

TITLE 34. PUBLIC FINANCE
PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS
CHAPTER 43. CONTESTED CASES

34 TAC §§43.1, 43.2, 43.3, 43.4, 43.5, 43.6, 43.7, 43.8, 43.9, 43.10, 43.11, 43.12, 43.13, 43.14, 43.15, 43.16, 43.17, 43.18, 43.19, 43.20, 43.21, 43.23, 43.24, 43.25, 43.26, 43.27, 43.28, 43.29, 43.33, 43.34, 43.35, 43.36, 43.37, 43.38, 43.39, 43.40, 43.41, 43.42, 43.43, 43.44, 43.45, 43.46, 43.47, and 43.48.

The Teacher Retirement System of Texas (TRS) proposes to repeal §§43.1, 43.2, 43.3, 43.4, 43.5, 43.6, 43.7, 43.8, 43.9, 43.10, 43.11, 43.12, 43.13, 43.14, 43.15, 43.16, 43.17, 43.18, 43.19, 43.20, 43.21, 43.23, 43.24, 43.25, 43.26, 43.27, 43.28, 43.29, 43.33, 43.34, 43.35, 43.36, 43.37, 43.38, 43.39, 43.40, 43.41, 43.42, 43.43, 43.44, 43.45, 43.46, 43.47, and 43.48 of Chapter 43 (relating to Contested Cases) in Part 3 of Title 34 of the Texas Administrative Code. These repeals are proposed in conjunction with the proposed new rules under Chapter 43 published elsewhere in this issue of the *Texas Register*.

BACKGROUND AND PURPOSE

In 2022, the TRS board of trustees approved the adoption of TRS's four-year rule review. As part of that adopted rule review, TRS staff recommended amending or repealing and readopting all of Chapter 43 of TRS rules, which govern the pension appeals process, in order to improve the readability of the chapter for TRS members and staff. To implement this recommendation, TRS proposes to repeal its existing 44 rules under Chapter 43 as part of a complete restructuring and revision of that chapter. In addition, TRS has proposed 49 new rules to replace these proposed repealed rules in Chapter 43. The proposed new rules are published elsewhere in this issue of the *Texas Register*.

TRS has determined that the proposed repealed rules, if adopted, shall become effective on the same date that the proposed new Chapter 43 rules become effective.

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed repealed rules will be in effect, there will be no foreseeable fiscal implications for state or local governments as a result of administering the proposed repealed rules.

PUBLIC COST/BENEFIT

For each year of the first five years the proposed repealed rules will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the proposed repealed rules will permit TRS to permit to adopt its proposed new Chapter 43 rules, which will improve the readability and clarity of TRS's existing pension appeal process and make administrative improvements to that process.

Mr. Green has also determined that the public will incur no new costs as a result of the proposed repealed rules.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed repealed rules. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed repealed rules. Therefore, no local employment impact statement is required under Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed repealed rules are in effect, the proposed repealed rules will not create or eliminate any TRS programs; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TRS; will not eliminate any fees currently paid to TRS; will not create a new regulation; will not expand or limit an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not affect the state's economy.

The proposed repealed rules will repeal 44 existing rules for the reasons stated above in this preamble.

TAKINGS IMPACT ASSESSMENT

TRS has determined that there are no private real property interests affected by the proposed repealed rules, therefore, a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to the proposed repealed rules because the proposed repealed rules do not impose a cost on regulated persons.

COMMENTS

Comments may be submitted in writing to Brian Guthrie, TRS Executive Director, 1000 Red River Street, Austin, Texas 78701-2698. Written comments must be received by TRS no later than 30 days after publication of this notice in the *Texas Register*.

STATUTORY AUTHORITY

The proposed repealed rules are proposed under the authority of Government Code §825.102, which authorizes the Board to adopt rules for eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the Board; and Government Code §825.115(b), which authorizes the Board to adopt rules relating to the authority of the Board to make a final decision in a contested case or delegate its authority.

CROSS-REFERENCE TO STATUTE

The proposed repealed rules will affect Government Code §825.115(b), which authorizes the Board to adopt rules relating to the authority of the Board to make a final decision in a contested case or delegate its authority.

§43.1 Administrative Review of Individual Requests

§43.2 Effect of Invalidity of Rule

§43.3 Definitions

§43.4 Decisions Subject to Review by an Adjudicative Hearing

§43.5 Request for Adjudicative Hearing

§43.6 Filing of Documents

§43.7 Computation of Time

§43.8 Extensions

§43.9 Docketing of Appeal for Adjudicative Hearing and Dismissal for Failure to Obtain Setting

§43.10 Authority to Grant Relief

§43.11 Classification of Pleadings

§43.12 Form of Petitions and Other Pleadings

§43.13 Filing of Pleadings and Amendments

§43.14 Briefs

§43.15 Motions

§43.16 Notice of Hearing and Other Action

§43.17 Agreements To Be in Writing

§43.18 Motion for Consolidation

§43.19 Additional Parties

§43.20 Appearance and Representation

§43.21 Lead Counsel

§43.23 Powers of the Administrative Law Judge

§43.24 Prehearing Conference and Orders

§43.25 Conduct of Hearing

§43.26 General Admissibility

§43.27 Exhibits

§43.28 Pre-filed Direct Testimony in Disability Appeal Proceedings

§43.29 Limit on Number of Witnesses

§43.33 Failure to Appear

§43.34 Conduct and Decorum at Hearing

§43.35 Official Notice

§43.36 Ex Parte Consultations

§43.37 Recording of the Hearing; Certified Language Interpreter

§43.38 Dismissal without Hearing

§43.39 Summary Disposition

§43.40 The Record

§43.41 Findings of Fact

§43.42 Reopening of Hearing

§43.43 Subpoenas and Commissions

§43.44 Discovery

§43.45 Proposals for Decision, Exceptions, and Appeals to the Board of Trustees

§43.46 Rehearings

§43.47 Procedures Not Otherwise Provided

§43.48 Cost of Preparing Administrative Record

CERTIFICATION

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.