

Chapter 809. CHILD CARE AND DEVELOPMENT

Subchapter B. GENERAL MANAGEMENT REQUIREMENTS

40 TAC §809.20

The Texas Workforce Commission (Commission) proposes new §809.20 relating to Leveraging Local Resources, and the repeal of §809.20 relating to Local Donations.

Section 809.20 sets forth a local workforce development board's (Board) responsibility to leverage local resources by raising local funds and obtaining certifications from public entities that reflect expenditures that are consistent with the purposes of the Child Care and Development Fund.

The purpose of the proposed rule is to clarify the role of the Boards in raising local funds to improve the affordability, accessibility and quality of child care. The Commission encourages the Boards to aggressively solicit and manage local fund-raising to the fullest extent possible to ensure that local public and private funds are leveraged to meet the child care needs of the residents of Texas.

Purpose. The proposed rule sets forth the provisions applicable to Boards clarifying that the Boards are able to fully manage pledges of funds, transfers and certifications, not just to enable Boards to avail themselves of matching federal funds available to the workforce area if the Board raises local funds, but also to enable Boards to realize the long-term benefits to tomorrow's workforce of any additional local funds invested today in affordable, accessible, quality child care. The Commission's intent is not to over-commit federal matching funds available through the Commission, but to encourage the Boards to raise additional local funds, beyond the minimum required to access federal matching funds, to multiply the benefits of each investment in child care for working families, local employers, and others in the workforce area. By supporting Boards that forge public-private partnerships to invest in child care, the Commission intends to support the goals of state and federal child care laws.

Goals: Child care services are provided to low-income families to create and promote long-term self-sufficiency by enabling parents to work or attend education or training activities. Such services offer affordable, accessible, and quality child care that promotes the physical, social, emotional, and intellectual development and safety of children. Recognizing that parents best understand the needs of their children, these services empower parents to make informed choices regarding child care that best suit the family's needs. The Commission also advocates improvements in the availability, affordability, and quality of child care while supporting health, safety, and regulatory standards for child care providers. The goal is to coordinate workforce services, to leverage private and public funds at the local level, and to fully integrate child care for low-income families with the network of workforce training and services under the administration of the Boards.

The Child Care and Development rules contained in 40 TAC Chapter 809 apply to local funds raised by Boards to access federal matching funds and the corresponding federal matching funds that subsequently would be accessed by the Board. For example, a Board shall ensure that the local funds and the corresponding federal matching funds are spent on authorized child care activities as specified in the Board's integrated workforce and training plan, including child care services for eligible children or quality improvement activities. Similarly, a Board is charged with ensuring that the resulting federal matching funds are expended only up to the amount that corresponds to the donations, transfers and certifications that are completed within the program year. A Board shall also report and monitor the fund-raising activities and corresponding expenditures consistent with the Board's Funds Utilization and Service Level Plan and reporting described in 40 TAC §800.82 and §800.83.

Randy Townsend, Chief Financial Officer, has determined that for the first five years the rule is in effect, the following statements will apply:

there are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the rule;

there are no estimated reductions in costs to the state or to local governments expected as a result of enforcing or administering the rule;

there are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule;

there are no foreseeable implications relating to costs or revenues to the state or to local governments as a result of enforcing or administering the rule; and

there are no anticipated costs to persons who are required to comply with the rule as proposed.

Mr. Townsend has also determined that there is no anticipated adverse impact on small businesses as a result of enforcing or administering the rule because any regulatory burden or impact on small businesses (including micro-businesses) as well as foreseeable adverse economic effects or costs, if any, would be a result of federal statute and regulations, which are the basis for the proposed rule, and second, as far as can be determined, small businesses (including micro-businesses) are not required to do anything as a result of this rule.

Jean Mitchell, Director of Workforce Development, has determined that the public benefit anticipated as a result of the rule as proposed will be to maximize the use of workforce development funds and to ensure that all available funds are used to provide services by reallocating available funds to populations in need.

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

Comments on the proposed rule may be submitted to Barbara Cigainero, Workforce Development Division, Texas Workforce Commission, 101 East 15th Street, Room 130BT, Austin, Texas, 78778; Fax Number (512) 463-3424; or E-mail to barbara.cigainero@twc.state.tx.us.

Comments must be received by the Commission no later than 30 days from the date this proposal is published in the *Texas Register*.

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Workforce Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under Texas Labor Code §301.061 and §302.002, 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 Commission services and activities.

The proposed repeal affects Texas Labor Code, Title 4.

§809.20. Local Donations.

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.

Filed with the Office of the Secretary of State, on April 19, 2000.

TRD-200002754

J. Randel (Jerry) Hill

General Counsel

Texas Workforce Commission

Earliest possible date of adoption: June 4, 2000

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

The new rule is proposed under Texas Labor Code §301.061 and §302.002, 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 Commission services and activities.

The proposal affects Texas Labor Code, Title 4.

§809.20. Leveraging Local Resources.

(a) Leveraging Local Funds. The Commission encourages Boards to raise as many local public and private funds as possible in order to leverage all available resources to address child care needs in the community.

(1) A Board may raise local funds in the form of one or more of the following in order to leverage (match) against federal funds available through the Commission:

(A) donations of funds from a private entity;

(B) transfers of funds from a public entity; or

(C) certifications of expenditures by a public entity that represents expenditures eligible for federal match.

(2) A Board's performance in raising and leveraging local funds may make the Board eligible for incentive awards.

(b) Raising Local Funds to Access Federal Matching Funds from the Commission.

(1) A Board shall manage the fund-raising of local resources, including the selection of pledged and completed donations, transfers, and certifications that are used by the Board to receive federal matching funds through the Commission.

(2) A Board shall ensure that federal matching funds are maximized by raising local funds in an amount equal to or more than the federal funds.

(c) Documenting Pledged Donations, Transfers and Certifications. A Board shall maintain written documentation of pledged donations, transfers and certifications that contain, at a minimum, the following:

(1) the signature of the representative of the Board;

(2) the signature of the potential contributor;

(3) the potential contributor's commitment to fulfill the pledge of the donation, transfer or certification by paying or certifying the funds to the Commission for use in a specific workforce area on a set payment or certification schedule;

(4) the Board's commitment to use the donated or transferred funds as requested by the contributor, as long as it is consistent with federal regulations at 45 CFR §98.53; and

(5) sufficient information to determine that the funds will be used in a manner consistent with 45 CFR §98.53.

(d) Submitting Pledged Donations, Transfers and Certifications for Acceptance by the Commission. A Board shall submit pledged donations, transfers, and certifications to the Commission for acceptance.

(e) Completing Donations, Transfers and Certifications.

(1) A Board shall ensure that donations of cash and transfers of funds are paid to the Commission and that certifications are also submitted to the Commission.

(2) Donations and transfers are considered complete to the extent that the funds have been paid to the Commission.

(3) Certifications are considered complete to the extent that a signed written instrument is delivered to the Commission that reflects that the public entity has expended a specific amount of funds on eligible child care services.

(f) Reporting. A Board shall report information relating to pledged and completed donations, transfers and certifications in the monthly expenditure and service level reports as referenced in §800.83 of this title (relating to Funds Utilization and Service Level Plan and Reports).

(g) Monitoring. A Board shall monitor fund-raising activities and the expenditure of any resulting funds to ensure that expenditures of unmatched federal funds available through the Commission do not exceed an amount that corresponds to the donations, transfers and certifications that are completed by the end of the program year.

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.

Filed with the Office of the Secretary of State, on April 19, 2000.

TRD-200002753

J. Randel (Jerry) Hill

General Counsel

Texas Workforce Commission

Earliest possible date of adoption: June 4, 2000

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