

TEXAS REGISTER

STATE DOCUMENTS RECEIVED
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TEXAS DEPOSITORY

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Office of the Secretary of State

USPS Publication Number 120090

NOTES ON THE ISSUE

The Child Support Enforcement Program provides parent locator, paternity determination, and child support collection services for AFDC families and certain other individuals upon application. The Department of Human Resources is designated as the state agency responsible for administering the program in Texas. Local political subdivisions are encouraged by Title IV-D of the Social Security Act to contract with the department to provide child support services in their jurisdictions. The department enters into written agreements for cooperative contracts with the appropriate local officials, and, in this issue, adopts rules outlining the policy and procedures for making such cooperative agreements, including responsibilities under the contract, financial incentive, and budget policy. The department also proposes a clarification of non-AFDC application procedures.

The Texas Parks and Wildlife Department proposes a rule to restrict hunters of waterfowl in the J. D. Murphree Wildlife Management Area and the Sea Rim State Park to the use of steel shot in all 12-gauge shotguns. The rule is limited to these two areas, both in Jefferson County, because they are the only ones in the state where waterfowl are hunted in significant number and where the department has close control over the activities. The rule applies only to the shot for 12-gauge guns because, currently, manufacturers have limited production of steel shot to that gauge. The purpose of the proposal is to prevent continued lead poisoning of waterfowl. Actions of the federal government have prompted this proposal.

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

Artwork: Gary Thornton

TEXAS REGISTER



*Steven C. Oaks
Secretary of State*

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Opinions

Summary of Opinion H-1135

Request from Bill Stubblefield, county attorney, Williamson County, Georgetown, concerning the payment of fees in cases of deferred proceedings under Article 4476-15, Section 4.12, the Controlled Substances Act.

Summary of Opinion: A defendant placed on probation after the deferral of proceedings pursuant to Section 4.12 of Article 4476-15, Vernon's Texas Civil Statutes, the Controlled Substances Act, is not "convicted" for purposes of the fee statutes and is not liable for the fees assessed by Articles 53.01, 53.06, 1061, and 1064, Code of Criminal Procedure.

Doc. No. 781845

Summary of Opinion H-1136

Request from Neal T. Jones, Jr., county attorney, Hill County, Hillsboro, concerning the construction of Section 17.99, Texas Education Code.

Summary of Opinion: Section 17.99 of the Texas Education Code does not require the reclassification as independent districts of any school districts.

Issued in Austin, Texas, on March 16, 1978.

Doc. No. 781879

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

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

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

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

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

Comptroller of Public Accounts

Tax Administration

Sales Tax Division 026.02.24

The comptroller of public accounts is renewing the effectiveness of Rules 026.02.24.001-.009, which were filed December 9, 1977, on an emergency basis with the Texas Register Division of the Office of the Secretary of State. The rules were proposed for permanent adoption concurrently with the emergency adoption and were published in the December 16, 1977, issue of the *Texas Register* (2 TexReg 4812).

Issued in Austin, Texas, on March 17, 1978.

Doc. No. 781875 Paul L. Wehrle, Director
Legal Research
Comptroller of Public Accounts

Effective Date: April 7, 1978
Expiration Date: June 7, 1978

For further information, please call (512) 475-6872.

PROPOSED RULES

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

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

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

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

Texas Department of Human Resources

Child Support Collection

Child Support Collection Services 326.20.21

The Texas Department of Human Resources proposes to amend its rule concerning applicants for child support collection services who are not recipients of Aid to Families with Dependent Children. This rule amendment will clarify non-AFDC application procedures and will establish the signing of a contract for service as a part of this procedure.

The department has determined that this amendment will have no fiscal implications since it applies to an existing program. It should simplify non-AFDC applications for child support collection services.

Written comments are invited and may be sent to Susan Johnson, assistant chief, Systems and Procedures Bureau—792, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 30 days of publication in this *Register*.

This amendment is proposed under the authority of Article 695c, Texas Civil Statutes.

.003. Other Applicants.

(a) Non-AFDC applicants must be residents of the State of Texas. Nonresidents must make application through the Title IV-D Agency of the state *where* [in which] they reside. *An exception to this rule is made for families residing in another country if the child(ren) are United States citizens and the absent parent is residing in Texas.*

(b) [The client-completed form, Parent Profile Questionnaire, is also used for non-AFDC Texas residents who apply for child support services. It shall be the regional attorney's responsibility to ensure that applications are available to clients.

(c) All child support services will be available upon application and payment of an application fee. *A contract for services is part of the application form. The applicant must sign this contract to make a valid application.* [An assignment of rights to support, until actual costs have been recovered, shall be requested.] Non-AFDC applicants may withdraw from child support services by sending written notice to the local child support unit *providing that all* [any time after] costs have been recovered or *payment of all costs is made* [upon full payment of costs].

(c)(d) Any individual making application for child support services must be provided information regarding probable costs.

Issued in Austin, Texas, on March 16, 1978.

Doc. No. 781852 Jerome Chapman
Commissioner
Texas Department of Human Resources

Proposed Date of Adoption: April 24, 1978

For further information, please call (512) 475-4601.

24-Hour Care Licensing

Standards for Agency Homes 326.91.02.002

The Texas Department of Human Resources is proposing amendments to its rules in the following sets of standards: Minimum Standards in Child-Placing Agencies (24-Hour Care and Adoption), Minimum Standards for Foster Group Homes, and Minimum Standards for Foster Family Homes. The changes concern specialized care for mentally retarded and emotionally disturbed children. Rule 326.91.02.002 is amended to reference Rules 326.91.02.010-.016, that provide new standards for agency homes which serve mentally retarded children or which provide residential treatment for emotionally disturbed children.

Currently, only institutions that provide care for 13 or more children can offer specialized care to mentally retarded or emotionally disturbed children. However, there is a need to provide specialized care for children in smaller types of facilities, and these new standards are proposed to ensure the presence of added staff and programs required in such facilities.

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

Written comments are invited and may be sent to Susan Johnson, assistant chief, Systems and Procedures Bureau—710, Department of Human Resources, John H. Reagan Building, Austin, Texas 78701, within 60 days of publication in this *Register*.

The department has scheduled a public hearing to receive oral comments on May 10, 1978, at 9 a.m. in Room 406 of the John H. Reagan Building, Congress Avenue and 15th Street, Austin.

These amendments are proposed under the authority of Articles 695a-3 and 6252-13a, Texas Revised Civil Statutes.

.002. Admission Policies.

(g) Agency homes that serve mentally retarded children must meet the standards in Rules 326.91.02.010-.013.

(h) Agency homes that provide residential treatment must meet the standards in Rules 326.91.02.014-.016.

Doc. No 781869

326.91.02.010-.016

These additions concern specialized care for mentally retarded and emotionally disturbed children.

These new rules are proposed under the authority of Articles 695a-3 and 6252-13a, Texas Revised Civil Statutes.

.010. Personnel—Staffing Standards for Agency Homes Exclusively Serving Mentally Retarded Children.

(a) The child-placing agency must provide staff necessary to ensure the health and safety of the children in its care. When children of different ages, developmental levels, or social needs are grouped together for any purpose, there must be sufficient staff supervision to prevent the children from abusing or mistreating one another.

(b) The child-placing agency must have a psychologist available for diagnosis, treatment, and consultation.

(1) He or she must be a psychologist as defined by the Psychologists' Certification and Licensing Act.

(2) If the psychologist is not on the staff of the child-placing agency, the psychologist must document that his or her services are available on at least a continuing consulting basis.

.011. Admission—Policies for Agency Homes Exclusively Serving Mentally Retarded Children.

(a) The child-placing agency must not offer, at the same time and in the same agency home, two types of care that conflict with the best interest of the children, the use of staff, or the use of the home.

(b) No child can be admitted to an agency home exclusively serving mentally retarded children unless that child is below average in intellectual functioning and also has deficits in adaptive behavior. (See Rule 326.91.06.030 for description of these concepts.)

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

(2) The level of adaptive behavior must be determined by published scales or by a licensed psychologist who has experiences with mental retardation.

.012. Child Care, Development, and Training Standards for Agency Homes Exclusively Serving Mentally Retarded Children.

(a) Plan of service.

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

(2) The child-placing agency must obtain professional consultation and treatment for the children with special needs. A child's need is determined by his or her lack of adjustment in the social, home, and school environments.

When these services are obtained, they must be documented in the child's case record.

(b) Daily care.

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

(2) Food service practices for children, including nonmobile children, must encourage self-help and development.

(A) Children must eat or be fed in the dining area unless there are medical orders to the contrary.

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

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

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

(d) Children's rights.

(1) Discipline must be consistent with the policies of the child-placing agency. There must be no cruel, harsh, unusual, or unnecessary punishment.

(A) Only foster parents or adult caregivers may discipline a child.

(B) Children must not be subjected to verbal remarks that belittle or ridicule them or their families.

(C) Children must not be denied food, mail, or family visits as punishment.

(D) Children must not be threatened with the loss of foster home placement as punishment.

(E) Discipline must fit the needs of the child.

(F) Children must not be punished by shaking, striking, or spanking.

(G) A record must be kept of the imposition of restrictions to the agency home that exceed 24 hours.

(2) Physical and mechanical restraints can be used only when necessary to protect the child from injury to self or others.

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

(B) Physical holding or mechanical restraints (such as canvas jackets or cuffs) must be used only to protect the child from injury to self or others.

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

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

(E) An order for physical restraint must designate the type of restraint, the circumstances, and the duration of its use.

(e) Medical care. All seizures, injuries, and abnormal occurrences must be recorded. The time of occurrence, type

of incident, action taken, and person involved shall be recorded.

(f) Nutrition.

(1) Tube feeding can be used only when prescribed by a licensed physician.

(A) The foster parent or adult caregiver responsible for the preparation of the formula must be supervised by a licensed physician, nutritionist, or registered nurse.

(B) Tube feeding formulas must be prepared which supply the recommended dietary allowance for each child.

(C) Unless each tube feeding formula is prepared immediately before administration, the formula must be prepared and stored in bacteriologically safe, sanitized, and covered containers, and maintained at less than 40 degrees Fahrenheit.

(2) Only a licensed physician or registered nurse can be allowed to insert a tube for tube feeding.

(3) Tubes for tube feeding must not be left in place longer than seven days.

(4) Foster parents or adult caregivers assigned to administer tube feeding formulas must be trained by a licensed physician or registered nurse. The licensed physician or registered nurse must document in writing that the foster parents or adult caregivers assigned to administer tube feeding formulas have been trained and have demonstrated competence in administering tube feeding formulas.

(5) No child who must be tube fed can remain in care unless the agency home has foster parents or adult caregivers trained to administer tube feedings and a licensed physician or registered nurse available to insert the tube and provide training.

.013. Buildings, Grounds, and Equipment Standards for Agency Homes Exclusively Serving Mentally Retarded Children.

(a) Health and safety. When nonambulatory children or children subject to seizures are swimming, there must be at least one foster parent or adult caregiver or volunteer for each such child in the swimming area in addition to the lifeguard on duty.

(b) Environment.

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

(2) When a physician or other health professional recommends special equipment in the bathroom for physically handicapped children, this must be provided by the agency home.

.014. Personnel Standards for Agency Homes Exclusively Providing Residential Treatment.

(a) Residential staffing.

(1) The child-placing agency must provide staff necessary to ensure the proper care, treatment, and safety of the residents.

(A) The child-placing agency must arrange to have a person responsible for the treatment program who has a master's degree in a behavioral science or a related field, and who has had at least three years of experience working with children having problems of adaptation.

(B) The child-placing agency must arrange to obtain services of professional persons who have responsibility for supervising and reviewing the needs and treatment of residents. Documentation of the provision of these services, including specific instructions relating to the resident, must

be included in the resident's records. These professional services must include: psychiatric services from a licensed physician who is a psychiatrist; psychological services from a psychologist as defined by the Psychologists' Certification and Licensing Act; and social work services from a person who has a master's degree in social work from a school accredited by the Council of Social Work Education.

(2) If residents requiring constant supervision are admitted for treatment, they must be supervised by at least one awake foster parent or adult caregiver during sleeping hours.

(b) Training.

(1) The child-placing agency must provide orientation for new foster parents or adult caregivers.

(2) At least 50 hours of in-service training must be given annually for foster parents or adult caregivers working with residents.

(A) In-service training for those working with residents must be documented. This must include the date, the subject, method of training, and name of the person who conducted the training. The content of training must include understanding the needs of residents, residents' families, and state licensing standards.

(B) When the child-placing agency offers conferences and special training, attendance must be documented.

.015. Admission Standards for Agency Homes Exclusively Providing Residential Treatment.

(a) Admission policies.

(1) A written psychiatric or psychological diagnostic evaluation obtained within six months prior to admission must be included in each resident's record.

(2) On the basis of the psychiatric or psychological diagnostic evaluation and other evidence, such as the child's recent behavior, a determination must be made regarding the child's probability of danger to self or others. This determination must be documented in the child's record by the person(s) responsible for completing the intake study. If the documentation indicates a high risk of danger, specific opinions regarding the advisability of admission to the agency home must be obtained from a psychiatrist.

(3) Children who are a danger to self or others shall not be admitted or continued in care unless:

(A) the agency home or setting provides sufficient security to prevent harm to self or others;

(B) medical or behavioral care is available around the clock by a licensed physician. It must be documented that the agency home or setting has adequate security. It must be documented that 24-hour care is immediately available from a licensed physician. Physician's orders for physical restraint must be renewed every 24 hours. The physician must see the child, determine the need for physical restraint, and sign the written instructions every 24 hours.

(b) Intake study. The home must provide orientation for new residents. The orientation must include: a tour of the home; an introduction to foster parents or adult caregivers; a discussion of rules, regulations, and discipline; and a discussion concerning the tasks that residents are expected to perform as part of group living.

016. Child Care, Development, and Training Standards for Agency Homes Exclusively Providing Residential Treatment.

(a) Plan of service.

(1) A diagnostic assessment and treatment plan must be developed by the child-placing agency and recorded in the resident's case record within 30 days of admission.

(A) Diagnosis, prognosis, and estimated length of treatment must be entered in the case record.

(B) The assessment must include and document the physical, psychological, developmental/chronological age, environmental, family, social, educational, and recreational needs of the resident.

(C) The treatment plan must specify how the needs of the resident will be met.

(D) The objectives of treatment must be specific. The treatment plan must include specific instructions and must be shared with foster parents and adult caregivers.

(2) The name of the foster parent or adult caregiver responsible for meeting the resident's needs must be recorded in the case record. Specific foster parents or adult caregivers must be responsible for the following:

(A) the diagnostic assessment and treatment plan;

(B) carrying out the treatment plan;

(C) ensuring that each resident's personal needs are met.

(3) The treatment plan must be reviewed at least every three months by the child-placing agency. Information obtained from the parent or managing conservator, or referring agency, and the resident must be considered.

(A) Review of the treatment plan by the child-placing agency must be documented in the resident's record. The review must note progress toward achieving objectives or changes in objectives based on increased information about the resident or the resident's family situation.

(B) Staff members involved in the review must be noted.

(C) When a treatment plan has been reviewed, appropriate information must be shared with the parents or managing conservator, referring agency, foster parents, and the resident. This must be documented in the case record.

(b) Community relationships. The child-placing agency must develop and document a plan for the participation of residents in community life. The plan must cover the formation of friendships outside the agency home. Community participation, including the development of friendships outside the home, can only be prohibited if the treatment plan for the resident does not permit such participation. Such a prohibition must be signed by a licensed psychiatrist or psychologist and filed in the case record.

(c) Resident's rights.

(1) Discipline must be consistent with the policies of the child-placing agency and must not be physically or emotionally damaging. There must be no cruel, harsh, unusual, or unnecessary punishment.

(A) Only foster parents or adult caregivers may discipline residents.

(B) Residents must not be subjected to verbal remarks that belittle or ridicule them or their families.

(C) Residents must not be denied food, mail, or family visits as punishment.

(D) Discipline must fit the needs of each resident.

(E) Residents must not be punished by shaking, striking, or spanking.

(F) A record must be kept of the imposition of restrictions to agency home that exceed 24 hours.

(2) Physical and mechanical restraints can be used only when necessary to protect the resident from injury to self or others.

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

(B) Physical holding or mechanical restraints (such as canvas jackets or cuffs) can be used only when necessary to protect the resident from injury to self or others.

(C) The need for restraint, the type of restraint used, and the length of time the restraint was used must be recorded in the resident's record.

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

(E) An order for physical restraint must designate the type of restraint, the circumstances, and the duration of its use.

(3) A resident must not be placed alone in a locked room except on the order of a licensed physician, psychiatrist, or psychologist. This can never be done as a form of punishment.

(A) If a resident is locked alone in a room, the licensed physician's, psychiatrist's, or psychologist's orders regarding its use must be in writing, made known to foster parents or adult caregivers, and followed exactly.

(B) If a resident remains in seclusion for longer than 24 hours, the physician's, psychiatrist's, or psychologist's orders must be renewed in writing every 24 hours after the physician, psychiatrist, or psychologist has observed the resident in seclusion.

(C) A foster parent or adult caregiver must observe the resident in seclusion on a regular and frequent basis. The frequency of observation must be part of the written orders of the physician, psychiatrist, or psychologist; and each observation must be documented.

(D) The need or reason for seclusion must be made clear to the resident and must be recorded in his or her case record. The length of time in seclusion must also be recorded.

(d) Discharge. When a resident is discharged because he or she is a danger to self or others, a foster parent or adult caregiver must accompany the resident to meet his or her parent or managing conservator.

Doc. No. 781870

Standards For Foster Family Homes 326.91.03.006

The changes concern specialized care for mentally retarded and emotionally disturbed children. Rule 326.91.03.006 is amended to reference Rules 326.91.03.021-.027, that provide new standards for foster family homes which serve mentally retarded children or which provide residential treatment for emotionally disturbed children.

These amendments are proposed under the authority of Articles 695a-3 and 6252-13a, Texas Revised Civil Statutes.

006. Plan of Service.

(d) Foster family homes that serve mentally retarded children must meet the standards in Rules 326.91.03.021-.024.

(e) *Foster family homes that provide residential treatment must meet the standards in Rules 326.91.03.025-.027.*

Doc. No. 781871

326.91.03.021-.027

These additions concern specialized care for mentally retarded and emotionally disturbed children.

These new rules are proposed under the authority of Articles 695a-3 and 6252-13a, Texas Revised Civil Statutes.

.021. Personnel—Staffing Standards for Foster Family Homes Exclusively Serving Mentally Retarded Children.

(a) The foster family home must provide staff necessary to ensure the health and safety of the children in its care. When children of different ages, developmental levels, or social needs are grouped together for any purpose, there must be sufficient staff supervision to prevent the children from abusing or mistreating one another.

(b) The foster family home must have a psychologist available for diagnosis, treatment, and consultation.

(1) He or she must be a psychologist as defined by the Psychologists' Certification and Licensing Act.

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

.022. Admission Policies for Foster Family Homes Exclusively Serving Mentally Retarded Children.

(a) The foster family home must not offer, at the same time and in the same home, two types of care that conflict with the best interests of the children, the use of staff, or the use of the home.

(b) No child can be admitted to a home exclusively serving mentally retarded children unless that child is below average in intellectual functioning and also has deficits in adaptive behavior. (See Rule 326.91.06.030 for descriptions of these concepts.)

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

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

.023. Child Care, Development, and Training Standards for Foster Family Homes Exclusively Serving Mentally Retarded Children.

(a) Plan of service.

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

(2) The foster family home must obtain professional consultation and treatment for the children with special needs. A child's need must be determined by his or her lack of adjustment in the social, home, and school environments. When these services are obtained, they must be documented in the child's case record.

(b) Daily care.

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

(2) Food service practices for children, including nonmobile children, must encourage self-help and development.

(A) Children must eat or be fed in the dining area unless there are medical orders to the contrary.

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

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

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

(d) Children's rights.

(1) The foster family home must have written policies regarding methods used for control and discipline of children. The policies must be available to foster parents and adult caregivers. The home must also provide written information to the parents or managing conservators that identifies the person or office that parents or managing conservators can contact if they feel their children's rights have been violated. Copies of the discipline policy must be submitted to the department with each application for a license and at any time a change is made in the policy. Discipline must be consistent with the policies of the home and must not be physically or emotionally damaging.

(A) Only foster parents or adult caregivers can discipline children.

(B) Children must not be subjected to cruel, harsh, unusual, or unnecessary punishment.

(C) A record must be kept of the imposition of restrictions to the foster home that exceeds 24 hours.

(D) Children must not be subjected to verbal remarks that belittle or ridicule them or their families.

(E) Children must not be denied food, mail, or family visits as punishment.

(F) Children must not be threatened with the loss of foster home placement as punishment.

(G) Any discipline or control must fit the needs of each child.

(H) Children must not be punished by shaking, striking, or spanking.

(2) Physical and mechanical restraints can be used only when necessary to protect the child from injury to self or others.

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

(B) Physical holding or mechanical restraints (such as canvas jackets or cuffs) can be used only to protect the child from injury to self or others.

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

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

(E) An order for physical restraint must designate the type of restraint, the circumstances, and the duration of its use.

(e) Medical care. All seizures, injuries, and abnormal occurrences must be recorded. The time of occurrence, type of incident, action taken, and person involved must be recorded.

(f) Nutrition.

(1) Tube feedings can be used only when prescribed by a licensed physician.

(A) The person responsible for the preparation of the formula must be supervised by a licensed physician, nutritionist, or registered nurse.

(B) Tube feeding formulas must be prepared which supply the recommended dietary allowance for each child.

(C) Unless each tube feeding formula is prepared immediately before administration, the formula must be prepared and stored in bacteriologically safe, sanitized, and covered containers, and maintained at less than 40 degrees Fahrenheit.

(2) Only a licensed physician or registered nurse can be allowed to insert a tube for tube feeding.

(3) Tubes for tube feeding must not be left in place longer than seven days.

(4) Foster parents or adult caregivers assigned to administer tube feeding formulas must be trained by a licensed physician or registered nurse. The licensed physician or registered nurse must document in writing that the persons assigned to administer tube feeding formulas have been trained and have demonstrated competence in administering tube feeding formulas.

(5) No child who must be tube fed can remain in care unless the home has persons trained to administer tube feedings and a licensed physician or registered nurse available to insert the tube and provide training.

.024. Buildings, Grounds, and Equipment Standards for Foster Family Homes Exclusively Serving Mentally Retarded Children.

(a) Health and safety. When nonambulatory children or children subject to seizures are swimming, there must be at least one foster parent or adult caregiver or volunteer for each such child in the swimming area in addition to the lifeguard on duty.

(b) Environment.

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

(2) When a physician or other health professional recommends special equipment in the bathroom for physically handicapped children, this must be provided by the home.

.025. Personnel.

(a) Staffing standards for foster family homes exclusively providing residential treatment.

(1) The foster family home must provide staff necessary to ensure the proper care, treatment, and safety of the residents.

(A) The foster family home must arrange to have a person responsible for the treatment program who has a master's degree in a behavioral science or a related field, and who has had at least three years of experience working with children having problems of adaptation.

(B) The foster family home must arrange to obtain services of professional persons who have responsibility for supervising and reviewing the needs and treatment of residents. Documentation of the provision of these services, including specific instructions relating to the resident, must be included in the resident's records. These professional services must include: psychiatric services from a licensed physician who is a psychiatrist; psychological services from a psychologist as defined by the Psychologists' Certification and Licensing Act; and social work services from a person who has a master's degree in social work from a school accredited by the Council of Social Work Education.

(2) If residents requiring constant supervision are admitted for treatment, they must be supervised by at least one awake foster parent or adult caregiver.

(b) Training. Foster parents must participate in at least 50 hours of in-service training annually. The content of training must include understanding the needs of residents, residents' families, and state licensing standards. Training must be approved by a person meeting the same requirements as the person making the intake study.

.026. Admission Standards for Foster Family Homes Exclusively Providing Residential Treatment.

(a) Admission policies.

(1) A written psychiatric or psychological diagnostic evaluation obtained within six months prior to admission must be included in each resident's record.

(2) On the basis of the psychiatric or psychological diagnostic evaluation and other evidence, such as the child's recent behavior, a determination must be made regarding the resident's probability of danger to self or others. This determination must be documented in the resident's record by the person(s) responsible for completing the intake study. If the documentation indicates a high risk of danger, specific opinions regarding the advisability of admission to the home must be obtained from a psychiatrist.

(3) Residents who are in danger to self or others cannot be admitted or continued in care unless:

(A) The home provides sufficient security to prevent harm to self or others.

(B) Medical or behavioral care is available around the clock by a licensed physician. It must be documented that the home has adequate security. It must be documented that 24-hour care is immediately available from a licensed physician. Physician's orders for physical restraint must be renewed every 24 hours. The physician must see the resident, determine the need for physical restraint, and sign the written instructions every 24 hours.

(b) Intake study. The home must provide orientation for new residents. The orientation must include: a tour of the home; an introduction to foster parents or adult caregivers; a discussion of rules, regulations, and discipline; and a discussion concerning the tasks that residents are expected to perform as part of group living.

.027. Child Care, Development, and Training Standards for Foster Family Homes Exclusively Providing Residential Treatment.

(a) Plan of service.

(1) A diagnostic assessment and treatment plan must be developed and recorded in the resident's case record within 30 days of admission.

(A) Diagnosis, prognosis, and estimated length of treatment must be entered in the case record.

(B) The assessment must include and document the physical, psychological, developmental/chronological age, environmental, family, social, educational, and recreational needs of the resident.

(C) The treatment plan must specify how the needs of the resident will be met.

(D) The objectives of treatment must be specific. The treatment plan must include specific instructions and must be shared with other adult caregivers.

(2) The name of the person responsible for meeting the resident's needs must be recorded in the case record. Specific persons must be responsible for the following:

(A) the diagnostic assessment and treatment plan,

(B) carrying out the treatment plan,

(C) ensuring that each resident's personal needs are met.

(3) The treatment plan must be reviewed at least every three months by the home. Information obtained from the parent or managing conservator, referring agency, and the resident must be considered.

(A) Review of the treatment plan must be documented in the resident's record. The review must note progress toward achieving objectives or changes in objectives based on increased information about the resident or the resident's family situation.

(B) Adult caregivers involved in the review must be noted.

(C) When a treatment plan has been reviewed, appropriate information must be shared with the parents or managing conservator, referring agency, and the resident. This must be documented in the case record.

(b) Community relationships. The foster family home must develop and document a plan for the participation of residents in community life. The plan must cover the formation of friendships outside the home. Community participation, including the development of friendships outside the home, can only be prohibited if the treatment plan for the resident does not permit such participation. Such a prohibition must be signed by a licensed psychiatrist or psychologist and filed in the case record.

(c) Residents' rights.

(1) The foster family home must have written policies regarding methods used for control and discipline of children. The policies must be available to appropriate staff. The home must also provide written information to the parents or managing conservators that identifies the person or office that parents or managing conservators can contact if they feel their children's rights have been violated. Copies of the home's discipline policy must be submitted to the department with each application for a license and resubmitted at any time a change is made in policy. Discipline must be consistent with the policies of the home and must not be physically or emotionally damaging.

(A) Only foster parents or adult caregivers can discipline residents.

(B) Residents must not be subjected to cruel, severe, unusual, or unnecessary punishment.

(C) A record must be kept of the imposition of restrictions to the foster home that exceed 24 hours.

(D) Residents must not be subjected to verbal remarks that belittle or ridicule them or their families.

(E) Residents must not be denied food, mail, or family visits as punishment.

(F) Residents must not be threatened with the loss of foster home placement as punishment.

(G) Any discipline or control must fit the needs of each resident.

(H) Residents must not be punished by shaking, striking, or spanking.

(2) Physical and mechanical restraint can be used only when necessary to protect the resident from injury to self or others.

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

(B) Physical holding or mechanical restraints (such as canvas jackets or cuffs) must be used only when necessary to protect the resident from injury to self or others.

(C) The need for restraint, the type of restraint used, and the length of time the restraint was used must be documented in the resident's record.

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

(E) An order for physical restraint must designate the type of restraint, the circumstances, and the duration of its use.

(3) A resident must not be placed alone in a locked room except on the order of a licensed physician, psychiatrist, or psychologist. This must never be done as a form of punishment.

(A) If a resident is locked alone in a room, the licensed physician's, psychiatrist's, or psychologist's orders regarding its use must be in writing, made known to foster parents or adult caregivers, and followed exactly.

(B) If a resident remains in seclusion for longer than 24 hours, the physician's, psychiatrist's or psychologist's orders must be renewed in writing every 24 hours after the physician, psychiatrist, or psychologist has observed the resident in seclusion.

(C) A foster parent or adult caregiver must observe the resident in seclusion on a regular and frequent basis. The frequency of observation must be part of the written orders of the physician, psychiatrist, or psychologist, and each observation must be documented.

(D) The need or reason for seclusion must be made clear to the resident and must be recorded in his or her case record. The length of time in seclusion must also be recorded.

(d) Discharge. When a resident is discharged because he or she is a danger to self or others, a foster parent or adult caregiver must accompany the resident to meet his or her parent or managing conservator.

Standards for Foster Group Homes 326.91.04.003, .018

These changes concern specialized care for mentally retarded and emotionally disturbed children. Rule 326.91.04.003 is amended to reference Rules .041-.047, that provide new standards for foster group homes which are responsible to a child-placing agency and which serve mentally retarded children or provide residential treatment for emotionally disturbed children. Rule .018 is amended to reference Rules .048-.054, that provide new standards for independent foster group homes which provide services to the same two groups of children:

These amendments are proposed under the authority of Articles 695a-3 and 6252-13a, Texas Revised Civil Statutes.

.003. Staffing and Training.

(k) *Foster group homes responsible to a child-placing agency that serve mentally retarded children exclusively must meet the standards in Rules 326.91.04.041-.044.*

(l) *Foster group homes responsible to a child-placing agency that provide residential treatment exclusively must meet the standards in Rules 326.91.04.045-.047.*

.018. Staffing of Independent Foster Group Homes.

(g) *Independent foster group homes that serve mentally retarded children must meet the standards in Rules 326.91.04.048-.051.*

(h) *Independent foster group homes that provide residential treatment must meet the standards in Rules 326.91.04.052-.054.*

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326.91.04.041-.054

These additions concern specialized care for mentally retarded and emotionally disturbed children.

These new rules are proposed under the authority of Articles 695a-3 and 6252-13a, Texas Revised Civil Statutes.

.041. Personnel—Staffing Standards for Foster Group Homes Responsible to a Child-Placing Agency Exclusively Serving Mentally Retarded Children.

(a) The child-placing agency foster group home must provide staff necessary to ensure the health and safety of the children in its care. When children of different ages, developmental levels, or social needs are grouped together for any purpose, there must be sufficient staff supervision to prevent the children from abusing or mistreating one another.

(b) The child-placing agency foster group home must have a psychologist available for diagnosis, treatment, and consultation.

(1) He or she must be a psychologist as defined by the Psychologists' Certification and Licensing Act.

(2) If the psychologist is not on the staff of the child-placing agency or independent foster group home, the psychologist must document that his or her services are available on at least a continuing consulting basis.

.042. Admission Policies for Foster Group Homes Responsible to a Child-Placing Agency Exclusively Serving Mentally Retarded Children.

(a) The child-placing agency foster group home must not offer, at the same time and in the same home, two types of care that conflict with the best interests of the children, the use of staff, or the use of the home.

(b) No child can be admitted to a home exclusively serving mentally retarded children unless that child is below average in intellectual functioning and also has deficits in adaptive behavior. (See Rule 326.91.06.030 for descriptions of these concepts.)

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

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

.043. Child Care, Development, and Training Standards for Foster Group Homes Responsible to a Child-Placing Agency Exclusively Serving Mentally Retarded Children.

(a) Plan of service.

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

(2) The child-placing agency or independent foster group home must obtain professional consultation and treatment for the children with special needs. A child's needs must be determined by his or her lack of adjustment in the social, home, and school environments. When these services are obtained, they must be documented in the child's case record.

(b) Daily care.

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

(2) Food service practices for children, including nonmobile children, must encourage self-help and development.

(A) Children must eat or be fed in the dining area, unless there are medical orders to the contrary.

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

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

(c) Transportation.

(1) The children must be accompanied by a sufficient number of staff to adequately meet their needs while being transported.

(2) Special provisions must be made for transporting nonambulatory children. When necessary, this must include locks for wheel chairs and hydraulic lifts.

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

(e) Children's rights.

(1) Discipline must be consistent with the policies of the child-placing agency. There must be no cruel, harsh, unusual, or unnecessary punishment.

(A) Only foster parents or adult caregivers can discipline children.

(B) Children must not be subjected to verbal remarks that belittle or ridicule them or their families.

(C) Children must not be denied food, mail, or family visits as punishment.

(D) Children must not be threatened with the loss of foster home placement as punishment.

(E) Any discipline or control must fit the needs of each child.

(F) Children must not be punished by shaking, striking, or spanking.

(G) A record must be kept of the imposition of restrictions to the home that exceed 24 hours.

(2) Physical and mechanical restraints must be used only when necessary to protect the child from injury to self or others.

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

(B) Physical holding or mechanical restraints (such as canvas jackets or cuffs) must be used only to protect the child from injury to self or others.

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

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

(E) An order for physical restraint must designate the type of restraint, the circumstances, and the duration of its use.

(f) Medical care. All seizures, injuries, and abnormal occurrences must be recorded. The time of occurrence, type of incident, action taken, and person involved must be recorded.

(g) Nutrition.

(1) Tube feeding can be used only when prescribed by a licensed physician.

(A) The person responsible for the preparation of the formula must be supervised by a licensed physician, nutritionist, or registered nurse.

(B) Tube feeding formulas must be prepared which supply the recommended dietary allowance for each child.

(C) Unless each tube feeding formula is prepared immediately before administration, the formula must be prepared and stored in bacteriologically safe, sanitized, and covered containers, and maintained at less than 40 degrees Fahrenheit.

(2) Only a licensed physician or registered nurse can be allowed to insert a tube for tube feeding.

(3) Tubes for tube feeding must not be left in place longer than seven days.

(4) Foster parents or adult caregivers assigned to administer tube feeding formulas must be trained by a licensed

physician or registered nurse. The licensed physician or registered nurse must document in writing that the persons assigned to administer the tube feeding formulas have been trained and have demonstrated competence in administering tube feeding formulas.

(5) No child who must be tube fed can remain in care unless the home has persons trained to administer tube feedings and a licensed physician or registered nurse available to insert the tube and provide training.

.044. Buildings, Grounds, and Equipment Standards for Foster Group Homes Responsible to a Child-Placing Agency Exclusively Serving Mentally Retarded Children.

(a) Health and safety. When nonambulatory children or children subject to seizures are swimming, there must be at least one foster parent or adult caregiver or volunteer for each such child in the swimming area in addition to the lifeguard on duty.

(b) Environment.

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

(2) When a physician or other health professional recommends special equipment in the bathroom for physically handicapped children, this must be provided by the home.

.045. Personnel Standards for Foster Group Homes Responsible to a Child-Placing Agency Exclusively Providing Residential Treatment.

(a) Staffing.

(1) The child-placing agency foster group home must provide staff necessary to ensure the proper care, treatment, and safety of the residents.

(A) The child-placing agency foster group home must arrange to have a person responsible for the treatment program who has a master's degree in a behavioral science or a related field, and who has had at least three years of experience working with children having problems of adaptation.

(B) The child-placing agency foster group home must arrange to obtain services of professional persons who have responsibility for supervising and reviewing the needs and treatment of residents. Documentation of the provision of these services, including specific instructions relating to the resident, must be included in the resident's records at the facility. These professional services must include: psychiatric services from a licensed physician who is a psychiatrist; psychological services from a psychologist as defined by the Psychologists' Certification and Licensing Act; and social work services from a person who has a master's degree in social work from a school accredited by the Council of Social Work Education.

(2) If residents requiring constant supervision are admitted for treatment, they must be supervised by at least one awake foster parent or adult caregiver during sleeping hours.

(b) Training.

(1) The child-placing agency foster group home must provide orientation for new foster parents and adult caregivers.

(2) At least 50 hours of in-service training must be given annually for foster parents or adult caregivers working with residents.

(A) In-service training for persons working with residents must be documented. This must include the date, the subject, method of training, and name of the person who conducted the training. The content of training must include understanding the needs of residents, residents' families, and state licensing standards.

(B) When the child-placing agency offers conferences and special training, attendance must be documented.

.046. Admission Policies for Foster Group Homes Responsible to a Child-Placing Agency Exclusively Providing Residential Treatment.

(a) Admission policies.

(1) A written psychiatric or psychological diagnostic evaluation obtained within six months prior to admission must be included in each resident's record.

(2) On the basis of the psychiatric or psychological diagnostic evaluation and other evidence, such as the resident's recent behavior, a determination must be made regarding the resident's probability of danger to self or others. This determination must be documented in the resident's record by the person(s) responsible for completing the intake study. If the documentation indicates a high risk of danger, specific opinions regarding the advisability of admission to the home must be obtained from a psychiatrist.

(3) Residents who are a danger to self or others cannot be admitted or continued in care unless:

(A) The foster group home provides sufficient security to prevent harm to self or others.

(B) Medical or behavioral care is available around the clock by a licensed physician. It must be documented that the foster group home has adequate security. It must be documented that 24-hour care is immediately available from a licensed physician. Physician's orders for physical restraint must be renewed every 24 hours. The physician must see the resident, determine the need for physical restraint, and sign the written instructions every 24 hours.

(b) Intake study. The foster group home must provide orientation for new residents. The orientation must include: a tour of the home; an introduction to foster parents or adult caregivers; a discussion of rules, regulations, and discipline; and a discussion concerning the tasks that residents are expected to perform as part of group living.

.047. Child Care, Development, and Training Standards for Foster Group Homes Responsible to a Child-Placing Agency Exclusively Providing Residential Treatment.

(a) Plan of service.

(1) A diagnostic assessment and treatment plan must be developed by the child-placing agency foster group home and recorded in the resident's case record within 30 days of admission.

(A) Diagnosis, prognosis, and estimated length of treatment must be entered in the case record.

(B) The assessment must include and document the physical, psychological, developmental/chronological age, environmental, family, social, educational, and recreational needs of the resident.

(C) The treatment plan must specify how the needs of the resident will be met.

(D) The objectives of treatment must be specific. The treatment plan must include specific instructions and must be shared with other foster parents or adult caregivers.

(2) The name of the person responsible for meeting the resident's needs must be recorded in the case record. Specific persons must be responsible for the following:

(A) the diagnostic assessment and treatment plan;

(B) carrying out the treatment plan;

(C) ensuring that each resident's personal needs are met.

(3) The treatment plan must be reviewed at least every three months by the home. Information obtained from the parent or managing conservator, referring agency, and the resident must be considered.

(A) Review of the treatment plan by the child-placing agency foster group home must be documented in the resident's record. The review must progress toward achieving objectives or changes in objectives based on increased information about the resident or the resident's family situation.

(B) Staff members involved in the review must be noted.

(C) When a treatment plan has been reviewed, appropriate information must be shared with the parents or managing conservator, referring agency, foster parents, and the resident. This must be documented in the case record.

(b) Community relationships. The child-placing agency foster group home must develop and document a plan for the participation of residents in community life. The plan must cover the formation of friendships outside the home. Community participation, including the development of friendships outside the facility, can only be prohibited if the treatment plan for the resident does not permit such participation. Such a prohibition must be signed by a licensed psychiatrist or psychologist and filed in the case record.

(c) Residents' rights.

(1) Discipline must be consistent with the policies of the child-placing agency. There must be no cruel, harsh, unusual, or unnecessary punishment.

(A) Only foster parents or adult caregivers can discipline residents.

(B) Residents must not be subjected to verbal remarks that belittle or ridicule them or their families.

(C) Residents must not be denied food, mail, or family visits as punishment.

(D) Residents must not be threatened with the loss of foster home placement as punishment.

(E) Any discipline or control must fit the needs of each resident.

(F) Residents must not be punished by shaking, striking, or spanking.

(G) A record must be kept of the imposition of restrictions to the home that exceed 24 hours.

(2) Physical and mechanical restraint can be used only when necessary to protect the resident from injury to self or others.

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

(B) Physical holding or mechanical restraints (such as canvas jackets or cuffs) can be used only when necessary to protect the resident from injury to self or others.

(C) The need for restraint, the type of restraint used, and the length of time the restraint was used must be documented in the resident's record.

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

(E) An order for physical restraint must designate the type of restraint, the circumstances, and the duration of its use.

(3) A resident must not be placed alone in a locked room except on the order of a licensed physician, psychiatrist, or psychologist. This must never be done as a form of punishment.

(A) If a resident is locked alone in a room, the licensed physician's, psychiatrist's, or psychologist's orders regarding its use must be in writing, made known to foster parents or adult caregivers, and followed exactly.

(B) If a resident remains in seclusion for longer than 24 hours, the physician's, psychiatrist's, or psychologist's orders must be renewed in writing every 24 hours after the physician, psychiatrist, or psychologist has observed the resident in seclusion.

(C) A foster parent or adult caregiver must observe the resident in seclusion on a regular and frequent basis. The frequency of observation must be part of the written orders of the physician, psychiatrist, or psychologist; and each observation must be documented.

(D) The need of reason for seclusion must be made clear to the resident and must be recorded in his or her case record. The length of time in seclusion must also be recorded.

.048. Personnel-Staffing Standards for Independent Foster Group Homes Exclusively Serving Mentally Retarded Children.

(a) The independent foster group home must provide staff necessary to ensure the health and safety of the children in its care. When children of different ages, developmental levels, or social needs are grouped together for any purpose, there must be sufficient staff supervision to prevent the children from abusing or mistreating one another.

(b) The independent foster group home must have a psychologist available for diagnosis, treatment, and consultation.

(1) He or she must be a psychologist as defined by the Psychologists' Certification and Licensing Act.

(2) If the psychologist is not on the staff of the child-placing agency or independent foster group home, the psychologist must document that his or her services are available on at least a continuing consulting basis.

.049. Admission Policies for Independent Foster Group Homes Exclusively Serving Mentally Retarded Children.

(a) The independent foster group home must not offer, at the same time and in the same home, two types of care that conflict with the best interests of the children, the use of staff, or the use of the home.

(b) No child can be admitted to a home exclusively serving mentally retarded children unless that child is below average in intellectual functioning and also has deficits in adaptive behavior. (See Rule 326.91.06.030 for descriptions of these concepts.)

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

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

.050. Child Care, Development, and Training Standards for Independent Foster Group Homes Exclusively Serving Mentally Retarded Children.

(a) Plan of service.

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

(2) The child-placing agency or independent foster group home must obtain professional consultation and treatment for the children with special needs. A child's need must be determined by his or her lack of adjustment in the social, home, and school environments. When these services are obtained, they must be documented in the child's case record.

(b) Daily care.

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

(2) Food service practices for children, including nonmobile children, must encourage self-help and development.

(A) Children must eat or be fed in the dining area unless there are medical orders to the contrary.

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

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

(c) Transportation.

(1) The children must be accompanied by a sufficient number of staff to adequately meet their needs while being transported.

(2) Special provisions must be made for transporting nonambulatory children. When necessary, this must include locks for wheel chairs and hydraulic lifts.

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

(e) Children's rights.

(1) The independent foster group home must have written policies regarding methods used for control and discipline of children. The policies must be available to appropriate staff. The home must also provide written information to the parents or managing conservators that identifies the person or office that parents or managing conservators can contact if they feel their children's rights have been violated. Copies of the discipline policy shall be submitted to the department with each application for a license and at any time a change is made in the policy. Discipline must be consistent with the policies of the home and must not be physically or emotionally damaging.

(A) Only foster parents or adult caregivers can discipline children.

(B) Children must not be subjected to cruel, harsh, unusual, or unnecessary punishment.

(C) A record must be kept of the imposition of restrictions to the home that exceed 24 hours.

(D) Children must not be subjected to verbal remarks that belittle or ridicule them or their families.

(E) Children must not be denied food, mail, or family visits as punishment.

(F) Children must not be threatened with the loss of foster home placement as punishment.

(G) Any discipline or control must fit the needs of each child.

(H) Children must not be punished by shaking, striking, or spanking.

(2) Physical and mechanical restraints must be used only when necessary to protect the child from injury to self or others.

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

(B) Physical holding or mechanical restraints (such as canvas jackets or cuffs) must be used only to protect the child from injury to self or others.

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

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

(E) An order for physical restraint must designate the type of restraint, the circumstances, and the duration of its use.

(f) Medical care. All seizures, injuries, and abnormal occurrences must be recorded. The time of occurrence, type of incident, action taken, and person involved must be recorded.

(g) Nutrition.

(1) Tube feeding can be used only when prescribed by a licensed physician.

(A) The person responsible for the preparation of the formula must be supervised by a licensed physician, nutritionist, or registered nurse.

(B) Tube feeding formulas must be prepared which supply the recommended dietary allowance for each child.

(C) Unless each tube feeding formula is prepared immediately before administration, the formula must be prepared and stored in bacteriologically safe, sanitized, and covered containers, and maintained at less than 40 degrees Fahrenheit.

(2) Only a licensed physician or registered nurse can be allowed to insert a tube feeding.

(3) Tubes for tube feeding must not be left in place longer than seven days.

(4) Foster parents or adult caregivers assigned to administer tube feeding formulas must be trained by a licensed physician or registered nurse. The licensed physician or registered nurse must document in writing that the persons assigned to administer tube feeding formulas have been trained and have demonstrated competence in administering tube feeding formulas.

(5) No child who must be tube fed can remain in care unless the home has persons trained to administer tube feedings and a licensed physician or registered nurse available to insert the tube and provide training.

.051. Buildings, Grounds, and Equipment Standards for Independent Foster Group Homes Exclusively Serving Mentally Retarded Children.

(a) Health and safety. When nonambulatory children or children subject to seizures are swimming, there must be at least one foster parent or adult caregiver or volunteer for each such child in the swimming area in addition to the lifeguard on duty.

(b) Environment.

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

(2) When a physician or other health professional recommends special equipment in the bathroom for physically handicapped children, this must be provided by the home.

.052. Personnel Standards for Independent Foster Group Homes Exclusively Providing Residential Treatment.

(a) Staffing.

(1) The independent foster group home must provide staff necessary to ensure the proper care, treatment, and safety of the residents.

(A) The independent foster group home must arrange to have a person responsible for the treatment program who has a master's degree in a behavioral science or a related field, and who has had at least three years of experience working with children having problems of adaptation.

(B) The independent foster group home must arrange to obtain services of professional persons who have responsibility for supervising and reviewing the needs and treatment of residents. Documentation of the provision of these services, including specific instructions relating to the resident, must be included in the resident's records at the facility. These professional services must include psychiatric services from a licensed physician who is a psychiatrist; psychological services from a psychologist as defined by the Psychologists' Certification and Licensing Act; and social work services from a person who has a master's degree in social work from a school accredited by the Council of Social Work Education.

(2) If residents requiring constant supervision are admitted for treatment, they must be supervised by at least one awake foster parent or adult caregiver during sleeping hours.

(b) Training.

(1) The independent foster group home must provide orientation for new foster parents and adult caregivers.

(2) Foster parents not affiliated with a child-placing agency must participate in at least 50 hours of in-service training annually. The content of training must include understanding the needs of residents, residents' families, and state licensing standards. Training must be approved by a person meeting the same requirements as the person making the intake study.

.053. Admission Policies for Independent Foster Group Homes Exclusively Providing Residential Treatment.

(a) Admission policies.

(1) A written psychiatric or psychological diagnostic evaluation obtained within six months prior to admission must be included in each resident's record.

(2) On the basis of the psychiatric or psychological diagnostic evaluation and other evidence, such as the resident's recent behavior, a determination must be made

regarding the resident's probability of danger to self or others. This determination must be documented in the resident's record by the person(s) responsible for completing the intake study. If the documentation indicates a high risk of danger, specific opinions regarding the advisability of admission to the home must be obtained from a psychiatrist.

(3) Residents who are a danger to self or others cannot be admitted or continued in care unless:

(A) The foster group home provides sufficient security to prevent harm to self or others.

(B) Medical or behavioral care is available around the clock by a licensed physician. It must be documented that the foster group home has adequate security. It must be documented that 24-hour care is immediately available from a licensed physician. Physician's orders for physical restraint must be renewed every 24 hours. The physician must see the resident, determine the need for physical restraint, and sign the written instructions every 24 hours.

(b) Intake study. The foster group home must provide orientation for new residents. The orientation must include a tour of the home; an introduction to foster parents or adult caregivers; a discussion of rules, regulations, and discipline; and a discussion concerning the tasks that residents are expected to perform as part of group living.

.054. Child Care, Development, and Training Standards for Independent Foster Group Homes Exclusively Providing Residential Treatment.

(a) Plan of service.

(1) A diagnostic assessment and treatment plan must be developed by the child-placing agency or independent foster group home and recorded in the resident's case record within 30 days of admission.

(A) Diagnosis, prognosis, and estimated length of treatment must be entered in the case record.

(B) The assessment must include and document the physical, psychological, developmental/chronological age, environmental, family, social, educational, and recreational needs of the resident.

(C) The treatment plan must specify how the needs of the resident will be met.

(D) The objectives of treatment must be specific. The treatment plan must include specific instructions and must be shared with other foster parents or adult caregivers.

(2) The name of the person responsible for meeting the resident's needs must be recorded in the case record. Specific persons must be responsible for the following:

(A) the diagnostic assessment and treatment plan;

(B) carrying out the treatment plan;

(C) ensuring that each resident's personal needs are met.

(3) The treatment plan must be reviewed at least every three months by the home. Information obtained from the parent or managing conservator, referring agency, and the resident must be considered.

(A) Review of the treatment plan by the independent foster group home must be documented in the resident's record. The review must progress toward achieving objectives or changes in objectives based on increased information about the resident or the resident's family situation.

(B) Staff members involved in the review must be noted.

(C) When a treatment plan has been reviewed, appropriate information must be shared with the parents or managing conservator, referring agency, foster parents, and the resident. This must be documented in the case record.

(b) Community relationships. The independent foster group home must develop and document a plan for the participation of residents in community life. The plan must cover the formation of friendships outside the home. Community participation, including the development of friendships outside the facility, can only be prohibited if the treatment plan for the resident does not permit such participation. Such a prohibition must be signed by a licensed psychiatrist or psychologist and filed in the case record.

(c) Residents' rights.

(1) the independent foster group home must have written policies regarding methods used for control and discipline of children. The policies must be available to appropriate staff. The home must also provide written information to the parents or managing conservators that identifies the person or office that parents or managing conservators can contact if they feel their children's rights have been violated. Copies of the home's discipline policy must be submitted to the department with each application for a license and resubmitted at any time a change is made in policy. Discipline must be consistent with the policies of the home and cannot be physically or emotionally damaging.

(A) Only foster parents or adult caregivers can discipline residents.

(B) Residents must not be subjected to cruel, severe, unusual, or unnecessary punishment.

(C) A record must be kept of the imposition of restrictions to the home that exceeds 24 hours.

(D) Residents must not be subjected to verbal remarks that belittle or ridicule them or their families.

(E) Residents must not be denied food, mail, or family visits as punishment.

(F) Residents must not be threatened with the loss of foster home placement as punishment.

(G) Any discipline or control must fit the needs of each resident.

(H) Residents must not be punished by shaking, striking, or spanking.

(2) Physical and mechanical restraint can be used only when necessary to protect the resident from injury to self or others.

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

(B) Physical holding or mechanical restraints (such as canvas jackets or cuffs) can be used only when necessary to protect the resident from injury to self or others.

(C) The need for restraint, the type of restraint used, and the length of time the restraint was used must be documented in the resident's record.

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

(E) An order for physical restraint must designate the type of restraint, the circumstances, and the duration of its use.

(3) A resident must not be placed alone in a locked room except on the order of a licensed physician, psychiatrist, or psychologist. This must never be done as a form of punishment.

(A) If a resident is locked alone in a room, the licensed physician's, psychiatrist's, or psychologist's orders regarding its use must be in writing, made known to foster parents or adult caregivers, and followed exactly.

(B) If a resident remains in seclusion for longer than 24 hours, the physician's, psychiatrist's, or psychologist's orders must be renewed in writing every 24 hours after the physician, psychiatrist, or psychologist has observed the resident in seclusion.

(C) A foster parent or adult caregiver must observe the resident in seclusion on a regular and frequent basis. The frequency of observation must be part of the written orders of the physician, psychiatrist, or psychologist, and each observation must be documented.

(D) The need or reason for seclusion must be made clear to the resident and must be recorded in his or her case record. The length of time in seclusion must also be recorded.

Issued in Austin, Texas, on March 17, 1978.

Doc. No. 781874 Jerome Chapman
Commissioner
Texas Department of Human Resources

Proposed Date of Adoption: May 24, 1978

For further information, please call (512) 475-4601.

Texas Parks and Wildlife Department

Wildlife

Migratory Game Birds 127.70.16

The Texas Parks and Wildlife Commission is proposing to adopt Rule 127.70.16.001, which prescribes a nontoxic (steel) shot zone in public hunting areas of Jefferson County. The commission is responsible for establishing the open season, means, methods, and devices for the taking and possessing of migratory game birds. Ingestion of toxic (lead) shot by waterfowl, primarily ducks, can result in death under certain conditions. Waterfowl in the course of normal feeding activities ingest lead shot. The shot is ground by the gizzard and absorbed into the waterfowl's system as a lead salt. As the first effort to reduce the incidence of lead shot ingestion, hunters using 12-gauge shotguns on the public hunting areas under direct control of the Texas Parks and Wildlife Department will be prohibited from possessing any shot shells containing lead shot. The purpose of proposing these regulations now and as permanent rules is (1) to advise waterfowl hunters where proposed lead shot-free areas will be located and (2) to inform the manufacturers of nontoxic (steel) shot where their steel shotgun shells should be allocated.

The administrative and enforcement responsibilities of the proposed rule will not involve local agencies. Department

staff has determined that no additional funding or personnel will be required to administer or enforce the proposed rule.

Public comment on the proposed adoption of Rule 127.70.16.001 is invited. Comments may be submitted by telephoning (512) 475-4873 or by writing to Dr. Harold Irby, program director, Migratory Game, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744. Comments must be received within 30 days of the publication of this proposal in the *Texas Register*.

This rule is proposed under the authority of Chapter 64, Texas Parks and Wildlife Code.

.001. Nontoxic (Steel) Shot Zone.

(a) During waterfowl seasons commencing in 1978, no person may possess shotgun shells containing lead shot while hunting or attempting to hunt or take waterfowl with a 12-gauge shotgun on the public hunting areas.

(b) For the purpose of this rule alone, waterfowl are defined as: coots, ducks, geese, and swans.

(c) For the purpose of this rule alone, public hunting areas are those areas where public hunting is allowed on the J. D. Murphree Wildlife Management Area and the Sea Rim State Park; both areas lying within Jefferson County.

(d) Penalties for conviction of violating this rule are provided in Sections 62.069 or 64.026, Texas Parks and Wildlife Code, whichever is applicable.

Issued in Austin, Texas on March 17, 1978.

Doc. No. 781868 Maurine Ray
Administrative Assistant
Texas Parks and Wildlife Department

Proposed Date of Adoption: April 24, 1978

For further information, please call (512) 475-4873.



An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, and the adoption may go into effect no sooner than 20 days after filing, except where a federal statute or regulation requires implementation of a rule on shorter notice.

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

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

Texas Department of Human Resources

Child Support Collection

Cooperative Agreements 326.20.80

The Department of Human Resources adopts its rules concerning regulations for cooperative agreements between the state and counties whereby the counties provide child support services in their jurisdictions. The state will enter into written agreements or contracts with appropriate county officials through procedures established in these rules. Department and county responsibilities are established and financial incentives, child support budget policy, and billing and audit procedures are outlined.

These rules were published in the December 13, 1978, issue of the *Texas Register* (2 TexReg 4758-4762). No public comments were received and the rules are adopted as published with minor technical changes in wording for clarification purposes.

These rules are adopted under the authority of Article 695c, Texas Revised Civil Statutes and with the approval of the Texas Board of Human Resources.

.001. Legal Base. The state will enter into written cooperative agreements (contracts) with appropriate county officials. The county under such a cooperative arrangement will provide the Title IV-D services within the local jurisdiction.

.002. Responsibilities.

(a) A contract amendment is required to change any part of the contract which is specifically spoken to in the written contract. A budget adjustment requires a letter of approval from the State Office.

(b) At the beginning of each state fiscal year, DHR regional staff will meet with the county officials to develop the county's monthly production standards. This includes the numbers of absent parents to be located, court cases to be

filed, and delinquent payors to be contacted. The estimated amount of collections is to be agreed upon by the DHR and the county.

.003. County Responsibilities.

(a) To establish and maintain an effective child support program within the county's jurisdiction, the county must undertake to locate absent parents, establish paternity, establish and enforce support obligations, report to DHR the required statistical data, and immediately forward funds collected on welfare-related cases to DHR.

(b) The contracting county is responsible for collecting, retaining, and reporting statistical data on child support-related activities and making these records available for necessary program reviews and for audit purposes.

(c) A county under cooperative agreement is required to make certain monthly reports. These include expenditure reports, collection reports for non-welfare-related cases, and activity reports.

(d) The contract county is expected to meet certain program standards in providing child support services. These standards apply to:

- (1) maintenance of case records;
- (2) location of absent parents;
- (3) establishment of support obligations;
- (4) establishment of paternity;
- (5) enforcement of support obligations;
- (6) cooperation with other states.

.004. Department Responsibilities.

(a) DHR refers all cases in which AFDC is furnished for a child that has been deserted or abandoned by a parent. Non-welfare-related applicants may also apply directly to the contract unit for assistance.

(b) DHR will provide the contracting county with pertinent statistical data. The county will have access to the State Parent Locator Service for the purpose of locating absent parents.

(c) DHR provides a regional DHR contact person to work with the county and serve as a coordinator between the contract county and DHR.

.005. Financial Incentive. Title IV-D provides the two following financial incentives for a county to enter into a cooperative agreement (contract) with the state:

(a) **Reimbursement.** A county will receive 75 percent FFP of the direct and indirect allowable costs for actions taken pursuant to a cooperative agreement on Title IV-D child support cases.

(b) **Incentive payments.** A county under cooperative agreement which does the enforcement and collection in a welfare-related case is eligible for an incentive payment. The rate for the incentive payment is applied against the retained share of the amount collected.

In welfare-related cases, collections are deposited to the credit of the state as reimbursement for AFDC paid to the family. In certain situations, part of the amount collected may be paid to the family. This retained amount is split between the state and federal government according to the rate of participation in the AFDC grant. The incentive payment is paid from the federal government's share. Incentive payments may be paid to a county under cooperative agreement for efforts in intra-state cases and interstate cases. Interstate incentive payments will be forwarded to each state's Title IV-D agency for delivery to eligible counties. Neither of these in-

centives is available to a county unless there is a contract agreement between the county and the state.

.006. Child Support Program Budget.

(a) The child support contract budget is to be prepared by the county and submitted in triplicate to the appropriate regional director for child support along with a request for adoption of the budget signed by the county judge. Upon approval by the regional administrator, the budget request is to be forwarded to the State Office, Child Support Enforcement Branch, Texas Department of Human Resources.

(b) To complete the budget, record only those proposed expenditures anticipated to be subject to FFP.

(c) For each object of expenditure by functional activity, record the amount anticipated to be expended during each quarter and the total amount for the year including:

- (1) Salaries and wages.
- (2) Employee benefits.
- (3) Travel.
- (4) Training.
- (5) Equipment.

(A) County-owned equipment, with approval of the Texas Office of Child Support Enforcement, may be charged against the budget through depreciation or a use allowance.

(B) The use allowance for equipment will be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost of usable equipment, provided the county maintains current records of such equipment. If no equipment records are maintained, the county must justify a reasonable estimate of the acquisition cost of usable equipment which may be used to compute the use allowance at an annual rate not exceeding six and two-thirds percent of such estimate.

(C) Acquisition cost is defined as the amount expended for the property plus, in the case of property acquired with a trade-in, the book value (acquisition cost less amount depreciated through the date of the trade-in) of the property traded in. Property which was expended when acquired has a book value of zero when traded in.

(D) Depreciation expense for any time period is the portion of the acquisition cost of property which is assignable to that time period. The acquisition cost of the property shall be divided by the number of years of estimated useful service life of the property to arrive at the depreciation expense per year (straight line method with no salvage value). The number of years of estimated useful service life of property is based on the Internal Revenue Service policies on depreciation for tax purposes.

(E) When the depreciation method is followed, adequate property records must be maintained. The period of useful service life must be determined on a realistic basis which takes into consideration such factors as nature of the equipment used, technological developments in the particular area, and the renewal and replacement policies followed for the individual items or classes of assets involved.

(F) Rental or lease of equipment may also be included in the contract budget. Equipment should not be leased if the cost of leasing exceeds the cost of purchase over the life of the contract.

(6) Building space. The cost of space in privately or publicly owned buildings used for the benefit of the program is allowable subject to the conditions stated below:

(A) The rental cost of space in a privately owned building is allowable.

(B) Maintenance, janitorial, and utility costs are allowable to the extent they are not otherwise included in rental or other charges for space.

(C) Depreciation or use allowances are allowed on publicly owned buildings. Internal Revenue Service acceptable depreciation may be charged, based on acquisition cost, or, a use fee of two percent per year of acquisition cost may be charged. Depreciation or use fees may not be charged for public buildings over 50 years old.

- (7) Operating expenses.
- (8) Indirect costs.
- (9) Total.
- (10) State share.

.007. Assistance Available for Preparation. A regional DHR representative will be available to assist the county in developing the yearly budget. The budget shall be considered part of the contract itself and the county shall submit a new budget to DHR each year. The county must submit any budget change to DHR for approval.

.008. Expenses.

(a) The following are matchable under cooperative agreement:

- (1) The establishment of paternity.
- (2) The establishment of and/or enforcement of child support obligations.
- (3) Prosecution of child support-related fraud.
- (4) Program activities.
- (5) Training.
- (6) Travel.
- (7) Operating expenses.

(b) The costs relating to the following activities are not matchable under Title IV-D:

- (1) Activities not covered under contract with DHR.
- (2) The ordinary administrative costs of the judicial system, including compensation of judges.
- (3) Costs of arrest and incarceration.
- (4) Construction and major renovations.
- (5) Education and training programs except allowable short-term training.

(c) Certain expenditures by contract counties require prior approval of DHR or the regional office of Child Support Enforcement, HEW. Prior approval is required if a county wishes to contract for automatic data processing services, management studies, or professional services.

(d) The county is to involve DHR in the planning and selection of outside consultants. Subsequent to the review and approval by the state, the contract proposal is to be submitted to the regional office of Child Support Enforcement, HEW, for review and approval.

.009. Requirements for Federal Financial Participation.

(a) To obtain Federal Financial Participation (FFP) for a Title IV-D qualifying child support program, a county must enter into a cooperative agreement with the Department of Human Resources. The contract must include the following items:

- (1) Budget. An itemized budget approved by the county commissioners and by the department is required. The budget must be detailed and include the total estimated matchable expenditures of the county's child support program. The budget period will be for one year and a new budget must be agreed upon by the county and the department each succeeding year.

(2) **Personnel plan.** A personnel plan listing all personnel budgeted to the child support program is to be included with the budget. The plan should list all personnel positions, detail the job functions of each position, and state what percentage of time the position is expected to spend on child support activities.

(3) **Cost allocation plan.** A cost allocation plan, which complies with the standards set forth in 45 C.F.R. Part 74, is to be attached to the budget for any costs included in the budget which are shared with other programs or activities. The cost allocation plan should include, but is not limited to, the following:

(A) The nature and extent of services provided and their relevance to the child support program.

(B) The item of expense to be included.

(C) The methods to be used in distributing costs.

All costs included in the plan are to be supported by formal accounting records which will substantiate the propriety of eventual charges. These records are to include time records, time studies, or other acceptable methods of documenting costs. In lieu of a cost allocation plan for indirect costs the county may use the standard indirect cost rate of 10 percent of direct salaries excluding overtime and fringe benefits or use a predetermined fixed rate for indirect costs negotiated directly with HEW.

(4) **Category allocation plan.** A plan for dividing matchable expenditures into the following functional categories is to be attached to the budget:

(A) Location of absent parents.

(B) Establishment of paternity.

(C) Establishment and enforcement of support obligations.

(D) Collection and distribution of collections.

(b) After a contract with budget and required plans has been entered into, the county must periodically prepare and submit a completed purchase voucher for services provided. To be approved by the department, the voucher must be accompanied by a detailed breakdown of expenditures conforming to the approved budget.

(c) An additional requirement for payment pursuant to a cooperative agreement is the punctual submission of required activity reports.

.010. Expenditures Subject to FFP.

(a) Total expenditures subject to FFP are defined as the sum of the allowable direct costs plus an allowable portion of allowable indirect costs.

(1) **Salaries and wages.** This is the direct charge of the actual costs for staff who work on matchable child support activities. For part-time staff, the costs charged are to be pursuant to the cost allocation plan.

(2) **Employee benefits.** This is the direct charge of actual costs from the payroll register for staff who work on matchable child support activities. For part-time staff, the costs charged are to be pursuant to the cost allocation plan.

(3) **Travel.** This cost is the direct cost of travel expenses associated with matchable activities.

(4) **Training.** This is the direct cost of reasonable and essential short-term training for staff assigned on a full or part-time basis to support enforcement activities.

(5) **Equipment.** This is the rental cost, use fee, or depreciation charge for equipment used by contract child support program personnel.

(6) **Operating expenses.** These may include supplies and materials, printing and reproduction, telephone, utilities, repairs and maintenance, accounting services, data processing services, and rent. These are the direct charges in those instances in which the entire cost was incurred in performing matchable activities. If these costs were incurred in performing both matchable and non-matchable activities, the allocation must be made according to the cost allocation plan.

(b) The county may elect to charge indirect costs at a rate of 10 percent of salaries and wages, excluding overtime, shift differential, holiday premiums, and fringe benefits.

(c) **Functional categories.** Expenditures must be broken down into the four functional categories. These may be allocated to the areas on the basis of a separate time study, or can be determined in conjunction with the time log or time study conducted to determine percentage of time worked for part-time staff. The four functional areas are:

(1) collection and distribution;

(2) establishment of paternity;

(3) location of absent parents;

(4) establishment of support obligation and enforcement of collection.

(d) **Time log.** An integral part of the cost allocation plan is a time log or time study to identify percentage of time worked for part-time staff and to determine expenditures in each of the four functional areas.

(e) The county has the option of developing its own time recording and documentation system, but it must contain the same data elements as in the approved time log.

.011. Billings.

(a) At the end of each month, and not more than 15 working days after the end of the month for which services are being billed, the contracting county will submit a billing on a purchase voucher. This bill shall cover all services rendered to the Title IV-D Program under the existing contract. The form is to be submitted to the regional DHR contact person. Back-up material, detailing the work performed and expenses incurred, must be submitted with the form.

(b) Back-up material is to include a detail of the total reimbursable amount broken down into the following:

(1) Salaries.

(2) Employee benefits.

(3) Travel.

(4) Training.

(5) Equipment.

(6) Operating expenses.

(7) Indirect costs.

(c) Proof of reimbursable services performed must accompany the expenditure report.

.012. Audits.

(a) Periodic audits of expenditures and documents subject to contract will be conducted by the department. The audit will include billings of direct and indirect expenditures, methods of determining expenditures and adherence to federal regulations on budgets and billing.

(b) An entrance and exit interview will be held by the DHR auditors whenever a contracting county is audited. These interviews will include the regional DHR staff and staff appointed by the county.

(c) An audit report is issued and sent to the Chief, Child Support Enforcement Branch, who will review the audit findings. This report will be shared with the county officials and the DHR regional staff. If errors of fact or interpretation are

discovered, the county officials and the regional DHR staff are to meet and agree upon a plan of correction. This plan of correction will include any adjustments that are to be made in the county's billings to DHR.

.013. Plan of Correction.

(a) If the county agrees with the audit recommendations, the county should be asked to send a letter of agreement to the regional DHR contact person. If the contract county agrees to reimburse DHR for overpayments, a reasonable payment plan is to be included in this letter of agreement. Necessary financial adjustments, if any, can then be made.

(b) If the county disagrees with the audit recommendations, there are several mediating steps. The county may request an informal meeting with the DHR regional staff. If this does not resolve the disagreement, the county may submit a written report of the objections to the regional director for child support, who is responsible to make efforts to mediate the differences.

(c) If the regional director for child support is unsuccessful in resolving the dispute over the audit findings, the county will be sent a certified letter, return receipt requested, which will contain the final decision of DHR. This letter must be approved by the regional administrator and the chief, Child Support Enforcement Branch. The letter will specify how the county did not comply with the contract in respect to fiscal policies. The letter will inform the county that a hearing may be requested within 10 days of the receipt of the letter.

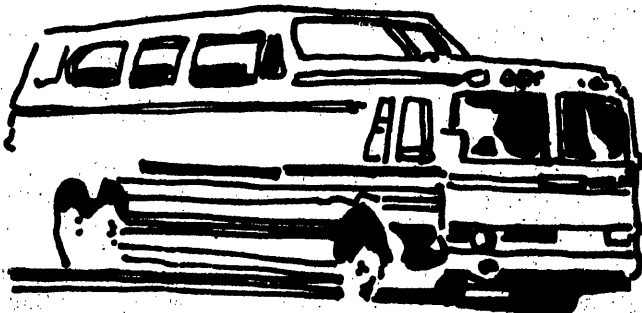
.014. Follow-up. When a fiscal adjustment is recommended in the audit report, the county officials and DHR regional staff are to determine follow-up actions to correct the problems which cause the errors. The regional director for child support will evaluate the recommendations for follow-up action and will submit a final report to the chief, Child Support Enforcement Branch, when all corrective actions have been completed.

Issued in Austin, Texas on March 16, 1978.

Doc. No. 781853 Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: April 6, 1978

For further information, please call (512) 475-4601.



Railroad Commission of Texas Transportation Division

Motor Bus Companies 051.03.13

Under the authority of Sections 4(a) and (d) of Article 911a, Texas Civil Statutes, the Railroad Commission of Texas has amended Regulation 051.03.13.033 by deleting certain restrictive conditions from the "school children" exemption in Section (a).

Public comments on the proposed amendment were invited, and those received have been thoroughly considered. Comments received after the deadline published in the *Texas Register* have also been considered because the commission believes that such comments are of such a nature that their consideration is both necessary and proper. Comments in support of the amendment were received from numerous schools and/or school districts, as well as on behalf of Transportation Enterprises, Inc., the initiating party proposing the amendment. Those schools and school districts in support urge that the restrictive conditions sought to be eliminated deprive them of economical service in school-bus type equipment that has been utilized for years and on which they have come to rely for transportation of school children to and from all kinds of school-related activities. The school districts do not have sufficient equipment to handle the volume of transportation required and urge that the cost of utilization of bus carriers holding charter authority is prohibitive. All urge that if the restrictions involved are not removed, numerous school-related trips of both an educational and extracurricular nature will be directly jeopardized.

Comments in opposition were jointly submitted by several existing bus companies holding charter authority and by the City of Dallas, owner and operator of the Dallas Transit System. The bus companies contend that the involved restrictions clarified the intent of the school children exemption and that they should accordingly be retained. The City of Dallas contends that the regulation involved "has served the commission and the transportation industry of Texas well" and that the amendment would permit Transportation Enterprises, Inc., to conduct charter operations which its existing motor bus certificate does not now authorize. The City of Dallas further contends that removal of the restriction would cause enforcement difficulties.

Having fully considered the justification for the amendment as well as the public comments referred to above, the commission concludes that the public interest overwhelmingly requires that Regulation 051.03.13.033 should be amended and the restrictive conditions involved deleted. Compelling justification has been shown by the school districts throughout the State of Texas for the deletion of these restrictive conditions and no valid or sufficient reason for maintaining the restrictions has been demonstrated by the opposing parties.

Contrary to the suggestion of the opposing bus companies, the involved restrictions do not clarify the intent of the school children exemption and since enacted effective January 1, 1976, such restrictions in fact have thwarted such intent by requiring schools and school districts either to utilize their own equipment, which they have always lawfully been able to

do, or to utilize only carriers with charter authority for school-related trips. Thus, rather than clarifying the intent of the exemption, the involved restrictions have in fact emasculated it all together.

The commission concludes that the contentions of the City of Dallas are likewise invalid. The instant amendment would not permit Transportation Enterprises, Inc., or any other carrier, to conduct any charter operations in Texas intrastate commerce, since the regulation involved expressly exempts school-related transportation from the definition of "charter or special party" and such transportation is all that is involved here. The commission also concludes that no enforcement problems appear to have been experienced prior to January 1, 1976, and none are contemplated now. No specific enforcement problems were identified or demonstrated. The commission agrees with the City of Dallas that the school children exemption embraced within the involved regulation has served the State of Texas well and is taking this action to restore the exemption that the restrictions to be removed here have in the commission's view totally diminished. Finally, the commission notes that the Dallas Independent School District, directly affected by the regulation involved, supports the amendment and removal of the restrictions, whereas the Dallas Transit System is not shown to have any particular interest with respect thereto since it does not hold charter authority and is not directly affected thereby.

.033. Charter Operation.

(a) "Charter or special party" means a group of persons who, pursuant to a common purpose and under a single contract, have acquired exclusive use of a passenger carrying motor vehicle to travel together as a group to a specified destination or on a particular itinerary, either agreed in advance or subject to modification; provided, however, that said term shall not include children 18 years of age or younger, who in the course of secondary or elementary public school activities, under the direction of public school authorities, acquire the exclusive use of a passenger carrying vehicle and travel together as a group.

Issued in Austin, Texas, on March 17, 1978.

Doc. No. 781876 John G. Soule, Acting Director
Transportation Division
Railroad Commission of Texas

Effective Date: April 7, 1978

For further information, please call (512) 475-3207.

Office of the Secretary of State

Computer Services 004.15.00

The secretary of state has amended Rule 004.15.00.001, which sets the fees charged for the extraction of information from the public records maintained on computer by the Computer Services Division of the Office of the Secretary of State. The fees set by the amendment have been established giving due consideration to the expenses involved in providing the public records, and every effort has been made to match the charges with the actual cost of providing the records. The fees were approved by the State Board of Control under letter

of February 8, 1978, as required by Section 9(b) of Article 6252-17a, Texas Civil Statutes (the Open Records Act).

As a result of suggestions received from the Texas Register Division, the numbering scheme of subparagraphs of the rule has been changed. However, the amendment has been adopted without change to the substantive parts of the amendment as proposed.

This amended rule is promulgated under the authority of Article 6252-17a, Texas Civil Statutes.

.001. Fees and Charges.

(a) The following fees shall be charged for the extraction of information from the public records maintained on computer by the Computer Services Division of the Office of the Secretary of State.

(1) Equipment costs.

(A) CPU time—\$80 per execution hour; \$40 per execution hour for program compilation

(B) Memory/batch/on-line—K Bytes x CPU hours x \$0.45 K Bytes x elapsed wall clock hours x \$0.0625

(C) Disk—\$0.00 per program compilation; \$0.35 per 1,000 transfers (reads/writes)

(D) Card reader—\$0.19 per 1,000 cards read

(E) Printer—\$0.45 per 1,000 lines printed on stock forms provided by the performing agency; \$0.35 per 1,000 lines printed for program compilation; \$0.25 per 1,000 lines printed on forms supplied by the receiving agency

(F) Magnetic tape drives—\$3.46 per drive per hour (elapsed time)

(2) Personnel costs.

(A) Data entry and/or control—\$5 per man hour (one hour minimum)

(B) Systems analysis—\$15 per man hour

(C) Programming—\$12 per man hour

(3) Supplies, authorized travel (at state allowances) and telephone tariffs used specifically for the requesting party will be at the secretary of state's costs.

(4) Costs for performing services on another computer system will be charged at cost.

(b) If any information is required to be mailed, the cost of postage will be added to the charge for the information.

Issued in Austin, Texas on March 17, 1978.

Doc. No. 781855 John F. Pettit
Assistant Secretary of State

Effective Date: April 7, 1978

For further information, please call (512) 475-7881.

Elections Division

Miscellaneous 004.30.01

The secretary of state is adopting Rule 004.30.01.205 in order to clarify the recently amended provisions of Article 3.04, Subdivision 3, Vernon's Texas Election Code. This amendment was promulgated under the authority of Articles 1.03, 5.02(b), and 5.13(a), Vernon's Texas Election Code.

.205. Disqualification of Political Committee Members. No one shall act as chairman or as member of any district, coun-

ty, or city executive committee of a political party who is not a qualified voter, or is the holder of, or a candidate for nomination to or election to, any office which would appear on a general election ballot on the first Tuesday after the first Monday in November of even numbered years.

Issued in Austin, Texas, on March 16, 1978.

Doc. No. 781851 Steven C. Oaks
Secretary of State

Effective Date: April 6, 1978

For further information, please call (512) 475-3091.



This section includes summarized opinions in cases on appeal from administrative decisions of local, state, and federal governments and agencies. The section contains opinions of the U.S. Supreme Court, U.S. Circuit Courts of Appeals, U.S. District Courts, the Texas Supreme Court, and Texas Courts of Civil Appeals. Selected opinions of particular importance dealing with other than administrative appeals may also be included here from time to time. State court opinions are cited in the *Texas Lawyers' Weekly Digest*. Opinions from federal courts are cited in *The United States Law Week*.

5th Court of Civil Appeals Attaway v. City of Mesquite

A public employee's right of free speech was not infringed when he was suspended for posting on a squad room bulletin board a modified cartoon attributing immoral conduct to his superior. The cartoon could be interpreted as holding the assistant chief up to ridicule in the eyes of police officers over whom he had responsibility to maintain discipline. The plaintiff makes no claim that it was intended as a serious contribution to public discussion on a matter of general interest. (15 TLWD 11, at 5)

Filed: February 10, 1978, Dallas
Doc. No. 3C17

Lewallen v. Harden

A husband and wife were divorced in North Carolina, but the divorce decree made no provision for support. The wife sued the husband in North Carolina for child support under the

Uniform Reciprocal Enforcement of Support Act (URESA). Pursuant to URESA, papers were forwarded to the county of the husband's residence in Texas. The papers included an affidavit by the wife that the husband had not contributed to the support of the child and that \$200 was a reasonable amount of monthly support. The trial court entered a support order.

Held: Reversed and remanded. Affidavits forwarded from the initiating state in a URESA action cannot be considered a sufficient evidence basis for a support order. (15 TLWD 11, at 5)

Filed: February 21, Dallas
Doc. No. 3C19

11th Court of Civil Appeals Hogue v. National Bank of Commerce

The defendant bank, in the ordinary course of business and to make a profit, made a loan to the Good Government League, which opposed the plaintiff in a 1975 city council election. The plaintiff sued for statutory damages under Article 14.07, Election Code. The trial court entered a judgment for the defendant.

Held: Affirmed. The statute prohibited corporation loans for the "purpose" of aiding or defeating candidates. "Purpose" meant the purpose or intention of the bank in making the loan, which here was to make a profit. Further, the exemption contained in Article 14.07(a), authorizing loans to candidates, also exempts *bona fide* loans to political committees. Finally, Article 14.07 was repealed, and the amended statute expressly authorized loans by banks to political committees. (15 TLWD 11, at 5)

Filed: February 16, 1978, Eastland
Doc. No. 3C18

The Open Meetings Act (Article 6252-17, Texas Civil Statutes) requires that an agency with statewide jurisdiction have notice posted for at least seven days before the day of a meeting. A political subdivision covering all or part of four or more counties, or an institution of higher education, must have notice posted for at least 72 hours before the scheduled meeting time. Notice of an emergency meeting or an emergency addition or amendment to an agenda must be posted for at least two hours before the meeting is convened. Although some notices may be received and filed too late for publication before the meetings are held, all filed notices will be published in the *Register*. Each notice published includes an agenda or a summary of the agenda as furnished for publication by the agency and the date and time of filing. Notices are posted on the bulletin board outside the offices of the secretary of state on the first floor in the East Wing of the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.



Texas Air Control Board

Thursday, March 30, 1978, 2 p.m. The Texas Air Control Board will meet at 8520 Shoal Creek Boulevard, Austin, with the Regulation Committee to consider new source review procedures.

Additional information may be obtained from John B. Turney, 8520 Shoal Creek Boulevard, Austin, Texas 78758, telephone (512) 451-5711.

Filed: March 20, 1978, 11:01 a.m.
Doc. No. 781905

Friday, March 31, 1978, 9:30 a.m. The Texas Air Control Board will meet at 8520 Shoal Creek Boulevard, Austin, to consider the following items, as summarized: reports by executive director; appointment of Legislative Committee to study recent federal regulations; report on recent significant litigation; new source review procedures; and new business.

Additional information may be obtained from John B. Turney, 8520 Shoal Creek Boulevard, Austin, Texas 78758, telephone (512) 451-5711.

Filed: March 20, 1978, 11:01 a.m.
Doc. No. 781906

General Land Office

Thursday, March 30, 1978, 11 a.m. The Board for Lease of Texas Parks and Wildlife Lands of the General Land Office will meet in Room 831, 1700 North Congress, Austin. As summarized, the board will: consider and approve nominations, terms, conditions, and procedures for June 6, 1978, oil and gas lease sale, Possum Kingdom Fish Hatchery, and Huntsville Fish Hatchery; and consider bid received on Chaparral Wildlife Management Area, February 7, 1978, oil and gas lease sale.

Additional information may be obtained from H. E. White, Room 749, 1700 North Congress, Austin, Texas 78701, telephone (512) 475-6491.

Filed: March 17 1978, 10:50 a.m.
Doc. No. 781856

Texas Department of Health

Saturday, March 18, 1978, 11 a.m. The Texas Board of Health made an emergency addition to the agenda of a meeting held in the board room, 1100 West 49th Street, Austin. The board discussed the responsibilities of the board under Article 4429, Texas Revised Civil Statutes, to file a protest with the county clerk and the county treasurer against the payment of further fees, salary, or allowances to a county health officer in connection with charges filed against the county health officer, as summarized.

Additional information may be obtained from Jimmy Helm, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7488.

Filed: March 17, 1978, 3:26 p.m.
Doc. No. 781895

State Department of Highways and Public Transportation

Monday, March 27, 1978, 9 a.m. The State Highway and Public Transportation Commission will meet in the large hearing room, first floor, State Highway Building, 11th and Brazos Streets, Austin. As summarized, the board will consider various highway, bridge, and F.M. road requests regarding Cherokee and Kleberg Counties; and discuss policy on utility attachment to bridges. The docket is available in the second floor commission office in the State Highway Building.

Additional information may be obtained from the Office of the Engineer-Director, Room 203, State Highway Building, 11th and Brazos Streets, Austin, Texas 78701, telephone (512) 475-3525.

Filed: March 17, 1978, 12:38 p.m.
Doc. No. 781890

Monday, March 27, 1978, following public hearings. The State Highway and Public Transportation Commission will meet in Room 207, State Highway Building, 11th and Brazos Streets, Austin. As summarized, the agenda will include: execution of contract awards and routine minute orders; consideration of decisions on presentations from public hearing dockets; and review of staff reports relative to planning and construction programs and projects. The complete agenda is available in the second floor office of the minute clerk in the State Highway Building.

Additional information may be obtained from the Office of the Engineer-Director, Room 203, State Highway Building, 11th and Brazos Streets, Austin, Texas 78701, telephone (512) 475-3525.

Filed: March 17, 1978, 12:38 p.m.
Doc. No. 781891



Tuesday, March 28, 1978, 9 a.m. The State Highway and Public Transportation Commission will meet in Room 207, State Highway Building, 11th and Brazos Streets, Austin. As summarized, the board will consider items remaining from the March 27th meeting, as may be required.

Additional information may be obtained from the Office of the Engineer-Director, Room 203, State Highway Building, 11th and Brazos Streets, Austin, Texas 78701, telephone (512) 475-3525.

Filed: March 17, 1978, 12:38 p.m.
Doc. No. 781892

State Board of Morticians

Tuesday, March 21, 1978, 1 p.m. The State Board of Morticians made an emergency addition to the agenda of a meeting held at 1513 South Interstate Highway 35 and at 701 Congress, Austin. As summarized in the agenda, an apprentice appeared before the board to request reconsideration of a board decision of July 14, 1975, regarding credit served on funeral directors apprenticeship. Several apprentices requested extensions on entering mortuary college for financial reasons. A list of apprentices who allowed their apprenticeships to lapse for non-payment were officially cancelled by the board.

Additional information may be obtained from James W. McCammon, 1513 South Interstate Highway 35, Austin, Texas 78741, telephone (512) 442-6721.

Filed: March 20, 1978, 11:10 a.m.
Doc. No. 781907

Texas Indian Commission

Monday, April 3, 1978, 9 a.m. The Texas Indian Commission will meet at the Tigua Indian Reservation Education Building, El Paso, to consider the following items, as summarized: Alabama-Coushatta Indian Reservation; Traditional Kickapoo Indian Community; American Indian Center of Dallas; Dallas Intertribal Center; American Indian Forum of Tarrant County; Intertribal Council of Houston; Tigua Indian Reservation; and commission matters.

Additional information may be obtained from Walter W. Broemer, 1011 Alston, Livingston, Texas 77351, telephone (713) 327-5285.

Filed: March 17, 1978, 12:18 p.m.
Doc. No. 781889

Texas Parks and Wildlife Department

Tuesday, March 28, 1978, 9 a.m. The Parks and Wildlife Commission has made an emergency addition to the agenda of a meeting to be held in Building B, 4200 Smith School Road, Austin, to discuss Texas State Railroad State Historical Park and acquisition of additional passenger rolling stock.

Additional information may be obtained from Maurine Ray, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4954.

Filed: March 17, 1978
Doc. No. 781893

State Board of Insurance

Tuesday, March 28, 1978, 10 a.m. The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to consider the gas leak problem in the City of Huntington.

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed: March 17, 1978, 12:01 p.m.
Doc. No. 781887

Friday, April 21, 1978, 10:30 a.m. The Parks Division of the Texas Parks and Wildlife Department will meet in Room A-100, Headquarters Building, 4200 Smith School Road, Austin. As summarized, a public hearing will be held regarding consideration of an electrical utility right-of-way easement for additional service to Daingerfield State Park in Morris County, as requested by the Parks and Wildlife Department.

Additional information may be obtained from John Scott, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 475-4995.

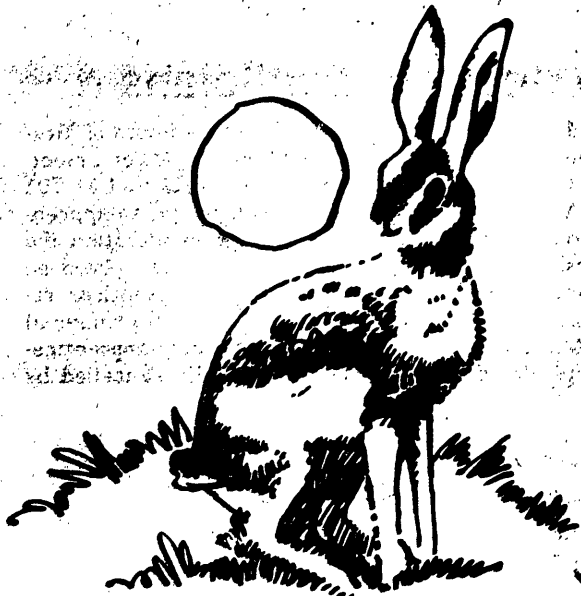
Filed: March 20, 1978, 9:10 a.m.
Doc. No. 781902

Public Utility Commission of Texas

Tuesday, March 21, 1978, 9 a.m. The Public Utility Commission of Texas made an emergency addition to the meeting held in Suite 400N, 7800 Shoal Creek Boulevard, Austin. The addition included consideration of an interim order entered in Docket No. 1634, styled "Application of Southwestern Bell Telephone Company for an Interim Order and for a Determination of Certain Public Interest Issues." The emergency resulted from the refusal of Southwestern Bell Telephone to obey interim order issued by the hearings examiner containing relief to which other parties were immediately entitled, as summarized in the agenda.

Additional information may be obtained from Roy J. Henderson, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-6111.

Filed: March 17, 1978, 12:02 p.m.
Doc. No. 781888



Railroad Commission of Texas

Monday, March 20, 1978, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held on the 10th floor, Ernest O. Thompson Building, 10th and Colorado Streets, Austin. The commission considered two Rule 37 applications to drill, as summarized in the agenda.

Additional information may be obtained from Sandy Mott, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-6155.

Filed: March 17, 1978, 11:35 a.m.
Doc. No. 781880

Department of Public Safety

Tuesday, March 28, 1978, 3:45 p.m. The Public Safety Commission of the Department of Public Safety will meet in the St. Anthony Hotel, San Antonio, to consider budget, personnel, and building matters.

Additional information may be obtained from Wilson E. Speir, 5805 North Lamar, Austin, Texas 78752, telephone (512) 452-0331.

Filed: March 17, 1978, 9:41 a.m.
Doc. No. 781854

Monday, March 20, 1978, 9 a.m. The Oil and Gas Division and Office of Special Counsel of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin. The commission considered approval of maintenance contract subpart to Radio Communications Contract RRC-7-21-Y. Immediate availability of routine maintenance for recently installed radio communication system necessitated consideration of maintenance contract upon less than seven days notice.

Additional information may be obtained from Rex H. White, Jr., or Bill Upton, P.O. Box 12967, Austin, Texas 78711, telephones (512) 475-4686 or 475-2697.

Filed: March 17, 1978, 11:34 a.m.
Doc. No. 781882

Monday, March 27, 1978, 9 a.m. The Gas Utilities Division of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin. As summarized, the commission will consider the following dockets: 1020, 1022, 1023, 1028, 1029, 1030, 1031, 1035, 1044, and 1046.

Additional information may be obtained from Joy Wood, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-2747.

Filed: March 17, 1978, 11:33 a.m.
Doc. No. 781884

Monday, March 27, 1978, 9 a.m. The Office of Special Counsel of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin. The commission will consider a request for attorney general's opinion as to whether Section 17, Article 6252-13a, Vernon's Texas Civil Statutes, as amended by the 65th Legislature, is in conflict with Article 6252-17, Vernon's Texas Civil Statutes.

Additional information may be obtained from Rex H. White, Jr., P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-4686.

Filed: March 17, 1978, 11:33 a.m.
Doc. No. 781886

Monday, March 27, 1978, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin. As summarized, the commission will consider various requests for special allowable, water injection, proper pluggings, exception to SWR 14(B)(2), amend field rules, gas field rules, review temporary field rules; consider various administrative new oil and gas field discoveries, suspend allocation formula, and exceptions to SWR 14(B)(2), SWR 11, and SWR 8(C).

Additional information may be obtained from Luci Castleberry, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-3003.

Filed: March 17, 1978, 11:35 a.m.
Doc. No. 781881

Monday, March 27, 1978, 9 a.m. The Surface Mining Division of the Railroad Commission of Texas will meet in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin. The commission will act on the proposed amendment to Permit No. 009 of Exxon Minerals Company, U.S.A.

Additional information may be obtained from Carmen Ramos, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-6520.

Filed: March 17, 1978, 11:34 a.m.
Doc. No. 781883

Monday, March 27, 1978, 9 a.m. The Transportation Division of the Railroad Commission of Texas will meet in the 10th floor conference room, Ernest O. Thompson Building, 10th and Colorado Streets, Austin. As summarized, the commission will consider contested applications to amend authority, for clearance deviation, for complaint proceeding, and new authority. Uncontested applications will be considered to amend authority, for bus rate, to consolidate authority, to divide authority, to amend ICC authority registration, for ICC authority registration, for lease cancellation, for new authority, for name change, for interstate exempt authority, for rail rate, for reinstatement, to sell authority, for bus schedule change, for truck rate, to transfer authority, and for voluntary suspension. An executive session will also be held.

Additional information may be obtained from John G. Soule, P.O. Box 12967, Austin, Texas 78711, telephone (512) 475-3207.

Filed: March 17, 1978, 11:33 a.m.
Doc. No. 781885



Texas Rehabilitation Commission

Thursday, March 30, 1978, 10 a.m. The Board of the Texas Rehabilitation Commission has made an amendment to the agenda of a meeting to be held at 118 East Riverside Drive, Austin. Item 3 on the agenda has been changed from "Vaughn House, Inc., Grant Amendment" to "Governor's Conference on Problems of Handicapped Individuals Grant."

Additional information may be obtained from Herbert A. Underwood, 118 East Riverside Drive, Austin, Texas 78704, telephone (512) 447-0236.

Filed: March 20, 1978, 11:21 a.m.
Doc. No. 781908

Texas Water Commission

Monday, March 27, 1978, 10 a.m. The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress, Austin, to consider the following items, as summarized: district bond issues; escrow releases; change in plans; petition for creation; examiner's report concerning Edwards Aquifer; examiner's proposal for decision on water quality matters; consideration of water quality amendments to permits; voluntary suspension of water quality permit; activation of permit; voluntary cancellation of quality permit; applications for water rights permits, amendments, and contractual permits; adjudication matters; and complaints by the City of San Antonio.

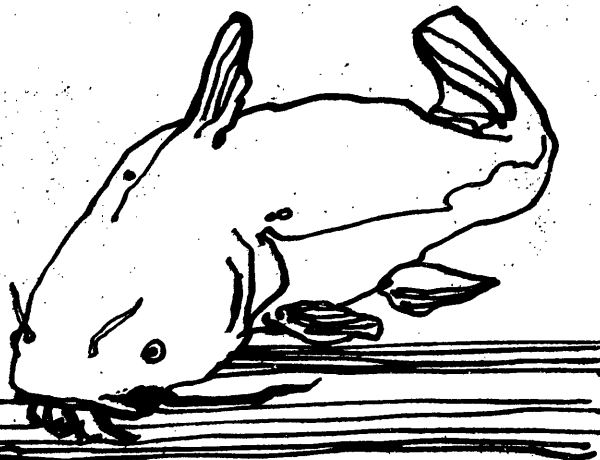
Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: March 16, 1978, 3:03 p.m.
Doc. No. 781848

Monday, March 27, 1978, 10 a.m. The Texas Water Commission has made an addition to the agenda of a meeting to be held in the Stephen F. Austin Building, 1700 North Congress, Austin, to include consideration of a petition for the conversion of Blue Ridge West Municipal Utility District, as summarized.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: March 17, 1978, 2:52 p.m.
Doc. No. 781894



Tuesday, April 4, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Stephen F. Austin Building, 1700 North Congress, Austin, regarding a petition for organization of Ricewood Municipal Utility District, which will contain 358.3985 acres of land, more or less, which lies wholly within Harris County, as summarized.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: March 16, 1978, 3:03 p.m.
Doc. No. 781849

Friday, April 7, 1978, 10 a.m. The Texas Water Commission will conduct hearings in the auditorium, Corpus Christi National Bank, 502 North Water Street, Corpus Christi. As summarized, the following applications seek permits to conduct *insitu* solution mining of uranium in Live Oak County: U.S. Steel Corporation, N.M.U., Inc. (Boots Mine); U.S. Steel Corporation, N.M.U., Inc., (Johnson Project); U.S. Steel Corporation, Texas Uranium Operations (Burns Mine); U.S. Steel Corporation, N.M.U., Inc. (Chapa Project); and Intercontinental Energy Corporation, doing business as IEC Corporation in Texas (Zamzow Plant).

Additional information may be obtained from Phillip Paine, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1468.

Filed: March 17, 1978, 11:23 a.m.
Doc. No. 781859

Wednesday, April 19, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the Council Chamber, City Hall, 101 East 27th Street, Bryan, regarding an application from Halliburton Services (Caldwell Field Camp Facility), Caldwell. The applicant seeks a permit to allow for the disposal of wastewaters by recycle and evaporation from the field camp facility which washes truck and mobile equipment, as summarized.

Additional information may be obtained from Philip Haag, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1317.

Filed: March 17, 1978, 11:23 a.m.
Doc. No. 781862

Wednesday, April 19, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the auditorium, Houston-Galveston Area Council, 3701 West Alabama, Houston, regarding an application from the City of Cleveland (West Plant), Cleveland, seeking an amendment to Permit No. 10766 to authorize an increase in treatment capacity, as summarized.

Additional information may be obtained from Larry Soward, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311.

Filed: March 17, 1978, 11:23 a.m.
Doc. No. 781865

Wednesday, April 19, 1978, 10 a.m. The Texas Water Commission will conduct a hearing in the conference room, Houston-Galveston Area Council, 3701 West Alabama, Houston, regarding an application from West Harris County Municipal Utility District No. 6, Houston. The applicant seeks a permit to allow for a discharge of domestic sewage effluent from a sewage treatment plant to serve a population of 1,000 people, as summarized.

Additional information may be obtained from Larry Soward, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311.

Filed: March 17, 1978, 11:23 a.m.
Doc. No. 781866

Wednesday, April 19, 1978, 1 p.m. The Texas Water Commission will conduct a hearing in the auditorium, Houston-Galveston Area Council, 3701 West Alabama, Houston, to consider an application of Houston Lighting and Power Company (Gears Road Service Center STP), Houston. The applicant seeks a permit to allow for a discharge of domestic sewage effluent from a sewage treatment plant to serve a population equivalent of 100 people, as summarized in the agenda.

Additional information may be obtained from Larry Soward, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311.

Filed: March 17, 1978, 11:23 a.m.
Doc. No. 781858

Wednesday, April 19, 1978, 1 p.m. The Texas Water Commission will conduct a hearing in the Council Chamber, City Hall, 101 East 27th Street, Bryan, to consider an application by Hope Center for Youth (Wilderness Girls Camp), Houston. The applicant seeks a permit to allow for a discharge of domestic sewage effluent from a sewage treatment plant to serve a population of 100 people, summarized in the agenda.

Additional information may be obtained from Philip Haag, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1317.

Filed: March 17, 1978, 11:23 a.m.
Doc. No. 781860

Wednesday, April 19, 1978, 1 p.m. The Texas Water Commission will conduct a hearing in the Council Chamber, City Hall, 101 East 27th Street, Bryan, to consider an application by Texas A&M University Research and Extension Center, College Station. The applicant seeks an amendment to Permit No. 10968 to accommodate construction of new plant facilities, as summarized in the agenda.

Additional information may be obtained from Philip Haag, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1317.

Filed: March 17, 1978, 11:23 a.m.
Doc. No. 781861

Wednesday, April 19, 1978, 1 p.m. The Texas Water Commission will conduct a hearing in the auditorium, Houston-Galveston Area Council, 3701 West Alabama, Houston, to consider an application by Cypress-Fairbanks Independent School District (Cy-Fair High School), Houston. The applicant seeks an amendment to Permit No. 10867 to accommodate plant expansion and an increase in treatment capacity, as summarized in the agenda.

Additional information may be obtained from Larry Soward, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311.

Filed: March 17, 1978, 11:23 a.m.
Doc. No. 781863

Wednesday, April 19, 1978, 1 p.m. The Texas Water Commission will conduct a hearing in the auditorium, Houston-Galveston Area Council, 3701 West Alabama, Houston, to consider an application by Memorial Municipal Utility District, Houston. The applicant seeks an amendment to Permit No. 11893 to accommodate the construction of additional plant capacity, as summarized in the agenda.

Additional information may be obtained from Larry Soward, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311.

Filed: March 17, 1978, 11:23 a.m.
Doc. No. 781864

Wednesday, April 19, 1978, 1 p.m. The Texas Water Commission will conduct a hearing in the auditorium, Houston-Galveston Area Council, 3701 West Alabama, Houston, to consider an application of Gulf Coast Waste Disposal Authority (Westcrest Utility District STP), Houston. The applicant seeks a permit to allow for a discharge of domestic sewage effluent from a sewage treatment plant to serve a population of 2,800 people, as summarized in the agenda.

Additional information may be obtained from Larry Soward, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311.

Filed: March 17, 1978, 11:23 a.m.
Doc. No. 781867



Regional Agencies

Meetings Filed March 16, 1978

The Heart of Texas MHMR Center, Board of Trustees, met at the Day Treatment Center, 1611 West Street, Waco, on March 23, 1978, at 4 p.m. Further information may be obtained from Dean Maberry, 1401 North 18th Street, Waco, Texas 78703, telephone (512) 752-3451.

The Lower Colorado River Authority met at 3700 Lake Austin Boulevard, Austin, on March 23, 1977, 9 a.m. Further information may be obtained Charles Herring, P.O. Box 220, Austin, Texas 78767, telephone (512) 474-5931, extension 330.

Doc. No. 781850

Meetings Filed March 17, 1978

The Central Texas Health Systems Health Agency, Inc., Board of Directors, will meet in the Chisholm Room, Stagecoach Inn, Salado, on March 28, 1978, at 7 p.m. Further information may be obtained from Irwin R. Salmanson, 1106 Clayton Lane, Suite 140 East, Austin, Texas 78723, telephone (512) 458-9161.

The Copano Bay Soil Conservation District No. 329 will meet in the Council Room, City Hall, Refugio, on March 27, 1978, at 7 p.m. Further information may be obtained from Jim Wales, Drawer 340, Refugio, Texas 78377, telephone (512) 526-2334.

The Education Service Center, Region XX, Board of Directors, will meet at 1550 N.E. Loop 410, San Antonio, on March 29, 1978, at 3 p.m. Further information may be obtained from Dr. Dwain M. Estes, 1550 N.E. Loop 410, San Antonio, Texas 78209, telephone (512) 828-3551.

The Middle Rio Grande Development Council, Regional Manpower Advisory Committee, will meet at the Uvalde Civic Center, Highway 90, Uvalde, on March 30, 1978, at 3 p.m. Further information may be obtained from Elia G. Santos, P.O. Box 1461, Del Rio, Texas 78840, telephone (512) 775-1581.

Doc. No. 781857

Texas Commission on Alcoholism

Consultant Proposal Request

Description of Project: The Texas Commission on Alcoholism has applied for grant funds from the Governor's Office, Criminal Justice Division, for a Texas Juvenile Alcohol Identification and Treatment Project. The grant hearing on this application is scheduled for June, 1978, and, if funded, will make available contract monies for the development of a diagnostic phase, treatment phase, procedures manual, and training manual for the identification of juveniles with alcohol dependency prbs, and appropriate treatment for these juveniles. Proposed project dates are July 1, 1978-July 30, 1979.

Amount of Contract: \$81,821.

Contact: Requests for proposals have already been mailed to 25 consulting firms. This is to serve as notice that invitation for offers is open. Requests for proposals may be made by contacting David E. Sandefur or Robby Duffield, Texas Commission on Alcoholism, 809 Sam Houston Building, Austin, Texas 78701, (512) 475-2577.

Due Date of Reports: Closing dates for receipt of offers is April 30, 1978.

Basis for Awarding Contract: The Texas Commission on Alcoholism proposes to review each proposal utilizing a committee composed of the deputy director, director of finance, criminal justice coordinator, a grants management specialist, and director of treatment and rehabilitation. Proposals will be graded as follows: a maximum of 20 points for the firm's qualification to conduct; a maximum of 30 points for past projects similar in nature (15 for juvenile projects and 15 points for alcohol-related projects); and a maximum of 50 points for the proposal itself (five points for budget, 15 points each for diagnostic phase, treatment phase, and manual development and training). The decision of the committee, based on the proposal awarded the highest number of points, will be utilized to award a contract.

Issued in Austin, Texas, on March 15, 1978.

Doc. No. 781834 **Abe M. Mays, Jr.**
Executive Director
Texas Commission on Alcoholism

Filed: March 15, 1978, 2:02 a.m.

For further information, please call (512) 475-2577.

On March 16, 1978, the banking commissioner received an application to acquire control of Citizens State Bank, Buffalo, by Curtis J. Torno, Pasadena, and W. R. Coffey, Houston.

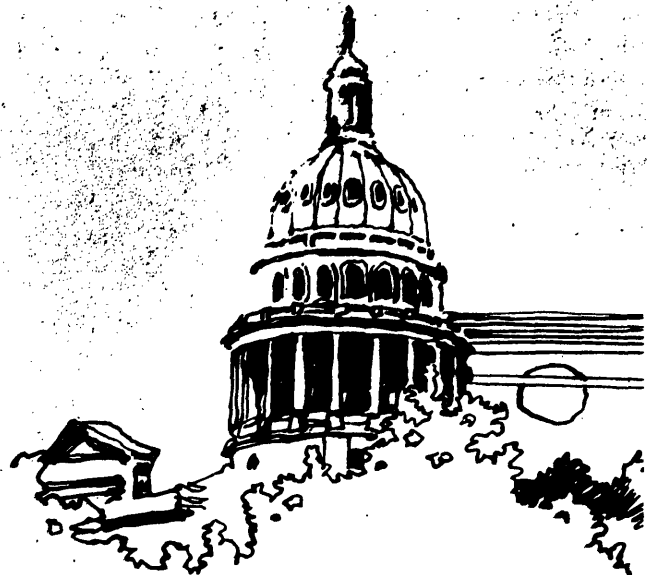
Additional information may be obtained from Robert E. Stewart, 2601 North Lamar, Austin, Texas 78705, telephone (512) 475-4451.

Issued in Austin, Texas, on March 16, 1978.

Doc. No. 781878 **Robert E. Stewart**
Banking Commissioner

Filed: March 17, 1978, 11:47 a.m.

For further information, please call (512) 475-4451.



State Bar of Texas

Texas Law for Military Attorneys

The Military Law Section of the State Bar of Texas, established as a liaison between the attorneys of the State of Texas and the military personnel of the armed forces to better serve their legal needs, is sponsoring a two-day institute April 20-21, 1978. It is being held at the Officer's Club, Fort Sam Houston, in San Antonio. This is not an institute on military law; this is an institute on Texas law and is offered to military attorneys and personnel.

Thomas J. Krauska, Groce, Locke, and Hebdon, San Antonio, is the institute chairman and will be presiding over the two-day institute. The times, events, and speakers are listed below:

Department of Banking Notice of Application

Vernon's Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

Thursday, April 20

8 a.m.—Registration

8:30 a.m.—Welcoming remarks—Frank W. Baker, San Antonio; Matthews, Nowlin, Macfarlane, and Barrett; director, State Bar of Texas

8:45 a.m.—Consumer Protection Laws Update—Tommy Jacks, Austin; Doggett and Jacks, P.C.

9:45 a.m.—Jurisdiction: Justice of the Peace, County and District Courts—Norris Yates, San Antonio; chief, Civil Division, District Attorney's Office, Bexar County; lieutenant colonel, USAFR, JAG

10:15 a.m.—Break

10:30 a.m.—Wills, Probate, Estate Planning, and Tax Implications—John E. Bakke, San Antonio; Groce, Locke, and Hebdon; board certified specialist, estate planning and probate

12 p.m.—Lunch break

1:15 p.m.—Family Law Update—James D. Stewart, San Antonio; Stewart and Hemmi; board certified specialist, family law

2:45 a.m.—Break

3 p.m.—preparing federal tort claim cases—Hugh P. Shovlin, San Antonio; Chief, Civil Division, U.S. Attorney's Office, Western Division of Texas; colonel, USA (retired)

4:14 a.m.—How the Texas Lawyer Referral Service Can Help You—Frank W. Baker, San Antonio; Matthews, Nowlin, Macfarlane, and Barrett; colonel, USAFR, JAG

4:35 p.m.—Adjourn for the day

Friday, April 21

9 a.m.—Real Estate Transactions—Ted E. Bailey, Houston; past chairman, Military Law Section; colonel, USAR, JAG

10 a.m.—Break

10:15 a.m.—Child abuse problems related to military and civilian communities—John K. Miller, El Paso; lieutenant colonel, USA, M.C. (retired)

11:15 a.m.—Remarks from visiting VIPS and closing remarks

11:30 a.m.—Adjourn

2 p.m.—Battle of Flowers Parade—streets of downtown San Antonio (on your own)

Military and civilian lawyers and nonlawyers are welcome to attend. Articles will be prepared and compiled in booklet form to be included as part of the registration fee and handed out the day of the institute.

An income tax deduction may be allowed for expenses of education (including travel, meals, and lodging) undertaken to maintain and improve professional skills (See Treas. Reg. 1:162-5; *Coughlin v. Commissioner*, 203 F. 2d 307).

Registration is \$30. No refunds of fees can be granted after 5 p.m. of the day preceding this institute. Registration may be made by sending a check payable to the State Bar of Texas,

Texas Law—For Military Attorneys, P.O. Box 12487, Austin, Texas 78711.

Issued in Austin, Texas, on March 15, 1978.

Doc. No. 781847 Judy Bolton
State Bar of Texas

Filed: March 16, 1978, 11:06 a.m.

For further information, please call (512) 475-6842.



Texas State Board of Control Model Energy Conservation Building Codes

The State Board of Control, acting in compliance with Section 5, Article 678i, Vernon's Texas Civil Statutes, cited as the Energy Conservation in Buildings Act, has approved a model energy conservation code for use by Texas cities in amending or adopting their ordinances. Except for three minor modifications, the approved code consists of the Model Code for Energy Conservation in New Buildings as adopted by the National Conference of States on Building Codes and Standards under sponsorship of the United States Energy Research and Development Administration. Modifications to this code consist of:

- (1) Wherever the words "Standard 90-75" occur in the text, include the words "and addenda."
- (2) On page 2 under section 1, subsection 101.2, paragraph 6-2, omit the words "by fuel."
- (3) On page 14 under section 4, subsection 402.0, paragraph 6, add the following: "The State of Texas Energy Envelope Index (E.E.I.) method as found in the Texas Energy Conservation Manual may be used to test for compliance in lieu of the 8760 hour calculation procedure."

Because of its length, the entire text of the approved code is not published herein. Information on its content and procurement may be obtained by writing to the State Board of

Control, Facilities, Planning and Construction Division, P.O. Box 13047, Austin, Texas 78711, or by telephoning (512) 475-2941.

Issued in Austin, Texas, on March 15, 1978.

Doc. No. 781846 Homer A. Foerster
Executive Director
Texas State Board of Control

Filed: March 16, 1978, 11:06 a.m.

For further information, please call (512) 475-2941.

Texas Health Facilities Commission

Notice of Applications

Notice is given by the Texas Health Facilities Commission of applications (including a general project description) for declaratory rulings or exemption certificates accepted March 7-13, 1978.

Should any person wish to contest the application for a declaratory ruling or an exemption certificate, that person must file a notice of intent to contest the application with the chairman of the commission within 12 days after the enclosed listing is published. The first day for calculating this 12-day period is the first calendar day following the dating of the publishing. The 12th day will expire at 5 p.m. on the 12th consecutive day after said publishing if the 12th day is a working day. If the 12th 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. When notice of intent to contest is mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, it must be postmarked no later than the day prior to the last day allowed for filing notice of intent to contest.

The contents and form of a notice of intent to become a party to an application for a declaratory ruling or exemption certificate must meet the minimum criteria set out in Rule 506. Failure of a party to supply the minimum necessary information in the correct form by the 12th day will result in a defective notice of intent 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, 3.03, or 6.02 of Article 4418(h), Vernon's Annotated Texas Statutes, and Rules 302, 502, and 515.

In the following notice, the applicant is listed first, the file number second, and the relief sought and project description third. EC indicates exemption certificate and DR indicates declaratory ruling.

The Recovery Center, Inc., Houston
AS78-0301-015.

EC—Modify facility to comply with TRC certification standards and local fire codes

St. Luke's Episcopal Hospital, Houston
AH78-0309-020

EC—Relocate existing heart sounds laboratory to existing shelled space

Irving Community Hospital, Irving
AH78-0309-024

EC—Acquire echo cardiograph equipment for cardiology department

Arlington Memorial Hospital Foundation, Inc., Arlington
AH78-0310-025

DR—That the provision of speech therapy through department of physical medicine is not a substantial expansion of existing service and does not require a certificate of need

Willacy County Hospital, Raymondville
AH78-0313-001

EC—To enclose an existing carport for a meeting room

Issued in Austin, Texas, on March 17, 1978.

Doc. No. 781877 William D. Darling
General Counsel
Texas Health Facilities
Commission

Filed: March 17, 1978, 11:45 a.m.

For further information, please call (512) 475-6940.

Texas Department of Public Safety

Consultant Contract Award

On March 6, 1978, the Department of Public Safety awarded a contract to a consulting firm as a result of a request for proposal as published in the *Texas Register* (2 TexReg 4956) on December 20, 1977.

Description of Contract: The contractor is to develop a comprehensive knowledge examination for testing applicants for a Texas driver's license, which includes:

- (1) development of up to 300 photographic transparencies depicting actual traffic situations for selection and approval by the department;
- (2) development of test questions for each of the selected photographic transparencies;
- (3) performing a psychometric appropriateness analysis on each test item for level of difficulty, reliability, and validity;
- (4) develop, after step (3), a minimum of 210 different test items with graphic illustrations; these items shall cover automobile, truck, bus, and motorcycle operation;
- (5) determine if the test items sufficiently cover each driver classification sufficiently to determine the applicant's qualifications;
- (6) deliver to the department 300 of each of the 210 selected test items in 35mm slides and in a format compatible with the department's automated testing machines, for a total of 63,000 slides;
- (7) develop a battery of tests using the same items and photographic transparencies for a paper-pencil test.

Consultant: The contract has been awarded to Educational Development Corporation, 2813 Rio Grande, Austin, Texas 78705.

Amount of Contract: The total amount of the contract is \$50,000; \$15,000 for the research and the item development phase and \$35,000 for the actual production of the 63,000 35mm slides.

Due Date of Reports: The contractor is to make final report and deliver all items to the department by September 30, 1978.

Issued in Austin, Texas, on March 14, 1978.

Doc. No. 781840 Wilson E. Speir
 Director
 Texas Department of Public Safety

Filed: March 16, 1978, 10:11 a.m.

For further information, please call (512) 452-0331.



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