fewer than 12 semester hours is required for assignment.]

**(3)(4)** If assigned to teach in departmentalized grades seven through eight, an elementary certified teacher must have 18 semester hours in the subject taught. A TCAP may be activated for a teacher who has fewer than 18 semester hours, provided the teacher meets TCAP requirements.

**(4)(5)** No **TCAP** [temporary classroom assignment permit] is required **for a** [if the] **teacher who has completed 12 or more semester hours in a field if assigned to teach only one class period in that subject** [is assigned to teach only one class period in a field for which he or she has completed 12 or more semester hours of preparation]

(g) Procedure for activation of a temporary classroom assignment permit. No action by the Division of Teacher Certification is required. The original permit is activated by the employing superintendent by placing the following materials in the teacher's personnel file:

(1) Temporary Classroom Assignment Permit form **(TCER-024)** [accurately] completed prior to the date on which teaching duties begin;

(2) (No change.)

(3) deficiency plan for the target certificate, verifying that the individual meets the grade point average required for admission to the teacher education program, and all requirements for the teaching field(s) can be completed within **two years** [the following year], and

(4) [current] official transcripts verifying completion of semester **hours required** [hour requirements] for assignment.

**(h) A TCAP may be activated on a hardship basis for a teacher who does not meet requirements only if written approval has been received from the Texas Education Agency. The TCAP form, deficiency plan, official transcripts, and TEA approval must be maintained in the teacher's personnel file.**

**(i)(h)** One renewal of the temporary classroom assignment permit may be activated by the superintendent, in compliance with the following requirements:

(1) (2) (No change.)

(3) deficiency plan for the target certificate, verifying that

[A] the individual meets the grade point average required for admission to the teacher education program; and

[B] all requirements for the teaching field(s) can be completed within the following year.]

## 226.62.22.061

The Texas Education Agency proposes to adopt Rule 226.62.22.061 concerning application procedures for special assignment permits. The rule sets out materials which must be submitted to the Texas Education Agency, Division of Teacher Certification, and materials which must be kept on file in the local school district. If a teacher meets full permit requirements, the permit may be activated by the local school district with no Texas Education Agency action required. If a teacher does not meet full permit requirements, written approval from the Division of Teacher Certification is required.

The Texas Education Agency does not anticipate the proposed adoption of Rule .061 will have state or local fiscal implications.

Public comment on the proposed new rule is invited. Comments may be submitted by telephoning the office of Dr. Beverly J. Bardsley, policy analyst, Department of Policies and Services, at (512) 475-7077, or by writing to her 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 rule is proposed under the authority of Sections 13.032 and 13.045 of the Texas Education Code.

### .061. *Special Assignment Permits: Application Procedures.*

(a) The initial permit is activated by submitting to the Division of Teacher Certification:

(1) a duplicate of an Emergency Teaching/Special Assignment Permit form (TCER-024) completed prior to the date the individual's teaching duties began;

(2) an affidavit stating that the superintendent is unable to secure a person fully certified and qualified for the position and that the individual for whom the permit is activated is the best qualified person available; and

(3) a deficiency plan for completion of certificate requirements verifying that all requirements can be completed by the end of the second permit year;

(4) no fee (fee for school psychologist and associate school psychologist only).

(b) The school district will maintain the following items in the teacher's personnel file:

(1) the original Emergency Teaching/Special Assignment Permit form (TCER-024) completed prior to the date the individual's teaching duties began;

(2) deficiency plan as described above; and

(3) official transcript(s) showing completion of permit requirements.

(c) If the teacher meets full permit requirements, the permit will be authorized with no Texas Education Agency action required.

(d) If the teacher does not meet full permit requirements, written approval from the Division of Teacher Certification must be in the district's personnel files before the permit will be authorized.

(e) The Texas Education Agency will use as the effective date of the initial special assignment permit the date the application is signed by the superintendent or authorized representative and notarized.

(f) One renewal of the special assignment permit is available provided that all requirements for renewal are completed. The following items must be placed in the teacher's personnel file in the local district office for renewal:

(1) renewal form completed on reverse side of original permit form (TCER-024), prior to beginning date of teaching duties; and

(2) official transcripts verifying that a minimum of six semester hours or 1/2 of the deficiencies for the target certificate have been removed.

Doc. No. 808074

## Relationships with the U.S. Government and Its Agencies

### State Board of Education Leadership 226.74.01

The Texas Education Agency proposes to adopt Rules 226.74.01.020 and .030 concerning state/federal relations in the area of education. Rule .020 sets out the responsibilities of the Texas Education Agency which include communicating a Texas position on educational issues to federal officials, providing information to school districts on proposed federal actions, and securing advice from state and local policymakers on proposed federal actions. Rule .030 establishes a Federal/State Relations Council to advise the commissioner of education and the State Board of Education on federal activities.

The Texas Education Agency does not anticipate the proposed new rules will have state or local fiscal implications.

Public comment is invited. Comments may be submitted by telephoning the office of Dr. Beverly J. Bardsley, policy analyst, Department of Policies and Services, at (512) 475-7077, or by writing to her 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 rules are proposed under the authority of Section 11.02, Texas Education Code.

### .020. *Role of the Texas Education Agency.*

(a) Based on state law and State Board of Education policy, the Texas Education Agency shall serve as the state educational entity responsible for describing the state position on federal educational matters.

(b) The Texas Education Agency shall establish a procedure for:

(1) maintaining a timely information flow between the federal government (congress and the administrative agencies) and the board;

(2) communicating to federal officials a Texas position based on state law and board policy;

(3) providing timely information to school districts regarding anticipated or proposed federal actions that will affect public education;

(4) securing advice from state and local educational policymakers regarding anticipated or proposed federal actions; and



(5) establishing a centralized function to serve as liaison with the federal and state governmental agencies and school districts on federal educational matters.

(c) Prior to the beginning of each new congress, the board shall review all anticipated legislative or regulatory matters scheduled to be addressed. Where appropriate, the board will adopt a position statement to serve as the formal basis for providing information to federal officials.

*.030. Federal/State Relations Council.*

(a) A Federal/State Relations Council shall be established to advise the commissioner and the board regarding federal activities. The council shall consist of two representatives each from the Urban Advisory Committee, Suburban Advisory Panel, Community Schools Advisory Panel, Texas Association of School Boards, Texas Association of School Administrators, and teacher organizations. The governor, lieutenant governor, and the speaker of the house of representatives shall be invited to name one member each. The beginning and ending dates of service shall be at the discretion of the organizations participating.

(b) The council shall meet at the invitation of the commissioner. Members shall be responsible for any expenses incurred while participating on the council.

Doc. No. 808076

### Reporting to Federal Agencies 226.74.02

(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 Street, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The Texas Education Agency proposes to repeal Rule 226.74.02.010 which contains internal agency procedures for coordinating agency reporting to the federal government. Such internal procedures do not meet the Administrative Procedure Act's definition of a "rule" and are therefore being repealed.

The Texas Education Agency does not anticipate the proposed repeal will have state or local fiscal implications.

Public comment on the proposed repeal is invited. Comments may be submitted by telephoning the office of Dr. Beverly J. Bardsley, policy analyst, Department of Policies and Services, at (512) 475-7077, or by writing to her 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 Section 11.02, Texas Education Code.

*.010. Policy and Administrative Procedure.*

Issued in Austin, Texas, on October 17, 21, 23,  
and 24, 1980.

Doc. No. 808077      A. O. Bowen  
                                 Commissioner of Education

Proposed Date of Adoption: January 10, 1981  
For further information, please call (512) 475-7077.



## Texas Department of Human Resources

### Hearing Aid Program

The Department of Human Resources proposes to repeal and add to its rules in the Hearing Aid Program. The department's Hearing Aid Program handbook has been reformatted and the corresponding rule material is being restructured for cross-referencing and future expansion purposes. Duplicative rules will be repealed and repropose in the appropriate subchapter. The proposed rules are existing department policy which has been reorganized and reworded in most cases; no new material is being introduced.

The department has determined that the proposed rules and repeals will have no fiscal implications for the state or units of local government.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—116, Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

### General Information 326.42.01

(Editor's note: The text 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, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

This repeal is proposed under the authority of the Human Resources Code, Title II.

- .001. *Eligible Recipients.*
- .002. *Evaluation Defined.*
- .003. *Instruments beyond the Program Limits.*
- .005. *Dispensing Program Only.*
- .006. *Home Visits.*
- .007. *Compensation.*
- .008. *Correspondence.*

Doc. No. 808193

### Vendor Participation 326.42.02

(Editor's note: The text 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, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

This repeal is proposed under the authority of the Human Resources Code, Title II.

- .001. *Evaluations.*
- .002. *Fitting and Dispensing.*
- .003. *Application.*
- .004. *Contracts.*
- .005. *Right of Rejection or Termination of Contract.*
- .006. *Contract Appeal.*
- .007. *Freedom of Choice.*
- .008. *Advertising Policy.*
- .009. *Solicitation Policy.*
- .010. *Retention Period.*
- .011. *Nondiscrimination Compliance.*

Doc. No. 808194

### Minimum Criteria for Hearing Aid Need 326.42.03

(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 Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

This repeal is proposed under the authority of the Human Resources Code, Title II.

- .001. *Prior Authorization for Purchase.*

Doc. No. 808195

### Standards for Hearing Aid Evaluations 326.42.04

(Editor's note: The text 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, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

This repeal is proposed under the authority of the Human Resources Code, Title II.

- .001. *Testing Environment.*
- .002. *Audiometers.*
- .003. *Air Conduction.*
- .004. *Bone Conduction.*
- .005. *Speech Audiometry.*
- .006. *Gain Setting.*
- .007. *Sound Field Tests.*
- .008. *Ambient Noise Level Measurements.*

Doc. No. 808196

### Standards for Hearing Aids 326.42.05

(Editor's note: The text 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,

706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

This repeal is proposed under the authority of the Human Resources Code, Title II.

- .001. *Warranty.*
- .002. *Required Package.*

Doc. No. 808197

### Repairs 326.42.06

(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 Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

This repeal is proposed under the authority of the Human Resources Code, Title II.

- .001. *Payment for Repairs.*

Doc. No. 808198

### Replacements 326.42.07

(Editor's note: The text 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, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

This repeal is proposed under the authority of the Human Resources Code, Title II.

- .001. *Replacement of Lost or Destroyed Hearing Aids.*
- .002. *Replacement of Ineffective Hearing Aids.*

Doc. No. 808199

### Reimbursement Policies 326.42.08

(Editor's note: The text 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, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

This repeal is proposed under the authority of the Human Resources Code, Title II.

- .001. *Assumption of Liability.*
- .002. *Claims Procedure*
- .003. *Payment for Repairs.*
- .006. *Acquisition Cost.*
- .007. *Hearing Aid Evaluation.*
- .011. *Procedures for Nondispensing Evaluators.*
- .012. *Receipt for Hearing Aid.*
- .013. *Postfitting Check of Instrument.*
- .014. *First Revisit.*
- .015. *Second Revisit.*
- .016. *Hearing Aid Evaluation Report.*
- .017. *Dispensing the Hearing Aid.*

Doc. No. 808200

### Program Limitations 326.42.09

(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 Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

This repeal is proposed under the authority of the Human Resources Code, Title II.

*.001. Limitations.*

Doc. No. 808201

### Prior Authorization 326.42.10

(Editor's note: The text 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, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

This repeal is proposed under the authority of the Human Resources Code, Title II.

*.001. Services Requiring Prior Authorization.*

*.007. Prior Authorization Required.*

*.008. Payment in Advance.*

Doc. No. 808202

### Hearing Aid Program Advisory Committee 326.42.11.001-.005

(Editor's note: The text 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, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

This repeal is proposed under the authority of the Human Resources Code, Title II.

*.001. Advisory Committee*

*.002. Size*

*.003. Membership.*

*.004. Meetings.*

*.005. Bylaws.*

Doc. No. 808203

### Eligibility 326.42.11.006-.008

The following rules are proposed under the authority of the Human Resources Code, Title II.

*.006. Eligibility Criteria.*

(a) Hearing Aid Program services are available to eligible hearing-impaired Medicaid recipients age 21 and over. These include:

- (1) recipients of supplemental security income (SSI);
- (2) recipients of medical assistance only (MAO);
- (3) adult recipients of aid to families with dependent children (AFDC).

(b) Eligible Medicaid recipients are issued a monthly medical care identification card. The individual recipient number is located on the left side of the form and must be included on all claim forms and prior authorization requests.

*.007. Hearing Loss Criteria.*

(a) Due to funding limitations, the provision of hearing aids is limited to eligible recipients whose air-conduction pure-tone average in the better ear is 45dB or greater (ANSI 1969 PTA for 500, 1,000, 2,000 HZ).

(b) Medicaid reimbursement cannot be authorized for hearing aid evaluations for recipients whose hearing loss does not meet the above criteria.

*.008. Physician's Examination.*

(a) Hearing Aid Program services are initiated by the recipient's choice of licensed physician following an ear examination and completion of the physician's examination report.

(b) The physician's examination establishes the medical necessity for a hearing aid and must be performed within six months prior to the hearing aid evaluation.

(c) The physician's examination report must provide written medical clearance for the fitting of a hearing aid and include the physician's original signature and date of examination.

(d) Reimbursement for the ear examination is provided by submitting a claim for physician's services to the department's health insuring agent.

Doc. No. 808204

### Utilization Review 326.42.12.001-.006

(Editor's note: The text 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, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

This repeal is proposed under the authority of the Human Resources Code, Title II.

*.001. Overview*

*.002. Recipient Review*

*.003. Provider Review*

*.004. Prepayment Level of Provider Review.*

*.005. Postpayment Level of Provider Review.*

*.006. Actions in Misutilization Cases*

Doc. No. 808205

### Services 326.42.12.007

The following rule is proposed under the authority of the Human Resources Code, Title II.

*.007. Hearing Aid Program Services.* Available services include

- (1) hearing aid evaluation;
- (2) hearing aid;
- (3) fitting and dispensing;
- (4) earmold;
- (5) first revisit;

- (6) second revisit;
- (7) replacement hearing aids;
- (8) repairs.

Doc. No. 808206

## Prior Authorization 326.42.13

The following rules are proposed under the authority of the Human Resources Code, Title II.

### 001. *Services Requiring Prior Authorization.*

(a) The Hearing Aid Program services in the following rules require advance written authorization from the Department of Human Resources' health insuring agent. Providers are responsible for obtaining the required prior authorization.

(b) Prior authorization is a condition for reimbursement.

### 002. *Hearing Aid Evaluation*

(a) Authorization to perform the hearing aid evaluation is obtained by the provider submitting the Request to Schedule a Hearing Aid Evaluation form.

(b) DHR may limit the number of authorizations based on a monthly quota system. Requests are processed in the order of receipt.

(c) The prior authorization request will be denied if the recipient has a third party resource available for the purchase of a hearing aid. If the recipient currently has an appropriate repairable hearing aid, the provider should submit the Authorization for Repairs form.

(d) Because initial information may be insufficient for making a judgment concerning prior authorization, the department reserves the right to request a special hearing aid evaluation at its own expense.

### 003. *Home Visit Hearing Aid Evaluation.*

(a) Home visit hearing aid evaluations are available for those eligible recipients whose medical condition prohibits travel to the business address specified in the provider's contract. Home visit hearing aid evaluations must be performed by contracted providers having the necessary mobile testing equipment and sound level meter.

(b) Prior authorization for a home visit hearing aid evaluation is based on the determination of medical necessity by the examining physician. Authorization to perform a home visit hearing aid evaluation is obtained by submitting the Request To Schedule a Hearing Aid Evaluation, with the written recommendation of the examining physician. The physician's written recommendation for a home visit hearing aid evaluation must specify the medical condition which prohibits travel and may be included on Physician's Examination Report form.

(c) Home visit hearing aid evaluations cannot be authorized based on lack of transportation. The Medicaid Program provides transportation for recipients to Hearing Aid Program providers. For assistance in obtaining transportation services, contact the local office of the Department of Human Resources.

(d) The routine fitting and dispensing of an authorized hearing aid, the postfitting check, and the first revisit may be performed as a home visit at the provider's discretion without prior authorization provided that there are no additional charges to the department, the recipient, or any party acting in behalf of the recipient.

### 004. *Hearing Aid.*

(a) Prior authorization for dispensing the recommended hearing aid is based upon the Hearing Aid Evaluation Report form, and the Physician's Examination Report form.

(b) The reported audiological and medical information must comply with existing state and federal regulations, program guidelines, and recognized professional standards.

(c) The department's health insuring agent will indicate authorization to dispense the recommended hearing aid by issuing an authorization letter to the designated fitter and dispenser. The provider should verify current Medicaid eligibility on the date of dispensing to ensure payment.

### 005. *Hearing Aids above DHR Maximum Allowable Cost.*

(a) If the recipient prefers a hearing aid above the DHR maximum allowable cost as defined in these rules, the evaluator must submit the following forms: Physician's Examination Report, Purchase of Hearing Aid at Cost Greater than DHR Allowable, and Hearing Aid Evaluation Report.

(b) DHR's health insuring agent will indicate authorization to dispense the recommended hearing aid with an authorization letter to the recipient and the designated fitter and dispenser.

(c) The form for purchase of aid at greater cost than DHR allowable is a certification statement which must be signed by the recipient. The form verifies that:

(1) The recipient was evaluated with and offered an appropriate hearing aid within DHR's maximum allowable fee schedule.

(2) The recipient prefers a hearing aid above the DHR maximum and agrees to pay the difference between the acquisition cost and the DHR maximum.

(3) The balance has been itemized and arrangements have been made to pay the difference.

### 006. *Replacement of Lost or Destroyed Hearing Aids*

(a) Replacement for lost or destroyed hearing aids purchased through the Medicaid Program are available with prior authorization and documentation.

(b) Prior authorization is obtained by submitting a Request To Schedule a Hearing Aid Evaluation, with a signed letter from the recipient or caseworker documenting the circumstances involved in the loss or destruction of the hearing aid. Replacement hearing aids cannot be authorized in documented cases of abuse or neglect.

(c) The provider should indicate on the request to schedule a hearing aid his or her recommendation concerning the necessity for another hearing aid evaluation. The documentation letter from the recipient or caseworker should specify any preference for an exact replacement of the lost or destroyed hearing aid. A current Physician's Examination Report form is required for authorization to dispense replacements for lost or destroyed hearing aids.

### 007. *Replacement of Inappropriate Hearing Aids*

(a) An inappropriate hearing aid is one that no longer provides adequate amplification for the individual needs of the recipient. The replacement of an inappropriate hearing aid is usually associated with a significant decrease in hearing acuity. Replacement requires prior authorization and documentation of necessity. Prior authorization is obtained by submitting a Request To Schedule a Hearing Aid Evaluation, with the following documentation:

- (1) a current Physician's Examination Report;
  - (2) a current audiogram indicating a significant decrease in hearing acuity;
  - (3) a statement from the provider which describes the inappropriateness of the hearing aid and recommends replacement.
- (b) If the replacement request is not associated with a significant decrease in hearing acuity, the provider and the recipient or the recipient's physician or caseworker must submit signed statements which substantiate the inappropriateness of the current hearing aid and the necessity for replacement.

*.008. Repairs.*

- (a) Prior authorization for hearing aid repairs is obtained by the provider submitting an original and one copy of the Authorization for Repairs, or by a telephone request.
- (b) Repair services are available to eligible recipients whose hearing aids were purchased through Medicaid or any other source if the repair is not covered by a warranty, protection plan, or other third party.
- (c) DHR's health-insuring agent will indicate authorization for repairs by letter or telephone to the initiating provider.

Doc. No. 808207

### Services Not Requiring Prior Authorization 326.42.14

The following rules are proposed under the authority of the Human Resources Code, Title II.

*.001. Postfitting Check.* The fitter and dispenser is required to perform a postfitting check of the hearing aid within five weeks of the initial fitting. This postfitting check is considered a part of the dispensing service and is included in the fitting and dispensing fee.

*.002. First Revisit.* At the time of the postfitting check, the fitter and dispenser should encourage the recipient to return for follow-up care. The first revisit includes a hearing aid check and/or additional counseling and is available as needed within six months after the postfitting check.

*.003. Second Revisit.*

- (a) The second revisit includes aided and unaided sound field testing performed by a contracted evaluator according to the guidelines specified for the hearing aid evaluation. If unaided sound field test scores suggest a decrease in hearing acuity, the provider should include pure-tone and speech audiometry on the hearing aid evaluation report.
- (b) The second revisit is available as needed after the postfitting check and the first revisit.

Doc. No. 808208

### Standards for Hearing Evaluations 326.42.15

The following rules are proposed under the authority of the Human Resources Code, Title II.

*.001. Testing Environment.* The ambient noise level in the sound testing environment should not exceed 50dBA or 60dBC.

*.002. Audiometers.* Audiometers must be calibrated annually to meet ANSI 1969 standards. Semiannual audiometer calibration and sound level readings are required for hearing aid evaluations performed as home visits. Audiometers must be equipped with air and bone conduction circuitry, masking, and sound field capabilities with a calibrated speech circuit and VU meter.

*.003. Masking*

- (a) Masking for air-conduction testing is indicated when the difference between the air-conduction thresholds at the same frequency is greater than 40dB.
- (b) Masking for bone-conduction testing is indicated when the air-bone gap at the same frequency in the test ear is greater than 10dB.
- (c) Masking for speech audiometry is indicated when the difference between the speech reception thresholds is greater than 40dB.
- (d) Masking for speech discrimination testing is indicated when the PB level in the test ear is 40dB greater than the speech reception threshold in the nontest ear.

*.004. Hearing Aid Evaluation Definition.*

- (a) The term "hearing aid evaluation" as it appears in these rules refers to the combined audiometric assessment and hearing aid evaluation.
- (b) The audiometric assessment includes air and bone conduction pure-tone testing and speech audiometry.
- (c) The hearing aid evaluation includes unaided sound field testing and aided sound field testing with at least two appropriate arrangements of amplification.
- (d) Unaided sound field testing includes speech awareness thresholds (SATs), speech reception thresholds (SRTs), and speech discrimination ability (PB Quiet) assessed at normal conversational levels (45-65dB HL).
- (e) Aided sound field testing includes speech awareness thresholds, speech reception thresholds, speech discrimination ability assessed at normal levels in quiet and in noise, most comfortable levels (MCLs), and discomfort levels.

*.005. Hearing Aid Evaluation Guidelines*

- (a) The hearing aid evaluation must be recommended by a physician with written medical clearance for the fitting of a hearing aid via the Physician's Examination Report. The recipient's degree of hearing loss must meet the eligibility criteria (45dB average hearing loss in the better ear).
- (b) The Hearing Aid Evaluation Report must include an audiometric assessment and sound field test data for at least two appropriate arrangements of amplification. The report must include sound field test data for the recommended hearing aid in the ear for which it is recommended.
- (c) The Hearing Aid Evaluation Report must provide objective documentation to support improved communication ability with amplification.
  - (1) Aided speech awareness thresholds must be at least 20dB better than the unaided SAT.
  - (2) Aided speech reception thresholds must be at least 15dB better than the unaided SRT.
  - (3) Unaided sound field speech discrimination ability should be assessed at normal conversational speech levels (45-65dB HL) to provide a basis of comparison with the aided PB scores.
  - (4) Aided speech discrimination scores (PB Quiet) assessed at normal conversational levels should approximate the unaided PB Max obtained under earphones.

(5) Aided most comfortable loudness levels (MCLs) should be within the range of normal conversational speech.

(6) Recommendations for poorer ear fittings in terms of speech discrimination ability must be accompanied by supporting rationale, such as limitations imposed by handedness, manual dexterity, prior hearing aid usage, etc.

(7) If conventional sound field speech discrimination testing is not possible, aided versus unaided lipreading scores may be reported utilizing standardized tests such as PB lists or the Utley lipreading test. If the recipient has no language or speech skills, an aided versus unaided warbled pure-tone or narrow band audiogram may be reported on the Hearing Aid Evaluation Report.

(8) If any of the above criteria cannot be met, a narrative report must be submitted which specifically describes the factors influencing or precluding assessment and provides justification for a hearing aid recommendation in lieu of objective test data.

(d) If the Physician's Examination Report or Hearing Aid Evaluation Report do not comply with program guidelines, the provider will be notified in writing. If the necessary information is not supplied within 45 days of notification, authorization for the recommended hearing aid and payment for the hearing aid evaluation will be denied.

Doc. No. 808209

## Standards for Hearing Aids 326.42.16

The following rules are proposed under the authority of the Human Resources Code, Title II.

### .001. Warranty

(a) Hearing aids dispensed through the Medicaid Program must be new and current models which meet the performance specifications indicated by the manufacturer and the individual hearing needs of the recipient.

(b) A new hearing aid is one which has never been used and carries a full 12 month manufacturer's warranty. The manufacturer's warranty must be effective for 12 months after the dispensing date.

(c) Hearing aid repairs must include a six-month warranty.

### .002. Required Package

(a) The maximum allowable fee for the hearing aid includes the acquisition cost of the hearing aid, the manufacturer's postage and handling charges, a receiver or oscillator if needed, all necessary tubing, cords, and connectors, instructions for care and use, and a one month's supply of batteries.

(b) The fitting and dispensing fee includes the postfitting check of the hearing aid within five weeks after the dispensing date.

Doc. No. 808210

## Fee Schedule 326.42.17

The following rule is proposed under the authority of the Human Resources Code, Title II.

.001. *Reimbursement.* The health-insuring agent for the Texas Department of Human Resources makes direct vendor

payments to contracted providers for authorized services according to the maximum allowable fee schedule established by the Board of Human Resources. Claims are processed for payment upon receipt by the health-insuring agent.

Doc. No. 808211

## Program Limitations 326.42.18

The following rule is proposed under the authority of the Human Resources Code, Title II.

.001. *Limitations.* The scope and benefits available through the Hearing Aid Program are determined by statutory and fiscal limitations. The following limitations are currently in effect:

(1) The department may refer to the Texas Rehabilitation Commission persons whose jobs are contingent upon possession of a hearing aid.

(2) Hearing aid purchases are limited to one every 60 consecutive months, except in the case of hearing aids which are lost, destroyed, or inappropriate.

(3) No hearing aid evaluation should be conducted and no claim should be submitted if the recipient does not meet the eligibility criteria specified in these rules.

(4) No payment will be made for evaluations, repairs, or hearing aids for persons under 21 years of age. Persons under 21 should be referred to the Texas Department of Health, Division of Maternal and Child Health, 1100 West 49th Street, Austin, Texas 78756.

(5) No payment will be made for repairs for hearing aids purchased by the Texas Rehabilitation Commission if the recipient is still eligible for services under that program.

(6) No payment will be made for replacement of batteries or cords.

(7) No payment will be made for repairs during the warranty period or if a protection plan is in force.

(8) No binaural fittings are available except in certain documented cases of legally blind, hearing impaired recipients with no other available resources.

(9) U.S. manufactured hearing aids should be considered when the purchase price and quality are comparable to those of foreign manufacturers.

(10) Home visit hearing aid evaluations are permitted only with the written recommendation of the physician.

(11) Hearing Aid Program services do not include auditory training, speech therapy, speech reading, or other types of rehabilitative services.

(12) No hearing aid authorization or payment will be made if the recipient or third party has made a deposit or any payments toward the purchase of a hearing aid. No retroactive reimbursement can be authorized.

Doc. No. 808212

## Qualifications for Participating Providers 326.42.21

The following rule is proposed under the authority of the Human Resources Code, Title II.

.001. *Provider Qualifications.* The following professionals may apply for Hearing Aid Program provider participation as evaluators and/or fitters and dispensers:

(1) Physicians who are currently licensed by the State Board of Medical Examiners to practice the healing arts, and who are free from restrictions.

(2) Audiologists who are currently certified by the American Speech and Hearing Association, and who are free from restrictions, or audiologists who meet the ASHA equivalency requirements. Audiologists contracted as fitters and dispensers must be licensed by the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids and be free from restrictions.

(3) Fitters and dispensers who are licensed by the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids and who are free from restrictions.

Doc. No. 808213

### Contracts 326.42.22

The following rules are proposed under the authority of the Human Resources Code, Title II.

#### .001 Contracting Procedures.

(a) Provider participation is initiated by completing the Application for Participation—Hearing Aid Program.

(b) Qualified individual applicants may be contracted as evaluators and/or fitters and dispensers as indicated by the type of service and licensure or certification information on the application form. Applicants must provide the name of the individual to be contracted and the business name and address, as well as all assumed names under which business or advertising is conducted. Applicants must provide the serial numbers and calibration dates for audiometric equipment to be used for evaluation purposes. If the applicant does not have a commercial sound suite, the ambient noise levels for both A and C scale must be reported on the application form.

(c) The applicant must enter into a written contractual agreement with the department to achieve participating provider status.

(d) The applicant should return the completed application form with two signed contracts to Texas Department of Human Resources, Hearing Aid Program, P.O. Box 2960, Austin, Texas 78769.

(e) After the contract is executed by the department, the provider will be issued a billing number by the department's health insuring agent. The provider will receive an executed contract, a provider manual, and an initial supply of all forms necessary for program participation.

#### .002 Right To Reject or Terminate Contract

(a) The department reserves the right to terminate participating status of any provider who violates the criteria of the Title XIX Hearing Aid Program, state or federal laws, or the Code of Ethical Practice of the provider group. The department also reserves the right to reject for due cause any requests for participation. Due cause includes but is not limited to the following situations:

(1) The information provided on the Application for Participation form or any other material provided in the course of the application is verified to be incorrect, or the applicant refuses to complete all of the elements of the application.

(2) The applicant provided information which is found by the department to be misleading with respect to the applicant's training, place of employment, names under which advertising can be conducted, experience relevant to participation in the Hearing Aid Program, or with respect to other factors which the applicant has submitted as pertinent to participation in the program.

(3) The applicant's license or certification has been suspended and said suspension is in effect during the time the application is being considered.

(4) The applicant's previous provider contract was canceled for cause and an investigation of the applicant's previous Hearing Aid Program activities is pending.

(5) The applicant has been reprimanded by the licensing or certification board. In such cases, DHR will require the applicant to explain the nature of the reprimand and assure the department that past actions will not negatively affect the applicant's participation in the program.

(b) The department may contract with the applicant on a provisional basis.

.003 Contract Appeal. Upon written request, the department will provide a contract appeal to any provider whose participation has been suspended or canceled.

Doc. No. 808214

### Retention of Records 326.42.25

The following rules are proposed under the authority of the Human Resources Code, Title II.

.001 Retention Period. The provider must maintain necessary records to fully disclose the services provided. These records must be retained for five years from the date of service or until all audit questions are resolved, whichever is longer.

.002 Availability of Records. Information about any payments claimed for services or supplies must be made available upon request to the Department of Health and Human Services, or to the Texas Department of Human Resources or its agent.

Doc. No. 808215

### Provider Policies 326.42.26

The following rules are proposed under the authority of the Human Resources Code, Title II.

#### .001 Nondiscrimination Compliance

(a) No payments will be made to any provider unless all care and services are delivered without regard to race, color, religion, age, sex, national origin, or handicap of the recipients.

(b) Written complaints of noncompliance should be made to the commissioner, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, or to the Secretary of Health and Human Services, Washington, D.C., or to both.

#### .002 Freedom of Choice.

(a) Recipients are free to choose any participating physician or contracted provider for the necessary examinations, evaluations, and fittings.

(b) When the recipient demonstrates no preference, the department will provide the recipient with a list of providers who are contracted to perform the requested service.

*.003. Advertising Policy.*

(a) Advertising will not be used to influence the recipient's freedom of choice of providers.

(b) A sign announcing Hearing Aid Program participation may be used in the provider's office. Announcement of participation in the Texas Medical Assistance Hearing Aid Program may be made on radio, television, or in newspapers provided the ad does not in any way circumvent the recipient's freedom of choice by announcing special prices or bargains on hearing aids or services.

*.004. Solicitation Policy.* Providers contracted to render services under the Texas Medical Assistance Hearing Aid Program will not be allowed to solicit participation in the program from any eligible recipient. In all cases, services related to hearing aid evaluations must be specifically requested by the examining physician. Evidence of any activity which may be construed by the department as solicitation may result in the cancellation of the provider's contract.

Doc. No. 808216

## Reimbursement Policies 326.42.31

The following rules are proposed under the authority of the Human Resources Code, Title II.

*.001. Coordination of Benefits.*

(a) The Hearing Aid Program assumes liability only after third party or Medicare benefits are exhausted.

(b) Benefits under the program will be reduced to the extent that they are available through other federal, state, or local programs; through coverage provided by federal or state law; by insurance; or by other third parties responsible for the eligible individual.

(c) Benefits available without cost to recipients from other sources also will be considered as a resource in determining what benefits are available under the Texas Medical Assistance Program.

*.002. Payments by Recipients and Third Parties.*

(a) Under no circumstances should the provider accept any payment or deposit monies from the recipient or third party for any service covered by the program. This policy includes prepayment or deposits toward the hearing aid for which departmental authorization for purchase is being sought. Violation of this policy by the provider, the provider's business associates, or the provider's employee may result in cancellation of the provider's contract.

(b) This policy does not cover services or hearing aids purchased by the recipient or third party prior to the date the recipient requested departmental assistance.

*.003. Fees.* Reimbursement for covered services is provided according to the maximum allowable fee as defined in these rules and established by the Board of Human Resources.

Doc. No. 808217

## Claims Payment Procedures 326.42.34

The following rules are proposed under the authority of the Human Resources Code, Title II.

*.001. Procedures.*

(a) A claim is defined as any and all documents which must be submitted by a provider to obtain reimbursement. Claims will be processed upon receipt by the health-insuring agent for the Texas Department of Human Resources.

(b) Payment is contingent upon Medicaid eligibility on the date of service. Providers are responsible for verifying Medicaid eligibility on the date of service by checking the recipient's current medical care identification card. The individual recipient number is located on the left side of the form and must be included on all claim forms and prior authorization requests.

*.002. Payment for Hearing Aid Evaluations.*

(a) Hearing aid evaluations require prior authorization on the Request To Schedule Hearing Aid Evaluation. The hearing aid evaluation may be performed at any time prior to the expiration date contingent upon Medicaid eligibility on the date of service.

(b) Payment for prior authorized hearing aid evaluations is obtained by submitting the Hearing Aid Evaluation Report, the original Physician's Examination Report, and the claim form to the health insuring agent. The evaluation must comply with the guidelines specified in these rules.

(c) DHR provides reimbursement for evaluations according to the maximum allowable fee as defined in these rules.

*.003. Payment for Home Visit Hearing Aid Evaluations.*

(a) Home visit hearing aid evaluations require prior authorizations on the Request To Schedule a Hearing Aid Evaluation form, and the written recommendation of the examining physician.

(b) Payment for prior authorized home visit hearing aid evaluations is obtained by submitting the Hearing Aid Evaluation Report, the original Physician's Examination Report, and the claim form to the health insuring agent. The hearing aid evaluation must comply with the guidelines specified in these rules.

(c) Home visit hearing aid evaluations are reimbursed according to the maximum allowable fee and DHR's current rate for travel mileage. The round-trip mileage should be entered in the fee section marked "other" on the claim form.

(d) If the hearing aid evaluations were prior authorized as a home visit, travel mileage for the fitting and dispensing service is reimbursable if itemized in the section marked "other" on the claim form.

*.004. Payment for Hearing Aids.*

(a) Hearing aids require prior authorization as indicated by letter to the fitter and dispenser.

(b) Payment for the hearing aid, earmold, and fitting and dispensing fee is obtained by submitting an original and two copies of the Receipt for Hearing Aid form, with a copy of the manufacturer's invoice. The provider should enter and initial the serial number of the aid dispensed on the manufacturer's invoice.

(c) The patient certification statement must include the recipient's original signature. If the recipient is unable to sign his or her name, it must include the recipient's mark and the signature, address, and telephone number of a witness.



Neither the provider nor the provider's office personnel may serve as witness.

(d) Reimbursement for hearing aids is based on the acquisition cost of the hearing aid effective on the date of purchase as verified by the manufacturer's invoice or packing slip. Reimbursement for hearing aids cannot exceed the maximum allowable cost as defined in these rules. If the cost of the preferred hearing aid exceeds the DHR max. num. the recipient must agree to pay the difference.

(e) Reimbursement for the earmold and fitting and dispensing fee is limited to the maximum allowable cost defined in these rules. Additional charges to the recipient for these covered services constitutes a breach of the Medicaid contract.

(f) Additional charges by the manufacturer for necessary hearing aid components must be itemized under the section marked "other" on the claim form and verified by the manufacturer's invoice and price lists. Additional components include external receivers, cords, bone-conduction headbands, telephone coils, compression circuits, and CROS/BiCROS features. An appropriate percentage of the shipping and handling fee may be itemized under the section marked "other" on the claim form if verified by the manufacturer's invoice. If the acquisition cost of the hearing aid plus the additional charges by the manufacturer for necessary components and shipping exceeds the DHR maximum allowable cost, the recipient must agree to pay the difference.

(g) The actual cost of a one month's supply of batteries may be itemized under the section marked "other" on the claim form if the acquisition cost of the hearing aid plus the total of items listed under "other" does not exceed the DHR maximum allowable cost.

#### *.005. Payment for Hearing Aids above DHR Maximum Allowable Cost*

(a) If the recipient prefers a hearing aid above the DHR maximum allowable cost, the evaluator must submit the Physician's Examination Report and the Hearing Aid Evaluation Report, with the form for purchase of hearing aid at greater cost than DHR allowable to obtain prior authorization.

(b) The Purchase of Hearing Aid at Cost Greater than DHR Allowable form is a signed certification statement verifying that the recipient prefers a hearing aid above the DHR maximum and agrees to pay the specified difference between the acquisition cost and the DHR maximum.

(c) The health insuring agent indicates authorization to dispense the preferred hearing aid by letter to the fitter and dispenser.

(d) Payment for hearing aids above DHR maximum allowable cost is obtained by submitting the claim form with the manufacturer's invoice and patient certification statement to the health-insuring agent. DHR's maximum allowable fee should be entered as the fee for the hearing aid and arrangements should be made with the recipient to pay the balance.

*.006. Payment for First Revisit.* Payment for the first revisit is obtained by submitting the claim form with the patient certification statement. Reimbursement is based on the maximum allowable cost as defined in these rules.

*.007. Payment for Second Revisit.* Payment for the second revisit is obtained by submitting the claim form with the Hearing Aid Evaluation Report to the health-insuring agent.

Reimbursement is based on the maximum allowable cost as defined in these rules. The second revisit must comply with the guidelines specified in these rules.

#### *.008. Payment for Repairs.*

(a) Hearing aid repairs require prior authorization from the health-insuring agent by letter or telephone.

(b) Payment for hearing aid repairs is obtained by submitting the claim form with a copy of the manufacturer's repair invoice. Verification of the required six-month warranty must be provided on the repair invoice or entered on the claim form.

(c) DHR reimbursement for hearing aid repairs is based on the actual cost of the repair as verified by the manufacturer's invoice plus the DHR maximum allowable fee for shipping and handling. If the actual cost of the repair exceeds the DHR maximum allowable cost, the recipient must agree to pay the difference. The shipping and handling fee charged by the manufacturer on the invoice is included in the provider's handling fee.

(d) Repair services are not available for hearing aids covered by a warranty, protection plan, or other third party. Repair services do not include replacement cords, tubing, or batteries.

Doc. No. 808218

### Utilization Review 326.42.35

The following rules are proposed under the authority of the Human Resources Code, Title II.

*.001. Overview.* An important aspect of the Hearing Aid Program, as it is in other segments of the Texas Medical Assistance Program, is surveillance and utilization review. Both recipient and provider actions are monitored to ensure compliance with the program's provisions.

#### *.002. Recipient Review.*

(a) Emphasis is on the frequency of services requested, especially requests for repair or replacement of a lost or destroyed hearing aid.

(b) Providers are asked to report to the department instances of hearing aid abuse or neglect of unusual frequency. Providers should refuse requests for changes in hearing aids which are against professional judgment.

(c) Requests honored against professional judgment will become a part of both the recipient's and the provider's computer profiles.

*.003. Provider Review.* Because the Hearing Aid Program is not a diagnostic-treatment program, surveillance and utilization review will be somewhat different than in the other medical programs. Providers will be reviewed on the same basic elements of medical necessity, professionally adjudged necessity, and appropriateness.

*.004. Prepayment Level of Provider Review.* Prior authorization requirements, along with claims review, will serve as sufficient prepayment utilization review in this program.

#### *.005. Postpayment Level of Provider Review.*

(a) Dispensing pattern profiles for each provider will be developed by computer. These profiles will be compared to those of other providers and apparently abnormal practices will be reviewed by professional staff.

(b) Deviations noted in the profiles may involve a single type of service or a combination of services. Indications of possible misutilization include an unusually high number of repairs or replacements and repeated dispensing of hearing aids to unusually large numbers of recipients.

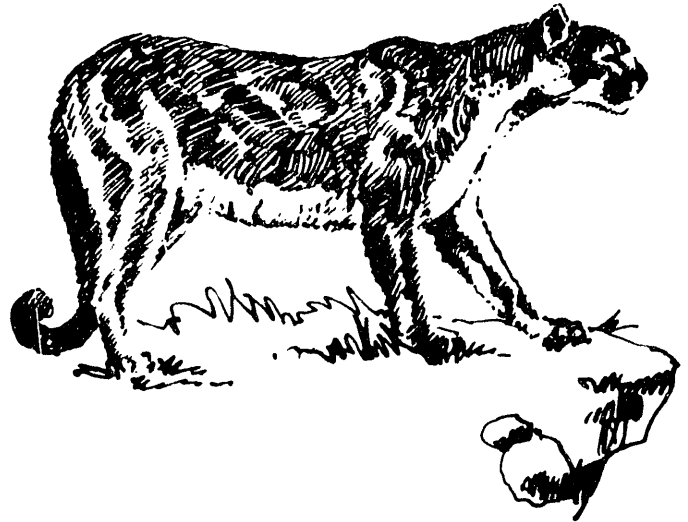
(c) Particular attention will be given to a high frequency of optional supply charges greater than the state benefit limit. Audit information will be used if necessary.

.006. *Actions in Misutilization Cases.* Action in cases of misutilization will vary with the infraction. Actions may include consultative visits, withholding of vendor payments, peer review, cancellation of the provider agreement, or referral for court action as a suspected fraud case. Infractions will be avoided by proper use of professional judgment.

Issued in Austin, Texas, on October 28, 1980.

Doc. No. 808219      Marlin W. Johnston  
                                 Acting Commissioner  
                                 Texas Department of Human Resources

Proposed Date of Adoption: December 5, 1980  
For further information, please call (512) 441-3355.



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.

Upon request, an agency shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement from the agency before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling objections to the agency's decision.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Noncodified."

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## CODIFIED

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### TITLE 22. EXAMINING BOARDS

#### Part IX. Texas State Board of Medical Examiners

##### Chapter 193. Administrative Sanction Procedure

Under the authority of Articles 4496 and 4509, Texas Civil Statutes, the Texas State Board of Medical Examiners has adopted §§193.1-193.4 (386.18.00.001-.004) of this title to read as follows:

§193.1 (386.18.00.001). *Purpose.* The purpose of these sections is to encourage the expeditious resolution or correction of medical practice activities resulting in a violation of the statutes or rules regulating a licensee of the board where the director of the Investigation Division and the secretary of the board concur that the alleged violation is either minor in nature or subject to proper resolution by voluntary restriction or limitation of the authority to practice medicine by the licensee

§193.2 (386.18.00.002). *Approval for Administrative Sanction.* Upon completion of investigation by the Investigation Division, the director of the division shall evaluate the final investigation reports and if he determines that the alleged violations may be properly handled by the administrative sanction procedure, he shall present a summary of the investigation reports and his recommendation to the secretary of the board. The secretary of the board shall determine if the alleged violations are minor in nature or subject to proper resolution by voluntary restriction or limitation of the

authority to practice medicine by the licensee, that the public health and welfare will not be adversely affected in any way by utilization of the administrative sanction procedure, that the public will be served by institution of the administrative sanction procedure in lieu of the disciplinary procedure by the full board following formal filing of complaint and public hearing thereon, and that the matter may be more expeditiously handled by the utilization of the administrative sanction procedure. The secretary of the board shall approve the matter for administrative sanction and notify the licensee as hereinafter set out.

§193.3 (386.18.00.003). *Procedure.* If the secretary of the board approves administrative sanction hearing procedure for the resolution of alleged violations of Article 4505, Article 4590-i, or the rules of the board, the following procedure is to be followed:

(1) The secretary will notify the licensee in writing of the time, date, and place of the administrative sanction hearing. Such notice shall provide sufficient time for the licensee to adequately prepare and arrange for appearance at the site of the hearing but shall not be less than 10 nor more than 40 days following receipt of the notice. Such letter of notification shall inform the licensee of the nature of the alleged violation, shall inform the licensee that he or she may be represented by counsel but need not be necessarily so represented, that the licensee may offer testimony of such witnesses as the licensee may desire, that the hearing will be before a hearings officer, and that the licensee may exercise his or her option to have the matter presented by formal complaint in a public hearing before the full board of medical examiners. A copy of the board rules relating to the administrative sanction hearing shall be enclosed with the notice of the hearing. Notice of the hearing, with enclosures, shall be sent by certified mail, return receipt requested, to the current address of the licensee on file with the Texas State Board of Medical Examiners.

(2) The hearing procedure shall be informal in nature and need not follow the procedure established for disciplinary hearings pursuant to a formal complaint, but the licensee, his or her attorney, and representatives of the Investigation Division of the board shall have the opportunity to question witnesses, make statements as are relevant to the hearing, present affidavits or statements of persons not in attendance, and present such documentary evidence as deemed appropriate by the hearings officer.

(3) The administrative sanction hearing will be conducted by a hearings officer who shall explain to the licensee and his or her counsel these rules relating to the conduct of the hearing, shall swear each witness, question each witness, and afford all parties to the hearing the opportunity to make such statements as are material and relevant. The hearings officer may exclude irrelevant, immaterial, or unduly repetitious evidence.

(4) The hearings officer shall not require the parties to the hearing to offer proof of admissibility of documents and may receive and consider such statements as he deems relevant and material even though such testimony may be hearsay in nature.

(5) The hearings officer may review the file of the Investigation Division but may prohibit review of such file by the licensee or his or her attorney if such review would jeopardize confidential information or jeopardize an ongoing investigation.

(6) Minutes of the hearing shall be taken by an employee of the board, but verbatim testimony shall not be taken. The minutes shall be for the exclusive use of the board and shall not be made available to the licensee, his or her attorney, or any other person.

(7) The hearings officer shall exclude from the hearing room all persons except witnesses during their testimony, the licensee, his or her attorney, board members, and board employees.

(8) At the conclusion of the hearing, or as soon thereafter as is practicable, the hearings officer shall make findings of fact and conclusions of law which shall be recorded in the minutes of the hearing and shall make recommendations for resolution or correction of the matters found in violation of the Medical Practice Act, Article 4590-i, or board rules. Such recommendations may include limitation or cancellation of the licensee's authority to practice medicine; limitation or cancellation of the licensee's authority to possess, prescribe, administer, or dispense drugs or medications; limitation or cancellation of hospital privileges; change or limitation of practice setting or practice organization, the requirement that the licensee submit to care, counseling, or treatment of physicians designated by the secretary of the board as a condition for initial, continued, or renewal of license or other authorization to practice medicine; require the person to participate in a program of education or counseling prescribed by the secretary or recommended by the hearings officer; and require the person to practice under the direction of a physician designated by the secretary of the board for a specified period of time.

(9) Following the recommendations of the hearings officer, and with the advice of counsel if licensee is so represented at the hearing, licensee shall either reject or voluntarily accept the recommendations of the hearings officer. If the licensee accepts such recommendations, the licensee shall execute as soon thereafter as is practicable such letters, agreements, affidavits, or other documents as are necessary to effect the accomplishment of the voluntary acceptance of the recommendations. If the licensee rejects the recommendations of the hearings officer, the matter shall be automatically referred to the Investigation Division for appropriate action.

(10) Following acceptance of the recommendation of the hearings officer and the execution of the necessary documents as provided above, a report of the hearing and the findings made by the hearings officer and the executed documents shall be submitted to the secretary of the board who shall approve or disapprove the recommendations and actions taken pursuant to the administrative sanction hearing.

(11) If the secretary approves the actions taken as a result of the hearing, such notifications as are required by Section 2.10, Article 4590-i, Texas Civil Statutes, and as agreed upon in the affidavit or other document executed by licensee shall be made.

(12) The secretary, the hearings officer, the board employees, and board members shall not disclose the nature of the hearing or the results thereof except as required by Section 2.10 of Article 4590-i, these sections, or order of a court unless such disclosure is authorized by the licensee or his or her attorney; provided, however, that disclosure shall be made in accordance with the voluntary agreements or affidavits executed by licensee and may be made to other state or federal agencies which have jurisdiction or

authorization over aspects of medical practice covered by such limitations or restrictions voluntarily accepted by licensee.

*§193.4 (386.18.00.004). Approval by Secretary and Reporting to Board.* Following recommendation by the hearings officer and upon presentation of a summary of the findings of the hearings officer and documents evidencing licensee's voluntary acceptance of the recommendations, the secretary shall take the following actions:

(1) If the secretary approves the recommendations of the hearings officer and the limitations or other restrictions, if any, voluntarily agreed upon by the licensee, the secretary shall note his approval of such action and make a report at the next meeting of the board for its acceptance or rejection of the administrative sanction report or action concerning the licensee.

(2) The report of the secretary to the board shall include the license number of the physician, the city or county of the physician's practice, and a summary of the action taken and voluntary acceptance of limitation or restriction of license, if any. The report shall not include the name of the licensee.

(3) Upon presentation of the administrative sanction report to the board, the board shall approve or disapprove of the report. If the board approves the administrative sanction action, it shall be noted in the minutes of the board, the investigation file, and the licensee shall be so notified.

(4) If the board fails to approve the administrative sanction action, such failure to approve shall be likewise noted, and the licensee shall be so informed, and the matter shall be referred to the Investigation Division for filing of formal complaint for disciplinary action before the board or other appropriate action. In such event, where voluntary limitation of practice notification has been made under the provisions of Article 4590-i, Section 2.10, or in accordance with these sections, or in accordance with the voluntary agreement of the licensee, such additional notification indicating failure to approve the action by the board shall be promptly made.

Issued in Austin, Texas, on October 24, 1980.

Doc. No. 808160

A Bryan Spires, Jr., M.D.

Secretary-Treasurer

Texas State Board of Medical Examiners

Effective Date: November 17, 1980

Proposal Publication Date: September 19, 1980

For further information, please call (512) 475-0741.

## Part XXI. Texas State Board of Examiners of Psychologists

### Chapter 463. Applications

The Texas State Board of Examiners of Psychologists has amended §463.4 (400.02.00.004) of this title (relating to fees). It was the determination of the board to delete some dates and terms which are no longer relevant. The major change, however, is in the amount of fees to be charged to applicants and the renewal fees to be charged to those already certified and/or licensed.

In 1975, the board increased the application and renewal fees of psychologists for at least two reasons: (1) the board was in need of additional funds to cover the costs of operating its office, and (2) the board wanted to have funds available in the state treasury to illustrate the board's ability to generate funds that could be used to expand its needed services in the areas of investigation, consultation, research, and special projects. The psychological associate fees were not affected during the 1975 revision of the fee schedule.

Since 1975, the board has continued to request that funds be allocated for these purposes. Funds have not been appropriated in the amounts requested because of the constraints of the budgetary system for the state.

The board took notice of the fact that the balance in the Psychologists Licensing Fund has consistently increased from year to year. Consequently, the board requested that a cost management and analysis of the fee structure be done by the board's office personnel. The study revealed that more time was spent on the application process and less time on the renewal process. The major cause of the decrease in time spent on renewals was the computerization of that process over the last three years.

In view of this analysis and the amount of excess funds, the board has amended the fee structure to more closely match the cost of providing these services to the public. Since the psychologists were the ones called upon to provide the additional funds five years ago, it seemed appropriate to reduce their renewal fees while keeping the psychological associate renewal fee at the 1975 level.

The following amendments are adopted under the authority of Article 4512(c), Texas Civil Statutes.

§463.4 (400.02 00 004). *Fees.* Fees for applications for certification, licensure, and health service provider; renewal of certification, licensure, and health service provider; and examination are listed below. None of the fees is refundable.

(1) Psychologist

- (A) application for certification--\$70;
- (B) examination fee--\$60;
- (C) application for licensure--\$50;
- (D) application for health service provider--\$35;
- (E) annual renewal of certification--\$15;
- (F) annual renewal of licensure--\$25;
- (G) annual renewal of health service provider--

\$5.00.

(2) Psychological associate

- (A) application for certification (includes examination fee)--\$60.
- (B) annual renewal of certification--\$15.

Doc. No. 808173

The Texas State Board of Examiners of Psychologists has amended §463.8 (400.02 00 008) of this title, relating to applications, which deals with the experience requirements for licensure and specialty certification as a health service provider. It was the determination of the board to clarify its intent by indicating that a year of supervision (1,500 hours) could not be obtained in less than a calendar year. It was also decided to add a sentence stating the board's policy of accepting experience obtained only after official enrollment in a

doctoral degree program. The board felt it was important to alert applicants for licensure and health service provider status that only experience received during or after training at the doctoral level has begun is accepted. The rationale for this section is that the board does not believe it is possible to acquire proper experience prior to academic training.

The following amendments are adopted under the authority of Article 4512(c), Texas Civil Statutes.

§463.8 (400.02 00 008). *Experience.* A year of experience is defined as a minimum of 1,500 supervised hours obtained in not less than a 12-month period or more than a 24-month period in not more than two facilities or placements. For licensure, the experience requirement must be obtained after official enrollment in a doctoral degree program.

Issued in Austin, Texas, on October 27, 1980.

Doc. No 808174      Patti Bizzell  
Executive Secretary  
Texas State Board of Examiners of  
Psychologists

Effective Date: November 18, 1980

Proposal Publication Date: September 23, 1980

For further information, please call (512) 458-3295.

## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration

##### Subchapter O. Sales Tax Division—State Taxes

Under the authority of Texas Taxation—General Annotated, Article 20.11(A), the Comptroller of Public Accounts has adopted §3.294 (026.02 20.014) of this title to read as follows:

§3.294 (026.02 20.014). *Rental and Lease of Taxable Items\** (20.01(H), 20.01(K), 20.01(P), and 20.01(S)(2), 20.04(O)).

(a) Definitions.

(1) Lease. A transaction in which possession but not title to tangible personal property is transferred for a consideration. In this section, the words "lease" and "rental" are used interchangeably; likewise lessor means rentor and lessee means renter.

(2) Operating lease means a lease contract which gives the lessee use of the leased property for a certain period, while the lessor retains all or substantially all of the risk and rewards of ownership. For the purposes of the sales and use taxes, a contract in the legal form of a lease will be treated as an operating lease unless it meets the definition of a financing lease.

(3) Financing lease means:

(A) A lease contract containing either of the following provisions or conditions at the inception of the contract:

(i) title to the property must be transferred to the lessee at the end of the lease, or

(ii) a nominal purchase option price (a price which is, at the time the contract is executed, estimated to be substantially less than the fair market value of the property at the time the option is to be exercised).

(B) A lease contract containing either of the following provisions or conditions at the inception of the contract will be presumed to be a financing lease:

(i) The lease term is equal to 75% or more of the estimated economic life of the property and the contract makes no provisions for the return of the property to the lessor. For used property, this section does not apply if the beginning of the lease term falls within the last 25% of the total estimated economic life of the lease property, or

(ii) The residual value of the leased property is less than 10% of the property's fair market value at the inception of the lease and the contract makes no provisions for the return of the property to the lessor.

(C) The presumption that the contract is a financing lease may be rebutted by showing that the contract is not merely a security device, that the property will be usable for its intended purpose at the end of the lease term, and that the lessor in good faith intends to reclaim possession of the property at the end of the lease term or to sell or re-lease it at that time for its fair rental or fair market value.

(4) Service contract means an agreement providing both services (labor) and property for a lump sum amount and the element of service is the essence of the transaction. To qualify as a service contract, the services provided must be clearly evident from the terms of the contract and the providing of property must be incidental to the performance of the service. Merely providing maintenance and repair services to a lessee does not convert a lease contract into a service contract.

(5) Property means tangible personal property.

(b) Treatment of leases.

(1) An operating lease will be treated as a lease for the purposes of the sales and use taxes.

(2) A financing lease will be treated as a sale for the purposes of the sales and use taxes.

(3) Operating and financing leases are subject to sales and use taxes.

(4) The lessor may purchase the property provided under the terms of the lease tax-free by issuing a resale certificate to the supplier in lieu of the tax. Tax must be collected from the lessee on all charges contained in the lease which are subject to tax. See subsection (f) of this section for imposition of tax and time for reporting.

(c) Service contracts. The charges for services provided under a service contract will not be subject to sales or use tax. The person providing the service is liable for tax on all property used or consumed in providing the service. See §3.308 (.028) of this title (relating to computers—hardware, software, sales, and service); §3.344 (.064) of this title (relating to mobile telephone and telephone paging services); and §3.324 (.044) of this title (relating to oil, gas, and related well service).

(d) Equipment leased with and without an operator.

(1) Receipts from the lease of equipment without an operator are taxable.

(2) Equipment furnished with an operator for which a single charge is made to the customer shall be presumed a charge for the performance of a service and no tax shall be charged to the customer; however, sales tax will be due on the original purchase price of the equipment. Note. Providing maintenance, repair, or supervision only is not providing an operator.

(A) The presumption set forth above may not be rebutted solely by one party to the transaction. The presump-

tion may be rebutted by the following criteria which establish a lease of equipment:

(i) the customer exercised direct control or supervision over the operator of the equipment, and

(ii) the intent of the agreement was to lease a piece of equipment and separately furnish an operator.

(B) If it is established that a lessor who made a single charge to customers did in fact lease the equipment, the tax will be due on the total charge reduced by the charge attributable to the operator determined from lessor's records. If the charge for the operator cannot be determined from the lessor's records, the comptroller will make a determination of a reasonable operator charge.

(C) Contractors renting equipment for use in the performance of separated contracts owe tax to the equipment rental company. Contractors may not collect tax from their customers on this reimbursable expense item even though the equipment charges to the customer are separately stated from operator charges. See §3.291 (.011) of this title (relating to contractors).

(3) A transaction in which equipment is furnished with an operator and the customer is charged separately for equipment and operator shall be presumed the lease of equipment and the separate furnishing of an operator; the receipts from the separate charge for the equipment are taxable.

(A) If it is established that the separate charge for the lease of equipment is substantially lower than the equipment's fair market rental value, sales tax will be assessed on the fair market value.

(B) If it is established that a lessor who separated charges for equipment and operator nevertheless used the equipment to perform a service, sales tax will be assessed on the original purchase price of the equipment.

(e) Operating and financing lease agreements may contain a variety of charges in addition to the basic rental/lease payment. These charges and their tax consequences are as follows:

(1) Separately stated charges for labor or services rendered in installing, applying, remodeling, or repairing the property being leased are not includable in the lease price and are not subject to tax.

(2) Separately stated charges by the lessor for the transportation of the leased property from the lessor to the lessee and back are not includable in the lease price and are not subject to tax. Charges for transportation of the property from a supplier to the lessor are includable in the lease price and are taxable. Separately stated charges for transportation of property from the supplier directly to the lessee are not taxable. See §3.303 (.023) of this title (relating to transportation and delivery charges).

(3) A charge imposed for the early termination of the lease is includable in the lease price and is taxable.

(4) Under an operating lease, interest charges will be taxable whether or not separately stated unless the interest charge is clearly imposed for late payments or other defaults under the lease.

(5) Under a financing lease, charges for interest by the lessor to the lessee will be taxable unless the rate of interest or the actual interest charged is separately stated in the contract to the customer.

(f) Imposition of taxes; time for filing; credits.

(1) Leases subject to sales tax.

(A) An operating lease executed while the property is within the state is subject to sales tax. Tax will be due on

the total lease amount for the entire term of the lease regardless of where the property is used thereafter unless the lessor delivers the property to an out-of-state destination. Any renewal of the contract, extensions, or options exercised while the property is outside the state will not subject the additional payments to Texas tax unless the property re-enters the state.

(B) A financing lease executed while the property is within the state is subject to sales tax unless delivered by the lessor to an out-of-state destination. Tax will be due on the total amount of the contract regardless of where the property is used thereafter.

(2) Leases subject to use tax. Property brought or shipped into the state for use under the terms of a financing lease or an operating lease will be presumed to be subject to use tax. See §3.346 (.066) of this title (relating to use tax). The use tax will be due on the lease price for the entire term of the lease regardless of where the initial contract was executed. Credit will be allowed against any sales or use tax legally imposed and paid to another state. See §3.340 (.060) of this title (relating to multistate tax credits).

(3) A lessor required to collect sales or use taxes must report the tax based upon the lessor's accounting method used for regular books and records. Any generally recognized method of accounting which correctly reflects the lessor's business operation may be used.

(A) Under an operating lease, tax must be reported in the period in which the rental receipts are considered income under the lessor's method of accounting.

(B) Under a financing lease, tax must be reported on the total receipts in the period in which the receipts are initially included as income under the lessor's accounting method.

(4) The use tax must be reported by the lessee when the lessor is not engaged in business within this state as prescribed by Texas Taxation—General Annotated, Article 20.031(B). The tax must be reported by the lessee based upon the lessee's accounting method used for regular books and records.

(g) Sales of leased property; credit allowed.

(1) When the lessor sells leased property to the lessee and allows credit against the sales price for all or part of the lease payments previously made by the lessee, tax need not be collected on the amount allowed as credit if the lessor has collected and remitted tax on the prior rental payments. The lessor must collect the tax on the balance of the sales price.

(2) When the lessor sells the leased property to a person other than the lessee and allows the lessee credit for a part of the sales price against lease payments previously made by the lessee, tax may not be refunded on the amount allowed as credit. The lessor must also collect the tax on the sales price of the property to the third party.

(h) Assignment of lease payments

(1) A lessor may factor or assign to a third party the lessor's right to receive all lease payments due under the agreement with the lessee. At the time the lease agreement is factored or assigned, tax is due on all remaining lease payments. The lessor is responsible for reporting the tax to the comptroller's department at the time the lease agreement is assigned or factored. No deduction in the amount of tax due and payable by the lessor is allowed if a transfer at a discount is made to a third party.

(i) Sales for resale; resale certificates.

(1) The purchaser of property which is to be held for lease within the United States of America, its territories and possessions, may issue a resale certificate in lieu of the sales tax at the time of purchase. However, if he subsequently uses the property in any manner other than the leasing of it, or display or demonstration, the purchaser becomes liable at the time of such use for use tax based on the original purchase price of the property. See §3.285 (.005) of this title (relating to sales for resale, resale certificates).

(j) Lease of real property with tangible personal property.

(1) If a contract for the lease or rental of real property includes the lease or rental of personal property (such as furniture) as part of the agreement, no sales tax is due on the amount charged the tenant for the lease or rental of the tangible personal property. However, sales tax is due at the time such tangible personal property is purchased by the owner or manager of real estate for subsequent lease or rental of the personal property with the real property.

(2) Sales tax is due on the separate lease or rental of tangible personal property by a person or entity not owning or managing the real property in which such tangible personal property is or will be situated. A resale certificate may be issued in lieu of paying the sales tax at the time of purchase of such tangible personal property for subsequent lease or rental.

For information pertaining to tax on motor vehicle rental receipts, refer to rules promulgated under the Motor Vehicle Sales and Use Tax Act.

Issued in Austin, Texas, on October 24, 1980.

Doc No. 808097      Bob Bullock  
Comptroller of Public Accounts

Effective Date November 14, 1980

Proposal Publication Date September 19, 1980

For further information, please call (512) 475-1720.

Under the authority of Texas Taxation—General Annotated, Article 20.11(a), the Comptroller of Public Accounts has adopted §3.311 (.026.02.20.031) of this title to read as follows

§3.311 (.026.02.20.031) *Auctioneers, Letter of Waiver*

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

(1) Auction or auctioning means the sale by an auctioneer of tangible personal property by competitive bid.

(2) Auctioneer means a person who owns tangible personal property or to whom tangible personal property has been consigned and who offers the tangible personal property for sale at auction.

(b) Responsibility of an auctioneer.

(1) Sales tax is due from the purchaser on the sales price of taxable items sold at auction.

(2) An auctioneer is responsible for collecting and remitting to the comptroller any tax due on the sale of taxable items sold at auction by the auctioneer.

(3) An auctioneer who does not receive payment for the item sold, does not issue a bill of sale or invoice to the purchaser of the item, and who does not issue a check or other remittance to the owner of the item sold by the auc-





(i) 20/30 through 20/40—correctable to 20/30 in each eye and binocularly;

(ii) in excess of 20/40 through 20/100— must be corrected to 20/30 in each eye and binocularly by means of eyeglasses or contact lenses;

(iii) in excess of 20/100 through 20/200—must be corrected to 20/30 in each eye and binocularly by contact lenses and a statement from an ophthalmologist that no ocular disease exists.

(B) Field of vision. Horizontal 60-85 temporally from a central fixation point.

(C) Muscular imbalance. Zero vertical deviation. Horizontal—five prism diopters exophoria at 20 feet, 10 prism diopters esophoria at 20 feet.

(D) Other visual factors. Applicants will be rejected for color deficiencies as determined by Department of Public Safety testing, chronic inflammation of the eye or adnexa, or permanent abnormalities of either eye (including cataracts, corneal opacities, paralysis of ocular muscles, etc.). Loss of either eye will reject

(5) Ears. Normal hearing with each ear is required.

(6) Nose, throat, and mouth. Obstruction to free breathing, chronic asthma, or very offensive breath must reject. The mouth must be free from deformities or conditions that interfere with distinct speech, or that predispose to disease of the ear, nose, or throat. There shall be no disease or hypertrophy of tonsil or thyroid enlargement. Teeth must be clean, well cared for, and free from multiple cavities. The jaws must be free from badly broken or decayed teeth. Pyorrhea will reject

(7) Heart. The action of the heart must be uniform, free, and steady; its rhythm regular, and the heart and vascular system free from organic changes. Organic heart disease will disqualify

(8) Circulation. Blood pressure systolic maximum, 139; diastolic, 89; pulse pressure, 45. A slight variation from these figures may be permissible subject to the discretion of the examining physician. Hypertension that is controlled by medication to within the limits set forth herein is acceptable. The applicant must furnish a medical statement describing the medication and any warnings or cautions for proper safeguards against physical conditioning techniques with a statement furnished by a physician. It is also very important that the training academy and DPS physical training officer know when a trainee is taking medication. A marked tendency to the formation of varicose veins must reject.

(9) Respiration. Must be full, easy, and regular, the respiratory murmur must be clear and distinct over both lungs, and no disease of the respiratory organs may be present

(10) Hernia. Actual or potential hernia in any form must reject

(11) Genito-urinary. Applicants must be free from deformities and must be free from stricture or incontinence of urine. Any acute and all venereal diseases of these organs must reject. Kidneys or kidney must be healthy and the urine normal. Medically accepted laboratory test for venereal disease will be made before permanent appointment

(12) Rectum. Fissures, fistulas, and external or internal hemorrhoids must reject.

(13) Both arms and legs, hands and feet must be present. Must be free from infections of the joints, sprains, stiffness, or other conditions, such as ingrowing nails or hammer-

toes which prevent the proper and easy performance of duty. Great toes must be present in their entirety on both feet. First (index), second (middle), and third (ring) fingers and thumb must be present in their entirety on both hands (may be waived by the director).

(14) Brain and nervous system must be free from defects. Epilepsy or any other condition that may cause loss of consciousness or muscular control must reject.

(15) Applicants must be mentally alert and sound of mind and must be possessed of initiative, intelligence, good judgment, good address, and neatness of appearance.

(16) Applicants for a position with the department must pass the physical fitness tests which are set out by the department.

(17) Applicants with a past medical history of diabetes or syphilis will be rejected.

(18) In all instances where a question may arise as to whether an applicant meets the medical physical standards, the director or his designee shall make the final determination as to whether an applicant is physically qualified for acceptance as a trooper

Issued in Austin, Texas, on October 21, 1980.

Doc. No. 808126

James B. Adams

Director

Texas Department of Public Safety

Effective Date: November 14, 1980

Proposal Publication Date: September 19, 1980

For further information, please call (512) 465-2000.

## Part IX. Texas Commission on Jail Standards

### Chapter 259. New Construction

#### New Jail Design, Construction, and Furnishing Requirements

The Texas Commission on Jail Standards adopts an amendment to §259.83 (217.05.02.073) of this title which discusses the capability to evacuate an inmate from a multistory facility. The wording is being changed to clarify the intended requirement for evacuation of inmates.

This amendment is adopted under the authority of Article 5115.1, Texas Civil Statutes.

§259.83 (217.05.02.073) *Emergency Access. Multistory facilities shall have an elevator or other passageway large enough to accommodate the passage of patient evacuation equipment*

Doc. No. 808079

#### New Lock-Up Design, Construction, and Furnishing Requirements

The Texas Commission on Jail Standards adopts an amendment to §259.154 (217.05.03.044) of this title which provides for safety vestibules at inmate living area and dayroom. This will correct a typographical discrepancy and update existing requirements.

This amendment is adopted under the authority of Article 5115.1, Texas Civil Statutes.

§259.154 (217.05.03.011) *Safety Vestibules*. Safety vestibules shall be provided for each inmate living area and dayroom used for confinement of three or more inmates within the security perimeter.

(1) Safety vestibules shall have one or more interior doors and a main entrance door.

(2) All doors shall be arranged to be locked, unlocked, opened, or closed by control means located outside the inmate living area and safety vestibule.

Doc No 808080

The Texas Commission on Jail Standards adopts an amendment to §259.178 (217.05.03.068) of this title which discusses the capability to evacuate an inmate from a multistory facility. The wording is being changed to clarify the intended requirement for evacuation of inmates.

This amendment is adopted under the authority of Article 5115.1, Texas Civil Statutes.

§259.178 (217.05.03.068) *Emergency Access*. Multistory facilities shall have an elevator or other passageway large enough to accommodate the passage of patient evacuation equipment.

Doc No 808081

## New Low-Risk Design, Construction, and Furnishing Requirements

The Texas Commission on Jail Standards adopts an amendment to §259.262 (217.05.04.062) of this title which discusses the capability to evacuate an inmate from a multistory facility. The wording is being changed to clarify the intended requirement for evacuation of inmates.

This amendment is adopted under the authority of Article 5115.1, Texas Civil Statutes.

§259.262 (217.05.04.062) *Emergency Access*. Multistory facilities shall have an elevator or other passageway large enough to accommodate the passage of patient evacuation equipment.

Doc No 808082

## Chapter 261. Existing Facility

### Existing Jail Design, Construction, and Furnishing Requirements

The Texas Commission on Jail Standards adopts an amendment to §261.72 (217.07.01.072) of this title which discusses the capability to evacuate an inmate from a multistory facility. The wording is being changed to clarify the intended requirement for evacuation of inmates.

This amendment is adopted under the authority of Article 5115.1, Texas Civil Statutes.

§261.72 (217.07.01.072) *Emergency Access*. Multistory facilities shall have an elevator or other passageway large enough to accommodate the passage of patient evacuation equipment.

Doc. No. 808083

## Existing Lock-Up Design, Construction, and Furnishing Requirements

The Texas Commission on Jail Standards adopts an amendment to §261.167 (217.07.02.067) of this title which discusses the capability to evacuate an inmate from a multistory facility. The wording is being changed to clarify the intended requirement for evacuation of inmates.

This amendment is adopted under the authority of Article 5115.1, Texas Civil Statutes.

§261.167 (217.07.02.067) *Emergency Access*. Multistory facilities shall have an elevator or other passageway large enough to accommodate the passage of patient evacuation equipment.

Doc No 808084

## Existing Low-Risk Design, Construction, and Furnishing Requirements

The Texas Commission on Jail Standards adopts an amendment to §261.251 (217.07.03.061) of this title which discusses the capability to evacuate an inmate from a multistory facility. The wording is being changed to clarify the intended requirement for evacuation of inmates.

This amendment is adopted under the authority of Article 5115.1, Texas Civil Statutes.

§261.251 (217.07.03.061) *Emergency Access*. Multistory facilities shall have an elevator or other passageway large enough to accommodate the passage of patient evacuation equipment.

Doc No 808085

## Chapter 263. Life Safety

### Design and Materials

The Texas Commission on Jail Standards adopts an amendment to §263.24 (217.08.02.014) of this title to specifically prohibit flammable mattresses within detention facilities. This amendment will establish a time for detention facilities to comply with the requirement for fire resistive furnishings.

This amendment is adopted under the authority of Article 5115.1, Texas Civil Statutes.

§263.24 (217.08.02.014) *Construction Materials and Furnishings*. Construction material as well as furnishings and fittings shall consist of noncombustible or low hazard content material only. Fire resistant and nontoxic mattresses only (pillows where furnished), to include the core and ticking, shall be used. Ticking should be antibacterial, stain resistant, and easily cleaned. Facilities shall replace existing mattresses that are not fire resistant and nontoxic when they become unserviceable but in all cases no later than August 31, 1981.

Issued in Austin, Texas, on October 22, 1980.

Doc. No. 808086

Steve Shuttle

Chairman

Texas Commission on Jail Standards

Effective Date: November 13, 1980

Proposal Publication Date: August 26, 1980

For further information, please call (512) 475-2716.

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## NONCODIFIED

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### Texas Education Agency

#### Comprehensive Instruction

#### Allocation of Vocational Teacher Units 226.32.33

The Texas Education Agency has amended Rule 226.32.33.020 concerning the allocation of vocational teacher units. The amendment added a table showing the minimum number of students and classes and the number of months for the allocation of vocational teacher units in the various vocational education programs. The table was previously contained in the State Plan for Vocational Education. The amended rule also provides for the allocation of shop and pre-employment laboratory units on a 10 month or 11 month basis.

The rule is adopted with changes from the text proposed as a result of public comment received during the rulemaking process. In Subsection (b)(2) the words "occupational experience programs" are used instead of "farming programs and supervised work experiences." In subsection (b)(14), the board deleted the provision that the determination whether shop and pre-employment laboratory units will be 10 or 11 months shall rest with the teacher occupying the unit. The numbers of days for operation of an 11 month unit has been corrected in subsection (b)(15) to read 202 days rather than 210. The shop and pre-employment laboratory section of the chart included in the rule has been edited for greater clarity. The correct number of units, minimum students, and classes and numbers of months for vocational education for the handicapped classes have been added, also in response to public comment received.

This rule is amended under the authority of Sections 11.24 and 16.103, Texas Education Code.

#### 020 Eligibility for a Vocational Teacher Unit

##### (a) Policy

(1) Each school district having a four year accredited high school shall be eligible under policies and procedures of this series for two vocational teacher units to conduct one or more vocational programs provided there is a need thereof, and provided the programs are on the current list of courses certified by the associate commissioner for occupational education and technology.

(2) In addition to these teacher units, other units may be allotted according to the needs determined by the job opportunities in the area served by the schools approved by the commissioner of education.

(3) A district having an accredited high school which qualifies, under policies and administrative procedures of this policy, for less than one vocational teacher unit may be allotted a fractional part of a unit which entitles the district to employ a part time vocational teacher.

##### (b) Administrative procedure.

(1) Program standards. To establish eligibility for a vocational unit, or fractional part of a unit, the applying school agrees to meet and maintain the standards of the cur-

rent State Plan for Vocational Education and policies of the State Board of Education. The unit is used for conducting vocational subjects only, except as otherwise provided in program standards.

(2) Supervision, coordination, and follow up. The school schedules time for supervision, planning, organizing, conducting, and coordinating the program by vocational teachers of vocational students in their required supervised occupational experience programs, home experience programs, or part time employment and on the job training in cooperative part time programs. The school agrees to maintain a follow up record of vocational students completing the program or graduating. In addition, the school maintains an inventory of equipment and tools which were purchased with the financial assistance of the Texas Education Agency.

(3) Accreditation requirement. To be eligible for a whole or fractional vocational teacher unit, a district must operate a four year accredited high school, or be certified as a four year accredited high school during the current school year by the commissioner of education.

(4) Justification of existing units. Before a four year accredited high school is eligible for consideration for a new or additional vocational teacher unit, or fractional part of a unit, it justifies reallocation of approved existing units in the same vocational field under Rule 070, Reallocation of Vocational Teacher Units, and is eligible for an additional or fractional part of an additional unit under the formula in Rule 090, Maximum Eligibility for Vocational Teacher Units. In addition to the eligibility requirements, a school desiring to expand vocational programs submits, by May 1 each year to the Department of Occupational Education and Technology in their annual program plan, a request for new, additional or redirected units.

(5) Diversification of programs. The Texas Education Agency desires to assist districts in providing instruction in each of the several occupational programs for which there is a need. Accordingly, consideration is given to applying schools having no vocational teacher unit in one or more of the programs, provided there is a need for such program or programs, before consideration is given to requests for additional or fractional units in the same vocational fields.

(6) Annual school district program plans. Requests for vocational units or fraction thereof are a part of the annual program plan for vocational education of the school district. Applications are considered in the light of the number of eligible students having a desire to enroll in the program, needs of the students and the community for the programs, facilities the school will provide for the program, and evidence of a five year plan for vocational education. In addition the school must give assurances that instructional material and equipment will be provided for effective operation of the program.

(7) Evaluations. Continuing need for programs conducted by a school is determined upon the basis of evaluations of the quality and effectiveness of programs, as well as the ability of the school to justify reallocation of vocational teacher units. In programs of homemaking education, preparing high school students to become homemakers, annual evaluations of the quality and effectiveness of the programs are required to be made by the school district, utilizing evaluation instruments approved by the Texas Education Agency.

(8) **Approved courses.** Courses to prepare students for occupations, as identified in the certified list of courses for in school students, published annually by the associate commissioner for occupational education and technology, are eligible for approval when justified. When courses to prepare students for other occupations are contemplated, prior approval must be made by the Department of Occupational Education and Technology. Each proposal must be submitted by the superintendent of schools for review by the associate commissioner of occupational education and technology, working with the staff of the Division of Public School Occupational Education and the Division of School Accreditation. After completion of the review, the applying school will be notified as to acceptability of this proposal in relation to program accreditation and approval. When an occupation other than those listed in each of the program standards is contemplated to be included in a program, prior approval

must be obtained from the Department of Occupational Education and Technology. Each proposal must be submitted by the superintendent of schools for review by the associate commissioner for occupational education and technology, working with the staff and directors of vocational programs.

(9) **Assignment of units to campuses.** Assignment of an approved vocational teacher unit to a certain campus of a school district must be made only on the basis of need of students enrolled in the school for the vocational course and the ability of the campus unit to provide adequate instructional facilities.

(10) The minimum requirements and standards for the approval of new vocational units by programs and by type of class are set forth in the table below. Paragraphs (11)-(17) provide additional information on requirements set out in the table.

## REQUIREMENTS AND STANDARDS OF NEW VOCATIONAL TEACHER UNITS

Programs	Number of Units	Minimum Number of Students	Minimum Number of Classes	Number of Months
<u>Agriculture</u> (see paragraph 11)	1/2**	15	1	12
Production	3/4	22	2	12
Combination Courses:	1	30	2	12
Production and Cooperative (see paragraph 15) (one class each minimum)	2*	72	2 each unit	12
Production and Pre-employment Laboratory (one class each minimum)	3 or more*	40 each unit	2 each unit	12
<u>Homemaking</u> (see paragraph 12)	1/2***	15	2	10****
Homemaking Education (Useful)	3/4	22	2	10****
Combination Courses: (Maximum of one unit in each course per school campus) (see paragraph 17)	1	30	3	11
Homemaking and Cooperative (see paragraph 15)	2	88	3 each unit	11
Homemaking and Pre-employ. Lab.	3 or more	56 each unit	3 each unit	11
***** <u>Shop and Pre-employment Laboratory</u> (Two and three hour classes)	1/2	15	1	10
	1	30	2	10 or 11
Agriculture, Distributive, Home- making, Industrial, Office, Health Occupations, Coordinated Vocational Academic Education	2*	72 (CVAE 60)	2 each unit	10 or 11
	3 or more*	40 each unit (CVAE- 30 each unit)	2 each unit	10 or 11
Vocational Education for the Handicapped	1/2	12	1	10
	1	15	2	10 or 11

\* When located on the same school campus for multiple units in the same course.

\*\* For Production Agriculture only.

\*\*\* For Useful Homemaking only.

\*\*\*\* See paragraph 13.

\*\*\*\*\* See paragraph 14.

Programs	Number of Units	Minimum Number of Students	Minimum Number of Classes	Number of Months
Cooperative Part-time (see paragraph 15)  Agriculture, Distributive, Home-making, Industrial, Office, Health, Coordinated Vocational Academic Education, and Handicapped	1/2	15	1	10****
	3/4	22	2	10****
	1	30	2	11
	2*	72	2 each unit	11
	3 or more*	40 each unit	2 each unit	11
Combination Cooperative and Pre-Employment Laboratory (Minimum one class each) (see paragraphs 15 and 16)  Agriculture, Distributive, Homemaking, Office	3/4	22	2	10
	1	30	2	11
	When multiple units are requested for a single campus, a description of their intended use shall be included with the request.			

\*When located on the same school campus for multiple units in the same course.

\*\*\*\* See paragraph 13.

(11) Agriculture. A unit shall be operated on a 12-month basis. A 3/4 or 1/2 unit shall operate on the same basis as a full unit, with the school agreeing to pay the portion of salary not allowed from the Foundation School Program Fund and assigning the teacher full time in vocational agriculture. A vocational agriculture teacher in either a full unit or fractional part of a unit may be assigned one study hall period each school day provided he or she is teaching no more than three class hours of vocational agriculture per day. If with one study hall assignment he or she will have sufficient time to carry out the full scope of the program. This precludes the assignment of nonvocational agriculture subjects, bus driving, coaching, physical education, principalships, or part time principalships. Vocational agriculture teachers may not be assigned extracurricular activities that exceed the amount assigned other teachers who are carrying a full teaching load.

(12) Homemaking. A full unit shall be allocated for 11 consecutive school months. Upon special request from the superintendent, a full unit may be allocated for 10 months. In each full unit allocated, a minimum of two class periods per school day shall be scheduled for each teacher for organization and supervision of the required home experience programs of students, providing programs of instruction for young and adult homemakers, sponsoring the Future Homemakers of America and Young Homemakers of Texas organizations in the school, securing and preparing instructional materials, compiling reports, and performing

other necessary duties related to this program. A teacher employed in a full unit, or in a fractional part of a unit approved for 11 months with the school paying the portion of salary not allowed from the Foundation School Program Fund, may be assigned one study hall period each day, or one vocational homemaking class for eighth grade students, or one class period for counseling with students and school personnel on nutrition, provided he or she is teaching no more than three 55 minute classes of vocational homemaking education composed of high school students. If with one of these assignments he or she will have sufficient time to carry out the full scope of the program for which the unit or fractional unit is allocated or reallocated. This precludes assignment of a teacher to nonvocational homemaking subjects, management or operation of food service in the school lunch programs, coaching, or physical education. Vocational homemaking teachers may not be assigned extracurricular activities that exceed the amount assigned other teachers who are carrying a full teaching load.

(13) Application may be considered for allocation of a 3/4 or a 1/2 unit on an 11 month basis, with the applying school agreeing to pay the portion of salary not allowed from the Foundation School Program Fund, and assigning the teacher full time in this program.

(14) Shop and pre-employment laboratory. A unit with the teacher assigned full time in the program is allocated on a 10- or 11 month basis. A 1/2 unit is allocated on a 10 month basis with the teacher assigned for 1/2 time each

school day in conducting at least the minimum number of classes required, an hour in planning, organizing and supervising the vocational projects of students enrolled in the program, organizing instructional materials, and performing other necessary duties related to this program.

(15) Cooperative part time and combination units. A unit shall be operated for 202 days (11 consecutive months) beginning 19 working days in advance of the date all 10 month teachers report for duty prior to the beginning of the school term for the district, and ending not later than the last day all 10 month teachers in the district are on duty for the school year. A teacher employed in a full unit, or in a fractional part of a unit approved for 11 months with the school paying the portion of salary not allowed from the Foundation School Program Fund, may be assigned one study hall period each school day provided he or she is teaching no more than two classes in this program. This study hall assignment must not be scheduled at a time that interferes with the coordination responsibilities of the teacher.

(16) Combination cooperative and pre-employment laboratory. A unit in this combined program shall be allocated on an 11 month basis. A 3/4 unit is allocated on a 10 month basis. When at least 1/2 of the program is in cooperative part time training, an application may be considered for allocation of a 3/4 unit on an 11 month basis with the applying school agreeing to pay the remaining portion of salary and assigning the teacher full time in this program.

(17) Classes in each type of combined program must be conducted separately.

Issued in Austin, Texas, on October 23, 1980.

Doc. No. 808078      A. O. Bowen  
Commissioner of Education

Effective Date: November 13, 1980  
Proposal Publication Date: July 8, 1980  
For further information, please call (512) 475-7077.

## Instructional Development

### Program Guidelines for Administration of Title IV, of the Elementary and Secondary Education Act, As Amended by Public Law 95-561 226.36.95

The Texas Education Agency has adopted Rules 226.36.95.101-115, the program guidelines for administration of programs under Title IV of the Elementary and Secondary Education Act, as amended by Public Law 95-561.

Public review and discussion of the proposed rules were held. The title of the subchapter has been amended for clarification. The rules themselves are adopted with no changes from the text as proposed.

These rules are promulgated under the authority of Section 11.02, Texas Education Code.

#### 401. Part D. Guidance, Counseling, and Testing. Purpose.

(a) Proposals will be accepted from local education agencies for activities that will improve the guidance, counseling, and testing program, kindergarten through 12. Projects designed to develop new approaches to fulfilling the purposes described below will be encouraged.

(b) In accordance with Sections 441-443 of the Act, funds available under Part D may be used to support projects for the:

(1) development and demonstration of developmental, sequential kindergarten through grade 12 guidance, counseling, and testing program for all students (including educationally deprived, gifted/talented, bilingual, handicapped). Projects should include:

(A) development and demonstration of the effects of an elementary counselor on each elementary school campus and a counselor-student ratio of one to 350 at the secondary level.

(B) activities to encourage the participation of parents in the growth, development, and education of their children.

(C) development of comprehensive assessment programs including the selection, administration procedures, and interpretation of assessment results as a part of a sequential developmental guidance program in both public and private nonpublic schools.

(2) improvement in professional proficiency of elementary and secondary school personnel in guidance, counseling, and testing.

(3) continuation of existing components for guidance, counseling, and testing in the regional education service centers.

(c) Among these purposes for project funding, priorities (4.1) have been established by the Texas Education Agency for purposes of making funding decisions.

#### 402. Project Duration.

(a) Projects will be approved for Title IV, Part D support which describe a three-year project plan. Should it become necessary to change the program during this period the program design may be amended.

(b) Although the program design will describe a three-year period, the funding of the program will be on an annual basis.

(c) If either the program or budget require change, an amendment must be filed with the Texas Education Agency and approved prior to the implementation of the proposed changes.

#### 403. Types of Projects.

(a) Developmental- the development and testing of ideas, techniques, and services which will meet a guidance priority need of students in Texas.

(b) Letter of agreement- entry into a formal agreement between the agency and the regional education service center to meet the Division of Guidance Services' program objectives which address the priorities.

#### 404. Priorities for New Projects.

(a) New proposals in the below listed priority areas should be focused on all students including handicapped, educationally disadvantaged, limited English speaking students and should include kindergarten through grade 12.

(b) Priorities for developmental projects. The term "developmental projects" means the development and testing of ideas, techniques, and services which are new and not presently available to a geographic area or school district.

(1) Educational, career, and social goals- development of guidance programs based on student outcome stated guidance plans, kindergarten through grade 12 which includes the use of improved counselor to student ratios to dem-

onstrate the potential of guidance, counseling, and testing practices in preparing students to achieve educational, career, and social goals.

(2) Parent participation--development within a sequential, developmental kindergarten through grade 12 guidance program, of a program for parent participation in and understanding of the growth, development, and education of students

(3) Comprehensive assessment program-- development of comprehensive assessment programs including the selection, administration procedures, and interpretation of assessment results as a part of a sequential, developmental guidance program in both public and private nonprofit schools.

(c) Each proposal should address all aspects of the selected priority (or priorities) and should result in guidance program models and in program guides which have been tested in actual use and have data showing their effectiveness.

(d) Priorities for a letter of agreement. The term "letter of agreement" means an agreement to develop and test ideas, techniques, and services which are compatible and supportive of the Division of Guidance Services' program objectives.

(1) Skills training-- provide skills training for guidance professionals, preprofessionals and paraprofessionals at the elementary, middle junior high, and high school levels and from all funding sources including compensatory, vocational, and special education.

(2) Assessment-- development of workshop models for the assessment process in LEAs including the development of procedures for the administration, interpretation, and utilization of statewide assessment information to various publics.

(3) Student outcome stated plans-- to provide technical assistance in cooperatively developed kindergarten through 12 student outcome stated guidance plans in LEAs. These written plans will be completed and approval obtained from the superintendent and LEA Board of Trustees.

(4) Guidance program needs of special populations-- provide technical assistance to LEAs in the development of programs to meet their guidance needs and the needs of their special populations, to include the handicapped, educationally disadvantaged, limited English speaking students, and gifted and talented students.

(5) Information exchange-- work cooperatively with colleges and universities to exchange information on preservice needs and activities of counselors, visiting teachers, and school psychologists.

(6) Career guidance-- collaborate with vocational, general, and special education so that all students may receive career guidance.

(7) Professional personnel-- professional personnel, properly certified, will carry out the guidance, counseling, and testing activities as they pertain to the guidance component's goals and objectives.

(8) Professional development-- the development of a training program for practicing counselors which will provide for the updating of professional skills to be offered by instructors who are qualified guidance professionals.

(c) Each letter of agreement should provide for

(1) meeting each of the program objectives,

(2) meeting the professional personnel qualifications.

*405. Distribution of Funds* (Part D funds are made available to provide comprehensive guidance, counseling, and testing programs in elementary and secondary schools.) Procedures will be used to ensure that local education agencies have an opportunity to compete for available funds on an equitable basis. Personnel from each regional education service center have been informed about the various aspects of the application process and are prepared to assist local school districts in the development of project applications.

#### *406. Applicant Eligibility*

(a) General eligibility. A project proposal shall be submitted only by a public local education agency serving elementary and secondary level school students. Each local education agency which desires to participate in the Title IV, Part D funding shall submit to the Texas Education Agency a general application containing such assurances as may be required by the Texas Commissioner of Education.

(b) Private school consultation. The application of a local educational agency may not be approved unless evidence is submitted that in designing the proposal for which funding is sought the needs of students attending nonprofit private schools located within the geographic boundaries of the local education agency have been taken into account through consultation with private school officials and that such private school students will be given an opportunity to participate as described in Section 4.7.

(c) Consultation with other groups. Applicants may not receive a grant for purposes of developing and implementing model plans for improving school management and for coordinating available resources unless such proposals have been developed in consultation with and have been approved by a committee composed of administrators, teachers, other staff at the school, and parents whose children attend the school where such project is to be developed and implemented.

#### *407. Participation of Students Enrolled in Private Schools*

(a) Students in a local education area attending a nonprofit private school located in a local education agency's geographic boundaries must be provided an opportunity to equitably participate in projects funded with Title IV, Part D. Such participation will be consistent with the needs of such students as determined through consultation with private school officials and other means, and as their participation is consistent with concentration of programs or projects on a particular student population, attendance area, grade or age level. Per pupil expenditures for public and private students shall be equitable, and shall be for the provision of secular, neutral, and nonideological services and assistance.

(b) The control of funds and title to materials, equipment, and property shall be with the local education agency. Administration of the total project shall be the responsibility of the local education agency. All project employees shall be employed and supervised by the local education agency. All contracted persons providing services to the project shall be under the control and supervision of the local education agency.

*408. Indirect Cost* Indirect costs may be allowed for the operation of a project provided the costs do not exceed the restricted rate established with the Texas Education Agency for the applicable federal fiscal year.



#### 409. Dissemination and Training.

(a) Applicants may not use Part D funds for dissemination or training of personnel in other states or territories. Travel funds and salaries of personnel cannot be approved for attendance at meetings outside the state where the attendance at such meetings includes the distribution or dissemination of information about the applicant's Title IV, Part D project.

(b) Cost for training and/or dissemination of information to personnel within the state but outside the applicant's geographic boundaries may not exceed 10% percent of the applicant's grant award. Priority will be given to providing information and training to personnel within the applicant's geographic area.

410. *Criteria for Review and Approval of Projects.* The following criteria will be used in reviewing project proposals submitted from local education agencies. The project proposal should address each criterion with attention and care to ensure that sufficient detail and explanation are provided. The criteria parallel the review process and are critical factors in developing an acceptable project proposal.

#### 411. New Proposals.

(a) Proposals which will be submitted for first time funding during 1980-81 may be one of two types: developmental or letter of agreement. Each type will have a different review process.

(b) Developmental proposals. This type of proposal may be recommended for one to three years operation subject to available funds, annual evaluation findings, and the negotiation of an annual budget.

(1) Review process for developmental proposals. The review process for this type proposal will be as follows:

(A) Each developmental proposal will be rated by a minimum of three Texas Education Agency staff members and other qualified reviewers as needed.

(B) A report to the full advisory council will be made for each project.

(C) The advisory council will recommend to the commissioner projects to be funded, the level for first year funding, and the level of funding for the full life of the project.

(D) Projects will be selected for negotiation based on these ratings.

(E) The commissioner will make a final determination on projects to be funded.

(2) Criteria for developmental proposals.

(A) Needs assessment—eight points. Needs assessment should determine what serious educational needs will be met for learners or staff. Information about the needs of students or staff should lead to a plan to attain the objectives. The proposal:

(i) describes the existing status of learners or other target populations.

(ii) describes the process used to determine the existing status;

(iii) defines the desired status for each target population.

(iv) describes the discrepancy between the existing and the desired status of each target population (need);

(v) states how the proposal addresses local educational priorities within the context of the Title IV-D priorities;

(vi) states how the needs assessment process involved appropriate public and private school personnel;

(vii) contains evidence that information from research and other studies has been reviewed prior to developing a plan to meet identified needs.

(B) Objectives—six points. Objectives must flow directly from the needs assessment. They should reflect the development of products (guidance program models and program guides, in-service training packages, etc.) and the testing of such products. These objectives:

(i) are meaningful in terms of producing useful products.

(ii) are measurable in terms of accomplishments.

(iii) provide time period during which they are to be achieved;

(iv) describe the criteria for measuring their accomplishments.

(v) provide for tangible products or outcomes that can be effectively replicated (completed guidance program, program guides, and/or manuals for staff development which have been tested in actual use).

(C) Activities—13 points. The activities must flow directly from the objectives. They must be appropriate, comprehensive, and directly related to the attainment of the objectives. This section:

(i) contains activities that clearly point out specifically what will be done to achieve successfully the objectives.

(ii) makes use of practices that are programatically realistic and effective.

(iii) describes practices that are economically feasible and effective.

(iv) provides for tracking attainment of the activities.

(v) contains evidence of appropriate participation of nonprofit private schools and persons broadly representative of cultural and educational resources within the local education agency in planning and implementing activities.

(vi) provides evidence that similar or related practices and programs have been considered in justifying the need for further developmental activities.

(D) Project management—eight points. Project management should reflect the relationship between program planning and budget and the processes for ensuring that resources are managed effectively in implementing activities and accomplishing the objectives. This section:

(i) identifies staff and/or consultants to carry out activities and describes the major responsibilities and qualifications of each.

(ii) provides a description of how the project will be managed and administered by the applicant.

(iii) shows how the project is integrated with or related to existing programs and resources.

(iv) contains a programmatic description which is related to the detailed first-year budget and a general budget for each additional year of proposed operation.

(E) Evaluation—six points. Evaluation should determine the extent to which activities have been completed, objectives accomplished, and products tested. It should provide information which can be used in strengthening the project. The proposal:

(v) has an evaluation plan which addresses the project's stated objectives.

(vi) provides for the evaluation of developed products;

(vii) describes procedures and techniques for collecting and analyzing data which will ensure an adequate evaluation;

(viii) contains timelines which provide for interim and final evaluations of both process and products

(F) Dissemination - five points. Dissemination includes ways of informing both the school and the community about the project and making available to other educators information relating to program operations and accomplishments. This information gathering includes documenting project operation. The proposal

(i) describes how the campus, the district, and the community will be kept informed of the project;

(ii) describes how the operation and accomplishment will be documented.

(G) Overall proposal value - nine points. A maximum of nine points may be given by the reader for the educational value of the idea or concept presented in the proposal in addressing needs of students

(1) Letter of agreement proposals. This type of proposal describes a formal agreement between the agency and the region education service center to meet the Division of Guidance Services' program objectives which address the priorities. It is recommended that this type of proposal be written to describe a three year project plan. Although the project plan will describe a three year period, the funding of the project will be on an annual basis.

(A) Review process for this type of proposal will be as follows:

(A) Each letter of agreement proposal will be reviewed by a minimum of three Texas Education Agency staff members and other qualified readers as needed.

(B) Based on this review, projects will be rank ordered by mean scores and categorized by geographic distribution.

(C) Analysis of all projects will be provided to the Educational Improvement Advisory Council for consideration of funding alternatives within the limits of funds available.

(D) The advisory council will recommend to the commissioner the funding alternative which appears to be most equitable in terms of quality of projects and geographic distribution.

(E) The commissioner will make a final determination on projects to be funded.

(2) Criteria for letter of agreement proposals.

(A) Needs assessment- eight points. Needs assessment should determine what serious education needs will be met for learners and/or other target populations through the use of the Division of Guidance Services' objectives. Information about student or staff needs should lead to a plan to attain the objectives. The proposal

(i) describes the existing status of learners or other target populations;

(ii) describes the process used to determine the existing status;

(iii) defines the desired status for each target population;

(iv) describes the discrepancy between the existing and the desired status for each target population (needs);

(v) states how the proposal addresses local educational priorities within the context of the Title IV-D priorities;

(vi) states how the needs assessment process involved appropriate public and nonpublic school personnel.

(B) Objectives- six points. Objectives must flow directly from the needs assessment. They should include the results which the project will seek to achieve. These objectives

(i) are meaningful, and will attain measurable progress toward meeting identified needs of students or staff and include the following elements:

(I) population;

(II) behavior, action, or performance that is expected at the end of the project;

(III) time period during which the objectives are to be achieved; and

(IV) criteria for measurement.

(ii) clearly delineate that the project will make use of proven programs or practices not previously implemented for the given student population, grade, or age level in the proposed attendance areas.

(C) Activities - 13 points. The activities must flow directly from the objectives. They must be appropriate, comprehensive, directly related to the attainment of the objectives. This section

(i) contains activities that clearly point out specifically what will be done to achieve successfully the objectives;

(ii) makes use of practices that are program matically realistic and effective;

(iii) describes practices that are economically feasible and objective;

(iv) contains evidence of appropriate participation of nonprofit private schools and persons broadly representative of cultural and educational resources within the local education agency in planning for implementing the activities.

(D) Project management - eight points. Project management should reflect the relationship between program planning and budget and the process for ensuring that resources are managed effectively in implementing activities and accomplishing the objectives. This section

(i) identifies staff and/or consultants to carry out activities, and describes the major responsibilities and qualifications of each;

(ii) provides a description of how the project will be managed and administered by the applicant;

(iii) shows how the project will be integrated with or related to existing programs and resources to ensure mutual support;

(iv) includes evidence that the district plans to continue effective aspects of the program following termination of Title IV-D funding;

(v) contains a programmatic description which is related to the detailed budget.

(E) Evaluation- six points. Evaluation strategies based on the evaluation plan will determine the extent to which performance of the participants has been improved. The proposal

(i) has an evaluation plan which addresses the project's stated objectives;

(ii) describes procedures and techniques for collecting and analyzing data to assure adequate evaluation.

(iii) contains timelines which provide for interim and final evaluation of both process and products.

(F) Dissemination—five points. Dissemination includes ways of informing both the school and the community about the project and making available to other educators information relating to program operation and accomplishments. This information gathering includes documenting project operation. The proposal

(i) describes how the district and the community will be kept informed of the project;

(ii) describes how the operation and accomplishments will be documented throughout the project period.

(G) Overall proposal value—nine points. The reader may assign an additional value up to nine points for the idea or concept of the proposal.

**412. Evaluation.** Evaluation is required for each approved project. End of project evaluation reports will be required of all projects.

**413. Monitoring.** On-site monitoring visits will be a part of the overall project evaluation process.

**414. Project Amendment.** Project amendments which may be necessary will be addressed to Document Control, Texas Education Agency. Amendments will be sent to the Title IV coordinator to be forwarded to the Division of Guidance Services for programmatic review and the Division of Regional Program Development for legal and fiscal review and implementation.

#### **415. Copyright**

a. The federal government has reserved certain copyright privileges for use of materials, processes, and practices produced with federal funds. The State of Texas has also specified that the state's interest in copyrightable material, processes, and practices must be protected.

b. The applicant must provide the Texas Education Agency with a description of materials, processes, or practices or draft copies of materials produced by the applicant which have a probability of commercial or other monetarily gainful use. The determination of the existence of a potential commercial or other monetarily gainful use will be made prior to the first publication of any such materials. The Texas Education Agency shall make such determination with the advice of the developer or author of the materials.

Issued in Austin, Texas, on October 29, 1980.

Doc No 808221      A. O. Bowen  
Commissioner of Education

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Proposal Publication Date: March 28, 1980

For further information, please call (512) 475-7077

## Texas Department of Health

### Solid Waste Management

#### Environmental and Consumer Health Protection

#### Rules on Municipal Solid Waste Management

#### 301.82.01.001-.015

The Texas Department of Health adopts the repeal of its subject rules, Rules 301.82.01.001-.015, as proposed in the August 12, 1980, issue of the *Texas Register* (5 TexReg 3193).

The reasons for the repeal of the existing rules and replacement by a new set of rules are delineated in the preamble to the adopted new Rules 301.82.01.016-.036, which are being published serially beginning in this same issue of the *Register*.

This repeal is adopted under authority of Articles 4477.7 and 6252.13a, Texas Revised Civil Statutes.

Doc No 808168

#### 301.82.01.016-.036

(Editor's note: The Texas Department of Health adopts new environmental and consumer health protection rules on municipal solid waste management effective November 18, 1980. The texts of the new rules are being published serially beginning in this issue. Rules 301.82.01.016-.019 appear below.)

The Texas Department of Health adopts the new rules which were proposed and published in the August 12, 1980, issue of the *Texas Register* (5 TexReg 3193). Numerous changes have been made as a result of written comments received by the department from other state agencies, federal agencies, local governments and agencies, and individuals, and verbal and written comments received at five public hearings on the proposed rules held throughout the state. The department carefully and fully considered all comments received and incorporated into the final rules the following changes:

(A) Major and significant changes:

(1) Generally. The bulk of the changes that were made to the proposed rules resulted from comments received from the Environmental Protection Agency (EPA). In accordance with the Federal Resource Conservation and Recovery Act of 1976, the EPA or a state, if the state meets certain criteria established through EPA regulations, must implement a hazardous waste management program. On May 19, 1980, the EPA, after many meetings and public hearings nationwide, promulgated voluminous hazardous waste regulations prescribing standards which it will use or which a state would have to follow if it desired to obtain interim authorization from EPA to implement a state program. (See *Federal Register*, "Environmental Protection Agency Hazardous Waste and Consolidated Permit Regulations," Monday, May 19, 1980.) In the process of obtaining interim authorization from EPA to operate the State of Texas Hazardous Waste Program, the department, on behalf of the State of Texas, submitted a copy of the proposed rules published in the August 12, 1980, issue of the *Texas Register* (5 TexReg 3193) to EPA to demonstrate the state's ability to conduct a program equivalent to that which EPA would conduct. The Texas Department of Water Resources made a similar submission, inasmuch as hazardous waste management responsibilities within the state are split between the two agencies. EPA reviewed the submissions of the two agencies, and by letter of September 2, 1980, identified problem areas in the agencies' proposed rules which would have to be corrected by November 19, 1980, the date the federal regulations become effective, before the State of Texas could be granted interim authorization for hazardous waste management. If interim authorization cannot be granted, EPA will operate the program within the state and the federal regulations will be applicable to all persons involved in hazardous waste activities.

(2) The following is a summarized list of requirements imposed by EPA on the department which have been made a part of the department's final rules:

(a) Standards applicable to municipal hazardous waste covering management of ignitable, reactive, and incompatible wastes, and standards for tanks, surface impoundments, waste piles, thermal treatment, and chemical, physical, and biological treatment.

(b) A form for the municipal manifest system has been identified (see Rule 027(h)(4)).

(c) A requirement for cleanup of discharges in transport now exists (see Rule 027(h)(6)).

(d) Interim status standards for facilities with respect to containers, ground water monitoring, land treatment, landfills, facility personnel training, and facility inspection, monitoring, record keeping, and reporting (see Rule 027(i)).

(e) The definition for "solid waste" identifies a universe of hazardous waste nearly identical to that under 40 Code of Federal Regulations 261 (see Rule 027(h)(13)).

(f) An exemption for hazardous wastes which are reused on site or accumulated, stored or treated prior to reuse on site is similar to the exclusion contained in 40 Code of Federal Regulations 261.6, which requires hazardous waste regulation of all reused sludges and all reused listed wastes up to the point of actual reuse (see Rule 027(d)(2)).

(g) The present status of mixtures of hazardous and nonhazardous waste conforms with 40 Code of Federal Regulations 261.3 (see Rule 027(d)(2)(C)(Note)).

(h) The generator record retention requirements has been strengthened by adding a provision that the required periods must be extended during the course of unresolved enforcement actions (see Rule 027(g)(6)(E)).

(i) Short term accumulations by generators will be stored in a manner which would not present a danger to human health and the environment (see Rule 027(g)(2)).

(j) The requirements of 40 Code of Federal Regulations 262.50 International Shipments, has been added. The international shipment requirements for generators contains references to importers of hazardous waste. The requirements for exporters address the use of manifest, confirmation of delivery, and notification to EPA in cases where confirmation is not received within 90 days (see Rule 027(g)(4)(e)).

(k) Time limits within which exception reports of unreturned manifests must be filed by generators in accord with the requirements of 40 Code of Federal Regulations 123.128(b)(8) (see Rule 027(g)(5)(C)(iii)).

(l) The exception reporting requirements will be reported to the state in which the shipment originated in accordance with the requirements of 40 Code of Federal Regulations 123.128(b)(7)(iii) (see Rule 027(g)(5)(C)(iii)).

(m) The interstate exception reporting requirement provides a reporting time limit from the date of acceptance by the initial transporter and for notification to the state in which the shipment may have been delivered (see 40 Code of Federal Regulations 123.128(b)(8)). See Rule 027(g)(5)(C)(iii).

(n) the terms "transport" or "transporters" are defined (see Rule 027(b)(47)).

(o) The transporter record retention requirement provides that the required periods must be extended during the course of unresolved enforcement actions (see Rule 027(h)(4)(D)).

(p) Transporters have an affirmative duty to clean up a spill while enroute. "Corrective action" includes the duty to clean up a discharge. Appropriate officials may authorize removal of waste without use of a manifest and that immediate notice be given to the National Response Center (see Rule 027(h)(5) and (6)).

(q) The term "treatment" has been defined and the term "processing" has been given a meaning which is substantially equivalent to "treatment" as it is defined in RCRA and the federal regulations (see Rule 027(b)(37) and (48)).

(r) The closure plan requirements are more specific by requiring that an estimate of the maximum inventory of wastes in storage or treatment at any given time be included in the closure plan. Furthermore, closure must be initiated within 90 days after receiving the final volume of hazardous wastes. In addition, a time limit by which the owner or operator must submit a survey plan of the facility has been added (see Rule 027(i)(8)).

(s) Standards for surface impoundments have been added (see Rule 027(i)(12)).

(t) The owner or operator is required to take remedial action upon the detection of malfunction or the deterioration of equipment and structures when a potential hazard is imminent (see Rule 027(i)(3)(D)).

(u) A minimum three year retention period is required for the maintenance of logs and records (see Rule 027(i)(3)(D)(ii)).

(v) Requirements for the receipt of hazardous waste from a rail or water transporter that has been properly manifested (see Rule 027(i)(6)(A)).

(w) Requirements for the shipments of hazardous waste outside of the United States and the receipt of hazardous wastes from a foreign source (see Rule 027(g)(4)(E)).

(x) Provisions regarding state program requirement for ignitable, reactive, or incompatible waste. This requirement is important, particularly in view of the listing of hazardous wastes from municipal generators that appears in the department's program description, many of which are ignitable (see Rule 027(i)(3)(F)).

(y) Provisions regarding the use and management of containers, including (1) areas where containers are stored must be inspected weekly, (2) containers holding ignitable or reactive waste must be located at least 15 meters from the facility's property line, and (3) that during the storage of incompatible waste, these waste materials be separated or protected from other materials that may be stored nearby (see Rule 027(i)(10)).

(z) Provisions regarding the utilization of tanks for the placement of municipal hazardous waste and provisions regarding the utilization of surface impoundments, waste piles, thermal treatment, or chemical, physical, and biological treatment for municipal wastes (see Rule 027(i)(11)(18)).

(aa) Appropriate facility standards meeting the requirements of 40 Code of Federal Regulations 123.128(e).

(i) a provision for the utilization of surface impoundments for the management of municipal hazardous wastes (see Rule 027(i)(12)).

(iii) provisions on the utilization of waste piles to manage municipal hazardous waste (see Rule 027(i)(13)).

(iv) provisions for the thermal treatment and the chemical, physical and biological treatment of municipal hazardous waste (see Rule 027(i)(17) and (18)).

(bb) A provision requiring notification by the owner or operator to the state director within 60 days after the effective date of Part 265 of the EPA regulations if food chain crops are grown on a land treatment facility (see Rule .027(14)(D)).

(cc) Provisions for the placement or nonplacement of ignitable or reactive waste in a land treatment facility and that incompatible wastes are not placed in the same land treatment area (see Rule .027(14)(H) and (I)).

(dd) A provision for the placement or nonplacement of ignitable or reactive waste, incompatible wastes, bulk or noncontainerized liquid waste, water containing free liquids or containers holding liquid waste in a landfill. In addition, a provision has been added regarding the reduction in volume of empty containers (see Rule .027(15)).

#### (B) Minor changes made

(1) The definition of a Type V municipal solid waste site expanded to include facilities which receive, store, and process radioactive waste collected from municipal sources. This was inadvertently omitted in the proposed rules and this fact was discussed at the public hearings.

(2) The permit requirements for land application of solid waste were clarified by specifically excluding domestic sewage sludge or domestic septic tank pumpings unless these wastes have been determined to be hazardous by the generator.

(3) The technical information required for landfill sites serving 5,000 persons or more was revised to provide an option to a permit applicant for a large site to submit a phased site development plan wherein the overall concept is provided but the detailed working drawings are limited to an area of approximately five to eight years of estimated site life. This provision was suggested at the last public hearing and supported by several individuals present.

(4) The minimum separating distance between a disposal operation and the adjacent property line was changed from 20 to 50 to correct a typographical error. This was discussed at the public hearings.

(5) The requirement to submit with a permit application detailed data for water wells within 500 feet of a land disposal site and an estimate of the number of wells within 1,000 feet of the site was deleted. Comments received at public hearings indicated that this information is irrelevant inasmuch as the disposal sites were to be designed so as to preclude any ground water pollution.

(6) The paragraph on ground water protection design requirements was revised to delete references to an allowable liquid limit and plasticity index. The ASTM test procedures mentioned under this paragraph are specifically prescribed under the soil data requirements as discussed at the public hearings. The testing procedures have been elaborated upon to provide guidance as to when specific tests are or are not required.

(7) The time for publication of a public hearing was extended from 20 to 30 days prior to the date of the hearing. Although a period of 60 days or longer was requested by some individuals, a 30 day period appears to be reasonable in view of the longer advance notification provided through the "notice of filing" made following the receipt of a permit application.

(8) The operational standards for Type V and VI sites were expanded to reflect in this section the design requirements which had been previously required under the design section.

(9) The operational standards for Type VII sites were reorganized to provide a clearer presentation of the standards. No changes were made in the previous requirements.

(10) Numerous other suggested changes and revisions have been incorporated into the adopted rules but these are minor and involve the rephrasing of statements for clarification, the relocation of definitions from the end of a section to its beginning and other miscellaneous editorial changes.

(11) The number of rules has been increased from Rule .031 to Rule .036 to include five tables relating to hazardous wastes as a result of comments from the U.S. Environmental Protection Agency (EPA), as explained above.

Several recommendations were not adopted, mainly because they would have been too restrictive or impractical to enforce or apply on a statewide basis. For example a recommendation was made to require a public hearing before a permit could be transferred. This was not considered appropriate inasmuch as a majority of the transfers are as a result of only a name change in the original permittee's business designation or the assumption of the operational responsibility of a site by a city or other person when the original permittee is no longer able to operate the site. The regulations contain sufficient prerequisites for a permit transfer to provide assurance that the new permittee can operate the site in accordance with the requirements of the original permit. Comments were received recommending the use of definite and firm land use criteria in the siting of a solid waste facility. This is not practical in that by doing so many communities, particularly the larger cities, would be deprived of facilities where they could economically dispose of their solid wastes. Inasmuch as conditions vary from one locale to another, the factors to be considered cannot be given the same weight in every situation. Accordingly, the factors contained in the regulations have been selected to give the department as much applicable information as possible for consideration in making a land use decision. One comment was received questioning the failure to include provisions for the open dump inventory required by the Federal Resource Conservation and Recovery Act of 1976. This is a federal program conducted by the state following EPA regulations. Inasmuch as some federal requirements differ from state requirements, a disposal site may be in compliance with state criteria and in noncompliance with federal criteria, thereby being classified as an open dump. There are no provisions in the federal criteria or law that will exempt a facility from an open dump classification if it is in compliance with state criteria. These state regulations as originally proposed and adopted incorporate the federal criteria to bring state standards in conformance with the federal criteria. Although several comments were received requesting deviation from some of the federal criteria, this could not be done because any such deviation would result in placing facilities in noncompliance with the federal requirements.

Copies of the adopted rules are available at the following location:

(1) Division of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(2) Texas Department of Health's Public Health regional offices located as follows:

(a) Public Health Region 1, P.O. Box 968, West Texas State University Station, Canyon, Texas 79016, phone (806) 655-7151.

(b) Public Health Region 2, 3411 Knoxville, Lubbock, Texas 79413, phone (806) 797-4331.

(c) Public Health Region 3, P.O. Box 10736, El Paso, Texas 79997, phone (915) 779-3531.

(d) Public Health Region 4, second floor, old court house, 301 Oak Street, Abilene, Texas 79602, phone (915) 673-5231.

(e) Public Health Region 5, 701 Directors Drive, Arlington, Texas 76011, phone (817) 460-3032.

(f) Public Health Region 6, P.O. Box 190, Temple, Texas 76501, phone (817) 778-6744.

(g) Public Health Region 7, P.O. Box 2501, Tyler, Texas 75710, phone (214) 595-3585.

(h) Public Health Region 8, P.O. Box 592, Harlingen, Texas 78550, (512) 423-0130.

(i) Public Health Region 9, P.O. Drawer 630, Uvalde, Texas 78801, phone (512) 278-7173.

(j) Public Health Region 11, 1110 Avenue G, Rosenberg, Texas 77471, phone (713) 342-8685.

Copies of the rules are also available for inspection at organized local health departments and districts.

The department adopts these rules pursuant to Article 4477-7, Vernon's Texas Civil Statutes.

#### .016. General Information.

(a) Basis for regulatory controls. The regulations promulgated herein cover all aspects of solid waste management under the authority of the Texas Department of Health and are based primarily on the stated purpose of the Solid Waste Disposal Act, Article 4477-7, Vernon's Texas Civil Statutes, as amended by the 66th Legislature, hereafter referred to as the Solid Waste Disposal Act.

(b) Authority for regulations. The Solid Waste Disposal Act designated the Texas Department of Health as the solid waste agency with respect to the collection, handling, storage, processing, and disposal of municipal solid waste. Article 4414a, Texas Revised Civil Statutes, as amended by the 65th Legislature, created the Texas Department of Health consisting of the Texas Board of Health, the commissioner of health, and an administrative staff. These regulations are responsive to the following state and federal statutes and regulations pertaining to public health and solid waste management:

(1) Article 4477-1, Vernon's Texas Civil Statutes, Texas Sanitation and Health Protection Law (as amended by the 65th Legislature). The provisions of this statute which have particular significance relating to public health and solid waste management include:

(A) Section 2(a),(b),(f),(g),(j) (Nuisances).

(B) Section 4(a),(c),(d),(e) (Garbage and Refuse).

(2) Article 4477-7, Vernon's Texas Civil Statutes, Solid Waste Disposal Act (as amended by the 66th Legislature). The provisions of this statute which have particular significance relating to solid waste management include:

(A) Section 1 (Short Title; Policy).

(B) Section 3(a)-(c) (State Solid Waste Agency; Designations; Duties).

(C) Section 4(b)-(d),(e)(4),(5),(7),(8) (State Agencies; Authority and Powers; Permits).

(3) Article 4477-8, Vernon's Texas Civil Statutes, County Solid Waste Control Act. The provisions of this statute which have particular significance relating to solid waste management are summarized in Section 1.

(4) Article 4477-9, Vernon's Texas Civil Statutes, Dumping Solid Waste on Property or Into Waters; Penalty.

The provisions of this statute which have particular significance relating to solid waste management are summarized in the title of the Act.

(5) Article 6674v-2, Vernon's Texas Civil Statutes, Dumping Refuse Near Highway. The provisions of this statute which have particular significance relating to solid waste management are contained in Section 2(A)-(C),(E) (Unlawful Acts).

(6) Article 6252-13a, Texas Revised Civil Statutes Annotated, Administrative Procedure and Texas Register Act (as amended by the 66th Legislature). The provisions of this statute which have particular significance relating to procedures pertaining to solid waste management are summarized in Section 1.

(7) Public Law 94-580, The Resource Conservation and Recovery Act of 1976.

(A) The Resource Conservation and Recovery Act (RCRA) establishes the requirement to regulate the treatment (processing), storage, transportation, and disposal of hazardous waste. The RCRA requires that the U.S. Environmental Protection Agency (EPA) identify and list hazardous wastes; establish standards applicable to generators, transporters, and owners or operators of treatment, storage, or disposal facilities; and establish guidelines to assist states in the development of state hazardous waste programs. The Act provides that any state may seek to administer and enforce a hazardous waste program under federal authorization. The authorized state may carry out its hazardous waste program in lieu of the federal program and issue and enforce permits for the storage, treatment, or disposal of hazardous waste. The department has applied for authorization to regulate hazardous waste that comes under its jurisdiction. The department's requirements for managing of hazardous waste are contained in Section I of these regulations. These are applicable to generators and transporters of municipal hazardous waste and to owners or operators of municipal solid waste treatment, storage, or disposal facilities. The EPA is expected to publish additional facility standards and listings of hazardous waste. When this occurs, the department will revise its requirements accordingly.

(B) The RCRA also requires that the EPA publish regulations containing criteria for determining the classification of disposal facilities as sanitary landfills or as open dumps. The RCRA further requires that each state shall prohibit the establishment of open dumps. These department regulations are responsive to the RCRA and the criteria contained in Part 257, Title 40, Code of Federal Regulations, as published in the *Federal Register* dated September 13, 1979.

(C) Applicability. The provisions of these regulations apply to any individual, corporation, organization, government, or governmental subdivision or agency business trust, partnership, association, or other legal entity, including all federal installations (see Section 6001 of the Resource Conservation and Recovery Act of 1976) involved in any aspect of the management and control of municipal solid waste including but not limited to storage, collection, handling, processing, and disposal. Section 8 of the Solid Waste Disposal Act states that no person may cause, suffer, allow, or permit the collection, storage, handling, or disposal of solid waste or the use or operation of a disposal site in violation of the Act or the rules, permits, licenses, or other orders of the department. Any person who violates any provision of the Act, regulation, permit, or order of the department is subject to civil penalty of not less than \$50 nor more than \$1,000 for

each act of violation and for each day of violation, as the court may deem proper.

(d) Departmental municipal solid waste management guidelines. From time to time, the department will publish guidelines in the form of technical guides on various topics related to municipal solid waste management. The purpose of the guides is to provide information which may be of use to site operators in the selection, design, development and operation of solid waste sites. The procedures outlined therein are not normally mandatory; however, they are recommended and, in certain cases, may be specifically required by permit special provisions. Current technical guides are Use of Earth Resistivity in Solid Waste Management and Methane from Landfills. Other guides which are under development are Leachate in Landfills and Ground Water Monitoring.

(e) Definition of terms and abbreviations. For the purposes of these regulations, the following definitions shall apply. Other definitions, pertinent to specific sections, are contained within the appropriate sections.

(1) "Brush" means the cuttings or trimmings from trees, shrubs, or lawns and similar materials.

(2) "Class I Industrial Solid Waste" means any industrial solid waste designated as Class I by the executive director of the Texas Department of Water Resources as any industrial solid waste or mixture of industrial solid wastes which because of its concentration or physical or chemical characteristics is toxic, corrosive, flammable, a strong sensitizer or irritant, a generator of sudden pressure by decomposition, heat, or other means, and may pose a substantial present or potential danger to human health or the environment when improperly treated, stored, transported, or otherwise managed, including industrial hazardous waste.

(3) "Collection" means the act of removing solid waste (or materials which have been separated for the purpose of recycling) for transport elsewhere.

(4) "Collection system" means the total process of collecting and transporting solid waste. It includes storage containers; collection crews, vehicles, equipment and management; and operating procedures. Systems are classified as municipal, contractor, or private.

(5) "Composting" means the controlled biological decomposition of organic solid waste under aerobic conditions (Article 4477-7, Vernon's Texas Civil Statutes).

(6) "Construction-demolition waste" means waste resulting from construction or demolition projects.

(7) "Controlled burning" means the combustion of solid waste with:

(A) control of combustion air to maintain adequate temperature for efficient combustion.

(B) containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and,

(C) control of the emission of the combustion products, i.e., incineration in an incinerator.

(8) "Department" means the Texas Department of Health (Article 4477-7, Vernon's Texas Civil Statutes, and Article 4414a, Texas Revised Civil Statutes).

(9) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water, including ground waters.

(10) "Endangered or threatened species" means any species listed as such pursuant to Section 4 of the Federal Endangered Species Act of 1973 (Public Law 93-205), as amended.

(11) "Experimental project" means any new proposed method of managing municipal solid waste, including resource and energy recovery projects, which appears to have sufficient merit to warrant departmental approval.

(12) "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters, including floodprone areas of offshore islands, which are inundated by the 100-year frequency flood.

(13) "Garbage" means municipal solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products (Article 4477-7, Vernon's Texas Civil Statutes).

(14) "Hazardous waste" means any solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976.

(15) "Industrial solid waste" means solid waste resulting from or incidental to any process of industry or manufacturing, or mining or agricultural operations.

(16) "Land application of solid waste" means the disposal or use of solid waste (including but not limited to sludge or septic tank pumpings or mixture of shredded waste and sludge) in which the solid waste is applied within one meter (three feet) of the surface of the land.

(17) "Leachate" means liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from such waste.

(18) "May" means that the stated action is optional.

(19) "Mixed waste" means solid waste that contains both municipal solid waste and industrial solid waste (See Rule .021(b)(5) for requirements.)

(20) "Municipal hazardous waste" means any municipal solid waste or mixture of municipal solid wastes which have been identified or listed as a hazardous waste by the administrator, U.S. Environmental Protection Agency.

(21) "Municipal solid waste" means solid waste resulting from or incidental to municipal, community, commercial, and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste other than industrial solid waste.

(22) "Open burning" means the combustion of solid waste without:

(A) control of combustion air to maintain adequate temperature for efficient combustion.

(B) containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and

(C) control of the emission of the combustion products.

(23) "Opposed case" means a case when one or more parties appear, or make their appearance in opposition to an application, and are designated as opponent parties by the hearings examiner either at or before the public hearing on the application.

(24) "Permit or license" means the formal written approval issued to the applicant for a solid waste site by the

appropriate regulatory body. To conform with terminology usage in Article 4477-7, Vernon's Texas Civil Statutes, and Article 4477-8, Vernon's Texas Civil Statutes, a permit shall mean approved by the department and a license shall mean approval by a county.

(25) "Person" means individual, corporation, organization, government, or governmental subdivision or agency, business trust, partnership, association, or any other legal entity (Article 4477-7, Vernon's Texas Civil Statutes).

(26) "Population equivalent" means the hypothetical population which would generate an amount of solid waste equivalent to that actually being processed or disposed of based on a generation rate of five pounds per capita per day and applied to situations involving solid waste not necessarily generated by individuals.

(27) "Processing" means the extraction of materials, transfer, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal, including the storage, separation, packaging, repackaging, volume reduction, or treatment of radioactive waste and hazardous waste so as to render such waste less hazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume.

(28) "Processing facility" means a facility used to transfer, incinerate, shred, grind, bale, compost, salvage, separate, dewater, reclaim, or provide other processing of solid waste. Processing facilities used for rendering fats and oils, reclamation of yeast for animal feed, cooking of garbage for animal consumption, or plants of a similar nature are not included in this definition. (These latter facilities are regulated by the Texas Department of Water Resources.)

(29) "Public highway" means the entire width between property lines of any road, street, way, thoroughfare, bridge, public beach, or park in this state, not privately owned or controlled, when any part thereof is opened to the public for vehicular traffic and over which the state has legislative jurisdiction under its police power (Article 6674v-2, Vernon's Texas Civil Statutes).

(30) "Putrescible waste" means solid wastes which are capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors or gases and capable of providing food for, or attracting, birds and disease vectors.

(31) "Radioactive waste" means waste material which emits ionizing radiation spontaneously, excluding uranium mill tailings, irradiated nuclear reactor fuel elements, and high-level radioactive wastes as defined by federal regulations.

(32) "Resource recovery" means the recovery of material or energy from solid waste.

(33) "Resource recovery site" means a solid waste processing site at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.

(34) "Rural collection station" means a facility established by a county or municipal government for the convenience and exclusive use of rural residents (not commercial or industrial users) who are not served by scheduled house-to-house collection service. The facility may consist of one or more storage containers, bins, or trailers.

(35) "Salvaging" means the controlled removal of waste materials for utilization.

(36) "Sanitary landfill" means a facility for the land disposal of solid waste which complies with all applicable

standards and regulations so as to ensure that there is no reasonable probability of adverse effects on health or the environment from disposal of solid waste at such facility.

(37) "Scavenging" means the uncontrolled and unauthorized removal of materials at any point in the solid waste management system.

(38) "Shall" means that the stated action is mandatory.

(39) "Should" means that the stated action is recommended as a guide in completing the overall requirement.

(40) "Site development plan" means a document, prepared by the design engineer, which provides a detailed design with supporting calculations and data for the development and operation of a solid waste site.

(41) "Site operating plan" means a document, prepared by the design engineer in collaboration with the site operator, which provides guidance to site management and operating personnel in sufficient detail to enable them to conduct day-to-day operations throughout the life of the site in a manner consistent with the engineer's design and the department's regulations.

(42) "Site operator" means the holder of, or the applicant for, a permit (or license) for a municipal solid waste site.

(43) "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effect, exclusive of treated effluent from a wastewater treatment plant.

(44) "Solid Waste" means all putrescible and non-putrescible discarded or unwanted materials including garbage, refuse, radioactive waste collected from multiple sources, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities, but does not include:

(A) solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges which are point sources subject to regulation by permit issued pursuant to the Texas Water Quality Act or Section 402 of the Federal Clean Water Act;

(B) soil, dirt, rock, sand and other natural or man-made inert solid waste materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements;

(C) waste materials which result from activities associated with the exploration, development, or production of oil or gas and are subject to control by the Railroad Commission of Texas; or

(D) source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended.

(45) "Solid waste disposal site" means a plot of ground designated for the disposal of solid waste.

(46) "Solid waste facility" means any land and appurtenances thereto used or designated for the storage, processing, or disposal of solid waste.

(47) "Solid waste processing site" means a plot of ground designated for the processing of solid waste.

(48) "Special waste" means any nonhazardous solid waste requiring special handling other than that normally used for municipal solid waste.



(49) "Storage" means the interim containment of municipal solid waste under one of the following conditions:

(A) Pre-collection. That storage by the generator, normally on his premises, prior to initial collection.

(B) Post-collection. That storage by the processor, at a processing site, while the waste is awaiting processing or transfer to a disposal or recovery facility.

(50) "TRCS" means Texas Revised Civil Statutes.

(51) "Transfer station" means a fixed facility used for transferring solid waste from collection vehicles to long-haul vehicles. It is not a storage facility such as one where individual residents can dispose of their wastes in bulk storage containers which are serviced by collection vehicles.

(52) "Trash (rubbish)" means nonputrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste materials; combustible trash (rubbish) includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; noncombustible trash (rubbish) includes glass, crockery, tin cans, aluminum cans, metal furniture, and like materials which will not burn at ordinary incinerator temperatures (1600 F to 1800 F).

(53) "Vector" means rodents, flies, and mosquitoes capable of transmitting disease.

(54) "VACS" means Vernon's Annotated Civil Statutes.

(f) Relationships with other governmental entities.

(1) Texas Department of Water Resources. The department shares joint responsibility with the Department of Water Resources in the administration of the Solid Waste Disposal Act. As stipulated in the Act, the department shall have jurisdiction over all solid waste activities concerned with municipal solid waste or with a combination of both municipal and industrial solid waste and shall consult with the Texas Department of Water Resources concerning matters of water quality. The Department of Water Resources has jurisdiction over industrial solid waste activities and shall consult with the department on matters relating to public health. Where both municipal solid waste and industrial solid waste are involved in any activity of collecting, handling, storing, processing, or disposing of solid waste, the department is the state agency responsible and has jurisdiction over the activity (Article 4477-7, Vernon's Texas Civil Statutes).

It is the policy of the department to seek the recommendations of the Department of Water Resources regarding the requirements of the Texas Water Code under its purview. Accordingly, the department shall coordinate the review of all permit applications for municipal solid waste facilities to be constructed within the 100-year floodplain of all rivers, streams, or water courses with the Department of Water Resources to determine the need for that agency to approve any construction that would have an effect on the safe passage of floodwaters within the floodplain (Section 16.238, Texas Water Code).

(2) Texas Air Control Board. The department shall consult with the Texas Air Control Board on aspects of solid waste management that relate to air pollution control and ambient air quality (Article 4477-7, Vernon's Texas Civil Statutes). The Texas Air Control Board has a separate statutory responsibility for evaluating all types of incinerators, including air curtain destructors, and, when appropriate, issuing construction and operating permits for incinerators (Texas Clean Air Act, Article 4477-5, Vernon's Texas Civil Statutes).

(3) State Department of Highways and Public Transportation. In view of the responsibilities of the State Department of Highways and Public Transportation regarding the junkyard control provisions of the Highway Beautification Act, the department shall coordinate the review of all permit applications for municipal solid waste land disposal facilities existing or proposed within 1,000 feet of an interstate or primary highway to determine the need for screening or special operating requirements (Highway Beautification Act, Article 6674v-1, Vernon's Texas Civil Statutes).

(4) U.S. Army Corps of Engineers. In view of the requirements under Section 404 of the Federal Clean Water Act for any person to obtain a permit from the Corps of Engineers prior to discharging any fill materials into navigable waters or contiguous or adjacent wetlands thereof, and the requirement under Section 10 of the River and Harbor Act of 1899 for any person to obtain a permit from the Corps of Engineers for any work and/or structures in or affecting the course, capacity, or condition of any navigable water of the United States, the department shall coordinate the review of all permit applications for municipal solid waste landfill disposal facilities with the appropriate district engineer to determine the need for such permits (Section 404, Clean Water Act and Section 10, River and Harbor Act of 1899).

(5) Federal Aviation Administration. In view of the potential attraction that solid waste land disposal sites have to birds and the hazard that birds present to low flying aircraft, the department shall coordinate the review of permit applications for all municipal solid waste land disposal facilities existing or proposed in the vicinity of airports with the appropriate airports district office of the Federal Aviation Administration (FAA Agency Order 5200.5, FAA Guidance Concerning Sanitary Landfills on or Near Airports).

(6) Special districts. Section 6 of the Solid Waste Disposal Act applies to political subdivisions of the state to which the legislature has given waste handling authority for two or more counties. The relationship between the department and any such waste disposal authority will be similar to that between the department and a county.

(7) Regional planning agencies. The department will provide educational, technical, and advisory assistance to the various councils of governments and regional planning commissions throughout the state.

(8) Municipal governments. Municipalities are encouraged to enforce the provisions of these rules and regulations. The department is committed to assist municipal governments in an educational and advisory capacity. The department is a necessary party to any suit filed by a municipality under the Solid Waste Disposal Act, Article 4477-7, Vernon's Texas Civil Statutes.

(9) County governments. The department encourages the county governments to exercise the authority provided in Articles 4477-7 and 4477-8, Vernon's Texas Civil Statutes, regarding the management of solid waste including the enforcement of the requirements of the Solid Waste Disposal Act and these regulations. The provisions of Articles 4477-7 and 4477-8 allow county governments to require and issue licenses authorizing and governing the operation and maintenance of sites used for the disposal of solid waste not in the territorial limits or extraterritorial jurisdiction of a municipality. Article 4477-7 requires that no license for disposal of solid waste may be issued, renewed, or extended

without the prior approval, as appropriate, of the department or the Department of Water Resources. Under subsection 8(g) of Article 4477-7, the department and the Department of Water Resources are necessary and indispensable parties to any suit filed by a local government for the violation of any provision of the Act. If a permit is issued, renewed, or extended by the department, the owner or operator of the site does not need to obtain a separate license for the same site from a county or from a political subdivision as defined in Section 6 of the Solid Waste Disposal Act, Article 4477-7, Vernon's Texas Civil Statutes (see Rule .025 for regulations concerning county governments).

(g) Relationship with county licensing system. The Solid Waste Disposal Act, Article 4477-7, Vernon's Texas Civil Statutes, empowers counties to require and issue licenses authorizing and governing the operation and maintenance of solid waste disposal sites not within the territorial limits or extraterritorial jurisdiction of incorporated cities and towns. The county shall mail a copy of the license application to the department to receive comments and recommendations on the license application before the county acts on the application. No license for the use of a site for the disposal of solid waste may be issued, renewed, or extended without prior approval of the department. The County Solid Waste Control Act, Article 4477-8, Vernon's Texas Civil Statutes, excludes both the territorial limits and the extraterritorial jurisdiction of incorporated cities and towns from counties' authority to make regulations for the governing and controlling of solid waste collection, handling, storage, and disposal (refer to Rule .025 for other requirements).

(h) Severability. If any section or provision of these regulations or the application of that section or provision to any person, situation, or circumstance is adjudged invalid for any reason, the adjudication does not affect any other section or provision of these regulations or the application of the adjudicated section or provision to any other person, situation, or circumstance. The Texas Board of Health declares that it would have adopted the valid portions and applications of these regulations without the invalid part, and to this end the provisions of these regulations are declared to be severable.

#### .017. *Municipal Solid Waste Storage.*

(a) Applicability. This section shall be applicable to all public and private storage systems. Additional requirements for storage of hazardous wastes are contained in Rule .027.

(b) Storage requirements. All solid waste shall be stored in such a manner that it does not constitute a fire, safety, or health hazard or provide food or harborage for animals and vectors, and shall be contained or bundled so as not to result in litter. It shall be the responsibility of the occupant of a residence or the owner or manager of an establishment to utilize storage containers of an adequate size and strength, and in sufficient numbers, to contain all solid waste that the residence or other establishment generates in the period of time between collections.

(c) Approved containers. All solid waste containing food wastes shall be stored in covered or closed containers which are leakproof, durable, and designed for safe handling and easy cleaning.

(1) Nonreusable containers. Nonreusable containers shall be of suitable strength to minimize animal scavenging or rupture during collection operations.

(2) Reusable containers. Reusable containers shall be maintained in a clean condition so that they do not con-

stitute a nuisance and to retard the harborage, feeding, and propagation of vectors.

(A) All containers to be emptied manually shall be capable of being serviced without the collector coming into physical contact with the solid waste.

(B) Containers to be mechanically handled shall be designed to prevent spillage or leakage during storage, handling, or transport.

(d) Rural collection stations. Rural collection stations should be provided with the type and quantity of containers compatible with the areas to be served. Rules should be posted governing the use of the facility to include who may use it, what may or may not be deposited, etc. The responsible county or municipal government shall provide for the collection of deposited waste on a scheduled basis and supervise the facility in order to maintain it in a sanitary condition.

#### .018. *Municipal Solid Waste Collection.*

(a) Applicability. This section shall be applicable to all public and private collection systems. Additional requirements for the collection and transportation of hazardous wastes are contained in Rule .027.

(b) Collection requirements. Municipal solid waste containing putrescibles shall be collected a minimum of once weekly to prevent propagation and attraction of vectors and the creation of public health nuisances. Collection should be made more frequently in circumstances where vector breeding or harborage potential is significant.

(c) Collection vehicles and equipment.

(1) Sanitation standards. All vehicles and equipment used for the collection and transportation of municipal solid waste shall be constructed, operated, and maintained to prevent loss of liquid or solid waste material and to minimize health and safety hazards to solid waste management personnel and the public. Collection vehicles and equipment shall be maintained in a sanitary condition to preclude odors and fly breeding.

(2) Operating condition of vehicles. Collection vehicles should be maintained and serviced periodically and should receive periodic safety checks. Safety defects in a vehicle should be repaired before the vehicle is used.

(d) Collection spillage.

(1) Cleanup at collection point. The person operating the collection system shall provide for prompt cleanup of all spillages caused by the collection operation.

(2) Cleanup along disposal route. The person operating the collection system should provide for prompt collection of any waste materials lost from the collection vehicles along the route to the disposal site.

#### .019. *Classification of Municipal Solid Waste Sites.*

(a) Basis for classification. Classifications are based on the method of processing or disposal of municipal solid waste. Representatives of the department are available for consultation to determine the proper site classification applicable to a specific situation.

(b) Types of municipal solid waste sites. The department has classified all solid waste sites and facilities into seven types which are described below. The first four types are land disposal sites and each provides for the disposal of solid waste on land without creating nuisances or hazards to public health or safety and without posing a reasonable probability of adverse effects to the environment by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical

volume, and to periodically cover it with a layer of earth to minimize unhealthy, unsafe, or unsightly conditions. As indicated below, the department may authorize different frequencies of cover, commensurate with the potential for creating nuisances or hazards to public health or safety. Subject to the limitations in Rule .021(b)(5), a municipal solid waste landfill site may also receive mixed wastes, and with the written approval of the department may also receive special wastes, including Class I industrial solid waste, if properly handled and safeguarded in the landfill site.

(1) Municipal solid waste site—Type I. A Type I site shall be considered to be the standard landfill for the disposal of municipal solid waste and is encouraged in all cases. Type I operations are required for sites serving 5,000 persons or more, or same population equivalent. All solid waste deposited in a Type I site shall be compacted and covered at least daily except for areas designated to receive only brush and/or construction-demolition wastes which shall be covered at least monthly. The department may authorize the designation of special-use areas for processing, storage, and disposal or any other functions involving solid waste.

(2) Municipal solid waste site—Type II. A Type II site or operation may be authorized by the department for a site serving less than 5,000 persons or same population equivalent when relevant factors indicate a frequency or less than daily compaction and cover will not result in any significant health problems. A Type II operation shall not be conducted within 300 yards of a public road unless the department, after a site evaluation, determines that the proposed operation in the proposed location will be acceptable. The operational standards prescribed in Rule .021(b) shall be followed except that the frequency of compaction and cover may be extended up to seven days. The prescribed frequency will constitute the minimum standard for the site with the obligation of the operator to cover more frequently when conditions so warrant. Areas designated to receive only brush and/or construction-demolition wastes shall be covered at least monthly. The department may authorize the designation of special use areas for processing, storage, and disposal or any other functions involving solid waste.

(3) Municipal solid waste site—Type III. A Type III site or operation is an interim classification which may be authorized by the department for a site serving less than 1,500 persons or same population equivalent for a period of time no longer than five years while pending its upgrading to a Type II operation. A Type III site shall not be operated within 300 yards of a public road unless the department determines that the site, after upgrading, will be acceptable as a Type II site in the final classification. The operational standards prescribed in Rule .021(b) shall be followed, except that the interim frequency of compaction and intermediate cover will be specified by the department. The prescribed interim frequency will constitute the minimum standard for the site with the obligation of the operator to cover more frequently when conditions so warrant.

(4) Municipal solid waste site—Type IV. A Type IV site or operation may be authorized by the department for the disposal of brush and/or construction-demolition wastes that are free from other solid waste. A Type IV operation shall not be operated within 300 yards of a public road unless the department, after a site evaluation, determines that the proposed operation in the proposed location will be acceptable. The minimum operational standards are prescribed in Rule .021(c).

(5) Municipal solid waste site—Type V. Separate solid waste processing sites are classified as Type V. These sites shall encompass processing plants that transfer, incinerate, shred, grind, bale, compost, salvage, separate, dewater, reclaim, or provide other processing of solid waste. Processing sites include those facilities which receive, store, and process radioactive waste collected from multiple sources and air curtain destructors (trench burners) designed to burn trees, brush, and other wood type materials in a safe, controlled burning process. The operational standards are prescribed in Rule .022(b).

(6) Municipal solid waste site—Type VI. A Type VI site or operation may be authorized by the department for a site involving a new or unproven method of managing or utilizing municipal solid waste, including resource and energy recovery projects. The minimum operational standards are prescribed in Rule .022(b).

(7) Municipal solid waste site—Type VII. A Type VII site or operation may be authorized by the department for the land application of solid waste (including but not limited to sewage sludge or septic tank pumpings or mixture of shredded waste and sewage sludge) to land used for the production of food chain crops. The operational standards for Type VII sites are prescribed in Rule .022(c).

Issued in Austin, Texas, on October 27, 1980.

Doc. No. 808169

A. M. Donnell, Jr., M.D.  
Deputy Commissioner  
Texas Department of Health

Effective Date: November 18, 1980

Proposal Publication Date: August 12, 1980

For further information, please call (512) 458-7236.

## Texas Department of Mental Health and Mental Retardation

### Client (Patient) Care

#### Admission Criteria for the Waco Center for Youth 302.04.41

The Texas Department of Mental Health and Mental Retardation has adopted Rules 302.04.41.001-.009, with several changes in the text proposed.

The text of Rule .003, governing eligibility criteria for the Waco Center for Youth, has been changed. Paragraph (1) of subsection (a) has been changed so that persons being considered for admission must be 10 through 17 years of age. Further, the age at admission must allow adequate time for treatment programming prior to reaching age 18. Paragraph (3) has been revised so that any client of a Texas Department of Mental Health and Mental Retardation facility or community MH/MR center who also meets the other requirements of the rule would be eligible for admission as opposed to only clients who have been committed.

Rule .005, which governs the admission process, has also been changed so that all Department of Human Resources referrals are to be considered jointly by the DHR liaison worker and the Admissions Committee of the Waco Center for Youth.

Rule .006, which governs transfers from and to other Texas Department of Mental Health and Mental Retardation Facilities, has been rewritten so that it is divided into two subsections, (a) and (b). The revisions provide that the local community MH/MR center shall be notified of the transfer of a patient from a Texas Department of Mental Health and Mental Retardation facility to the Waco Center for Youth. The revisions also provide that a client in residence at the Waco Center for Youth, whose psychiatric condition indicates a need for inpatient care, will be transferred to the TDMH/MR facility that serves that client's county of residence.

Rule .007, concerning family involvement and counseling, has been revised. A provision has been added to subsection (a) whereby the staff of the Waco Center for Youth will be required to participate in DHR service planning for children for whom DHR has been appointed managing conservator. A provision has been added to subsection (b) whereby the local community MH/MR center will provide family services in coordination with the Waco Center. A provision has also been added to subsection (c) whereby the Waco Center staff would, to the extent authorized by law, provide appropriate information concerning the progress of the client to the managing conservator.

These rules are adopted under the authority contained in Section 2.11(b) of Article 5547-202, Texas Civil Statutes.

*.001. Purpose.* The purpose of these rules is to specify the eligibility criteria and admissions process for the Waco Center for Youth.

*.002. Application.* These rules apply only to the Waco Center for Youth, a facility of the Texas Department of Mental Health and Mental Retardation.

*.003. Eligibility Criteria.*

(a) Residents of Texas who meet the following criteria shall be considered for admission to the Waco Center for Youth: children and adolescents who:

(1) are 10 through 17 years of age; age at admission must allow adequate time for treatment programming prior to reaching age 18;

(2) are psychiatrically diagnosed as emotionally and/or behaviorally disturbed and are not acutely psychotic, suicidal, homicidal, or seriously violent;

(3) are either in the managing conservatorship of the Texas Department of Human Resources or a client of a Texas Department of Mental Health and Mental Retardation facility or community MH/MR center;

(4) display a history of behavior adjustment problems in school and at home and are not functioning well enough to receive treatment services while living in their own home or a foster home and other available treatment resources have been exhausted;

(5) are clinically determined not to be mentally retarded as defined by the Diagnostic and Statistical Manual of Mental Disorders (DSM-III);

(6) need a structured treatment program in a residential-type facility or a transitional program following discharge from intensive inpatient care in a state mental hospital.

(b) No emotionally disturbed juvenile who has been found to have engaged in delinquent conduct or conduct indicating a need for supervision under Title 3 of the Texas Family Code will be admitted to the Waco Center for Youth.

*.004. Referral Process.* The Waco Center for Youth will accept referrals for possible admission to the center's treatment program from three sources. Children and adolescents who meet the eligibility criteria and are:

(1) under the managing conservatorship of the Texas Department of Human Resources will be referred directly by that department of the Department of Human Resources liaison worker stationed at the Waco Center for Youth; other clients served by DHR may be referred to the local community MH/MR center for mental health services and possible referral to the Waco Center

(2) currently, patients in a Texas Department of Mental Health and Mental Retardation facility will be referred directly to the Waco Center for Youth by that facility; and

(3) discharged patients from a state mental hospital or those living in the community will be referred directly to the Waco Center for Youth by the community mental health and mental retardation center serving the area where the person resides or by the Texas Department of Mental Health and Mental Retardation facility outreach program serving the area where the person resides.

*.005. Admission Process.* All referrals are reviewed by the Admission Committee of the Waco Center for Youth. All DHR referrals are considered jointly by the DHR liaison worker and the admissions committee of the facility. Notification of acceptance or nonacceptance will be made directly to the referring agency prior to initiating the admissions process. All admissions to the Waco Center for Youth shall be pursuant to the provisions of the Texas Mental Health Code.

*.006. Transfers from and to Other Texas Department of Mental Health and Mental Retardation Facilities.*

(a) Transfers for any patients who are residing in Texas Department of Mental Health and Mental Retardation facilities and who meet the eligibility criteria contained in Rule .003 of these rules shall be considered and encouraged. The local community MH/MR center will be notified of transfer of a patient from a TDMH/MR facility to the Waco Center for Youth.

(b) A client in residence at the Waco Center for Youth whose psychiatric condition indicates a need for inpatient psychiatric care will be transferred to the TDMH/MR facility that serves that client's county of residence.

*.007. Family Involvement and Counseling.*

(a) The Texas Department of Mental Health and Mental Retardation encourages parents of clients at the Waco Center for Youth to participate in counseling or family therapy in an effort to understand and cope with the problem the client is displaying as related to family relationships. The center's staff will participate in DHR service planning for children in DHR conservatorship and encouragement of parental participation will be consistent with these service plans.

(b) The referral agencies are encouraged to either provide or make provisions for such family services when it is not possible for the family to avail themselves of these services at the Waco Center for Youth. Where appropriate, the local community MH/MR center will provide these services in coordination with the Waco Center and under the provisions of the continuity of care rule.

(c) The Waco Center for Youth staff will provide to the counseling agency and managing conservator, to the extent

authorized by law, appropriate information concerning the progress of the client.

.008. *Statutory References.* Reference is made to the following statutes:

- (1) the Texas Mental Health Code, Article 5547-1 et seq., Vernon's Texas Civil Statutes; and
- (2) Article 3255c, Vernon's Texas Civil Statutes.

.009. *Distribution.*

(a) These rules shall be distributed to the members of the Texas Board of Mental Health and Mental Retardation; assistant commissioners, deputy commissioners, directors, and section chiefs of the Central Office; superintendents and directors of all Texas Department of Mental Health and Mental Retardation facilities; and members of Board of Trustees and executive directors of community mental health and mental retardation centers.

(b) The superintendent or director of each Texas Department of Mental Health and Mental Retardation facility shall be responsible for the dissemination of the information contained in these rules to appropriate staff.

Issued in Austin, Texas, on October 28, 1980.

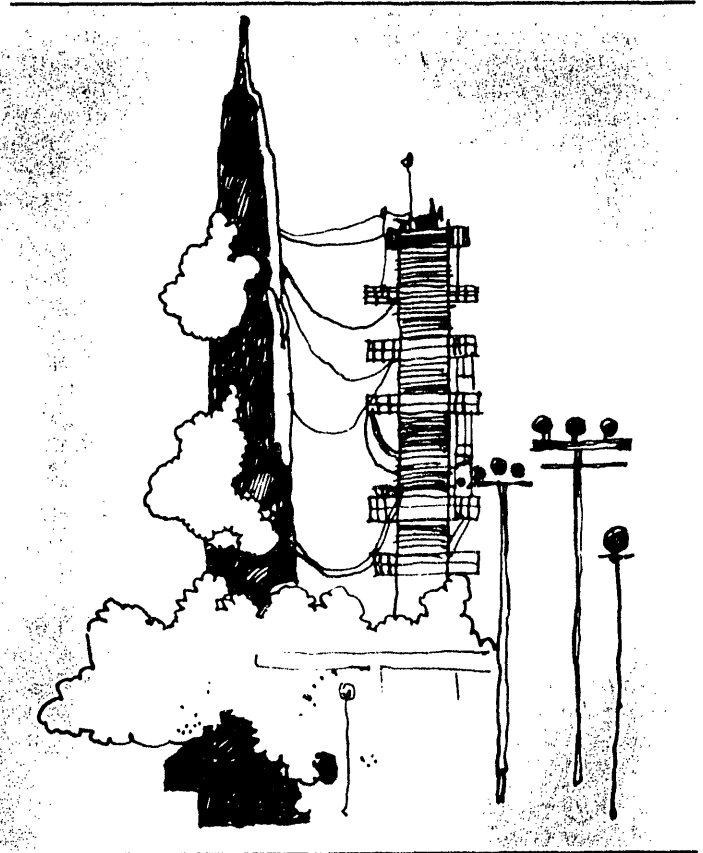
Doc. No. 808220

John J. Kavanagh, M.D.  
Commissioner  
Texas Department of Mental Health and  
Mental Retardation

Effective Date: November 18, 1980

Proposal Publication Date: April 15, 1980

For further information, please call (512) 454-3761.



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 Department of Agriculture

**Tuesday, November 11, 1980, 10 a.m.** The Texas Grain Sorghum Producers Board of the Texas Department of Agriculture will meet in the Quality Inn, 2915 I 40 East, Amarillo. According to the agenda, the board will discuss the financial report; review processor violations; market development report; and research review.

Information may be obtained from Elbert Harp, 1708-A 15th Street, Lubbock, Texas 79401, (806) 763-4425.

Filed: October 27, 1980, 4:41 p.m.  
Doc. No. 808163

## State Bar of Texas

**Monday, November 3, 1980, 9 a.m.** The Executive Committee of the State Bar of Texas met in the President's Room, third floor of the Texas Law Center, 1414 Colorado Street, Austin. According to the agenda summary, the committee considered the following matters: report of Federal Trade Commission, IRS matters, Texas Legal Protection Plan, Inc., and advertising by Franklin Jones, president; report of Wayne Fisher, president-elect; report of Legal Services Corp. by immediate past president Dougherty; report of Charles Smith, board chairman; report of Tom Hanna, executive director—personnel discussion, if any, bar survey, magna carta, and excess fund program; financial report by Tom Hanna and Malcolm Graham—audit letter response; report on 1981 convention by Mr. Hanna and Ms. Corbin; discussion—bar journal contract.

Information may be obtained from Evelyn Avent, 1414 Colorado Street, Austin, Texas, (512) 475-4746.

Filed: October 24, 1980, 1:36 p.m.  
Doc. No. 808132

## Texas Department of Corrections

**Monday, November 10, 1980, 8 a.m.** The board of the Texas Department of Corrections will meet in Room 103, 815 11th Street, Huntsville. According to the agenda summary, the

board will consider matters relating to inmate affairs; personnel; business; legislation; agriculture; construction; industries; legal; research, planning, and development; miscellaneous; and Windham School System.

Information may be obtained from W. J. Estelle, Jr., P.O. Box 99, Huntsville, Texas 77340, (713) 295-6371, ext. 159.

Filed: October 29, 1980, 2:13 p.m.  
Doc. No. 808248

## Texas State Board of Dental Examiners

**Saturday, November 1, 1980, 3 p.m.** The Texas State Board of Dental Examiners held an emergency meeting in the meeting room of the Southwest Tower, Seventh and Brazos, Austin, to discuss personnel matters. This time represented the only time prior to the next open meeting of November 14 and 15, 1980, to discuss these matters.

Information may be obtained from Dr. Neil A. Morgan, 901 Northeast Loop 410, Suite 426, San Antonio, Texas, (512) 824-1482.

Filed: October 27, 1980, 4:06 p.m.  
Doc. No. 808162

## Texas Education Agency

**Thursday, November 6, 1980, 8:30 a.m.** The Committee of the Whole of the State Board of Education will meet in the board room, 150 East Riverside Drive, Austin. According to the agenda summary, the committee will hear protests related to the 1980 textbook adoptions; the preliminary report of the commissioner of education on textbooks; and textbook protests from eligible petitioners and publishers.

Information may be obtained from Alton O. Bowen, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: October 28, 1980, 4:45 p.m.  
Doc. No. 808222

**Thursday, November 6, 1980, 2 p.m.** The Central Services Committee of the State Board of Education will meet in the Central Services Office, Texas School for the Deaf, 1102 South Congress, Austin. According to the agenda, the committee will discuss policy adoption; receive update on computer system; and discuss timelines for orderly presentation of annual and biennial budgets.

Information may be obtained from Alton O. Bowen, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: October 28, 1980, 4:45 p.m.  
Doc. No. 808223

**Friday, November 7, 1980, 8:30 a.m.** The Committee for Policy, Budget, and Finance of the State Board of Education will meet in the second floor conference room, 158 East Riverside Drive, Austin. According to the agenda, the committee will consider the following: interagency contracts; contracts with private individuals and firms; funds sub-

contracted or subgranted for public education by the Texas Education Agency; adoption by reference of Texas State Public Education Compensation Plan; emergency teaching permits, special assignment permits, and temporary classroom assignment permits; general educational development; the organizational structure and the duties and responsibilities of the organizational units of the Texas Education Agency; Office of the Commissioner of Education; organization and function of the State Department of Education; functions of the organizational units of the State Department of Education; official advisory groups and procedures for appointment; request for authorization to apply for funds under Title VII, Elementary and Secondary Education Act; and proposed legislative recommendations.

Information may be obtained from Alton O. Bowen, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: October 28, 1980, 4:45 p.m.  
Doc. No. 808225

**Friday, November 7, 1980, 8:30 a.m.** The Committee for Programs and Personnel Development of the State Board of Education will meet in the board room, 150 East Riverside Drive, Austin. According to the agenda, the committee will consider vocational administrator, vocational supervisor, and vocational counselor units; endorsements; Texas certificate for aliens; the adoption by reference of the Financial Accounting Manual, Bulletin 679; relationships with the U. S. Government and its agencies; recommendation for appointments, and Proprietary School Advisory Commission.

Information may be obtained from Alton O. Bowen, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: October 28, 1980, 4:45 p.m.  
Doc. No. 808224

**Friday, November 7, 1980, 10:30 a.m.** The Committee of the Whole of the State Board of Education will meet in the board room, 150 East Riverside Drive, Austin. According to the agenda, the committee will discuss the report of the commissioner of education on textbooks; multiple list resolutions of the State Board of Education; resolution authorizing purchases and distribution of multiple list samples—1980; large type textbooks for visually handicapped; and application to establish new textbook depository status.

Information may be obtained from Alton O. Bowen, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: October 28, 1980, 4:46 p.m.  
Doc. No. 808226

**Friday, November 7, 1980, 2 p.m.** The Committee for Investment of the Permanent School Fund of the State Board of Education will meet in the second floor conference room, 150 East Riverside Drive, Austin. According to the agenda, the committee will discuss the Investment Operating Manual for the permanent school fund; appointment of Investment Advisory Committee members, permanent school fund; and investment of available funds.

Information may be obtained from Alton O. Bowen, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: October 28, 1980, 4:46 p.m.  
Doc. No. 808228

**Friday, November 7, 1980, 2 p.m.** The Committee for Priorities, Accountability, and Accreditation of the State Board of Education will meet in the board room, 150 East Riverside Drive, Austin. According to the agenda, the committee will discuss administration and operation of regional education service centers; principles, standards, and procedures for the accreditation of school districts; adoption by reference of tabular material in "Guidelines for School Personnel" (Bulletin 753), Section 1, certification; county schools; report on the accreditation status of Texas public schools.

Information may be obtained from Alton O. Bowen, 210 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: October 28, 1980, 4:46 p.m.  
Doc. No. 808227

**Saturday, November 8, 1980, 8:30 a.m.** The State Board of Education will meet in the board room, 150 East Riverside Drive, Austin. According to the agenda summary, the board will consider the following: agency administration; appeals on decisions of the commissioner of education; report of the commissioner of education on textbooks; multiple list resolutions of the Texas State Board of Education; resolution authorizing purchase and distribution of multiple list samples—1980; large type textbooks for visually handicapped; application to establish new textbook depository status; vocational administrator, vocational supervisor, and vocational counselor units; endorsements; Texas certificate for aliens; the adoption by reference of the Financial Accounting Manual, Bulletin 679; relationships with the U. S. Government and its agencies; recommendation for appointments, Proprietary School Advisory Commission; interagency contracts; contracts with private individuals and firms; funds subcontracted or subgranted for public education by the Texas Education Agency; adoption by reference of the Texas State Public Education Compensation Plan; emergency teaching permits, special assignment permits, and temporary classroom assignment permits; general educational development; the organizational structure and the duties and responsibilities of the organizational units of the Texas Education Agency; Office of the Commissioner of Education; organization and function of the State Department of Education; functions of the organizational units of the State Department of Education; official advisory groups and procedures for appointment; request for authorization to apply for funds under Title VII, Elementary and Secondary Education Act; proposed legislative recommendations; administration and operation of regional education service centers; principles, standards, and procedures for the accreditation of school districts; adoption by reference of tabular material in "Guidelines for School Personnel" (Bulletin 753) Section 1, certification; county schools; report on the accreditation status of Texas public schools; Investment Operating Manual for the permanent school fund; appointment of Investment Advisory Committee members, permanent school fund; and investment of available funds.

Information may be obtained from Alton O. Bowen, 201 East 11th Street, Austin, Texas 78701, (512) 475-3271.

Filed: October 28, 1980, 4:47 p.m.  
Doc. No. 808229

## Texas Department of Health

**Friday, October 31, 1980, 1:30 p.m.** The Texas Board of Health of the Texas Department of Health met in Room 206 of the Texas Law Center, 14th and Colorado, Austin. According to the agenda summary, the board considered the minutes of the September 27, 1980, meeting; heard reports from the commissioner and the Operational Audit Committee of the Governor's Office; and conducted an executive session.

Information may be obtained from Joe Klinger, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: October 23, 1980, 3:21 p.m.  
Doc. No. 808092

**Saturday, November 1, 1980, 9:30 a.m.** The Texas Board of Health of the Texas Department of Health met in Room T-607, 1100 West 49th Street, Austin. According to the agenda summary, the board considered the following matters: relationship of the state chest hospitals to the Texas Department of Health; history and update of the Texas Department of Health's cancer program; request for purchase of an automated reporting system for the laboratory to expedite drinking water sample analysis; proposed rules for the Controlled Substances Therapeutic Research Review Board and design criteria for sewage systems; final rules on standards for the collection and analysis of water samples for total trihalo-methanes; request for emergency approval of the revised municipal solid waste management regulations and approval of the proposed revisions to the existing municipal solid waste management regulations; executive session; Legislative Committee report on the department's 67th Legislature package; Budget Committee requests for approval to amend the departmental budget and to include funds for a new data processing building; Personnel Committee request for extension of employment beyond age 70; and meeting date for December 1980.

Information may be obtained from Joe Klinger, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: October 23, 1980, 3:21 p.m.  
Doc. No. 808093

**Saturday, November 8, 1980, 9:30 a.m.** The Hospital Licensing Advisory Council of the Texas Department of Health will meet in Conference Room T-507, 1100 West 49th Street, Austin. According to the agenda summary, the council will consider the following: the minutes; chairman's comments—introduction of new council members, general remarks, task force; report by Walter Dick; new business—election of vice chairman, and other business, if any, to be brought before the council; and open discussion of subject matter for next meeting.

Information may be obtained from Walter L. Dick, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7245.

Filed: October 29, 1980, 3:51 p.m.  
Doc. No. 808255

The Texas Department of Health will conduct the following hearings in November:

**November 18, 1980, 9:30 a.m.**

Hilton Inn, Pecan Room, 6780 Southwest Freeway, Houston. Application 1259 of Olshan Demolishing Company, Inc., to operate an existing Type IV brush and construction demolition waste disposal site located immediately west of Kirkwood Road, 0.4 mile north of Bissonet Road, 0.4 mile east of Cook Road, and 100 feet south of Newbrook Drive, in Houston, Harris County

**November 25, 1980, 10:30 a.m.**

Room 2, Building 4213, Directorate of Facilities Engineering, South 77th Street and Santa Fe Avenue, Fort Hood. Application 1283 of U. S. Army, Fort Hood, to operate an existing Type I municipal solid waste disposal site located 50 feet north of Turkey Run Road and 800 feet west of Clear Creek Road in Fort Hood, Coryell County

**November 25, 1980, 10:30 a.m.**

same location as above. Application 1284 of U. S. Army, Fort Hood to operate an existing Type III municipal solid waste disposal site located 200 feet south of 18th Street and 600 feet north of 16th Street in North Fort Hood, Coryell County

Information may be obtained from Jack C. Carmichael, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7271.

Filed: October 28, 1980, 3:49 p.m.  
Doc. No. 808191

The Texas Department of Health and the Texas Department of Water Resources will conduct public hearings at five locations within the state on the proposed Solid Waste Management Plan for Texas 1980-1986.

The Texas Department of Health has prepared a draft of Volume I, "Municipal Solid Waste," which addresses municipal solid waste management. Volume II, "Industrial Solid Waste," has been prepared by the Texas Department of Water Resources and addresses industrial solid waste management. Together, the two volumes comprise the state's proposed solid waste management plan, which has been prepared under the authority of the federal Resource Conservation and Recovery Act of 1976 (Public Law 94-580) and the state Solid Waste Disposal Act of 1969 (Vernon's Texas Civil Statutes, Article 4477-7).

The hearings to be held by the Texas Department of Health are scheduled as follows:

**Tuesday, December 2, 1980, 1 p.m.**—Midland College, Roadrunner Room, 3600 North Garfield, Midland

**Wednesday, December 3, 1980, 1 p.m.**—City of Euless, Community Building Gymnasium, 201 North Ector Drive, Euless

**Tuesday, December 9, 1980, 1 p.m.**—Corpus Christi-Nueces County Health Department, Classroom 20, 1202 Horne Road, Corpus Christi

**Wednesday, December 10, 1980, 1 p.m.**—University of Houston, Cullen Auditorium, 4800 Calhoun, Houston

**Friday, December 12, 1980, 1 p.m.**—Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin.



Interested persons are encouraged to attend these hearings and present relevant comments concerning the proposed plans. Groups and associations wishing to submit testimony should be represented by one spokesperson. Anyone may submit written testimony to the hearing officer in lieu of verbal testimony. In addition, written comments may also be sent to the appropriate agencies if postmarked prior to December 17, 1980.

Questions or comments concerning Volume I, "Municipal Solid Waste," should be addressed to Jack Carmichael at the address given below. After November 15, 1980, copies of Volume I, "Municipal Solid Waste," will be available at the department's headquarters, 1100 West 49th Street, Austin, Texas. Room T-404; offices of regional planning agencies (councils of governments); offices of health systems agencies; and regional offices of the Texas Department of Health.

Information may be obtained from Jack C. Carmichael, P.E., Attention Glendon D. Eppler, 1100 W. 49th Street, Austin, Texas 78756, (512) 458-7717.

Filed: October 28, 1980, 3:51 p.m.  
Doc. No. 808230

## Texas Health Facilities Commission

**Friday, November 7, 1980, 9:30 a.m.** The Texas Health Facilities Commission will meet in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin, to consider the following applications:

### Certificate of Need

- Buchanan Lake Health Services, Inc., Buchanan Dam  
AO80-0707-011
- St. Joseph Hospital, Houston  
AH80-0707-015
- Baylor University Medical Center, Dallas  
AH80-0717-003
- Radiology Center of Paris, Paris  
AO80-0530-088
- East Texas Regional Cancer Radiation Center, Tyler  
AH79-1210-036

### Exemption Certificate

- Wilson N. Jones Memorial Hospital, Sherman  
AH80-0905-011
- CompCare, Inc., San Antonio  
AO80-0923-005
- Pregnancy Control, Inc., Fort Worth  
AS80-0916-014
- Westgate Hospital and Medical Center, Denton  
AH80-0922-014
- Home Care and Health Services, Inc., Marshall  
AS80-0905-007
- Youens Memorial Hospital, Weimar  
AH80-0919-009
- Pasadena Bayshore Hospital, Pasadena  
AH80-0915-010 and AH80-0915-007
- Fort Worth State School, Fort Worth  
AA80-0916-019
- Stephenville Nursing Home, Stephenville  
AN80-0912-006
- Planned Parenthood Center of Fort Worth, Fort Worth  
AO80-0818-022

Amendment of Exemption Certificate Order  
St. John's Hospital, San Angelo  
AH79-1126-012A(091880)  
Inman Christian Center, San Antonio  
AO79-1213-013A(091880)

Information may be obtained from Linda E. Zatopek, P.O. Box 15023, Austin, Texas 78761, (512) 475-6940.

Filed: October 29, 1980, 9:55 a.m.  
Doc. No. 808235

## Texas Historical Commission

**Saturday, November 8, 1980, 10:30 a.m.** The Texas Board of Review of the Texas Historical Commission will meet in the Gethsemane Church, 1510 Congress Avenue, Austin. According to the agenda summary, the board will consider the election of chairman and vice chairman; approve minutes of previous meeting; consider bylaw change; approve appeals procedure; and review National Register nominations.

Information may be obtained from Joe Williams, 108 West 16th Street, Austin, Texas, (512) 475-3094.

Filed: October 28, 1980, 9:19 a.m.  
Doc. No. 808170

## University of Houston

**Monday, November 3, 1980, 9:30 p.m.** The Building Committee of the Board of Regents of the University of Houston met in the board room, 220 Ezekiel Cullen Building, University of Houston Central Campus, Houston. According to the agenda summary, the committee discussed and/or approved the following: Central Campus—schematic design for Cullen Engineering addition, legislative request for documents for College of Business and Architecture Buildings, easement for student housing, and minor capital improvements 1981; Clear Lake Campus—program guides, animal care facility and Central Services Building expansion, and easement to water authority; University of Houston System—contract for repairs to KUHT-TV towers, system office building legislative request, construction status and financial status of construction status reports; other items; and an executive session.

Information may be obtained from Deborah Selden, 4800 Calhoun, Houston, Texas 77004, (713) 749-7545.

Filed: October 27, 1980, 10:39 a.m.  
Doc. No. 808140

## Texas Department of Human Resources

**Wednesday, October 29, 1980, 2 p.m.** The board of the Texas Department of Human Resources held an emergency meeting in Room 1B, 706 Banister Lane, Austin. As an emergency and as a matter of urgent public necessity, the board selected a consultant to assist them in an independent analysis of purchased health services contract proposals now before the board. This meeting was necessary so that the selected consultant can complete his analysis as ex-

peditionously as possible in order that the board may act in sufficient time for implementation of the contracted Purchased Health Services Program. Also, as an emergency and as a matter of urgent public necessity, the board met in executive session to discuss pending and contemplated litigation.

Information may be obtained from Bill Woods, P.O. Box 2960, Austin, Texas 78769, (512) 441-3355.

Filed: October 28, 1980, 4:15 p.m.  
Doc. No. 808192

## State Board of Insurance

**Wednesday, November 5, 1980, 10 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto, Austin, to consider Docket 6198—reinsurance agreement whereby American Retirement Life Insurance Company, Houston, proposes to be totally reinsured by Jefferson Life Insurance Company, Dallas.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: October 27, 1980, 11:06 a.m.  
Doc. No. 808146

**Wednesday, November 5, 1980, 10 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 350, 1110 San Jacinto Street, Austin, in Docket 6113—application for admission of Great Northern Insurance Company, Minneapolis, Minnesota.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: October 27, 1980, 11:06 a.m.  
Doc. No. 808147

**Wednesday, November 5, 1980, 2 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6119—application for admission of the Sumitomo Marine and Fire Insurance Company, Ltd.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: October 27, 1980, 11:06 a.m.  
Doc. No. 808148

**Wednesday, November 5, 1980, 3:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6196—application for temporary certificate of authority of Texas Thompson Funeral Insurance Company.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: October 27, 1980, 11:06 a.m.  
Doc. No. 808149

**Thursday, November 6, 1980, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a rehearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6002—regarding Commissioner's Order 80-2210 of Occidental Life Insurance Company. This hearing was originally scheduled for April 30, 1980.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: October 27, 1980, 11:08 a.m.  
Doc. No. 808151

**Thursday, November 6, 1980, 9:30 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6173—protest of the name American Independent Reinsurance Company, Wilmington, Delaware.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: October 27, 1980, 11:06 a.m.  
Doc. No. 808150

**Thursday, November 6, 1980, 10 a.m.** The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to consider the home protection plan filing and professional liability filings by National Union Fire Insurance Company.

Information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, (512) 475-2950.

Filed: October 27, 1980, 10:38 a.m.  
Doc. No. 808141

**Thursday, November 6, 1980, 2 p.m.** The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to consider the firemen's fund commercial group dividend program.

Information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, (512) 475-2950.

Filed: October 27, 1980, 10:38 a.m.  
Doc. No. 808142

**Friday, November 7, 1980, 10 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6181—application for admission of Protected Home Mutual Life Insurance Company, Sharon, Pennsylvania.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: October 27, 1980, 11:06 a.m.  
Doc. No. 808152

**Friday, November 7, 1980, 1:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6188—application for extension of time to

sell real estate by First Continental Life and Accident Insurance Company.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: October 27, 1980, 11:05 a.m.  
Doc. No. 808153

**Friday, November 7, 1980, 3:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6189—reinsurance transaction by Stewart Title Guaranty under Article 9.19.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: October 27, 1980, 11:05 a.m.  
Doc. No. 808154

**Monday, November 10, 1980, 9:30 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a rescheduled public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6124—approval of articles of agreement of CNA Lloyds of Texas. This hearing was originally scheduled for September 16, 1980.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: October 27, 1980, 11:08 a.m.  
Doc. No. 808155

**Monday, November 10, 1980, 1:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6182—application for certificate of authority of Mustang Life Insurance Company, Rio Vista.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: October 27, 1980, 11:05 a.m.  
Doc. No. 808156

**Wednesday, November 19, 1980, 9 a.m.** The State Board of Insurance will conduct a public hearing in Room 408, 1110 San Jacinto, Austin, to consider the appeal of Albert W. Gray from Commissioner's Order 80-2217.

Information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, (512) 475-2950.

Filed: October 28, 1980, 9:20 a.m.  
Doc. No. 808171

## Texas Department of Labor and Standards

**Thursday, December 11, 1980, 10 a.m.** The Auctioneer Division of the Texas Department of Labor and Standards will meet at 1012 E. O. Thompson Building, 920 Colorado,

Austin. According to the agenda, the division will determine whether the license of Grover Howell to auctioneer should be suspended or revoked.

Information may be obtained from Blake Travis, 920 Colorado, Room 1012, Austin, Texas, (512) 475-6560.

Filed: October 29, 1980, 11:19 a.m.  
Doc. No. 808243

## Board for Lease of State-Owned Lands

**Thursday, November 6, 1980, 1:15 p.m.** The Board for Lease of Texas Parks and Wildlife Lands of the Board for Lease of State-Owned Lands will meet in Room 201-B of the Texas Parks and Wildlife Headquarters Building, 4200 Smith School Road, Austin. According to the agenda, the board will discuss water pipeline easements; gas pipeline easements; and pipeline right-of-way request.

Information may be obtained from Linda Fisher, 1700 North Congress Avenue, Stephen F. Austin Building, Room 835, Austin, Texas 78701, (512) 475-2071.

Filed: October 29, 1980, 2:58 p.m.  
Doc. No. 808251

## Texas National Guard Armory Board

**Sunday, November 9, 1980, 1 p.m.** The Texas National Guard Armory Board will meet in Building 64, Camp Mabry, Austin. According to the agenda summary the board will consider fiscal, personnel and administrative matters; facility lease, easement, use, facility construction, remodeling, renovation, and consideration of other matters that may properly come before the board.

Information may be obtained from T. W. Meek, West Austin Station, Austin, Texas 78763, (512) 475-5481.

Filed: October 28, 1980, 11:49 a.m.  
Doc. No. 808180

## Pan American University

**Thursday, November 6, 1980.** The following committees of the Board of Regents and the Board of Regents of Pan American University will meet in the conference room of the Administration Building, Edinburg, at the times listed below.

**9:30 a.m.**—The Buildings and Grounds Committee will meet to consider the purchase of furniture for cafeteria; the selection of bricks for new Administration Building; construction of an animal facility; purchase of equipment for the handicapped; and hurricane damage.

**11:30 a.m.**—The Academic and Developmental Affairs Committee will meet in executive session (as authorized by Article 6251 17, 2g, Vernon's Annotated Texas Statutes) to consider employment of personnel.

**2 p.m.**—The Board of Regents will meet to approve minutes; to hear reports of Buildings and Ground Committee, Academic and Developmental Affairs Committee, and Presidential Search Committee; and to consider the sale of

stock, El Sol newspaper, bowling alley fees, revised holiday schedule, auxiliary funds, gifts and donations, budget changes, and the date of the next meeting

Information may be obtained from Dr. Ralph Schilling, Pan American University, Edinburg, Texas, (512) 381-2101.

Filed: October 24, 1980, 9:55 a.m.  
Doc. Nos. 808112-808114

## Board of Pardons and Paroles

**Monday, Wednesday, Thursday, and Friday, November 10, 12, 13, and 14, 1980, 9 a.m. daily.** The Board of Pardons and Paroles will meet in Room 711, Stephen F. Austin Building, Austin. According to the agenda, 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, executive clemency, parole, and all hearings conducted by this agency; and take action upon gubernatorial directives.

Information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, (512) 475-3363.

Filed: October 27, 1980, 4:58 p.m.  
Doc. No. 808166

**Wednesday, November 12, 1980, 9 a.m.** The Board of Pardons and Paroles will meet in the Diagnostic Unit, Texas Department of Corrections, Huntsville. According to the agenda, a parole panel consisting of members of the Board of Pardons and Paroles and members of the Texas Parole Commission will conduct parole violation hearings.

Information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, (512) 475-3363.

Filed: October 27, 1980, 4:58 p.m.  
Doc. No. 808165

## Texas Parks and Wildlife Department

**Thursday, November 6, 1980, 9 a.m.** The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will conduct a public hearing in Building B, Texas Parks and Wildlife Department Headquarters Complex, 4200 Smith School Road, Austin. According to the agenda summary, the department will consider the following matters: approval of public hearing court reporter minutes, September 3, 1980; presentations—retirement/service plaques, and Tyler County; Trinity River fishing regulations, Houston/Madison Counties; proposed Brazoria County shrimping rule changes; Northern Natural Gas Company pipeline right-of-way request, Gene Howe Wildlife Management Area; Sabine Pass Battleground State Historical Park water pipeline easement request, Jefferson County; Lake Arrowhead state recreation area water pipeline easement, Clay County; Lake Brownwood state recreation area easement request; Longhorn Cavern State Park concession contract extension, Burnet County; petition consideration of rules adop-

tion concerning potentially harmful fish; Caprock Canyons State Park aoudad hunt, Briscoe County; proposed amphitheater complex addition, Galveston Island State Park, Galveston County; Caprock Canyons State Park facilities development funding, Briscoe County; Washington-on-the-Brazos State Historical Park additional facilities development funding, Washington County; Falcon State Recreation Area capital improvement project, Starr/Zapata Counties; Texas State Railroad State Historical Park track and bridge repairs, Anderson/Cherokee Counties; fiscal year 1981 department construction/major repairs; Purtil Creek state recreation area land acquisition project, Van Zandt County.

Information may be obtained from Maurine Ray, 4200 Smith School Road, Austin, Texas 78744, (512) 475-4954.

Filed: October 28, 10:06 a.m.  
Doc. No. 808178

**Tuesday, November 18, 1980, 2 p.m.** The Fisheries Division/Resource Protection Branch of the Texas Parks and Wildlife Department will meet in Room A-200, 4200 Smith School Road, Austin. According to the agenda, the division will consider the application of Bobby Yancey Sand and Gravel for a permit to remove approximately 8,000 cubic yards of sand and 100 cubic yards of gravel per month from the west fork of the San Jacinto River by means of a backhoe for commercial use. The work site would be located approximately five miles north of U. S. Highway 59 bridge adjacent to the property of Hubert Vestal in Montgomery County.

Information may be obtained from Chester Harris, 4200 Smith School Road, Austin, Texas 78744, (512) 475-4831.

Filed: October 27, 1980, 1:44 p.m.  
Doc. No. 808158

**Tuesday, November 18, 1980, 3 p.m.** The Fisheries Division/Resource Protection Branch of the Texas Parks and Wildlife Department will meet in Room A-200, 4200 Smith School Road, Austin. According to the agenda, the division will consider the application of the City of Fort Worth for a permit to remove approximately 600 cubic yards of marl from Clear Fork Trinity River by means of a front-end loader or backhoe for the purpose of constructing a public canoe ramp. The marl will be used for public road construction. The work site is located adjacent to Memorial Oaks Drive, approximately 550 feet east of Dry Branch Road in Benbrook, Tarrant County, on property leased by the City of Fort Worth from the Corps of Engineers.

Information may be obtained from Chester Harris, 4200 Smith School Road, Austin, Texas 78744, (512) 475-4831.

Filed: October 27, 1980, 1:44 p.m.  
Doc. No. 808159

## State Property Tax Board

**Wednesday and Thursday, November 5 and 6, 1980, 8:30 a.m. daily.** The State Property Tax Board will meet in the agency conference room, 9501 North IH 35, Austin. According to the agenda summary, the board will conduct appeals

panel hearings for hearing school district's protests of preliminary assigned values.

Information may be obtained from Kenneth E. Graeber, 9501 North IH 35, Austin, Texas 78753, (512) 837-8622.

Filed: October 23, 1980, 2:15 p.m.  
Doc. Nos. 808088 & 808089

**Friday, November 7, 1980, 8:30 a.m.** The State Property Tax Board will meet in the agency conference room, 9501 North IH 35, Austin. According to the agenda summary, the board will conduct appeals panel hearings for hearing school district's protests of preliminary assigned values.

Information may be obtained from Kenneth E. Graeber, 9501 North IH 35, Austin, Texas 78753, (512) 837-8622.

Filed: October 24, 1980, 3:55 p.m.  
Doc. No. 808138

## Public Utility Commission of Texas

**Friday, November 7, 1980, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3493—application of Grande Casa Water System for a rate increase within Ellis County.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: October 29, 1980, 11:20 a.m.  
Doc. No. 808245

**Friday, November 7, 1980, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a rescheduled prehearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3486—application of Peoples National Utility Company for authority to increase rates within Harris, Montgomery, Brazoria, and Matagorda Counties. This hearing was previously set for Thursday, October 30, 1980.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: October 30, 1980, 2:09 p.m.  
Doc. No. 808266

**Monday, November 10, 1980, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3510—application of Central Telephone Company of Texas for a rate increase within Harris, Montgomery, Coryell and Burnet Counties.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: October 28, 1980, 2:15 p.m.  
Doc. No. 808184

**Friday, November 14, 1980, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a rescheduled hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Dockets 2982 and 2992—appeals of Resort Utilities, Inc., from rates set by the Cities of Galveston and Jamaica Beach. This hearing was originally scheduled for October 28, 1980.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: October 27, 1980, 10:38 a.m.  
Doc. No. 808143

**Thursday, November 20, 1980, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3492—application of Dogwood Estates Water Company for a rate increase within Henderson County.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: October 29, 1980, 11:20 a.m.  
Doc. No. 808246

**Thursday, November 20, 1980, 1:30 p.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3494—complaint of John Chomko against Bartlett Electric Cooperative.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: October 29, 1980, 11:21 a.m.  
Doc. No. 808247

**Friday, November 21, 1980, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Dockets 3495, 3496, 3497, and 3504—applications of Sugar Land Telephone Company, et al., for a rate/tariff change.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: October 29, 1980, 3:52 p.m.  
Doc. No. 808258

**Thursday, December 11, 1980, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3474—application of B & W Gathering Company Inc., for a rate increase and certificate of convenience and necessity within Burnet County (water).

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: October 23, 1980, 4:59 p.m.  
Doc. No. 808094

**Monday, December 15, 1980, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3469—application of Taylor Water Company for authority to increase rates within Kaufman and Hunt Counties.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: October 30, 1980, 9:12 a.m.  
Doc. No. 808267

**Friday, December 19, 1980, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3466—application of Central Resources Corporation/Indian Hills subdivision for a rate increase and certificate of convenience and necessity within Comal County.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: October 30, 1980, 9:12 a.m.  
Doc. No. 808268

## Railroad Commission of Texas

**Monday, October 27, 1980, 9 a.m.** The Automatic Data Processing Division of the Railroad Commission of Texas met in emergency session in the first floor auditorium, 1124 South IH 35, Austin, to consider purchase of data entry system. This matter was considered on less than seven days' notice because of the need to procure the upgrade to the Entrex Data Entry system before the present expiration date of November 30, 1980, and because of deadlines for submitting the agreement to the Systems Division of the State Auditor's Office.

Information may be obtained from David M. Garlick, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1627.

Filed: October 24, 1980, 11:29 a.m.  
Doc. No. 808128

**Monday, October 27, 1980, 9 a.m.** The Automatic Data Processing Division of the Railroad Commission of Texas met in emergency session in the first floor auditorium, 1124 South IH 35, Austin, to consider a contract with IBM for education courses. Consideration of this matter on less than seven days' notice is required as a matter of urgent public necessity because of the immediate need for the services covered by the contract.

Information may be obtained from David M. Garlick, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1627.

Filed: October 24, 1980, 11:29 a.m.  
Doc. No. 808129

**Monday, October 27, 1980, 9 a.m.** The Gas Utilities Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in Room 107, 1124 South IH 35, Austin. According to the agenda, the division considered gas utilities Docket 2012—Texas Southeastern Gas Company's statement of intent to change rates of various customers. Consideration of this matter on less than seven days' notice was required as a matter of urgent public necessity to allow consideration of the joint motion to extend deadlines for filing motions for rehearing and replies to motions for rehearing prior to the expiration of the statutory deadline for filing motions for rehearing which fell on October 29, 1980, before the next scheduled commission conference.

Information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas, (512) 445-1126.

Filed: October 24, 1980, 11:29 a.m.  
Doc. No. 808130

**Monday, October 27, 1980, 9 a.m.** The Transportation Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in Room 107, 1124 South IH 35, Austin. According to the agenda, the division considered emergency authority to haul carbide lime hydrate residue from Union Carbide's plant in or near Odessa, to the plant site of American Magnesium Company in or near Snyder. Emergency authority was considered on less than seven days' notice because American Magnesium alleged that their supply of the product is dangerously low. Without such product to neutralize a chlorine waste stream, the plant will emit a toxic chlorine gas causing imminent peril to the public health, safety, and welfare.

Information may be obtained from Owen T. Kinney, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1330.

Filed: October 24, 1980, 11:29 a.m.  
Doc. No. 808131

## Records Preservation Advisory Committee

**Wednesday, November 12, 1980, 2 p.m.** The Records Preservation Advisory Committee will meet in Room 205 of the Lorenzo de Zavala State Archives and Library Building, Austin. According to the agenda, the committee will introduce the new record preservation officer; and hear a report on the Texas State Library budget request for expansion of the Records Center Building.

Information may be obtained from Dorman Winfrey, P.O. Box 12927, Austin, Texas 78711, (512) 475-2166.

Filed: October 29, 1980, 9:42 a.m.  
Doc. No. 808234

## School Land Board

**Tuesday, November 4, 1980, 10 a.m.** The School Land Board has canceled the regularly scheduled meeting of November 4, 1980, due to the state holiday and the general election.

Information may be obtained from Linda Fisher, 1700 North Congress Avenue, Stephen F. Austin Building, Room 835, Austin, Texas 78701, (512) 475-2071.

Filed: October 28, 1980, 3:16 p.m.  
Doc. No. 808190

## University System of South Texas

**Monday, November 10, 1980, 11 a.m.** The Board of Directors of the University System of South Texas will meet at Rotan Mosle, 520 Corpus Christi Bank and Trust Tower, 615 Upper North Broadway, Corpus Christi. According to the agenda, the board will receive bids on \$500,000 bonds for Corpus Christi State University; award sale to best bidder; and consider bond resolution for the bond sale.

Information may be obtained from Duane M. Leach, P.O. Box 6765, Corpus Christi, Texas 78411, (512) 855-4893.

Filed: October 29, 1980, 11:17 a.m.  
Doc. No. 808241

**Monday, November 10, 1980, 1:30 p.m.** The Presidential Search Committee of the Board of Directors of the University System of South Texas will meet in the president's conference room, Corpus Christi State University, Corpus Christi. According to the agenda, the board will hold the initial organizational meeting of the Presidential Search Committee. Not open to the public.

Information may be obtained from Duane M. Leach, P.O. Box 6765, Corpus Christi, Texas 78411, (512) 855-4893.

Filed: October 29, 1980, 11:17 a.m.  
Doc. No. 808242

## Sunset Advisory Commission

**Friday, November 7, 1980, 9 a.m.** The Sunset Advisory Commission will meet in Room 309, House Appropriations Committee room, State Capitol. According to the agenda summary, the commission will make a presentation of legislation on: National Guard Armory Board; Adjutant General's Department; Texas State Board of Private Investigators and Private Security Agencies; Texas Amusement Machine Commission; Texas Real Estate Research Center; Texas State Board of Medical Examiners; Texas Optometry Board; Texas State Board of Dental Examiners; Texas State Board of Pharmacy; State Board of Nurse Examiners; Board of Vocational Nurse Examiners; State Board of Veterinary Medical Examiners; Texas State Board of Examiners of Psychologists; Texas Board of Chiropractic Examiners; Central Licensing Agency; Texas State Board of Examiners in Social Psychotherapy; State Board of Podiatry Ex-

aminers; Texas Board of Licensure for Nursing Home Administrators; Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids; Texas State Board of Physical Therapy Examiners; Veterans Affairs Commission; Polygraph Examiners Board; and Texas Water Well Drillers Board.

Information may be obtained from Cindy Unsell, 203 Reagan Building, Austin, Texas 78701, (512) 475-6565.

Filed: October 29, 1980, 11:20 a.m.  
Doc. No. 808244

## Advisory Council for Technical-Vocational Education in Texas

**Thursday, November 13, 1980, 10 a.m.** The Steering Committee of the Advisory Council for Technical-Vocational Education in Texas will meet in Suite 202 of the advisory council office, 1700 South Lamar, Austin. The committee will review the program of work and activities; review a draft of the joint report to the governor and legislature; develop council plans and activities for 1981; and take care of other business.

Information may be obtained from Valeria Blaschke, P.O. Box 1886, Austin, Texas 78767, or 1700 South Lamar, Suite 202, Austin, Texas 78704, (512) 475-2046.

Filed: October 29, 1980, 3:53 p.m.  
Doc. No. 808256

**Thursday and Friday, November 13 and 14, 1980, 1:30 p.m. and 8:30 a.m., respectively.** The Advisory Council for Technical Vocational Education in Texas will meet in the Texas Education Agency state board room, 150 East Riverside, Austin. According to the agenda, the council will review the council's report to the governor and legislature and discuss the annual report to the State Board of Education. The council will hear a presentation by Raymon Bynum, deputy commissioner from the Texas Education Agency, on educational legislation and appropriations. There will be a presentation on higher education in Texas by Kenneth H. Ashworth, commissioner of the coordinating board; a presentation from the Women's American Organization for Rehabilitation through Training; and a presentation on private vocational education in Texas by Vernon Stewart of the Texas Association of Private Schools. A panel of secondary vocational teachers will speak on their concerns.

Information may be obtained from Valeria J. Blaschke, P.O. Box 1886, Austin, Texas 78767, or 1700 South Lamar, Suite 202, Austin, Texas 78704, (512) 475-2046.

Filed: October 29, 1980, 3:52 p.m.  
Doc. No. 808257

## Texas A&M University

**Friday, October 31, 1980, 1 p.m.** The Board of Regents of Texas A&M University met in the Williamsburg Room of Texas A&M University Research and Extension Center, Dallas. According to the agenda, the board met to inspect and consider the adequacy of the facilities, and to inspect the land and its current use.

Information may be obtained from Robert G. Cherry, Texas A&M University, College Station, Texas, (713) 845-4334.

Filed: October 28, 1980, 8:40 a.m.  
Doc. No. 808167

## Texas Tech University

**Thursday, October 30, 1980, 10 a.m.** The Public Affairs, Development, and University Relations Committee of the Board of Regents of Texas Tech University met in Committee Room A of the board suite, Administration Building, Lubbock, to conduct an executive session and to consider administrative actions: acceptance with appreciation of the Bucy scholarships in applied physics; legislative requests—plan for carrying them through as they meet; plans for hosting former regents; and entertaining regents from other universities.

Information may be obtained from Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161

Filed: October 24, 1980, 9:51 a.m.  
Doc. No. 808098

**Thursday, October 30, 1980, 10 a.m.** The Public Affairs, Development, and University Relations Committee of the Board of Regents of Texas Tech University Health Sciences Center met in Committee Room A of the board suite, Administration Building, Lubbock, to conduct an executive session and to consider administrative actions: legislative requests—plan for carrying them through as they meet; plans for hosting former regents; and entertaining regents from other universities

Information may be obtained from Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161

Filed: October 24, 1980, 9:51 a.m.  
Doc. No. 808099

**Thursday, October 30, 1980, 10:30 a.m.** The Health Affairs Committee of the Board of Regents of Texas Tech University Health Sciences Center met in Committee Room B of the board suite, Administration Building, Lubbock, to conduct an executive session; to hear reports and review administrative actions; and to consider shared services, resident financing, and land for psychology pavilion.

Information may be obtained from Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: October 24, 1980, 9:51 a.m.  
Doc. No. 808100

**Thursday, October 30, 1980, 2 p.m.** The Academic and Student Affairs Committee of the Board of Regents of Texas Tech University met in Committee Room B of the board suite, Administration Building, Lubbock, to conduct an executive session; to hear reports and review administrative actions; and to consider bachelor of business administration with a

major in management information systems and a master of architecture degree program.

Information may be obtained from Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: October 24, 1980, 9:52 a.m.  
Doc. No. 808101

**Thursday, October 30, 1980, 2 p.m.** The Academic and Student Affairs Committee of the Board of Regents of Texas Tech University Health Sciences Center met in Committee Room B of the board suite, Administration Building, Lubbock, to conduct an executive session; to hear reports and review administrative actions; and to consider granting academic tenure with appointment.

Information may be obtained from Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: October 24, 1980, 9:52 a.m.  
Doc. No. 808102

**Thursday, October 30, 1980, 3 p.m.** The Campus and Building Committee of the Board of Regents of Texas Tech University met in Committee Room A of the board suite, Administration Building, Lubbock. The committee conducted an executive session and considered the following matters: administrative actions: appointment of project engineer for Wiggins Energy Grant (modification of heating, ventilation, and air conditioning in Chitwood and Weymouth Halls); award of contract for central heating and cooling plant 1; schematic drawings and authorization to proceed with design development for Petroleum Engineering Building addition; communication from chairman of the Board of Regents to chairman of coordinating board to show unanimous support of Board of Regents for construction of addition to Petroleum Engineering Building; award of contract for renovation and improvement of utility distribution system-N tunnel/Part II; acceptance dates for Jones Stadium Athletic Office addition and Jones Stadium structural renovation Phase I, and for university central kitchen improvement; granting to City of Lubbock drainage easements for construction of Quaker Avenue between 4th Street and Erskine.

Information may be obtained from Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: October 24, 1980, 9:52 a.m.  
Doc. No. 808103

**Thursday, October 30, 1980, 3 p.m.** The Campus and Building Committee of the Board of Regents of Texas Tech University Health Sciences Center met in Committee Room A of the board suite, Administration Building, Lubbock. The committee conducted an executive session and considered the following matters: administrative actions: acceptance date of the construction of the Texas Tech Regional Academic Health Center at El Paso, Phase III; construction of Texas Tech University Health Sciences Center-Pod/Phase III B—approval of the contract documents; approval of the revision of the contract with Reid and Gary Strickland Company for the construction of Phase II, Texas Tech Regional Academic Health Center at Amarillo.



Information may be obtained from Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: October 24, 1980, 9:52 a.m.  
Doc. No. 808104

**Thursday, October 30, 1980, 4 p.m.** The Finance Committee of the Board of Regents of Texas Tech University met in Committee Room B of the board suite, Administration Building, Lubbock, to conduct an executive session, hear reports and review administrative actions, and to consider the following matters: specification of officers and/or employees to sign checks; delegation of board authority to authorize and approve expenditures from appropriated funds; establishment of a charge for new student orientation; and annual report on investments of the university.

Information may be obtained from Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: October 24, 1980, 9:52 a.m.  
Doc. No. 808106

**Thursday, October 30, 1980, 4 p.m.** The Finance Committee of the Board of Regents of Texas Tech University Health Sciences Center met in Committee Room B of the board suite, Administration Building, Lubbock, to conduct an executive session, hear reports and review administrative actions, and to consider the following matters: specification of offices and/or employees to sign checks; delegation of board authority to authorize and approve expenditures from appropriated funds; approval of a clinical service contract for the Department of Obstetrics/Gynecology with El Paso County Hospital District, doing business as R. E. Thomason General Hospital, for October 1, 1980, through September 30, 1981; annual report on certain aspects of the medical practice income plan; and annual report on investments of the university.

Information may be obtained from Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: October 24, 1980, 9:52 a.m.  
Doc. No. 808105

**Thursday, October 30, 1980, 4:30 p.m.** The Athletic Affairs Committee of the Board of Regents of Texas Tech University met in the board room of the board suite, Administration Building, Lubbock, to conduct an executive session; to hear reports and review administrative actions; and to consider the possibilities of building a combination athletic/physical education building (report of the Ad Hoc Committee).

Information may be obtained from Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: October 24, 1980, 9:53 a.m.  
Doc. No. 808107

**Thursday, October 30, 1980, 5 p.m.** The Executive Committee of the Board of Regents of Texas Tech University met in Committee Room A of the board suite, Administration Building, Lubbock, to conduct an executive session and hear reports and review administrative actions.

Information may be obtained from Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: October 24, 1980, 9:53 a.m.  
Doc. No. 808109

**Thursday, October 30, 1980, 5 p.m.** The Executive Committee of the Board of Regents of Texas Tech University Health Sciences Center met in Committee Room A of the board suite, Administration Building, Lubbock, to conduct an executive session and hear reports and review administrative actions.

Information may be obtained from Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: October 24, 1980, 9:53 a.m.  
Doc. No. 808108

**Friday, October 31, 1980, 8:30 a.m.** The Board of Regents of Texas Tech University Health Sciences Center met in the Board of Regents Suite, Administration Building, Lubbock. According to the agenda summary, the board conducted an executive session and heard reports and took action on the following matters: minutes and items for ratification; academic and student affairs; finance; campus and building matters; and Committee of the Whole.

Information may be obtained from Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: October 24, 1980, 9:53 a.m.  
Doc. No. 808110

**Friday, October 31, 1980, 8:30 a.m.** The Board of Regents of Texas Tech University met in the Board of Regents Suite, Administration Building, Lubbock. According to the agenda summary, the board conducted an executive session and heard reports and took action on the following matters: minutes and items for ratification; academic and student affairs; public affairs, development, and university relations; finance; campus and building matters; and Committee of the Whole.

Information may be obtained from Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: October 24, 1980, 9:54 a.m.  
Doc. No. 808111

## Veterans Affairs Commission

**Thursday, December 18, 1980, 10 a.m.** The Veterans Affairs Commission will meet on the sixth floor of the E. O. Thompson Building, 10th and Colorado, Austin. According to the agenda, the commission will consider reports on activities of the commission and make decisions relative to general administrative matters pertaining to Texas' veterans counseling and assistance program.

Information may be obtained from Aubrey L. Bullard, P. O. Box 12277, Austin, Texas 78711, (512) 475-4185.

Filed: October 30, 1980, 9:13 a.m.  
Doc. No. 808269

## Texas Water Commission

**Monday, November 3, 1980, 10 a.m.** The Texas Water Commission met in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission considered the following: application for release from escrow; change order; petition for creation—setting hearing date; water quality permits; renewals; voluntary cancellations of water quality permits; final decision on water rights amendments; cancellation of permit; water rate controversy; and the filing and setting of hearing dates on applications.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: October 23, 1980, 4:01 p.m.  
Doc. No. 808091

**Monday-Friday, November 17-21, 1980, 2 p.m. Monday and 9 a.m. Tuesday-Friday** The Texas Water Commission will meet in the City Council Chambers, Municipal Building, 212 East Pillar Street, Nacogdoches. According to the agenda summary, the commission will hold adjudication hearings on Upper Angelina River Segment, Neches River Basin.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: October 28, 1980, 11:28 a.m.  
Doc. No. 808179

**Tuesday, November 18, 1980, 10 a.m.** The Texas Water Commission will meet in Room 124A of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider an examiner's proposal for a decision on an application by Conroe Independent School District for Permit 12281 to authorize a discharge of 12,000 gallons per day of treated domestic sewage effluent to be discharged into Meeks Branch, then to Caney Creek in Segment 1010 of the San Jacinto Basin.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: October 24, 1980, 3:13 p.m.  
Doc. No. 808137

**Friday, December 5, 1980, 10 a.m.** The Texas Water Commission will meet in Room 618 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a hearing on Application 4084 of Dr. Jack Buck—permit to directly divert 50 acre-feet of water from the Middle Bosque River, tributary of South Bosque River, tributary Bosque River, tributary Brazos River, Brazos River Basin, for irrigation purposes in McLennan County.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: October 24, 1980, 11:11 a.m.  
Doc. No. 808125

**Wednesday, December 10, 1980, 10 a.m.** The Texas Water Commission will conduct a hearing in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin, on petition for organization of Harris County Municipal Utility District 169 containing 246.37 acres, more or less.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: October 29, 1980, 11:17 a.m.  
Doc. No. 808240

**Wednesday, December 10, 1980, 10 a.m.** The Texas Water Commission will conduct a hearing in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin, on petition for organization of Harris County Municipal Utility District 199 containing 138.9 acres, more or less.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: October 29, 1980, 3:07 p.m.  
Doc. No. 808254

## Texas Department of Water Resources

**Monday, November 3, 1980, 1:30 p.m.** The Texas Department of Water Resources met in Room 100 B of the John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda summary, the department conducted a conference on proposed amendments to the Texas Water Development Board rules concerning water well drilling, completion, and plugging to protect the quality of the underground water.

Information may be obtained from Jack Overton, P.E., P.O. Box 13087, Austin, Texas 78711, (512) 475-3191.

Filed: Austin, Texas, on October 24, 1980, 3:12 p.m.  
Doc. No. 808136

**Tuesday, December 2, 1980, 10 a.m.** The Texas Department of Water Resources will conduct a public hearing in the Roadrunner Room, Midland College, 3600 North Garfield, Midland, on the proposed Solid Waste Management Plan for Texas, 1980 through 1986.

Information may be obtained from Dan Eden, P.O. Box 13087, Austin, Texas 78711, (512) 475-2041.

Filed: October 30, 1980, 9:48 a.m.  
Doc. No. 808273

**Wednesday, December 3, 1980, 10 a.m.** The Texas Department of Water Resources will conduct a public hearing in the City of Euless, Community Building Gymnasium, 201 North Ector Drive, Euless, on the proposed Solid Waste Management Plan for Texas, 1980 through 1986.

Information may be obtained from Dan Eden, P.O. Box 13087, Austin, Texas 78711, (512) 475-2041.

Filed: October 30, 1980, 9:48 a.m.  
Doc. No. 808274

**Tuesday, December 9, 1980, 10 a.m.** The Texas Department of Water Resources will conduct a public hearing in Classroom 20, Corpus Christi-Nueces County Health Department, 1202 Horne Road, Corpus Christi, on the proposed Solid Waste Management Plan for Texas, 1980 through 1986.

Information may be obtained from Dan Eden, P.O. Box 13087, Austin, Texas 78711, (512) 475-2041.

Filed: October 30, 1980, 9:48 a.m.  
Doc. No. 808275

**Wednesday, December 10, 1980, 7 p.m.** The Texas Department of Water Resources will conduct a public hearing at the University of Houston, Cullen Auditorium, 4800 Calhoun, Houston, on the proposed Solid Waste Management Plan for Texas, 1980 through 1986.

Information may be obtained from Dan Eden, P.O. Box 13087, Austin, Texas 78711, (512) 475-2041.

Filed: October 30, 1980, 9:48 a.m.  
Doc. No. 808276

**Friday, December 12, 1980, 10 a.m.** The Texas Department of Water Resources will conduct a public hearing in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin, on the proposed Solid Waste Management Plan for Texas, 1980 through 1986.

Information may be obtained from Dan Eden, P.O. Box 13087, Austin, Texas 78711, (512) 475-2041.

Filed: October 30, 1980, 9:47 a.m.  
Doc. No. 808277

**Thursday, December 18, 1980, 9 a.m.** The Texas Department of Water Resources will conduct a public hearing in the board meeting room, Gulf Coast Waste Disposal Authority, 910 Bay Area Boulevard, Houston, in order to receive testimony concerning the Environmental Protection Agency delegating additional administrative authority for the Construction Grants Program to the Texas Department of Water Resources.

Information may be obtained from Bobby Whitefield, P.O. Box 13087, Austin, Texas 78711, (512) 475-3926.

Filed: October 30, 1980, 9:49 a.m.  
Doc. No. 808278

**Friday, December 19, 1980, 9 a.m.** The Texas Department of Water Resources will conduct a public hearing in Room 118 of the Stephen F. Austin Building, 1700 North Congress, Austin, in order to receive testimony concerning the Environmental Protection Agency delegating additional administrative authority for the Construction Grants Program to the Texas Department of Water Resources.

Information may be obtained from Bobby Whitefield, P.O. Box 13087, Austin, Texas 78711, (512) 475-3926.

Filed: October 30, 1980, 9:49 a.m.  
Doc. No. 808279

## Texas Water Well Drillers Board

**Monday, November 3, 1980, 9:30 a.m.** The Texas Water Well Drillers Board met in the fifth floor executive conference room, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board considered the following: approval of minutes of September 9, 1980; complaints for formal public hearings for Vernie Feemster, James D. Fleck, and John W. Sneed; certification of applicants for registration, registration of drillers and water well drillers examinations since last meeting; and investigator's activities and staff reports.

Information may be obtained from Fred Osborne, P.O. Box 13087, Austin, Texas 78711, (512) 475-6176.

Filed: October 24, 1980, 3:12 p.m.  
Doc. No. 808135

**Monday, November 3, 1980, 9:30 a.m.** The Texas Water Well Drillers Board made an emergency revision to the agenda of a meeting held in the fifth floor, executive conference room, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the additional item concerned proposed standards of conduct for registered water well drillers. Since the board will not meet again until January 6, 1981, and public notice must be posted prior to the adoption of any rules, it constituted a matter of public necessity that this item be considered by the board at this meeting.

Information may be obtained from M. Arcelia Izquierdo, P.O. Box 13087, Austin, Texas 78711.

Filed: October 29, 1980, 4:16 p.m.  
Doc. No. 808265

## Regional Agencies

### Meetings Filed October 24, 1980

**The Education Service Center, Region VII**, Board of Directors, will meet at the Holiday Inn, Highway 259, South, Henderson, on November 6, 1980, at 7 p.m. Information may be obtained from Don J. Peters, 818 East Main, Kilgore, Texas 75662, (214) 984-3071.

**The Central Appraisal Board of Hays County**, met in the Recreation Room, First Methodist Church, Buda, on November 3, 1980, at 2 p.m. Information may be obtained from H. William Beare, Jr., P.O. Box 1287, San Marcos, Texas 78666, (512) 392-4777.

**The Central Appraisal District of Taylor County**, Board of Directors, met in the Jury Assembly Room, Third Floor, Taylor County Courthouse, Abilene, on October 28, 1980 at 7 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 677-1711, ext. 222.

**The Lubbock, Regional MHMR Center**, met at 1210 Texas Avenue, Lubbock, on October 28, 1980, at 4:30 p.m. Information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401, (806) 763-4213.

**The South Texas Development Council**, Governments Application Review Committee, met in the Zapata Community Center, Zapata, on October 30, 1980, at 3:30 p.m. Information may be obtained from Julie Saldana, P.O. Box 2187, Laredo, Texas 78041, (512) 722-3995.

Doc. No. 808115

### Meetings Filed October 27, 1980

**The Ark-Tex Council of Governments**, Executive Committee, will meet at K-Bob's Restaurant, Mt. Pleasant, on November 6, 1980, at 5:30 p.m. The Board of Directors will meet at the Titus County Convention Center, Mt. Pleasant, on the same day at 7 p.m. Information may be obtained from Vivienne Arvin, P.O. Box 5307, Texarkana, Texas 75501, (214) 794-3481.

**The Austin-Travis County MH/MR Center**, Nominations Committee, met at Houston Street HDC, 1800 Houston Street, Austin, on October 30, 1980, at 7 p.m. Information may be obtained from Mary Lou Serviss, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

**The Bexar-Medina-Atascosa Counties Water Control and Improvement District 1**, Board of Directors, met at the District Office, Natalia, on November 3, 1980, at 10 a.m. Information may be obtained from Clifford Mueller, P.O. Box 180, Natalia, Texas 78059, (512) 663-2132.

**The East Texas Council of Governments**, Executive Committee met in emergency session at Stoneridge Plaza Office Building, 3800 Stone Road, Kilgore, on October 29, 1980, at 2:30 p.m. Information may be obtained from Kent A. Myers, 3800 Stone Road, Kilgore, Texas 75662, (214) 984-8641.

**The High Plains Underground Water Conservation District 1**, Board of Directors, met in the conference room, 2930 Avenue Q, Lubbock, on November 3, 1980, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181.

**The Middle Rio Grande Development Council**, A-95 Project Review Committee will meet in rescheduled session in the city council chambers, city hall, Uvalde, on November 6, 1980, at 2 p.m. Information may be obtained from Elia G. Santos, P.O. Box 702, Carrizo Springs, Texas 78834, (512) 876-3533.

Doc. No. 808157

### Meetings Filed October 28, 1980

**The Angelina and Neches River Authority**, will meet at Crown Colony Country Club, 900 Crown Colony Drive, Lufkin, on November 5, 1980, at 11 a.m. Information may be obtained from William A. Elmore, P.O. Box 387, Lufkin, Texas 75901, (713) 632-7795.

**The Houston-Galveston Area Council**, Projects Review Committee, will meet at 3701 West Alabama, Houston, on November 4, 1980, at 9:30 a.m. Information may be obtained from Martha Pawley Grady, P.O. Box 22777, Houston, Texas 77027, (713) 627-3200.

**The West Central Texas Council of Governments**, Regional Advisory Council on Aging, will meet at West Highway 80, Abilene, on November 6, 1980, at 10 a.m. Information may be obtained from Dorothy Vanderslice, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544.

Doc. No. 808172

### Meetings Filed October 29, 1980

**The South Texas Development Council**, Area Agency on Aging and Advisory Committee on Aging, will meet in the STDA conference room, 600 South Sandman, Laredo, on November 19, 1980, at 2 p.m. Information may be obtained from Kathy Henderson, P.O. Box 2187, Laredo, Texas 78041, (512) 722-3995.

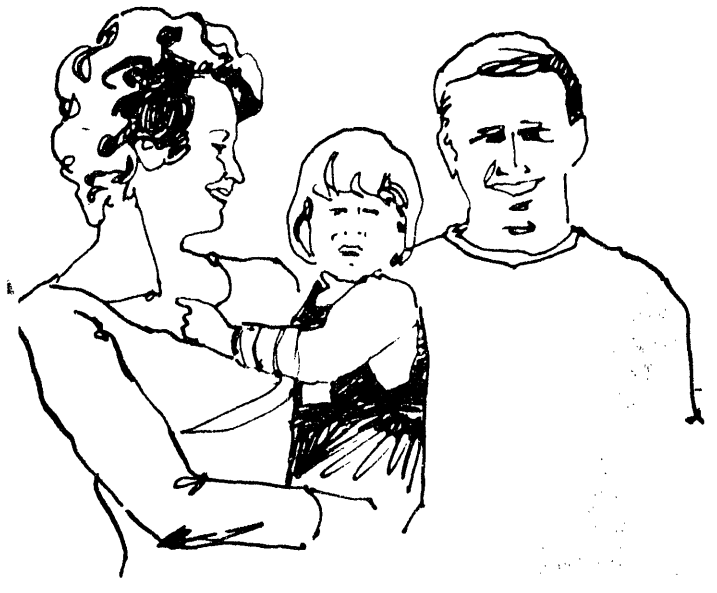
**The West Central Texas Municipal Water District** will meet in a rescheduled session at Briarstone Manor, 101 Eplen Court, Abilene, on November 6, 1980, at noon. Information may be obtained from Victor Jaeggli, P.O. Box 2362, Abilene, Texas, (915) 673-8254.

Doc. No. 808239

### Meetings Filed October 30, 1980

**The South Texas Health Systems Agency**, Plan Development Committee of the Coastal Bend Subarea Health Advisory Council, will meet at Greenwood Senior Community Center, 4040 Greenwood Road, Corpus Christi, on November 10, 1980 at 7 p.m. Information may be obtained from Helen Fisher, Station 1, Box 2378, Kingsville, Texas, 78363, (512) 595-5545.

Doc. No. 808270



## 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 October 13-17, 1980.

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, 6330 Highway 290 East, Austin, Texas 78723.

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 October 17, 1980

Arrow Industries, Farmers Branch; polyethylene film printing and laminating facility; 3401 Gardenbrook; 8573; new source

Saber Refining Co., Corpus Christi; permit storage tanks 3—600,000 barrels each; 6560 Up River Road; 8574; new source

Texas Silver Association, Inc., Addison; silver recovery facility; 8575; new source

Houston Lighting and Power Co., Jewett; steam generator; limestone electric generating station; 8576; new source

Houston Lighting and Power Co., Jewett; steam generator; limestone electric generating station; 8577; new source

Houston Lighting and Power Co., Jewett; lignite unloading and handling system; limestone electric generating station; 8578; new source

Houston Lighting and Power Co., Jewett; waste handling system; limestone electric generating station; 8579; new source

Lone Star Gas Co., Teague; amine process and sulphur recovery; Teague field treating plant; 8580; new source

Witco Chemical Corp., Marshall; continuous peroxyster unit; Highway 59—Marshall Plant; 8581; new source

Hefner Precast Concrete Products, Cleburne; ready mix concrete plant; Plant 1; 8582; new source

Intercontinental Terminals Co., Deer Park; storage terminal; Tidal Road; 8583; new source

Issued in Austin, Texas, on October 23, 1980.

Doc. No. 808133      Ramon Dasch  
                                 Hearing Examiner  
                                 Texas Air Control Board

Filed: October 24, 1980, 1:44 p.m.  
For further information, please call (512) 451-5711, ext. 401.

## Texas Department of Community Affairs

### Request for Proposal

**Notice of Invitation.** The TDCA, under the authority of its enabling act, Article 4413(201), Texas Revised Civil Statutes Annotated, announces a request for proposals (RFP) from its Children and Youth Services Division. TDCA is soliciting proposals to administer and deliver services to young children and their families in a broad range of program areas. Preference will be given to direct services for children and families within small communities, and innovative programs that meet documented community or statewide needs. Programs may serve children older than age six if children under six are also included. Examples of potential program areas are included in the proposal packet.

TDCA will accept, review, and select proposals for services during three funding cycles:

**Cycle 1.** Proposals for four- to nine-month programs were received from September 5, 1980, through October 24, 1980. Contracts will begin on or after December 1, 1980.

**Cycle 2.** Proposals for four- to six-month programs will be received from November 1, 1980, through January 23, 1981. Contracts will begin on or after March 1, 1981.

**Cycle 3.** Proposals for four-month programs only will be received from February 1, 1981, through March 20, 1981. Contracts will begin no later than May 1, 1981.

This announcement applies to Cycle 2 only; a subsequent announcement for Cycle 3 will be forthcoming.

If TDCA chooses to enter into and execute any contract for services, the period of performance will begin no earlier than March 1, 1981, and shall not extend past August 31, 1981. Approximately \$130,000 total is available for funding programs in all cycles.

**Qualifications Desired by TDCA.** Applicants eligible to respond to this request should be public or private nonprofit organizations, including state and local governments, with appropriate expertise. Individuals and profit-making organizations are not eligible. Applicants must give evidence of capability to accomplish requested services and document applicants' legal authority to contract with TDCA to provide these services.

**Deadline for Submission of Proposals.** Proposals submitted during this RFP cycle will not be accepted after 5 p.m. Friday, January 23, 1981, unless postmarked on or before January 21, 1981. Proposals may be hand-delivered up to the deadline to the Children and Youth Services Division, third floor, Texas Department of Community Affairs Building, 210 Barton Springs Road, Austin, on any work day between 8 a.m. and 5 p.m.

**Duration of Programs and Amount of Funding.** Programs for Cycle 2 should be proposed for a period of four to six months, beginning on or after March 1, 1981, and ending on or before August 31, 1981. The total dollar allocation for projects funded in Cycle 2 is \$40,000. Monthly expenditures for each contract are anticipated to range from \$1,500 to \$2,500. Proposals for continuation of existing programs will not be considered.

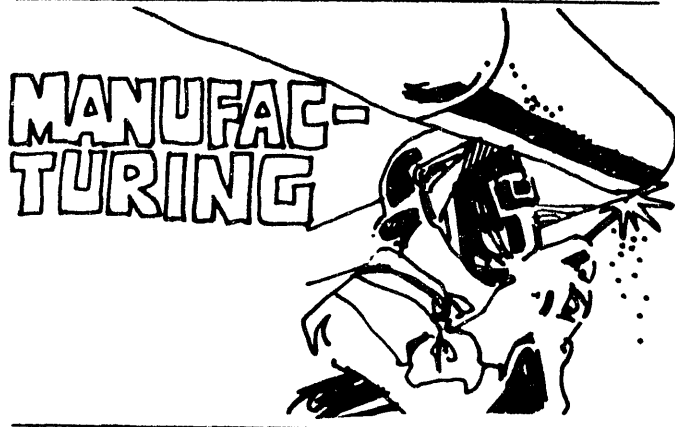
**General Information.** TDCA reserves the right to accept or reject any or all proposals submitted. TDCA is under no legal requirement to execute a resulting contract, if any, on the basis of this advertisement, and intends the material provided herein only as a means of identifying the various contractor alternatives and the general cost of the services desired by TDCA. TDCA intends to use responses hereto as a basis for further negotiation of specific program contracts. In the event that TDCA selects a contractor to provide the delivery of services described herein, TDCA will base its choice on factors such as demonstrated competence and qualifications of the offeror and the reasonableness of costs. Other factors upon which selection will be based are included in the proposal package. This request does not commit TDCA to pay for any costs incurred prior to execution of a contract and is subject to availability of appropriated funds. Issuance of this material in no way obligates TDCA to award a contract or to pay cost incurred in the preparation of a response hereto. TDCA specifically reserves the right to vary all provisions set forth herein at any time prior to execution of a contract where TDCA deems such variance to be in the best interest of the State of Texas, and to otherwise act as it determines in its sole discretion.

**Person to Contact.** To receive a proposal package, contact Richard Ratliff, director, Children and Youth Services Division, Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711, telephone (512) 475-5833 or 1 800-252-9642.

Issued in Austin, Texas, on October 23, 1980.

Doc. No. 808177      Jeanne Marcus  
                                  General Counsel  
                                  Texas Department of Community Affairs

Filed: October 28, 1980, 1:42 p.m.  
 For further information, please call (512) 475-6903.



## Employees Retirement System of Texas

### Contractual Relationship

The Employees Retirement System of Texas intends to continue its contractual relationship with Alexander Grant and Company, certified public accountants, for the performance

of audits of the insurance carrier for the Employees Uniform Group Insurance Program:

Issued in Austin, Texas, on October 23, 1980.

Doc. No. 808164      Clayton T. Garrison  
                                  Executive Director  
                                  Employees Retirement System  
                                  of Texas

Filed: October 27, 1980, 4:46 p.m.  
 For further information, please call (512) 476-6431.

## Texas Health Facilities Commission

### Applications for Declaratory Ruling, Exemption Certificate, and Transfer and Amendment of Certificate

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for declaratory ruling, exemption certificate, transfer of certificate, and amendment of certificate accepted during the period of October 22-28, 1980.

Should any person wish to become a formal party to any of the above-stated applications, that person must file a request to become a party to the application with the chairman of the commission within 25 days after the application is accepted. The first day for calculating this 25-day period is the first calendar day following the date of acceptance of the application. The 25th day will expire at 5 p.m. on the 25th consecutive day after the date said application is accepted. If the 25th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. A request to become a party should be mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, and must be received at the commission no later than 5 p.m. of the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to an application for a declaratory ruling, exemption certificate, transfer of certificate, or amendment of certificate must meet the minimum criteria set out in Rule 315.20.01.050. Failure of a party to supply the minimum necessary information in the correct form will result in a defective request to become a party and such application will be considered uncontested.

The fact that an application is uncontested will not mean that it will be approved. The application will be approved only if the commission determines that it qualifies under the criteria of Sections 3.02 or 3.03 of Article 4418(h), Texas Revised Civil Statutes, and Rules 315.17.04.010-.030, Rules 315.17.05.010-.030, Rules 315.18.04.010-.030, and Rules 315.18.05.010-.030.

In the following list, the applicant and date of acceptance are listed first, the file number second, the relief sought third, and description of the project fourth. EC indicates exemption certificate, DR indicates declaratory ruling, TR indicates transfer of ownership of certificate, AMD indicates amendment of certificate, and CN indicates certificate of need.

The Methodist Hospital, Houston (10/24/80)  
 AH80-1021-013

EC—To acquire one additional patient station for plasma/cytopheresis functions and necessary equipment and personnel

Lifemark Hospitals of Texas, Inc., for Alvin Community Hospital, Alvin (10/23/80)  
AH79-1221-002A(102080)

AMD/CN—Request to extend the completion deadline from December 31, 1980, to June 30, 1981, and increase the project cost from \$77,000 to \$107,302 in Certificate of Need AH79-1221-002. The CN authorized establishment of an alcohol rehabilitation program and remodeling of existing space

Texas Children's Hospital, Houston (10/24/80)  
AH80-1022-002

EC—To acquire a two-dimension echocardiographic machine for use in the cardiology department

Arlington Community Hospital, Arlington (10/27/80)  
AH80-1024-026

EC—To acquire a Hewlett Packard telemetry monitoring and arrhythmethia monitoring system for four beds

The Methodist Hospital, Houston (10/27/80)  
AH80-1024-034

EC—To acquire a diasonics ultrasound unit for the department of radiology

McLennan County Medical Education and Research Foundation, doing business as Family Practice Center, Waco (10/24/80)  
AO80-1021-015

DR—Request for a DR that neither a CN nor an EC is required for the applicant to construct a one-story building in order to consolidate all of its various programs under one roof

White Settlement Hospital, White Settlement (10/27/80)

AH80-1023-021

EC—Request to establish a centralized unit for providing physical therapy services and minor renovation for the unit

St. Luke's Episcopal Hospital, Houston (10/27/80)  
AH80-1023-005

EC—To acquire a Tissue Tek III, VIP vacuum infiltration processor for the pathology lab

Arlington Community Hospital, Arlington (10/28/80)  
AH80-1024-014

EC—To acquire a dyonics system for viewing arthroscopic surgical procedures to consist of a color camera, monitor, adapter, video recorder, light source, and storage cart

Hospital Corporation of America, doing business as Highland Park Hospital, El Paso (10/24/80)  
AH79-1219-016T(102280)

T/CN—St. Joseph Hospital of El Paso to Highland Park Hospital of El Paso. The CN authorized the expansion of the hospital kitchen and purchase of new kitchen equipment

Hospital Corporation of America, doing business as Highland Park Hospital, El Paso (10/24/80)

AH79-1219-016A(102280)

AMD/CN—Request to extend the completion deadline in Certificate of Need AH79-1219-016 from December 31, 1980, to July 1, 1981. The CN authorized the expansion of the kitchen and purchase of new kitchen equipment

Dallas County Hospital District for Parkland Memorial Hospital, Dallas (10/24-80)

AH79-0824-013A(102380)

AMD/CN—Request to extend the completion deadline in Certificate of Need AH79-0824-013 from October 3, 1980, to June 30, 1981. The CN authorized the purchase of a parallel biochemical analyzer system for the chemistry laboratory

Doc. No. 808237

### Initiation of Appropriateness Review

The Texas Health Facilities Commission will conduct statewide reviews of the appropriateness of End Stage Renal Disease and radiation therapy services. The reviews will commence on December 1, 1980, and will be completed by November 30, 1981. The statewide reviews will be based upon the findings and recommendations of the appropriateness of End Stage Renal Disease services and radiation therapy services made by the health systems agencies for Texas' 12 health services areas. statewide findings will be made on an areawide, rather than institution specific basis.

A request for a hearing regarding the statewide appropriateness of End Stage Renal Disease and radiation therapy services may be submitted to the commission. Requests for hearing must be filed in writing by certified mail, return receipt requested, to the Texas Health Facilities Commission, 1600 W. 38th Street, Suite 305, Austin, Texas 78731, no later than 5 p.m. March 1, 1981

Doc. No. 808236

### Petitions for Certificate of Need Reissuance

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for petitions of reissuance of certificate of need which have been filed with the commission

The commission may require a hearing on a petition for reissuance of certificate of need when it is determined that good cause exists for such a hearing. A request for a hearing on a petition for reissuance of certificate of need must be submitted to the commission within 15 days after publication of notice and show reason why a hearing should be held. Requests for a hearing are to be mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, and must be postmarked no later than the day prior to the last day allowed for filing requests for hearing.

The petition will be approved only if the commission determines that it qualifies under the criteria of Section 3.13 of Article 4418(h), Texas Revised Civil Statutes, and Rules 315.18.02.010, .040 and 315.19.02.012, .020.

In the following list, the applicant is listed first, the file number second, and the relief sought and description of the project third.

St. Jude Nursing Center, El Paso  
AN79-0220 003R(101480)

Reissuance of CN—Petition for reissuance of Certificate of Need AH79-0220 003 which authorized the certificate holder to construct and operate a 120-bed nursing home facility containing 29,100 square feet in El Paso and providing 12 ICF II beds, 90 ICF III beds, and 18 skilled beds to the service area

Issued in Austin, Texas, on October 29, 1980.

Doc. No 808238      Linda E. Zatopek  
Assistant General Counsel  
Texas Health Facilities Commission

Filed: October 2, 1980, 9:55 a.m.  
For further information, please call (512) 475-6940

## Board for Lease of State-Owned Lands Correction of Error

An open meeting notice submitted by the Board for Lease of State-Owned Lands contained an error as published in the October 28, 1980, issue of the *Texas Register* (5 TexReg 4267). The location of the meeting should have read "Room 213 of the State Department of Highways and Public Transportation District Office, Old Anson Road and U.S. Highway 83, Abilene."

## 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 October 20-24, 1980.

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 action; 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 October 24, 1980

Shintech, Inc., Freeport; wastewater treatment plant; 5618 Highway 332 East, southeast of the City of Clute in Brazoria County; 01871; amendment

Renewable Energy Corp., Dickinson; ethanol production facility; 7715 Old Alvin Road in the City of Marvel in Brazoria County; 02426; new permit

Texas Department of Corrections, Humstville; oxidation pond system, Darrington State Farm in Brazoria County; 10743; amendment

Caithness Mining Corp. (McBryde mine), Hebbroville; in situ mining permit, north of Hebbroville in Duval County; 02420; new permit

Southern Clay Products, Inc., (Muldoon clay mine), Gonzales; bentonite clay mining plant, on the east side of a dirt road in Fayette County; 01926; renewal

Southern Clay Products, Inc., (Kennard clay mine), Gonzales; bentonite clay mining plant; south-southeast of the City of Gonzales in Gonzales County; 01925; renewal

Carter Groves and J. H. Cohen, doing business as C & G Utility Company, Houston; package wastewater treatment plant; IH 45 and North Belt in Harris County; 12309; new permit

Lois B. Marks, M. M. Feld, Jr., Albert B. Lum, Houston; domestic sewage effluent; FM Road 529 (Spencer Road) in Harris County; 12293-01; new permit

Lim Ghung and Tsang Lau, in care of Lockwood, Andrews, and Newnam, Inc., Houston; domestic sewage effluent plant, north of FM Road 529 (Spencer Road) in Harris County; 12304; new permit

Claude S. Burks, doing business as Burks Pig Farm, D'Hanis; confined feeding plant for swine; FM Road 1796 in Medina County; 02418; new permit

Shore Company, Inc., Kilgore; oil refinery; west of U.S. Highway 259 in Gregg County; 02400; new permit

Issued in Austin, Texas, on October 24, 1980.

Doc. No. 808127      Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: October 24, 1980, 11:11 a.m.  
For further information, please call (512) 475-1311.



**TAC Titles Affected in This Issue**

The following is a list of the chapters of each title of the *Texas Administrative Code* affected by documents published in this issue of the *Register*. The listings are arranged in the same order as the table of contents of the *Texas Administrative Code*.

**TITLE 16. ECONOMIC REGULATION**

**Part II. Public Utility Commission of Texas**

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**TITLE 19. EDUCATION**

**Part II. Texas Education Agency**

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**TITLE 22. EXAMINING BOARDS**

**Part IX. Texas State Board of Medical Examiners**

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**Part XIX. Polygraph Examiners Board**

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**Part XXI. Texas State Board of Examiners of Psychologists**

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**TITLE 34. PUBLIC FINANCE**

**Part I. Comptroller of Public Accounts**

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 34 TAC §3.294 (026.02.20.014) ..... 4321  
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**Part III. Teacher Retirement System of Texas**

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**Part VII. State Property Tax Board**

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**TITLE 37. PUBLIC SAFETY AND CORRECTIONS**

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**Part III. Texas Youth Council**

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