



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

April 22, 1970

Hon. Jess M. Irwin, Jr.
Commissioner, Texas Rehabilitation
Commission
Medical Park Tower
1301 West 38th Street
Austin, Texas 78705

Opinion No. M- 617

Re: Authority of the Commissioner to execute a contract with the Secretary of Health, Education and Welfare to carry out the provisions of Section 221 of the Social Security Act, and related questions.

Dear Mr. Irwin:

Your request for an opinion on the above subject matter asks the following questions concerning a new agreement to replace a prior agreement entered into by the Texas Central Education Agency, namely whether:

"(1) I, as Commissioner of the Commission for Rehabilitation, am the proper State official to execute the agreement;

"(2) the Commission for Rehabilitation is the legal successor to all functions, duties, and responsibilities of the Division of Vocational Rehabilitation and the Division of Disability Determination of the Central Education Agency; and

"(3) the Commission for Rehabilitation is empowered to act on behalf of the State of Texas and enter an agreement with the Secretary of Health, Education, and Welfare to carry out provisions of Section 221 of the Social Security Act as set forth in said agreement."

You state in your request that these questions arise for the reason that it is necessary to enter into a new agreement

Hon. Jess M. Irwin, Jr., page 2 (M-617)

with the Secretary of Health, Education and Welfare to replace the agreement between the Secretary of Health, Education and Welfare and the Texas Central Education Agency since the Legislature has created the Commission for Rehabilitation to take the place of the former Division of Vocational Rehabilitation and the Division of Disability Determination of the Central Education Agency. You further state that Mr. Paul E. Webb, Assistant Director, Bureau of Disability Insurance, Social Security Administration, has stated that prior to approval of agreements to carry out the provisions of Section 221 of the Social Security Act, it will be necessary to obtain an opinion from this office on the above quoted questions.

The Commission for Rehabilitation was created by the Legislature by the enactment of Senate Bill 110, Acts 61st Legislature, Regular Session, Chapter 40, page 103 (Art. 26751. V.C.S.) Section 13 reads as follows:

"All functions of the Division of Vocational Rehabilitation and the Division of Disability Determination of the Central Education Agency, together with all personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available or to be made available are hereby transferred to the agency on September 1, 1969. Wherever under existing statutes, duties, obligations, and responsibilities are placed upon the Division of Vocational Rehabilitation or the Division of Disability Determination of the Central Education Agency or duties, obligations, and responsibilities relating to vocational rehabilitation of the handicapped individual are imposed upon the State Board for Vocational Education, such duties, obligations and responsibilities shall hereafter be assumed and carried out by the commission. All contracts and agreements between the Central Education Agency and the Social Security Administration relating to the activities of the Division of Vocational Rehabilitation and the Division of Disability Determination of the Central Education Agency shall be continued for the benefit of the commission."

Hon. Jess M. Irwin, Jr., page 3 (M-617)

In view of the above quoted provisions, you are advised that the Commission for Rehabilitation is the legal successor to all functions, duties and responsibilities of the former Division of Vocational Rehabilitation and the Division of Disability Determination of the Central Education Agency.

Subdivision (a) of Section 5 of Senate Bill 110, supra, provides:

"(a) This Act shall be administered by the Commissioner under operational policies established by the Board. The Commissioner shall be appointed by the Board on the basis of his education, training, experience, and demonstrated ability. He shall serve at the pleasure of the Board. He shall be secretary to the Board, as well as chief administrative officer of the agency."

See also Section 6 of Senate Bill 110.

You are therefore advised that the Commissioner is the proper officer to execute agreements on behalf of the Commission for Rehabilitation in carrying out the provisions of Senate Bill 110, supra.

The agreement submitted with your request is substantially identical with the agreement previously entered into by the Central Education Agency for the purpose of carrying out the provisions of Section 221 of the Social Security Act. The Commission for Rehabilitation is the legal successor to all functions, duties and responsibilities of the Division of Vocational Rehabilitation and the Division of Disability Determination of the Central Education Agency; and you are advised that the Commissioner is empowered to act on behalf of the State of Texas and enter into an agreement with the Secretary of Health, Education and Welfare to carry out the provisions of Section 221 of the Social Security Act as set forth in the agreement and is the proper State official to execute the agreement.

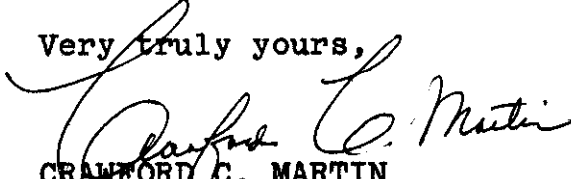
S U M M A R Y

The Commission for Rehabilitation created by the provisions of Senate Bill 110, Acts 1969, 61st Legislature, Regular Session, Chapter 40, page 103 (Art. 26751, V.C.S.) is the legal successor to all functions, duties and responsibilities

Hon. Jess M. Irwin, Jr., page 4 (M-617)

of the Division of Vocational Rehabilitation and the Division of Disability Determination of the Central Education Agency; and the Commissioner of the Commission for Rehabilitation is the proper State official empowered to execute an agreement on behalf of the State of Texas with the Secretary of Health, Education and Welfare to carry out the provisions of Section 221 of the Social Security Act to replace a prior agreement entered into by the Central Education Agency.

Very truly yours,



CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by John Reeves
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

Kerns Taylor, Chairman
W. E. Allen, Acting Co-Chairman
Austin Bray
Glenn Brown
Sarah E. Phillips
Ed Esquivel

MEADE F. GRIFFIN
Staff Legal Assistant

ALFRED WALKER
Executive Assistant

NOLA WHITE
First Assistant