

HUMAN RESOURCES CODE
TITLE 5. SERVICES FOR THE BLIND AND VISUALLY HANDICAPPED
CHAPTER 91. TEXAS COMMISSION FOR THE BLIND
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 91.001. SUNSET PROVISION. The Texas Commission for the Blind is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires effective September 1, 2011.

Acts 1979, 66th Leg., p. 2396, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 479, Sec. 213, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 793, Sec. 1, eff. Sept. 1, 1985; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 4.05, eff. Nov. 12, 1991; Acts 1999, 76th Leg., ch. 213, Sec. 1, eff. Sept. 1, 1999.

Sec. 91.002. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Commission for the Blind.

(2) "Blind" means a person having not more than 20/200 visual acuity in the better eye with correcting lenses or visual acuity greater than 20/200 but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(3) "Child with visual impairments" means a child who is blind or visually impaired or who has a visual condition that requires treatment, psychological assistance counseling, or other assistance that the commission can provide.

(4) "Visual handicap" includes blindness, an eye condition for which there is a medical prognosis indicating that the condition is of a progressive nature and may deteriorate either to blindness or to a substantial loss of vision, and physical or psychological handicaps that accompany or complement a disorder or imperfection of the eye.

(5) "Visually impaired" means a visual acuity of not more than 20/70 in the better eye with correcting lenses, or visual acuity greater than 20/70 but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 30 degrees.

Acts 1979, 66th Leg., p. 2396, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 793, Sec. 2, eff. Sept. 1, 1985; Acts 1999, 76th Leg., ch. 213, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 91.011. TEXAS COMMISSION FOR THE BLIND. (a) The Texas Commission for the Blind is composed of nine members appointed by the governor with the consent of the senate. Except as provided by this subsection, appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees. Five members must be blind or visually impaired residents of the state, one member must be a family member, relative, or guardian of a blind or visually impaired resident of the state, and three members must be members of the general public. A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization regulated by the commission or receiving funds from the commission;

(2) owns, controls, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from the commission; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the commission.

(b) A person may not be a member of the commission and may not be a commission employee in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of service provision to persons who are blind or visually impaired or a field that otherwise relates to persons who are blind or visually impaired; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of service provision to persons who are blind or visually impaired or a field

that otherwise relates to persons who are blind or visually impaired.

In this subsection "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(c) A person may not be a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

(d) Members of the commission hold office for terms of six years with the terms of three members expiring on February 1 of odd-numbered years.

(e) Commission members and consumer advisory committee members are entitled to a per diem, set by the General Appropriations Act, for each day of attendance at an official meeting as authorized by the commission. Commission members are entitled to reimbursement for necessary expenses of travel on official business. Consumer advisory committee members are entitled to reimbursement for travel expenses in the same manner as state employees. A commission member or consumer advisory committee member who is disabled and, because of the disability, requires special aids or a travel attendant in order to attend an official meeting is entitled to reimbursement for the cost of the special aids or attendant in accordance with rules set by the commission.

(f) The governor shall designate a member of the commission to serve as presiding officer, and the officer shall serve at the governor's pleasure.

(g) Five members of the commission constitute a quorum for the transaction of business.

(h) The commission shall adopt rules prescribing the policies and procedures followed by the commission in the administration of its programs.

Acts 1979, 66th Leg., p. 2396, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2437, ch. 842, art. 2, Sec. 11, eff. Sept. 1, 1979; Acts 1983, 68th Leg., p. 2831, ch. 484, art. II, Sec. 3, eff. June 19, 1983; Acts 1985, 69th Leg., ch. 793, Sec. 3, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 167, Sec. 2.19(17), eff. Sept. 1, 1987; Acts 1999, 76th Leg., ch. 213, Sec. 1, eff. Sept. 1, 1999.

Sec. 91.012. EXECUTIVE DIRECTOR. (a) The commissioner of health and human services shall employ an executive director in accordance with Section 531.0056, Government Code.

(b) The commissioner of health and human services shall select the executive director, according to established personnel standards, on the basis of education, training, experience, and demonstrated ability.

(c) The executive director shall adopt personnel policies.

(d) The executive director:

(1) shall appoint personnel necessary to efficiently accomplish commission purposes;

(2) may delegate to an employee a power of the executive director except the power to adopt rules or appoint personnel;

(3) shall establish appropriate administrative units within commission programs;

(4) may accept and use gifts and grants to the commission to carry out the purposes of this title, if the commission determines that the conditions of the gift or grant are consistent with this title; and

(5) may take other actions that the executive director considers necessary or appropriate to carry out commission purposes.

Acts 1979, 66th Leg., p. 2396, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 793, Sec. 4, eff. Sept. 1, 1985; Acts 1995, 74th Leg., ch. 76, Sec. 8.144, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 693, Sec. 7, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 213, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1460, Sec. 2.10, eff. Sept. 1, 1999.

Sec. 91.013. AUDIT. The financial transactions of the commission are subject to audit by the state auditor in accordance

with Chapter 321, Government Code.

Acts 1979, 66th Leg., p. 2397, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 793, Sec. 5, eff. Sept. 1, 1985; Acts 1989, 71st Leg., ch. 584, Sec. 14, eff. Sept. 1, 1989.

Sec. 91.014. FUNDS. (a) All sums of money paid to the commission under this title shall be deposited in the State Treasury and may be used only for the administration of this title.

(b) Interest earned on funds deposited in the State Treasury from gifts and grants received by the commission under Section 91.012 of this code and from proceeds from the operation of vending facilities under Chapter 94 of this code shall be credited to the fund on which the interest is earned.

Added by Acts 1983, 68th Leg., p. 3821, ch. 594, Sec. 1, eff. June 19, 1983. Amended by Acts 1985, 69th Leg., ch. 793, Sec. 6, eff. Sept. 1, 1985.

Sec. 91.015. REMOVAL OF COMMISSION MEMBER. (a) It is a ground for removal from the commission if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (a) of Section 91.011 of this code for appointment to the commission;

(2) does not maintain during the service on the commission the qualifications required by Subsection (a) of Section 91.011 of this code for appointment to the commission;

(3) violates a prohibition established by Subsection (b) of Section 91.011 of this code;

(4) is unable to discharge his duties for a substantial portion of the term for which he was appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled commission meetings which the member is eligible to attend during each calendar year, except when the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it was taken when a ground for removal of a member of the commission existed.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1985, 69th Leg., ch. 793, Sec. 7, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 213, Sec. 3, eff. Sept. 1, 1999.

Sec. 91.016. PERSONNEL POLICIES. (a) The executive director or his designee shall develop an intraagency career ladder program, one part of which shall require the intraagency posting of all nonentry level positions concurrently with any public posting.

(b) The executive director or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for commission employees must be based on the system established under this section.

(c) The executive director or the executive director's designee shall provide to members and employees of the commission as often as is necessary information regarding their qualifications under this title and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(d) The commission shall develop and implement policies which clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive director and the staff of the commission.

(e) The commission by rule may develop and implement policies allowing shift differentials to be paid to employees in the vocational rehabilitation program.

Added by Acts 1985, 69th Leg., ch. 793, Sec. 8, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 213, Sec. 4, eff. Sept. 1, 1999.

Sec. 91.0165. CRIMINAL HISTORY RECORD INFORMATION. (a) The commission may obtain from any law enforcement or criminal justice agency the criminal history record information that relates to a person applying to become an employee of the commission.

(b) The commission by rule shall establish criteria for

denying a person's employment application based on the results of a criminal history check.

Added by Acts 1999, 76th Leg., ch. 213, Sec. 5, eff. Sept. 1, 1999.

Sec. 91.017. EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement to ensure that all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the commission to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the commission's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(b) The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (a)(1); and

(3) be filed with the governor's office.

Added by Acts 1985, 69th Leg., ch. 793, Sec. 9, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 693, Sec. 23(1), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 213, Sec. 5, eff. Sept. 1, 1999.

Sec. 91.018. RELATIONS WITH PUBLIC. (a) The commission shall prepare information of public interest describing the functions of the commission and describing the commission's procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the general public and appropriate state agencies.

(b) The commission shall promulgate rules establishing methods by which consumers or service recipients can be notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission. The commission may provide for the notification through inclusion of the information:

(1) on each registration form, application, or written contract for services of a person or entity regulated or authorized by this title;

(2) on a sign that is prominently displayed in the place of business of each person or entity regulated or authorized by this title; or

(3) in a bill for service provided by a person or entity regulated or authorized by this title.

(c) Except as required by federal regulations for resolving complaints received from people who are receiving service from the commission, the commission shall maintain a file on each written complaint filed with the commission. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the commission;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed if the agency closed the file without taking action other than to investigate the complaint.

(d) The commission, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(e) The commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.

(f) The commission shall develop and implement policies that will provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

(g) The commission shall establish a consumer advisory

committee and adopt rules relating to the committee's size, geographical representation, meetings, duties, and reporting requirements.

Added by Acts 1985, 69th Leg., ch. 793, Sec. 10, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 213, Sec. 5, eff. Sept. 1, 1999.

Sec. 91.019. REPORT; POSTING OF REPORT AND PERFORMANCE DATA. (a) The commission shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding year. The form of the annual report and the reporting time shall be that provided in the General Appropriations Act.

(b) The commission shall post on the Internet in an accessible format the report required under this section and any other agency performance data required to be reported to this state or the federal government. If a report or performance data contain confidential information, the commission shall remove the confidential information before posting the report or performance data.

Added by Acts 1985, 69th Leg., ch. 793, Sec. 11, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 213, Sec. 6, eff. Sept. 1, 1999.

Sec. 91.020. TRAINING OF COMMISSION MEMBERS. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the commission;
(2) the programs operated by the commission;
(3) the role and functions of the commission;
(4) the rules of the commission with an emphasis on the rules that relate to disciplinary and investigatory authority;
(5) the current budget for the commission;
(6) the results of the most recent formal audit of the commission;

(7) the requirements of:
(A) the open meetings law, Chapter 551, Government Code;
(B) the public information law, Chapter 552, Government Code;
(C) the administrative procedure law, Chapter 2001, Government Code; and
(D) other laws relating to public officials, including conflict of interest laws; and

(8) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 1999, 76th Leg., ch. 213, Sec. 7, eff. Sept. 1, 1999.

SUBCHAPTER C. GENERAL POWERS AND DUTIES OF THE COMMISSION

Sec. 91.0205. POWERS AND DUTIES OF COMMISSIONER OF HEALTH AND HUMAN SERVICES. The commissioner of health and human services has the powers and duties relating to the commission and executive director as provided by Section 531.0055, Government Code. To the extent a power or duty given to the commission or executive director by this chapter or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 2.11, eff. Sept. 1, 1999.

Sec. 91.021. RESPONSIBILITY FOR VISUALLY HANDICAPPED PERSONS. (a) The commission has primary responsibility for providing all services to visually handicapped persons except welfare services and services for children provided by regularly established educational agencies and state authorities.

(b) The commission shall negotiate interagency agreements with other state agencies to provide services for individuals who have both a visual handicap and another handicapping condition so that those multiply handicapped individuals may be provided the most beneficial services with the greatest possible economy.

(c) The commission and other concerned state agencies may not refuse to enter an interagency agreement developed to advance the state's policies regarding the rehabilitation or education of the blind and visually handicapped. In negotiating the agreements the agencies shall seek to extend and improve the regular services provided by the agencies and to effectively use all specialty and fiscal resources that are available. The agencies shall give careful consideration to avoiding unnecessary duplication or overlap of their respective efforts.

(d) The commission shall enter into agreements with the federal government to implement federal legislation authorizing the provision of services to the visually handicapped. The commission shall adopt methods of administration required by the federal government for the proper and efficient implementation of the agreements, and shall comply with other federal requirements necessary to secure the full benefits of the federal legislation.

(e) The commission and other concerned state agencies may not refuse to enter interagency agreements designed to secure the full benefits of federal legislation authorizing services for the visually handicapped.

(f) The commission shall:

(1) serve as an information center and referral resource for the visually handicapped; and

(2) develop mechanisms and procedures that tend to assist visually handicapped individuals in bridging gaps between educational, institutional, rehabilitative, vocational, and related types of services operated by public and private nonprofit organizations throughout the state.

(g) The commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to clients of eligible programs, except that the Texas Department of Transportation may not assume responsibility for client case review, case management, or coordination or authorization of benefits.

Acts 1979, 66th Leg., p. 2397, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2437, ch. 842, art. 2, Sec. 12, eff. Sept. 1, 1979; Acts 1985, 69th Leg., ch. 793, Sec. 12, eff. Sept. 1, 1985; Acts 2003, 78th Leg., ch. 198, Sec. 2.130, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 13.08, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 281, Sec. 4.06, eff. June 14, 2005.

Sec. 91.022. SERVICE DELIVERY. (a) The commission shall establish and maintain, by rule, guidelines for the delivery of services by the commission. The guidelines must be consistent with state and federal law and regulations and must include rules relating to:

(1) oversight and monitoring of service delivery;

(2) guidance to counselors on service delivery procedures;

(3) case management benchmarks establishing reasonable time frames for service delivery; and

(4) financial planning information for the commission.

(b) The commission shall establish written procedures relating to the evaluation of services delivered by the commission to provide guidance to counselors and commission employees. These procedures must include methods to evaluate:

(1) client progress;

(2) service delivery effectiveness; and

(3) counselor performance.

Added by Acts 1999, 76th Leg., ch. 213, Sec. 8, eff. Sept. 1, 1999.

Sec. 91.023. REHABILITATION SERVICES. The commission may furnish materials, tools, books, and other necessary apparatus and assistance for use in rehabilitating blind and visually handicapped persons.

Acts 1979, 66th Leg., p. 2398, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Sec. 91.027. BLINDNESS EDUCATION, SCREENING, AND TREATMENT PROGRAM. (a) To the extent that funds are available under Sections 521.421(f), as added by Chapter 510, Acts of the 75th Legislature, Regular Session, 1997, and 521.422(b), Transportation Code, the commission shall operate a Blindness Education, Screening, and Treatment Program to provide:

(1) blindness prevention education and screening and treatment to prevent blindness for residents who are not covered

under an adequate health benefit plan; and

(2) transition services to blind disabled individuals eligible for vocational rehabilitation services under Section 91.052.

(b) The program shall include:

(1) public education about blindness and other eye conditions;

(2) screenings and eye examinations to identify conditions that may cause blindness;

(3) treatment procedures necessary to prevent blindness; and

(4) transition services.

(c) The commission by rule shall prescribe eligibility requirements for the program.

Acts 1979, 66th Leg., p. 2398, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 510, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 198, Sec. 2.115(a), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1140, Sec. 1, eff. June 20, 2003.

Sec. 91.028. SERVICES FOR CHILDREN WITH VISUAL IMPAIRMENTS. (a) The commission may provide services to children with visual impairments to supplement the services provided by other state agencies if the commission determines that the provision of the services is appropriate and that the services will assist the children in achieving financial self-sufficiency and a fuller and richer life. It is the intention of the legislature that all state agencies concerned with children with visual impairments cooperate fully to achieve this purpose.

(b) The commission shall establish, by rule, the income level at which the Medicaid eligibility of a client applying for services under Subsection (a) shall be verified.

(c) The commission shall verify the Medicaid eligibility of a client applying for services under Subsection (a) whose income level is equal to or less than the income level established by the commission under Subsection (b).

(d) The commission shall verify the Medicaid eligibility of a client who is required by the commission to apply for Medicaid not later than the 90th day after the date the application for services from the commission is made.

(e) In verifying Medicaid eligibility, an employee of the commission shall:

(1) examine appropriate state or private Medicaid eligibility databases; and

(2) record on each client's application for services whether Medicaid eligibility was verified, the source of the verification, and the date of the verification.

(f) Except as provided by Subsection (g), a person may not solicit, disclose, receive, use, or knowingly permit the use of records or other information concerning an applicant for or recipient of children's program services that is directly or indirectly acquired by an officer or employee of the state or its political subdivisions in the course of the officer's or employee's official duties.

(g) A person may use the information provided under Subsection (f) in accordance with commission rules, only for purposes directly connected with the administration of the children's program and for the investigation of a complaint filed against an agency, employee, or contracted provider of services.

Acts 1979, 66th Leg., p. 2398, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1999, 76th Leg., ch. 213, Sec. 8, eff. Sept. 1, 1999.

Sec. 91.0301. LOANS FOR VISUAL AIDS. (a) The commission may establish a program to make loans to finance the purchase of technological aids for visually handicapped persons. Interest on the loans may not exceed 10 percent a year.

(b) The executive director may promulgate rules to administer the loan program, subject to approval of the commission. Added by Acts 1981, 67th Leg., p. 317, ch. 126, Sec. 2, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 793, Sec. 13, eff. Sept. 1, 1985.

Sec. 91.031. CONTRACTS FOR SERVICE. (a) The commission shall include in its contracts with service providers provisions relating to:

(1) clearly defined and measurable program performance standards that directly relate to the service provided;

(2) clearly defined penalties for nonperformance of a

contract term; and

(3) clearly specified accounting, reporting, and auditing requirements applicable to money received under the contract.

(b) The commission shall monitor a service provider's performance under a contract for service. In monitoring performance, the commission shall:

(1) use a risk-assessment methodology to institute statewide monitoring of contract compliance of service providers; and

(2) evaluate service providers based on clearly defined and measurable program performance objectives.

Added by Acts 1999, 76th Leg., ch. 213, Sec. 8, eff. Sept. 1, 1999.

Sec. 91.032. CONTRACTS FOR ADAPTIVE TECHNOLOGY. The commission shall include in a contract with a supplier of adaptive technology equipment provisions that require the supplier to provide training for clients receiving the adaptive technology equipment.

Added by Acts 1999, 76th Leg., ch. 213, Sec. 8, eff. Sept. 1, 1999.

SUBCHAPTER D. VOCATIONAL REHABILITATION OF THE BLIND

Sec. 91.051. DEFINITIONS. In this subchapter:

(1) "Program" means the vocational rehabilitation program authorized in this subchapter.

(2) Repealed by Acts 1985, 69th Leg., ch. 793, Sec. 38, eff. Sept. 1, 1985.

(3) "Employment handicap" means a physical or mental condition that obstructs or impairs, or if not corrected will probably obstruct or impair, an individual's performance in an occupation.

(4) "Disabled individual" means a person who has a substantial employment handicap.

(5) "Blind disabled individual" means a person who is blind or who has a visual condition for which medical prognosis indicates a progressive deterioration that may result in a substantial vocational handicap.

(6) "Vocational rehabilitation" or "vocational rehabilitation services" means services that are provided directly by the commission or through a public or private agency and that the director determines are necessary to compensate a blind disabled individual for an employment handicap so that the individual may engage in a remunerative occupation. The terms include, but are not limited to, medical and vocational diagnosis; vocational guidance, counseling, and placement; rehabilitation training; physical restoration; transportation; occupational licenses; customary occupational tools and equipment; maintenance; training books and materials; and other goods and services for which the commission receives financial support under federal law.

(7) "Rehabilitation training" means all necessary training provided to a blind disabled individual to compensate for an employment handicap. The term includes, but is not limited to, manual, preconditioning, prevocational, vocational, and supplementary training and training to achieve broader and more lucrative skills and capacities.

(8) "Physical restoration" means medical, surgical, or therapeutic treatment necessary to correct or substantially reduce a blind disabled individual's employment handicap within a reasonable period of time. The term includes, but is not limited to, medical, surgical, dental, and psychiatric treatment, nursing services, hospital care, convalescent home care, drugs, medical and surgical supplies, and prosthetic appliances. The term excludes treatment to cure acute or transitory conditions.

(9) "Prosthetic appliance" means an artificial device necessary to support or replace a part of the body or to increase the acuity of a sensory organ.

(10) "Occupational license" means a license, permit, or other written authorization required by a governmental unit as a condition for engaging in an occupation.

(11) "Maintenance" means money payments not exceeding the estimated cost of subsistence during vocational rehabilitation.

(12) Repealed by Acts 1985, 69th Leg., ch. 793, Sec. 38, eff. Sept. 1, 1985.

Acts 1979, 66th Leg., p. 2399, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 793, Sec. 38, eff. Sept. 1, 1985.

Sec. 91.052. VOCATIONAL REHABILITATION PROGRAM FOR THE BLIND. (a) The commission shall conduct a program to provide vocational rehabilitation services to eligible blind disabled individuals.

(b) To achieve the purposes of the program, the commission may:

(1) cooperate with other public and private agencies in studying the problems involved in providing vocational rehabilitation and in establishing, developing, and providing necessary or desirable facilities and services;

(2) enter reciprocal agreements with other states to provide vocational rehabilitation for the residents of the states concerned; and

(3) conduct research and compile statistics relating to the vocational rehabilitation of blind disabled individuals.

Acts 1979, 66th Leg., p. 2400, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Sec. 91.053. COOPERATION WITH FEDERAL GOVERNMENT. (a) The commission shall cooperate with the federal government to accomplish the purposes of federal laws relating to vocational rehabilitation and closely related activities.

(b) The commission shall negotiate agreements or plans with the federal government and shall adopt efficient methods of administration and comply with other conditions required to secure the full benefits of the federal laws. If the commission determines that a provision of state law precludes conformity with a federal requirement and limits federal financial support, the commission:

(1) may waive or modify the state law to the extent necessary to obtain the full benefits of the federal law; and

(2) shall include in the report required by Section 91.019 a description of the manner in which state law conflicts with federal law.

(c) In adopting the methods of administration, the commission shall include a system of necessary staffing patterns, personnel administration, and employee compensation comparable to the systems used by state agencies that receive substantial federal financial support. However, the commission may not employ personnel or adopt a system of merit pay that is not authorized in the commission's state appropriation unless the commission certifies to the state auditor that the commission's action is necessary to accomplish its statutory purposes and that the action will not be financed with state funds. The commission shall submit financial information required by the state auditor to support the certification.

Acts 1979, 66th Leg., p. 2400, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1995, 74th Leg., ch. 693, Sec. 8, eff. Sept. 1, 1995.

Sec. 91.055. ELIGIBILITY FOR VOCATIONAL REHABILITATION SERVICES. The commission shall provide vocational rehabilitation services to a blind disabled individual eligible for those services under federal law.

Acts 1979, 66th Leg., p. 2401, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 793, Sec. 14, eff. Sept. 1, 1985.

Sec. 91.056. RECEIPT AND DISBURSEMENT OF FUNDS. (a) The comptroller is custodian of federal funds received by the state to implement federal law relating to vocational rehabilitation.

(b) The executive director shall certify for disbursement funds available for the vocational rehabilitation program in accordance with regulations.

(c) The comptroller shall disburse state and federal vocational rehabilitation funds on certification by the executive director.

Acts 1979, 66th Leg., p. 2401, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 793, Sec. 15, eff. Sept. 1, 1985; Acts 1997, 75th Leg., ch. 1423, Sec. 9.03, eff. Sept. 1, 1997.

Sec. 91.058. HEARINGS. An applicant for or recipient of vocational rehabilitation services who is aggrieved by an action or inaction under the program is entitled to a hearing by the commission in accordance with law.

Acts 1979, 66th Leg., p. 2402, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979.

Sec. 91.059. MISUSE OF INFORMATION. Except for purposes directly connected with the administration of the vocational

rehabilitation program and according to commission rules, no person may solicit, disclose, receive, use, or knowingly permit the use of records or other information concerning an applicant for or recipient of vocational rehabilitation services that is directly or indirectly acquired by an officer or employee of the state or its political subdivisions in the course of his or her official duties. Acts 1979, 66th Leg., p. 2402, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 793, Sec. 16, eff. Sept. 1, 1985.

SUBCHAPTER E. CENTRAL MEDIA DEPOSITORY

Sec. 91.081. PURPOSE. (a) The purpose of this subchapter is to establish a comprehensive central state depository for braille, large print, slow speed records and machines, tape recordings and tape players, and related forms of media that will enable the Texas State Library, the Texas Education Agency, the Texas Commission for the Blind, volunteer organizations involved in the production of braille or recorded materials for the blind, the Library of Congress, and related types of organizations to work together more closely and effectively.

(b) It is the intent of this subchapter to allow various agencies and organizations interested in or responsible for such services to work together cooperatively in one facility without requiring one central management.

Renumbered from Sec. 92.051 by Acts 1979, 66th Leg., p. 2438, ch. 842, art. 2, Sec. 15, eff. Sept. 1, 1979; Amended by Acts 1985, 69th Leg., ch. 793, Sec. 17, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.64, eff. Sept. 1, 1997.

Sec. 91.082. ESTABLISHMENT OF CENTRAL MEDIA DEPOSITORY. (a) The Texas State Library and Archives Commission shall generally supervise the establishment and operation of a central media depository in Austin to house materials and devices required by blind and visually handicapped individuals or by other individuals who are unable to use ordinary printed materials.

(b) With the approval of the library and archives commission, the agencies and organizations maintaining and operating the central media depository shall develop and periodically evaluate and modify specific arrangements for administrative support, sharing of staff and equipment, and related matters involved in the operation of the program.

Renumbered from Sec. 92.052 and amended by Acts 1979, 66th Leg., p. 2438, ch. 842, art. 2, Sec. 15, eff. Sept. 1, 1979.

Sec. 91.083. ANCILLARY SERVICES. The library and archives commission shall allow the central media depository to be used for the repair of special media and equipment required by individuals who are unable to use ordinary print and for research and demonstration, training, and the production of materials in special media by volunteer organizations.

Renumbered from Sec. 92.053 and amended by Acts 1979, 66th Leg., p. 2438, ch. 842, art. 2, Sec. 15, eff. Sept. 1, 1979.

Sec. 91.084. FUNDING. The cost of establishing and operating the central media depository shall be paid with:

(1) funds appropriated by the legislature for that purpose;

(2) gifts, grants, bequests, and donations received by cooperating agencies for the establishment and support of the depository;

(3) reasonable fees customarily charged for services by the agencies and organizations using or occupying the facility; and

(4) funds budgeted by the cooperating agencies and organizations for that purpose pursuant to interagency contracts and agreements.

Renumbered from Sec. 92.054 by Acts 1979, 66th Leg., p. 2438, ch. 842, art. 2, Sec. 15, eff. Sept. 1, 1979.