



Texas Commission on Fire Protection

P.O. Box 2286, Austin, Texas 78701-2286

PH# 512-936-3838

Website: www.tcfp.texas.gov

Email: info@tcfp.texas.gov

March 4, 2024

Re: **Update on TCFP Committee Member Selection Process**

During the 2021 Sunset review, it was recommended that TCFP comply with State law regarding Committees including establishing a rule about how Committees will function. The goal of the Commissioners has been to ensure consistency and transparency throughout the process. TCFP Commissioners, staff, Committee members and the fire service stakeholders have worked together for over two years, to ensure a practical and compliant process.

At their October 26, 2023, meeting, the Commissioners adopted Title 37 Part 13 Chapter 463 **(Attachment A)** which outlines the Commission's three (3) standing committees. The rule also outlines how these committees will function, eligibility to serve on these committees, committee member terms and committee abolishment dates along with other general areas of interest.

At the same meeting they continued working to develop the Internal Agency policy on how the selection process would work. Commissioner Glynn requested a legal opinion from TCFP Legal Counsel Frank King, on how existing committee members will be replaced with term limited members. Commissioners received the Legal brief in late November 2023 in advance of their February 28, 2024 workshop. **(Attachment B w/ 3 Exhibits)**

Since this is a substantial change in how committee members are selected, it was the opinion of the Commissioners that by having the selection process outlined in an internal policy, the Commissioners will be able to ensure a consistent process when filling committee vacancies while being able to identify needed improvements and making those improvements in a timely manner, as not to delay the process moving forward.

At the February 29, 2024 meeting, Commissioners discussed and approved the internal TCFP policy **(Attachment C)**, established an Ad Hoc Committee of five Commissioners (Coatney, Glynn, Johnson, Wilson & Smith) and outlined the process that will be followed to start filling vacant seats on all three standing committees. Following the Commission meeting, the Ad Hoc Committee met to begin the process. It is anticipated that by the May 16 Commission meeting, the Ad Hoc committee will have a list of candidates for the Health & Wellness committee.

Respectfully,

Mike Wisko

Mike Wisko

Agency Chief

**TITLE 37 PUBLIC SAFETY AND CORRECTIONS
PART 13 TEXAS COMMISSION ON FIRE PROTECTION
CHAPTER 463 ADVISORY COMMITTEES, PRACTICE AND PROCEDURES**

§463.1 Objective

(a) The Texas Commission on Fire Protection (TCFP) is organized to aid in the protection of the lives and property of Texas citizens through the development and enforcement of recognized professional standards for individuals and the fire service. To achieve the goals of TCFP, each committee will evaluate, make recommendations, and issue reports to the Commission on any issue in the committee's purview. Committees shall represent TCFP in advocacy for or opposition to projects and issues upon the specific authority of the Commission or such authority as may be clearly granted upon general powers delegated by the Commission to that committee. In this Chapter, "Commission" refers to the governing body, and TCFP refers to the state agency.

(b) The Commission has established a Firefighter Advisory Committee, Curriculum and Testing Committee, and Health and Wellness Committee in compliance with the Texas Government Code §2110.008, Duration of Advisory Committees. These committees will continue for four years from the date of creation and may be continued following a vote of the Commission, to extend each of the established committees. The Commission may create short-term Ad Hoc working groups for specific purposes in accordance with this rule. The committee's purpose, eligibility, terms, and meeting procedures are identified in this rule.

§463.3 General

(a) The Commission may convene committees that are deemed to be in the best interest of the TCFP and its mission.

(b) All committees shall be subject to and governed by these rules.

(c) The approved committee shall elect a member of their committee as the chairperson who may remain in this position for two (2) years before reappointment or until such time as a new person is appointed as the Chairperson.

(d) Committees should be composed of a reasonable odd number of members, with a minimum of nine and a maximum of 15 members.

(e) The committees shall meet at least twice each calendar year at the call of either the committee chairperson or the Commission.

(f) All committees shall be reviewed for relevance by the Commission every odd year and will either be renewed or discontinued.

(g) The committee chairperson may form ad hoc working groups, when in the judgment of the chair, it will enhance or provide guidance for a specific purpose or time period. The committee chairperson may determine working group selection, but membership is limited only to ad hoc and will disband once the purpose has been met.

(h) Annually each committee chairperson will present to the Commission an end-of-year status report.

(i) Meetings to deliberate a test item or information related to a test item do not require an open meeting per Texas Government Code §551.088.

§463.5 Eligibility

(a) Any person, association, corporation, partnership, or other entity having an interest in the above-recited objectives shall be eligible for membership.

(b) Committee composition should have representatives from each fire protection stakeholder group, with consideration of department size, region, and mission.

(c) Vacant positions will be announced. Interested, qualified candidates may apply for committee appointments. A candidate selection committee may be formed to assist in the application process and may make recommendations for appointments. The list of candidates will then be presented to the Commission during their next meeting for consideration. The Commission will appoint committee members and select alternates at the same time in the event committee members cannot fulfill their tenure and/or replacement members are needed. Terms shall begin immediately following Commission approval. Interim appointments may be made to complete vacated, unexpired terms.

§463.7 Terms

(a) Committee members shall be appointed to serve six-year terms of office, with the intent to stagger and to ensure continuity of membership from year to year. Committee members serve six-year terms and may serve consecutively; however, after a second six-year term, the member will not be eligible for another term until after a lapse of two years. For all committees, the member positions will be numbered 1-11.

Figure: 37 TAC §463.7(a)

Position	Initial Appointment
1&9	2024
2,10,11	2025
3,4,5	2026
6,7,8	2027

(b) The current holdover member serving in positions 1-11 will expire on the last day of the month before the initial appointments commence. Current holdover members are eligible to apply for initial appointments.

(c) In the event that a member cannot fulfill a term, a new member shall be appointed to complete the term. This does not count as the individual's first term.

§463.9 Meetings

(a) Committee chairperson or a designated committee member when the chairperson is unavailable shall conduct all committee meetings.

(b) Committee meetings should be held in Austin, Texas. Committee meetings cannot be held outside of the state of Texas.

(c) Committees shall post meeting times, locations, and agendas with the Secretary of State in accordance with the Open Meetings Act, Texas Government Code Chapter 551. Committees shall keep minutes in accordance with the Open Meetings Act. When feasible, committees may allow members of the public to participate in a meeting from a remote location by videoconference call pursuant to Texas Government Code §551.127(k) to encourage access and participation throughout the state.

(d) Committee chairpersons may limit discussion times if, in the opinion of the chairperson, it is warranted. Participants who fail to follow the above rules may be subject to removal from the meeting.

(e) Committees may meet by videoconference call, but only if they follow the requirements of Texas Government Code §551.127. The committee must still have a physical location for the public to attend. The member presiding over the meeting must attend in person, while other members and staff may attend remotely.

§463.11 Limitation of Powers

No action by any committee chairperson or its members shall be binding upon, or constitute an expression of, the policy of TCFP until it has been approved or ratified by the Commission. It shall be the function of the committees to evaluate, make recommendations, and report only to the Commission. Committees shall represent TCFP in advocacy for or opposition to projects and issues upon the specific authority of the Commission or such authority as may be clearly granted upon general powers delegated by the Commission to that committee.

§463.13 Testimony

Once committee action has been approved by the Commission, testimony and/or presentations may be given and made before stakeholders, governmental agencies, or any other entity as deemed appropriate by the chairperson of the Commission.

§463.15 Expulsion

After written notice and a hearing before the Commission, any committee member may be expelled from a committee for conduct that is unbecoming or prejudicial to the aims or repute of TCFP or expelled for lack of attendance, unless excused, to more than half of the scheduled committee meetings in a calendar year.

§463.17 Abolishment Date

Any advisory committee created by the Commission will be abolished after four years from the date of creation unless it is re-established by the Commission prior to the abolishment date.



Texas Commission on Fire Protection

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Website: www.tcfp.texas.gov

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November 3, 2023

To: Mike Wisko, Agency Chief
 From: Frank A. King, General Counsel
 Subject: Chapter 463 Advisory Committees Brief

On October 26, 2023, the Texas Commission on Fire Protection convened a meeting in which the Commissioners voted to implement the proposed 37 TAC Chapter 463 – Advisory Committees Practice and Procedures. Some of the Commissioners had questions regarding the implementation of this new rule. Specifically, Commissioner Glynn had questions regarding the proposed Standard Operating Procedures for selection and appointment of members to the standing committees. Please allow the following to serve as analysis of 37 TAC Chapter 463 and answers to the proposed questions.

1. Attached to the proposed Standard Operating Procedure was a list of Committee position numbers 1 through 11, the term of each position, the name of the existing member (“holdover member”) and the year the holdover member was appointed to the standing Advisory Committees - Curriculum and Testing Committee, the Firefighter Advisory Committee and the Health and Wellness Committee (the “Advisory Committees”). *Please see* Exhibit 1 - proposed Standard Operating Procedures. Commissioner Glynn asked “for those advisory committee members listed on pages 2 and 3 are they to be considered as being appointed as of today?” *Please see* Exhibit 2 – Commissioner Glynn’s email. Pursuant to Rule §463.7(b) – Terms – “The current holdover member serving in positions 1 – 11 will expire on the last day of the month before the initial appointments commence.” *Please see* Exhibit 3 – TAC Rule §463.7. This Rule establishes the difference between the existing holdover members that are serving on the Advisory Committees currently, and the initial appointment members that will be appointed in the future by the Commissioners to the Advisory Committees. For instance, Positions 1 and 9 of each Advisory Committee will be appointed at the Commissioners’ meeting in 2024, Positions 2, 10 and 11 will be appointed at the Commissioners’ meeting in 2025, Positions 3, 4 and 5 will be appointed at the Commissioners’ meeting in 2026 and Positions 6, 7 and 8 will be appointed at the Commissioners’ meeting in 2027. *Please see* Exhibit 1.
2. Commissioner Glynn asked “if they are not to be considered as being appointed how can they serve on an advisory committee as voting members?” *Please see* Exhibit 2. Again, pursuant to Rule §463.7(b), the current holdover members’ terms expire on the last day of the month before the initial appointments commence. *Please see* Exhibit 3. So, that means that the current holdover members continue to serve and vote on the Advisory Committees until the last day of the month before the Commissioners’ meeting upon which the Commissioners vote on the new members (“initial appointment members”) of the Advisory Committees. Further “Current holdover members are eligible to apply for initial appointments.” *Id.* So that means that the holdover members terms expire before the Commissioners’ meeting, but if they are

voted into the Advisory Committee again by the Commissioners, they start a new six-year term as “initial appointment members” under Rule §463.7(b) rather than “holdover members.” *Id.*

3. Commissioner Glynn asked, “if they are to be considered as being appointed, how can we be in compliance with the statute requiring advisory committee members be appointed to 6-year terms?” *Please see* Exhibit 2. Once again, this question conflates the status of “holdover members” vs. “initial appointment members” because the holdover members terms expire before the initial appointment members terms begin once the Commissioners appoint them. Then, the initial appointment members’ terms commence their 6-year terms. *Please see* Exhibit 3.

During the meeting, a motion was made by Commissioner Glynn and seconded by Commissioner Mike Jones to table discussion and possible action on filling the current vacancies on the Advisory Committees until the February 2024 Commission meeting. The motion carried.

I hope the foregoing serves to answer the questions regarding the proposed Standard Operating Procedures for selection and appointment of members to the Advisory Committees. Please let me know if you have any further questions.



TEXAS COMMISSION ON FIRE PROTECTION

Post Office Box 2286, Austin, Texas 78765 2286 512 936 3838 Fax: 512 936 3608

Website: www.tcfp.texas.gov Email: info@tcfp.texas.gov

Internal Policy

Policy #IP 004

Required Review Date: 2026

Re: Appointment of Committee Members

Date: 10-26-2023 DRAFT DRAFT DRAFT

Mike Wisko Agency Chief:

Purpose

The purpose of this Standard Operating Procedure (SOP) is to establish a method for selection and appointment of members to fill position vacancies for the purpose of serving on standing committees as prescribed by the Texas Commission on Fire Protection (TCFP).

Policy

When a standing committee vacancy exists, or will exist within one hundred twenty (120) days, an ad hoc committee shall be appointed by the Chair of the Commission for the purpose of selecting candidates for referral to the Board of Commissioners for appointment to fill such position vacancies.

- A. The ad hoc committee shall consist of one (1) Chairperson, with a total membership of five (5) members to include the Chairperson.
- B. The ad hoc committee Chair, in coordination with TCFP staff, shall ensure public notification of committee vacancies is posted on the TCFP website for a period of thirty (30) calendar days.
 1. Notification shall include a downloadable application form, along with submittal instructions, for the respective committee position.
- C. Applications for a committee position will be received only during the thirty (30) calendar days in which the position is posted and acceptance of applications shall cease upon termination of such posting.
- D. TCFP staff shall supply documentation of information pertaining to all applications received to the Chair of the ad hoc committee no later than seven (7) calendar days from the date receipt of applications closes as described in H.C above.
- E. Upon receipt, the ad hoc committee Chair will distribute the list of applicants to all committee members for consideration. Each committee member shall be responsible to

EXHIBIT 1

narrow the number of candidates to a list of no more than five (5) candidates for a single vacancy. If multiple vacancies exist, or will exist within one hundred twenty (120) days, an additional two (2) recommendations shall be made for each additional vacancy.

F. The ad hoc committee Chair shall convene the ad hoc committee within thirty (30) days of distribution of the candidate list to committee members for the purpose of finalizing a list of no more than five (5) recommended candidates for a single vacancy. If multiple vacancies exist, or will exist within one hundred twenty (120) days, an additional two (2) recommendations shall be made for each additional vacancy. Agreement on the finalist candidates shall be through consensus of the committee.

G. The ad hoc committee Chair shall forward the list of finalist candidates to the Chair of the Commission and the Chief of the Commission within seven (7) calendar days of the committee's consensus agreement for the purpose of presenting to the Commissioners for a final decision at the following regular meeting of the TCFP.

Committee Positions/Terms

To simplify the initiation of terms for each committee and committee position, in accordance with TAC 463.7, the below list will be used. It outlines the Committee, the committee position number, the term for each position and the existing member and current time on the committee.

Curriculum & Testing Committee

Position 1 – 2024 – 2030 (Richard Bahena 2004)

Position 2 – 2025 – 2031 (Pat McAuliff 1989)

Position 3 – 2026 – 2032 (Sam Baucom 2017)

Position 4 – 2026 – 2032 (Chuck French 2008)

Position 5 – 2026 – 2032 (Chris Watson 2010)

Position 6 – 2027 – 2033 (Douglas Matthijetz 2022)

Position 7 – 2027 – 2033 (Martin Davila 2015)

Position 8 – 2027 – 2033 (Buddy Rice 2022)

Position 9 – 2024 – 2030 (Daryl Maretka 2013)

Position 10 – 2025 – 2031 (Daniel DeYear 2017)

Position 11 – 2025 – 2031 (Louis Havens 2006)

Firefighter Advisory Committee

- Position 1 – 2024 – 2030 (Jim Reidy 2004)
- Position 2 – 2025 – 2031 (Daniel DeYear 2008)
- Position 3 – 2026 – 2032 (Jason Collier 2011)
- Position 4 – 2026 – 2032 (Daniel Buford 2016)
- Position 5 – 2026 – 2032 (Keith Schmidt 2018)
- Position 6 – 2027 – 2033 (Vince Abrigo 2018)
- Position 7 – 2027 – 2033 (Daniel Anderson 2018)
- Position 8 – 2027 – 2033 (Antonio Ramos 2021)
- Position 9 – 2024 – 2030 (Vacant 2023)
- Position 10 – 2025 – 2031 (New 2025)
- Position 11 – 2025 – 2031 (New 2025)

Health & Wellness Committee

- Position 1 – 2024 – 2030 (Vacant 2023)
- Position 2 – 2025 – 2031 (Mala Sharma 2018)
- Position 3 – 2026 – 2032 (Daniel DeYear 2018)
- Position 4 – 2026 – 2032 (Doug Boeker 2018)
- Position 5 – 2026 – 2032 (Michael Mire 2018)
- Position 6 – 2027 – 2033 (Steve Green 2018)
- Position 7 – 2027 – 2033 (Homer Salinas 2018)
- Position 8 – 2027 – 2033 (Christopher Kahl 2018)
- Position 9 – 2024 – 2030 (Vacant 2023)
- Position 10 – 2025 – 2031 (Vacant 2023)
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Mr. King-

Thanks for the opportunity to seek your legal opinion on Draft Policy #IP 004 as laid out this morning at our Commissioners' meeting. They are as follows:

1. for those advisory committee members listed on pages 2 and 3 are they to be considered as being appointed as of today?;
2. if they are not to be considered as being appointed how can they serve on an advisory committee as voting members?; and
3. if they are to be considered as being appointed, how can we be in compliance with the statute requiring advisory committee members be appointed to 6-year terms?

Thanks for your time and input.

Michael Glynn
President

Fort Worth Professional Firefighters Association
3855 Tulsa Way
Fort Worth, Texas 76107-3345
817-831-0406 Office
817-721-4425 Cell

EXHIBIT 2

Texas Register

TITLE 37 PUBLIC SAFETY AND CORRECTIONS
PART 13 TEXAS COMMISSION ON FIRE PROTECTION
CHAPTER 463 ADVISORY COMMITTEES, PRACTICE AND PROCEDURES
RULE §463.7 Terms
ISSUE 10/20/2023
ACTION Proposed

Preamble

No Rule Available

(a) Committee members shall be appointed to serve six-year terms of office, with the intent to stagger and to ensure continuity of membership from year to year. Committee members serve six-year terms and may serve consecutively; however, after a second six-year term, the member will not be eligible for another term until after a lapse of two years. For all committees, the member positions will be numbered 1-11.

Attached Graphic

(b) The current holdover member serving in positions 1-11 will expire on the last day of the month before the initial appointments commence. Current holdover members are eligible to apply for initial appointments.

(c) In the event that a member cannot fulfill a term, a new member shall be appointed to complete the term. This does not count as the individual's first term.

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

Filed with the Office of the Secretary of State on October 6, 2023

TRD-202303718

Mike Wisko

Agency Chief

Texas Commission on Fire Protection

Earliest possible date of adoption: November 19, 2023

For further information, please call: (512) 936-3841

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EXHIBIT 3

(ATTACHMENT C)



TEXAS COMMISSION ON FIRE PROTECTION

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Website: www.tcfp.texas.gov Email: info@tcfp.texas.gov

Internal Policy

Policy #IP 004

Required Review Date: 2026

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Date: 02-29-2024

Mike Wisko Agency Chief: *[Signature]*

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