



# *Texas Credit Union Commission*

## ***Policies Manual***

Revised July 8, 2016

## ADOPTIONS

**These policies were reviewed and adopted by the Credit Union Commission at a regular meeting on July 12, 1991.**

**Section IX. T was revised on September 11, 1992.**

**Section IX. U was added on March 5, 1993.**

**Section IX .T was revised on February 14, 1994.**

**Section IX .V was added on August 5, 1994.**

**On February 13, 1995, the following revisions and addition were adopted by the Credit Union Commission:**

Section II E 3 and II E 4 were revised; Section III F and III J were revised; Section IX G, IX T 2, and IX U were revised; and, Section IX W was added.

**On July 12, 1996, the following addition and revision were adopted:**

The Decision Matrix was added in an Appendix; Section VI was revised to reflect the change in maximum actual reimbursable expenses to conform to H.B. 1, Sec. 4.1.

**On October 7, 1996, the following revisions and additions were adopted by the Credit Union Commission:**

Section II D was revised; Section II E 9 was revised; Section IV I was added; Section VI was revised; Section VIII F was revised; and Section XIII D was repealed.

**On October 10, 1997, the following revisions and addition were adopted by the Credit Union Commission:**

Section II B was revised; a new Section VIII was added; the former Sections VIII through XIV were renumbered; and Appendix B was added.

**On January 16, 1998, the following additions and revisions were adopted by the Credit Union Commission:**

Section II E was revised to add new Paragraphs 4, 5, and 12, and former Paragraphs 4 through 9 were renumbered.

**On January 15, 1999, the following additions and revisions were adopted by the Credit Union Commission:**

Section VI (A) & (D) pertaining to Commission travel were updated to reflect statutory changes enacted by the 75<sup>th</sup> Legislature.

Section VII pertaining to acceptance of gifts of money was deleted and a new Section VII was adopted for recognition awards.

Section X (S) was deleted and the remaining paragraphs were renumbered. New Section X (S) relating to Commissioner Evaluation was modified to make the evaluation date coincide with the fiscal year-end.

New Section X (V) was modified to delete reference to a Department policy on the orderly hearing of conservation order appeals.

Various formatting, grammatical and spelling errors were corrected.

**On January 21, 2000, the following revisions were adopted by the Credit Union Commission:**

Section I; Section II C, D, E 2, E 9 & E 11; Section III B, C, D & J; Section IV I; Section VI A, B & D; Section VII B; Section IX B; Section X A, B, F, G, S 1, S 5 & U, and; Section XIII.

**On April 21, 2000, the following revision was adopted by the Credit Union Commission:**

Section II. E. 11 was changed to delete distribution of minutes to the Attorney General's Office.

**On January 19, 2001, the following revision was adopted by the Credit Union Commission:**

Section III K was added to establish principles for the promulgation and review of rules.

**On November 15, 2002, the following revision was adopted by the Credit Union Commission:**

Section II F was added to officially delegate the authority to make decisions regarding motions for oral argument to the Chairman.

**On March 21, 2003, the following revision was adopted by the Credit Union Commission:**

Section II E (4) was modified to clarify public input for non-agenda items.

**On February 17, 2006, the following revisions were adopted by the Credit Union Commission:**

Section X. S. (5) was modified to change the completion date of the evaluation process.

Section XII, which dealt with Surety Bonds, was deleted and a new Section XII was added regarding Strategic Goals.

Section XIV was changed to strengthen the expectations related to Ethical Standards.

**On February 14, 2007, the following revisions were adopted by the Credit Union Commission:**

Section X regarding Commissioner Role is now Section XI and a new Section X was added regarding Commissioner Evaluation Committee.

Section XI regarding Approval of Documents is now Section XII.

Section XII regarding Strategic Goals is now Section XIII.

Section XIII regarding Legal Counsel is now Section XIV.

Section XIV regarding Ethical Standards is now Section XV.

Commissioner Succession Plan was added as Appendix C.

**On February 11, 2009, the following revisions were adopted by the Credit Union Commission:**

Section VII. D was added to provide for Commission resolutions honoring credit unions for certain milestone dates.

Section IX was modified to revise the structure of Advisory Committees to conform to the Government Code.

**On June 19, 2009, the following revision was adopted by the Credit Union Commission:**

Section X was modified to add new Standing Committee.

**On October 16, 2009, the following revisions were adopted by the Credit Union Commission:**

Section II (13) was added to establish Attendance Expectations consistent with statutory changes enacted by the 81<sup>st</sup> Legislature.

Section XVI was added regarding Use of Technology to reflect statutory changes enacted by the 81<sup>st</sup> Legislature.

Section XVI was added regarding Negotiated Rulemaking and Alternative Dispute Resolution to reflect statutory changes enacted by the 81<sup>st</sup> Legislature.

**On February 19, 2010, the following revisions/additions were adopted by the Credit Union Commission:**

Section II, D was modified to remove references to non-commission committee appointees.

Section II, E, 8, e–m, were modified to adjust the order of business to include consideration of request for excused absences.

Section II, E, 11 was modified to reflect that minutes are on file in the Department's offices.

Section IV, A, 1–2 were modified to reflect SDSI status.

Section VIII was modified to reflect training requirements as required by Sunset Legislation.

Section X, A, 4 was modified to reflect time frame of Commissioner Evaluation.

Section X, B, 1 was modified to clarify the Commission Chair appoints committee members.

Section XI, J was modified to reflect SDSI status.

Section XII was modified to reflect SDSI status.

Section XV, F was modified to add a prohibition against an examiner becoming indebted to a credit union.

Section XVIII was added establishing a Contingency Fund Reserve Policy.

Appendix A, Decision Matrix, was modified to reflect SDSI status.

Appendix B, New Commission Member Training Program was updated to reflect statutory changes.

**On February 18, 2011, the following revisions were adopted by the Credit Union Commission:**

Section VI, E was modified to reflect SDSI status

Section IX, E was modified to reflect SDSI status.

Section XII was modified to reflect SDSI status.

**On February 17, 2012, the following revisions were adopted by the Credit Union Commission:**

Section XVIII regarding Reserve Policy is now Section XIX and a new Section XVIII was added regarding Budget Policy.

**On November 2, 2012, the following revisions were adopted by the Credit Union Commission:**

Section XIX, B was modified to prescribe the maximum limit for the Contingency Fund Reserve and its six sub-accounts.

Section XIX, D was modified to ensure that excess funds in the Contingency Fund Reserve are used during the next fiscal year to reduce operating fees.

**On February 15, 2013, the following revision was adopted by the Credit Union Commission:**

Section II, E, 2 was modified to remove language inconsistent with notification requirements of the Open Meetings Act.

**On February 21, 2014, the following revisions were adopted by the Credit Union Commission:**

Section II B was modified to convert the vice chair from an elected position to a designation made by the Commission Chair;

Section II E 8 & 13 were revised to reflect minor edits and formatting;

Section III I was deleted and the remaining paragraphs renumbered;

Section IV F was revised to reflect minor edits and formatting;

Section VI B was modified to reflect the change in guidelines for reimbursement of meals and lodging from the General Appropriations Act to the locality-based rates approved by the Comptroller's Office;

Section XI A was revised to reflect minor edits and formatting;

Section XV F was modified to integrate the General Counsel position into the specific restrictions that deal with lending transactions and deposit relationships with credit unions;

Section XVI was revised to reflect minor edits and formatting;

Section XVIII G was modified to clarify that full-time equivalent or FTE is not the same as authorized positions and instituting a new cap on employment levels;

Section XVIII H was modified to remove examination fees paid by residential mortgage loan originators employed by a CUSO from revenue;

Section XVIII J was revised to reflect minor edits and formatting;

Section XIX C was revised to reflect minor edits and formatting;

Appendix B, New Commission Member Training Program was revised to reflect SDSA status;

Appendix C, Commissioner Succession Plan was modified to switch the required review of the Plan from an annual event to one that is performed periodically;

**On March 4, 2016, the following revisions were adopted by the Credit Union Commission:**

Section XV I was added to reflect a new requirement related to annual disclosure and prohibition of certain contracts;

Section XVIII D was modified to clarify the date the Commission approves budget assumptions;

Section XVIII M was added to provide authority for obligated funds to be automatically carried over from one fiscal year to the next until the legal obligation is satisfied.

Section XX was added to establish a Second Amendment weapons policy.

**On July 8, 2016, the following revision was adopted by the Credit Union Commission:**

Section XX was modified to clarify that the Credit Union Department will not impose any restrictions on the carrying of firearms or other weapons beyond that mandated by the Texas Legislature.

# CREDIT UNION COMMISSION POLICIES MANUAL

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## **I. INTRODUCTION**

It is the purpose of the Commission Policies Manual to provide a codification of Commission policies established directly or indirectly through the recorded actions of the Commission. As new policies are enacted or present policies revised or rescinded by the Commission, such additions or changes will be issued by the Commissioner and, inserted in the Commission Policies Manual in the proper place according to subject. It is essential that in order for such a document as this to be effective and useful, it be kept current. The format and system is organized accordingly.

The manual is structured for use by the Commission as a ready reference to existing policies and to aid in determining areas where policies are lacking or where policies need review and possible revision. It is also designed to provide administrative staff with full knowledge of all Commission policies that have been established.

## **II. RULES OF THE COMMISSION**

A. **Official Name of the Board.** The Commission adopted as the official name: Credit Union Commission.

B. **Vice-Chair.** The Commission Chair shall designate a member of the Commission as vice-chair. The vice-chair serves at the will of the Chair and performs the duties of the presiding officer in the event of an absence or disability.

C. **Duties of Officers**

**Chair.** The Chair shall preside at all meetings and perform all other duties prescribed by law or by the Commission.

**Vice-Chair.** The Vice-Chair shall preside in the absence of the Chair.

**Recording Secretary.** A Recording Secretary shall be appointed at the beginning of each meeting and shall perform all duties as the Commission may request.

**Executive Director.** The Commissioner shall perform all duties as required by law and shall be the administrative officer to the Commission.



D. **Committees.** The Commission Chair may appoint ad hoc committees comprised of Commission members or individuals who are not members of the Commission, for evaluating industry methods or problems and presenting formal recommendations to the Commission.

E. **Board Meetings**

1. **Regular Meetings.** The Texas Finance Code provides that the Commission shall meet twice a year in regular session. Regular meetings shall be held at such designated place, date, and time as may be determined by the Chair. A majority of the members of the Commission shall constitute a quorum.
2. **Special Meetings.** Special meetings may be called by the Chair, the Commissioner or any five members of the Commission at such times, dates, and places as become necessary for the transaction of Department business. Notice of all special meetings shall be posted in compliance with applicable provisions of the Texas Open Meetings Act.
3. **All Board Meetings Open to Public.** Commission meetings, regular and special, shall be open to the general public except as provided by the Texas Open Meetings Act (Chapter 551 of the Government Code).
4. **Public Input for Non-Agenda Items.** At the beginning of each meeting, the Chair will provide an opportunity for the public to comment on matters regarding rulemaking that are not scheduled items on the agenda. Persons wishing to comment must state their name and who they represent for the record. Unless authorized by a majority vote of the meeting quorum, the comments of those persons will be limited to no more than five (5) minutes.
5. **Public Input for Agenda Items.** For each item on the agenda, the Chair will provide an opportunity for the public to comment. Persons wishing to comment on an agenda item must state their name and who they represent for the record. If multiple persons from an organization or affiliated group are present, one representative should be designated to speak on behalf of that organization or group. Unless authorized by a majority vote of the meeting quorum, the comments of those persons will be limited to no more than ten (10) minutes.

6. **Transaction of Business.** The Commission may transact official business only when in session and shall not be bound in any way by any statement or action on the part of any individual member except when such statement or action is in pursuance of specific instructions of the Commission. No order or decree shall be adopted by the Commission except in open meeting and in accordance with the Texas Open Meetings Act (Chapter 551 of the Government Code).
7. **Agenda.** The Chair, in cooperation with the Vice-Chair and the Commissioner, shall prepare and submit to each member of the Commission, prior to each meeting, an advance copy of an agenda, outlining matters that should be considered and such other matters, materials, and information as members have requested to be included for consideration.
8. **Order of Business.** The order of business to be observed by the Commission shall be at the discretion of the Chair but generally should be as follows:
  - a. Call to Order/Ascertain Quorum/Invocation
  - b. Appoint Recording Secretary
  - c. Introduction of Visitors and Guests
  - d. Invitation for Public Input
  - e. Receive Requests and Motions for Excused Absences
  - f. Receive Minutes of the Previous Meeting(s)
  - g. Communications
  - h. Reports of Committees
  - i. Unfinished Business
  - j. New Business
  - k. Executive Session
  - l. Other Business
  - m. Adjournment
9. **Request for Information.** In order to keep all members of the Commission properly informed and to prevent duplication of work, any written report, survey, statistics, or information requested by the Commission or any member thereof should be initiated by action of the Commission and duly recorded in the minutes. Copies of such reports should be made available to all members of the Commission.

10. **Rules of Order.** Meetings of the Commission shall generally be informal, with customary motions and secondings. Robert's Rules of Order shall apply if so declared by the Chair, or by a majority of members present at any meeting. If Robert's Rules of Order are invoked, a parliamentarian will be designated by the Chair.
11. **Minutes of the Commission Meetings.** Copies of the official minutes of each meeting of the Commission shall be distributed to members of the Commission, key Department personnel, Legislative Reference Library and to private citizens upon making a formal request. An official copy of all minutes shall remain on file in the Department's offices, available to any citizen desiring to examine them. The format of the minutes shall generally follow the agenda and will include pertinent dialogue where feasible.
12. **Recessed Meetings.** A meeting of the Commission and its committees may recess to the next calendar day when it does not complete consideration of a particularly long subject. If two or more days have elapsed since deliberation on the item was suspended, an additional and separate posting requirement can be waived by a majority vote of the meeting quorum when circumstances require a meeting to be held and no practical means exists to post notice prior to reconvening the meeting.
13. **Attendance Expectations.** Members of the Commission are expected to attend all regularly scheduled meetings in person. It is understood, however, that there may be times when members must miss a meeting due to circumstances beyond their control such as illness, bereavement, military obligations, jury duty, or weather conditions. Upon a motion of a member, the Commission may vote to excuse these types of absences on a case-by-case basis. The minutes of each meeting shall reflect whether the absence of a member was excused by the Commission.

Members are expected to provide prior notice to the Commission of any meeting they will miss. Notice of an unexpected absence due to illness or other emergency shall be given as soon as possible. Missing a meeting without notification is unacceptable and such absence will not be subsequently excused by the Commission.

## F. **Motions for Oral Arguments**

As provided in 7 TAC Section 93.603, any party who has filed a motion for appeal to the Commission and who has timely requested oral argument may, if approved, argue the case to Commission during the public meeting called to consider the matter. In order to promote administrative efficiency and to expedite decisions on properly filed requests, the Chair is authorized to grant or deny the request. If granted, the Chair will set the time that will be allowed for argument and may determine the issues on which argument will be allowed. The party must complete argument in the time allotted and may continue after the expiration of the allotted time only by a majority vote of the meeting quorum. A party's failure to request oral argument waives the party's right to argue. But even if a party has waived oral argument, the Chair may direct the party to appear and argue.

Oral argument should emphasize and clarify the written arguments in the motion for appeal. The party should assume that all members of the Commission have read the motion before oral argument and the party should be prepared to respond to questions. A party should not refer to or comment on matters not involved in or pertaining to what is in the record.

## III. **GENERAL POLICIES OF THE COMMISSION**

It is the policy of the Commission to:

- A. Welcome suggestions from the public and to solicit professional and technical advice and the thinking of citizens from all walks of life.
- B. Conduct its deliberations and to arrive at its decisions by acting as a full Commission, and to never delegate the power of decision to any permanent or standing committee.
- C. Function as a policy-forming Commission and seek the advice and counsel or professional leadership from within the Department, through the Commissioner, as well as from outside sources in establishing programs for the benefit and welfare of the people of Texas, and to carry out the intent and spirit of the Legislature.
- D. Provide the Commissioner with the opportunity to be heard and render his advice and recommendations on all matters under consideration by the Commission prior to the final action.

- E. Give direction and support to the Commissioner in carrying out the policies established by the Commission and in the discharge of his general administrative duties and responsibilities.
- F. Deal with the Department, both as a Commission and as individual members, only through the Commissioner or his/her designee.
- G. Consider the design of the service delivery system of the Commission to be a matter of policy.
- H. Support an affirmative action program to ensure equal employment opportunity and nondiscrimination because of race, color, religion, age, sex, national origin, or handicap in the provision of services and in personnel practices and procedures.
- I. Establish a Credit Union Department sick leave pool pursuant to Chapter 661 of the Government Code, Subsection A, to assist employees who suffer a catastrophic injury or illness and have exhausted all accrued leave. The sick leave pool will be under the day-to-day control of the Commissioner who may appoint an employee of the Department to administer its operation.
- J. Continually improve the quality of its rules, by minimizing regulatory burdens on the public and the credit union movement, and generally by ensuring that its rules achieve legislative goals effectively and efficiently. The Commission will be guided by the following principles in its promulgation and review of rules.
  - 1. Burdens imposed on the credit union movement and the public should be minimized. Before issuing a rule the Commission will give careful consideration to the need for such an issuance. Frequently, a rule is required by statute. Alternatively, the Commission may identify a need for a supervisory tool to implement its statutory obligations, or to clarify its position for the benefit of the credit union movement or the public. Once the need for a rule is determined, the Commission will seek to minimize to the extent practicable the burdens which such issuance imposes on the credit union movement and the public. New reporting and recordkeeping requirements imposed by a rule will be carefully analyzed. The effect of the rule on competition within the movement and the financial services industry will be considered. Particular attention will be focused on the impact that a rule will have on small credit unions and whether there are alternatives to accomplish the Commission's goal which would minimize any burden on small credit unions. Prior to issuance, the potential benefits associated with the rule will be weighted against the potential costs.

2. Rules should be clearly and understandably written. The Commission will seek to make its rules as clear and as understandable as possible for those persons who are affected by them. In developing or reviewing existing rules, the Commission will consider the rule's structure as well as the specific language used; both are important components to achieving a clear and useful rule.
3. The public should have a meaningful opportunity to participate in the rulemaking process. The Commission will seek to improve its rules during the development phase. Whether a new rule is being promulgated or an existing one revised, the Commission will give careful consideration to the implications of its actions as public policy. Public participation in the rulemaking process is an opportunity for the Commission to hear directly from affected members of the public with important experience and thoughtful insights related to the pertinent issues. A person or credit union may petition the Commission for the issuance, amendment, or repeal of any rule by submitting a written petition to the commissioner. The petition should include a complete and concise statement of the petitioner's interest in the subject matter and the reasons why the petition should be granted.
4. All rulemaking will be carried out in accordance with the Administrative Procedures Act, by which the Commission will provide the public with notices of proposed rulemaking and opportunities to submit comments on the proposals. All comments and proposed alternatives received during the comment period will be considered prior to the issuance of a final rule. The Commission takes final action on proposed rules as promptly as circumstances allow. If a significant period of time elapses following publication of a proposed rule without final action, the Commission will consider withdrawing the proposal or republishing it for comment. If the Commission decides to reconsider a proposed rule that has been withdrawn, it will begin the rulemaking process anew.
5. Rules should be reviewed periodically. To ensure that the Commission's rules are current, effective, and efficient and continue to meet the principles set forth in this statement of policy, the Commission will periodically undertake a review of each rule. The Commissioner will, consistent with applicable laws, establish a schedule and procedures for the reviews. Factors to be considered in

determining whether a rule should be revised or eliminated include: the continued need for the rule; opportunities to simplify or clarify the rule; the need to eliminate duplicative and inconsistent rules; and the extent to which technology, economic conditions, and other factors have changed in the area affected by the rule. The result of this review will be a specific decision for each rule to be either revised, rescinded, or retained in its then-current form.

#### **IV. RESPONSIBILITIES OF THE COMMISSION**

- A. The Commission shall be responsible to the public for the overall conduct of the Department with specific reference to:
  - 1. Responsibility for the management and administration of the Department's funds, subject to any restrictions or requirements imposed by the Government Code.
  - 2. Responsibility for interpreting the financial needs of the Department and adopting a fiscally-prudent budget that ensures the Department fulfills its supervisory mission.
- B. The Commission should to the extent possible make certain that an effective and client-concerned program is carried out for citizens.
- C. The Commission or any of its individual members shall not take any direct responsibility for administering the Department.
- D. The Commission should exercise its responsibility of interpreting the Department to the public, explaining its programs and policies and defining its actions.
- E. The Commission should exercise its responsibility of representing and interpreting the public to the Department staff, explaining public reactions to Department programs and administration.
- F. The Commission members should become familiar with the State constitutional provisions, statutes and rules directly affecting the Department and seek the advice and recommendations of staff, the Attorney General or any other legal counsel retained by the Department.
- G. The Commission should assume responsibility for leadership in securing appropriate legislation to further existing programs or to provide for new and additional programs for the benefit of Texas citizens.

- H. The individual Commission member should:
1. Have a good understanding of the purpose of the Department and conviction as to the importance of the program.
  2. Have capacity to view the Department objectively in relation to changing needs and to be receptive to changes necessary to meet such needs.
  3. Understand the Department's policy on the difference in function between Commission and staff and work in genuine accord with this policy.
  4. Keep informed of developments in the field appropriate to the work of the Department.
  5. Serve actively on the Commission, attend all Commission and committee meetings unless valid reasons prevent it, and promptly carry out all assignments.
  6. Become acquainted with the various operations and their staffs to ensure a broad knowledge of the Department.
  7. Make constructive suggestions and criticisms regarding the Department through the appropriate channels.
- I. The Commission shall be responsible for reviewing grievances of employees who are not satisfied with the decision of the Commissioner on a grievance alleging discrimination, sexual harassment or the Commissioner's non-compliance with applicable laws or rules. The grievant must submit such grievances to the Chair of the Commission within ten working days after receipt of the Commissioner's response. If the facts of the grievance support the Commissioner's response, the Chair or his designee shall affirm the Commissioner's resolution. Otherwise, the Chair or his designee shall initiate an investigation, reach a final decision, and furnish a copy of the findings and final decision to the Commissioner and the grievant within 10 working days following receipt of the grievance by the Chair. The 10 working days may be extended by the Chair with the concurrence of the grievant.

The review and response to the employee grievance are confidential and will be treated as such. Any discussion regarding the grievance should be restricted to those individuals who are responsible for responding to the complaint and those having knowledge pertinent to the investigation, resolution and/or response.



V. **ESTABLISHING NEW POLICIES AND AMENDING OR RESCINDING EXISTING POLICIES**

- A. **Establishing New Policies.** All actions of the Commission which establish policy should be incorporated into a statement of policy enacted by resolution at a Commission meeting.
- B. **Amending Existing Policy.** Existing policies may be amended at any Commission meeting by a majority vote. These policies should be reviewed at least once each year. Amended policies shall show the date of amendment and the effective date if not immediate.
- C. **Rescinding Existing Policy.** An existing policy should be rescinded by appropriate resolution enacted by the Commission as of the date of such action or at an established future date, but the effective date cannot be made retroactive.

VI. **TRAVEL OF COMMISSION MEMBERS**

- A. **Compensation.** Section 15.207, Texas Finance Code, provides that: “(a) A commission member may not receive compensation or a benefit because of the member’s service on the commission except as provided by Subsection (b). (b) For each day that a commission member engages in the business of the commission, the member is entitled to:
  - (1) per diem, including compensatory per diem;
  - (2) actual expenses for meals and lodging; and
  - (3) transportation expenses.”
- B. **Meals and lodging.** Members shall be reimbursed for actual expenses for meals and lodging. Generally, the amount reimbursed should not exceed the locality-based maximum rates approved by the Office of the Comptroller of Public Accounts. In accordance with IRS requirements, a member that receives reimbursement for meals in conjunction with non-overnight trips will be issued an IRS Form 1099 for the calendar year in which the reimbursement was paid.
- C. **Transportation.** Members shall be reimbursed for transportation in conformity with allowances specified by the Comptroller of Public Accounts, except that the mileage allowance for use of a privately-owned vehicle is limited to the rate authorized for Department staff.

- D. **Additional Travel.** Any additional travel at State expense by individual Commission members pertaining to Department programs, other than attendance at legislative hearings or meetings with legislators, shall require prior approval by the Commission or if circumstances warrant, the Chair may grant approval subject to final approval of the Commission. Commission members may attend certain state and national credit union conferences in furtherance of their knowledge and skills related to their responsibilities as a Commission member, subject to approval by the Commission.
- E. **Public Members.** The disadvantage that public members may have by not having a sponsor organization to fund attendance at training conferences is recognized and shall be considered in formulating budget requests and in scheduling public members for conferences.

## VII. RECOGNITION AWARDS

- A. Upon taking office as members of the Commission, all members will receive a Commission pin that identifies them to the public as an official overseeing the regulation and supervision of the state credit union system.
- B. Upon the resignation of or completion of a term of office for a member, the Commission will adopt a resolution of appreciation to recognize the service of that member. A copy of the framed resolution will be sent to the former member as a token of the Commission appreciation. The total cost associated with preparing and delivering this token shall not exceed the limitations contained within the General Appropriations Act for such an award.
- C. When the mission of an advisory committee has been accomplished or upon the resignation of one of its members, the Commission may adopt a resolution of appreciation, as prescribed in paragraph B above, to recognize the service of an individual(s) on the committee who is not Commission member.
- D. The Commission values sound and responsible Texas-chartered credit unions that enhance the financial well-being of the citizens of Texas. In order to recognize the years of dedicated service credit unions give to their members, the Commission will adopt a resolution to commemorate a credit union's contributions to the economic development of Texas on the 25, 50, 75, and 100 anniversary of its origin. A copy of the resolution should be sent to the credit union prior to its applicable milestone date. Any credit union deemed by the commissioner to have material supervisory problems or who cannot be reasonably expected to conduct its

operations in a safe and sound manner and in accordance with the laws of this State will not be eligible for a resolution in a given milestone year. In calculating a credit union's anniversary date, previous service to Texas citizens as a federal credit union may be included.

#### **VIII. NEW COMMISSION MEMBER TRAINING**

The Texas Finance Code requires members newly appointed to the Commission to complete a training program before voting, deliberating, or being counted as a member in attendance at a meeting of the Commission. The training program provides the Commission member with information regarding the functions and operations of the Department, requirements of certain provisions of the Texas Government Code, conflicts of interest and ethical considerations, and the basic principles of credit union management.

The training program is divided into three required sections. There is also one optional section. The name, purpose and outline of each section are presented in Appendix B.

#### **IX. ADVISORY COMMITTEES**

The following policy governs the appointment and use of advisory committees.

- A. The Commission may appoint an advisory committee to provide the Commission, the Commissioner, or the staff with advice and counsel not available from Department sources on matters of Department responsibility.
- B. The appointment and use of advisory committees shall comply with all applicable statutes, including the Credit Union Act and the Government Code. Prior to appointing any advisory committee, the Commission must adopt rules governing the purpose, mission, structure and use of the advisory committee it creates.
- C. The Commission shall determine the number of individual members that will constitute the advisory committee. The number of members may not exceed 24. In appointing members to the committee, the Commission must provide a balanced representation between the industry and credit union members.
- D. The committee shall meet as prescribed by Commission rule and shall select a presiding officer from its members. All meetings shall be posted and conducted in compliance with the Open

Meetings Act. The presiding officer shall report to the Commission.

- E. The Department may reimburse committee members for travel expenses if, and to the extent, permitted by applicable statutes and the availability of funds in the Department's budget.
- F. The Department shall provide the Commission an annual evaluation of the committee's work, the committee's usefulness, and the costs associated with the committee, including the cost of staff time spent in support of the committee's activities.
- G. The committee shall serve until abolished as set out in Commission rule.

## X. **STANDING COMMITTEES**

### A. **Commissioner Evaluation Committee**

1. **Members.** The Commission Chair shall appoint a Commissioner Evaluation Committee of at least three members, and shall designate one member as Chair. The Commission Chair will serve as an ex-officio member of this committee.
2. **Purpose.** The purpose of the Committee shall be to coordinate the annual evaluation of the Commissioner's performance and to oversee the development and maintenance of a Commissioner succession plan.
3. **Responsibilities and Duties.** In furtherance of the Committee's purpose, and in addition to any other responsibilities that may be assigned to it from time to time by the Commission, the Committee shall have the following responsibilities and duties:
  - a. Develop and review periodically the evaluation form to be used for the Commissioner's evaluation.
  - b. Establish the policies and procedures that will be used to carry out the Commissioner's performance review.
  - c. Prepare the Commissioner's evaluation for the Commission's review, comment, and revision, with the intent to accomplish the following:
    - i. Clarify the Commissioner's leadership and management role as viewed by the Commission.

- ii. Maintain a harmonious working relationship between the Commission and the Commissioner.
  - iii. Assure the Commission that the Department is being effectively administered by the Commissioner.
  - d. Make recommendations to the Commission with respect to the establishment of performance standards for the coming fiscal year.
  - e. Make recommendations to the Commission on the Commissioner's remuneration.
  - f. Oversee the Department's succession plan for the Commissioner's position, including policies and procedures for new Commissioner selection, as well as policies regarding succession in the event of an emergency.
4. Evaluation. The evaluation process will be completed at the last regularly scheduled Commission meeting of the calendar year.

**B. Rules Committee**

1. Members. The Commission Chair shall appoint a Rules Committee of at least three members, and shall designate one member as Chair. The Commission Chair will serve as an ex-officio member of this committee.
2. Purpose. The purpose of the Committee is to conduct thorough deliberations and scrutiny of proposed rulemaking and assigned projects, and to bring to the Commission the results of its deliberations and its recommendation for Commission action.
3. Responsibilities and Duties. In furtherance of the Committee's purpose, and in addition to any other responsibilities that may be assigned to it from time to time by the Commission, the Committee shall have the following responsibilities and duties:
  - a. Develop and review the administrative rules in accordance with the Administrative Procedures Act and the Government Code.
  - b. Create a forum to discuss rulemaking matters at a more detailed level than could be accomplished at regular Commission meetings.

- c. Make recommendations to the Commission with respect to the adoption, amendment, or repeal of administrative rules.
- 4. Meetings. All Committee meetings will be open to the public and should be publicized to encourage participation by credit unions and credit union members. Meetings will generally be held the day before each regularly scheduled meeting of the Commission.

**XI. THE ROLE OF THE COMMISSIONER IN RELATION TO THE COMMISSION AND PUBLIC**

- A. The Commissioner is accountable to the Commission for the overall operation of the Department. The Commissioner acts as liaison between the Commission and the staff.
- B. The Commissioner shall take the initiative in interpreting programs to the Commission, in suggesting new ideas or plans, and in presenting matters for Commission consideration.
- C. The Commissioner, in cooperation with the Chair and Vice-Chair, shall be responsible for preparing an agenda for Commission meetings and for preparing reports for the meetings.
- D. The Commissioner shall act as official representative of the Department with the public, and as such shall have authority to designate other staff members to act in this capacity in accordance with his judgment.
- E. The Commissioner has responsibility to ensure compliance with all Commission policies and State and Federal laws and regulations concerning the Department.
- F. The Commissioner shall notify the Commission of any instance in which his or her authorized actions are, or may be, at variance with Federal or State statutes or rules.
- G. The Commissioner has responsibility to exercise control over all divisions of the Department, and to appoint, supervise, and remove staff and subordinate employees of the Department as the interest of the agency may demand. The expectation of the Commission is that the Commissioner will be fair and when the interest of the agency dictates that the Commissioner take an adverse personnel action, (s)he should consider all known factors relating to the matter. Appointment of a Deputy Commissioner may be made by the Commissioner subject to approval by the Commission.

- H. The Commissioner shall make such recommendations to the Commission concerning the affairs of the Department as may be desirable.
- I. The Commissioner shall keep the Commission informed of the financial condition and future needs of the Department.
- J. The Commissioner shall be responsible for preparing the budget requirements for the Commission, and be responsible for budgetary administration of all funds received by the Department.
- K. The Commissioner shall prepare and submit to the Commission such reports as may be required or desired by the governing body and keep the Commission continuously informed of the functions of the Department.
- L. The Commissioner shall prepare program and financial reports which will provide the Commission with the information required to fulfill its responsibilities. Such reports shall be updated for presentation at least semiannually. In these reports the Commissioner shall point out any significant trends that may be indicated and shall be especially alert to inform the Commission of any potential problems.
- M. The Commissioner shall keep the public informed through reports to the Commission regarding the operations of the various programs and through a monthly newsletter.
- N. The Commissioner shall prepare and submit the plans for services to be provided by Commission programs, other than those of a visual nature, in accordance with Federal requirements and regulations, subject to the approval of the Commission.
- O. The Commissioner shall have authority to execute all third party contracts and interagency contracts for services on behalf of the Department.
- P. The Commissioner shall be responsible for the development of administrative manuals to provide uniform rules, regulations and operating procedures in accordance with State laws, and with Federal regulations and laws applicable to Commission programs.
- Q. The Commissioner shall be responsible for developing programs for staff development and training of personnel of the Department.
- R. The Commissioner shall be responsible for developing and maintaining an adequate and technically qualified program evaluation process that will be able to determine the validity and effectiveness of the programs of the Department.

- S. The Commissioner shall notify the Commission members of the issuance of a conservation order.
- T. In cases where either a member of the Department's staff or the insuring organization itself is not appointed as conservator, the Commissioner will select conservators in accordance with established guidelines and shall execute a standard engagement contract approved by counsel containing the terms of the conservatorship appointment. The Commissioner shall provide details related to conservatorship activities as follows:
1. Conservatorship orders issued during the past quarter,
  2. Deviations from the standard contract, if any, and
  3. A summary of the cost of each conservator by credit union.
- U. The Commissioner shall immediately notify the Commission members of any request for a hearing to appeal a conservation order.

## **XII. AUTHORITY TO APPROVE DOCUMENTS INVOLVING BUDGETED FUNDS**

The Commissioner is authorized to delegate to any officers or employees of the Department authority to place their signatures on any account pertaining to funds of the Department.

## **XIII. STRATEGIC GOALS**

Four strategic goals guide the operations of the Department and directly support the vision of the Commission:

- To ensure a safe and sound credit union industry.
- To provide a flexible regulatory framework that enables credit unions to provide a full competitive array of financial services.
- To safeguard the interest of credit union members.
- To develop a professional and motivated staff that provides quality service to the citizens of Texas and supports achievement of Department's statutory mission.



#### **XIV. LEGAL COUNSEL**

The Commissioner, other Department staff, and Commission members shall consult with the Attorney General's Office as needed on matters germane to their duties and responsibilities.

Outside legal counsel other than the Attorney General shall be retained only upon approval of the Commission and Attorney General.

#### **XV. ETHICAL STANDARDS**

It is of the highest importance that the people of the State of Texas have complete confidence in the integrity of their public servants. This need is especially critical in the area of financial services regulation. The responsibility for supervising and regulating the credit unions of the State carries with it the duty to adhere to the highest ethical standards and principles. It is for this reason that these standards are adopted by the Credit Union Commission.

- A. **Principles.** Maintaining the trust and confidence of all those with whom the Department comes into contact is critical to the Department's success. That trust and confidence depends on the Department's reputation for acting ethically, with integrity and to the highest professional standards. Therefore, the Department, its staff, and Commission Members shall strive at all times to avoid acting in such a way as would, accidentally or otherwise, bring the Department into disrepute.
  
- B. **Code of Conduct.** The Department does not proscribe limits to or interfere in the way staff or Commission Members choose to enjoy their personal or private time. However, staff and Commission Members must be aware that, in the eyes of the public, any Department-related activity in which they are involved cannot be wholly divorced from their association with the Department, and therefore may reflect on the Department or be attributed to it. In any situation which they are or may appear to others to be acting on behalf of the Department, staff and Commission Members shall take care to ensure not only that personal motivations and interest do not conflict with those of the Department, but also that they do not appear to do so to the perception of an outside observer. Staff and Commission Members shall therefore uphold the Commission's Ethical Standards in all situations where they might reasonably be regarded as representing the Department. Specifically, Department staff and Commission Members must avoid action, whether or not specifically prohibited by statute, which might result in or create the appearance that they are:

- Using public office for private gain;
- Giving preferential treatment to a person or group;
- Losing the ability to make independent and impartial decisions or recommendations; and
- Conducting themselves in a manner that would adversely affect the public's confidence in the integrity of the Department.

C. **Code of Ethics.** In all actions, activities and relationships the Department, its staff, and Commission Members will act with the highest standards of integrity and objectivity. Specifically, they must:

- Act with honesty and integrity, and never knowingly mislead any person.
- Be impartial, ensuring that they declare and make known personal interests and do not give or receive any inducement which could, or could be seen to, be corrupt or conflict with the interest of the Department.
- Comply with applicable laws, rules and regulations.
- Maintain the confidentiality of information entrusted to them by the Department or credit unions except when authorized or otherwise legally obligated to disclose.
- Deal fairly with credit unions, credit union members, and staff.
- Provide information that is accurate, objective, relevant, timely, and understandable.
- Protect and ensure the proper use of State resources and assets.
- Promptly report any illegal or unethical conduct to management or other appropriate authorities.

D. **Conflict of Interest.** As representatives of the Department, staff and Commission Members are obligated to place the interest of the Department, in any transaction involving the Department, ahead of any personal interest or personal gain and to disclose all facts in any situation where potential conflict of interest may arise. Involvement in any activity or occupation in which an individual may have a "private or personal" interest with an entity under the Department's jurisdiction could be interpreted by the public as a potential conflict of interest, and thereby a breach of ethical standards. Any such involvement must be properly disclosed by the individual who will then recuse him- or herself from any dealings with the entity.

E. **Equal Opportunity.** The Department shall be committed to providing a work environment that values diversity and provides opportunities regardless of race, color, religion, gender, national origin, sexual orientation, marital status, age, or disability. This commitment applies to both applicants and staff in all phases of employment including recruiting, hiring, placement, training,

development, transfer, promotion, demotion, performance reviews, compensation, benefits, and separation from employment.

- F. **Specific Restrictions.** Lending transactions and deposit relationships with credit unions by individuals having regulatory authority over those institutions could be interpreted by the public as a conflict of interest. Such unfavorable perceptions could diminish public confidence in credit unions or the regulatory agency. Therefore, neither the Commissioner, the Deputy Commissioner, nor the General Counsel may be a member of, or be directly or indirectly indebted to, any credit union under the Department's jurisdiction, or any affiliate of such credit union. In addition, examiners may not become directly or indirectly indebted to a credit union supervised or regulated by the Department or an affiliate of a credit union supervised or regulated by the Department. Any other individual employed by the Department may become a member of or be indebted to a credit union provided that the terms of the arrangement are no more favorable than those available to the general membership and the relationship is fully and properly disclosed to the Department before funding. The prohibition on indebtedness to a credit union or an affiliate does not apply to an examiner if the indebtedness was permissible when incurred and became prohibited as a result of employment by the Department or circumstance over which the examiner has no control, including a merger or purchase or sale of assets involving a credit union or an affiliate. An examiner may not knowingly participate in or consider any matter concerning the credit union or affiliate to whom the examiner is indebted. An examiner's indebtedness already in existence before the effective date of this policy change, may be continued as long as no additional funds are advanced and the indebtedness is not modified on terms more favorable than those extended to other credit union members.
- G. **Outside Activities.** It is recognized that the Commissioner and other staff may be asked to serve on the boards, councils or other governing or advisory bodies of various business, civic, professional, and social organizations in non-compensated positions. Such service is generally deemed to be in the best interest of the Department because it broadens the experience of the individuals involved and exposes the Department to a larger audience of business, civic, professional, and social leaders. Such involvement, however, must be properly disclosed by the individual.
- H. **Department Policies.** The Commissioner may, as deemed necessary or appropriate, adopt more specific policies to refine or implement these standards.

- I. **Annual Disclosures and Prohibition of Certain Contracts.**
- (a) The Commission is committed to ensuring that the Department's procurement, contracting and contract management are conducted in accordance with the principles of openness, trust, and in full compliance with the provisions of Texas Government Code § 2261.252. (b) For purposes of this section, a Commission member or staff member under this section has a financial interest if they:
- (1) own or control, directly or indirectly, an ownership interest of at least one percent in an entity, including the right to share in profits, proceeds, or capital gains; or
  - (2) could reasonably foresee that a contract with the entity could result in a financial benefit to the Commission member or staff members under this section.
- (c) In pursuit of this important goal, the Commission requires annual disclosure by each Commission member and staff member who is involved in procurement or contract management for the agency of any potential conflicts of interest specified by state law or that is known by the member or staff with respect to any contract with a private vendor by the agency or bid for the purchase of goods or services from a private vendor by the agency. (d) Commission members and covered staff members under this section are required to complete an annual disclosure form even if they do not have a financial interest to report. In such a situation, the Commission member or staff member shall file annual disclosure statement, stating "none". Each fiscal year, an annual disclosure statement under this section must be submitted to the Department's Staff Services Officers by September 30. Any changes in financial interest must be reported promptly by completing a new disclosure form not later than the 30<sup>th</sup> day after the date of the change or the member becomes aware of the change, whichever event occurs later. (e) The agency may not enter into a contract for the purchase of goods or services with a private vendor with whom any of the following agency employees or officials have a financial interest:
- (1) a member of the Commission;
  - (2) the Commissioner, the Deputy Commissioner, the general counsel, or any employee engaging in purchasing for the agency; or
  - (3) a family member related to an employee or official described by Subdivision (1) or (2) with the second degree by affinity or consanguinity.

## **XVI. USE OF TECHNOLOGY**

The Commission recognizes that technology is an indispensable tool enabling government to operate efficiently and provide services. Recognizing that the development of technology resources must be conducted in a secure,

deliberate, and cost-effective manner, the Commission is committed to using technology to support Department priorities and program delivery, to increase productivity, and to enhance services to the public.

To implement this commitment for greater use of technology, the Department will research and propose appropriate and affordable technological solutions for improving the Department's ability to accomplish its statutory mission. All technological solutions, at a minimum, shall:

1. ensure that the public can easily find information about the Department on the Internet;
2. ensure that credit unions and their members who need to use a Department service or function are able to:
  - a. interact with the Department through the Internet;
  - b. access any service or function that can be provided effectively through the Internet;
  - c. be respectful of individual privacy;
  - d. be secure from unauthorized access; and
  - e. be developed through the Department's planning processes and within budget.

## **XVII. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION**

The Commission is committed to the use of alternative dispute resolution (ADR) and negotiated rulemaking (NRM) as management tools to resolve disputes at an early stage, in an expeditious, cost effective, and mutually acceptable manner. The Commission adopts this policy to express its support for the appropriate use of ADR and NRM. The procedures used by the Department shall conform to the applicable model guidelines set out by the State Office of Administrative Hearings and shall comply with the requirements of Chapters 2008 and 2009 of the Government Code.

This policy is intended to apply to the resolution of disputes in contract administration, disputes in litigation (except as noted below), and internal disputes, such as those between employees and management. It is not intended to apply to examinations and investigations. In addition, the need to ensure that law enforcement function is not compromised, the need to ensure uniform treatment, and the need for judicial resolution or precedent, make ADR generally unsuitable for challenging enforcement of state laws and rules. This policy is also not intended to apply to situations where the Department seeks a temporary restraining order. Taking into account these factors, as well as

budgetary constraints, the Department will consider the use of a consensus building process, using a neutral facilitator and a balanced negotiating committee composed of representatives of all interests that the situation will affect.

The Commission believes that NRM will be most appropriate when the new or existing rule that the Department is developing or amending would have a major effect on the industry or the public and is not mandated by statute or federal regulation. In situations where the formality of NRM is not necessary, the Department will consider using interest-based negotiation or policy dialogue to solicit stakeholders' views of and suggestions for proposed new or amended rules, as well as any other issues that affect the industry or public.

The Department's ADR and NRM proceedings will rely on a neutral third party from the State Office of Administrative Hearings to facilitate resolution of the situation. The Commission believes that ADR and NRM are most successful where a neutral or impartial third party, with no vested interest in the outcome of a situation, allows the parties themselves to attempt to resolve the situation. Neutrality will maintain the integrity and effectiveness of the ADR and NRM program. In furtherance of its commitment to ADR and negotiated rulemaking, the Commission designates the Assistant Commissioner to coordinate the implementation of the policy, to serve as the resource for any necessary training, and to collect data concerning the effectiveness of the procedures.

The choice of when and how to use ADR and NRM is within the discretion of the commissioner, subject to the agreement of the parties, and does not create any right to judicial review of the commissioner's decision. In addition, the policy does not obligate the Department to offer funds to settle any case, or to accept a particular settlement or resolution of a dispute.

## **XVIII. BUDGET POLICY**

The financial integrity of the Department is of vital importance. Written financial policies assist the Commission and staff in the financial management of the Department, save time and energy when discussing financial matters, engender public confidence, and provide continuity over time as Commission and staff changes occur.

- A. **Goal.** The goal of the Commission's budget process is to achieve a balanced budget while maximizing resources and allocating those resources to align with the Department's statutory mission. To achieve this goal, the commissioner has the responsibility to submit an annual operating budget to the Commission each fiscal year. This policy outlines the general guidelines for budgeting and the budget process at the Department. The Department budget expresses, in terms of dollars, the funded programs and plans of the Department for the fiscal year

and the estimated revenues necessary to finance these programs and plans.

- B. **Strategic Plan.** The Department's strategic plan provides the framework for the annual budget process. The commissioner is responsible for identifying resources needed to achieve the goals in the Commission approved strategic plan.
- C. **Balanced Budget.** The Commission is required annually to approve a budget for the Department. Typically, budgeted expenditures should not exceed budget revenues in any given year. All or a portion of the reserve fund balance, however, may be used for such things as non-recurring expenditures or to replace temporary declines in revenues at the discretion of the Commission.
- D. **Commission Guidelines.** Each budget year will have unique assumptions depending on circumstances and Commission priorities. A schedule of these budget assumptions will be prepared each budget cycle and approved by the Commission at its first meeting of the calendar year. It is the responsibility of the commissioner to insure that all budget assumptions for a given fiscal year are incorporated into the budget and are carried out operationally.
- E. **Budget Adoption.** The budget shall be adopted not later than August 31 of each year; but, in the event the budget is not adopted, the budget for personnel and essential operating supplies made in the previous fiscal year shall be extended until the new budget is adopted.
- F. **Budget Controls.** The Department shall develop appropriate controls and procedures and insure that established control limits are not exceeded. Summary management reports should be prepared quarterly for the Commission to evaluate the current financial status of the agency.
- G. **Limitation on Department Employment Levels.** On an annual basis, the Commission will establish the number of full-time equivalent (FTE) positions for the Department. The commissioner utilizing his/her discretion may retain staff to a level of 110 percent of the authorized FTEs, as long as the increase does not result in staffing cost exceeding authorized budgeted levels on an annualized basis. This limitation, however, does not restrict the statutory authority of the commissioner to negotiate, contract, or enter into an agreement for professional or personal services to carry out the powers, duties, and responsibilities of the Department.
- H. **Revenue.** Generally, projected revenues available to balance a fiscal year budget will be determined solely from the operating fees generated from 7 TAC Section 97.113. One-time revenue sources may be used

for one-time expenditures, such as capital items or short-term contractual obligations of durations of less than twelve months.

- I. **Revenue Estimates.** The Department will submit revenue estimates annually to the Commission. Revenues should be estimated using a conservative approach to avoid any budget shortfalls during the fiscal year.
- J. **Fees.** The Department is self-supporting; therefore, fees must be established at a level ensuring, at a minimum, the recovery of the full cost of operating the Department. The Department will review all fees, at least biannually, and recommend changes based on factors such as the impact of inflation, indirect cost adjustments, and any other related expenses that impact the cost of providing services to credit unions and the citizens of Texas.
- K. **Collections.** The Department will monitor revenue collection throughout the fiscal year. When revenue is less than estimated, the commissioner shall initiate action consistent with prudent financial management and notify the Commission of such action.
- L. **Replacement/Capital Improvement Plan.** Annually, an updated three-year Replacement/Capital Improvement Plan (RCIP) will be developed and submitted to the Commission for approval. The RCIP must include:
  - 1. A list of proposed maintenance projects or capital improvements with cost estimates and the recommended time schedules for each item.
  - 2. Capital projects presented in the RCIP will show related new operating and maintenance costs.
- M. **Obligated Funds.** Funds that are legally obligated pursuant to a legally binding agreement in one fiscal year prior to the end of that fiscal year are considered obligated funds. Obligated funds include commitments for goods, services, consumables, capital assets, mixed assets, construction, and repair or remodeling, even though the actual receipt or completion of, or payment for, the obligated item may not initially occur or finally occur until after the end of the fiscal year in which the funds were obligated. Obligated funds do not include funds related to anticipated contracts or contracts under negotiation. To cover these legal obligation, the budget authority for obligated funds will automatically be carried over from the fiscal year in which the obligation is made to each fiscal year until the legal obligation is satisfied, and the subsequent fiscal year budget is increased by an amount exactly equal to the obligated amount. Obligated funds may only be used for the purposes of the obligation. If the expenditures remitted for the completed obligation are less than the budgeted



amount, including any amounts carried over, the remaining obligated funds may not be recommitted or reused without the expressed permission of the Commission.

- N. **Unexpended Funds/Excess Revenue.** Unobligated and unexpended funds in the budget and any revenue collected in excess of budgeted expenditures will be retained in the interest-bearing deposit account in the Texas Treasury Safekeeping Trust Company for future use as determined by the Commission.
- O. **Limitation on Use of Funds.** The Department may only expend funds for items set out in the expenditure classifications of the Comptroller's Manual of Accounts.
- P. **Reimbursements.** Any reimbursement or refund of expenditures received by the Department for an authorized program or service will be credited back to the budget items or accounts from which the expenditures were originally made.
- Q. **Position Classification Plan.** Expenditures for the salaries of staff will be governed by Chapter 654, Government Code, Chapter 659, Government Code and Article IX, Section 2.01 of the Appropriations Act for the current biennium.
- R. **Salary Limits.** Staff will be paid salaries at rates within the applicable salary schedules provided in Article IX of the Appropriations Act for the current biennium.
- S. **Scheduled Exempt Position.** The Commission shall set the salary of the commissioner. The rate of compensation provided for the commissioner shall be guided by Chapter 654, Government Code, Chapter 659, Government Code and the Scheduled Exempt Position Salary Rates established in Article IX, Section 3 of the Appropriations Act for the current biennium.
- T. **Travel Expenses.** All requests for payment or reimbursement of travel related expenses will comply with Chapter 660, Government Code, Article IX of the Appropriations Act for the current biennium, and the Comptroller's Rules.
- U. **Reimbursement Rate.** Commission Members and staff traveling on official state business will be reimbursed at rates that will not exceed the rates announced by the Comptroller for other State employees.
- V. **Retired Employees.** The Department's annual budget shall provide sufficient funding to pay the Department's share of retired employee health care cost.

- W. **Supervisions and Conservatorships.** Any funds received by the Department pursuant to supervision or conservatorship proceedings, as authorized by Section 126.001, Finance Code, are approved to pay/reimburse costs related to such proceedings, including the salary and per diem of the appointed supervisor or conservator.
- X. **Gifts or Grants.** Any gifts or grants approved by the Commission will be separate authority to expend funds for the purpose indicated, and will be accounted for separately from the budget.
- Y. **Performance Measures.** The Department's annual budget and operating plan should also include performance measures for each major goal of the agency. Performance measures are predicated on the expected outcomes of services and programs and should focus on the most meaningful results. Performance measures must be updated annually at a minimum.
- Z. **Amendments to the Budget.**
1. Funds budgeted may be transferred by the commissioner from one budget item to another budgeted item in an amount not to exceed 12.5 percent of the budgeted item from which the transfer is made.
  2. Revisions of Overall Expenditure Total. Budget revisions to one or more functional areas that increase the overall Department budget must receive the prior approval of the Commission.

## **XIX. RESERVE POLICY**

This policy is adopted by the Commission to serve as a framework for the Commission to determine the purpose, amount, and restrictions on reserves of the Department.

- A. **Objective.** The Commission recognizes that maintaining sufficient reserves will ensure adequate funding for the needs and obligations of the agency including:
- Sustaining the agency through an unexpected financial crisis.
  - Financing contingencies or emergencies as defined by the Commission.
  - Purchasing equipment and repairing and maintaining facilities to assist staff in meeting the mission of the agency.
  - Covering extraordinary liability claims and deductible levels specified in the agency's insurance policies.
  - Funding required lump sum payments of accrued vacation and sick leave

Adequate reserves will minimize the impact of these events on future assessments and ensure that the resources used to generate today's programs are replaced by those credit unions that are receiving the benefits today.

- B. **Reserves for the Department.** The Department will maintain a Contingency Fund Reserve consisting of six sub-accounts, each of which has a specific purpose, calculated level of need, and restrictions on use. The sum of the aggregate funds in the six sub-accounts is limited to \$845,000, unless a different level is determined by the Commission to be necessary to sustain the Department's operations. The sub-accounts are:

1. **Building & Equipment Account**

**Purpose:** To provide funds for fixed asset purchases and deferred capital/maintenance projects to repair or renovate the Credit Union Department Building.

**Restriction of use:** The Commission may release funds from the Building and Equipment Account for each budget cycle that anticipates fixed asset purchases or any time unanticipated major building repairs or maintenance expenses arise.

**Level:** The Building & Equipment Account will be equal to an amount deemed sufficient by the Commission to fund needs over the upcoming 5 years, which at a minimum balance shall be 2.5% of the Department operating budget or \$70,000, whichever is less. The following guidelines will be used in determining sufficiency of the fund level:

- Ongoing equipment replacement will be scheduled at regular intervals to minimize the impact on cash flow while preserving the agency's need for updated technology and facilities.
- Equipment needs specific to new program development and delivery will be included in those specific proposals rather than as part of the larger agency replacement and upgrade schedule.

2. **Operations Account**

**Purpose:** To provide operating funds to sustain the agency through an unexpected financial crisis or emergency.

**Restriction of use:** The Commissioner will advise the Commission of significant events affecting the agency that require use of the account. The Commission may release funds from the Operations Account.

**Level:** The Operations Account level should be sufficient to fund a total of one month of agency expenses or \$235,000, whichever is less. The examination and supervisory functions are considered essential to the mission of the Department and would be continued

long-term, even in the event of economic or political adversity. One month is assumed to be a reasonable adjustment period. This timeframe is set to allow the Commission and management to determine which programs are essential to the continued operations of the agency, assess the factors that necessitate the use of account funds and make plans to operate within new parameters of the agency and its environment.

3. **Lump Sum Accrued Leave Payment Account**

**Purpose:** To provide funding to pay accrued vacation and sick leave as required by the Texas Government Code Sections 661.031-.038 and Sections 661.061-.068.

**Restriction of use:** The Commissioner will advise the Commission of significant events relating to an employee's separation/terminating state employment that require use of the account.

**Level:** The Lump Sum Accrued Leave Payment Account level should be sufficient to cover the projected accrued liability at the beginning of each fiscal year or \$200,000, whichever is less. The actual activity affecting the account will be evaluated annually to determine if the amount needs to be adjusted further. Actual payments of vacation and sick leave to retiring/terminating employees, and the appropriate payroll taxes and expenses thereon, will be the only charges to this account. Vacation or sick leave used will not be charged to this account.

4. **Audit Account**

**Purpose:** To provide funds to pay for unanticipated or excessively long audits by the State Auditor's Office or other State agencies.

**Restriction of use:** The Commission is authorized to release funds from the Audit Account for any unanticipated audit.

**Level:** The Audit Account will be not more than \$30,000.

5. **Enforcement & Regulatory Response Account**

**Purpose:** To provide a fund to bolster the examination and supervision programs when it is necessary to significantly increase monitoring of credit unions or to pay unusual legal costs associated with operating the Department or enforcing credit union compliance with applicable laws.

**Restriction of use:** The Commissioner will advise the Commission of significant events affecting the agency that require use of the funds. The Commission may release funds from the Enforcement & Regulatory Response Account.

**Level:** In order to lessen the effect on credit unions of a special assessment, the Enforcement & Regulatory Response Account will be not more than \$300,000.

6. **Insurance Account**

**Purpose:** To provide funds to cover extraordinary liability claims and deductible levels specified in the agency's insurance policies.

**Restriction of use:** The Commissioner will advise the Commission of significant events affecting the agency that require use of the funds. The Commission may release funds from the Insurance Account.

**Level:** The Insurance Account will be not more than \$10,000.

C. **Investment of Reserve Funds.** Since capital preservation and liquidity are the two main objectives for the investment of Contingency Reserve funds, investments will be one with a short-term and safety focus. Following are the investment guidelines for the investment of reserve funds:

- Maturity for any investment should be no more than 12 months.
- At least 25 percent of the investments shall have a maturity of less than 90 days.
- All investments must be made through the Texas Treasury Safekeeping Trust Company.

All income earned from the investment of the funds contained in the Contingency Fund Reserve will be credited to the Operations Account.

D. **Adjustment of Reserve Levels.** Account levels will be set each year in conjunction with the preparation of the Department's annual budget. Any funds in excess of the prescribed sub-account level or the Contingency Fund Reserve aggregate limit as of August 31 of each year shall be used to reduce the operating fees for Texas credit unions during the next fiscal year.

In the event that any of the account levels fall below the prescribed level, the Department will propose strategies to replenish the applicable account balances over a period not to exceed two years. The strategies for replenishing the accounts may include using one-time revenues, reducing expenses, suspending programs not linked to strategic goals, increasing revenues, or any combination of those strategies. If the results of the reserve drawn down and its replenishment causes an extreme burden on credit unions, then the replenishment may, by Commission approval extend beyond the two years to a maximum of four years.

**XX. SECOND AMENDMENT WEAPONS POLICY**

Effective January 1, 2016, Texas law expands the scope of a license to carry a concealed handgun to include authorization to openly carry a handgun in a secure fashion. This policy is adopted by the Commission to provide notice that the Credit Union Department will not impose any restriction on the carrying of firearms or other weapons beyond those mandated by the Texas Legislature. Accordingly, a licensed peace officer or an individual licensed under Chapter 411, Subchapter H, of the Texas Government Code may carry a handgun openly or concealed in the Credit Union Department Building in accordance with Texas law.

# ***APPENDIX***

# DECISION MATRIX

(subject to legislative appropriation requirements)

<u>Description of Decision</u>	<u>Commission</u>	<u>Commissioner</u>
<b>Commissioner Compensation/Responsibilities</b>		
1. Commissioner's compensation	D	A
2. Approval of Commissioner serving in position with other organizations	D	A
3. Evaluation of Commissioner's performance	D	A
4. Commission's resolution	D	A
<b>Personnel Issues</b>		
1. Determine number of staff	D	A
2. Individual salaries for staff		D
3. Employment/appointment of staff	M	D
4. Appointment & Termination Deputy Commissioner	A	D
5. Hire part-time and short-term temps	M	D
6. Determine number & qualifications of staff	M	D
7. Change Department's administrative manual	A	D
8. Staff development & training	M	D
9. Administer Department's leave program		D
<b>Organizational Structure</b>		
1. Change organizational structure of Department	A	D
2. Change the staffing structure of the Department	A	D
<b>Budget/Fiscal Control</b>		
1. Approval of the Department's Budget	D	R
2. Administer Department Budget	A	D
3. Approval to overspend certain categories of the budget	M	D
4. Approval of claims for reimbursement made by Commission members		D*
5. Approval of staff expenses on behalf of Department	A	D*
6. Approval of all other expenditures within budget	A	D*
7. Safeguard the assets of the Department	M	D*



8.	Approval of supplemental budget requests	D	R
9.	Disbursements to pay for the purchase of items within budget limits, pay re-occurring expenses, contract for services which are within budget limits		D*
10.	Execute third party contracts & interagency agreements within budget	M	D
11.	Approval to seek outside legal counsel	D	R

### Public Policy Decisions

1.	Decisions about public policy on issues	D	R
2.	Explanation & promotion of Commission's public policy on issues	A/M	D
3.	Execute agreements with public policy implications	D	A

### Supervision/Regulatory Decisions

1.	Adopt Administrative Rules	D	R
2.	Approve standardized bylaws and articles of incorporation	D	R
3.	Approve applications for charters, bylaw amendments, and amendments to articles of incorporation	A/M/X	D
4.	Approve applications for mergers, consolidations, name changes, and conversions	A/M	D
5.	Approve Foreign Credit Unions to do business in this State		
6.	Administer examination program		D
7.	Enter into written agreements with credit unions		D
8.	Issue Cease & Desist Orders	A	D
9.	Issue Orders of Removal from office or employment	A	D
10.	Assess civil penalty	A	D
11.	Institute a suit for injunction or other remedy provided by law	A	D
12.	Issue order of conservation & appoint conservator	A/X	D
13.	Issue order of liquidation & appoint liquidating agent	A	D
14.	Issue interpretations of the Act, Rules and Bylaws	A	D
15.	Enter into agreements with other regulators	A	D
16.	Approve request for Administrative Hearings	A	D
17.	Order non-binding Alternative Dispute Resolution	A	D

**Key:**

- A:** Advised by Decision Maker - This person or group must be advised about a decision which **has been made**.
- D:** Decision Maker - This person or group has the authority to make the decision.
- M:** May Be Consulted - This person or group may be called in to confer, provide related information, render advice or make recommendation.
- R:** Recommends to the Decision Maker - This person or group is responsible for making recommendations for decision making to (D) the decision maker.
- X:** Appellant Decision Maker - This group has the authority/obligation to review a protested decision
- \*:** Authority but not responsibility may be delegated.

## NEW COMMISSION MEMBER TRAINING PROGRAM

### Section A: The Texas Credit Union Department (Required)

**Purpose:** Part One provides the organizational background of the Credit Union Department, with an introduction to the laws, rules, and budgeting procedures that govern how the Department operates. Part Two provides an introduction to the Department's supervisory authority to include its disciplinary tools and investigatory authority. Part Three provides an introduction to the requirements and policies on administrative procedure law and ethical consideration for State officials (conflict of interest, reporting requirements, revolving door, and gifts to public servants).

#### **Outline:**

- I. Department
  - A. Composition of Commission
    - 1. Appointment; Terms
    - 2. Qualifications of Commission Members
    - 3. Vacancies; Removal
    - 4. Expenses of Commission Members
    - 5. Suit for Official Act or Omission
    - 6. Sunset Provision
  - B. Commissioner and Staff
    - 1. Commissioner
    - 2. Deputy Commissioner
    - 3. Examiners
  - C. Powers and Duties of Commission
    - 1. Supervision of Commissioner
    - 2. Adoption of Rules
    - 3. Legislative Recommendations
    - 4. Attendance at Commission Meetings
    - 5. Official Committees
  - D. Self-Directed Semi-Independent Status
    - 1. Budget Process
    - 2. Current Operating Plan
    - 3. Budget Assumptions
  - E. Audits
- II. Enforcement of Statutes and Rules
  - A. Regulation of Credit Unions
    - 1. Confidentiality
    - 2. Examinations
    - 3. Approval Authority for Bylaw & Articles of Incorporation

- B. Disciplinary Actions
  - 1. Written Agreements; Orders
  - 2. Conservation
  - 3. Mergers
  - 4. Liquidations
  
- III. Government Laws
  - A. Rulemaking
    - 1. Sources of Rules
    - 2. Notice of Proposed Rules
    - 3. Comments on Proposed Rules
    - 4. Emergency Rules
    - 5. Adopting Rules
  - B. Open Government
    - 1. Open Meeting Act
    - 2. Notice of Meetings
    - 3. Emergency Meetings
    - 4. Executive Sessions
    - 5. Minutes
    - 6. Violations
    - 7. Open Records Act
    - 8. Information Excepted from Disclosure
    - 9. Violations
  - C. Contested Cases
    - 1. Rights and Procedures
    - 2. Final Decisions
    - 3. Judicial Review
    - 4. Alternative Dispute Resolution
  - D. Ethics Laws
    - 1. The “Shoulds”
    - 2. Gifts, Gratuities, and Other Goodies
    - 3. Lobbying
    - 4. Official Misconduct
    - 5. Revolving Door
    - 6. Financial Disclosure

**Section B: Open Government (Required)**

**Purpose:** Appointed officials are required by a state law to receive training in Texas open government laws. The Office of the Attorney General has established formal training courses to ensure that all appointed government officials have a good command of both open records and open meetings laws. The Attorney General’s Web site contains links and information designed to assist public officials in complying with open government training requirement and Texas open government laws.

**Outline:** None. Newly appointed members should view the two videos online at [http://www.oag.state.tx.us/open/og\\_training.shtml](http://www.oag.state.tx.us/open/og_training.shtml) and provide the “certificates of completion” to the Department. Otherwise, the training program must include the presentation of the two videos.

### **Section C: The Credit Union Movement (Required)**

**Purpose:** Part One of this section provides the historical background of the credit union movement. Part Two provides an introduction to the basic principles and responsibilities of credit union management.

**Outline:**

- I. The Credit Union Difference
  - A. History and Philosophy
    - 1. Sources of Rules
    - 2. Notice of Proposed Rules
  - B. Uniqueness in the Financial Services Industry
  - C. Ownership and Structure
  - D. Credit Union Operating Principles
  - E. State and Federal Charters
    - 1. Texas Credit Union Department
    - 2. National Association of State Credit Union Supervisors
    - 3. National Credit Union Administration
    - 4. National Share Insurance Fund
  
- II. The Credit Union Movement – Worldwide System Centered on The Member
  - A. Member; Credit Union; Chapter
  - B. League; League Service Corp.; State Corporate Credit Union
  - C. U.S. Central; Credit Union National Association; CUNA Service Group; CUNA Mutual Insurance Group; Other National Associations
  - D. World Council of Credit Unions

### **Section D: Credit Union On-Site Visitation (Optional)**

**Purpose:** Created with new public members in mind, this optional course affords the member the opportunity to visit a credit union in his or her area and observe, first hand, its operations.

**Outline:** None; content is at the discretion of the credit union president/manager.

## CREDIT UNION DEPARTMENT, STATE OF TEXAS COMMISSIONER SUCCESSION PLAN

**Purpose.** The purpose of this succession plan (“the Plan”) is to have a process for choosing a Commissioner in the event of a planned or unplanned departure of the incumbent.

### **Definitions.**

A *planned departure* is a voluntary retirement or resignation, or a resignation requested by the Commission with an effective date of thirty days or more.

An *unplanned departure* is one that results by reason of death, an immediate termination of an incumbent Commissioner by the Commission, or the inability of the Commissioner to discharge the duties of the office. An unplanned departure may also be deemed to occur in the event of the Commissioner’s resignation or retirement with an effective date of less than 30 days.

*Inability of the Commissioner to discharge the duties of the office* can be signified upon either:

1. A written declaration of the Commissioner that he or she is unable to discharge the duties and responsibilities of the office of Commissioner; or
2. Receipt by the Commission of information, which leads the Commission to conclude, in its sole judgment, that the Commissioner is unable to discharge the duties and responsibilities of the office of Commissioner.

**Implementation.** When this Plan becomes operative, the Commissioner Evaluation Committee (“the Committee”) shall immediately assume responsibility for the succession process. The Committee will also serve as the Commission’s search committee for purposes of carrying out the Plan. As soon as possible, the Chair of the Committee shall call for a meeting of the Committee to consider its action plan. This action plan should address, at least, the following matters:

1. If the incumbent Commissioner will continue in office, the effective date of the retirement or resignation. The date should be acceptable to the Commission and the Commissioner, should provide a reasonable time to search for a successor, and should be sufficiently in the future to permit orientation of the new Commissioner and an orderly transition.
2. If the incumbent Commissioner continues in office, whether there should be a change in the authority, duties, and responsibilities of the office.
3. The extent to which the Committee wishes to call upon the incumbent Commissioner and other staff members to assist the Committee during the transition to an interim or permanent Commissioner.

4. Whether an interim Commissioner will be required and, if so, the date upon which the person should assume office.
5. The identification of possible candidates for interim Commissioner and procedures for the selection of an interim Commissioner. The job description of the Deputy Commissioner specifies that he or she may exercise the powers and prerogatives of the Commissioner during the Commissioner's absence or inability to act.
6. Whether a search should be undertaken and, if so, how broad the search should be.
7. If a search is to be undertaken, whether to engage a consultant or search firm to assist the Committee with the search, and, if so, engaging the consultant or firm in accordance with State procurement requirements.
8. The Committee should also determine the specifics of the application process such as the deadline for applications, the confidentiality of its proceedings, procedures for identifying and interviewing candidates, whether to do background checks, procedures for narrowing the list of candidates, for checking references and for final interviews, whether final interviews should be conducted by the full Commission, and procedures for making an offer of employment.

**Interim Commissioner.** If the Committee determines that the appointment of an Interim Commissioner is necessary or advisable, the Chair of the Commission shall call for a meeting of the Commission to consider the matter. Any person appointed by the Commission as Interim Commissioner shall have the full authority for decision-making and independent action as the incumbent Commissioner. The Interim Commissioner shall receive a temporary salary increase to the entry-level salary of the Commissioner position (Schedule Exempt Position Salary Rates Group 5) or to 5% above his or her current salary, whichever is greater.

**Transition Planning.** In the case of any planned or unplanned departure of the incumbent Commissioner, the Chair of the Commission, the Chair of the Committee, and the incumbent or interim Commissioner shall meet as often as necessary to plan, among other matters, the following:

1. The availability of funds for the transition, including the potential compensation package to be offered to a Commissioner candidate.
2. The orderly transition of the duties and responsibilities of the office of Commissioner to any successor; and
3. The manner in which succession events (concerns with confidentiality, departure, selection process, press releases) are to be announced, including the notification of key interested persons.

**Attributes.** Candidates should have the requisite personal attributes for the office of Commissioner, including:

- Sufficient experience, stature, and reputation in the credit union movement, regulation, or professional life to command respect as Credit Union Commissioner.
- Professional and business management skills, preferably gained in a credit union or regulatory agency.
- Experience of relationships at Board level in one or more major bodies.
- Intellectual strength, sound business acumen, integrity, and an ability to consider and discuss issues laterally and strategically.
- Awareness of political, regulatory, market, and consumer issues together with an understanding about not-for-profit cooperative financial institutions.
- Sound interpersonal skills and an ability to make good judgments of people.

**Plan Review.** The Committee shall review the Plan periodically in the context of current affairs within and outside of the Department. The review of the Plan should include a review of the most recent position description for the Commissioner. It should also include recommendations to the full Commission for any amendments to the Plan or to the Commissioner position description. In addition, after each use of the Plan, the Committee shall meet to discuss how the Plan worked and shall make recommendations for modifications to the Plan based on its experience with the Plan.