

CAUSE NO. D-1-GN-09-001239

INSTITUTE FOR CREATION  
RESEARCH GRADUATE SCHOOL  
An unincorporated educational ministry  
Unit for the Institute for Creation  
Research, Inc., a California not-for-profit  
Corporation,  
Plaintiff

v.

TEXAS HIGHER EDUCATION  
COORDINATING BOARD, a state  
Agency;  
COMMISSIONER RAYMUND  
PAREDES, in his official and individual  
Capacities;  
LYN BRACEWELL PHILLIPS,  
In her official and individual capacities;  
JOE B. HINTON, in his official and  
Individual capacities;  
ELAINE MENDOZA,  
In her official and individual capacities;  
LAURIE BRICKER, in her official and  
individual capacities;  
A.W. "WHIT" RITER, III, in his official  
and individual capacities;  
BRENDA PEJOVICH, in her official and  
and individual capacities;  
ROBERT SHEPARD, in his  
official and individual capacities,  
Defendants

IN THE DISTRICT COURT

OF TRAVIS COUNTY, TEXAS

126<sup>th</sup> JUDICIAL DISTRICT

**DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES TO  
PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

Defendants Texas Higher Education Coordinating Board, Commissioner  
Raymund Paredes, and Board members Lyn Bracewell Phillips, Joe B. Hinton, Elaine

Mendoza, Laurie Bricker, A.W. "Whit" Riter, III, Brenda Pejovich and Robert Shepard ("Defendants") file this Answer and Affirmative Defenses to Plaintiff's Original Petition.

### **I. GENERAL DENIAL**

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendants generally deny the allegations in the Plaintiff's Original Petition and demand strict proof thereof.

### **II. AFFIRMATIVE DEFENSES**

Pleading further, Defendants hereby assert the following affirmative defenses to which they may be entitled:

1. The defense of sovereign immunity from all claims against Texas Higher Education Coordinating Board;
2. The individual Defendants assert the defense of sovereign immunity as to all of Plaintiff's claims against them in their official capacities;
3. The individual Defendants assert official/qualified immunity as to all of Plaintiff's claims asserted against them in their individual capacities;
4. The applicable statute of limitations to any claim made outside the limitations period;
5. Plaintiff has failed to exhaust its administrative remedies;
6. This court lacks jurisdiction over Plaintiff's claims; and
7. At all times relevant to this cause, Defendant's actions were reasonable and proper under the laws of the State of Texas.

Defendants reserve the right to raise additional affirmative defenses as they become apparent during the development of the case.

### III. PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendants pray that Plaintiff take nothing by this action. Defendants further pray that the Court award it such further relief to which they are entitled, including costs, and attorney's fees.

Respectfully submitted,

GREG ABBOTT  
Attorney General of Texas

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First Assistant Attorney General

DAVID S. MORALES  
Deputy Attorney General for Civil Litigation

ROBERT O'KEEFE  
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/s/ Shelley Dahlberg  
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ATTORNEYS FOR DEFENDANTS

**Certificate of Service**

I certify a true and correct copy of the foregoing document has been sent via certified mail, return receipt requested on May 13, 2009 to:

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/s/ Shelley Dahlberg  
SHELLEY DAHLBERG  
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Su



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