

CHAPTER 809. CHILD CARE SERVICES

PROPOSED 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 **JUNE 26, 2007**, THE TEXAS WORKFORCE COMMISSION PROPOSED THE BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated Publication Date of the Proposal in the *Texas Register*: **July 13, 2007**

Estimated End of Comment Period: **August 13, 2007**

The Texas Workforce Commission (Commission) proposes to amend the following section of Chapter 809 relating to Child Care Services:

Subchapter D. Parent Rights and Responsibilities, §809.74

The Commission proposes the repeal of the following subchapter to Chapter 809 relating to Child Care Services in its entirety:

Subchapter G. Appeal Procedures

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

The purpose of the proposed rule change is to establish detailed and consistent procedures for complaints, hearings, and appeals related to workforce services administered by Local Workforce Development Boards (Boards). Texas Labor Code §302.065 directs the Commission to integrate the administration of four federal block grant programs with the goal of streamlining the delivery of services provided in the local career development one-stops. The Commission expanded this integration to state-funded workforce services, including examining the existing complaints and appeals processes for workforce services administered by the Boards. An absence of unified and integrated rules on complaints, hearings, and appeals related to workforce services makes the existing rules difficult to understand or interpret consistently and works as a barrier to integrating workforce services.

To maintain uniformity and consistency across all Board-administered workforce services and to protect due process rights of Texas Workforce Center customers, in a separate, but concurrent, rulemaking proposal, the Commission is proposing the repeal of Chapter 823, General Hearings rules, and is proposing new Chapter 823, Integrated Complaints, Hearings, and Appeals rules. New Chapter 823 requires Boards to establish local policies for filing complaints, to provide

opportunities for informal resolutions, and to establish procedures for Board hearings and appeals.

The Commission has reviewed sections of Chapter 809 relating to complaints or grievances, local-level appeals, and state-level hearings. The Commission proposes to repeal these sections and incorporate similar processes related to complaints, hearings, and appeals in new Chapter 823.

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 D. PARENT RIGHTS AND RESPONSIBILITIES

The Commission proposes amendments to Subchapter D, as follows:

§809.74. Parent Appeal Rights

Under a separate, but concurrent rulemaking proposal, the Commission is proposing new Chapter 823, Integrated Complaints, Hearings, and Appeals, which comprises the complaint, hearing, and appeal procedures for all Board-administered workforce services, including appeal procedures set forth in Subchapter G of this chapter. Therefore, references to "Subchapter G of this chapter" contained in §809.74(a), (c), (d), and (e) are removed and replaced by references to "Chapter 823 of this title."

SUBCHAPTER G. APPEAL PROCEDURES

The Commission proposes the repeal of Subchapter G, as follows:

Under a separate, but concurrent, rulemaking proposal, the Commission is proposing new Chapter 823, Integrated Complaints, Hearings, and Appeals, which comprises the complaint, hearing, and appeal procedures for all Board-administered workforce services, including the information in the following sections.

§809.131. Board Review

Section 809.131 is repealed and the information is relocated in new Chapter 823.

§809.132. Appeals to the Commission

Section 809.132 is repealed and the information is relocated in new Chapter 823.

PART III. IMPACT STATEMENTS

Randy Townsend, Chief Financial Officer, has determined that for each year of the first five years the rules will be in effect, the following statements will apply:

There are no additional estimated costs to the state and local governments expected as a result of enforcing or administering the rules.

There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules.

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

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

There are no anticipated economic costs to persons required to comply with the rules.

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

Mark Hughes, Director of Labor Market Information, has determined that there is no significant negative impact upon employment conditions in the state as a result of the rules.

Laurence M. Jones, Director, Workforce Development Division, 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 proposed rules will be to provide a unified and streamlined process regarding the resolution of complaints, hearings, and appeals related to Board-administered workforce services. In addition, due process principles and other legal rights will be protected, program outcomes will be achieved more effectively, and workforce services will be further integrated.

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

PART IV. COORDINATION ACTIVITIES

Comments on the proposed rules may be submitted to TWC Policy Comments, Policy and Development, 101 East 15th Street, Room 440T, Austin, Texas 78778; faxed to 512-475-3577; or e-mailed to TWCPolicyComments@twc.state.tx.us. The Commission must receive comments postmarked no later than 30 days from the date this proposal is published in the *Texas Register*.

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

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

Chapter 809. CHILD CARE SERVICES

SUBCHAPTER D. PARENT RIGHTS AND RESPONSIBILITIES

§809.74. Parent Appeal Rights

- (a) Unless otherwise stated in this section, a parent may request a hearing pursuant to Chapter 823 of this title, Subchapter G of this chapter (relating to Appeal Procedure) if the parent's eligibility or child's enrollment is denied, delayed, reduced, or terminated by the Board's child care contractor.
- (b) A parent may have an individual represent him or her ~~them~~ during this process.
- (c) A parent of a child in protective services may not appeal pursuant to Chapter 823 of this title, Subchapter G of this chapter, but shall follow the procedures established by DFPS.
- (d) If the parent's eligibility or child's enrollment is denied, delayed, reduced, or terminated by a Choices caseworker, the parent may ~~not~~ appeal pursuant to Chapter 823 of this title, Subchapter G of this chapter, but may appeal following the procedures in Chapter 811 of this title.
- (e) If the parent's eligibility or child's enrollment is denied, delayed, reduced, or terminated by an FSE&T caseworker, the parent may ~~not~~ appeal pursuant to Chapter 823 of this title, Subchapter G of this chapter, but may appeal following the procedures in Chapter 813 of this title.

~~SUBCHAPTER G. APPEAL PROCEDURES~~

~~§809.131. Board Review~~

- ~~(a) A parent, provider, or a Board's child care contractor against whom an adverse action is taken may request a review by the Board.~~
- ~~(b) A request for review shall be submitted in writing and delivered to the Board within 15 days of the date of written notification of the adverse action. The request shall also contain:
 - ~~(1) a concise statement of the disputed adverse action;~~
 - ~~(2) a recommended resolution; and~~
 - ~~(3) any supporting documentation the requester deems relevant to the dispute.~~~~
- ~~(c) On receipt of a request for review, the Board shall coordinate a review by appropriate Board staff.~~
- ~~(d) Additional information may be requested from the Board's child care contractor, provider, and parents. Such information shall be provided within 15 days of the request.~~
- ~~(e) Within 30 days of the date the request for review is received, or of the date that additional requested information is received by the reviewing Board staff member, the Board shall send the Board's child care contractor, provider, or parent written notification of the results of the review.~~
- ~~(f) A Board must have conducted a review prior to an appeal being submitted to the Commission for a hearing.~~

§809.132. Appeals to the Commission

- ~~(a) After results of a review have been issued, the Board's child care contractor, provider, or parent who disagrees with the outcome of the review may request a Commission hearing to appeal the results of the review.~~
- ~~(b) The request for appeal to the Commission from a Board's review shall be filed in writing with the Appeals Department, Texas Workforce Commission, 101 East 15th Street, Room 410, Austin, Texas 78778-0001, within 15 days after receiving written notification of the results of the review.~~
- ~~(c) The appeal to the Commission will include a hearing, which is limited to the issues and information considered in the Board review.~~
- ~~(d) The Commission hearing will be held in accordance with Commission policies and procedures applicable to the appeal as contained in Chapter 823 of this title, or as otherwise provided by the Commission.~~