## AGENCY DEFERENCE AT THE TEXAS SUPREME COURT



## **6 Steps to Agency Deference**

<u>Step 1</u>: Is the agency interpretation formal and entitled to deference or informal and not entitled to deference?

<u>Step 2</u>: How long-standing is the agency interpretation?

<u>Step 3</u>: Does the agency have authority to enforce the statute (*i.e.*, is the statute within the agency's area of expertise)?

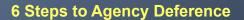
## **6 Steps to Agency Deference**

<u>Step 4</u>: Does the agency interpretation conflict with the plain language of statute?

Step 5: Is the agency interpretation reasonable?

Step 6: Courts will generally uphold agency interpretation.





<u>Step 1</u>: Is the agency interpretation <u>formal</u> and entitled to deference or informal and not entitled to deference?



Notice and Comment

Rules. Comm'n of Tex. v. Tex. Citizens for a Safe Future & Clean Water.



- Amicus Briefs. Id.
- Comments in Hearings. Id.
- Advisories
- Bulletins





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