

1 **CHAPTER 809. CHILD CARE SERVICES**

2
3 **PROPOSED 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 NOVEMBER 3, 2015**, THE TEXAS WORKFORCE COMMISSION PROPOSED THE
8 BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

9
10 Estimated Publication Date of the Proposal in the *Texas Register*: **November 20, 2015**
11 Estimated End of Comment Period: **December 21, 2015**
12

13 The Texas Workforce Commission (Commission) proposes amendments to the following section
14 of Chapter 809, relating to Child Care Services:
15

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

- 18 PART I. PURPOSE, BACKGROUND, AND AUTHORITY
- 19 PART II. EXPLANATION OF INDIVIDUAL PROVISIONS
- 20 PART III. IMPACT STATEMENTS
- 21 PART IV. COORDINATION ACTIVITIES

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 from
33 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 2015.
40

41 The proposed amendments to §809.130(e) require a regular review of the TRS guidelines every
42 four years, in alignment with the four-year rule review process under Texas Government Code
43 §2001.039. The proposed amendments are scheduled for adoption in January 2016. Therefore,
44 the next review of the TRS guidelines following the adoption of these amendments will occur in
45 conjunction with the scheduled four-year rule review of Chapter 809 in December 2019.
46

1 Additionally, pursuant to Texas Government Code §2308.3155(b), the proposed review of the
2 TRS guidelines require input from interested parties (stakeholders), and at least one public
3 hearing be held prior to submitting TRS guidelines stakeholders' recommendations to the
4 Commission.
5
6

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

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

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

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

29 **PART III. IMPACT STATEMENTS**

30 Randy Townsend, Chief Financial Officer, has determined that for each year of the first five
31 years the rules will be in effect, the following statements will apply:
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33 There are no additional estimated costs to the state and local governments expected as a result of
34 enforcing or administering the rules.
35

36 There are no estimated cost reductions to the state and to local governments as a result of
37 enforcing or administering the rules.
38

39 There are no estimated losses or increases in revenue to the state or to local governments as a
40 result of enforcing or administering the rules.
41

42 There are no foreseeable implications relating to costs or revenue of the state or local
43 governments as a result of enforcing or administering the rules.
44

45 There may be minimal economic costs to persons required to comply with the rules.
46

1 There may be minimal costs to stakeholders that give input on TRS guidelines as required by
2 §809.130(e)(1)(A), if the stakeholders incur travel, overtime compensation, or other costs for that
3 purpose, or to participate in a public hearing held under §809.130(e)(1)(B). Stakeholder
4 participation may involve state agencies, Boards, and child care providers, and could potentially
5 include representatives from other organizations.

6
7 Costs, if any, incurred by stakeholders that are state agencies or Boards are not anticipated to
8 create a net increase in total costs of those organizations; other stakeholders may experience
9 minimal additional costs. The state legislature appropriates funds to the state for program
10 administration. Similarly, Boards receive pass-through funds to administer programs locally.
11 State agencies and Boards can use these monies to fund costs of providing input on TRS
12 guidelines. These monies are sum certain in amount, and it is assumed that the state and Boards
13 would operate within those funding parameters. Therefore, it is estimated that costs, if any, that
14 the state and Boards incur from providing input on TRS guidelines would not result in an
15 increase to the total costs of those organizations. Other stakeholders may experience a minimal
16 amount of additional costs.

17
18 We estimate that costs would be minimal in amount based on assumptions that stakeholder
19 participation will ordinarily be for a limited duration every four years, will require limited or no
20 travel, and will require limited, if any, other costs.

21
22 There is no anticipated adverse economic impact on small businesses or microbusinesses as a
23 result of enforcing or administering the rules.

24 Economic Impact Statement and Regulatory Flexibility Analysis

25 The Agency has determined that the proposed rules will not have an adverse economic impact on
26 small businesses, as these proposed rules place no requirements on small businesses, including
27 child care providers.

28
29
30 Doyle Fuchs, Director of Labor Market and Career Information, has determined that there is no
31 significant negative impact upon employment conditions in the state as a result of the rules.

32
33 Reagan Miller, Director, Workforce Development Division, has determined that for each year of
34 the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the
35 proposed rules will be to ensure public and stakeholder input to the review and updating of the
36 TRS guidelines.

37
38 The Agency hereby certifies that the proposal has been reviewed by legal counsel and found to
39 be within the Agency's legal authority to adopt.

40 41 **PART IV. COORDINATION ACTIVITIES**

42 In the development of these rules for publication and public comment, the Commission sought
43 the involvement of Texas' 28 Boards. The Commission provided the concept paper regarding
44 these rule amendments to the Boards for consideration and review on August 18, 2015. During
45 the rulemaking process, the Commission considered all information gathered in order to develop
46 rules that provide clear and concise direction to all parties involved.

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2 Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce
3 Policy and Service Delivery, attn: Workforce Editing, 101 East 15th Street, Room 440T, Austin,
4 Texas 78778; faxed to (512) 475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us.
5 Comments must be received or postmarked no later than 30 days from the date this proposal is
6 published in the *Texas Register*.

7
8 The rules are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide the
9 Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for
10 the effective administration of Agency services and activities, and Texas Human Resources Code
11 §44.002, regarding Administrative Rules.

12
13 The proposed rules affect Texas Labor Code, Title 4, Chapters 301 and 302, as well as Texas
14 Government Code, Chapter 2308.

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16

1 (1) shall be reviewed and updated by the Commission at a minimum of every four
2 years in conjunction with the rule review of Chapter 809, conducted pursuant to
3 Texas Government Code §2001.039, and the TRS guidelines review shall:

4
5 (A) consider input from stakeholders; and

6
7 (B) include at least one public hearing held prior to submitting the stakeholder
8 input to the Commission;

9
10 (2)(4) shall be adopted by the Commission subject to the requirements of the
11 Texas Open Meetings Act; and

12
13 (3)(2) also may be reviewed and amended as determined necessary by the
14 Commission in accordance with, ~~provided that the amendments are adopted~~
15 ~~subject to~~ the requirements of the Texas Open Meetings Act.