

1 **CHAPTER 809. CHILD CARE SERVICES**

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3 **ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**
4 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**
5 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**

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7 **ON FEBRUARY 23, 2016**, THE TEXAS WORKFORCE COMMISSION ADOPTED THE
8 BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

9
10 Estimated date of publication in the *Texas Register*: **March 11, 2016**
11 The rules will take effect: **March 14, 2016**

12
13 The Texas Workforce Commission (Commission) adopts amendments to the following section
14 of Chapter 809, relating to Child Care Services, *without* changes, as published in the November
15 3, 2015, issue of the *Texas Register* (40 TexReg 8187):

16
17 Subchapter G. Texas Rising Star Program, §809.130

18
19 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

20 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND**
21 **RESPONSES**

22
23 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

24 The purpose of the amendment to §809.130(e) is to require a regular review of the Texas Rising
25 Star (TRS) guidelines as required by Texas Government Code §2308.3155(b).

26
27 The 84th Texas Legislature, Regular Session (2015), enacted Senate Bill 208, which amends
28 Texas Government Code §2308.3155(b) to require that the Commission adopt the Agency's
29 Chapter 809 Child Care Services rules relating to TRS to include:

30
31 . . . a timeline and process for regularly reviewing and updating the quality standards used
32 to determine the rating system that includes the Commission's consideration of input
33 from interested parties regarding those standards.

34
35 Texas Government Code §2001.039 requires state agencies to review and consider for
36 readoption each of its rules not later than the fourth anniversary of the date on which the rules
37 take effect and every four years after that date. State agencies are required to readopt, readopt
38 with amendments, or repeal a rule as the result of reviewing the rule. The next scheduled review
39 of Chapter 809, including Subchapter G, Texas Rising Star Program rules, is in December 2019.

40
41 The amended §809.130(e) requires a regular review of the TRS guidelines every four years, in
42 alignment with the four-year rule review process under Texas Government Code §2001.039.
43 Therefore, the next review of the TRS guidelines will occur in conjunction with the scheduled
44 four-year rule review of Chapter 809 in December 2019.

1 Additionally, pursuant to Texas Government Code §2308.3155(b), the review of the TRS
2 guidelines requires input from interested parties (stakeholders), and that at least one public
3 hearing be held prior to submitting TRS guidelines stakeholders' recommendations to the
4 Commission.

5
6 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND**
7 **RESPONSES**

8 (Note: Minor editorial changes are made that do not change the meaning of the rules and,
9 therefore, are not discussed in the Explanation of Individual Provisions.)

10
11 **SUBCHAPTER G. TEXAS RISING STAR PROGRAM**

12 **The Commission adopts the following amendments to Subchapter G:**

13
14 **§809.130. Short Title and Purpose**

15 Amended §809.130(e) adds new paragraph (1) requiring that the Commission review and update
16 the TRS guidelines at a minimum of every four years in conjunction with the rule review of
17 Chapter 809, conducted pursuant to Texas Government Code §2001.039.

18
19 Section 809.130(e)(1)(A) requires that the review and update consider input from stakeholders.

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21 Section 809.130(e)(1)(B) requires at least one public hearing prior to submitting the stakeholder
22 input to the Commission.

23
24 Section 809.130(e)(1) is renumbered as new §809.130(e)(2) without changes.

25
26 New §809.130(e)(2) is renumbered as new §809.130(e)(3) and amended to state that the
27 Commission may review and amend the TRS guidelines as necessary, provided that the
28 amendments are adopted subject to the requirements of the Texas Open Meetings Act.

29
30 **Comment:**

31 One commenter agreed with the amendments as proposed. One commenter supported the
32 input from stakeholders, particularly from child care providers. The commenters
33 requested multiple formats (fax, e-mail, workgroups, and public hearings) by which to
34 provide input.

35
36 **Response:**

37 The Commission agrees and supports multiple formats and opportunities for child care
38 providers, as well as the general public, to have input to the TRS guidelines review and
39 update. In addition to input through fax and e-mail, the Commission accepts public input
40 during the regularly scheduled Commission meetings. Additionally, the Commission
41 encourages child care providers to provide input to the Local Workforce Development
42 Boards (Boards) regarding the TRS program. Agency staff has regularly scheduled
43 meetings with Boards and receives input from Boards regarding all Agency programs,
44 including the TRS program.

1 **Comment:**

2 One commenter strongly supported the scheduling of a public hearing that will offer child
3 care providers face-to-face communication with the Commission members in order to
4 hear the discussion firsthand and offer verbal input. Another commenter stated that one
5 public hearing is not sufficient in order to have adequate input from all areas of the state.
6 The commenter recommended that there be at least one hearing in each local workforce
7 development area every four years.

8
9 **Response:**

10 The Commission notes that the rule language states that there be "at least one" public
11 hearing prior to submitting stakeholder input to the Commission. The Commission
12 regularly solicits input from stakeholders through a variety of methods throughout the
13 year. Along with regular Commission public meetings, the Commission conducts public
14 meetings specific to child care and encourages stakeholders and the general public to
15 provide input and comments on all aspects of the state's subsidized child care system,
16 including the TRS program.

17
18 The Agency hereby certifies that the adoption has been reviewed by legal counsel and found to
19 be within the Agency's legal authority to adopt.

20
21 **COMMENTS WERE RECEIVED FROM:**

22 Marisela Correa, Upper Rio Grande Workforce Development Board (Borderplex)
23 Elisa Shepherd, Government Relations Manager, Knowledge Universe US
24 Pat Smith, Executive Director, Little Dudes (verbal testimony at public hearing, December 16,
25 2015, Dallas, Texas)

26
27 The rule is adopted under Texas Labor Code §301.0015 and §302.002(d), which provide the
28 Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for
29 the effective administration of Agency services and activities, and Texas Human Resources Code
30 §44.002, regarding Administrative Rules.

31
32 The adopted rule affects Texas Labor Code, Title 4, Chapters 301 and 302, as well as Texas
33 Government Code, Chapter 2308.

1 **CHAPTER 809. CHILD CARE SERVICES**

2
3 **SUBCHAPTER G. TEXAS RISING STAR PROGRAM**

4
5 **§809.130. Short Title and Purpose.**

- 6
7 (a) The rules contained in this subchapter may be cited as the TRS Program rules.
- 8
9 (b) The purpose of the TRS Program rules is to interpret and implement Texas
10 Government Code §2308.3155(b) requiring the Commission to establish rules to
11 administer the TRS program, including guidelines for rating a child care provider for
12 TRS certification.
- 13
14 (c) The TRS Program rules identify the organizational structure and categories of,
15 and the scoring factors that shall be included in, the TRS guidelines.
- 16
17 (d) The TRS guidelines for rating a child care provider shall:
- 18 (1) describe measures for the TRS program that contain, at a minimum, measures
19 for child care providers regarding:
- 20 (A) director and staff qualifications and training;
- 21 (B) caregiver-child interactions;
- 22 (C) curriculum;
- 23 (D) nutrition and indoor and outdoor activities; and
- 24 (E) parent involvement and education;
- 25
26 (2) specify measures that:
- 27 (A) must be met in order for a provider to be certified at each star level; and
- 28 (B) are observed and have points awarded through on-site assessments; and
- 29
30 (3) specify the scoring methodology and scoring thresholds for each star
31 level.
- 32
33 (e) The TRS guidelines:
- 34 (1) shall be reviewed and updated by the Commission at a minimum of every four
35 years in conjunction with the rule review of Chapter 809, conducted pursuant to
36 Texas Government Code §2001.039, and the TRS guidelines review shall:
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- 1 (A) consider input from stakeholders; and
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3 (B) include at least one public hearing held prior to submitting the stakeholder
4 input to the Commission;
5
6 (2) shall be adopted by the Commission subject to the requirements of the Texas
7 Open Meetings Act; and
8
9 (3) also may be reviewed and amended as determined necessary by the
10 Commission in accordance with the requirements of the Texas Open Meetings
11 Act.