

May 2024

GUIDING PRINCIPLES

Policy Committee Meeting



**Teacher Retirement System of
Texas**

1000 Red River Street
Austin, Texas
78701-2698

**TEACHER RETIREMENT SYSTEM OF TEXAS MEETING
BOARD OF TRUSTEES
AND
POLICY COMMITTEE**

*(Committee Chair and Members: Mr. Elliott, Chair;
Ms. Allred, Mr. Hollingsworth, Mr. Nance, Mr. Walls)*

*All or part of the May 2, 2024, meeting of the TRS Policy Committee and Board of Trustees may be held by telephone or video conference call as authorized under Sections 551.130 and 551.127 of the Texas Government Code. The Board intends to have a quorum and the presiding officer of the meeting physically present at the following location, which will be open to the public during the open portions of the meeting: **1000 Red River, Austin, Texas 78701 in the TRS East Building, 5th Floor, Boardroom.***

The open portions of the May 2, 2024, meeting are being broadcast over the Internet. Access to the Internet broadcast and agenda materials of the meeting is provided at www.trs.texas.gov. A recording of the meeting will be available at www.trs.texas.gov.

AGENDA

May 2, 2024 – 1:00 p.m.

1. Call roll of Committee members.
2. Consider the approval of the proposed minutes of the December 2023 committee meeting – Chair John Elliott.
3. Receive an overview of the Policy Committee’s Calendar Year 2024 Work Plan – Heather Traeger.
4. Consider recommending to the Board adoption of amendments to the Litigation Policy – Heather Traeger and JR Morgan.
5. Consider recommending to the Board adoption of amendments to the Trustees External Communication Policy – Heather Traeger and Elizabeth Hallmark.
6. Consider recommending to the Board adoption of a new Medical Board Policy – Meera Merrill and Adam Fambrough.
7. Consider recommending to the Board adoption of a new Retiree Advisory Committee Policy – Sandy Mitchell and Katrina Daniel.
8. Consider recommending to the Board adoption of the following proposed new rules in Subchapter A of Chapter 41 of Title 34, Part 3 of the Texas Administrative Code, related to

NOTE: The Board of Trustees (Board) of the Teacher Retirement System of Texas will not consider or act upon any item before the Policy Committee (Committee) at this meeting of the Committee. This meeting is not a regular meeting of the Board. However, because the full Policy Committee constitutes a quorum of the Board, the meeting of the Committee is also being posted as a meeting of the Board out of an abundance of caution.

Retiree Health Care Benefits (TRS-Care) – Heather Traeger, Roberto Cortes-Moreno and Katrina Daniel:

- A. [NEW] §41.15 Optional Dental Benefits Plan
 - B. [NEW] §41.16 Optional Vision Benefits Plan
9. Consider authorizing for publication in the Texas Register notice of the following proposed repeal and new rule in TRS Rules Chapter 51 of Title 34, Part 3 of the Texas Administrative Code – Heather Traeger and James Burshtyn:
- A. [REPEAL] §51.2 Vendor Protests, Dispute Resolution, and Hearing
 - B. [NEW] §51.2 Vendor Protests and Appeals
10. Consider authorizing for publication in the Texas Register notice of the following proposed new rule in Subchapter A of Chapter 41 of Title 34, Part 3 of the Texas Administrative Code, related to Retiree Health Care Benefits (TRS-Care) – Heather Traeger, Roberto Cortes-Moreno and Katrina Daniel:
- A. [NEW] §41.17 Special Enrollment Opportunity for the TRS-Care MA plan

Minutes of the Policy Committee December 7, 2023

The Policy Committee of the Board of Trustees of the Teacher Retirement System of Texas met on Thursday, December 7, 2023, in the boardroom located on the Fifth Floor in the East Building of TRS' offices located at 1000 Red River Street, Austin, Texas, 78701.

Committee members present:

Mr. John Elliott, Chair
Ms. Brittny Allred
Jarvis V. Hollingsworth
Mr. James D. Nance
Mr. Robert H. Walls, Jr.

Other TRS Board Members present:

Mr. Michael Ball
Mr. David Corpus
Ms. Nanette Sissney
Mr. Elvis Williams

Others present:

Brian Guthrie, TRS
Andrew Roth, TRS
Heather Traeger, TRS
Jase Auby, TRS
Amanda Jenami, TRS
Don Green, TRS
Elena Barreiro, TRS
Nick Gonzalez, TRS
Ronnie Bounds, TRS
Katherine Farrell, TRS
Suzanne Dugan, Cohen Milstein

Policy Committee Chair, Mr. John Elliott, called the meeting to order at 1:10 p.m.

1. Call roll of Committee members.

Ms. Farrell called the roll. A quorum was present.

2. Consider the approval of the proposed minutes of the September 2023, Policy Committee meeting – Chair John Elliott.

On a motion by Mr. Hollingsworth, seconded by Mr. Nance, the committee approved the proposed minutes for the September 2023 Policy Committee meeting as presented.

3. Review and consider recommending to the Board proposed amendments to the Bylaws of the Board of Trustees - Heather Traeger.

Ms. Heather Traeger reviewed the proposed changes within the three categories. She said the first category related to the Executive Director's authority and responsibility as related to providing administrative, operational and personnel support to the Chief Audit Executive and Ombuds, as well as review and assignment of their duties, and discipline of the Ombuds. She noted the changes retain the independence of the Chief Auditor and was in line with peer pensions in and out of the State. The second category of changes related to consultants. She said the proposed change strikes the word investment to reflect the Board was not limited to just consultants in the investment space. She said the last category was cleanup, to ensure language in the bylaws represent the language and nomenclature used at TRS to describe TRS' culture of engagement.

On a motion by Mr. Nance, seconded by Mr. Walls, the Committee unanimously voted to recommend to the Board the adoption of the proposed amendments to the bylaws of the Board of Trustees, as presented by staff.

4. Review and consider recommending to the Board proposed amendments to the Designation of Key Employees Policy - Heather Traeger and Elena Barreiro.

Ms. Elena Barreiro reviewed the purpose of the Key Employee Designation resolution and the proposed changes to better align with organizational changes at TRS.

On a motion by Mr. Hollingsworth, seconded by Ms. Allred, the committee unanimously voted to recommend to the Board the adoption of the resolution amending the Key Employee Policy, as presented by staff.

5. Consider recommending to the Board adoption of the following proposed amendments to the TRS Rules in Chapter 31 of Title 34, Part 3 of the Texas Administrative Code - Heather Traeger and Nick Gonzalez:
A. §31.5 Notice and Forfeiture Requirements for Certain Service Retirees;
B. §31.6 Second EAR Warning Payments.

Mr. Nick Gonzalez provided a recap as to the proposed amendments to the employment after retirement rules pertaining to the warning and forfeiture, or three-strikes procedure. He reported the rules were published as authorized by the Committee on October 27, 2023. He said no comments were received.

On a motion by Mr. Hollingsworth, seconded by Mr. Walls, the Committee voted unanimously to recommend to the Board adoption of the proposed amendments to TRS rules in Chapter 31, as presented by staff.

6. Consider authorizing for publication in the Texas Register notice of the following proposed amendments of the TRS Rules in Chapter 51 of Title 34, Part 3 of the Texas Administrative Code – Heather Traeger and Ronnie Bounds:
A. [REPEAL] §51.2 Vendor Protests, Dispute Resolution, and Hearing
B. [NEW] §51.2 Vendor Protests and Appeals

Ms. Traeger reported the proposed amendment was to update the vendor protest rule. She noted most of the proposed changes were non-substantive and formatting changes. She said the proposed changes provide a single point of contact, the Legal & Compliance department, for the vendor during the protest process. She reported this change reflects current practice. She said the proposed rule change also provides greater clarity and definition around the timelines for protesting. She said the last category related to the end of the process. The recommendation was for the appeals process to end with the Executive Director. She said under the current rule, the Executive Director has the discretion to either review a protest appealed to him or send the review to the Board.

On a motion by Mr. Nance, seconded by Mr. Hollingsworth, the Committee voted unanimously to authorize for publication in the Texas Register notice of the proposed amendments to TRS rules in Chapter 51 of Title 34, Part 3 of the Texas Administrative Code, as presented by staff.

There being no more business before the Policy Committee, the committee adjourned at 1:29 p.m.

Approved by the Policy Committee of the Board of Trustees of the Teacher Retirement System of Texas on May __, 2024.

Katherine H. Farrell
Secretary to the Board of Trustees
Teacher Retirement Systems of Texas

Date

TAB 3

[Policy Committee] – CY 2024

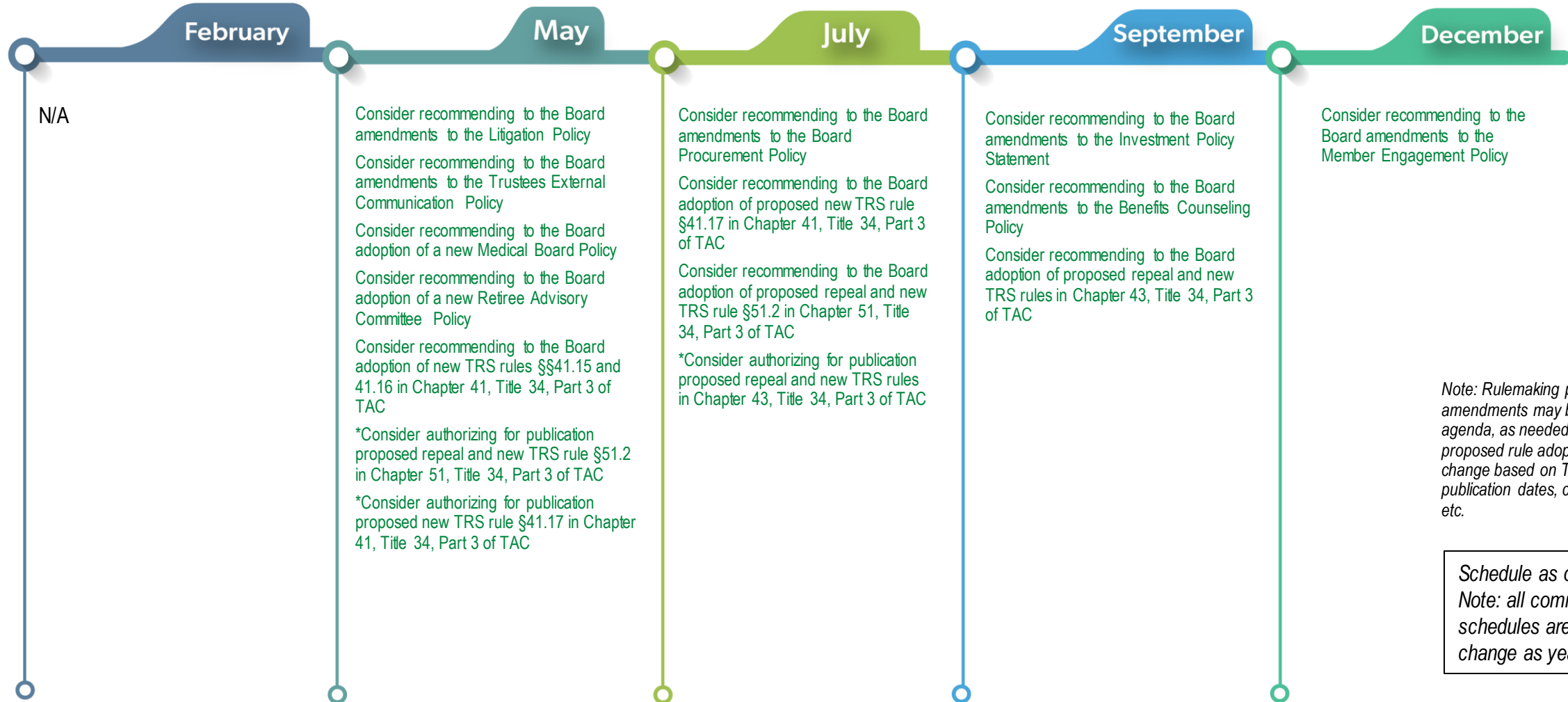
Committee Workplan

Schedule as of April 2024

Informative (Receive)

Pre-Action (Review)

Action (Consider)
*Approved by committee only



Note: Rulemaking projects and policy amendments may be placed on the agenda, as needed. Meeting dates for proposed rule adoptions are subject to change based on Texas Register publication dates, comments received, etc.

*Schedule as of April 2024.
Note: all committee schedules are subject to change as year progresses.*

Fiscal Year 2024

Fiscal Year 2025

TAB 4



To: Policy Committee of the Board of Trustees (Policy Committee)

From: Heather Traeger, General Counsel and Chief Compliance Officer
J.R. Morgan, Senior Counsel, Investments and Head of Securities Litigation

Cc: Brian Guthrie, Executive Director

Date: April 1, 2024

Re: TRS Litigation Policy update

Pursuant to the Policy Review Schedule, the review of the TRS Litigation Policy is due.

The purpose of the TRS Litigation Policy is to provide a formal plan for managing litigation claims by or against TRS. It outlines the management of and authority for making decisions related to litigation claims.

Staff is not proposing any substantive change to the Policy. TRS is proposing non-substantive changes. These include updating the policy using TRS' new policy template format and minor clarifying revisions.

Staff asks the Policy Committee to recommend that the Board adopt the attached edits to the TRS Litigation Policy.

TRS Policy

TRS Litigation Policy

Purpose

This litigation policy provides a formal plan for managing litigation claims by or against TRS. This policy shall be administered consistently with TRS fiduciary responsibility and the “prudent person” standard of care applicable to TRS investment activity.

Core Value: This policy ties to the TRS Member Focused, Efficiency and Excellence Core Values

Reference: Section 5.6(f) of the Bylaws of the Board of Trustees of TRS.

Applies to: All TRS litigation.

Definitions:

“Major **Filing Decision**” means the decision to initiate an action where TRS is a named plaintiff and asserts a claim for damages, whether by opting in or out or pursuing lead-plaintiff status in a class or group action or by commencing, with the Attorney General’s approval, a direct action in the name of TRS.

“**Minor Non-PSLRA Case**” means a proceeding:

(1) that is not a case covered under the Private Securities Litigation Reform Act of 1995, such as an anti-trust settlement or a case that is filed in a foreign jurisdiction based on TRS’ purchase or sale of a security or other investment outside of the United States (on a foreign securities exchange or otherwise), where (2) TRS’ estimated damages do not exceed the Threshold.

“**Threshold**” means the product, rounded up to the nearest million, of two basis points (*i.e.*, 0.0002) multiplied by TRS’ total net position restricted for pensions, as reflected in the most recent Comprehensive Annual Financial Report.

Policy Statement:

Designated Authority

Case Screening. The General Counsel has authority to decide **not to pursue** a claim where TRS’ estimated damages do not exceed the Threshold. The Executive Director, in consultation with the General Counsel, has authority to decide **not to pursue** a claim in all cases. The authority granted by this paragraph may be exercised without prior consultation with the Board. Conversely, decisions to initiate litigation must be brought before the Board as provided in the following paragraph.

Case Initiation and Settlement. The Executive Director shall consult with the Board prior to making a Major Filing Decision in each case, except in the following circumstances: (1) filing a Minor Non-PSLRA Case; (2) filing an action in connection with a routine plan administration matter (*e.g.*, filing a collections lawsuit); (3) judicial review proceedings where TRS does not assert a claim for damages, other than attorneys’ fees and costs (*e.g.*, a lawsuit to challenge a public information determination made by the Office of the Attorney General); or (4) entering a settlement for any of the preceding three categories. The General Counsel, in consultation with the Executive Director, shall present the Board with a recommendation to pursue a case requiring a Major Filing Decision and shall further consult with the Board prior to settling or otherwise terminating any such case. In each case that requires a Major Filing Decision, the General Counsel shall discuss all settlement offers with the Executive Director and the Chairman of the Board. Settlement offers shall be presented to the Board in the discretion of the Executive Director and the Chairman of the Board.

Exigent Circumstances. Notwithstanding anything in this policy to the contrary, the Executive Director has authority to make a Major Filing Decision in the event any exigent circumstances (*e.g.*, the expiration of a statute

of limitation or repose or other critical deadline) require such decision to be made quickly in order to preserve or protect any claim or right of TRS. The Executive Director shall confer with the General Counsel and notify the Chairman of the Board prior to exercising such authority. Before a Major Filing Decision is made in such cases, the General Counsel should first attempt to enter into a tolling agreement if necessary or advisable to preserve TRS' rights and claims. At the next quarterly or other meeting, the Executive Director shall communicate to the Board all Major Filing Decisions made pursuant to this paragraph.

Case Management

The General Counsel or his or her designee bears primary responsibility for the management of all litigation matters. The authority granted in this paragraph shall be exercised, as deemed warranted by the General Counsel, in consultation with the Executive Director in all cases, and, in the case of investment-related litigation, the Chief Investment Officer (or their respective designees, as applicable). Accordingly, except as provided above, the General Counsel has authority in all cases to make all administrative, procedural, or strategic decisions. The General Counsel has discretion to select outside legal counsel or other independent non-law firm contractors with demonstrated expertise or experience to identify, monitor, evaluate, pursue, manage, or fund litigation matters or to audit claim filings.

The General Counsel is authorized to negotiate contingent legal fee or other funding arrangements. The General Counsel shall select legal counsel in accordance with the statutes and rules applicable to the retention and contracting of outside legal counsel, as administered by the Office of the Attorney General, and will otherwise communicate with that office as necessary, including without limitation with respect to any Major Filing Decision. The General Counsel's decision-making authority includes, without limitation, case strategy, discovery, pleadings, appeals, *amicus* briefs, and letters or affidavits in support of litigants whose interests are aligned with TRS. This list is illustrative only, as the General Counsel's authority hereunder shall be construed broadly.

Investment-Related Litigation Matters

Domestic Cases. In U.S. investment-related class-action cases, TRS' interests are generally protected through passive participation as a class member. In a case where TRS' estimated damages exceed the Threshold, or a case that presents an exceptional opportunity to preserve or enhance the long-term value of a significant portfolio holding or to deter wrongful corporate conduct, TRS may consider taking steps to preserve and pursue a more active strategy, such as by moving for lead plaintiff status or by opting out and filing a separate action in state or federal court.

Foreign Cases. Proceedings in foreign jurisdictions that are based on the purchase or sale of a security or other investment outside of the United States typically require claimants to join a group as named parties, opt in at the commencement of a proceeding, or both (often before a case is filed), in order to recover any damages. The General Counsel, or his or her designee, should evaluate these cases, in consultation with the Executive Director and, as necessary, the Chief Investment Officer (or their respective designees, as applicable), and determine whether or not to pursue such cases based on the non-exclusive Factors for Consideration (defined below). In particular, the General Counsel should also consider:

1. how the foreign case is being funded and whether the funding arrangement exposes TRS to an unacceptable liability risk; and
2. whether jurisdiction-specific legal requirements potentially expose TRS to an unacceptable liability risk, such as a "loser pays" requirement for attorneys' fees and costs.

For the avoidance of doubt, all investment-related litigation matters are subject to the Designated Authority and Case Management sections of this policy.

Factors for Consideration

In forming recommendations or exercising the authority granted by this policy, TRS should consider the following non-exclusive factors ("**Factors for Consideration**"), among others:

1. the jurisdictional, procedural, and other legal context of the case, including whether a more proactive

course of action is necessary or desirable to increase recoveries, lower fees, or otherwise protect or further TRS' interests;

2. the size of TRS' estimated damages in the matter, relative to both the size of the trust and to the estimated damages, if known, of other potential claimants;
3. the nature and egregiousness of the alleged underlying conduct;
4. the likelihood of success in the matter, along with the actual or potential costs (if any) and other burdens associated with different possible strategies and outcomes;
5. whether the potential benefits of a proposed course of action justify the allocation of limited TRS resources to case management, discovery, and other associated demands;
6. the potential effects of a proposed course of action upon TRS' investments, business dealings, or other interests;
7. any potential reputational risks to TRS of pursuing an action; and
8. whether and how a course of action could lead to corporate governance changes to address the causes of the wrongful conduct or, over time, deter misconduct, foster market integrity, and improve company practices.

Board Reports

The General Counsel shall provide a litigation status report to the Board at each quarterly meeting. These reports may include the following information, as determined appropriate by the General Counsel in consultation with the Chairman of the Board:

1. information regarding the engagement of outside counsel;
2. decisions not to pursue a claim, with a brief description of the reasons therefor, in cases (a) where TRS' estimated damages exceed the Threshold or (b) that receive or are anticipated to receive significant media coverage;
3. material or otherwise notable cases in which TRS is a named party or class representative (identifying any such status) or has otherwise filed a brief, motion, objection, or other pleading, with a brief description of the status of the matter;
4. settlements, recoveries, or other case dispositions; and
5. requests for fees or costs.

Violations: N/A

Cross Reference/Related Documents:

Section 5.6(f) of the Bylaws of the Board of Trustees of TRS (delegating authority for the initiation, defense, and settlement of lawsuits and other claims to the Executive Director or his designee).

Policy Type: Board	First Issued: March 26, 2015
Contact: J.R. Morgan	Last Review: April 20 , 2018
Department Sponsor(s): L&C	Next Review Due Date: April 2027
Reviewing Department(s): L&C	Version Number: V. (May 2024)
Review Cycle: Three Years	Version Approved Date: May 3, 2024
Intranet Location: TRS Policy and Procedure Intranet Page	

TRS Policy

TRS Litigation Policy

Purpose

This ~~L~~itigation ~~p~~Policy provides a formal plan for managing litigation claims by or against TRS. This ~~p~~Policy shall be administered consistently with TRS fiduciary responsibility and the “prudent person” standard of care applicable to TRS investment activity.

Core Value: This policy ties to the TRS Member Focused, Efficiency and Excellence Core Vvalues

Reference: Section 5.6(f) of the Bylaws of the Board of Trustees of TRS.

Applies to: All TRS litigation.

Definitions:

“**Major Filing Decision**” means the decision to initiate an action where TRS is a named plaintiff and asserts a claim for damages, whether by opting in or out or pursuing lead-plaintiff status in a class or group action or by commencing, with the Attorney General’s approval, a direct action in the name of TRS.

“~~Minor Foreign Securities~~**Minor Non-PSLRA Case**” means a proceeding:
(1) that is not a case covered under the Private Securities Litigation Reform Act of 1995, such as an anti-trust settlement or a case that is filed in a foreign jurisdiction based on TRS’ purchase or sale of a security or other investment outside of the United States (on a foreign securities exchange or otherwise), where (2) TRS’ estimated damages do not exceed the Threshold.

“**Threshold**” means the product, rounded up to the nearest million, of two basis points (*i.e.*, 0.0002) multiplied by TRS’ total net position restricted for pensions, as reflected in the most recent Comprehensive Annual Financial Report.

Policy Statement:

Designated Authority

Case Screening. The General Counsel has authority to decide **not to pursue** a claim where TRS’ estimated damages do not exceed the Threshold. The Executive Director, in consultation with the General Counsel, has authority to decide **not to pursue** a claim in all cases. The authority granted by this paragraph may be exercised without prior consultation with the Board. Conversely, decisions to initiate litigation must be brought before the Board as provided in the following paragraph.

Case Initiation and Settlement. The Executive Director shall consult with the Board prior to making a **Major Filing Decision** in each case, except in the following circumstances: (1) filing a Minor ~~Foreign Non-PSLRA Securities~~ Case; (2) filing an action in connection with a routine plan administration matter (*e.g.*, filing a collections lawsuit); ~~or~~ (3) judicial review proceedings where TRS does not assert a claim for damages, other than attorneys’ fees and costs (*e.g.*, a lawsuit to challenge a public information determination made by the Office of the Attorney General); or (4) entering a settlement for any of the preceding three categories. The General Counsel, in consultation with the Executive Director, shall present the Board with a recommendation to pursue a case requiring a **Major Filing Decision** and shall further consult with the Board prior to settling or otherwise terminating any such case. In each case that requires a **Major Filing Decision**, the General Counsel shall discuss all settlement offers with the Executive Director and the Chairman of the Board. Settlement offers shall be presented to the Board in the discretion of the Executive Director and the Chairman of the Board.

Litigation Policy – Page 2 of 4

Exigent Circumstances. Notwithstanding anything in this **pPolicy** to the contrary, the Executive Director has authority to make a **Major** Filing Decision in the event any exigent circumstances (e.g., the expiration of a statute of limitation or repose or other critical deadline) require such decision to be made quickly in order to preserve or protect any claim or right of TRS. The Executive Director shall confer with the General Counsel and notify the Chairman of the Board prior to exercising such authority. Before a **Major** Filing Decision is made in such cases, the General Counsel should first attempt to enter into a tolling agreement if necessary or advisable to preserve TRS' rights and claims. At the next quarterly or other meeting, the Executive Director shall communicate to the Board all **Major** Filing Decisions made pursuant to this paragraph.

Case Management

The General Counsel or his or her designee bears primary responsibility for the management of all litigation matters. The authority granted in this paragraph shall be exercised, as **deemed** warranted **by the General Counsel**, in consultation with the Executive Director in all cases, and, in the case of investment-related litigation, the Chief Investment Officer (or their respective designees, as applicable). Accordingly, except as provided above, the General Counsel has authority in all cases to make all administrative, procedural, or strategic decisions. The General Counsel has discretion to select outside legal counsel or other independent non-law firm contractors with demonstrated expertise or experience to identify, monitor, evaluate, pursue, manage, or fund litigation matters or to audit claim filings.

The General Counsel is authorized to negotiate contingent legal fee or other funding arrangements. The General Counsel shall select legal counsel in accordance with the statutes and rules applicable to the retention and contracting of outside legal counsel, as administered by the Office of the Attorney General, and will otherwise communicate with that office as necessary, including without limitation with respect to any **Major** Filing Decision. The General Counsel's decision-making authority includes, without limitation, case strategy, discovery, pleadings, appeals, *amicus* briefs, and letters or affidavits in support of litigants whose interests are aligned with TRS. This list is illustrative only, as the General Counsel's authority hereunder shall be construed broadly.

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Domestic Cases. In U.S. investment-related class-action cases, TRS' interests are generally protected through passive participation as a class member. In a case where TRS' estimated damages exceed the Threshold, or a case that presents an exceptional opportunity to preserve or enhance the long-term value of a significant portfolio holding or to deter wrongful corporate conduct, TRS may consider taking steps to preserve and pursue a more active strategy, such as by moving for lead plaintiff status or by opting out and filing a separate action in state or federal court.

Foreign Cases. Proceedings in foreign jurisdictions that are based on the purchase or sale of a security or other investment outside of the United States typically require claimants to join a group as named parties, opt in at the commencement of a proceeding, or both (often before a case is filed), in order to recover any damages. The General Counsel, **or his or her designee**, should evaluate these cases, in consultation with the Executive Director and, as necessary, the Chief Investment Officer (or their respective designees, as applicable), **and determine whether or not to pursue such cases** based on the non-exclusive **Ffactors for Ceonsideration (defined below)listed below (“Factors for Consideration”)**. In particular, the General Counsel should also consider:

1. how the foreign case is being funded and whether the funding arrangement exposes TRS to an unacceptable liability risk; and
2. whether jurisdiction-specific legal requirements potentially expose TRS to an unacceptable liability risk, such as a “loser pays” requirement for attorneys' fees and costs.

For the avoidance of doubt, all investment-related litigation matters are subject to the Designated Authority and Case Management sections of this **pPolicy**.

Factors for Consideration

In forming recommendations or exercising the authority granted by this **pPolicy**, TRS should consider the following **non-exclusive** factors **(“Factors for Consideration”)**, among others:

Litigation Policy – Page 3 of 4

1. the jurisdictional, procedural, and other legal context of the case, including whether a more proactive course of action is necessary or desirable to increase recoveries, lower fees, or otherwise protect or further TRS' interests;
2. the size of TRS' estimated damages in the matter, relative to both the size of the trust and to the estimated damages, if known, of other potential claimants;
3. the nature and egregiousness of the alleged underlying conduct;
4. the likelihood of success in the matter, along with the actual or potential costs (if any) and other burdens associated with different possible strategies and outcomes;
5. whether the potential benefits of a proposed course of action justify the allocation of limited TRS resources to case management, discovery, and other associated demands;
6. the potential effects of a proposed course of action upon TRS' investments, business dealings, or other interests;
7. any potential reputational risks to TRS of pursuing an action; and
8. whether and how a course of action could lead to corporate governance changes to address the causes of the wrongful conduct or, over time, deter misconduct, foster market integrity, and improve company practices.

Board Reports

The General Counsel shall provide a litigation status report to the Board at each quarterly meeting. These reports ~~will~~may include the following information, as determined appropriate by the General Counsel in consultation with the Chairman of the Board:

1. information regarding the engagement of outside counsel;
2. decisions not to pursue a claim, with a brief description of the reasons therefor, in cases (a) where TRS' estimated damages exceed the Threshold or (b) that receive or are anticipated to receive significant media coverage;
3. all material or otherwise notable cases in which TRS is a named party or class representative (identifying any such status) or has otherwise filed a brief, motion, objection, or other pleading, with a brief description of the status of the matter;
4. settlements, recoveries, or other case dispositions; and
5. requests for fees or costs.

Violations: N/A

Cross Reference/Related Documents:

Section 5.6(f) of the Bylaws of the Board of Trustees of TRS (delegating authority for the initiation, defense, and settlement of lawsuits and other claims to the Executive Director or his designee).

Policy Type: Board	First Issued: March 26, 2015
Contact: J.R. Morgan	Last Review: April 20 , 2018
Department Sponsor(s): L&C	Next Review Due Date: April 2027
Reviewing Department(s): L&C	Version Number: V. (May 2024)
Review Cycle: Three Years	Version Approved Date: May 3, 2024
Intranet Location: TRS Policy and Procedure Intranet Page	

TAB 5



Memorandum

TRS Compliance

To: Policy Committee of the Board of Trustees (Policy Committee)

From: Heather Traeger, General Counsel and Chief Compliance Officer
Beth Hallmark, Chief Communications Officer

Cc: Brian Guthrie, Executive Director

Date: May 02, 2024

Re: Review of TRS Board of Trustees External Communication Policy

Pursuant to the Policy Review Schedule, the review of the TRS Board of Trustees External Communications Policy is due.

The Board of Trustees External Communications Policy sets forth the requirements of Trustees in providing timely, accurate, and responsive information to external parties. This includes responding to communication requests from members of the public and government officials, or providing comments to members of the public, which includes the news media.

Staff is not proposing any substantive change to the Policy. TRS is proposing non-substantive changes. These include updating the policy using TRS' new policy template format, updating department and division names, and minor editorial changes for clarity.

Staff asks the Policy Committee to recommend that the Board review and adopt the updated TRS Board of Trustees External Communication Policy.

Purpose

To fulfill TRS's responsibility to provide accurate, consistent information (as authorized under the law) to government~~at~~ officials and external contacts, including members of the public.

Core Values: This policy ties to the values of Member Focus; Ethics; Accountability because it sets forth TRS' dedication to ensuring trustee materials and communication are engaging and accessible. It also ties to values that mandate ethical and accountable behavior of those who represent TRS.

References:

- Tex. Gov't Code §§ 551.001 et seq. [Open Meetings Act]
- Tex. Gov't Code § 552.002 [Definition of Public Information]
- Tex. Gov't Code § 552.0038 [Public Retirement Systems Subject to Law (Confidentiality of Records)]
- Tex. Gov't Code § 821.008 [Purpose of Retirement System]
- Tex. Gov't Code § 825.315 [Prohibited Use of Assets]
- Tex. Gov't Code § 825.507 [Record Confidentiality]
- Tex. Gov't Code § 825.513 [Information for Publication]
- Tex. Ins. Code § 1575.456 [Confidentiality of Records]
- Tex. Ins. Code § 1579.005 [Confidentiality]

Applies to:

TRS Trustees

Definitions

External Communication: For the purposes of this policy, the term "external communication" refers to communication with non-TRS parties in any form (whether written, oral, electronic [including but not limited to: text messages, email, instant messaging, use of social media or telephone calls and voice messages], or in other form) that relates to TRS business or operations if the communication involves information that is available to the trustee as a result of ~~his or her~~ their position as a member of the TRS Board of Trustees (the Board). Written communications, regardless of whether the communication is from a TRS device or a personal device, may be subject to the Public Information Act. In addition, for all Trustee communications, the Open Meetings Act governs. Such communications are subject to disclosure under the Public Information Act. For the purposes of this policy, ~~e~~External ~~e~~Communication regarding TRS business does not include the following:

- Communication with a TRS employee or contract worker, or a third party retained by TRS, such as an agent, consultant, vendor, financial services provider, broker, or legal advisor;
- Communication related to fulfilling due diligence requirements regarding an existing or prospective investment;
- Communication related to fulfilling fiduciary duties in making a report to appropriate law enforcement authorities or investigative bodies;
- Communication compelled by a subpoena; or

- Communication related to informal, collaborative exchanges such as participating at a professional conference as a general participant. the collaborative exchange of information with professional counterparts in government or public pension funds.

Governmental Official: For the purposes of this policy, a governmental official includes anyone appointed or elected to a position in state or federal government, including employees of governmental agencies, entities, or bodies.

Individual Capacity: For the purposes of this policy, individual capacity refers to those instances in which a trustee is not serving in his or her TRS capacity. For example, these instances may include when the trustee is acting on a personal interest or as an agent of their employer. In those cases, the trustee's connection to TRS would generally not appear in marketing materials regarding the speaking event.

During a public appearance, a trustee ~~may need to~~ should clarify the capacity in which ~~he or she is they are attending. The~~ trustee may need to remind ~~mMedia~~ Media ~~RRepresentatives~~ that the Board speaks only as a body through actions taken in open meetings and that the trustee is providing his or her own opinion (i.e., no individual trustee speaks for or binds the Board or retirement system).

Media Representative: For the purposes of this policy, a media representative includes anyone who identifies ~~him or herself themselves~~ as an employee of a news outlet, who is known by the trustee to be an employee of a news outlet, or who identifies ~~him or herself themselves~~ as involved with the preparation of material relating to TRS that could appear as a news release, newspaper, magazine, newsletter, journal, book, report, radio broadcast, television program, Web site, webcast, blog, podcast, message board or other method of mass communication.

Member Association: For the purposes of this policy, the term "member association" includes any educational or professional, non-profit or for-profit organization or group that comprises or represents:

- Plan participants (including retirees) or beneficiaries; or
- Reporting entities or employees, trustees, or agents of reporting entities.

Policy Statement

The members of the ~~TRS Board of Trustees~~ are committed to providing timely, accurate, and responsive information in all eExternal eCommunications. The ~~TRS~~ Board requires its members to act in accordance with this policy, consider their fiduciary duty, use professional judgment, and base eExternal eCommunications on information that TRS has released to the public (or information TRS has provided to trustees for the purpose of eExternal eCommunications). Trustees should not post comments on social media sites regarding official TRS business. Rather, they should contact the TRS Communications Division~~department~~ if they believe TRS should post such information. Trustees should discuss any potentially sensitive or non-routine eExternal eCommunication or situations not addressed elsewhere in this policy with the Executive Director or their proxy~~delegate~~ in advance. Additionally, it is considered good practice to inform the Communications Division of such actions for awareness.

Public Appearances

Trustees should coordinate public appearances through the TRS Board Secretary, who will notify the TRS Communications ~~Division~~~~department~~, if the invitation is due to the individual's position as a TRS trustee or is on topics encompassed by the individual's responsibilities as a trustee. Public appearances include:

- Speaking engagements;
- Appearances at a public event;
- Presentations before a public body or ~~m~~Member ~~a~~Association; and
- Communication that occurs in any setting that may be reasonably expected to include a ~~m~~Media ~~r~~Representative.

Further, trustees are responsible for ensuring that their remarks in such settings:

- Comply with applicable law, their ethical obligations and TRS' contractual obligations;
- Are consistent with the established positions of the ~~TRS~~ Board ~~of Trustees~~; and
- Include only information that TRS has released to the public (or that TRS has provided to trustees for this purpose).

If the appearance or presentation is unscheduled or impromptu, trustees should follow the same protocol for their remarks and inform the TRS Board Secretary, who will notify the TRS Communications ~~Division~~~~department~~ as soon as is feasible after the appearance.

If a trustee participates as a speaker or panel member in an ~~i~~Individual ~~e~~Capacity, any factual remarks related to TRS business or operations must be:

- Consistent with the trustee's fiduciary responsibilities; and
- Based on information that TRS has released to the public (or that TRS has provided to trustees for this purpose).

In such circumstances, any opinions the trustee expresses regarding TRS business or operations must be preceded by a statement that they are strictly those of the trustee in ~~his~~ ~~or her~~ their ~~i~~Individual ~~e~~Capacity and do not represent official TRS opinion or policy.

Contact with Government~~a~~ Officials

The Executive Director handles contact with:

- Government~~a~~ ~~e~~Officials;
- State and federal legislative offices; and
- State and federal agencies.

regarding the established positions or actions of the ~~TRS~~ Board ~~of Trustees~~. When ~~g~~Government ~~e~~Officials request the presence of a member of the Board, the Chair of the Board (or in ~~their~~ ~~his or her~~ absence, the Vice-Chair) will normally attend with the Executive Director, unless in the opinion of the Executive Director, another trustee would be better suited to the purpose of the meeting. If a trustee has been specifically requested by a ~~g~~Government ~~e~~Officials ~~they~~ will attend with the Executive Director.

In the event a ~~g~~Government ~~e~~Official contacts a trustee directly about TRS business or operations, the trustee must inform the Executive Director to help ensure consistency and coherency of the information relayed to officials. When trustees provide factual information about TRS business or operations during such contacts, it should be that which TRS has previously released to the public (or that TRS has provided to trustees for this purpose). The Executive Director will communicate information regarding trustee contacts with ~~g~~Government ~~e~~Officials to other members of the ~~b~~Board.

Media Relations

The ~~office of the Director of TRS~~ Communications Division issues or arranges all agency responses to media inquiries, whether received by phone, email (or other electronic communication media) or in person. Trustees should direct all such requests from ~~mMedia~~ ~~Representatives~~ to ~~the Director of the TRS~~ Communications Division.

To ensure consistency and coherency of the information relayed to the media, any trustee who agrees to respond to or speak with a ~~mMedia~~ ~~Representative~~ regarding TRS business or operations should:

- Coordinate such contact with the TRS Communications ~~Division~~department in advance;
- Arrange for a member of the TRS Communications ~~Division~~department to participate in the discussion with the ~~mMedia~~ ~~Representative~~, if the ~~Director of Chief~~ Communications Officer believes it is advisable; and
- Base any factual comments on information that TRS has previously released to the public (or that TRS has provided to trustees for this purpose).

When time does not permit trustees to coordinate with the TRS Communications ~~Division~~department in advance, trustees must provide information regarding the contact as soon as possible thereafter.

If a trustee speaks to a ~~mMedia~~ ~~Representative~~ in an ~~iIndividual~~ ~~eCapacity~~, any factual remarks related to TRS activities or operations must be based solely on information that TRS has released to the public (or that TRS has provided to trustees for this purpose). When trustees express opinions in such circumstances, they must first state that the opinions expressed are strictly those of the trustee in his or her ~~iIndividual~~ ~~eCapacity~~ and do not represent official TRS opinion or policy.

Written Material

All written materials distributed or provided by TRS must comply with state law, including ~~but not limited to~~ specific confidentiality requirements under Government Code § 825.507, the State Pension Review Board requirements under Government Code § 825.513, the confidentiality of certain investment information under Government Code 552.143, attorney/client privilege, and ~~, as applicable, the~~ Public Information Act requirements.

Whenever possible, trustees should use official TRS publications for ~~eExternal~~ ~~eCommunication~~ purposes. If a trustee is preparing written material related to TRS for an ~~eExternal~~ ~~eCommunication~~, ~~he or she~~they should submit the material to the TRS Communications ~~Division~~department prior to delivery or publication for the purposes of fact-checking and editing. By state law, trustees may not use TRS assets or resources to advocate benefit increases or changes to legislation.

Note: Any record of TRS (including email), regardless of the communication device used, may become subject to disclosure to a participant or the public under the Public Information Act.

Trustees are not required to submit written material that expresses only their individual opinion to the TRS Communications ~~Division~~department prior to delivery or publication. However, the trustee opinion should include a statement or make it clear that they are strictly those of the trustee in their individual capacity and do not represent official TRS opinion or policy. ~~S~~such material must be consistent with the trustee's fiduciary responsibilities, and if any reference is made to TRS business or operations, any factual remarks must be based on information that TRS has released to the public (or that TRS has

provided to trustees for this purpose). Trustees should be mindful of the public's difficulty in separating the role of trustee from that of the individual. Trustees should submit courtesy copies of such material to the Executive Director or their proxydelegate for informational purposes.

Training

The TRS Communications ~~Division~~department develops and conducts media protocol training for new trustees and on an as needed basis regarding ~~e~~External ~~e~~Communication.

Violations: A violation may be reviewed consistent with the Trustee Ethics Policy

Cross Reference/Related Documents:

- TRS Social Media Policy,
- TRS Member and Employer Outreach Plan and,
- TRS Member Engagement Policy, and
- TRS Board of Trustees Ethics Policy

<u>Policy Type: 'Board of Trustees</u>	<u>First Issued: 2019</u>
<u>Contact: Rob Maxwell</u>	<u>Last Review: April 25, 2019</u>
<u>Division Sponsor(s): Beth Hallmark</u>	<u>Next Review Due Date: February 25, 2024</u>
<u>Reviewing Department(s): Communications, Legal & Compliance</u>	<u>Version Number: V.2 (May 2024)</u>
<u>Review Cycle: Every five years</u>	<u>Version Approved Date:</u>
<u>Intranet Location: TRS internal policy SharePoint page</u>	

This policy does not constitute a contract nor a guarantee of employment and may be modified, superseded, or eliminated by TRS without notice to the employee. This policy supersedes all previous policies on this subject.

Purpose

To fulfill TRS' responsibility to provide accurate, consistent information (as authorized under the law) to government officials and external contacts, including members of the public.

Core Values: This policy ties to the values of Member Focus; Ethics;

Accountability because it sets forth TRS' dedication to ensuring trustee materials and communication are engaging and accessible. It also ties to values that mandate ethical and accountable behavior of those who represent TRS.

References:

- Tex. Gov't Code §§ 551.001 et seq. [Open Meetings Act]
- Tex. Gov't Code § 552.002 [Definition of Public Information]
- Tex. Gov't Code § 552.0038 [Public Retirement Systems Subject to Law (Confidentiality of Records)]
- Tex. Gov't Code § 821.008 [Purpose of Retirement System]
- Tex. Gov't Code § 825.315 [Prohibited Use of Assets]
- Tex. Gov't Code § 825.507 [Record Confidentiality]
- Tex. Gov't Code § 825.513 [Information for Publication]
- Tex. Ins. Code § 1575.456 [Confidentiality of Records]
- Tex. Ins. Code § 1579.005 [Confidentiality]

Applies to: TRS Trustees

Definitions:

External Communication: For the purposes of this policy, the term "external communication" refers to communication with non-TRS parties in any form (whether written, oral, electronic [including but not limited to: text messages, email, instant messaging, use of social media or telephone calls and voice messages], or in other form) that relates to TRS business or operations if the communication involves information that is available to the trustee as a result of their position as a member of the TRS Board of Trustees (the Board). Written communications, regardless of whether the communication is from a TRS device or a personal device, may be subject to the Public Information Act. In addition, for all Trustee communications, the Open Meetings Act governs.

For the purposes of this policy, External Communication regarding TRS business does not include the following:

- Communication with a TRS employee or contract worker, or a third party retained by TRS, such as an agent, consultant, vendor, financial services provider, broker, or legal advisor;
- Communication related to fulfilling due diligence requirements regarding an existing or prospective investment;
- Communication related to fulfilling fiduciary duties in making a report to appropriate law enforcement authorities or investigative bodies;
- Communication compelled by a subpoena; or
- Communication related to informal, collaborative exchanges such as participating at a professional conference as a general consultant.

Government Official: For the purposes of this policy, a government official includes anyone appointed or elected to a position in state or federal government, including employees of government agencies, entities, or bodies.

Individual Capacity: For the purposes of this policy, individual capacity refers to those instances in which a trustee is not serving in his or her TRS capacity. For example, these instances may include when the trustee is acting on a personal interest or as an agent of their employer. In those cases, the trustee's connection to TRS would generally not appear in marketing materials regarding the speaking event.

During a public appearance, a trustee should clarify the capacity in which they are attending. The trustee may need to remind Media Representatives that the Board speaks only as a body through actions taken in open meetings and that the trustee is providing his or her own opinion (i.e., no individual trustee speaks for or binds the Board or retirement system).

Media Representative: For the purposes of this policy, a media representative includes anyone who identifies themselves as an employee of a news outlet, who is known by the trustee to be an employee of a news outlet, or who identifies themselves as involved with the preparation of material relating to TRS that could appear as a news release, newspaper, magazine, newsletter, journal, book, report, radio broadcast, television program, Web site, webcast, blog, podcast, message board or other method of mass communication.

Member Association: For the purposes of this policy, the term "member association" includes any educational or professional, non-profit, or for-profit organization or group that comprises or represents:

- Plan participants (including retirees) or beneficiaries; or
- Reporting entities or employees, trustees, or agents of reporting entities.

Policy Statement

The members of the Board are committed to providing timely, accurate, and responsive information in all External Communications. The Board requires its members to act in accordance with this policy, consider their fiduciary duty, use professional judgment, and base External Communications on information that TRS has released to the public (or information TRS has provided to trustees for the purpose of External Communications). Trustees should not post comments on social media sites regarding official TRS business. Rather, they should contact the TRS Communications Division if they believe TRS should post such information. Trustees should discuss any potentially sensitive or non-routine External Communication or situations not addressed elsewhere in this policy with the Executive Director or their delegate in advance. Additionally, it is considered good practice to inform the Communications Division of such actions for awareness.

Public Appearances

Trustees should coordinate public appearances through the TRS Board Secretary, who will notify the TRS Communications Division if the invitation is due to the individual's position as a TRS trustee or is on topics encompassed by the individual's responsibilities as a trustee. Public appearances include:

- Speaking engagements;

- Appearances at a public event;
- Presentations before a public body or Member Association; and
- Communication that occurs in any setting that may be reasonably expected to include a Media Representative.

Further, trustees are responsible for ensuring that their remarks in such settings:

- Comply with applicable law, their ethical obligations, and TRS' contractual obligations;
- Are consistent with the established positions of the Board and
- Include only information that TRS has released to the public (or that TRS has provided to trustees for this purpose).

If the appearance or presentation is unscheduled or impromptu, trustees should follow the same protocol for their remarks and inform the TRS Board Secretary, who will notify the TRS Communications Division as soon as is feasible after the appearance.

If a trustee participates as a speaker or panel member in an Individual Capacity, any factual remarks related to TRS business, or operations must be:

- Consistent with the trustee's fiduciary responsibilities; and
- Based on information that TRS has released to the public (or that TRS has provided to trustees for this purpose).

In such circumstances, any opinions the trustee expresses regarding TRS business or operations must be preceded by a statement that they are strictly those of the trustee in their Individual Capacity and do not represent official TRS opinion or policy.

Contact with Government Officials

The Executive Director handles contact with:

- Government Officials;
- State and federal legislative offices; and
- State and federal agencies

regarding the established positions or actions of the Board. When Government Officials request the presence of a member of the Board, the Chair of the Board (or in their absence, the Vice-Chair) will normally attend with the Executive Director, unless in the opinion of the Executive Director, another trustee would be better suited to the purpose of the meeting. If a trustee has been specifically requested by a Government Official they will attend with the Executive Director.

In the event a Government Official contacts a trustee directly about TRS business or operations, the trustee must inform the Executive Director to help ensure consistency and coherency of the information relayed to officials. When trustees provide factual information about TRS business or operations during such contacts, it should be that which TRS has previously released to the public (or that TRS has provided to trustees for this purpose). The Executive Director will communicate information regarding trustee contacts with Government Officials to other members of the Board.

Media Relations

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in person. Trustees should direct all such requests from Media Representatives to the TRS Communications Division.

To ensure consistency and coherency of the information relayed to the media, any trustee who agrees to respond to or speak with a Media Representative regarding TRS business or operations should:

- Coordinate such contact with the TRS Communications Division in advance;
- Arrange for a member of the TRS Communications Division to participate in the discussion with the Media Representative, if the Chief Communications Officer believes it is advisable; and
- Base any factual comments on information that TRS has previously released to the public (or that TRS has provided to trustees for this purpose).

When time does not permit trustees to coordinate with the TRS Communications Division in advance, trustees must provide information regarding the contact as soon as possible thereafter.

If a trustee speaks to a Media Representative in an Individual Capacity, any factual remarks related to TRS activities or operations must be based solely on information that TRS has released to the public (or that TRS has provided to trustees for this purpose). When trustees express opinions in such circumstances, they must first state that the opinions expressed are strictly those of the trustee in his or her Individual Capacity and do not represent official TRS opinion or policy.

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All written materials distributed or provided by TRS must comply with state law, including but not limited to specific confidentiality requirements under Government Code § 825.507, the State Pension Review Board requirements under Government Code § 825.513, the confidentiality of certain investment information under Government Code 552.143, attorney/client privilege, and the Public Information Act requirements.

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Trustees are not required to submit written material that expresses only their individual opinion to the TRS Communications Division prior to delivery or publication. However, the trustee opinion should include a statement or make it clear that they are strictly those of the trustee in their individual capacity and do not represent official TRS opinion or policy. Such material must be consistent with the trustee's fiduciary responsibilities, and if any reference is made to TRS business or operations, any factual remarks must be based on information that TRS has released to the public (or that TRS has provided to trustees for this purpose). Trustees should be mindful of the public's difficulty in separating the role of trustee from that of the individual. Trustees should submit courtesy copies of such material to the Executive Director or their delegate for informational purposes.

Training

The TRS Communications Division develops and conducts media protocol training for new trustees and on an as needed basis regarding External Communication.

Violations: A violation of this policy may result in corrective action.

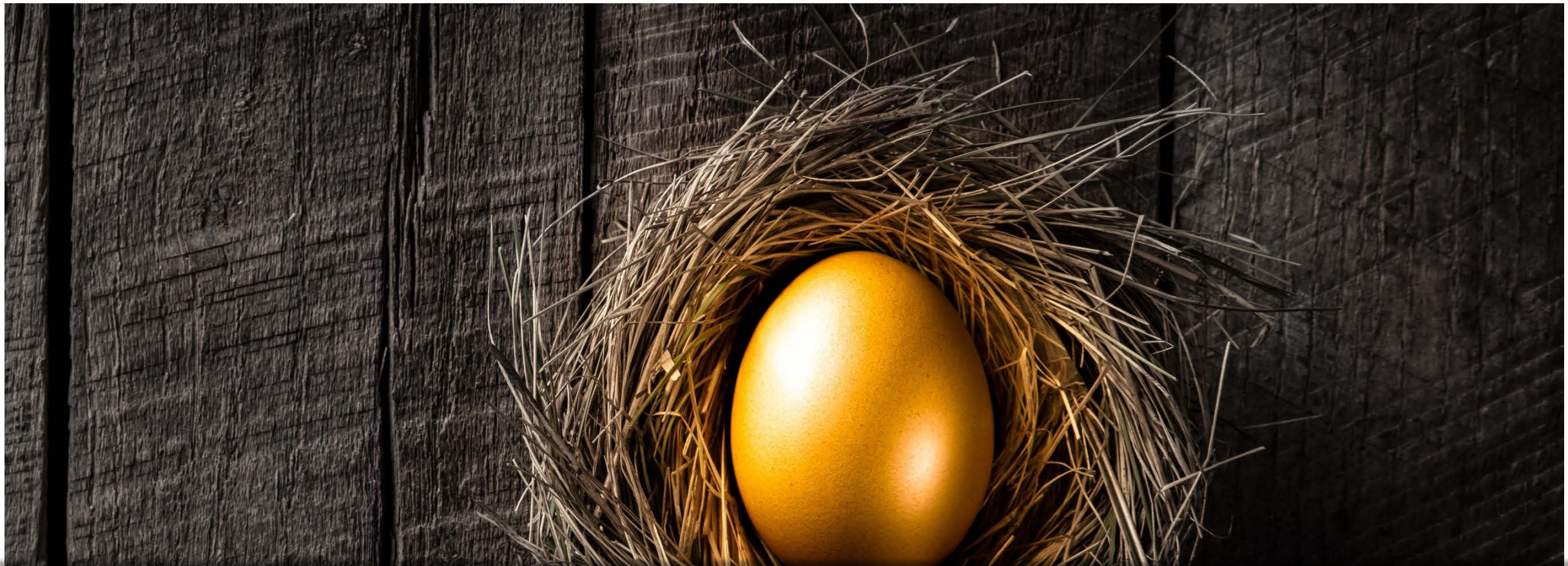
Cross Reference/Related Documents:

TRS Social Media Policy, TRS Member and Employer Outreach Plan, TRS Member Engagement Policy, and TRS Board of Trustees Ethics Policy

<u>Policy Type: ¹Board of Trustees</u>	<u>First Issued: 2019</u>
<u>Contact: Rob Maxwell</u>	<u>Last Review: April 25, 2019</u>
<u>Division Sponsor(s): Beth Hallmark</u>	<u>Next Review Due Date: February 25, 2024</u>
<u>Reviewing Department(s): Communications, Legal & Compliance</u>	<u>Version Number: V.2 2024</u>
<u>Review Cycle: Every five years</u>	<u>Version Approved Date:</u>
<u>Intranet Location: TRS internal policy SharePoint page</u>	

This policy does not constitute a contract nor a guarantee of employment and may be modified, superseded, or eliminated by TRS without notice to the employee. This policy supersedes all previous policies on this subject.

TAB 6



Pension Benefits

May 02, 2024

Adam Fambrough, Senior Director Benefit Processing
Meera Merrill, Legal & Compliance



TRS Medical Board

Established under Tex. Gov't Code §825.204, Subchapter D of Tex. Gov't Code §824, and 34 TAC §51.1

Reviews and makes determinations on disability retirement applications.

Composed of 3 physicians who are licensed to practice medicine in Texas.

Appointed by the Board of Trustees in staggered two-year terms.

TRS Medical Board Policy

Previously an agency-level policy, now proposed as a board-level policy

Updates previous policy to conform with new standardized format

Tracks statutes with regard to duties and meetings

Requires background check and periodic assessments

Provides guidance on access to data and equipment

Addresses training requirements, including Texas Open Meetings and Public Information Acts training, as well as training related to HIPAA, Ethics, and Fraud, Waste, and Abuse.

TRS Medical Board Policy Sections

1. Purpose

2. Core Values

3. References

4. Applies to

5. Definitions

6. Policy Statement

- Duties
- Background Checks
- Equipment
- Data Access
- Open Meetings Act Training
- Compliance Training
- Annual Ethics Compliance Training Certification

7. Cross Reference/Related Documents

8. Chart

Request for Board to Adopt

Staff requests that the Board adopt the TRS Medical Policy.

The policy will go into effect upon approval by the Board.



Legal & Compliance

Memorandum

DATE: May 2, 2024

TO: Policy Committee of the Board of Trustees (Policy Committee)

FROM: Heather Traeger, General Counsel and Chief Compliance Officer
Barbie Pearson, Chief Benefits Officer

COPY: Brian Guthrie, Executive Director

RE: TRS Medical Board Policy

The TRS Medical Board is established and governed under Section §825.204, Texas Government Code. The Medical Board consists of three physicians who are appointed by the TRS Board of Trustees to review all medical examinations provided by TRS members and investigate statements and certifications made in connection with a member's application for disability retirement. If a majority of the Medical Board finds that the member is mentally or physically disabled from the further performance of duty and that the disability is probably permanent, the Medical Board shall certify the disability, and the member shall be retired. The members of the Medical Board each serve a staggered two-year term, recommended by TRS Benefit Services staff and approved by the Board.

TRS currently has an agency-level Medical Board Policy. Staff is proposing that the Board adopt the Medical Board Policy as a board-level policy. The proposed board-level Medical Board Policy outlines the statutory duties of the Medical Board, as provided by Section 825.204, Government Code, and Subchapter D, Chapter 824, Government Code (relating to Disability Retirement Benefits). The proposed Policy also describes the training required for members of the Medical Board, and the level of access to TRS member information granted to members of the Medical Board to allow the Board to conduct their reviews.

Staff requests that the Policy Committee recommend that the Board adopt the attached TRS Medical Board Policy.

Medical Board Policy

Purpose

To notify the Medical Board of all annual training, ethics and compliance responsibilities and provide operational guidance.

Core Values

This policy ties to the TRS Core Value of ethics as it ensures compliance with federal and state regulations along with TRS rules, procedures and policies.

Reference

- Tex. Gov't Code §825.204 (Medical Board)
- Tex. Gov't Code §824, Subchapter D (Disability Retirement Benefits)
- 34 TAC §51.1 (Advisory and Auxiliary Committees)
- 34 TAC §29.22 (Approval of Disability Retirements)

Applies to

TRS Medical Board

Definitions

Chief Benefit Officer (CBO): The employee who initiates the contracting process for Medical Board members and oversees the board's adherence to the contract requirements. The CBO may delegate these responsibilities to staff.

Criminal Background Check: A criminal history record information check, which includes a fingerprint check conducted through the Texas Department of Public Safety or another law enforcement agency, to obtain criminal history record information from the Federal Bureau of Investigation.

HIPAA: The Health Insurance Portability and Accountability Act of 1996, as amended from time to time. Examples of information subject to HIPAA may include protected health information (PHI) and individually identifiable health information (IIHI), each as defined in 45 C.F.R. § 160.103.

Medical Board: Licensed medical physicians hired as contractors to review pension member's medical information in order to recommend to TRS staff the approval or denial of eligibility for disability retirements. Medical Board members are classified as non-TRS workers.

Non-TRS Worker Team: The non-TRS worker team includes the non-TRS worker coordinator and the non-TRS worker coordinator back-up in Organizational Excellence (OE).

Protected Health Information (PHI): Individually identifiable health information or genetic information that is transmitted or maintained in any form or medium.

General Policy Statement

The Medical Board consists of three physicians who each serve a staggered two-year term, recommended by TRS Benefit Services staff, and approved by the TRS Board of Trustees. Medical Board members must be licensed physicians who are ineligible to participate in the retirement system.

Each physician is responsible for reviewing the information provided by TRS members in support of a disability claim. The Medical Board shall review all medical examinations provided by TRS members and investigate statements and certifications made in connection with an application for disability retirement. In the process of reviewing a disability retirement application, the Medical Board can require the member to submit additional information about the disability.

The Medical Board does not make medical diagnoses. Each member of the Medical Board conducts an independent review of the information provided and makes an individual determination regarding disability. Members of the Medical Board are expected to make a determination regarding a member's disability claim within 14 days of receiving the claim. If a majority of the Medical Board finds that the member is mentally or physically disabled from the further performance of duty and that the disability is probably permanent, the medical board shall certify the disability, and the member shall be retired. The Medical Board may also certify the disability subject to the member undergoing an annual medical review or decline to certify disability. If the Medical Board finds that a disability retiree is no longer mentally or physically incapacitated from the performance of duty, it shall certify its findings and the disability retiree may then be restored to active membership status.

Generally, the Medical Board meets every other month, however, due to the timeframe expectations for disability claim review, the members of the Medical Board conduct the majority of their reviews outside of meetings.

The Medical Board is not subject to subpoena regarding findings it makes in assisting the executive director or board of trustees under this section, and its members may not be held liable for any opinions, conclusions, or recommendations made under this section.

Information regarding the Medical Board member contracts, terms and performance is maintained by Benefit Processing (BP). Medical Board members should communicate with BP to maintain awareness of term expirations and new appointments.

Background Checks

Medical Board members are required to go through the standard TRS Criminal Background Check before assuming responsibilities.

Equipment

TRS provides Medical Board members access to the TRS network via a Virtual Machine (VM). They have restricted access to TRUST to review the medical information submitted by disability retirement applicants.

Medical Board members are required to comply with the HIPAA Security Rule Remote Access Security Policy.

Medical Board members are not allowed to print any TRS member information. Their limited access to member information through a virtual machine will also prevent them from printing member records and other information.

Data Access

Medical Board members will have access to member PHI when conducting their reviews. The Medical Board members have restricted access to TRUST to access the following member submitted information to render their opinions on disability certification:

- statement of attending physician in claim for disability retirement form (TRS 58);
- statement of member in claim for disability retirement form (TRS 59A);
- submitted hospital or office medical examination records.

Open Meetings Act Training

The TRS Medical Board is subject to the Texas Open Meetings Act (OMA).

Section 551.005 of the OMA requires that each appointed public official who is a member of a governmental body subject to the Act complete a training addressing the member's responsibilities under the OMA not later than 90 days after assuming duties. The required training is available on the Office of the Attorney General's website and can be accessed at the following link:

<https://www.texasattorneygeneral.gov/open-government/governmental-bodies/pia-and-oma-training-resources/open-meetings-act-training> .

After completion of the training, board members are required to complete the Open Meetings Act Training Confirmation and obtain the Certificate on the Office of the Attorney General's website. A copy of the completed certificate is provided to Benefit Processing and Legal and Compliance.

Medical Board members will receive OMA training, including training on OMA provisions specific to Medical Board meetings, from the Legal and Compliance Division (L&C) during orientation and before assuming responsibilities.

Compliance Training

Medical Board members are required to complete TRS compliance training: (1) within 30 days after their term as a Medical Board member begins and (2) when required by TRS after a material change in policy becomes effective, or at least annually on the following topics:

- HIPAA
- Ethics
- Personal Trading
- Fraud, Waste and Abuse
- Information Security

TRS Organization Excellence (OE) department will notify the CBO and the Chief Compliance Officer if a Medical Board member fails to complete any required compliance training. Upon notice by OE that a Medical Board member has not completed compliance training, the CBO is responsible for working with the Medical Board member and L&C, as needed, to ensure compliance training is completed. Medical Board members that fail to complete TRS compliance training in a timely manner will be reported to the TRS Board of Trustees, and their network access and contract may be terminated.

Annual Ethics Compliance Certification

In addition to TRS compliance training, the Medical Board members are required to complete an annual certification for the Code of Ethics for Contractors (Code). This process is managed by L&C.

Cross Reference/Related Documents

- TRS Fraud Waste and Abuse Policy
- TRS Confidentiality Policy
- TRS HIPAA Privacy Policies and Procedures
- TRS HIPAA Security Policies and Procedures
- TRS Information Security Manual
- TRS Corrective Action Policy

Policy Type: Board	First Issued: May 2024
Contact:	Last Review:
Department Sponsor(s): Benefits	Next Review Due Date: December 2026
Reviewing Department(s): Benefits, Legal and Compliance	Version Number: v. 1.0
Review Cycle: 3 years	Version Approved Date: May 2024
Intranet Location:	

This policy does not constitute a contract, a promise or guarantee of employment or a guarantee of access to TRS premises or information resources, as applicable, and may be modified, superseded or eliminated by TRS without notice to the employee.

Medical Board Policy

Purpose

To notify the Medical Board of all annual training, ethics and compliance responsibilities.

Core Value

This policy ties to the TRS Core Value of ethics as it ensures compliance with federal and state regulations along with TRS rules, procedures, and policies.

Reference

Texas Government Code (TGC) 825.204, Medical Board.

Applies To

TRS Medical Board

Definitions

Chief Benefit Officer (CBO): The employee who initiates the contracting process for Medical Board members and oversees the Board's adherence to the contract requirements. The CBO may delegate these responsibilities to staff.

Criminal Background Check: A criminal history record information check, which includes a fingerprint check conducted through the Texas Department of Public Safety or another law enforcement agency, to obtain criminal history record information from the Federal Bureau of Investigation.

HIPAA: The Health Insurance Portability and Accountability Act of 1996, as amended from time to time. Examples of information subject to HIPAA may include protected health information (PHI) and individually identifiable health information (IIHI), each as defined in 45 C.F.R. § 160.103.

Medical Board: Licensed medical physicians hired as contractors to review Pension member's medical information in order to recommend to TRS staff the approval or denial of eligibility for disability retirements. Medical Board members are classified as non-TRS workers.

Non-TRS Worker Team: The non-TRS worker team includes the non-TRS worker coordinator and the non-TRS worker coordinator back-up in Organizational Excellence (OE).

General Policy Statement

The Medical Board consists of three physicians who each serve a staggered two-year term, recommended by TRS Benefit Services staff and approved by the TRS Board of Trustees. The Board members are responsible for reviewing the information provided by TRS members in support of a disability claim. The Medical Board does not make medical diagnosis. The Board reviews the information provided to determine whether it supports the claim of disability.

Information regarding the Medical Board member contracts, terms, and performance is maintained by Benefit Processing (BP). Medical Board members should communicate with BP to maintain awareness of term expirations and new appointments.

Background Checks

Medical Board members are required to go through the standard TRS Criminal Background Check before assuming responsibilities.

Equipment

TRS provides Medical Board members access to the TRS network via a Virtual Machine (VM). They have restricted access to TRUST to review the medical information submitted by disability retirement applicants.

Medical Board members are required to comply with the HIPAA Security Rule Remote Access Security Policy.

Medical Board members are not allowed to print any TRS member information. Their limited access to member information through a virtual machine will also prevent them from printing member records and other information.

Data Access

Medical Board members will have access to member Protected Health Information when conducting their reviews. The Medical Board members have restricted access to TRUST to access the following member submitted information to render their opinions on disability certification:

- statement of attending physician in claim for disability retirement form (TRS 58);
- statement of member in claim for disability retirement form (TRS 59A);
- submitted hospital or office medical examination records.

Open Meetings Act Training

The TRS Medical Board is subject to the Texas Open Meetings Act (OMA).

Section 551.005 of the Open Meetings Act (OMA) requires that each appointed public official who is a member of a governmental body subject to the Act complete a training addressing the member's responsibilities under the OMA not later than 90 days after assuming duties. The required training is available on the Office of the Attorney General's website and can be accessed at the following link: <https://www.texasattorneygeneral.gov/open-government/governmental-bodies/pia-and-oma-training-resources/open-meetings-act-training>.

After completion of the training, Board members are required to complete the Open Meetings Act Training Confirmation and obtain the Certificate on the Office of the Attorney General's website. A copy of the completed certificate is provided to Benefit Processing and Legal and Compliance.

Medical Board members will receive Open Meetings Act OMA training, including training on OMA provisions specific to Medical Board meetings, from Legal and Compliance during orientation and before assuming responsibilities.

Compliance Training

Medical Board members are required to complete TRS compliance training: (1) within 30 days after their term as a Medical Board member begins and (2) when required by TRS after a material change in policy becomes effective, or at least annually on the following topics:

- HIPAA
- Ethics
- Personal Trading
- Fraud, Waste and Abuse
- Information Security

TRS Organization Excellence (OE) department will notify the CBO and the Chief Compliance Officer if a Medical Board member fails to complete any required compliance training. Upon notice by OE that a Medical Board member has not completed compliance training, the CBO is responsible for working with the Medical Board member and the Legal & Compliance Division (L&C), as needed, to ensure compliance training is completed. Medical Board members that fail to complete TRS compliance training in a timely manner will be reported to the TRS Board of Trustees, and their network access and contract may be terminated.

Annual Ethics Compliance Certification

In addition to TRS compliance training, the Medical Board members are required to complete an annual certification for the Code of Ethics for Contractors (Code). This process is managed by the L&C.

Violations

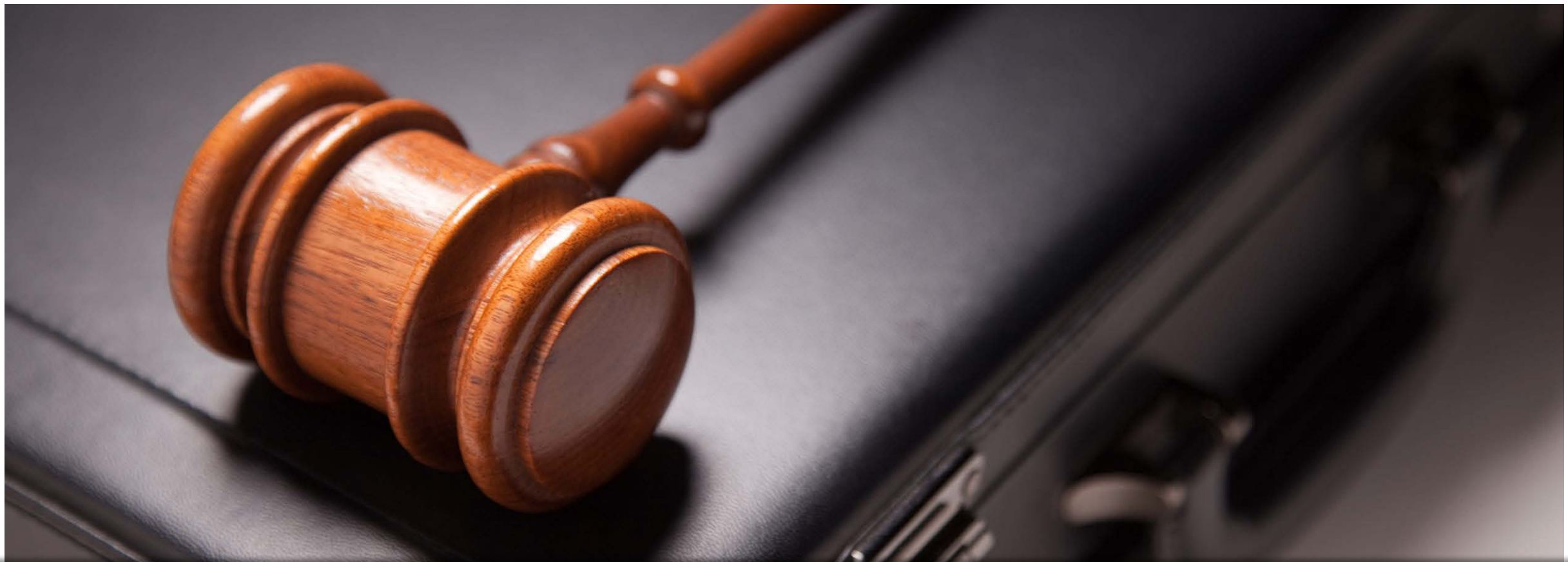
Violations of this policy may result in corrective action in accordance with TRS's Corrective Action Policy and may include termination of an employee and termination of a Board Member's contract.

Cross Reference/Related Documents

- TRS Fraud Waste and Abuse Policy
- TRS Confidentiality Policy
- TRS HIPAA Privacy Policies and Procedures
- TRS HIPAA Security Policies and Procedures
- TRS Information Security Manual
- TRS Corrective Action Policy

This policy does not constitute a contract, a promise or guarantee of employment, or a guarantee of access to TRS premises or information resources, as applicable, and may be modified, superseded, or eliminated by TRS without notice to the employee.

TAB 7



Legal & Compliance

Presentation Date: May 02, 2024

Presented By: Sandy Mitchell, Healthcare Counsel
Katrina Daniel, Chief Health Care Officer



TRS-Care Retirees Advisory Committee (RAC)

Established under Texas Gov't Code § 825.114 and Tex. Ins. Code Chapter 1575, Subchapter I

Advisory committee to Board of Trustees constituted to provide guidance and input for the TRS-Care program.

Composed of 7 members who have spent time working in Texas public education.

Appointed by the Board of Trustees in staggered terms.

TRS-Care RAC Policy

Incorporates RAC Operational Guide;

Tracks statute with regard to duties and meetings;

Requires background check and periodic assessments;

Provides guidance on external communications on behalf of the RAC, e.g., media requests; and

Addresses training requirements, including Texas Open Meetings and Public Information Acts training, as well as training related to HIPAA, Ethics, and Fraud, Waste, and Abuse.

TRS-Care RAC Policy Sections

1. Purpose

2. Core Values

3. References

4. Applies to

5. Definitions

6. Policy Statement

- Duties
- Committee Membership, Terms, and Vacancies
- Public Hearings and Meetings; Reporting to the Board
- Engagement with the Public
- External Communications on Legislation

7. Background Checks

8. Training

9. Violations

10. Cross Reference/Related Documents

11. Chart

**Request for
Board to
Adopt**

Staff requests that the Board adopt the TRS-Care RAC Policy.

The policy will go into effect upon approval by the Board.



Legal & Compliance

Memorandum

DATE: May 2, 2024

TO: Policy Committee of the Board of Trustees (Policy Committee)

FROM: Heather Traeger, General Counsel and Chief Compliance Officer
Katrina Daniel, Chief Health Care Officer

Cc: Brian Guthrie, Executive Director

RE: TRS-Care Retirees Advisory Committee Policy

The TRS-Care Retirees Advisory Committee (RAC) was established and is governed under state law at Texas Government Code, § 825.114 (*Advisory Committees*) and Texas Insurance Code, Chapter 1575, Subchapter I (*Retirees Advisory Committee*). The RAC serves as an advisory committee to the Board of Trustees (Board), providing guidance and input on the TRS-Care program. The Board appoints the seven (7) committee members in staggering terms.

In reviewing the Board governance of the RAC, Staff reviewed the current RAC Operational Guide, which was referenced to the Board by the RAC during the December 2019 Board Meeting. Staff is proposing the Board adopt a RAC policy. Specifically, Staff is proposing a policy using the RAC Operational Guide as a basis, with the following revisions: 1) tracking the statute with regard to duties and meetings; 2) requiring initial background checks and periodic assessments throughout the member term; 3) providing additional guidance on external communications; and 4) addressing training requirements.

Staff asks the Policy Committee to recommend that the Board adopt the attached TRS-Care Retirees Advisory Committee Policy.

ATTACHMENT 1

TRS Policy

TRS-Care Retirees Advisory Committee Policy

Purpose:

To provide guidance to the TRS-Care Retirees Advisory Committee (RAC) regarding roles and responsibilities of the RAC and its members.

Core Values:

This policy ties to the TRS Core Value to be member-focused by outlining a procedure for RAC members to make recommendations in the best interest of TRS members.

The policy also ties to the TRS Core Value of ethics as it ensures compliance with federal and state regulations, along with TRS rules, procedures, and policies.

References:

- Tex. Gov't Code § 825.114 (*Advisory Committees*) and related rules at 34 TAC § 51.1 (*Advisory and Auxiliary Committees*)
- Tex. Ins. Code § 1575, Subchapter I (*Retirees Advisory Committee*) and related rules at 34 TAC § 41.3 (*Retirees Advisory Committee*)
- Tex. Gov't Code §825.215 (*Advocacy Prohibited*)
- Tex. Gov't Code §556.006 (*Restrictions on Lobbying Expenses*)

Applies to:

The TRS-Care Retirees Advisory Committee

Definitions:

Board: The TRS Board of Trustees.

Criminal Background Check: A criminal history record information check, which includes a fingerprint check conducted through the Texas Department of Public Safety or another law enforcement agency, to obtain criminal history record information from the Federal Bureau of Investigation.

HIPAA: The Health Insurance Portability and Accountability Act of 1996, as amended from time to time. Examples of information subject to HIPAA may include protected health information (PHI) and individually identifiable health information (IIHI), each as defined in 45 C.F.R. § 160.103.

Non-TRS Worker Team: The non-TRS worker team includes the non-TRS worker coordinator and the non-TRS worker coordinator back-up in Organizational Excellence (OE).

OE: TRS Organizational Excellence department.

RAC: TRS-Care Retirees Advisory Committee

TRS: Teacher Retirement System of Texas

TRS-Care: The Texas Public School Employees Group Benefits Program required under Chapter 1575 of the Texas Insurance Code, for the provision of healthcare services to participants (retirees and retiree dependents).

Policy Statement:

The RAC is an advisory committee of the Board of Trustees constituted to provide guidance and input for the TRS-Care program. RAC members include members who have spent time working in Texas public education. RAC members hear concerns and input from their communities and provide that information to TRS. The intent of this policy is to identify the governance structure for this Board advisory committee and assist RAC members in performing their duties.

Duties

The RAC shall (1) hold public hearings on group coverage, (2) recommend to the Board minimum standards and features of a plan under the group program that the RAC considers appropriate; (3) recommend to the Board desirable changes in rules and legislation affecting the group programs; (4) follow the procedural rules adopted by the Board for the RAC; and (5) meet at least twice a year and at the call of the Board. If there is an emergency, the RAC may meet at the call of a majority of the members of the RAC.

Committee Membership, Terms, and Vacancies

The RAC consists of seven members, including one member who is an active school administrator, one member who is a retired school administrator, two members who are active teachers, and three members who are retired teachers. RAC members are appointed by the Board and serve staggered four-year terms. The terms of the active school administrator, one active teacher, and two retired teachers expire February 1, 2002, and every fourth year after that date. The remaining members' terms expire February 1, 2004, and every fourth year after that date. Vacancies on the RAC are filled by the Board by appointing someone who meets the qualifications applicable to the vacant position. In addition, the Executive Director, with assistance from TRS staff, will periodically assess and report to the Board upon the function of the RAC, including members' adherence to this policy and the underlying statutory mandate.

Public Hearings and Meetings; Reporting to the Board

RAC public hearings and public meetings must comply with the Texas Open Meetings Act (Texas Government Code Chapter 551), the rules at 34 TAC § 41.3, and the TRS Board of Trustees Bylaws. The RAC reports to the Benefits Committee of the Board or directly to the Board as appropriate. TRS staff prepares and includes the minutes or summaries of the RAC public hearings and public meetings in the materials that are presented to the Board at Board meetings. No action by the Board is required in relation to the receipt of such documents. The RAC, with assistance from TRS staff, may present written recommendations, or a presentation to the Board at a Board meeting.

Engagement with the Public

In carrying out the above noted duties, the RAC members may solicit and receive recommendations from and engage with individual participants of TRS-Care regarding issues affecting TRS-Care. Prior to any communications or meetings on behalf of the RAC with any advocacy group (including an officer or representative), RAC members must contact the TRS Government Affairs Department. If contacted by another external source, such as the media, to participate or communicate on behalf of the RAC, members must contact the TRS Communications Department prior to engaging in such activity or communication.

External Communications on Legislation

TRS is prohibited by law from engaging in activities to advocate for increased benefits or to advocate or influence legislative action or inaction. In addition, all state agencies are prohibited by law from using appropriated money to attempt to influence the passage or defeat of a legislative measure. State officers and employees are, however, allowed to use state resources to provide public information or to provide information responsive to a request from the Legislature. As an advisory committee to the Board, RAC members are bound by the same restrictions.

Any type of interaction or communication between members of the Committee and the Texas Legislature, or any individuals acting in association with or on behalf of the Texas Legislature, shall be conducted as follows.

If a member is interested in serving as a resource witness or otherwise communicating with the Legislature on legislative issues that relate to TRS generally or the RAC specifically, members should contact TRS' Government Affairs Department prior to any communication with the Legislature. The TRS Government Affairs Department, in consultation with TRS' Executive Director and General Counsel, will work with members to determine whether an issue falls within statutory restrictions, is restricted by other circumstances, or conflicts with members' statutory and regulatory duties as members of the RAC.

If the Legislature requests that a member speak on an issue related to the RAC or TRS, the member should contact the TRS Government Affairs Department who, in consultation with TRS' Executive Director and General Counsel, will assist the member in coordinating the response.

If a member is seeking to communicate in his or her personal capacity with the Legislature, the member should first contact the TRS Government Affairs Department to determine whether such activities fall within the statutory restrictions or conflict with the RAC's duties.

Background Checks

RAC members are required to go through the standard TRS Criminal Background Check before assuming responsibilities.

Training

As a Board Advisory Committee, the RAC is subject to the Texas Open Meetings Act (OMA) and the Texas Public Information Act (PIA). RAC members must complete the OMA and PIA training. In addition, RAC members must complete compliance training relating to HIPAA, Ethics, and Fraud, Waste, and Abuse. As part of their Ethics training, RAC members are required to complete an annual certification. The Policy Sponsor is responsible for working with the RAC member, OE, and Legal & Compliance (L&C), as needed, to ensure training is completed.

Violations:

RAC members that fail to comply with the RAC Policy, including completing TRS compliance training in a timely manner, may be reported to the TRS Board of Trustees.

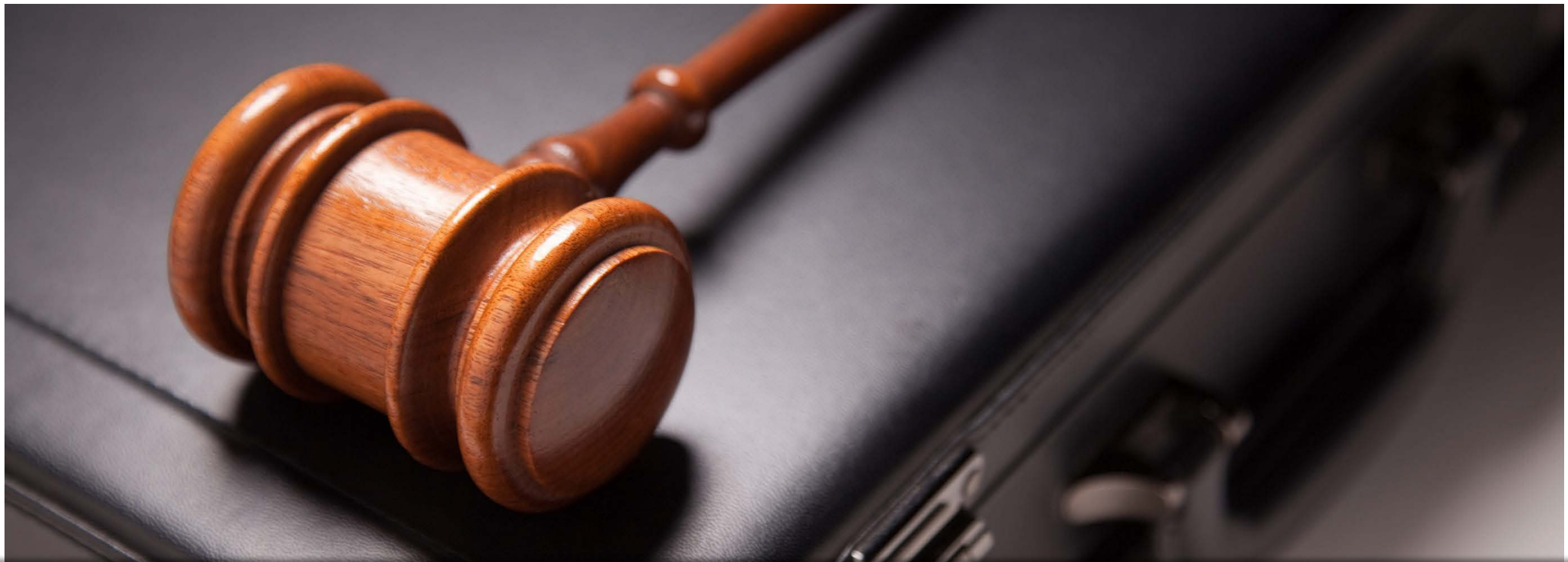
Cross Reference/Related Documents:

- Non-TRS Workers Policy
- TRS Background Check Policy
- TRS Board of Trustees Bylaws, Article 3 Committees
- RAC Handbook
- RAC website page

Policy Type: Board Level	First Issued: May 2024
Contact: Meaghan Bludau	Last Review: May 2024
Department Sponsor(s): Katrina Daniel	Next Review Due Date: May 2027
Reviewing Department(s): Health Division (HD) and Legal and Compliance (L&C)	Version Number: V. 1.0
Review Cycle: 3 years	Version Approved Date: May 2024
Intranet Location: TRS Policies and Procedures	

This policy does not constitute a contract, a promise or guarantee of employment, or a guarantee of access to TRS premises or information resources, as applicable, and may be modified, superseded, or eliminated by TRS without notice to the employee.

TAB 8



Legal & Compliance

May 2, 2024

Presented By: **Heather Traeger, General Counsel**
Roberto Cortes-Moreno, Director of Healthcare



Chapter 41. Health Care and Insurance Programs

Subchapter A. Retiree Health Care Benefits (TRS-Care)

Proposed New Rules:

41.15 Optional Dental Benefits Plan

41.16 Optional Vision Benefits Plan



IMPLEMENTING S.B. 1854 – Changes to TRS-Care Rules

Senate Bill (S.B.) 1854, 88th Texas Legislature, Regular Session, 2023, requires the adoption of proposed new rules §§ 41.15 and 41.16 located at Title 34, Part 3 of Chapter 41, Subchapter A of the Texas Administrative Code:

S.B. 1854

Amended Chapter 1575, Insurance Code, by adding new Section 1575.1601 “Group Benefits for Dental and Vision Care”.

REQUIREMENT

- TRS is required to provide an optional dental and vision plan for retirees, surviving spouses, and surviving dependent children.

ADOPT PROPOSED NEW RULES

In response, proposed new rules

- 41.15 (Optional Dental Plan)
- 41.16 (Optional Vision Plan)

were published in the *Texas Register*.

No public comments were received.

TRS staff recommends adopting the proposed new rules without changes.



New Rules: Next Steps



May 2-3,
2024

Policy Committee and board consider proposed new rules for adoption

May 6,
2024

Submit adopted rules to the *Texas Register*

May 26,
2024

Adopted rules become effective within 20 days from submission



Legal & Compliance

Memorandum

DATE: May 2, 2024

TO: Policy Committee of the Board of Trustees ("Policy Committee")

FROM: Heather Traeger, General Counsel and Chief Compliance Officer

THROUGH: Brian Guthrie, Executive Director

RE: Adoption of Proposed New Rules: 34 T.A.C. §§ 41.15 and 41.16

Requested Action

TRS Staff asks the Policy Committee to recommend that the Board of Trustees ("Board") adopt the following proposed new rules without changes to the proposed text as published in the March 15, 2024 issue of the *Texas Register*:

- § 41.15 (relating to an Optional Dental Benefits Plan)
- § 41.16 (relating to an Optional Vision Benefits Plan)

Background

At the Board meeting on February 15, 2024, TRS Staff asked the Board to authorize publication in the *Texas Register* of proposed new Rules §§ 41.15 and 41.16. The Board authorized publication and the proposed new Rules were published in the *Texas Register* on March 15, 2024 (49 TexReg 1701 – 1705). TRS did not receive any public comments on the proposed new Rules.

Summary of Proposed New Rules

TRS is proposing new Rules §§ 41.15 and 41.16 to implement Senate Bill (S.B.) 1854, 88th Legislature, Regular Session, 2023. S.B. 1854 amended Chapter 1575 of the Insurance Code (TRS-Care) by adding a new Section 1575.1601, concerning Group Benefits for Dental and Vision Care, requiring the Board to establish or contract for and make available under the group program optional plans that provide coverage for dental and vision care.

Currently, TRS retirees may participate in the TRS-Care Standard plan and the TRS-Care Medicare Advantage plans, which do not include comprehensive coverage for dental or vision care.

Proposed new Rules §§ 41.15 and 41.16 implement Insurance Code Section 1575.1601 by establishing rules that will apply to the optional dental and vision benefits plans including eligibility terms, definition of the plan year, enrollment and disenrollment terms, payment of contributions towards coverage, effective dates of coverage, expulsion for fraud, and competitive bidding.

Conclusion

If adopted, the new Rules will take effect 20 days after the new Rules are filed with the Secretary of State.

Draft of the proposed new Rules for adoption are attached as Attachment 1 and Attachment 2.

ATTACHMENT 1

Texas Administrative Code

TITLE 34	PUBLIC FINANCE
PART 3	TEACHER RETIREMENT SYSTEM OF TEXAS
CHAPTER 41	HEALTH CARE AND INSURANCE PROGRAMS
SUBCHAPTER A	RETIREE HEALTH CARE BENEFITS (TRS-CARE)
RULE §41.15	Optional Dental Benefits Plan

(a) Establishment.

(1) In accordance with Section 1575.1601, Insurance Code, TRS makes available to individuals under the TRS-Care program an optional plan that provides coverage for dental care (hereinafter referred to as an “optional dental benefits plan”).

(2) TRS may offer an optional dental benefits plan through an insurance carrier or the optional dental benefits plan may be self-funded.

(3) An optional dental benefits plan may have one or more benefit designs for participants to choose from, as determined by TRS.

(b) Eligibility.

(1) Only retirees, dependents, surviving spouses, and surviving dependent children, as defined under Chapter 1575, Insurance Code, are eligible to enroll in an optional dental benefits plan (hereinafter referred to as “eligible members”).

(2) Individuals shall be eligible for an optional dental benefits plan under the same requirements as described in §41.10 of this title (relating to Initial Enrollment Periods for the Health Benefit Program under the Texas Public School Retired Employees Group Benefits Act (TRS-Care)).

(3) Eligible members may enroll in an optional dental benefits plan even if they are not enrolled or applying for enrollment in any other TRS-Care plan at the time of enrollment in an optional dental benefits plan.

(4) If an eligible member is eligible for an optional dental benefits plan as a retiree and also as a dependent of another retiree, the retiree may elect to participate in an optional dental benefits plan as a retiree or as a dependent but cannot participate as both. An eligible member must choose to participate as a retiree or as a dependent.

(c) Plan Year. The plan year for an optional dental benefits plan is from January 1 to December 31 (hereinafter referred to as “plan year”).

(d) Enrollment and Disenrollment.

(1) Enrollment. Eligible members desiring to enroll in an optional dental benefits plan must do so within the open enrollment period or during an additional enrollment opportunity.

(A) Open Enrollment.

(i) An eligible member may enroll in an optional dental benefits plan during an open enrollment period established by TRS.

(ii) On behalf of the trustee, the executive director or a designee may prescribe open enrollment periods and the conditions under which eligible members may enroll during an open enrollment period.

(B) Additional Enrollment Opportunities. Individuals shall have the same additional enrollment opportunities for an optional dental benefits plan as those provided under §41.2(a)-(c) of this title (relating to Additional Enrollment Opportunities).

(2) Disenrollment. Eligible members may only disenroll from an optional dental benefits plan during the open enrollment period, with the exception that an eligible member may disenroll during a special enrollment opportunity as described by §41.2(b) of this title.

(3) Enrollment and Disenrollment Process. Eligible members must follow the enrollment and disenrollment processes established by TRS.

(e) Payment of Contributions.

(1) Retirees, surviving spouses, and surviving dependent children, or their representatives (collectively “participants”) shall pay monthly contributions, as set by TRS, for their and their dependents’ participation in an optional dental benefits plan and may, at TRS’ sole discretion, be required to do so through deductions from the participant’s TRS annuity payment or through direct payments to TRS or its designee.

(A) In accordance with Section 1575.153, Insurance Code, the participant must, in writing, authorize the trustee to deduct the entirety of the participant’s contributions for the participant’s coverage under the TRS-Care plan(s) from the participant’s TRS annuity payment.

(B) If the amount of the participant's TRS annuity payment is not enough to cover all of the participant's contributions for coverage under the participants TRS-Care plan(s), the participant shall be directly billed by TRS or its designee.

(2) If a participant is required to pay their contributions for an optional dental benefits plan directly to TRS or its designee, failure to timely pay the full amount of a required contribution for coverage will result in termination of the optional dental benefits plan. Participants or eligible members that have lost their coverage due to lack of payment of contribution for coverage may be subject to recoupment by TRS of outstanding contribution amounts, penalties, and be subject to reenrollment conditions prior to reenrollment.

(f) Effective Date of Coverage.

(1) An optional dental benefits plan shall follow the same effective dates of coverage that apply under §41.7(a)–(h) and (j) of this title (relating to Effective Date of Coverage).

(2) In addition, if an eligible member enrolls during a TRS open enrollment period as described in subsection (d)(1)(A) of this section, the effective date of coverage shall be the first day of the plan year following the end of the open enrollment period.

(g) Expulsion for fraud. Expulsion for fraud from an optional dental benefits plan shall follow the same process as described in §41.14 of this title (relating to Expulsion from TRS-Care for Fraud).

(h) Competitive Bidding.

(1) Bid procedures for an optional dental benefits plan shall follow the same process as described in §41.9 of this title (relating to Bid Procedure).

(2) TRS may award separate contracts for different aspects in the administration of an optional dental benefits plan, such as insurance coverage, claims administration, utilization review services, administrative services, and ancillary services.

(3) Each bidder must comply with the minimum qualifications contained in the applicable solicitation from TRS.

ATTACHMENT 2

Texas Administrative Code

TITLE 34	PUBLIC FINANCE
PART 3	TEACHER RETIREMENT SYSTEM OF TEXAS
CHAPTER 41	HEALTH CARE AND INSURANCE PROGRAMS
SUBCHAPTER A	RETIREE HEALTH CARE BENEFITS (TRS-CARE)
RULE §41.16	Optional Vision Benefits Plan

(a) Establishment.

- (1) In accordance with Section 1575.1601, Insurance Code, TRS makes available to individuals under the TRS-Care program an optional plan that provides coverage for vision care (hereinafter referred to as an “optional vision benefits plan”).
- (2) TRS may offer an optional vision benefits plan through an insurance carrier or the optional vision benefits plan may be self-funded.
- (3) An optional vision benefits plan may have one or more benefit designs for participants to choose from, as determined by TRS.

(b) Eligibility.

- (1) Only retirees, dependents, surviving spouses, and surviving dependent children, as defined under Chapter 1575, Insurance Code, are eligible to enroll in an optional vision benefits plan (hereinafter referred to as “eligible members”).
- (2) Individuals shall be eligible for an optional vision benefits plan under the same requirements as described in §41.10 of this title (relating to Initial Enrollment Periods for the Health Benefit Program under the Texas Public School Retired Employees Group Benefits Act (TRS-Care)).
- (3) Eligible members may enroll in an optional vision benefits plan even if they are not enrolled or applying for enrollment in any other TRS-Care plan at the time of enrollment in an optional vision benefits plan.
- (4) If an eligible member is eligible for an optional vision benefits plan as a retiree and also as a dependent of another retiree, the retiree may elect to participate in an optional vision benefits plan as a retiree or as a dependent but cannot participate as both. An eligible member must choose to participate as a retiree or as a dependent.

- (c) Plan Year. The plan year for an optional vision benefits plan is from January 1 to

December 31 (hereinafter referred to as “plan year”).

(d) Enrollment and Disenrollment.

(1) Enrollment. Eligible members desiring to enroll in an optional vision benefits plan must do so within the open enrollment period or during an additional enrollment opportunity.

(A) Open Enrollment.

(i) An eligible member may enroll in an optional vision benefits plan during an open enrollment period established by TRS.

(ii) On behalf of the trustee, the executive director or a designee may prescribe open enrollment periods and the conditions under which eligible members may enroll during an open enrollment period.

(B) Additional Enrollment Opportunities. Individuals shall have the same additional enrollment opportunities for an optional vision benefits plan as those provided under §41.2(a)-(c) of this title (relating to Additional Enrollment Opportunities).

(2) Disenrollment. Eligible members may only disenroll from an optional vision benefits plan during the open enrollment period, with the exception that an eligible member may disenroll during a special enrollment opportunity as described by §41.2(b) of this title.

(3) Enrollment and Disenrollment Process. Eligible members must follow the enrollment and disenrollment processes established by TRS.

(e) Payment of Contributions.

(1) Retirees, surviving spouses, and surviving dependent children, or their representatives (collectively, “participants”) shall pay monthly contributions, as set by TRS, for their and their dependents’ participation in an optional vision benefits plan and may, at TRS’ sole discretion, be required to do so through deductions from the participant’s TRS annuity payment or through direct payments to TRS or its designee.

(A) In accordance with Section 1575.153, Insurance Code, the participant must, in writing, authorize the trustee to deduct the entirety of the participant’s contributions for the participant’s coverage under the TRS-Care plan(s) from the participant’s TRS annuity payment.

(B) If the amount of the participant’s TRS annuity payment is not enough to cover all of the participant’s contributions for coverage under the participants TRS-Care plan(s), the

participant shall be directly billed by TRS or its designee.

(2) If a participant is required to pay their contributions for an optional vision benefits plan directly to TRS or its designee, failure to timely pay the full amount of a required contribution for coverage will result in termination of the optional vision benefits plan. Participants or eligible members that have lost their coverage due to lack of payment of contribution for coverage may be subject to recoupment by TRS of outstanding contribution amounts, penalties, and be subject to reenrollment conditions prior to reenrollment.

(f) Effective Date of Coverage.

(1) An optional vision benefits plan shall follow the same effective dates of coverage that apply under §41.7(a)–(h) and (j) of this title (relating to Effective Date of Coverage).

(2) In addition, if an eligible member enrolls during a TRS open enrollment period as described in subsection (d)(1)(A) of this section, the effective date of coverage shall be the first day of the plan year following the end of the open enrollment period.

(g) Expulsion for fraud. Expulsion for fraud from an optional vision benefits plan shall follow the same process as described in §41.14 of this title (relating to Expulsion from TRS-Care for Fraud).

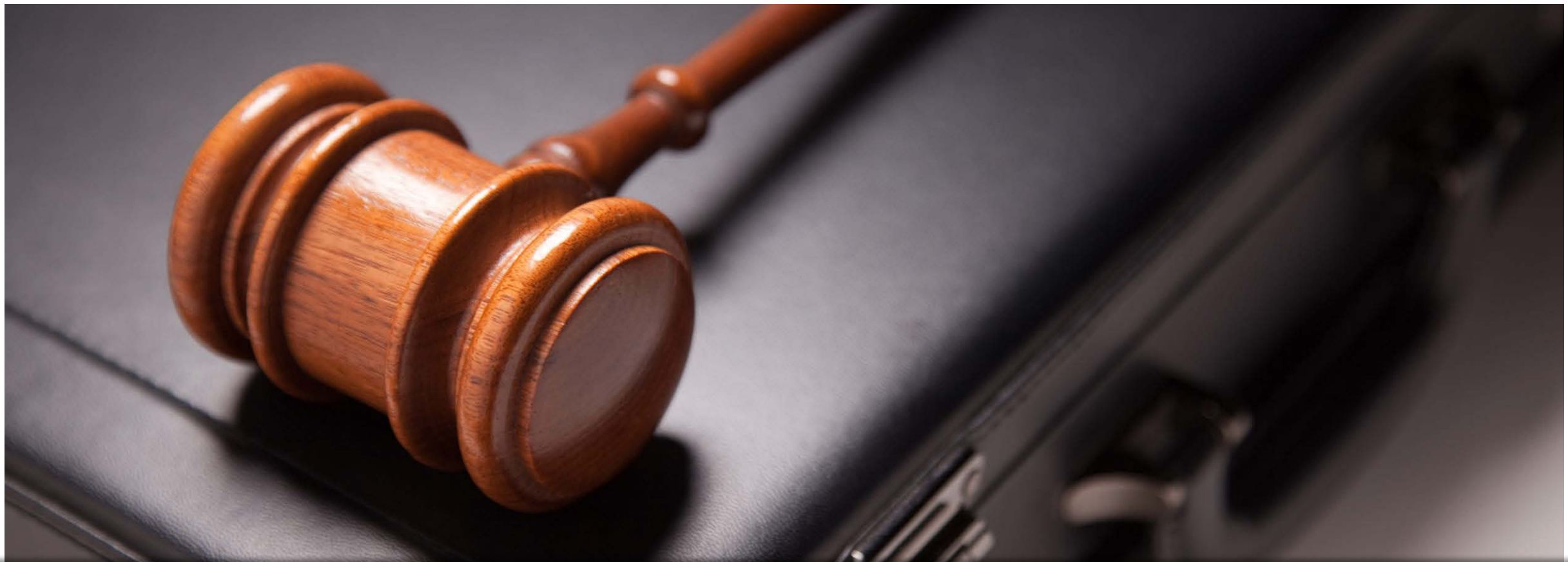
(h) Competitive Bidding.

(1) Bid procedures for an optional vision benefits plan shall follow the same process as described in §41.9 of this title (relating to Bid Procedure).

(2) TRS may award separate contracts for different aspects in the administration of an optional vision benefits plan, such as insurance coverage, claims administration, utilization review services, administrative services, and ancillary services.

(3) Each bidder must comply with the minimum qualifications contained in the applicable solicitation from TRS.

TAB 9



Legal & Compliance

Presentation Date: May 2, 2024

Presented By:

Heather Traeger and James Burshtyn



Highlights of the New Vendor Protest Rule

- Non-substantive and formatting changes to address clarity and readability
- Identifies TRS Legal & Compliance (L&C) as responsible for the management of the protest
- Provides greater clarity on timeliness for vendors to submit a protest
- Retains the executive director's discretion to either refer an appeal to the Board or issue a final determination



Project Goals and Required Actions



GOALS

- Update TRS' vendor protest and appeals rule to align with procurement and contracting processes and to make the process more timely and efficient

VENDOR PROTEST RULE ACTION

- **Repeal** existing Vendor Protest rule
- **Adopt** new Vendor Protest rule

IMPLEMENTATION

- New rule comes into effect in 2024



Next Steps

- Submit rule proposals to *Texas Register*
- Rules shall remain posted for public comment for 30 days
- Present to the TRS Board in July for adoption
- If adopted, rules intended to be effective August 2024



Legal & Compliance

Memorandum

DATE: May 2 2024

TO: Policy Committee of the TRS Board of Trustees (“Policy Committee”)

FROM: Heather Traeger, General Counsel

THROUGH: Brian Guthrie, Executive Director

RE: Proposed Repeal: TRS Rule § 51.2 (Vendor Protests, Dispute Resolution, and Appeals);
and Proposed New: TRS Rule § 51.2 (Vendor Protests and Appeals).

Requested Action

TRS Staff asks the Board of Trustees to authorize publication of the following in the *Texas Register*:

- A proposal to repeal rule § 51.2 (relating to Vendor Protests, Dispute Resolution, and December Appeals) under Chapter 51 of TRS Rules (relating to General Administration)
- A proposal for new rule § 51.2 (relating to Vendor Protests and Appeals) under Chapter 51 of TRS Rules (relating to General Administration)

Background

This request to authorize publication was brought to the Board of Trustees at the December Board meeting. At that time, the Board authorized TRS Staff to proceed with the publication of the repeal of the current vendor protest rule and the publication of the new vendor protest rule. Since that time, TRS staff has revisited the appeal process section of the proposed new rule. As presented to the Board last December, the proposed new rule removed the executive director’s discretion to refer an appeal to the Board of Trustees and, instead, provided that the executive director would issue the final written decision of a vendor appeal. After careful consideration, TRS staff recommends that the proposed new rule retain the executive director’s discretion to refer a vendor appeal to the Board of Trustees for final disposition (see § 51.2(h)(3) relating to the Appeal of a Protest).

TRS Staff recommends an update to TRS' existing vendor protests, dispute resolution, and hearing rule to align with procurement and contracting processes.

Staff proposes the repeal of the existing vendor protest rule under Chapter 51 of TRS Rules, and the adoption of a new vendor protest rule. While the new Chapter 51 rule incorporates many of the substantive provisions of TRS' existing vendor protest rule, the new vendor protest rule also removes inefficiencies from, and provides greater clarity to, the vendor protest and appeal process.

The proposed new rule makes several key changes to TRS' vendor protest rules:

- The title of current rule § 51.2 (*Vendor Protests, Dispute Resolution, and Hearing*) has been changed to *Vendor Protests and Appeals*. The new rule title more accurately describes current (and continuing) processes regarding vendor protests and appeals.
- Current rule § 51.2 does not include section headings. Under new rule § 51.2, headings have been provided to each section to improve readability.
- Current rule § 51.2 identifies the responsibilities of various TRS personnel throughout the protest process but does not identify the position or group that is responsible for the management of the protest. Under new rule § 51.2(g)(1), relating to the *Review and Disposition of Protests*, TRS Legal & Compliance (TRS L&C) will be responsible for the management of the protest and will coordinate TRS' disposition of the protest with the chief officer, with support provided by the P&C director.
- A definitions section has been added to new rule § 51.2 (see § 51.2(a) relating to *Definitions*). Current rule § 51.2(a), relating to rule purpose and applicability, has been (i) renumbered as § 51.2(b), (ii) expanded to reference appeals to the scope of the rule's coverage (which captures current practices but is not expressly stated in current rule § 51.2 (a)), and (iii) revised by moving the exceptions cited to the rule's applicability to a new standalone section (see § 51.2(c) relating to *Exceptions*).
- Current exceptions to the rule's applicability have been expanded to include transactions in which TRS buys or sells securities (see § 51.2(c)(4) relating to *Exceptions*).
- Current rule § 51.2(b) (relating to the filing of a vendor protest) is revised by (i) renumbering it as new rule § 51.2(f), (ii) substituting TRS L&C for the chief officer as the recipient of the protest (see new rule § 51.2(f)(1)), and (iii) clarifying the deadline for filing a protest. Under current rule § 51.2(b), to be considered timely, a protesting party must file its protest "within 10 working days after the protestor *knows or should have known*, of the occurrence of the action which is protested." New rule § 51.2(f) provides greater clarity for vendors by requiring a protest contesting (i) the solicitation be filed by the end of posted solicitation period, or (ii) the evaluation or award be filed within 10 calendar days after the notice of contract award is posted either to the ESBD, or the TRS website, as applicable (see new rule § 51.2 (f)(2)(A) &(B) relating to *Protest Procedures*).
- Current rule § 51.2(c) (relating to the required content of a vendor protest) is revised by (i) expanding the identification of the legal authority that TRS is alleged to have violated, from the "statutory provision" to also include TRS policy, and the TRS Procurement and Contract Management Guide (Guide) (see new rule § 51.2(f)(3)(A) &(B)), and (ii) requiring

the protester to provide a precise statement of the remedy requested (see new rule § 51.2(f)(3)(F)).

- Current rule § 51.2(e)(1)-(3), relating to the chief officer's determination has been renumbered as new rule 51.2(g)(1)-(5) relating to *Review and Dispositions of Protests*.
- Current rule § 51.2(f), relating to an appeal of the chief officer's determination, has been revised by directing that an appeal be filed in accordance with the requirements stated in the solicitation document or on the TRS website, rather than with the office of the executive director or his or her designee (see new rule § 51.2 (h)(1)), relating to an *Appeal of Protest*.
- Current rule § 51.2(j) (relating to the stay of a protest or an appeal) is (i) renumbered and restated as new rule § 51.2(e), (ii) titled *Stay of Protest and Appeal*, and (iii) revised by adding guidance regarding the process of submitting a stay request to TRS.

The draft of the proposed new rule is attached as Appendix A. Appendix B is current rule § 51.2, whose content has been stricken in its entirety.

Conclusion

If the Board authorizes publication, the proposed repeal, and the proposed new rule, will be published in the *Texas Register* for public comment for at least 30 days before presentation to the Board of Trustees for final adoption in July, 2024.

APPENDIX A

Proposed New Rule §51.2

RULE §51.2

Vendor Protests and Appeals

a) Definitions. The following words and terms, when used in this rule, shall have the following meaning unless the context clearly indicates otherwise.

(1) Appeal: A written appeal of the Determination of the Chief Officer.

(2) Appealing Party: A party who files an Appeal to the Determination.

(3) Chief Officer: the head of any business unit of TRS.

(4) Determination: A determination issued by the Chief Officer in response to a Protest.

(5) Director of Procurement & Contracts (P&C Director): the head of the TRS division responsible for overseeing the procurement of goods and services.

(6) Executive Director: Appointed by the TRS Board of Trustees pursuant to Government Code §825.202.

(7) Final Decision: A decision issued by either the Board of Trustees or the Executive Director in response to an Appeal.

(8) Interested Parties: Vendors who submitted a bid, offer, or proposal, as applicable, in response to the subject procurement.

(9) Protest: A process initiated in accordance with this rule by a Vendor who believes they have been aggrieved in connection with a solicitation, evaluation, or award of a contract.

(10) Protesting Party: A party who files a Protest.

(11) Solicitation Documents: all documents (including Invitation for Bids, Request for Offers, Request for Proposals, and Request for Qualifications) requesting responses from Vendors to provide specified goods or services, or both. Solicitation Documents also include any addenda posted by TRS to the Electronic State Business Daily (ESBD) or the TRS website, which may be accessed at <https://www.trs.texas.gov> , as applicable, for the subject procurement.

(12) TRS Legal Counsel: the TRS General Counsel or any attorney designated by TRS General Counsel.

(13) TRS Legal & Compliance (TRS L&C): The TRS legal and compliance division.

(14) Vendor: An individual, company, partnership, corporation, or other entity that has filed a response to a TRS solicitation.

(b) Purpose. The purpose of this rule is to provide a procedure for a Vendor to Protest or Appeal, if applicable, the process by which TRS purchases goods, services, or both.

APPENDIX A

Proposed New Rule §51.2

(c) Exceptions. This rule does not apply to Protests of purchases made by:

(1) the Texas Facilities Commission (Facilities Commission) on behalf of TRS, which are addressed in 1 Texas Administrative Code Chapter 111, Subchapter C (relating to Complaints and Dispute Resolution);

(2) the Department of Information Resources (DIR) on behalf of TRS, which are addressed in 1 Texas Administrative Code Chapter 201, §201.1 (relating to Procedures for Vendor Protests and the Negotiation and Mediation of Certain Contract Disputes and Bid Submission, Opening and Tabulation Procedures);

(3) the Comptroller of Public Accounts (Comptroller's Office) on behalf of TRS, which are addressed in 34 Texas Administrative Code Chapter 20, Subchapter F, Division 3 (relating to Protests and Appeals);

(4) TRS, for transactions in which TRS buys or sells securities (whether publicly traded or privately issued) under the authority of Government Code §825.302, as well as any other transactions not subject to state purchasing rules.

(d) The rules of the Facilities Commission, DIR, and the Comptroller's Office may be accessed through the website of the Office of the Secretary of State, Texas Register Division located at: www.sos.state.tx.us/tac/index.shtml

(e) Stay of Protest or Appeal. If a timely Protest or Appeal is filed, the Protesting Party or the Appealing Party may request in writing that TRS not proceed further with the solicitation or with the award of the contract. In support of the request, the Protesting Party or Appealing Party is required to show why a stay is necessary and that harm to TRS will not result from the stay. If the Executive Director determines that it is in the interest of TRS not to proceed with the solicitation or contract award, the Executive Director may make such a decision in writing and partially or fully suspend procurement or contract activity. Any request for a stay must be submitted in accordance with the requirements stated in the Solicitation Document (relating to Vendor Protests and Appeals) or on the TRS website, may be accessed at <https://www.trs.texas.gov/> as applicable.

(f) Protest Procedures.

(1) A Vendor who believes they have been aggrieved in connection with a solicitation, evaluation, or award of a contract may formally Protest to TRS. Such Protest must be in writing and timely received by TRS L&C in accordance with the instructions provided in the Solicitation Document or on the TRS website, which may be accessed at <https://www.trs.texas.gov/> as applicable. Copies of the Protest must be concurrently mailed or delivered by the Protesting Party to all other Interested Parties.

(2) To be considered timely, the Protest must be filed:

APPENDIX A

Proposed New Rule §51.2

(A) by the end of the posted solicitation period, if the Protest concerns the Solicitation Documents or actions associated with the publication of the Solicitation Documents; or

(B) no later than 10 calendar days after the notice of contract award is posted to either the ESD, or the TRS website, which may be accessed at <https://www.trs.texas.gov/>, as applicable, if the Protest concerns the evaluation or award. Notice of Awards posted to the TRS website may be accessed at <https://www.trs.texas.gov/>.

(3) A formal Protest must be sworn and contain:

(A) a specific identification of the State of Texas statutory provision(s), TRS policy, or TRS Procurement and Contract Management Guide (Guide) requirement that the action complained of is alleged to have violated;

(B) a specific description of each act alleged to have violated a State of Texas statutory provision(s), TRS regulatory policy, or Guide requirement;

(C) a precise statement of the relevant facts;

(D) an identification of the issue or issues to be resolved;

(E) argument and authorities in support of the Protest;

(F) a precise statement of the remedy requested by the Protesting Party; and

(G) a statement that copies of the Protest have been mailed or delivered to all other Interested Parties. Upon request, TRS will provide the Protesting Party with a list of Interested Parties as reflected in TRS records.

(g) Review and Disposition of Protests.

(1) TRS L&C will be responsible for management of the Protest and will coordinate TRS' disposition of the Protest with the Chief Officer, with support provided by the P&C Director.

(2) The Chief Officer may:

(A) dismiss the Protest if the Chief Officer determines the Protest was not timely filed or does not meet the requirements of subsection (f), or

(B) settle and resolve a timely Protest by mutual agreement of TRS and the Protesting Party.

(3) If the Chief Officer does not dismiss or resolve the Protest, the Chief Officer may, in his or her sole discretion, solicit written responses to the Protest from other Interested Parties.

(4) If the Protest is not dismissed or resolved under paragraph (g)(2) of this section, the Chief Officer will issue to the Protesting Party and other Interested Parties a written Determination as to

APPENDIX A

Proposed New Rule §51.2

whether a violation of State of Texas statutes, TRS regulatory policies, or Guide requirements has occurred.

(5) The Determination will set forth the reasons for the Determination, and any appropriate remedial action, if applicable. Such remedial action, if applicable, may include, but is not limited to, declaring the procurement void; reversing the award and awarding the contract to a different Interested Party; or re-advertising the procurement.

(h) Appeal of Protest

(1) The Protesting Party or an Interested Party may Appeal the Determination to the Executive Director. The written Appeal must be received in accordance with the requirements stated in the Solicitation Document (relating to *Vendor Protests and Appeals*) or on the TRS website, which may be accessed at <https://www.trs.texas.gov/>, as applicable, no later than ten working days after the date of the Determination. The Appeal is limited to a review of the Determination.

(2) The Appealing Party must concurrently mail or deliver copies of the Appeal to all other Interested Parties and must include an affidavit that such copies have been provided. TRS General Counsel may, in his or her sole discretion, solicit written responses to the Appeal from Interested Parties.

(3) TRS General Counsel shall review the Protest, the Determination, the Appeal, and any responses received from Interested Parties, and prepare a written opinion with a recommendation to the Executive Director. The Executive Director may, in his or her discretion, refer the matter to the Board of Trustees at a regularly scheduled open meeting or issue in writing a Final Decision.

(4) When a Protest has been appealed to the Executive Director under subsection (h)(1) of this section and has been referred to the Board of Trustees by the Executive Director under subsection (h)(3) of this section, the following requirements shall apply:

(A) Copies of the Protest, the Determination, the Appeal, responses of Interested Parties, if any, and TRS General Counsel's recommendation, shall be provided to the Board members and Interested Parties. Copies of TRS General Counsel's recommendations and responses of Interested Parties shall be provided to the Appealing Party.

(B) All Interested Parties who wish to make an oral presentation at the open meeting must submit their request in accordance with the requirements stated in the Solicitation Document (relating to *Vendor Protests and Appeals*) or on the TRS website, which may be accessed at <https://www.trs.texas.gov/>, as applicable, at least 48 hours in advance of the open meeting.

(C) The Board of Trustees may consider oral presentations, the Protest, the Determination, the Appeal, the responses of Interested Parties, if any, and the TRS General Counsel's recommendations in reaching its decision. The chairman shall set the order and amount of time allowed for presentations.

APPENDIX A

Proposed New Rule §51.2

(D) The Board of Trustees' decision of the Appeal shall be by duly adopted resolution in the minutes of the open meeting and shall be final.

(4) A decision issued by either the Board of Trustees in open meeting, or in writing by the Executive Director, shall be the final administrative action of TRS.

APPENDIX B- CURRENT RULE § 51.2

RULE §51.2

Vendor Protests, Dispute Resolution, and Hearing

~~(f) The purpose of this section is to provide a procedure for vendors to protest purchases made by the Teacher Retirement System of Texas (TRS). Protests of purchases made by the Texas Facilities Commission (facilities commission) on behalf of TRS are addressed in 1 Texas Administrative Code Chapter 111, Subchapter C (relating to Complaints and Dispute Resolution). Protests of purchases made by the Department of Information Resources (DIR) on behalf of TRS are addressed in 1 Texas Administrative Code Chapter 201, §201.1 (relating to Procedures for Vendor Protests and the Negotiation and Mediation of Certain Contract Disputes and Bid Submission, Opening and Tabulation Procedures). Protests of purchases made by Texas Procurement and Support Services of the Comptroller of Public Accounts (comptroller's office) on behalf of TRS are addressed in 34 Texas Administrative Code Chapter 20, Subchapter F, Division 3 (relating to Protests and Appeals). The rules of the facilities commission, DIR, and the comptroller's office are in the Texas Administrative Code, which is on the Internet website of the Office of the Secretary of State, Texas Register Division at: www.sos.state.tx.us/tac/index.shtml.~~

~~(c) A formal protest must be sworn and contain:~~

- ~~–(1) a specific identification of the statutory provision(s) that the action complained of is alleged to have violated;~~
- ~~–(2) a specific description of each act alleged to have violated the statutory provision(s) identified in paragraph (1) of this subsection;~~
- ~~–(3) a precise statement of the relevant facts;~~
- ~~–(4) an identification of the issue or issues to be resolved;~~
- ~~–(5) argument and authorities in support of the protest; and~~
- ~~–(6) a statement that copies of the protest have been mailed or delivered to other identifiable interested parties.~~

~~(d) The chief officer shall have the authority, prior to appeal to the executive director or his designee, to settle and resolve the dispute concerning the solicitation or award of a contract. The chief officer may solicit written responses to the protest from other interested parties.~~

- ~~–(1) If the chief officer determines that no violation of rules or statutes has occurred, he or she shall so inform the protesting party and interested parties by letter which sets forth the reasons for the determination.~~
- ~~–(2) If the chief officer determines that a violation of the rules or statutes has occurred in a case where a contract has not been awarded, he or she shall so inform the protesting party and other interested~~

parties by letter which sets forth the reasons for the determination and any appropriate remedial action.

~~-(3) If the chief officer determines that a violation of the rules or statutes has occurred in a case where a contract has been awarded, he or she shall so inform the protesting party and other interested parties by letter which sets forth the reasons for the determination and any appropriate remedial action. Such remedial action may include, but is not limited to, declaring the purchase void; reversing the award; and re-advertising the purchase using revised specifications.~~

~~(f) The chief officer's determination on a protest may be appealed by an interested party to the executive director or his designee. An appeal of the chief officer's determination must be in writing and must be received in the office of the executive director or his designee no later than ten working days after the date of the chief officer's determination. The appeal shall be limited to review of the chief officer's determination. Copies of the appeal must be mailed or delivered by the appealing party to other interested parties and must contain an affidavit that such copies have been provided.~~

~~(g) The general counsel shall review the protest, chief officer's determination, and the appeal and prepare a written opinion with recommendation to the executive director or his designee. The executive director or his designee may, in his or her discretion, refer the matter to the Board of Trustees at a regularly scheduled open meeting or issue a final written determination.~~

~~(h) When a protest has been appealed to the executive director or his designee under subsection (f) of this section and has been referred to the Board of Trustees by the executive director or his designee under subsection (g) of this section, the following requirements shall apply:~~

~~-(1) Copies of the appeal, responses of interested parties, if any, and general counsel recommendation shall be mailed to the Board members and interested parties. Copies of the general counsel's recommendation and responses of interested parties shall be mailed to the appealing party.~~

~~-(2) All interested parties who wish to make an oral presentation at the open meeting are requested to notify the office of the executive director or his designee at least 48 hours in advance of the open meeting.~~

~~-(3) The Board of Trustees may consider oral presentations and written documents presented by staff, the appealing party, and interested parties. The chairman shall set the order and amount of time allowed for presentations.~~

~~-(4) The Board of Trustees' determination of the appeal shall be by duly adopted resolution reflected in the minutes of the open meeting and shall be final.~~

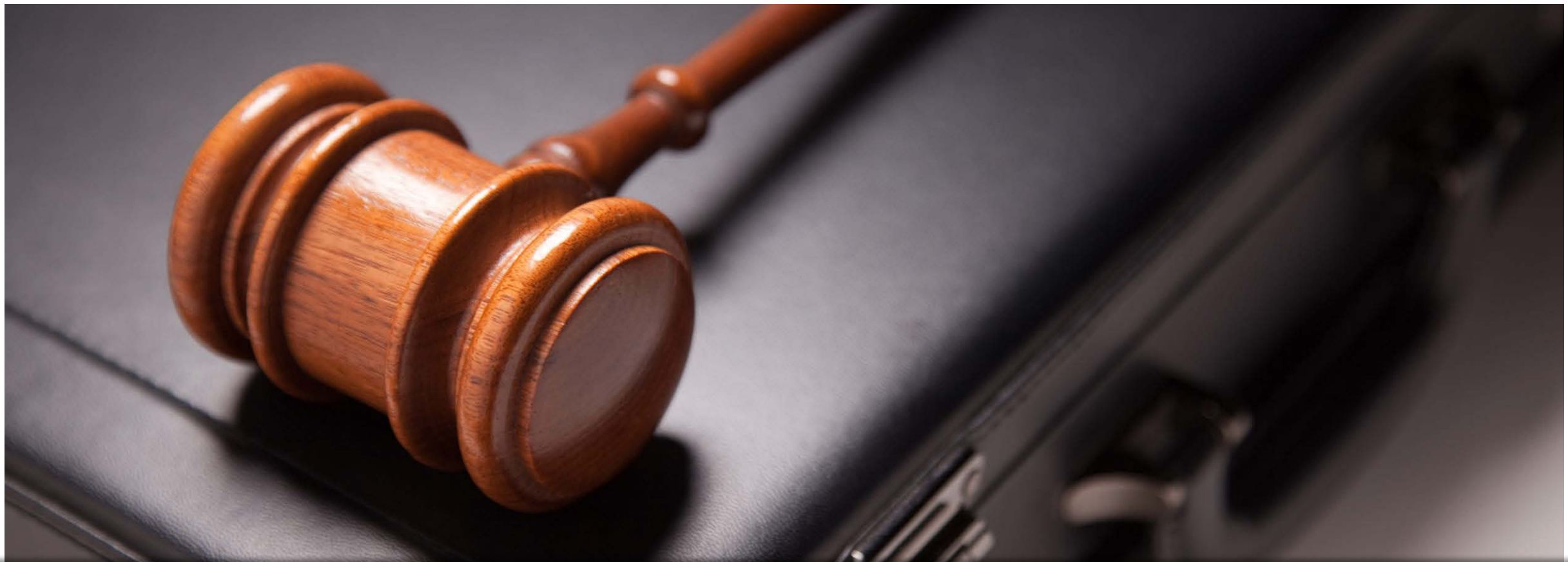
~~(i) Unless good cause for delay is shown or the executive director or his designee determines that a protest or appeal raises issues significant to procurement practices or procedures, a protest or appeal that is not filed timely will not be considered.~~

~~(j) In the event of a timely protest or appeal under this section, a protestor or appellant may request in writing that TRS not proceed further with the solicitation or with the award of the contract. In support of the request, the protestor or appellant is required to show why a stay is necessary and that harm to TRS will not result from the stay. If the executive director determines that it is in the interests of TRS~~

~~not to proceed with the contract, the executive director may make such a determination in writing and partially or fully suspend contract activity.~~

~~(k) A decision issued either by the Board of Trustees in open meeting, or in writing by the executive director or his designee, shall be the final administrative action of TRS.~~

TAB 10



Legal & Compliance

May 2, 2024

Presented By: **Heather Traeger, General Counsel**
Roberto Cortes-Moreno, Director of Healthcare



Chapter 41. Health Care and Insurance Programs

Subchapter A. Retiree Health Care Benefits (TRS-Care)

Proposed New Rule:

34 T.A.C. § 41.17 Limited-Time Enrollment Opportunity for
Medicare-eligible Retirees



Opportunity to Enroll in TRS-Care

Rule	Description
<i>Plan Year 2025 Special Enrollment Opportunity</i>	• The rule provides a limited-time opportunity for eligible individuals to enroll in the TRS-Care Medicare Advantage plan;
	• Establishes eligibility requirements; and
	• Establishes effective dates of coverage.



Rationale

- Supported by correspondence from the legislature, TRS is considering:
 - Reducing the premiums for the TRS-Care Medicare Advantage plan beginning in the 2025 plan year; and
 - Allowing a limited-time open enrollment opportunity for otherwise eligible retirees, dependents, surviving spouses, and surviving dependent children.
- The new rule will provide those eligible individuals for whom reduced premiums may be more affordable a new opportunity to enroll.



New Rule: Next Steps

- ➡ Submit proposed new rule to the Texas Register, for 30-day publication period
- ➡ Post plain language summaries in English and Spanish on the TRS website
- ➡ Present to the board at the July board meeting for approval to adopt
- ➡ Publish adopted rule in the Texas Register
- ➡ If adopted, we are targeting an Aug. 2024 effective date
- ➡ The limited-time open enrollment opportunity would begin on Oct. 1, 2024 (TRS-Care's next annual enrollment period), and would extend through Mar. 31, 2026





Legal & Compliance

Memorandum

DATE: May 2, 2024

TO: Policy Committee of the Board of Trustees (“Policy Committee”)

FROM: Heather Traeger, General Counsel and Chief Compliance Officer

COPY: Brian Guthrie, Executive Director

RE: Proposed New Rule: TRS Rule 34 T.A.C. § 41.17

Requested Action

TRS Staff asks the Policy Committee to recommend that the Board of Trustees (Board) authorize the publication in the *Texas Register* of the following new Rule for TRS-Care, which will be located at Title 34, Part 3, Chapter 41, Subchapter A of the Texas Administrative Code (TRS-Care):

- § 41.17 (relating to a *Limited-Time Enrollment Opportunity for Medicare-eligible Retirees*)

Background and Reasons for Proposed New Rule

On April 11, 2024, TRS received correspondence from Senator Joan Huffman and Lt. Governor Dan Patrick. In the letter, the legislators discussed the opportunity to provide further benefits for the TRS-Care Medicare-eligible population because of the positively impacted TRS-Care fund balance due to the improved Medicare Advantage regulatory landscape and the improved contracts under which the TRS-Care Medicare Advantage and Part D drug benefits are provided. Therefore, the legislators requested TRS to consider lowering premiums for Medicare-eligible participants in the TRS-Care Medicare Advantage plan while maintaining the long-term stability of the TRS-Care trust fund, and within the Board’s ability to act within its existing authority, to implement a one-time re-enrollment opportunity due to premium decreases for those who may have left the program.

In accordance with the Insurance Code §§ 1575.051-.052, TRS is charged with the duty to devise, implement, and administer the TRS-Care program; and authorized to adopt rules, plans, procedures, and orders considered reasonably necessary to devise, implement, and administer

the program, including periods of enrollment and selection of coverage and procedures for enrolling and exercising options under the group program. Under this authority, TRS issued rule §41.2(c) which states that TRS may establish enrollment opportunities during which an eligible individual may enroll in TRS-Care.

Under this authority and considering the legislators' request, TRS proposes new Rule §41.17, which offers a limited-time enrollment opportunity for Medicare-eligible retirees and their eligible dependents, surviving spouses, and surviving dependent children. This new rule will provide these individuals an opportunity to take advantage of the reduced premiums under the TRS-Care Medicare Advantage plan. The proposed new Rule §41.17 addresses the duration of the limited-time enrollment opportunity, eligibility, and effective dates of coverage.

The new Rule is being proposed for public comment now, in anticipation of a TRS-Care Medicare Advantage plan premium reduction, because the rulemaking process is time sensitive. Staff wants to start the public notice and comment period as early as possible so that when the Board considers the reduced premiums at the July Board meeting, we will have complied with the rulemaking requirements and be ready to adopt the new Rule in time for the next open enrollment which begins on October 1, 2024. The new Rule will be presented for adoption by the Board at the same Board meeting that staff will be requesting approval for the premium reductions.

Conclusion

If the Board of Trustees authorizes publication, the proposed new Rule will be published in the *Texas Register* for public comment for at least 30 days before presentation to the Policy Committee and Board of Trustees for final adoption.

A draft of the proposed new Rule for publication is attached as Attachment 1.

ATTACHMENT 1

Texas Administrative Code

TITLE 34 PUBLIC FINANCE
PART 3 TEACHER RETIREMENT SYSTEM OF TEXAS
SUBCHAPTER A RETIREE HEALTH CARE BENEFITS (TRS-CARE)
RULE §41.17 Limited-Time Enrollment Opportunity for Medicare-eligible Retirees

§41.17. Limited-time Enrollment Opportunity for Medicare-eligible Retirees

(a) Eligibility.

- (1) Retiree. A retiree who is eligible to enroll in the Medicare Advantage plan offered under TRS-Care in accordance with § 1575.1582(b) of the Insurance Code (hereinafter referred to as “MA plan”) and who is not currently enrolled in the MA plan, may enroll in the MA plan if the retiree applies for enrollment during the limited-time enrollment period. For the purpose of this section, the limited-time enrollment period is the period that begins on October 1, 2024, and extends through March 31, 2026.
- (2) Surviving spouses or surviving dependent children. If a retiree has passed away, the retiree’s surviving spouse or the retiree’s surviving dependent child may enroll under this section, as long as:
 - i. The surviving spouse or surviving dependent child qualifies as such under § 1575.003 of the Insurance Code, and
 - ii. The surviving spouse or surviving dependent child is eligible for Medicare and is eligible to enroll in the MA plan offered under TRS-Care in accordance with § 1575.1582(b) of the Insurance Code.
- (3) Dependents. If the retiree’s or surviving spouse’s application to enroll under this section is approved, the retiree or surviving spouse may also enroll any eligible dependents.
- (4) Single enrollment opportunity. A retiree, surviving spouse, or surviving dependent child may only enroll one time during the limited-time enrollment period.

(b) Effective Date of Coverage.

- (1) January 1, 2025. For those applications received and approved before January 1, 2025, coverage shall be effective on January 1, 2025.
- (2) After January 1, 2025. For those applications received after January 1, 2025, the effective date of coverage shall be the first day of the month after TRS receives and approves the request to enroll.
- (3) Range. In no event shall the effective date be prior to January 1, 2025, or after April 1, 2026.