



Texas State Securities Board

What the TSSB's New Rule Means for Financial Coaching

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Securities Regulation in Texas

- Regulates the **offer and sale** of securities and the rendering of investment advice in Texas
- **Registers** many individuals and firms that sell securities or render investment advice
- Conducts on-site **inspections** on many registered securities dealers and investment advisers
- Investigates **violations** of the law and pursues administrative, civil, and criminal enforcement actions

Provides investor education material and programs



What is a ‘Financial Coach’?

- A financial planner (or “coach,” or other similar description) is not a legally defined term
- Caution about implying expertise or official recognition
- There is increasing use of various titles, regardless of registration with state or federal regulators
- Area of concern for financial consumers and regulators



What Rule § 139.24 Changed

Before

Activity by persons not registered by the State Securities Board was limited to distributing copies of qualified tuition plan documents to clients. The clients reviewed and completed the documents.

New Rule

Allows individual acting on behalf of a charitable organization to assist clients with completing documentation necessary to enroll and/or make a contribution to a Texas qualified tuition program plan. May also provide client with **approved plan documents**.



Which College Plans Are Covered?

If you're acting on behalf of a charitable organization, only a **Texas qualified tuition program plan**.

Most states offer 529 plans and allow out-of-state residents to enroll, **but the rule doesn't address plans outside of Texas**.

State legislatures and state agencies typically establish and regulate their own 529 plans. Interested parties should consult the websites of other states' plans for additional information.



What's a Security?

Broadly defined under Texas Law

*An investment where an investor relies on another business or person to earn a profit. Investors tend to be **passive** and are not involved in the managerial efforts that generate profits.*

Ready for the legalese? The Texas Securities Act more specifically defines a security as “any limited partner interest in a limited partnership. . . stock, note, bond, debenture, or other evidence of indebtedness. . . Certificate or any instrument representing any interest in or under an oil, gas, or mining lease . . . Investment contract, or any other instrument commonly known as a security, whether similar to those herein referred to or not.”



Examples of Securities

- Stocks, bonds, shares in **mutual funds** and **exchange traded funds**
- Debentures, promissory notes, investment contracts – all of which come in various forms with various investment goals
- Oil and gas and mining ventures

NOT Securities

- Examples: Savings accounts, money market funds

But **not** a money market **mutual fund** (investment decisions made)



Navigating ‘Advice’

If a client asks for a recommendation on a specific product or financial institution (e.g., bank, credit union), what advice can I offer? Can I help a client fill out an application for a product, whether it is an investment or a non-security such as a savings account?

The rule doesn't address either of these questions. Keep in mind there are regulatory requirements for providing investment advice and the offer or sale of securities.

Even if a coach is a registered person under Texas law, it seems unwise to combine the functions of assisting with qualified tuition plans and offering assistance on investment selection.



Adhering to the New Rule

Are there internal controls a charitable organization can implement to ensure compliance?

- TSSB can't advise organizations on internal regulations – different organizations will have different structures and assist clients in different ways.
- There is also no regulatory structure, either governmental or non-governmental, for overseeing the organizations and individuals listed in the rule.



Presenting Program Information

How does an organization/coach provide information in a way that is neutral and benefits clients?

Assistance is limited to the qualified tuition plan's documentation, but materials related to a qualified plan can be provided. **Approved materials are those provided by the following:**

Tuition plan administrator

Texas Prepaid Higher Education Tuition Board

Texas Comptroller

Texas Match the Promise Foundation

Tax-exempt organization allowed by law to implement Texas Match and Save

Selected websites

www.texastomorrowfunds.org

www.texascollegesavings.com

www.texastuitionpromisefund.com

www.matchthepromise.org



Investment Choices in Qualified Plans

The Texas 529 Plan offers numerous investment options for enrollees. What advice can be provided to clients about these options?

- Investment choices are solely the choice of the client. The rule allows assistance in completion of the documents and forms needed to enroll, but not in the choice of investment options.
- The rule's **approved materials**, however, may be helpful in answering questions. Organizations and individuals can point clients to answers provided in those materials.



Texas Investor Education

The TSSB's education site is www.TexasInvestorEd.org and offers these general and targeted print and online publications and presentations:

The updated 2014 edition of the **TEXAS INVESTOR GUIDE: Strategies for Investing Wisely and Avoiding Fraud** combines the basics of investing with guidance on avoiding financial fraud and learning how to research the backgrounds of investment professionals and the products they sell. It includes studies of recent fraud cases the TSSB prosecuted or investigated.

EVERYONE'S INVESTMENT GUIDE is an online, interactive presentation that will help investors – beginning and more experienced – understand the basics of investing, and much more. It covers Making Investments; the Principles of Investing (including the basics of mutual funds); Investing for a Secure Retirement, Planning Withdrawals in Retirement; and Avoiding Scams. A financial dictionary defines thousands of terms, and the presentation features 13 articles that provide additional analysis on topics ranging from asset allocation to the tradeoff between risk and return.

THE VALUE OF INVESTING FOR TEACHERS is a version of **Everyone's Investment Guide** that focuses on the specific financial and savings challenges facing Texas school district employees.

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Investor Education

IT'S YOUR FINANCIAL LIFE assists people who are just starting to manage their own finances.

Two guides for the military:

A SALUTE TO SMART INVESTING covers investment “basic training,” which includes budgeting, saving, and credit; the basics of saving and investing; retirement planning; and recognizing inappropriate or fraudulent investments pitched to military members and their families.

THE VETERANS HANDBOOK: TACTICS FOR CIVILIAN LIFE helps veterans and soon-to-be-vets identify the professional, financial, and personal choices that come with a shift to a civilian career. Topics include: Building a short-term emergency fund and setting long-term goals in saving and investing; avoiding financial problems that arise from investment fraud and pension-related scams; searching for a job; obtaining a mortgage; and details of the post-9/11 GI Bill.

The **Dallas Federal Reserve** offers **BUILDING WEALTH**, a print and online guide to setting financial goals; budgeting; saving and investing; building credit and managing debt; and insurance. Versions for consumers, teachers, students, and community leaders are available at

<http://www.dallasfed.org/cd/wealth/>

