



**THE ATTORNEY GENERAL
OF TEXAS**

November 26, 1990

**JIM MATTOX
ATTORNEY GENERAL**

Mr. Fred Toler
Executive Director
Texas Commission on Law
Enforcement Officers
Standards and Education
1606 Headway Circle, Suite 100
Austin, Texas 78754

LO-90-101

Dear Mr. Toler:

You ask about several provisions in subchapter E of chapter 415 of the Government Code relating to the Law Enforcement Management Institute (hereinafter, the "institute").

Section 415.092 states that the institute "is created for the training of police management personnel." The institute is governed by a nine member board of directors (hereinafter the "board"), one member being appointed by each of the nine commissioners of the Commission on Law Enforcement Officer Standards and Education. See Gov't Code subch. A, ch. 415 (providing for the composition and powers of the commission.)

Your first question relates to appointments to the board. Subsection (a) of section 415.095 provides that "members of the board hold office for two-year terms, with each member's term expiring February 1 of each odd-numbered year." Subsection (c) of section 415.095 provides that "(a) member may not serve more than one full term." You advise that board members were appointed in 1989 to full terms which will expire on February 1, 1991. In 1990, one of the board members vacated his position and another person was then appointed to serve the unexpired portion of the term, i.e., until February 1, 1991.¹ You ask whether the board

1. See Gov't Code § 415.095(b) (providing that if a vacancy on the board occurs during a term, the commissioner who appointed the member vacating the office shall appoint a replacement to serve the unexpired portion of the term).

who was appointed in 1990 to serve out the unexpired term ending in February 1991, may be "reappointed" in February 1991 for a full term ending February 1, 1993.

We think subsection (c) would permit the person you are concerned about, so long as he is otherwise eligible and has not previously served a full term, to be appointed to a full term in 1991 and to serve out that full term. See § 415.093(d) (eligibility for appointment to board).

Although it is possible that subsection (c) of section 415.095 may be read to prohibit a person serving any more time on the board than one full term, we think the effect of subsection (c) is rather to prohibit a person serving two or more full terms on the board, but to permit service of one full term in addition to a portion of a term.

You also ask about the scope of the language in subsection (d) of section 415.098 of the Government Code, which provides with regard to "institute training programs":

The board shall establish reasonable charges for participation in institute training programs by participants who are not residents of this state. The participation costs of participants who are residents, including tuition, books, room, board, and travel costs, shall be paid from the Law Enforcement Management Institute fund.

See also Gov't Code §§ 415.098(e) ("participation in the institute training programs is open to every eligible resident of this state"); id. subsection (a) ("board shall develop the institute's curriculum, select instructors, establish admission standards, determine scholarship criteria", etc.); 415.099 ("Law Enforcement Management Institute Fund is in the state treasury").

You say the institute plans a large number of programs, some of which will be co-sponsored with other organizations. You ask:

1. Does the word 'shall' in the second sentence of this subsection require the Management Institute to pay the costs incurred by participants of all its training programs, or may the Management Institute sponsor certain training programs for which it pays no participation costs, even the participants incur costs while attending the training program?

2. When the institute co-sponsors a program in conjunction with other organizations, is the Institute required to pay the participants' participation costs for these programs?

We think it is clear under subsection (d) that the participation costs for participation in "institute training programs" by residents of this state are to be paid from the Law Enforcement Management Institute Fund. Whether a particular "program" with which the institute might have some involvement would be an "institute training program," within the meaning of section 415.098, for which the participation costs of residents are to be paid from the Law Enforcement Management Institute Fund would depend on the factual nature of such program.

Very truly yours,


Sarah Woelk, Chief
Letter Opinion Section


Rick Gilpin, Chairman
Opinion Committee

Prepared by: William Walker

APPROVED: OPINION COMMITTEE

SW/RG/WW/mc

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