



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 14, 1993

Honorable Tom Craddick
Chairman
House Committee on Ways and Means
P.O. Box 2910
Austin, Texas 78768-2910

Letter Opinion No. 93-36

Re: Eligibility for participation in a poster contest sponsored by the Texas Dietetic Association and Associated Milk Producers, Inc. (ID# 19069)

Dear Representative Craddick:

You ask about regulations governing the holding of a "nutrition poster contest" in public elementary schools, and whether "employees, associates or members (and their families) of the sponsoring organizations [are] eligible for participation in the contest."¹

There are no state laws or regulations governing such contests in Texas. Since the event is a "contest," and presumably based solely on skill, no "gambling" issue is presented. As indicated in Attorney General Opinion JM-412 (1985), "gambling" requires the presence of three elements: consideration, chance, and prize. You do not state whether contestants will be required to pay for the opportunity to participate, but if the element of chance is wholly lacking, the contest does not constitute "gambling." *See also* Attorney General Opinion V-544 (1948) (theater contest testing knowledge of participants is not gambling).

Although the kind of contest you have described is not governed by state law, it *may* be regulated by rule in one or more of the school districts involved. The sponsors should direct their inquiries about such matters to the particular school districts in which they plan to hold the contest. Furthermore, it is conceivable that some cities may regulate such contests, and questions pertinent thereto should be directed to the particular municipalities.

Contests of this sort are generally based on the rules established by the sponsors of the contest, and those rules form a contract under which the contestants participate and prizes are awarded. *Blytheville Courier v. McCall*, 273 S.W. 368 (Ark. 1925). Thus, if no municipal or school district regulations are applicable, the issue of whether employees,

¹You indicate that the "sponsoring organizations" are the Texas Dietetic Association and the Consumer Services Division of Associated Milk Producers, Inc.

associates, and members of the sponsoring organizations are eligible to participate in the contest must be determined by the rules promulgated by the sponsoring organizations.

S U M M A R Y

No Texas statute or constitutional provision governs the regulation of a "nutrition poster contest" if the contest is based solely on skill.

Yours very truly,

A handwritten signature in black ink that reads "Rick Gilpin". The signature is written in a cursive style with a prominent dot over the 'i' in "Gilpin".

Rick Gilpin
Deputy Chief
Opinion Committee