

**ATTACHMENT III**  
**Text of Adopted Amendments to 19 TAC**

**Chapter 157. Hearings and Appeals**

**Subchapter BB. Specific Appeals to the Commissioner**

**§157.1071. Hearings in Which the Texas Education Agency is a Party.**

(a)-(c) (No change.)

(d) The agency administrative law judge may issue subpoenas if the requirements of Texas Government Code, §2001.089, are met. To obtain a subpoena, the moving party shall meet the following requirements.

- (1) The motion shall set forth good cause for the issuance of the subpoena. The statement of good cause must be more than a conclusory statement that the witness' testimony is reasonably calculated to lead to the discovery of admissible evidence. The statement should specify how the requested testimony is likely to lead to admissible evidence concerning a particular issue in the case, including a statement of the operative facts.
- (2) The motion shall contain a statement that counsel or the party, if not represented by counsel, has dedicated funds sufficient to pay a witness or deponent who is not a party to the case, the amount required under Texas Government Code, §2001.103, and will tender that amount to the witness or deponent no later than immediately following testimony or when the witness or deponent is released.
- (3) If a party requests a witness to bring documents or objects, the motion should specifically identify the documents or objects and specify the good cause for each document or object.
- (4) Motions to quash subpoenas must be filed with the SOAH.

(e) In cases where discovery is appropriate, the agency administrative law judge may issue a commission for deposition in accordance with Texas Government Code, §2001.094.

- (1) The commission for deposition allows the court reporter to issue subpoenas necessary to require that witnesses appear and produce books, records, papers, or other objects necessary and proper for the purposes of the proceeding.
- (2) To obtain a commission for deposition, the party shall file a motion that sets forth good cause for obtaining a commission for deposition. The statement of good cause must be more than a conclusory statement that such discovery is reasonably calculated to lead to the discovery of admissible evidence. The statement should set forth a statement of the operative facts.
- (3) The motion shall contain a statement that counsel or the party, if not represented by counsel, has dedicated funds sufficient to pay a deponent, who is not a party to the case, the amount required under Texas Government Code, §2001.103, and will tender that amount to the witness or deponent no later than immediately following testimony or when the witness or deponent is released.
- (4) If a party requests a witness to bring documents or objects, the motion should specifically identify the documents or objects and specify the good cause for each document or object. The motion should also identify the time and place for the deposition.
- (5) Motions to quash depositions must be filed with the SOAH.

**§157.1072. Hearings Brought Under Texas Education Code, Chapter 21, Subchapter G.**

(a)-(f) (No change.)

(g) Motions. All motions requiring a ruling must contain a certificate of conference asserting that the movant has conferred with the opposing party representative and has or has not obtained agreement with the motion. If no conference was conducted, the movant shall state the reasons, amounting to good cause, why the

conference was not held. All motions requiring a certificate of conference will be denied without the requirement of a response if the moving party fails to confer with the opposing party as required. [Any motion for which a conference was not held must be responded to within three days unless the administrative law judge specifies a shorter time to respond. Failure to timely respond will result in a presumption that the motion is unopposed.]

- (h) Motions without a conference. Any motion for which a conference was not held, when the movant alleges there was good cause not to hold a conference, must be responded to within three days unless the administrative law judge specifies a shorter time to respond. Failure to timely respond will result in a presumption that the motion is unopposed.
- (i) ~~(h)~~ Nonrenewal hearings without an independent hearing examiner. In a hearing involving the nonrenewal of a term contract that was not heard by an independent hearing examiner, if no fact findings were made, the commissioner will determine whether the decision is supported by substantial evidence by judging whether there is substantial evidence to support the reasons for proposed nonrenewal.
- (j) ~~(i)~~ Request for rehearing. Not later than the 20th day after the date the party or the party representative receives notice of the commissioner's decision under TEC, §21.304, a party may file a request for rehearing. A request for rehearing is not required for a party to appeal the commissioner's decision under TEC, §21.307. A request for rehearing is denied by operation of law if the commissioner does not issue an order before the 45th day after the date the party or the party's representative receives notice of the commissioner's decision.
- (k) ~~(j)~~ Motions for summary judgment. Motions for summary judgment are not permitted.
- (l) ~~(k)~~ Mailbox rule for filings. The mailbox rule does not apply to filings under this section.