

PART XX. Texas Workforce Commission
CHAPTER 809. Child Care and Development
SUBCHAPTER A. General Provisions
40 TAC §809.5

The Texas Workforce Commission (Commission) proposes new §809.5, concerning the State Advisory Committee on Child Care Programs. Proposed §809.5 establishes a 20 member advisory committee that shall advise the Commission in developing coordinated state policies for the use of federal and state funds in child care programs. The advisory committee shall review child care policies and programs for compliance with applicable guidelines and shall advise the Commission of the results of the review.

Ms. Charlotte Brantley, Director of Child Care/Work and Family Clearinghouse, has determined that for each of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be a more positive and effective implementation of the provisions of the Texas Human Resources Code, Chapter 44, Subchapter C. Ms. Brantley and Randy Townsend, Director of Finance, have determined there is no anticipated adverse impact on small business as a result of enforcing or administering the proposed rule, as small businesses are not required to do anything by the rule that is in addition to what is already required by the Texas Human Resources Code, Chapter 44, Subchapter C.

Randy Townsend, Director of Finance, has determined that for the first five-year period the rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed rule.

Mr. Townsend has certified that there will be no foreseeable impact on local economies or overall employment as a result of enforcing or administering the proposed rule. The adoption of the rule will result in no foreseeable economic costs to persons who are required to comply with the rule, and no foreseeable costs associated with implementing this section. All official comments submitted to Charlotte Brantley will be considered before the final rule is adopted.

Comments on the proposed rule may be submitted to Charlotte Brantley, Director of Child Care/Work and Family Clearinghouse, Texas Workforce Commission, 101 East 15th Street, Room 416T, Austin, Texas 78778, (512) 936-3227. Comments may also be submitted via fax to Ms. Brantley at (512) 936-3223 or e-mailed to: cbrantle@twc.state.tx.us. Comments must be received by the Commission within 30 days from the date this proposal is published in the Texas Register.

The new rule is proposed under Texas Labor Code, §301.061, which provides that the Commission has the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the Act.

The proposed new rule affects the Texas Labor Code, Title 4, particularly Chapters 301 and 302, and the Texas Human Resources Code, Chapter 44.

§809.5. Child Care State Advisory Committee.

(a) The Commission appoints the State Advisory Committee on Child Care Programs.
(b) The advisory committee shall consist of 20 members, not including ex officio members.

(c) The advisory committee appointees will be a balanced representation of:

- (1) parents, guardians, or custodians of children who use child care programs;
- (2) child care advocacy groups;
- (3) operators and providers of child care programs and services representing rural and urban communities;
- (4) for profit and nonprofit providers of child care services representing rural and urban communities;
- (5) experts in early childhood development and education;
- (6) experts in child health and nutrition;
- (7) other child care professionals;
- (8) the general public; and

(9) ex officio representatives from each state agency, as determined by the Commission, that have an interest or role in state child care programs.

(d) The Commission shall provide staff support and other support necessary to the advisory committee to operate the committee.

(e) Subject to appropriations, the advisory committee may be reimbursed for travel expenses incurred while conducting the business of the board.

(f) The advisory committee shall advise the Commission in developing coordinated state policies for the use of federal and state funds in child care programs.

(g) The advisory committee shall review child care policies and programs for compliance with applicable guidelines and shall advise the Commission on the results of the review in accordance with the Texas Human Resources Code, Chapter 44, Subchapter C, as amended.

(h) The Commission with the assistance of the advisory committee shall hold biennial public hearings on state and federal child care programs to elicit public response and recommendations regarding the quality, accessibility, and affordability of child care services. The hearings must be held in at least three separate geographical regions of the state and may be held in conjunction with other public hearings on child care held by the Commission.

(i) The advisory committee shall annually report its findings and recommendations to the Commission.

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

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J. Randel (Jerry) Hill

General Counsel

Texas Workforce Commission

Earliest possible date of adoption: July 12, 1998

For further information, please call: (512) 463-8812

SUBCHAPTER E. Client Eligibility Process Requirements

40 TAC §809.93

The Texas Workforce Commission (Commission) proposes new §809.93, concerning the receipt of Texas Workforce Commission Applicant Child Care.

Proposed §809.93 establishes a priority for receiving child care subject to the availability of funds for individuals who need child care to accept employment, reside in a county where TWC Choices services are available, receive a referral from a Department of Human Services (DHS) Texas Works Advisor to attend a Workforce Orientation for Applicants, and secure employment prior to Temporary Assistance for Needy Families program (TANF) certification.

Ms. Charlotte Brantley, Director of Child Care/Work and Family Clearinghouse, has determined that for each of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be a more positive and effective implementation of House Bill 1863, 74th Legislature, Regular Session. Specifically, the purpose of the above cited legislation will be more meaningfully effected in that more clients will be able to receive help in paying for child care in order to maintain meaningful employment as an alternative to receiving TANF cash benefits. Ms. Brantley and Randy Townsend, Director of Finance have determined there is no anticipated adverse impact on small business as a result of enforcing or administering the proposed rule. Randy Townsend, Director of Finance, has determined that for the first five-year period the rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed rule. Mr. Townsend has certified that there will be no foreseeable impact on local economies or overall employment as a result of enforcing or administering the proposed rule. The adoption of the rule will result in no foreseeable economic cost to persons who are required to comply with the rule, and no foreseeable

cost associated with implementing this section. All official comments submitted to Charlotte Brantley will be considered before the final rule is adopted. Comments on the proposed rule may be submitted to Charlotte Brantley, Director of Child Care/Work and Family Clearinghouse, Texas Workforce Commission, 101 East 15th Street, Room 416T, Austin, Texas 78778, (512) 936-3227. Comments may also be submitted via fax to Ms. Brantley at (512) 936-3223 or e-mailed to: cbrantle@twc.state.tx.us. Comments must be received by the Commission within 30 days from the date this proposal is published in the Texas Register. The new rule is proposed under Texas Labor Code, §301.061, which provides that the Commission has the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the Act. The proposed new rule affects the Texas Labor Code, Title 4, particularly Chapters 301 and 302 and the Texas Human Resources Code, Chapter 44.

§809.93. Texas Workforce Commission Applicant Child Care.

(a) Subject to the availability of funds, the Child Care Management Services Contractor shall provide Child Care for up to one year for individuals who meet the following criteria. The client shall:

- (1) need child care to accept employment;
- (2) reside in a county where Choices services are available;
- (3) receive a referral from the Department of Human Services Texas Works Advisor to attend a Workforce Orientation for Applicants;
- (4) locate employment prior to TANF certification; and
- (5) provide verification of a valid social security number.

(b) To receive Applicant Child Care, individuals shall also meet the requirements stated in the following sections:

- (1) Section 809.2 of this title (relating to the definition of Family Members);
- (2) Section 809.61(a) of this title (relating to Basic Requirements to Obtain Child Care Services from the Child Care Management Services (CCMS) System);
- (3) Section 809.65 of this title (relating to Eligibility Criteria for Commission Funded Child Care Services);
- (4) Section 809.67(a) of this title (relating to Income Limits for Child Care Services); and
- (5) Section 809.68 of this title (relating to Income Inclusions for Child Care Eligibility Determination).

(c) To receive Applicant Child Care, individuals shall not have voluntarily terminated paid employment of at least thirty hours a week within thirty days prior to receiving the referral from the Department of Human Services Texas Works Advisor to attend a Workforce Orientation for Applicants.

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

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J. Randel (Jerry) Hill

General Counsel

Texas Workforce Commission

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SUBCHAPTER J. School-Linked Child Care Program

40 TAC §§809.201-809.205

The Texas Workforce Commission (Commission) proposes new §§809.201-809.205, regarding funding to be awarded by the Commission to school districts to provide for child care before and after school, as well as during school vacations and holidays.

The statutory requirements for the School-Linked Child Care Program are found in Texas Education Code, §33.902. The purpose of the program is to encourage

school districts to provide child care to school-age children before and after school, as well as during school vacations and holidays. The number of awards provided is limited by the amount of funds available to the Commission for this program. The Commission will strive to assure an equitable allocation of funds awarded under these rules between urban and rural areas of the state. The Commission will take into consideration whether or not a school district has been awarded funds under this program in the past, and may give preference to a school district which has not previously been awarded such funds.

Subchapter J is proposed as the location for the School-Linked Child Care Program.

Section 809.201 explains the purpose of this subchapter.

Section 809.202 provides definitions of the terms used in this subchapter.

Section 809.203 lists some of the information which must be included by a school district in a response to a request for proposal issued by the Commission for funding through this program.

Section 809.204 describes the criteria which will be used by the Commission in awarding funds.

Section 809.205 lists the allowable uses of funds awarded.

Randy Townsend, Director of Finance for the Texas Workforce Commission, has determined that, for the first five-year period the rules are in effect, there will be no fiscal impact to the state or to local governments. There will be no net effect on revenues as a result of enforcing and administering the rules, and no foreseeable implications relating to costs or revenues to the state or to local governments. The adoption of the rules would result in no regulatory burden or impact on small businesses, no foreseeable economic costs to persons who are required to comply with the rules, and no foreseeable costs associated with implementing these sections.

Charlotte Brantley, Director of Child Care/Work and Family Clearinghouse, has determined that, for each of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be expanded resources for school-age child care in communities receiving a grant. As a result of implementation of the program, there may be some increased opportunity to small businesses in the child care industry to subcontract with a school district to provide child care. The effect of these rules locally cannot be determined as the amounts to be allocated between the school districts have not been determined, and will not be known until the responses to the request for proposal are received, evaluated, and processed by the Commission under the procedures set forth in these rules.

Mark Hughes, Labor Market Information Director, has determined there is no basis to anticipate any significant overall impact upon employment levels or conditions within the state as a result of these proposed rules.

All official comments submitted to Charlotte Brantley will be considered before the final rules are adopted. Comments on the proposed rules may be submitted to Charlotte Brantley, Director of Child Care/Work and Family Clearinghouse, Texas Workforce Commission Building, 101 East 15th Street, Room 416T, Austin, Texas 78778, (512) 936-3227. Comments may also be submitted via fax to Ms. Brantley at (512) 936-3223 or e-mailed to: cbrantle@twc.state.tx.us. Comments must be received by the Commission within 30 days from the date this proposal is published in the Texas Register.

The new rules are proposed under Texas Labor Code, §301.061, which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Texas Workforce Commission programs, and under Texas Education Code, §33.902. The proposed rules affect Texas Labor Code, Chapter 302 and Texas Education Code, §33.902.

§809.201.Purpose.

The purpose of this subchapter is to set forth the criteria and procedures by which school districts may obtain funds from the Commission in order to provide child care for school-age children before school, after school, during school vacations, and on school holidays.

§809.202.Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

- (1) School-age children -- Children enrolled in pre-kindergarten through grade seven.
- (2) School district -- A public school district accredited under the applicable laws of the State of Texas.

§809.203.Request for Proposal.

A response to a request for proposal issued by the Commission shall include the following information:

- (1) description of the services to be provided;
- (2) income level of the families to be served;
- (3) amount and source of matching funds or in-kind match for funds received under this subchapter;
- (4) prior experience of the school district in providing child care services;
- (5) the school district's plan for coordinating its program with the local workforce development board and written acknowledgment from the chair person or executive committee of the local workforce development board that the board has reviewed and supports the plan;
- (6) the school district's plan for coordinating its program with other child care resources, both public and private; and
- (7) description of the need in the community for school-age child care and the resources available to meet that need.

§809.204.Criteria for Award.

In addition to the information required in the response to a request for proposal in awarding funds to school districts under this subchapter, the Commission may consider the following:

- (1) innovative uses of the proposed program;
- (2) prior success of the proposed program;
- (3) prior receipt by a school district of funds under this program; and
- (4) equitable allocation of funds between urban and rural areas of the state.

§809.205.Use of Award.

Funds awarded to school districts under this subchapter may be used by the school district for the following purposes:

- (1) planning and developing child care services, including the implementation of research-based reading programs;
- (2) establishing a child care program in accordance with this subchapter;
- (3) expanding existing child care services; and
- (4) improving existing child care services.

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

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J. Randel (Jerry) Hill
General Counsel

Texas Workforce Commission

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