

CHAPTER 809. CHILD CARE SERVICES

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

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

Estimated date of publication in the *Texas Register*: **March 11, 2016**

The rules will take effect: **March 14, 2016**

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

Subchapter G. Texas Rising Star Program, §809.130

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND RESPONSES

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

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

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

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

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

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

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

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND RESPONSES

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

SUBCHAPTER G. TEXAS RISING STAR PROGRAM

The Commission adopts the following amendments to Subchapter G:

§809.130. Short Title and Purpose

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

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

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

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

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

Comment:

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

Response:

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

Comment:

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

Response:

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

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

COMMENTS WERE RECEIVED FROM:

Marisela Correa, Upper Rio Grande Workforce Development Board (Borderplex)

Elisa Shepherd, Government Relations Manager, Knowledge Universe US

Pat Smith, Executive Director, Little Dudes (verbal testimony at public hearing, December 16, 2015, Dallas, Texas)

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

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

CHAPTER 809. CHILD CARE SERVICES

SUBCHAPTER G. TEXAS RISING STAR PROGRAM

§809.130. Short Title and Purpose.

- (a) The rules contained in this subchapter may be cited as the TRS Program rules.
- (b) The purpose of the TRS Program rules is to interpret and implement Texas Government Code §2308.3155(b) requiring the Commission to establish rules to administer the TRS program, including guidelines for rating a child care provider for TRS certification.
- (c) The TRS Program rules identify the organizational structure and categories of, and the scoring factors that shall be included in, the TRS guidelines.
- (d) The TRS guidelines for rating a child care provider shall:
 - (1) describe measures for the TRS program that contain, at a minimum, measures for child care providers regarding:
 - (A) director and staff qualifications and training;
 - (B) caregiver-child interactions;
 - (C) curriculum;
 - (D) nutrition and indoor and outdoor activities; and
 - (E) parent involvement and education;
 - (2) specify measures that:
 - (A) must be met in order for a provider to be certified at each star level; and
 - (B) are observed and have points awarded through on-site assessments; and
 - (3) specify the scoring methodology and scoring thresholds for each star level.
- (e) The TRS guidelines:
 - (1) shall be reviewed and updated by the Commission at a minimum of every four years in conjunction with the rule review of Chapter 809, conducted pursuant to Texas Government Code §2001.039, and the TRS guidelines review shall:

- (A) consider input from stakeholders; and
 - (B) include at least one public hearing held prior to submitting the stakeholder input to the Commission;
- (2) shall be adopted by the Commission subject to the requirements of the Texas Open Meetings Act; and
 - (3) also may be reviewed and amended as determined necessary by the Commission in accordance with the requirements of the Texas Open Meetings Act.