Sunset Advisory Commission

Staff Report with Hearing Material

University Interscholastic League

June 2014

Sunset Advisory Commission

Senator Jane Nelson
Chair

Representative Four Price
Vice Chair

Senator Brian Birdwell
Senator Juan "Chuy" Hinojosa
Senator Dan Patrick
Senator Charles Schwertner
Dawn Buckingham, M.D.

Representative Cindy Burkett
Representative Harold V. Dutton, Jr.
Representative Larry Gonzales
Representative Richard Peña Raymond
Tom Luce

Ken Levine
Director

Cover Photo: The Texas State Capitol was completed in 1888. With the Goddess of Liberty atop the dome, the Texas State Capitol Building is 19 feet taller than the U.S. Capitol Building in Washington, D.C. The photo shows the north facade of the Capitol. The gardens in the foreground sit atop a 667,000 square foot underground structure, the Capitol Extension, which houses many legislators' offices and committee rooms. Photo Credit: Janet Wood

University Interscholastic League

Sunset Staff Report with Hearing Material
June 2014

This document is intended to compile all recommendations and action taken by the Sunset Advisory Commission for an agency under Sunset review. The following explains how the document is expanded and reissued to include responses from agency staff and the public.

- *Sunset Staff Report, May 2014* – Sunset staff develops a separate report on each individual agency, or on a group of related agencies. Each report contains both statutory and management recommendations developed after the staff's extensive evaluation of the agency.

- *Sunset Staff Report with Hearing Material, June 2014* – Adds responses from agency staff and the public to Sunset staff recommendations, as well as new issues raised for consideration by the Sunset Commission at its public hearing.

Table of Contents

Page

Summary

..... 1

UIL at a Glance

..... 5

Issues/Recommendations

1 UIL Lacks a Statutory Basis for Its Programs, and Its Governing Documents Do Not Ensure Open and Accountable Operations 9

Responses to Issue 1 (page 16a)

2 UIL's Hearings Processes Do Not Ensure Consistent Treatment of Participants 17

Responses to Issue 2 (page 22a)

3 The Interscholastic League Advisory Council Has Fulfilled Its Purpose and Is No Longer Needed..... 23

Responses to Issue 3 (page 26a)

4 Limited Funding and Changing Attitudes Have Reduced the Need For and Effectiveness of the State's Steroid Testing Program..... 27

Responses to Issue 4 (page 32a)

New Issues

..... 33

Appendices

Appendix A — Key Milestones in UIL's Organizational History 35

Appendix B — Historically Underutilized Businesses Statistics..... 37

Appendix C — Equal Employment Opportunity Statistics 41

Appendix D — UIL Activities 45

Appendix E — Staff Review Activities..... 47

Summary

Summary

Nothing quite like the University Interscholastic League (UIL) exists anywhere else in state government. The University of Texas at Austin (UT) created UIL over a century ago to organize interscholastic academic and athletic competitions for primary and secondary schools. Today, UIL continues to operate as part of the university, but has grown into the largest organization of its kind, with more than two million students participating in UIL activities each year. As a part of higher education, UIL is a state agency, but not in the same way as an independent, executive branch agency. UIL is governed by a Legislative Council, made up of mostly member-elected school administrators. Other than funding for the state steroid testing program, UIL receives no state appropriations. While UIL is the largest game in town so to speak, it doesn't provide the only opportunity for students to participate in extracurricular activities and the courts have said participating in such activities is not actually a right, but a privilege. This means playing football is not a right, even in Texas.

Much confusion exists over UIL's structure and authority.

In 2013, the Legislature placed UIL under Sunset review, but it is not subject to abolishment.[1] This is the first Sunset review of the organization and the first in-depth look at UIL's structure and operations in 20 years. Overall, the Sunset review found UIL generally does a good job performing its core function — administering state contests — but also found several problems in UIL's budget development, approval, and reporting processes, and that UIL needs to ensure its rule enforcement hearings are conducted in a fair and consistent manner.

However, the biggest issue the review identified was confusion over UIL's structure and authority, and the fact that very few people understand how UIL operates, particularly since UIL has a long history of operating according to tradition. Sunset staff encountered several questions and misconceptions from UIL participants, interest groups, and the Legislature about UIL's structure and status as a state agency, and what that means for its authority and operations. To this end, the review focused on clarifying UIL's status as a state agency within higher education, making its operations more understandable and transparent, and improving its accountability to member schools, participants, and the public.

The Sunset review also assessed UIL's structure as a part of UT and found that although other organizational alternatives could be considered, none offer clear advantages over the current structure and all would likely increase costs. Further, even though the review identified some problems with UIL, none were significant enough to justify a structural change, especially considering the probable disruption it would have on a system that operates effectively. In terms of alternative structures considered, UIL could exist as a private nonprofit association, similar to the National Collegiate Athletic Association,

but would lose all oversight from UT and the Legislature. Administratively attaching UIL to the Texas Education Agency might seem like a natural fit given UIL's close ties to public education, but this would further distract the Texas Education Agency from its core functions, an issue highlighted in that agency's previous Sunset review. Under any alternative, UIL's costs for administrative services and support it receives from UT would likely be significantly more than UIL currently pays. Other potential costs and unique considerations that pose difficulties when considering removing UIL from UT include the fact that the UIL name is trademarked to UT and UIL employees participate in the Teacher Retirement System of Texas.

Other issues in this report recommend changes to eliminate the Interscholastic League Advisory Council, which has fulfilled its statutory purpose; and the statewide steroid testing program, which is no longer effective due to reduced funding for tests, and perhaps more importantly, changing perceptions about the use of steroids.

UIL's visibility is growing and recent changes to the educational landscape, such as the increased participation and success of charter schools in UIL contests, allow those who may not have participated previously to make inroads into UIL. The growing commercialization of activities, especially athletics, also demonstrates how UIL's audience will continue to expand. While UIL has made some improvements to be more open, it must continue to improve and adjust to new challenges and in doing so, will have to balance the needs and desires of its members with its responsibilities as a state agency.

The material on the following pages summarizes Sunset staff recommendations on UIL.

Issues and Recommendations

Issue 1

UIL Lacks a Statutory Basis for Its Programs, and Its Governing Documents Do Not Ensure Open and Accountable Operations.

Since UT first created UIL in 1913, the organization has expanded to add many more activities and participants, and has become an integral part of the Texas education system. While UIL is a state agency, statute does not specifically define it as such, resulting in ongoing confusion over the organization's status and authority. With no enabling statute, UIL's *Constitution and Contest Rules* (C&CR) governs the organization's operations. However, the document is confusing, incomplete, and outdated; and needs to be rewritten and updated to be more user friendly, easier to navigate, and more useful to those both inside and outside the system. Additionally, several problems in UIL's budget development, approval, and reporting processes prevent a complete and clear financial picture of the organization.

Clarifying UIL's status as a state agency and directing UIL to improve its C&CR and budget will resolve any confusion about its status, make UIL more accountable to its members and participants, and better protect the interests of member schools, students, and other stakeholders.

Key Recommendations

- Clarify UIL is a state agency within the University of Texas at Austin.
- Direct UIL to rewrite and reorganize its *Constitution and Contest Rules*.
- Direct UIL to improve how it tracks and reports all contest revenues and expenses.

Issue 2

UIL's Hearings Processes Do Not Ensure Consistent Treatment of Participants.

UIL has developed internal hearings processes to handle student eligibility issues and alleged rule violations. While UIL is not subject to the same procedural requirements for hearings as typical state agencies, UIL should still ensure its hearings are conducted in a fair and consistent manner. Directing UIL to establish clear procedures for its hearings in rule and to provide additional guidance to its local and state hearings committees would ensure more consistent treatment of students, parents, coaches and school administrators.

Key Recommendations

- Direct UIL to establish detailed procedural rules for its enforcement hearings.
- Direct UIL to create penalty guidelines and a precedents manual for its enforcement and eligibility determination processes.

Issue 3

The Interscholastic League Advisory Council Has Fulfilled Its Purpose and Is No Longer Needed.

Statute requires the 11-member Interscholastic League Advisory Council to review and make recommendations regarding UIL rules and to study UIL policy regarding student eligibility, geographic distribution of UIL resources and programs, and gender equity. Originally established in 1989, the council fulfilled its requirements in 1995 and has had minimal impact since. Abolishing the council would eliminate the expenditure of time and energy by both UIL and council members without reducing stakeholder input, which UIL obtains through other, more effective means.

Key Recommendation

- Abolish the Interscholastic League Advisory Council.

Issue 4

Limited Funding and Changing Attitudes Have Reduced the Need For and Effectiveness of the State's Steroid Testing Program.

The state's steroid testing program began in 2008 with the goal of reducing illegal steroid use through random testing of high school student athletes and educating students, parents, and coaches about the dangers of steroid use. Texas is now one of only three states to test for steroids, spending $9.3 million over the life of the program while averaging positive test results of less than one-third of 1 percent. Since the program began, changing attitudes in Texas and nationally toward steroid use have resulted in reduced use among teens. Additionally, the Legislature has reduced funding for the program each biennium, resulting in fewer tests being conducted and diminishing the program's deterrent effect. Discontinuing the steroid testing program, but maintaining the educational component would ensure coaches and students remain aware of the dangers of steroids while saving the State $1 million over the next biennium. Individual school districts would continue to be allowed to implement their own drug testing programs at the local level if needed.

Key Recommendation

- Discontinue the statewide steroid testing program.

Fiscal Implication Summary

UIL's only state appropriation is for the steroid testing program. Eliminating the program would result in savings to general revenue of $500,000 per year. Other recommendations in this report would not result in significant costs or savings to UIL. The direct fiscal impact for each recommendation is summarized below.

Issue 3 — Abolishing the Interscholastic League Advisory Council would result in savings of about $2,500 per year to UIL from reimbursement of travel and per diem expenses for council members.

Issue 4 — Eliminating the statutory requirement for student athletes to be randomly tested for anabolic steroids would result in savings to general revenue of $500,000 per year. Maintaining the educational component of the program would not have a fiscal impact to the State or UIL.

UIL

Fiscal Year	Savings to the General Revenue Fund
2016	$500,000
2017	$500,000
2018	$500,000
2019	$500,000
2020	$500,000

[1] Section 33.083(e), Texas Education Code.

UIL at a Glance
May 2014

UIL at a Glance

The University Interscholastic League (UIL) seeks to enhance students' educational experience and help prepare them for citizenship by creating and administering a variety of academic, music, and athletic contests for primary and secondary students in Texas; and promulgating and enforcing rules to ensure safe and fair competition in an educational atmosphere that promotes good sportsmanship. UIL's history traces back to 1909 when the University of Texas at Austin (UT) established its extension division in an attempt to improve its elitist image across the state and increase enrollment.[1] In 1913, UT merged the division's Texas High School Debating League with the University of Texas Interscholastic Athletic Association to officially form UIL.[2] Today, UIL operates under the auspices of UT's Division of Diversity and Community Engagement. Appendix A, *Key Milestones in UIL's Organizational History*, provides a timeline of key events in UIL's development.

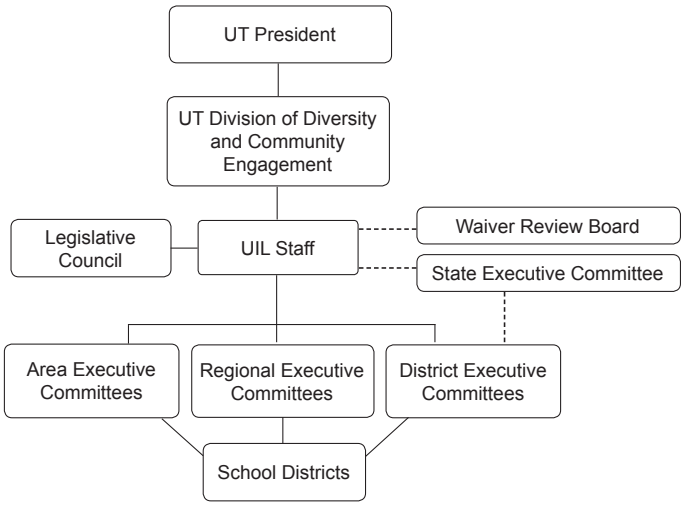
UIL is a voluntary membership organization that is open to any Texas Education Agency accredited public school district or open enrollment charter school, as well as certain private or parochial schools.[3] Currently, UIL membership includes 1,401 Texas high schools. To promote competitive equity, UIL assigns each member school to an appropriate conference, region, and/or district depending on the activity and based on student enrollment and geography. Since 1980 UIL has had five conferences, but due to continued population growth, UIL recently added a sixth conference for the 2014–2015 school year.

Key Facts

- **UIL Governance**. The Legislative Council is UIL's 32-member rulemaking and policy body, responsible for amending contest rules, adopting new contests, and setting fees.[4] The council is composed of 24 members elected by UIL member schools, one from each of the four UIL basketball regions within each of the six conferences; and eight members appointed by the Legislative Council chair, two from each UIL basketball region. According to UIL rules, members serve four-year terms and only superintendents, assistant superintendents, and principals of UIL member schools are eligible to serve on the council.[5] The council uses several standing and ad hoc advisory committees to facilitate its rulemaking process.

  Locally, 1,568 District Executive Committees, 48 Regional Executive Committees, and seven Area Executive Committees administer local UIL contests and help adjudicate UIL rule violations. These committees are made up of local superintendents and other school administrators. The accompanying chart, *UIL Governance Structure*, depicts key components of UIL's governance structure.

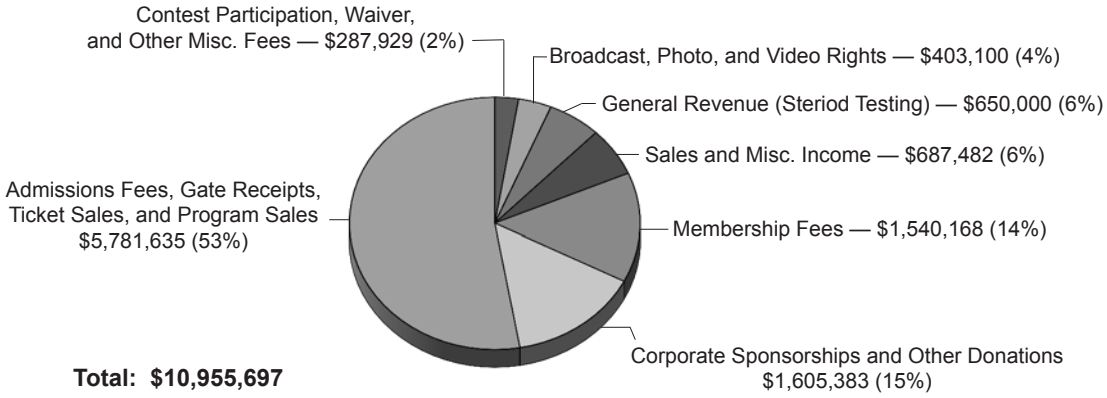
UIL Governance Structure



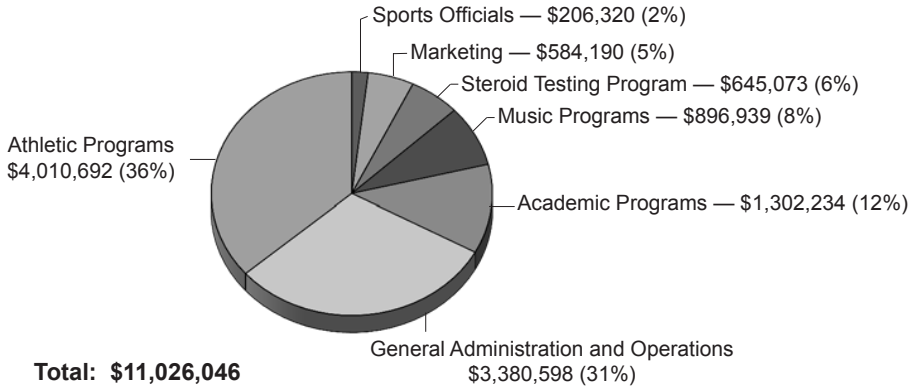
- **Funding**. As a part of UT, UIL's funds are held within UT accounts.[6] UIL's revenues totaled $10.9 million in fiscal year 2013. Just over half of this funding came from state contest admission fees, gate receipts, and ticket and program sales. In fiscal year 2013, school membership dues totaled $1.5 million and UIL's only state appropriation was $650,000 in pass-through funding from the Texas Education Agency to administer the steroid testing program.

  UIL spent $11 million in fiscal year 2013, mostly related to overseeing and administering contests in its three programs — Academics, Music, and Athletics. UIL pays 3.25 percent of eligible expenses to UT for administrative support, such as accounting, payroll, human resources, and information technology services.[7] Appendix B, *Historically Underutilized Business Statistics*, describes UIL's use of historically underutilized businesses in purchasing goods and services for fiscal years 2011–2013. The accompanying pie charts, *UIL Revenues* and *UIL Expenditures*, show the types and amounts of revenue UIL collected and its expenditures by function in 2013.[8] At the end of fiscal year 2013, UIL had a fund balance of $4.1 million.

UIL Revenues – FY 2013



UIL Expenditures – FY 2013



- **Staffing**. UIL currently employs 51 staff, all located in Austin. The UT president appoints the UIL executive director and UIL staff are UT employees and members of the Teacher Retirement System of Texas. UIL also has 20 student interns and assistants who work on projects beneficial to both UIL and the students' degree plans; student interns also receive semester credit for their work. Appendix C, *Equal Employment Opportunity Statistics*, compares UIL's workforce composition to the percentage of minorities in the statewide civilian labor force for the past three fiscal years.

- **Contests and Contest Administration**. UIL provides for contests in over 70 different activities for approximately two million Texas students each year. Appendix D, *UIL Activities*, provides a comprehensive list of these activities. As discussed below, UIL organizes contests into three programs — Academics, Music, and Athletics.

  Academics. UIL provides for 26 high school academic contests as well as 20 elementary, middle school, and junior high contests, which make up UIL's "A+ Academics" program. Schools generally compete in the same districts and regions as they do for sports that take place in the spring semester. In addition to organizing and administering five state academic contests, UIL coordinates annual student activities conferences across the state, and administers the Interscholastic League Press Conference contests and workshops.

  Music. UIL provides for six broad categories of music contests, including marching band, various small and medium ensemble and solo performances, and music theory. For music contests, UIL divides the state into 28 geographical regions. In addition to organizing and administering the State Marching Band Contest and Texas State Solo-Ensemble Contest, UIL maintains the Prescribed Music List, which is a list of more than 18,000 pre-approved pieces of music that students can perform at UIL contests and is used by interscholastic activities associations nationwide. Because of the technical nature of music activities, UIL relies on two advisory committees when adopting or changing music-related rules — a Musical Advisory Committee and a Music Technical Advisory Committee.

  Athletics. UIL provides for 22 athletic contests, including football, girls and boys basketball, baseball, and track and field. UIL realigns conferences, regions, and districts for varsity athletics every two years to adjust for population growth and the establishment of new schools. For football and basketball, UIL organizes schools within each of the six conferences into 32 districts and four regions based on geography in an attempt to balance competitive equity within each conference with the travel burden faced by each member school.

  While UIL administers all state-level contests, the local District, Regional, and Area Executive committees are generally responsible for all aspects of local UIL contests. Since not all UIL contests have a district, regional, and area contest, the existence of each of these committees varies by activity. Through these committees, UIL member schools administer district, regional, and area-level contests, including determining their schedules, venues, and entry fees.

- **Contest Rules, Eligibility Waivers, and Enforcement**. UIL member schools operate under UIL contest rules and regulations for each activity contained in UIL's *Constitution and Contest Rules* (C&CR). The Legislative Council adopts these rules, which the commissioner of education must approve or disapprove.[9] The C&CR does not include rules of play for each activity, which are generally established by national organizations, such as the National Collegiate Athletic Association.

  The C&CR specifies the conditions under which students are eligible to participate in UIL contests and activities. However, UIL offers waivers to students that would otherwise be ineligible to participate in

varsity contests under certain UIL eligibility rules, but who encounter hardships due to involuntary or unavoidable circumstances. During the 2012–2013 school year, UIL granted 66 percent of the 1,095 waivers requested. UIL's contest rules are enforced by school districts, local committees, and UIL. UIL does not issue fines for rule violations, but rather issues penalties to students, member schools, and school personnel including reprimands, suspensions from participation, and game forfeitures.

- **Steroid Testing**. In accordance with state law, UIL administers the statewide steroid testing program to help prevent the use of illegal anabolic steroids by high school students participating in UIL athletic contests.[10] The program aims to keep student athletes from using steroids through random testing and educating students, parents, and coaches on steroids' negative health effects. During the 2012–2013 school year, 3,351 students were tested, resulting in 11 positive results.

- **Texas Interscholastic League Foundation (TILF)**. TILF is a nonprofit foundation affiliated with UIL that provides college scholarships to students who are attending a Texas college and, during high school, participated in the UIL Academic State Meet; were recognized as outstanding soloists at the Texas State Solo-Ensemble Contest; or were state finalists in the Barbara Jordan Historical Essay Contest or Latino History Essay Contest. In 2013, TILF awarded $1.1 million through 595 scholarships ranging from $500 to $20,000.

1 Bobby Hawthorne, *University Interscholastic League: An Illustrated History of 100 Years of Services* (The University Interscholastic League: Austin), p. 11.

2 Ibid., p. 19.

3 UIL rule allows non-public high schools to be members of UIL if they are accredited by the Texas Private School Accreditation Commission, do not qualify for membership in any other organization similar to UIL, and meet UIL's definition of a high school.

4 Although the new six conference alignment will not take effect until the 2014–2015 school year, new Legislative Council members are in place as of May 2014.

5 Section 25(b), UIL *Constitution and Contest Rules*, 2013–2014.

6 Section 33.083(b), Texas Education Code.

7 In accordance with UT policy, not all UIL expenses are subject to the university's administrative charge, including the steroid testing program, rebates to member schools, capital outlay, and other select expenses.

8 Expenditures related to sports officials represents pass-through funding from sports officials to the National Federation of State High School Associations and ArbiterSports, an online sports officiating software company.

9 Section 33.083(b), Texas Education Code.

10 Section 33.091, Texas Education Code.

Issues

Issue 1

UIL Lacks a Statutory Basis for Its Programs, and Its Governing Documents Do Not Ensure Open and Accountable Operations.

Background

The University of Texas at Austin (UT) established the University Interscholastic League (UIL) in 1913 to administer extracurricular athletic and academic contests for UIL's original 39 member schools.[1] In the organization's early years, these contests included only debate, junior and senior declamation, and track and field, and women were not allowed to participate.

Times have changed. Today, UIL operates under the auspices of UT's Division of Diversity and Community Engagement with an $11 million annual budget and about 50 staff. As a part of UT, UIL abides by most laws applicable to state agencies, including the Open Meetings Act and Public Information Act, and is subject to state audits and Legislative Budget Board review. However, as a part of higher education, UIL is not subject to the Administrative Procedures Act (APA), though its rulemaking process does meet much of the act's intent.

UIL has become an integral part of the public education system. As the accompanying chart shows, 1,401 Texas high schools, including all traditional public high schools, are voluntary members of UIL. Additionally, any elementary or junior high school associated with a UIL-member high school may participate in UIL activities. UIL offers over 70 different activities, more than any other state interscholastic activities association, and during the 2012–2013 school year, about two million students participated in UIL contests. The Legislature has further expanded UIL's authority by authorizing UIL to register sports officials who officiate UIL contests and to help implement programs related to student athlete health and safety, like the steroid prevention and concussion training programs.[2]

UIL High School Participation 2013–2014 School Year

School Type	Number
Traditional Public Schools	1,305
Charter Schools	63
Magnet Schools	26
Early College Schools	5
Private/Parochial Schools	2
Total High Schools	**1,401**

Although UT provides administrative support and some oversight, UIL relies heavily on its member schools to actually govern and administer the organization and its functions. The UIL Legislative Council — a 32-member board made up of mostly member-elected school administrators — sets policy and adopts rules for UIL contests. While UIL staff administers all state-level contests, UIL's local committees — District Executive Committees, Regional Executive Committees, and Area Executive Committees — administer all local-level contests and locally enforce UIL rules. These committees, comprised of school administrators, manage all aspects of local contests, selecting venues, setting contest schedules and appropriate fees, collecting funds from schools, and making other contest decisions.

Findings

UIL's status as a state agency is not clearly defined, resulting in ongoing confusion and legal challenges regarding its authority and operations.

UIL does not have an enabling statute or even a list of key duties.

The University of Texas is a state agency and because UIL is a part of UT, UIL is also a state agency. However, statute does not specifically define UIL as a state agency and provides little guidance as to its overall purpose and primary duties. Statute simply states UIL "is a part of the University of Texas at Austin," but unlike other UT auxiliary units, such as the McDonald Observatory and Marine Science Institute, UIL does not have an enabling statute or even a list of key duties.[3]

As a result, confusion about UIL's status and authority persists. For example, UIL has been identified as different types of organizations — a governmental entity, state agency, department within UT, nonprofit organization, and voluntary association of schools — by Texas courts, the Legislature, UT, and its own membership. Additionally, what little statutory direction that exists has resulted from discrete problems and litigation. As the accompanying textbox describes, since 1973, several appellate courts and the state attorney general have reached different conclusions about UIL's legal status.[4] Although these cases each involve different, specific legal issues, they illustrate the ongoing confusion about UIL's status. As the textbox also shows, as a result of some of these cases, the Legislature has attempted to better clarify UIL's status and authority.

Statute also does not specify the existence or use of UIL's local committees. Without any clear direction regarding the relationship between the local committees and UIL state office, the committees mistakenly operate more like local school boards — independent of the UIL state office — and occasionally run afoul of Open Meetings Act requirements.

1973	*Saenz v. UIL* – court determines UIL is a government entity and agency of the State of Texas
1982	*UIL v. Payne* – court determines UIL is not a governmental entity
1985	*UIL v. Maroney* – court determines UIL is not a governmental entity
1989	Legislature adds language to UIL's statute attempting to clarify UIL's status within UT
1997	State attorney general issues an opinion which describes UIL as a voluntary association
2010	*UIL v. Southwest Officials Association* – court determines UIL is a governmental unit
2013	Legislature authorizes UIL to register sports officials

UIL's governing document, the *Constitution and Contest Rules*, is confusing, incomplete, and outdated, reducing its usefulness to participants and the public.

Without an enabling statute, UIL's *Constitution and Contest Rules* (C&CR) governs the organization's operations. The *Constitution* acts as a sort of enabling statute, outlining UIL's general organization, rulemaking process, and eligibility rules. The *Contest Rules* section outlines specific rules for each type of UIL contest. UIL amends the C&CR each year following the Legislative Council's annual meeting.

Over the years, problems with the Constitution and Contest Rules *have been identified, but not addressed.*

Over the years, several problems with the C&CR have been identified, as discussed below, and still persist. In 1994, the comptroller's Texas Performance Review Division (TPR) made several recommendations to UIL and UT related to improving the C&CR and other processes to increase accountability and transparency; however, UIL never implemented most of the recommendations and many of the same problems remain.[5]

- **Unclear roles and responsibilities**. The C&CR does not clearly establish the roles and responsibilities of the various UIL entities, including UT; the Legislative Council and its standing committees; and the local district, regional, and area committees, inhibiting transparency in UIL operations and resulting in confusion about the roles of these entities and their authority. For example, UT is not directly involved in UIL's rulemaking process, but it plays a key role in UIL's internal operations, including approving the budget, hiring UIL employees, conducting performance reviews, and contracting on behalf of UIL. None of these roles are described in the C&CR. Also, the Legislative Council's seven standing committees are central to UIL's rulemaking processes, but their scope is undefined in the C&CR, resulting in overlap between committees, such as the Finance and Policy committees.

- **Inadequate explanation of enforcement procedures**. One of UIL's primary functions is adjudicating rule violations. However, as discussed further in Issue 2 of this report, UIL's rule enforcement process is not adequately described in the C&CR. Without a clearly laid out process, participants (parents, students, coaches, member schools) have no way of understanding the steps in the process or how to prepare for a hearing, or any assurance that procedural safeguards exist to ensure fair and consistent decisions.

UIL's Constitution and Contest Rules *fails to serve as a useful tool for understanding UIL's operations.*

- **Poorly organized and not user friendly**. As UIL's primary governing document, the C&CR should be well organized and easy to understand for its main audience of parents, students, coaches, and member schools. However, UIL amends the C&CR as problems come up or to address specific abuses, resulting in a piecemeal document that fails to serve as a useful tool for understanding UIL's operations. For example, rather than describing what UIL is and outlining the authority under which it and its component parts operate, the *Constitution* includes specific eligibility rules, rules for aligning conferences, and information that would be more

suitable to the *Contest Rules*. UIL has not performed a comprehensive rewrite or reorganization of the document since 1984.

UIL's budget process is not transparent and fails to provide a complete financial picture of the organization.

UIL is funded through many sources, most of which come from member schools, students, parents, and the general public. As such, UIL's budget process should be clear and provide a complete financial picture of the organization to its member schools and other stakeholders. The Legislative Council's Finance Committee approves UIL staff's budget recommendations and UT approves the overall final budget. However, the budget process is not sufficiently outlined in the C&CR and several gaps exist in the budget development, approval, and reporting processes, as discussed below.

UIL does not track the revenues or expenses of its various local committees.

- **Inadequate tracking and reporting of contest revenues and expenses**. UIL does not track the revenues or expenses of its various local committees or district-level contest revenues and expenses. UIL's local committees hold funds received by the schools within their jurisdiction in their own accounts to administer local contests, despite the fact that state law requires "funds belonging to the University Interscholastic League" be held in UT accounts.[6] Sunset staff surveyed several local committees and found some hold in excess of $100,000 in these accounts. While neither practical nor appropriate that UT hold the local committees' funds — given the localized nature of the contests — UIL should know the overall costs to administer all UIL contests across the state.

  UIL's annual financial report details the revenues and expenses related to each UIL state contest. However, expense categories are inconsistent across contests and some categories fail to adequately describe contest expenses. For example, several contests contain a line item for "miscellaneous contest expenses" despite large amounts, as was the case for the State Marching Band Contest where miscellaneous expenses totaled more than $20,000 in fiscal year 2013. Further, UIL does not report the interest income earned on UIL's account balances, which totaled an estimated $96,300 in fiscal year 2013.

- **Unclear fee authority and rebate requirements**. UIL rule provides for a number of fees, including membership fees, contest fees, waiver filing fees, and admission fees.[7] The C&CR clearly outlines the Legislative Council's authority to set membership and filing fees, but no authority exists for setting contest and admission fees. While any changes in contest or admission fees are approved by the Finance Committee, this is not expressed in the C&CR. Further, none of UIL's fees are listed in the C&CR. As UIL's primary governing document, the C&CR should clearly list all fees to ensure transparency and accountability to its member schools, participants, and the public.

UIL rule also requires UIL to provide rebates to schools participating in certain state contests if gate receipt revenue remains after UIL pays contest expenses; however, the amount schools are entitled to receive is unclear, resulting in UIL being inconsistent in when it offers rebates. For example, UIL rule requires that up to 80 percent of net admission and entry fees from the State Marching Band Contest be divided among schools participating in the contest, but no percentage is specified and UIL's annual financial reports from fiscal year 2010 to 2013 indicate no rebates were issued even though balances totaled between $11,426 and $40,902. Additionally, the annual financial reports show that in fiscal years 2010 and 2012, UIL failed to issue rebates to schools participating in the State Softball Tournament when excess revenue remained.

UIL failed to issue rebates to schools participating in the State Softball Tournament.

- **Lack of budget approval by full governing board**. As UIL's governing board, responsible for setting UIL fees and directing policy, the Legislative Council should approve UIL's budget recommendations to UT. However, only the council's Finance Committee approves the recommendations, leaving the Legislative Council at large generally uninvolved in the budget process. This process has resulted in changes being made without the full council's input or approval, such as when the Finance Committee approved increasing the annual percentage of state tournament gate receipts UIL receives from 15 to 16 percent in 2005.[8]

The need for additional financial controls within UIL has been recommended before — most recently by UT as part of an internal audit it completed in 2013, as well as by TPR in its 1994 report on UIL.[9] Although UIL has implemented some of these recommendations, it continues to struggle with accurately and transparently developing and reporting its budget.

Other organizational structures for UIL would likely increase costs and offer no significant benefits over maintaining UIL as a part of UT.

At first glance, UIL's placement within UT looks like an odd fit due to UIL's broad reach and close ties to public education. While an independent agency structure is neither necessary nor a realistic consideration, Sunset staff did consider other alternative organizational structures and found that while some may offer certain advantages as discussed in the following material, the likelihood of increased costs and lack of any significant problems with UIL's current placement within UT outweigh the benefits of any structural change.

Increased costs and lack of significant problems outweigh benefits of moving UIL.

- **Private nonprofit association**. Most other states' interscholastic activities associations are established as private nonprofit associations. While this structure would give member schools full control over UIL's operations, it would also result in increased costs and less state oversight. UIL estimates it would have to pay significantly more than it pays UT for administrative services such as human resources and IT, and would have to pay rent as it currently resides in a UT-owned building. These costs would likely result

in increased membership dues for schools. Further, UIL would lose all legislative and operational oversight currently provided by UT and the commissioner of education.

- **Texas Education Agency (TEA)**. Administratively attaching UIL to TEA might seem like a natural fit because of its ties to public education. However, having to administer an entirely separate entity would further distract TEA from its core mission and could result in costs to the State for TEA to provide administrative support for UIL's functions. Costs for rent and other services would also likely increase.

Recommendations

Change in Statute

1.1 Clarify UIL is a state agency within the University of Texas at Austin.

To clear up confusion about UIL's status and fully protect the interests of member schools, students, and other stakeholders, this recommendation would clearly define UIL as a state agency within UT and would identify the organization's primary duties, including:

- creating and administering interscholastic academic, music, and athletic contests for its member schools;
- promulgating and enforcing contest administration rules;
- creating local committees to assist in carrying out UIL's functions; and
- other duties necessary to administer interscholastic contests within the state for its member schools.

As a part of higher education, UIL is not subject to the APA and this recommendation would clarify that by specifying UIL's contest rules are not considered statewide rules subject to the APA. Applying the APA to UIL's contest rules would be inappropriate given that participation in extracurricular activities is a privilege and as discussed further in Issue 2 of this report, would be unworkable for UIL's hearings processes. However, the requirement that the commissioner of education approve or disapprove UIL rules would remain in place to continue to provide a level of oversight for UIL and ensure consistency with public education rules and policies.

The recommendation would also specify that any local committees UIL uses to administer interscholastic contests would be subject to the Public Information Act and Open Meetings Act in the same ways as school boards and other educational entities. Any monies held by these committees would not be considered funds belonging to UIL deposited in UT accounts, but the committees must report all committee-related revenues and expenditures annually to UIL. Allowing the local committees to operate more like school boards would ensure they are operating under the appropriate authority and still allow for meaningful input from stakeholders affected by the committees' decisions.

Management Action

1.2 Direct UIL to rewrite and reorganize its *Constitution and Contest Rules*.

In consultation with the Legislative Council, UIL should rewrite and reorganize its C&CR. As part of the rewrite, UIL should:

- create two separate documents — a constitution or similar document that describes UIL's governance structure and other broad principles necessary to govern the organization, and rules describing how contests will be administered and other rules of general applicability;
- clearly define the authority, roles, and responsibilities of UT, the Legislative Council and its committees, and all local committees, including the authority and process to set fees;
- include a complete list of all fees to which member schools or participants may be subject;
- clearly describe how revenue will be distributed from all state contests, including the percentage UIL is entitled to keep and what schools are entitled to receive in travel reimbursement and rebates; and
- fully describe the enforcement process as discussed in Issue 2 of this report.

As part of this recommendation, UIL should develop a clear approach and specific timeframes for obtaining stakeholder involvement throughout the process. UIL should complete the rewrite of its constitution and rules by the start of the 2016–2017 school year. An updated and reorganized constitution and set of rules would be more user friendly, easier to navigate, and provide clear information to member schools, local committees, and other participants about important aspects of the organization.

1.3 Direct the full Legislative Council to approve UIL's annual budget recommendations.

UIL staff should submit its budget recommendations to the Legislative Council for review and approval prior to submitting the budget to UT for final approval. This recommendation would give the council members a full understanding of UIL's operating budget, allow them the opportunity to suggest any changes, and ensure UIL is accountable to its member schools and other stakeholders.

1.4 Direct UIL to improve how it tracks and reports all contest revenues and expenses.

UIL should require all its local committees to report contest revenues and expenses to UIL annually to provide a complete picture of the costs for all UIL contests across the state. UIL should also improve its annual financial report by:

- using consistent categories to describe expenses across events within the same program area, as appropriate;
- ensuring rebates to schools are clearly identified and consistent with UIL rules; and
- clearly stating the percentage of admission fees, gate receipts, and ticket sales UIL is entitled to keep for each state contest.

The recommendation would not change the statutory requirement for UIL to submit the annual financial report to the governor and presiding officer of each house of the Legislature, but would direct UIL to also provide a copy of the report to all Legislative Council members to better ensure UIL is accountable to its member schools for the costs of administering state contests.

Fiscal Implication

These recommendations would not have a fiscal impact to the State. The recommendation directing UIL to rewrite its C&CR could have a fiscal impact to UIL for any additional Legislative Council meetings necessary to complete the rewrite; however, UIL could use a portion of its existing fund balance for any additional expenses.

……..

[1] Bobby Hawthorne, *University Interscholastic League*: *An Illustrated History of 100 Years of Services* (The University Interscholastic League: Austin), pp. 11–19.

[2] Sections 33.085, 33.091, and 33.158(a), Texas Education Code.

[3] Section 33.083, Texas Education Code; Section 67, Subchapters C and D, Texas Education Code.

[4] *Saenz v. Univ. Interscholastic League*, 487 F.2d 1026, 1027 (5h Cir. 1973); *Univ. Interscholastic League v. Payne*, 635 S.W.2d 754, 255 (Tex. App.—Amarillo 1982); *Univ. Interscholastic League v. Maroney*, 681 S.W.2d 285, 287 (Tex. App.—Austin 1983); Op. Tex. Att'y Gen. No DM-446 (1997); *Univ. Interscholastic League v. Southwest Officials Assn*., 319 S.W.3d 952, 955 (Tex. App.—Austin 2010).

[5] Texas Comptroller of Public Accounts, *University Interscholastic League Performance Review* (Austin: Texas Comptroller of Public Accounts, 1994), pp. 17–18.

[6] Section 33.083(b), Texas Education Code.

[7] Section 867, UIL *Constitution and Contest Rules*, 2013–2014.

[8] The University Interscholastic League Finance Committee, March 2, 2005, meeting minutes.

[9] Texas Comptroller of Public Accounts, *University Interscholastic League Performance Review*, pp. 25–36.

Responses to Issue 1

Recommendation 1.1

Clarify UIL is a state agency within the University of Texas at Austin.

UIL Response to 1.1

UIL agrees with this recommendation. Founded by the University of Texas over a hundred years ago, UIL has always considered itself to be a state agency and has conducted its business consistent with that view. The proposed statutory clarification should provide clear guidance on the relationship between UIL and local UIL-member school committees; preserving the positive aspects of local decision making while providing for appropriate UIL oversight. (Dr. Charles Breithaupt, Executive Director – University Interscholastic League)

For 1.1

None received.

Against 1.1

None received.

Recommendation 1.2

Direct UIL to rewrite and reorganize its Constitution and Contest Rules.

UIL Response to 1.2

UIL agrees with this recommendation. The UIL Constitution and Contest Rules has served the UIL well for many years. However, with input from all of its stakeholders, the UIL is confident that a thoughtful review and rewrite of the document will lead to rules that are better organized and easier to understand. (Dr. Charles Breithaupt, Executive Director – University Interscholastic League)

For 1.2

None received.

Against 1.2

None received.

Recommendation 1.3

Direct the full Legislative Council to approve UIL's annual budget recommendations.

UIL Response to 1.3

UIL agrees with this recommendation. While UIL strongly believes the budget approval process and financial reporting is transparent, we recognize that including the full UIL Legislative Council in the budget approval process will improve the budgeting process by providing for more opportunities for stakeholder input and lead to a better understanding of revenues, including fees and expenditures. Like the Constitution and Contest Rules revision discussed above, UIL will undertake a similarly detailed and thorough review of the UIL budgeting process. (Dr. Charles Breithaupt, Executive Director – University Interscholastic League)

For 1.3

None received.

Against 1.3

None received.

Recommendation 1.4

Direct UIL to improve how it tracks and reports all contest revenues and expenses.

UIL Response to 1.4

UIL agrees with this recommendation. UIL is committed to improving the tracking and reporting of all contest revenues and expenses with an emphasis on clarity and consistency. It will incorporate this approach into the overall budgeting process review. UIL will improve its tracking and reporting system and involve the full Legislative Council in the budgeting process. This will further improve transparency and opportunities for stakeholder input and awareness. (Dr. Charles Breithaupt, Executive Director – University Interscholastic League)

For 1.4

None received.

Against 1.4

None received.

Issue 2

UIL's Hearings Processes Do Not Ensure Consistent Treatment of Participants.

Background

The University Interscholastic League (UIL), through its Legislative Council, adopts rules governing students, school personnel, and schools participating in UIL activities. UIL has developed internal processes for handling student eligibility issues and allegations of rule violations by participants, as follows.

Eligibility Waivers

UIL offers waivers to students who encounter hardships due to involuntary or unavoidable circumstances that would otherwise make them ineligible to participate in varsity contests under UIL varsity eligibility rules, listed in the accompanying textbox. For example, a student could request and receive a waiver from the parent residency rule if the parents' divorce caused a change in schools. In the 2012–2013 school year, UIL received about 1,100 waiver requests. UIL employs a waiver officer who determines whether a student should receive a waiver and be declared eligible to participate. A student may appeal the waiver officer's decision to the Waiver Review Board, which is made up of nine current and former school administrators. Generally, if a waiver is finally denied, the student is ineligible to participate in varsity-level activities for one school year.

UIL Varsity Eligibility Rules

- **Parent residency rule**. Requires a student to live with a parent within the school attendance zone to compete in varsity athletics.
- **Four-year participation rule**. Limits participation in high school UIL competition to four years.
- **19-year-old rule**. Requires students be less than 19 years old as of September 1 prior to the contest to compete in varsity athletics.
- **Foreign exchange student participation rule**. Prohibits foreign exchange students from participating in varsity athletics during their first year.
- **First six-weeks passing grade rule**. Requires students earn enough credits the year before to "pass" on to the next grade.

Rule Enforcement

UIL uses more than 1,500 local committees to hear allegations of rule violations, such as a school playing an ineligible player, a coach recruiting players, or a student transferring schools for athletic purposes. The local committees — District Executive Committees, Regional Executive Committees, and Area Executive Committees — are generally comprised of local school administrators from the high schools within each committee's jurisdiction. The local committees conduct enforcement hearings based on UIL's *Constitution and Contest Rules* and other guidance from UIL staff. After conducting a hearing, a local committee can dismiss the allegation, find that a student is ineligible to compete, issue a penalty,

or refer the matter to the State Executive Committee (SEC), which has greater enforcement authority. The textbox, *Local Committee Penalty Authority*, lists some of the actions a local committee can take against the various UIL participants.

Local Committee Penalty Authority

Students

- A written reprimand with up to three years of participation probation and any reasonable conditions.
- A formal suspension from participation of up to three years with up to three years of probation and any reasonable conditions.
- A loss of varsity eligibility for one year.

School Personnel

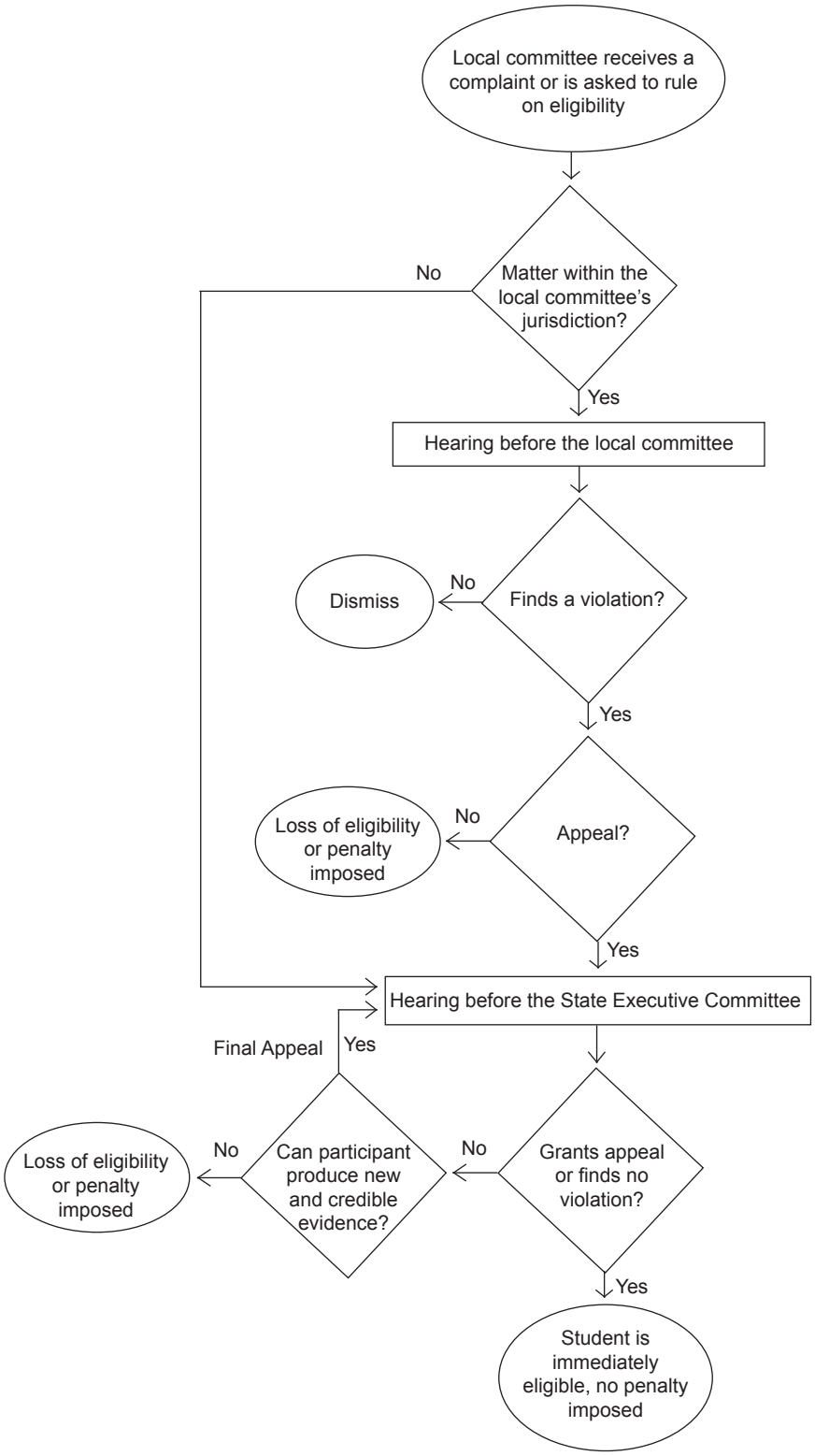
- A private reprimand.

Schools

- A written public reprimand, published in UIL's newsletter, with up to three years of probation from participation and any reasonable conditions.
- Forfeiture of contest(s) for playing an ineligible player or for school or school personnel violations that result in an unfair advantage.
- Recommend suspension from participation to the SEC for grave violations.

Participants may appeal a local committee decision to the SEC, which is comprised of 11 members appointed by the commissioner of education. The SEC has exclusive jurisdiction over certain violations, including coach ejections and violations at post-district level contests, and has final appellate authority over all rule violations. The flowchart on the flowing page, *UIL Rule Enforcement Process*, details how cases can move from the local committees to the SEC. The SEC has the same penalty authority as local committees, but also has authority to issue public reprimands to school personnel and suspend schools and school personnel from participation in UIL contests.

UIL Rule Enforcement Process



Findings

UIL lacks adequate rules and procedures necessary to ensure its eligibility and rule violation hearings are understandable to all participants and conducted in a consistent manner.

State agency hearings usually comply with the Administrative Procedures Act (APA), which establishes minimum standards of uniform practice and procedure for state agency hearings. However, UIL is not a typical state agency and as a part of the higher education system, is exempted from the APA. Requiring more than 1,500 local committees and UIL to comply with all of the APA's extensive statutory hearing requirements would not be workable, but UIL should still ensure its hearings processes are transparent and treat all participants fairly and consistently.

Currently, UIL lacks clear and well-defined hearings processes. UIL is governed by its *Constitution and Contest Rules* but the document has very few rules and procedures related to its hearings, making it difficult for students, parents, coaches, and other participants to know what to expect from the process. The lack of clearly defined hearing rules and procedures also contributes to inconsistent hearings at both the local and state level.

UIL publishes a committee handbook that provides some requirements for how local committees should conduct hearings. However, the handbook does not provide enough guidance or direction to the committees to ensure hearings are conducted consistently, or enough detail for participants to know what to expect and how to best prepare for a hearing. Missing from the handbook and UIL rules are important details such as notice requirements, time frames, standards of proof, the role of committee members in questioning witnesses, and rules governing admissible evidence. With minimal guidance from UIL, local hearings are conducted at the discretion of the local committee chair, resulting in inconsistent hearings processes and outcomes across the state, as evidenced by the local committee meeting minutes Sunset staff reviewed.

UIL lacks a standard of review for appeals.

The SEC faces this same problem when it holds an enforcement hearing under its exclusive jurisdiction because UIL has no rules governing this process. While local committees are inconsistent with each other, the SEC runs the risk of being inconsistent between its own hearings. Further, UIL lacks a standard of review for appeals coming before the SEC, resulting in differing treatment of participants. The common standard for entities hearing appeals of administrative agency decisions is a "substantial evidence" review, where the entity looks at whether the agency's record supports its decision. However, with more than 1,500 local committees in the state providing varying quality records, the SEC switches between reviewing appeals using a *de novo* standard and using a substantial evidence standard, depending on the quality of the record the SEC receives from the local committee. The person or school with an appeal cannot adequately prepare for a hearing under these conditions.

UIL lacks necessary tools to ensure its hearing bodies issue decisions and apply penalties fairly and consistently.

- **Penalty Guidelines**. Many state agencies, including licensing agencies like the Texas Medical Board and regulatory agencies like the Railroad Commission of Texas, formally adopt penalty guidelines to help ensure penalties are applied fairly and consistently.[1] These guidelines establish classifications of violations, set penalty ranges, and include factors that should be considered for imposing penalties. UIL provides for classifications of violations, but does not link these with factors to consider in assessing penalties, leaving the local committees and the SEC without a comprehensive penalty matrix to help ensure assessment of penalties in a fair, consistent, and systematic way. Sunset observed instances where the SEC struggled with determining an appropriate penalty, eventually having to rely on UIL staff's memory of how past violations had been penalized rather than formalized guidelines.

- **Precedents Manual**. While penalty guidelines would help ensure consistency in enforcement hearings, such guidelines would not help in the waiver process where the determination is not which penalty to apply, but whether the student needs a waiver due to involuntary and unavoidable circumstances. Several state agencies adopt precedents manuals to help ensure consistency in agency decisions. For example, the Texas Workforce Commission publishes a precedents manual of previous commission and court decisions to guide staff and hearing officers in handling unemployment cases.[2] UIL provides no precedents manual for its waiver officer or Waiver Review Board, which would allow UIL to document specific circumstances where waivers have been granted, providing useful information to parents and its waiver officer and board that would help ensure more consistent treatment of future applicants.

Recommendations

Management Action

2.1 Direct UIL to establish detailed procedural rules for its enforcement hearings.

Under this recommendation, UIL should develop and adopt clear rules to address notice requirements, time frames, standards of proof, the role of the committee members and UIL staff in questioning witnesses, and admissibility of evidence in both its local committee and SEC hearings. In addition, UIL should establish a *de novo* standard of review for its SEC appeal hearings to ensure consistent treatment of cases and participants. Providing clearly defined hearings and appeal processes in rule would help ensure that both committee members and participants understand the process, and provide greater consistency in how the local committees and SEC conduct hearings.

2.2 Direct UIL to create penalty guidelines and a precedents manual for its enforcement and eligibility determination processes.

This recommendation would direct UIL to develop and provide penalty guidelines for its local committees and the SEC to help ensure more consistent application of penalties to participants. The guidelines should

assign penalties to different violations based on their severity and should consider the number of times an individual or school has been previously disciplined when determining a penalty. In addition, UIL should create a precedents manual of common fact situations and general guidance to assist its waiver officer and Waiver Review Board, as well as inform parents, students and other participants, regarding what facts constitute "involuntary or unavoidable" circumstances. Neither requirement is intended to create an automatic or prescriptive approach to penalty or waiver decisions, but to provide guidance with flexibility to use the facts as appropriate.

Fiscal Implication

These recommendations would not have a fiscal impact to the State, as UIL does not receive state appropriations. UIL could establish procedural rules, penalty guidelines, and a precedents manual with existing resources.

……..

1 190 T.A.C. and 3 T.A.C. 3.107.

2 "Unemployment Benefits Appeals Policy & Precedent Manual," Texas Workforce Commission, last verified March 21, 2013, http://www.twc.state.tx.us/ui/appl/unemployment-benefits-appeals-policy-precedent-manual.html.

Responses to Issue 2

Recommendation 2.1

Direct UIL to establish detailed procedural rules for its enforcement hearings.

UIL Response to 2.1

UIL agrees with this recommendation. UIL believes the recommendation of Sunset staff is thoughtful, deliberate, and helpful. UIL is confident in the effectiveness and fairness of the enforcement hearing processes that have served the League well for many years, but acknowledges that improvements to the processes can be made by strengthening the process for these hearings. As an organization supporting the education of children, UIL strives to establish processes that ensure that issues that students and parents face find a forum that is fair and just. As good and fair as UIL processes have been, UIL believes they will be improved further by implementing the elements of this recommendation. (Dr. Charles Breithaupt, Executive Director – University Interscholastic League)

For 2.1

None received.

Against 2.1

None received.

Recommendation 2.2

Direct UIL to create penalty guidelines and a precedents manual for its enforcement and eligibility determination processes.

UIL Response to 2.2

UIL agrees with this recommendation. As with Recommendation 2.1, UIL believes its processes have been fair and effective. However, implementing the development of reasonable penalty guidelines and a precedents manual will further enhance the public's trust in the UIL. (Dr. Charles Breithaupt, Executive Director – University Interscholastic League)

For 2.2

None received.

Against 2.2

None received.

Issue 3

The Interscholastic League Advisory Council Has Fulfilled Its Purpose and Is No Longer Needed.

Background

The Legislature created the Interscholastic League Advisory Council in 1989 to review University Interscholastic League (UIL) rules and make recommendations relating to the rules to the UIL Legislative Council and State Board of Education (SBOE), and later the governor and Legislature.[1] Statute also requires the advisory council to study UIL policy regarding the eligibility of students to participate in UIL programs, geographic distribution of UIL resources and programs, and gender equity.[2] The advisory council consists of 11 members that serve at the pleasure of their appointing authority.[3] The chart, *Interscholastic League Advisory Council*, details the advisory council's current membership.

Interscholastic League Advisory Council

Name	Represents	Appointed By
The Honorable Dan Huberty, Chair	Texas House of Representatives	Speaker of the House of Representatives
The Honorable Kel Seliger	Texas Senate	Lieutenant Governor
Lawrence Allen	SBOE Member	SBOE Chair
Ruben Cortez, Jr.	SBOE Member	SBOE Chair
Johnny Pineda	UIL Legislative Council Member	Legislative Council Chair
Greg Poole	UIL Legislative Council Member	Legislative Council Chair
Bobby Blount	Public School Board Member	Commissioner of Education
Anette Carlisle	Public School Board Member	Commissioner of Education
Betty Jo Byrne	Public Member	Commissioner of Education
Vacant*	Public Member	Commissioner of Education
Vacant*	Public Member	Commissioner of Education

* The positions have been vacant since 2005 and 2013.

Findings

The Interscholastic League Advisory Council has fulfilled its statutory duties and purpose.

When the Legislature initially created the Interscholastic League Advisory Council, it required the advisory council to submit a report to the UIL Legislative Council and SBOE with recommendations related to UIL rules by September 1, 1990.[4] The advisory council fulfilled this charge, determining UIL had made significant changes to its rules in the past decade and making some general recommendations, detailed in the textbox on the following page.[5]

Recommendations of the Interscholastic League Advisory Council, 1990

- UIL should write to the owners of all professional athletic teams in Texas, and to college presidents, reminding them that their programs influence high school students, and asking for their cooperation in providing good role models.
- The State Board of Education should adopt language emphasizing good sportsmanship and good citizenship.
- Public schools, the University of Texas at Austin, and other interested organizations should band together to develop a solution to address UIL's facility needs and allow for future growth. (Recommended to the UIL Facilities Committee)

In 1993, as part of an omnibus public education bill, the Legislature made changes to the advisory council's responsibilities. The Legislature added a requirement for the advisory council to study UIL policy regarding eligibility of students to participate in UIL programs, geographic distribution of UIL resources and programs, and gender equity; and specified that UIL could not take any action related to the provision of additional programs of school districts pending submission of a final report by the advisory council.[6] The Legislature also modified the original reporting requirement to require the advisory council to submit a report by January 1, 1995 to the governor and Legislature, in addition to the Legislative Council and SBOE.[7] The advisory council issued this report, stating no changes were necessary in the areas it was statutorily required to study, but making recommendations on other issues, such as the viability of a six classification alignment and provisions of Texas' "No Pass, No Play" law.[8]

In 1995, the Legislature removed the reporting deadline, but kept the advisory council's original study and review requirements in law.[9] Without a reporting deadline, the advisory council's charges have no context and leave the council little direction regarding its continued purpose.

The advisory council has met infrequently and had minimal impact over the past 19 years.

The advisory council has met only six times in 19 years.

Since fulfilling its statutory reporting requirement in 1995, the advisory council has not issued any formal reports. Instead, the advisory council has occasionally recommended that UIL adopt certain rules or study particular items, such as allowing parents to transfer their children to a different school within their district. However, during the past 19 years, the advisory council has only referred 13 items to the Legislative Council or UIL staff for study or consideration, with just four resulting in changes to UIL rules or policies.

Statute specifies the advisory council meets at the will of the chair, who is selected by the advisory council, but does not specify how often the council must meet.[10] As a result, the advisory council has met only six times in 19 years and has gone extended periods of time without meeting. Even though

the advisory council has met infrequently and had minimal impact, UIL has spent about $11,000 for council members' travel and per diem expenses.

UIL has other, more effective mechanisms for receiving stakeholder input and expert advice.

UIL's rulemaking process provides ample opportunity for stakeholder input, as anyone can suggest a change to UIL's rules by submitting comments online or attending UIL's public meetings. Stakeholders have the opportunity to provide input not only at the Legislative Council's meetings, but also during its standing committees' public meetings. UIL also obtains input from its member schools through regular surveys used to gauge their interest and thoughts on a variety of topics facing UIL, such as how to seed teams for football playoffs and whether the enrollment requirements for student eligibility in UIL activities should be changed.

UIL obtains input from its member schools through regular surveys and public meetings.

UIL also has authority to create advisory and ad hoc committees as needed in accordance with its *Constitution and Contest Rules*. The Legislative Council has established three standing advisory committees to get additional expertise in health and safety issues and the technical aspects of music — the Medical Advisory Committee, Musical Advisory Committee, and Music Technical Advisory Committee. During the current school year, the Legislative Council created two ad hoc committees — one to look at the impact student participation in extracurricular activities outside of school has on UIL and one to examine issues surrounding students attending nontraditional public schools. These advisory and ad hoc committees study information relevant to their jurisdiction, hear from stakeholders, and may make recommendations directly to the Legislative Council.

Recommendation

Change in Statute

3.1 Abolish the Interscholastic League Advisory Council.

This advisory council, statutorily created in 1989, has served its purpose and is no longer needed. Under this recommendation, the statute establishing the Interscholastic League Advisory Council would be repealed.

Fiscal Implication

This recommendation would not have a fiscal impact to the State. However, abolishing the advisory council would eliminate the expenditure of time and money by UIL and the advisory council members, resulting in a savings of about $2,500 per year to UIL from reimbursement of travel and per diem expenses for council members.

……..

[1] Section 33.084(e), Texas Education Code.

[2] Sections 33.084(g) and (h), Texas Education Code.

[3] Sections 33.084(a) and (b), Texas Education Code.

[4] Section 5.02, Chapter 813 (S.B. 417), Acts of the 71st Texas Legislature, Regular Session, 1989.

[5] Interscholastic League Advisory Council, *Interscholastic League Advisory Council Report* (Austin: Interscholastic League Advisory Council, 1990), p. 2.

[6] Section 7.13, Chapter 347 (S.B. 7), Acts of the 73rd Texas Legislature, Regular Session, 1993.

[7] Ibid.

[8] Robert M. Saunders, *Interscholastic League Advisory Council Final Report 1995: A Report to the House of Representatives 75th Texas Legislature* (Austin: Interscholastic League Advisory Council, 1995).

[9] Section 1, Chapter 260 (S.B. 1), Acts of the 74th Texas Legislature, Regular Session, 1995.

[10] Section 33.084(d), Texas Education Code.

Responses to Issue 3

Recommendation 3.1

Abolish the Interscholastic League Advisory Council.

UIL Response to 3.1

UIL takes no stance on this recommendation. While UIL respects the input of the Interscholastic League Advisory Council, UIL agrees with the findings of the Sunset staff that the Advisory Council has served its original statutory duties and purpose. (Dr. Charles Breithaupt, Executive Director – University Interscholastic League)

For 3.1

None received.

Against 3.1

None received.

Issue 4

Limited Funding and Changing Attitudes Have Reduced the Need For and Effectiveness of the State's Steroid Testing Program.

Background

Beginning in 2008, the Legislature required the University Interscholastic League (UIL) to help prevent the use of illegal anabolic steroids by high school students participating in UIL athletic contests.[1] Specifically, statute requires UIL to develop an educational program to educate students, parents, and coaches on the adverse health effects of steroids, and to administer a steroid testing program. The steroid testing program must randomly test approximately 30 percent of Texas high schools and a statistically significant number of high school students participating in UIL athletic events.[2] The textbox, *Steroid Testing Program Requirements*, highlights additional key program requirements. For the educational program, statute requires coaches of UIL activities at or above the seventh grade level to complete UIL's program or a comparable one. During the current school year, approximately 38,000 coaches completed UIL's online educational program.

Steroid Testing Program Requirements

- Students must agree not to use steroids and to submit to random steroid testing as a condition of participation in UIL athletic activities.
- Parents must sign an acknowledgement form stating they understand the dangers of steroid use and that their child may be subject to random steroid testing.
- Test results are confidential and students who test positive have the right to have a second test performed.
- A positive test results in a student being ineligible to participate in athletic competitions for a period of time, as determined by UIL rule.

The program is funded solely by a general revenue appropriation to the Texas Education Agency for transfer to UIL. Other than an initial investment of approximately $75,000 in 2008 to develop the educational video on steroid use, all of the funding goes toward the steroid testing program. For the current biennium, the Legislature appropriated $1 million for the program, down from $1.3 million in the previous biennium.[3]

UIL contracts with the National Center for Drug Free Sport to perform the steroid testing. The center selects the schools, timing, and students (from a school-provided list of student athletes) for testing, and weights the selection of student athletes toward students in baseball and football. The program does not test for other illegal and performance enhancing drugs.

Findings

Reduced funding has greatly limited the steroid program's effectiveness.

On average, less than one-third of 1 percent of steroid tests yielded positive results.

Since the steroid program's inception in 2008, the Legislature has reduced funding each biennium and UIL is no longer able to meet the statutory requirement to test a statistically significant number of students. The table, *Steroid Testing Program Results*, shows the Legislature has reduced funding for the program from $3 million in 2008 to $650,000 in 2013. In 2011, the Legislature required UIL to determine the most cost-efficient method of detecting steroid use to compensate for the reduction in funding. As a result, UIL has reduced the percentage of schools tested from 46 percent in the program's first full year to just 14 percent in the 2012–2013 school year. Over the same period, UIL reduced the percentage of students tested from 4.5 percent to just 0.41 percent. Over the life of the program, on average, less than one-third of 1 percent of tests yielded a positive result for steroid use.

Steroid Testing Program Results

School Year	Appropriations (General Revenue)	Tests Performed	Percentage of Students Tested	Percentage of Schools Tested	Total Number of Positive Results*	Percent Positive Results
Spring 2008	$3,000,000	10,117	1.3	15	26	0.26
2008–2009	$3,000,000	35,077	4.5	46	125	0.36
2009–2010	$1,000,000	6,441	0.83	30	9	0.14
2010–2011	$1,000,000	4,595	0.59	21	8	0.17
2011–2012	$650,000	3,311	0.42	15	11	0.33
2012–2013	$650,000	3,351	0.41	14	11	0.34
Total	**$9.3 million**	**62,892**	**1.34 average**	**23.5 average**	**190**	**0.27 average**

* Includes protocol violations, which result when a student athlete violates UIL's steroid testing protocol, such as failing to provide a specimen.

Maximizing a performance enhancing drug program's effectiveness would require a significant increase in funding. To improve the program, UIL would need to test more student athletes, as any testing's deterrent effect is maximized when enough schools and students are tested that students believe they might actually be tested. In addition, UIL would need to expand its testing panel to include more frequently abused drugs and performance enhancers. Recent data published by the Department of State Health Services (DSHS) reveals that high school students' self-reported use of steroids is well below that of many other types of illegal drugs, including other performance enhancing drugs such as stimulants.[4] The cost of increasing the number and scope of tests is estimated to range from about $4.1 million to $5.7 million per year.[5] These types of changes would result in UIL's steroid testing program mirroring that of the National Collegiate Athletic Association, which tests about 13,500

students, or approximately 3 percent of its roughly 450,000 student athletes, for seven additional classes of prohibited substances athletes are likely to abuse. [6]

Changing attitudes about steroid use have reduced the need for the program and most other states do not test high school student athletes for steroids.

Nationally, greater awareness of the dangers of steroid use has led to lower usage among high school students. A 2012 University of Michigan Institute for Social Research study on adolescent drug use revealed that steroid use has been trending downward nationally since 2005.[7] Additionally, the study found students' perceived risk and disapproval of steroids has remained constant at 60 percent since 2006.[8] Data published by DSHS in 2012, revealed that lifetime, self-reported steroid use among Texas students in grades 7–12 has remained stable at 1.4 percent since 2010 and below 1.5 percent since 2006.[9]

Texas is one of only three states that tests high school athletes for illegal steroids.

Today, Texas is one of only three states that randomly tests high school students for steroid use and it spends more state revenue than the other two states.[10] The Illinois High School Association spends between $150,000 and $200,000 per year to test about 650 students, and the program receives no state funding.[11] The New Jersey State Interscholastic Association spends $100,000 per year to test about 500 students, and its program receives only $50,000 per year in state appropriations.[12] In 2008, Florida instituted a trial steroid testing program at a cost of $100,000 but discontinued it one year later due to budget constraints and the fact that it resulted in only one positive test.[13]

Steroid testing at the local level could be more effective and efficient than state testing, and is supported by stakeholders.

Because the state steroid testing program is random, schools that potentially have steroid abuse problems might never be selected for testing. On the other hand, schools, which are more familiar with their own student athletes, can implement a steroid testing program to suit their individual communities' needs. In 2010, UIL surveyed its member schools on their drug testing programs and received responses from 818 of 1,388 schools. Of those that responded, 47 percent indicated they performed random drug testing of students, and of those, 23 percent performed random steroid testing, in addition to the state's testing. Further, in response to a Sunset staff survey, 63 percent of the 360 UIL stakeholders that responded indicated the state's steroid testing program is not an appropriate use of state funds. Sunset staff also received several comments, in the survey and in meetings with stakeholders, that local testing would be more effective and efficient.

Recommendation

Change in Statute

4.1 Discontinue the statewide steroid testing program.

Under this recommendation, the requirement for UIL to conduct a steroid testing program would be repealed. However, this recommendation would not eliminate the steroid educational program requirements to help ensure athletic coaches remain aware of the potential dangers of steroid abuse. UIL would continue its educational program and athletic coaches at or above the seventh grade level would still need to complete it or a comparable program.

Fiscal Implication

This recommendation would result in a savings of $1 million per biennium to the General Revenue Fund based on current appropriations for the steroid testing program. Maintaining the educational component of the program would not have a fiscal impact to the State or UIL, as UIL does not use state funds for the education program and the production cost of UIL's online video was a one-time expense.

UIL

Fiscal Year	Savings to the General Revenue Fund
2016	$500,000
2017	$500,000
2018	$500,000
2019	$500,000
2020	$500,000

……..

[1] Section 33.091, Texas Education Code.

[2] Sections 33.091(d)(1) and (3), Texas Education Code.

[3] Rider 53, page III-17, Article III (S.B. 1), Acts of the 83rd Legislature, Regular Session, 2013 (the General Appropriations Act); Rider 51, page III-17, Article III (H.B. 1), Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act).

[4] Texas Department of State Health Services (DSHS), *Texas Drug Facts Among Youths 2012* (Austin: Texas Department of State Health Services, 2012), Appendix A.

[5] UIL's current testing panel costs $171.10 per sample. The calculations are based on an increase in the number of student athletes tested to 3 percent of UIL's student athlete population and an expanded panel cost of $240 per test, which is the cost of the NCAA's panel.

[6] National Collegiate Athletic Association, *Drug Testing Program* (Indianapolis: National Collegiate Athletic Association, 2013), p. 2, back page; "Drug Testing Policy," National Collegiate Association, accessed March 24, 2014, http://www.ncaa.org/health-and-safety/policy/drug-testing.

[7] University of Michigan Institute for Social Research, *Monitoring the Future, National Results on Drug Use: 2012 Overview Key Findings on Adolescent Drug Use* (Ann Arbor: University of Michigan Institute for Social Research, 2012), p. 46.

[8] Ibid.

[9] DSHS, *Texas Drug Facts Among Youths 2012*, Appendix A.

[10] Kenneth J. Sanney; Keith M. Christy; Shantel R. Kovar, "Mandatory Steroid Testing of High School Athletes: A Synthesis of State Initiatives and Federal Constitutional Rights," Journal of Legal Aspect of Sport 21(Fall 2012), p. 243.

[11] Mary Pilon, "Differing Views on the Value of High School Tests" *The New York Times*, January 5, 2013.

[12] Ibid.

[13] Sarah Larimer, "Steroid testing of Florida schools' athletes ends over money" *TC Palm*, February 16, 2009.

Responses to Issue 4

Recommendation 4.1

Discontinue the statewide steroid testing program.

UIL Response to 4.1

UIL takes no stance on this recommendation. (Dr. Charles Breithaupt, Executive Director – University Interscholastic League)

For 4.1

None received.

Against 4.1

None received.

New Issues

New Issues

The following issues were raised in addition to the issues in the staff report. These issues are numbered sequentially to follow the staff's recommendations.

5. Establish term limits for the UIL executive director. (Wayne Green, Corinth)

   Staff Comment: The UIL executive director is appointed by and serves at the pleasure of the president of the University of Texas at Austin.

6. Require an independent school district hearing to be held before holding a district-level hearing regarding any previous athletic participation matters. (Wayne Green, Corinth)

7. Require the UIL district-level hearing to occur in a district that the student does not compete in. (Wayne Green, Corinth)

8. Require an attorney be allowed to represent participants in a UIL hearing if the participants retain one. (Wayne Green, Corinth)

   Staff Comment: UIL currently allows attorneys to represent participants at hearings.

9. Require the use of an independent hearing officer in UIL hearings. (Wayne Green, Corinth)

10. Implement outside independent mediation for State Executive Committee appeals. (Wayne Green, Corinth)

APPENDICES

Appendix A

Key Milestones in UIL's Organizational History

1909	UT establishes Extension Division
1910	UT establishes Texas High School Debating League within Extension Division
1911	UT establishes University of Texas Interscholastic Athletic Association
1913	Debating league and athletic association merge to form UIL within Extension Division State Executive Committee (SEC), comprised of UT faculty and staff, established to make rules and settle disputes
1922	UT president begins formally appointing SEC members
1944	Legislative Advisory Council established to aid SEC
1946	UIL adds music competitions
1956	Legislative Advisory Council renamed Legislative Council and becomes rulemaking body
1959	Former UIL athletic director charters Texas Interscholastic League Foundation
1969	UIL joins National Federation of State High School Associations
1978	UT Extension Division becomes the Division of Continuing Education
1984	68th Legislature requires UIL to submit rules to State Board of Education (SBOE) for approval
1989	71st Legislature makes changes to UIL, including creating the Interscholastic League Advisory Council Commissioner of education begins appointing SEC members
1994	UIL begins reporting directly to UT president
1996	UIL begins reporting to the UT Division of Community and School Relations
1999	76th Legislature shifts authority to review UIL rules from SBOE to the commissioner of education
2006	UT Division of Community and School Relations becomes the Division of Diversity and Community Engagement

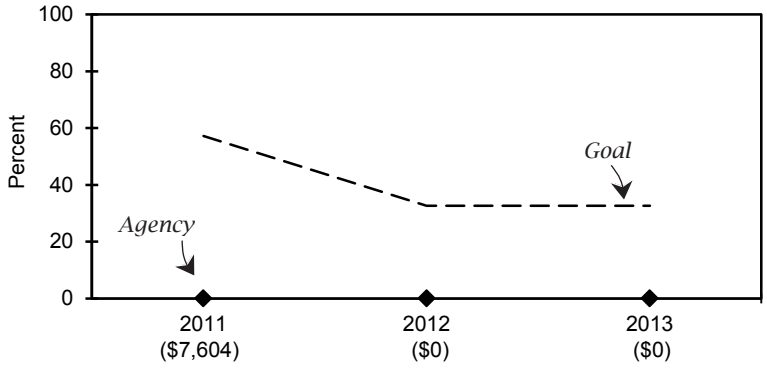
Appendix B

Historically Underutilized Businesses Statistics 2011 to 2013

The Legislature has encouraged state agencies to increase their use of historically underutilized businesses (HUBs) to promote full and equal opportunities for all businesses in state procurement. The Legislature also requires the Sunset Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews.[1]

The following material shows trend information for the University Interscholastic League's (UIL) use of HUBs in purchasing goods and services. As part of the University of Texas at Austin, UIL maintains and reports this information under guidelines in statute.[2] In the charts, the dashed lines represent the goal for HUB purchasing in each category, as established by the comptroller's office. The diamond lines represent the percentage of UIL's spending with HUBs in each purchasing category from 2011 to 2013. Finally, the number in parentheses under each year shows the total amount UIL spent in each purchasing category. UIL has not met state HUB purchasing goals in several categories, including special trade, professional services, and other services. In the commodities category, UIL exceeded the state HUB goals in the past, but has fallen below in the last year. UIL follows the University of Texas' HUB strategic plan as well as all its procurement guidelines.

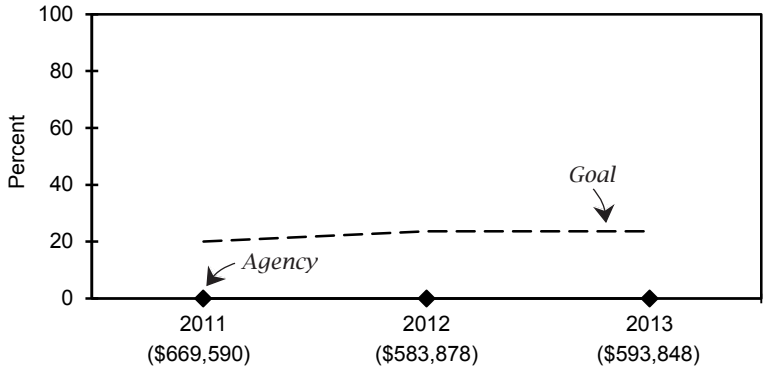
Special Trade



UIL failed to meet the state goal for HUB spending for the special trade category in fiscal year 2011, but had no spending in the category in the last two fiscal years.

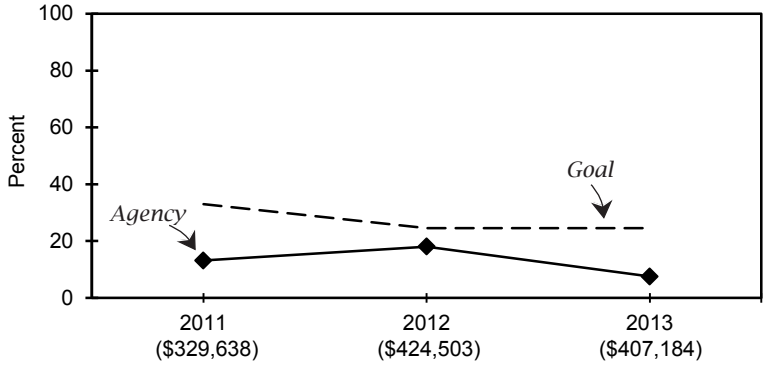
Appendix B

Professional Services



UIL fell consistently below the state goal for HUB spending for professional services from 2011 to 2013.

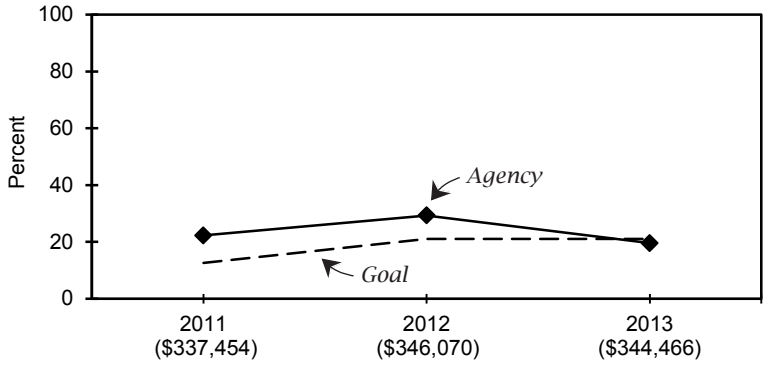
Other Services



UIL failed to meet the state HUB spending goals for the other services categories in each year.

Appendix B

Commodities



UIL exceeded the state goal for commodities in 2011 and 2012, but fell just short of the goal in 2013.

[1] Section 325.011(9)(B), Texas Government Code.

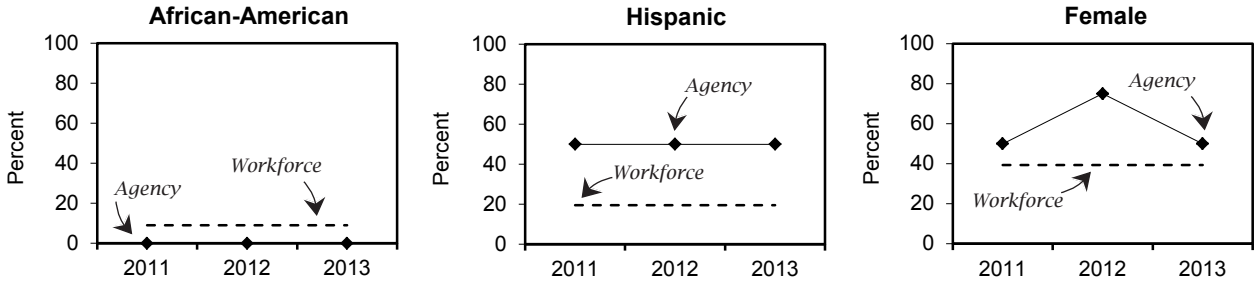
[2] Chapter 2161, Texas Government Code.

Appendix C

Equal Employment Opportunity Statistics 2011 to 2013

In accordance with the requirements of the Sunset Act, the following material shows trend information for the employment of minorities and females in all applicable categories by the University Interscholastic League (UIL).[1] As part of the University of Texas at Austin, UIL maintains and reports this information under guidelines established by the Texas Workforce Commission.[2] In the charts, the dashed lines represent the percentages of the statewide civilian workforce for African-Americans, Hispanics, and females in each job category.[3] These percentages provide a yardstick for measuring agencies' performance in employing persons in each of these groups. The diamond lines represent UIL's actual employment percentages in each job category from 2011 to 2013. UIL has had difficulty meeting the statewide civilian workforce percentages in some categories due to its small staff size. Also, UIL does not employ persons in the skilled craft category. UIL follows the University of Texas' Equal Employment Opportunity/Affirmative Action policy.

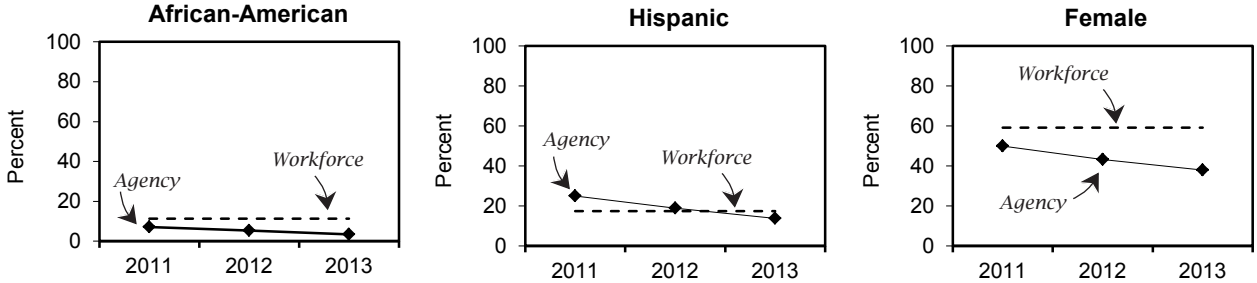
Administration



Positions:	2	4	2	2	4	2	2	4	2

UIL exceeded the civilian workforce percentages for females and Hispanics in the last three fiscal years, but fell below the percentages for African-American. However, UIL currently has only two employees in this category.

Professional

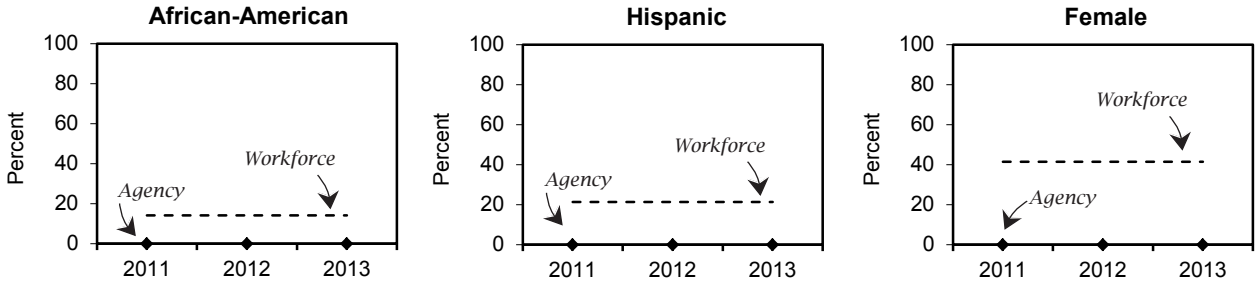


Positions:	28	37	29	28	37	29	28	37	29

UIL fell below the civilian workforce percentages for minorities and females in fiscal year 2013.

Appendix C

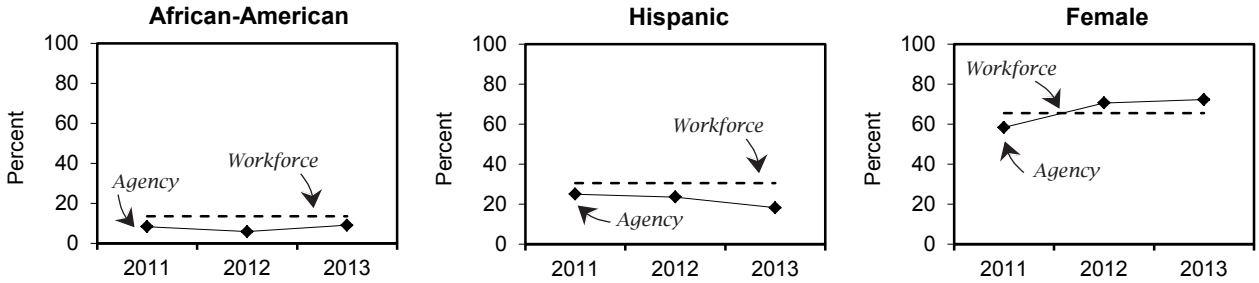
Technical



Positions:	0	1	1	0	1	1	0	1	1

UIL fell significantly below the civilian workforce percentages for minorities and females in the last three fiscal years, but has only one employee in this category.

Administrative Support

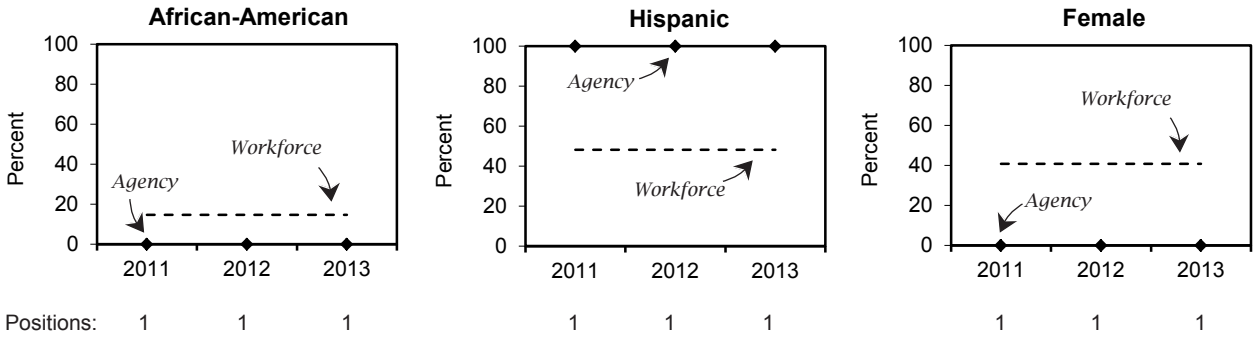


Positions:	12	17	22	12	17	22	12	17	22

UIL exceeded the civilian workforce percentages for females in the last two fiscal years, but fell slightly below the percentages for African-Americans and Hispanics in the last three fiscal years.

Appendix C

Service/Maintenance[4]



UIL exceeded the civilian workforce percentages for Hispanics in the last three fiscal years, but fell below the percentages for African-Americans and females. However, UIL currently has only one employee in this category.

1 Section 325.011(9)(A), Texas Government Code.

2 Section 21.501,Texas Labor Code.

3 Because the Texas Workforce Commission has not released statewide civilian workforce percentages for fiscal years 2012 and 2013, this analysis uses fiscal year 2011 percentages for those two years.

4 The service/maintenance category includes three distinct occupational categories: service/maintenance, para-professionals, and protective services. Protective service workers and para-professionals used to be reported as separate groups.

Appendix D

UIL Activities

Academics		Music	Athletics*
High School	**A+ Academics**		
Accounting	Art	Concert Performance – Band – Choir – Orchestra	Baseball
Calculator Applications	Calculator Applications		Boys Basketball
Computer Applications	Creative Writing		Girls Basketball
Computer Science	Chess Puzzle		Boys Cross Country
Current Issues & Events	Dictionary Skills		Girls Cross Country
Cross-Examination Debate	Editorial Writing	Marching Band	6-man Football
Lincoln Douglas Debate	Impromptu Speaking		11-man Football
Barbara Jordan Historical Essay Contest	Listening	Medium Ensemble Performance – Instrumental String – Instrumental Wind and Percussion – Mariachi – Vocal	Boys Golf
	Maps, Graphs & Charts		Girls Golf
Latino History Essay Contest	Mathematics		Boys Soccer
Editorial Writing	Modern Oratory		Girls Soccer
Extemporaneous-Informative Speaking	Music Memory		Softball
	Number Sense	Music Theory	Boys Swimming
Extemporaneous-Persuasive Speaking	One-Act Play		Girls Swimming
Feature Writing	Oral Reading	Sight Reading – Band – Choir – Orchestra	Boys Tennis
Focus Film Contest	Ready Writing		Girls Tennis
Headline Writing	Science		Team Tennis
Literary Criticism	Social Studies	Solo and Small Ensemble Performance – Band – Orchestra – Twirling – Vocal	Boys Track & Field
Mathematics	Spelling		Girls Track & Field
News Writing	Storytelling		Volleyball
Number Sense			Boys Wrestling
One-Act Play			Girls Wrestling
Poetry Interpretation			
Prose Interpretation			
Ready Writing			
Science			* All athletic contests are available for grades 7-8.
Social Studies			
Spelling & Vocabulary			

Appendix E

Staff Review Activities

During the review of the University Interscholastic League (UIL), Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with UIL personnel; attended the UIL Legislative Council annual meeting and met with council members; met with staff from key legislative offices; conducted interviews and solicited written comments from interest groups, UIL participants, and the public; reviewed UIL documents and reports, state statutes, legislative reports, previous legislation, court cases, and literature; and performed background and comparative research.

In addition, Sunset staff also performed the following activities unique to UIL.

- Attended the following UIL state events and toured the facilities:
  - Boys State Basketball Tournament (Austin)
  - Girls State Basketball Tournament (Austin)
  - Football State Championships (Arlington)
  - State Congress Contest (Austin)
  - State Cross-Examination Debate Tournament (Austin)
  - State Marching Band Contest (San Antonio)
- Attended several State Executive Committee and Waiver Review Board hearings.
- Attended meetings of UIL committees, including the Ad Hoc Committee on Non-School Participation, Ad Hoc Committee to Study School Choice, District 19-5A Executive Committee, District Assignment Appeals Committee, Finance Standing Committee, Interscholastic League Advisory Council, Medical Advisory Committee, and Music Standing Committee.
- Surveyed individuals that have gone through the State Executive Committee and Waiver Review Board hearings processes, as well as members of UIL's various state and local committees.
- Attended a Texas Interscholastic League Foundation meeting and met with board members.
- Attended a Lone Star High School Softball Umpires meeting.
- Observed key steps in UIL's reclassification and realignment process.
- Interviewed staff at the University of Texas at Austin, Office of the Attorney General, and Texas Education Agency.

Sunset Staff Review of the *University Interscholastic League*

Report Prepared By

Emily Johnson, *Project Manager*

Steven Ogle

Dawn Roberson

Jennifer Jones, *Project Supervisor*

Ken Levine
Director

Sunset Advisory Commission

Location
Robert E. Johnson Bldg., 6th Floor
1501 North Congress Avenue
Austin, TX 78701

Mail
PO Box 13066
Austin, TX 78711

Website
www.sunset.texas.gov

Email
sunset@sunset.state.tx.us

Phone
(512) 463-1300