

## **CHAPTER 819. TEXAS WORKFORCE COMMISSION CIVIL RIGHTS DIVISION**

**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 **NOVEMBER 20, 2012**, 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*: **December 7, 2012**

The rules will take effect: **December 10, 2012**

The Texas Workforce Commission adopts amendments to the following section of Chapter 819, relating to the Texas Workforce Commission Civil Rights Division, *without* changes, as published in the September 28, 2012, issue of the *Texas Register* (37 TexReg 7738):

Subchapter F. Equal Employment Opportunity Records and Recordkeeping, §819.92

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

### **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

The purpose of the Chapter 819 rule change is to limit the release of certain personally identifiable information related to complaints filed under Texas Labor Code §21.201.

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

(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 F. EQUAL EMPLOYMENT OPPORTUNITY RECORDS AND RECORDKEEPING**

**The Commission adopts the following amendments to Subchapter F:**

### **§819.92. Access to CRD Records**

Section 819.92(b) is removed. Pursuant to Texas Labor Code §21.305 and §819.92 of this chapter, the Commission currently must allow, upon written request, a party to a complaint filed under Texas Labor Code §21.201 reasonable access to Commission records relating to the complaint. These records often include personally identifiable information and sensitive medical information of persons other than a party to the complaint.

House Bill 2463, 82nd Texas Legislature, Regular Session (2011), amended Texas Labor Code §21.305 to state that the following information is not considered public information and must not be disclosed to a party to a complaint filed under §21.201:

- Identifying information of persons other than the parties and witnesses to the complaint;
- Identifying information about confidential witnesses, including any confidential statement given by witnesses;

- Sensitive medical information about the charging party or a witness to the complaint that is:
  - provided by a person other than the person requesting the information; and
  - not relevant to issues raised in the complaint, including information that identifies injuries, impairments, pregnancies, disabilities, or other medical conditions that are not obviously apparent or visible;
- Identifying information about a person other than the charging party that is found in sensitive medical information regardless of whether the information is relevant to the complaint;
- Nonsensitive medical information that is relevant to the complaint if the disclosure would result in an invasion of personal privacy, unless the information is generally known or has been previously reported to the public;
- Identifying information about other respondents or employers not a party to the complaint;
- Information relating to settlement offers or conciliation agreements received from one party that was not conveyed to the other and information contained in a separate alternative dispute resolution file prepared for mediation purposes; and
- Identifying information about a person on whose behalf a complaint was filed if the person has requested that his or her identity as a complaining party remain confidential.

New §819.92(b) states that the information described in Texas Labor Code §21.305(c) is not public information and must not be disclosed to a party to a complaint filed under Texas Labor Code §21.201.

No comments were received.

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.

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

The adopted rule affects Texas Government Code, Chapter 552.

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**SUBCHAPTER F. EQUAL EMPLOYMENT OPPORTUNITY RECORDS AND RECORDKEEPING**

**§819.92. Access to CRD Records.**

- (a) Pursuant to Texas Labor Code §21.304 and §21.305, CRD shall, on written request of a party to a perfected complaint filed under Texas Labor Code §21.201, allow the party access to CRD's records, unless the perfected complaint has been resolved through a voluntary settlement or conciliation agreement:
  - (1) following the final action of CRD; or
  - (2) if a party to the perfected complaint or the party's attorney certifies in writing that a civil action relating to the perfected complaint is pending in federal court alleging a violation of federal law.
- (b) The information described in Texas Labor Code §21.305(c) is not public information and shall not be disclosed to a party to a complaint filed under Texas Labor Code §21.201.