

1 **CHAPTER 802. INTEGRITY OF THE TEXAS WORKFORCE SYSTEM**

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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 DECEMBER 18, 2018**, THE TEXAS WORKFORCE COMMISSION ADOPTED THE
8 RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

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10 Estimated date of publication in the *Texas Register*: **January 4, 2019**
11 The rules will take effect: **January 7, 2019**

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13 The Texas Workforce Commission (TWC) adopts amendments to the following section of
14 Chapter 802, relating to Integrity of the Texas Workforce System, *without* changes, as published
15 in the August 17, 2018, issue of the *Texas Register* (43 TexReg 5336):

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17 Subchapter D. Agency Monitoring Activities, §802.67

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19 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**
20 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

21
22 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

23 Chapter 802 is revised to broaden the definition of the types of Local Workforce Development
24 Board (Board) oversight issues that TWC may need to evaluate and to more accurately reflect
25 TWC's intent to ensure that Boards are able to address any oversight issues at the local level.

26
27 Texas Labor Code §302.048 requires TWC, in consultation with the Boards, to establish criteria
28 for evaluating each Board's overall capacity to oversee and manage local funds and the delivery
29 of local workforce services.

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31 On October 21, 2015, TWC's three-member Commission (Commission) adopted amendments to
32 §802.67 that allow TWC to change the criteria used for evaluating a Board's oversight capacity
33 on an as-needed basis. Section 802.67, as amended states that TWC shall evaluate, at least
34 annually, each Board's oversight capacity, including the Board's ability to:

- 35
36 --develop, maintain, and upgrade comprehensive fiscal management systems;
37 --hire, train, and retain qualified staff to carry out the Board's oversight activities;
38 --select and oversee workforce service providers to improve the delivery of workforce services;
39 --oversee and improve the operations of Workforce Solutions Offices served by the Board.
40 --manage each workforce service provider's performance across multiple Board programs; and
41 --identify and resolve long-standing Board oversight problems and workforce service provider
42 performance issues.

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44 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

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

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SUBCHAPTER D. AGENCY MONITORING ACTIVITIES

TWC adopts the following amendments to Subchapter D:

§802.67. Commission Evaluation of Board Oversight Capacity

Section 802.67(b)(6) adds the words "or severe" to more accurately reflect TWC's intent to ensure Boards' ability to address any oversight problems at the local level. The definition of the terms "long-standing" and "severe" in the context of this rule are also added. The term "severe" is defined as an issue serious enough to warrant a sanction or intent-to-sanction as described in §802.122 and §802.123. The term "long-standing" is defined as an issue that persists for more than one review period to ensure that Boards are given notice and an opportunity to correct a deficiency during an initial review period.

No comments were received.

TWC hereby certifies that the adoption has been reviewed by legal counsel and found to be within TWC's legal authority to adopt.

The rules are adopted under Texas Labor Code §302.048, Assessment of local workforce development board's capacity to oversee and manage local funds and delivery of services and §§301.0015 and 302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The adopted rules affect Title 4, Texas Labor Code, particularly Chapters 301 and 302.

1 **CHAPTER 802. INTEGRITY OF THE TEXAS WORKFORCE SYSTEM**

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3 **SUBCHAPTER D. AGENCY MONITORING ACTIVITIES**

4
5 **§802.67. Commission Evaluation of Board Oversight Capacity.**

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7 (a) This section outlines the process used by the Commission to evaluate Board oversight
8 capacity related to the management of local funds and the delivery of local
9 workforce services.
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11 (b) The Agency shall evaluate, at least annually, each Board's oversight capacity,
12 including the Board's ability to:
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14 (1) develop, maintain, and upgrade comprehensive fiscal management systems;
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16 (2) hire, train, and retain qualified staff to carry out the Board's oversight
17 activities;
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19 (3) select and oversee workforce service providers to improve the delivery of
20 workforce services;
- 21
22 (4) oversee and improve the operations of Workforce Solutions Offices in the
23 Board's service area;
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25 (5) manage each workforce service provider's performance across multiple Board
26 programs; and
- 27
28 (6) identify and resolve long-standing or severe Board oversight problems and
29 workforce service provider performance issues. In the context of this section,
30 the term "severe" is defined as an issue serious enough to warrant a sanction or
31 intent-to-sanction, as described in §802.122 and §802.123, and the term "long-
32 standing" is defined as an issue that persists for more than one review period.
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34 (c) The Commission shall approve, in an open meeting, specific criteria to be used in its
35 evaluation of Board oversight capacity and shall communicate these criteria to
36 Boards through issuance of a Workforce Development Letter. The Commission shall
37 approve, in an open meeting, on an as-needed basis, updates to the criteria used to
38 evaluate Board oversight capacity.
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40 (d) Notwithstanding any other provision of this section, the Commission may consider
41 any extraordinary situation related to any of the factors identified in subsection (b) of
42 this section, including natural disasters.
- 43
44 (e) Annually, the Commission shall post the results of its evaluation of each Board and
45 each Board's performance on its website with an explanation of the rating, rating

1 criteria, and performance measures in a format that is readily accessible to and
2 understandable by a member of the public.

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- 4 (1) The explanation shall include specifically how each of the criteria was applied
5 for each Board.
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- 7 (2) Evaluations shall be performed using information at the Commission's disposal
8 at the time of the evaluation. If no updated information is available, the
9 Commission is not obligated to schedule a review or visit to confirm or obtain
10 new information.
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- 12 (3) The Commission may update the Board ratings more often than annually if the
13 Commission determines new information or circumstances warrant
14 consideration.