



U.S. Department of Justice

Office of Legal Policy

Washington, D.C. 20530

March 29, 2013

Jonathan F. Mitchell
Texas Solicitor General
P.O. Box 12548
Austin, TX 78711-2548

Dear Mr. Mitchell:

Thank you for your phone call and for your follow-up letter regarding Texas's decision to submit a request for certification under Section 2265 of Title 28.

As your letter acknowledges, the Department has been and remains engaged in a rulemaking process in connection with the requirements of Section 2265. Certification Process for State Capital Counsel System, 76 Fed. Reg. 11705 (Notice of Proposed Rulemaking, or NPRM); Certification Process for State Capital Counsel System, 77 Fed. Reg. 7559 (Supplemental Notice of Proposed Rulemaking, or SNPRM). The NPRM proposed a certification procedure by which the Department would solicit and consider public comments on any request for certification with the goal of enabling the Attorney General to make sound certification decisions on the basis of a robust record that takes into account views of all interested parties. The NPRM also proposed defining within reasonable bounds Chapter 154's requirements for certification, in part to provide notice to interested parties of the standards that the Attorney General would apply in making certification decisions.

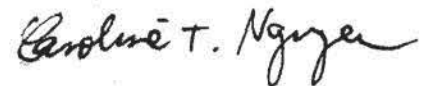
In formulating the final rule, the Department has given careful consideration to the comments submitted by interested parties, including the State of Texas's comments submitted in connection with the SNPRM. We continue to make progress on the rulemaking—as our recent submission of the final rule for review under Executive Order 12866 indicates—and we expect that the final rule will issue in the near future. In the meantime, the Department will begin reviewing the materials you submitted in support of Texas's request for certification on the expectation that it may help speed the ultimate determination of the certification request by the Attorney General. At your request, we will also seek to ascertain whether there is any additional information that you can provide now, even though it may not be possible for us to immediately determine all information that is needed.

While we cannot provide at this time a precise date certain by which a decision will be made, please do not hesitate to call again should you or another attorney in your office have any questions about the status of the Department's progress in this area; if there is any updated information we are then in a position to provide, we will be glad to provide it. But I should add,

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on a personal note, that I will be leaving the Department at the end of this month for a new position in the private sector. In my absence, Brette Steele (brette.steele@usdoj.gov; (202) 514-4601) will normally be the best point of contact, and please continue to copy Acting AAG Elana Tyrangiel on any correspondence.

Sincerely,

A handwritten signature in cursive script that reads "Caroline T. Nguyen". The signature is written in black ink and is positioned above the typed name.

Caroline T. Nguyen
Office of Legal Policy