

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

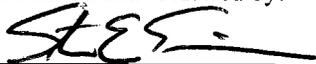
The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §10.51 relating to Internal Ethics and Compliance Program to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §10.51 are adopted and are authorized for filing with the Office of the Secretary of State.

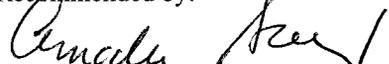
The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:



Deputy Executive Director

Recommended by:



Executive Director

112717 JUN 30 11

Minute
Number

Date
Passed

1 Adoption Preamble

2 The Texas Department of Transportation (department) adopts
3 amendments to §10.51, concerning Internal Ethics and Compliance
4 Program. The amendments to §10.51 are adopted without changes
5 to the proposed text as published in the April 15, 2011 issue of
6 the *Texas Register* (36 TexReg 2378) and will not be republished.

7

8 EXPLANATION OF ADOPTED AMENDMENTS

9 Amendments to §10.51 clarify that the governing body of an
10 entity shall be required to have periodic training in ethics and
11 in the entity's compliance program, along with employees of the
12 entity. Additionally, use of the term "organization" has been
13 changed to "entity" throughout the section for consistency with
14 the U.S. Sentencing Commission Guidelines.

15

16 The amendments add language to §10.51(b)(3) to clarify that an
17 entity's governing board, if it has one, must be trained in
18 ethics and compliance. The amendments delete §10.51(b)(4)
19 because the clarification of §10.51(b)(3) causes §10.51(b)(4) to
20 be redundant. Paragraphs §10.51(b)(5) - (9) are renumbered
21 accordingly. Finally, the amendments replace the word
22 "organization" with the word "entity" throughout the section.

23

24 COMMENTS

25 No comments on the proposed amendments were received.

1

2 STATUTORY AUTHORITY

3 The amendments are adopted under Transportation Code, §201.101,
4 which provides the Texas Transportation Commission with the
5 authority to establish rules for the conduct of the work of the
6 department.

7

8 CROSS REFERENCE TO STATUTE

9 None.

1 SUBCHAPTER B. OTHER ENTITIES' INTERNAL ETHICS
2 AND COMPLIANCE PROCEDURES

3 §10.51. Internal Ethics and Compliance Program.

4 (a) Various sections of this title require an entity to
5 adopt and enforce an internal ethics and compliance program. To
6 comply with that requirement, the entity must certify to the
7 department that the entity:

8 (1) has adopted an internal ethics and compliance program
9 that:

10 (A) is designed to detect and prevent violations of the
11 law, including regulations, and ethical standards applicable to
12 the entity or its officers or employees; and

13 (B) satisfies all requirements of this section; and

14 (2) enforces compliance with its internal ethics and
15 compliance program.

16 (b) An entity's internal ethics and compliance program must
17 be in writing and must provide compliance standards and
18 procedures that the entity's employees and agents are expected
19 to follow. At a minimum, the program must provide that:

20 (1) high-level personnel are responsible for oversight of
21 compliance with the standards and procedures;

22 (2) appropriate care is being taken to avoid the
23 delegation of substantial discretionary authority to individuals

1 whom the entity [~~organization~~] knows, or should know, have a
2 propensity to engage in illegal activities;

3 (3) compliance standards and procedures are effectively
4 communicated to all of the entity's [~~organization's~~] employees,
5 including members of the governing board if the entity has a
6 governing board, by requiring them to participate in periodic
7 training in ethics and in [~~and disseminating to them information~~
8 ~~that explains, in understandable language,~~] the requirements of
9 the program;

10 [~~(4) the governing body or individuals of the~~
11 ~~organization have periodic training in ethics and in the~~
12 ~~compliance program;~~]

13 (4) [~~(5)~~] compliance standards and procedures are
14 effectively communicated to all of the entity's [~~organization's~~]
15 agents;

16 (5) [~~(6)~~] reasonable steps are being taken to achieve
17 compliance with the compliance standards and procedures by:

18 (A) using monitoring and auditing systems that are
19 designed to reasonably detect noncompliance; and

20 (B) providing and publicizing a system for the entity's
21 [~~organization's~~] employees and agents to report suspected
22 noncompliance without fear of retaliation;

23 (6) [~~(7)~~] consistent enforcement of compliance standards

1 and procedures is administered through appropriate disciplinary
2 mechanisms;

3 (7) [~~(8)~~] reasonable steps are being taken to respond
4 appropriately to detected offenses and to prevent future similar
5 offenses; and

6 (8) [~~(9)~~] the entity [~~organization~~] has a written
7 employee code of conduct that, at a minimum, addresses:

8 (A) record retention;

9 (B) fraud;

10 (C) equal opportunity employment;

11 (D) sexual harassment and sexual misconduct;

12 (E) conflicts of interest;

13 (F) personal use of the entity's [~~organization's~~]

14 property; and

15 (G) gifts and honoraria.

16 (c) The department may, at its discretion, request that the
17 entity provide the department with written evidence of the
18 entity's internal ethics and compliance program.