



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. HILL
ATTORNEY GENERAL**

January 2, 1974

The Honorable Jess M. Irvin, Jr.
Commissioner for Rehabilitation
1600 W. 38th Street
Austin, Texas 78731

Opinion No. H- 192

Re: May Texas Rehabilitation
Commission enter into
contract with Dept. of
HEW to make disability
determinations under
Title XVI, Social Security
Act, and related questions.

Dear Mr. Irvin:

In requesting an opinion of this office on the above referenced subject matter, you advised us that, in administering the disability benefit provisions of the Social Security Act, the Secretary of Health, Education and Welfare has entered into agreements with the several states relative to the making of determinations of disability by state agencies on behalf of the Secretary, and that the Department of Health, Education and Welfare has designated the Texas Rehabilitation Commission as the state agency to make disability determinations under Title XVI, Social Security Act, as amended.

You have attached to your opinion request a present agreement between the Secretary of Health, Education and Welfare and the Texas Rehabilitation Commission, successor state agency to the Commission for Rehabilitation, which agreement has been in effect since September 1, 1969, and was supplemented on June 12, 1970. You have also attached a proposed modification to the above agreement and supplement thereto which the Department of Health, Education and Welfare has requested you, as Commissioner for Rehabilitation, to execute.

You have asked our opinion on the following questions:

"(1) Is the Texas Rehabilitation Commission empowered to act on behalf of the State of Texas and enter an agree-

ment with the Secretary of Health, Education, and Welfare to carry out the provisions of Title XVI of the Social Security Act, as amended; and

"(2) Am I, as Commissioner of the Texas Rehabilitation Commission, the proper State official to execute the Modification to the present agreement?"

The Texas Rehabilitation Commission is a successor agency to the Division of Vocational Rehabilitation and the Division of Disability Determination of the Central Education Agency. The changes in legislation affecting the Commission are outlined in Attorney General Opinion M-617 (1970) which held:

(1) that the Commission for Rehabilitation (now the Texas Rehabilitation Commission) was the legal successor to all functions, duties and responsibilities of the Division of Vocational Rehabilitation and the Division of Disability Determination of the Central Education Agency, and

(2) that the Commissioner of the Commission for Rehabilitation is the proper State official empowered to execute an agreement on behalf of the State of Texas with the Secretary of Health, Education and Welfare to carry out the provision of § 221 of the Social Security Act to replace a prior agreement entered into by the Central Education Agency. Accordingly, on June 12, 1970, the Commission for Rehabilitation entered into a supplement of the 1969 agreement.

Subsequent to that opinion, the statutes affecting the Commission were codified in the Texas Education Code without substantive change. Vernon's Texas Education Code, § 30.48 provides in part:

"All contracts and agreements between the Central Education Agency and the Social Security Administration relating to the activities of the division of vocational rehabilitation and the division of disability determination of the Central Education Agency shall be continued for the benefit of the Commission."

Texas Education Code, § 30.43 provides:

"The agency shall make agreements, arrangements, or plans to cooperate with the federal government in carrying out the purposes of this chapter or of any federal statutes pertaining to rehabilitation, and to this end may adopt the methods of administration as are found by the federal government to be necessary, and are not contrary to existing State laws, for the proper and efficient operation of such agreements, arrangements, or plans for rehabilitation."

Our answer to your first question is that § 30.43, Title II, Texas Education Code, constitutes the authority for the Texas Rehabilitation Commission to execute the proposed agreement.

Our answer to your second is controlled by § 30.16, Title II, Texas Education Code, which provides as follows:

"This chapter shall be administered by the Commissioner under operational policies established by the board. The commissioner shall be appointed by the board on the basis of his education, training, experience, and demonstrated ability. He shall serve at the pleasure of the board. He shall be secretary to the board, as well as chief administrative officer of the agency."

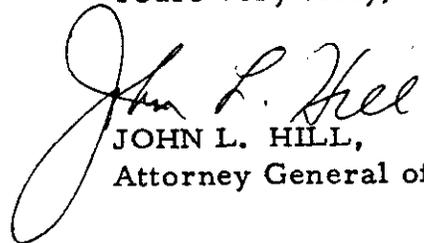
This section constitutes the authority for you, as Commissioner for Rehabilitation of the Texas Rehabilitation Commission, to execute the proposed modification to the present agreement.

SUMMARY

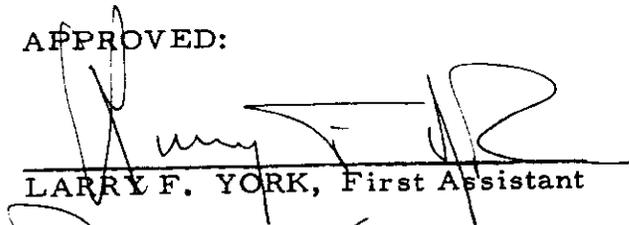
The Texas Rehabilitation Commission is empowered to act on behalf of the State of Texas in entering into an agreement with the Secretary of Health, Education and

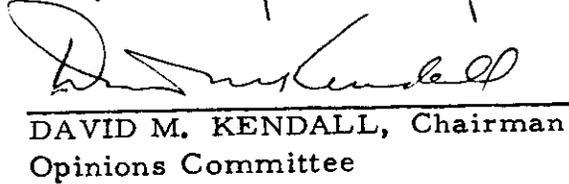
Welfare to carry out the provisions of Title XVI of the Social Security Act, as amended, and the Commissioner of the Texas Rehabilitation Commission is the proper state official to execute such agreement.

Yours very truly,


JOHN L. HILL,
Attorney General of Texas

APPROVED:


LARRY F. YORK, First Assistant


DAVID M. KENDALL, Chairman
Opinions Committee