



TEXAS

Department of Assistive
and Rehabilitative Services

REHABILITATION COUNCIL OF TEXAS

Department of Assistive and Rehabilitative Services 4800 North Lamar Blvd. Austin, Texas 78756 (512)424-4160

Karen Stanfill, Chair

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OPINION COMMITTEE

June 27, 2005

RQ-0358-GA

FILE # ML-44255-05

I.D. # 044255

The Honorable Gregg Abbott
The Attorney General
209 West 14th Street
Austin, TX 78711

Dear Mr. Attorney General:

As Chair of the Rehabilitation Council of Texas (RCT), the federally mandated Council which works in partnership with and advises both the Division for Rehabilitation Services (DRS) and the Division for Blind Services (DBS), I have been asked by the Council to request the Attorney General's interpretation of the term limits of council members as outlined in the Rehabilitation Act of 1973 as amended. The reason for this request is an apparent conflict between federal and state law. The regulations under State Vocational Rehabilitation Services Program, Final Rule 34 CFR 361.17 (e):

(e) Terms of appointment

- 1) Each member of the Council must be appointed for a term of no more than 3 years, and each member of the Council, other than a representative identified in paragraph (b)(1)(iii) or (ix) of this section, may serve for no more than two consecutive full terms.
- 2) A member appointed to fill a vacancy occurring prior to the end of the term for which the predecessor was appointed must be appointed for the remainder of the predecessor's term.
- 3) The terms of service of the members initially appointed must be, as specified by the appointing authority as described in paragraph (a)(1) of this section, for varied numbers of years to ensure that terms expire on a staggered basis.

(f) Vacancies.

- (1) A vacancy in the membership of the Council must be filled in the same manner as the original appointment, except the appointing authority as described in paragraph (a)(1) of this section may delegate the authority to fill that vacancy to the remaining members of the Council after making the original appointment.
- (2) No vacancy affects the power of the remaining members to execute the duties of the Council.

Specifically, our questions are:

- 1) The members of the Council are appointed by the Governor. If one three year term is completed and the person has not been notified by the governor that they have been removed, is that person still actively serving on the council and at the pleasure of the governor for another three year term?
- 2) If a person has served two full consecutive three year terms and has not been notified by the governor's office that they have been removed, do they continue to serve actively on the council at the pleasure of the governor, or under the regulations would they be required to remove themselves from the council because they have served two consecutive three year terms?
- 3) Could it be interpreted that a person can be appointed to serve (the) remaining time on another persons' term, then be appointed to serve two full three year terms and be within the guidelines of the regulations?
- 4) If a person is appointed for one term and is not re-appointed, but is not told he/she is replaced, has that person served two terms if he/she completes six years of service?)

An interpretation from your office is greatly appreciated. If there are any questions regarding this request, please contact me at 713-974-7691. I would like to thank you in advance for your assistance.

Sincerely,



Karen Stanfill, Chair
Rehabilitation Council of Texas

KS/dw