

Sec. 242.252. ELECTION OF ARBITRATION. (a) Except as provided by Subsection (d), an affected institution may elect binding arbitration of any dispute to which this subchapter applies. Arbitration under this subchapter is an alternative to a contested case hearing or to a judicial proceeding relating to the assessment of a civil penalty.

(b) An affected institution may elect arbitration under this subchapter by filing the election with the court in which the lawsuit is pending and sending notice of the election to the department and the office of the attorney general. The election must be filed not later than the 10th day after the date on which the answer is due or the date on which the answer is filed, whichever is sooner. If a civil penalty is requested after the initial filing of a Section 242.094 lawsuit through the filing of an amended or supplemental pleading, an affected institution must elect arbitration not later than the 10th day after the date on which the amended or supplemental pleading is served on the affected institution or its counsel.

(c) The department may elect arbitration under this subchapter by filing the election with the court in which the lawsuit is pending and by notifying the institution of the election not later than the date that the institution may elect arbitration under Subsection (b).

(d) Arbitration may not be used to resolve a dispute related to an affected institution that has had an award levied against it in the previous five years.

(e) If arbitration is not permitted under this subchapter or the election of arbitration is not timely filed:

(1) the court will dismiss the arbitration election and retain jurisdiction of the lawsuit; and

(2) the State Office of Administrative Hearings shall dismiss the arbitration and has no jurisdiction over the lawsuit.

(f) An election to engage in arbitration under this subchapter is irrevocable and binding on the institution and the department.

Redesignated from Health and Safety Code, Subchapter J, Chapter 242 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(26), eff. September 1, 2011.