

CHAPTER 802. INTEGRITY OF THE TEXAS WORKFORCE SYSTEM

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 OCTOBER 21, 2015, 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*: **November 6, 2015**

The rules will take effect: **November 10, 2015**

The Texas Workforce Commission (Commission) adopts amendments to the following section of Chapter 802, relating to the Integrity of the Texas Workforce System *without* changes, as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5750):

Subchapter D. Agency Monitoring Activities, §802.67

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the adopted Chapter 802 rule change is to recognize the maturity and the evolution of the Texas workforce system since the Board oversight capacity rules were originally adopted in 2004. At that time, Boards were accountable for 46 performance measures. In 2015, Boards are accountable for 10 performance measures. Because the existing performance criteria are heavily based on meeting a certain percentage of targets, this drastic reduction has significantly affected Board oversight capacity standards. In addition, the criteria used in evaluating Board oversight capacity should be adaptable to changing conditions, including new federal or state legislation, guidance or performance measures, and extraordinary circumstances (e.g., natural disasters).

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. AGENCY MONITORING ACTIVITIES

The Commission adopts the following amendments to Subchapter D:

§802.67. Commission Evaluation of Board Oversight Capacity

Section 802.67:

- adds that the Agency will evaluate, at least annually, each Board's oversight capacity, including its ability to:
 - develop, maintain, and upgrade comprehensive fiscal management systems;
 - hire, train, and retain qualified staff to carry out the Board's oversight activities;
 - select and oversee local contractors to improve the delivery of workforce services;

- oversee and improve the operations of Workforce Solutions Offices served by the Board;
- manage each contractor's performance across multiple Board programs; and
- identify and resolve long-standing Board oversight problems and contract provider performance issues;
- removes the criteria currently specified, and adds that the Commission:
 - shall approve in an open meeting specific criteria to be used in its evaluation of Board oversight capacity and will communicate these criteria to Boards through a Workforce Development Letter;
 - shall approve in an open meeting, on an as-needed basis, updates to the criteria used to evaluate Board oversight capacity; and
 - may consider any extraordinary situation, including natural disasters, when evaluating the factors in subsection (b); and
- amends relettered subsection (e) to indicate that the Commission does not intend to update Board ratings more often than annually, unless new information or circumstances (e.g., economic factors, natural disasters, or performance reporting errors) warrant consideration.

Certain subsections and paragraphs have been relettered and renumbered to reflect changes.

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 rule affects Title 4, Texas Labor Code, particularly Chapters 301 and 302.

CHAPTER 802. INTEGRITY OF THE TEXAS WORKFORCE SYSTEM

SUBCHAPTER D. AGENCY MONITORING ACTIVITIES

§802.67. Commission Evaluation of Board Oversight Capacity.

- (a) This section outlines the process used by the Commission to evaluate Board oversight capacity related to the management of local funds and the delivery of local workforce services.
- (b) The Agency shall evaluate, at least annually, each Board's oversight capacity, including the Board's ability to:
 - (1) develop, maintain, and upgrade comprehensive fiscal management systems;
 - (2) hire, train, and retain qualified staff to carry out the Board's oversight activities;
 - (3) select and oversee workforce service providers to improve the delivery of workforce services;
 - (4) oversee and improve the operations of Workforce Solutions Offices served by the Board;
 - (5) manage each workforce service provider's performance across multiple Board programs; and
 - (6) identify and resolve long-standing Board oversight problems and workforce service provider performance issues.
- (c) The Commission shall approve, in an open meeting, specific criteria to be used in its evaluation of Board oversight capacity and shall communicate these criteria to Boards through issuance of a Workforce Development Letter. The Commission shall approve, in an open meeting, on an as-needed basis, updates to the criteria used to evaluate Board oversight capacity.
- (d) Notwithstanding any other provision of this section, the Commission may consider any extraordinary situation related to any of the factors identified in subsection (b) of this section, including natural disasters.
- (e) Annually, the Commission shall post the results of its evaluation of each Board and each Board's performance on its website with explanation of the rating, rating criteria, and performance measures in a format that is readily accessible to and understandable by a member of the public.

- (1) The explanation shall include specifically how each of the criteria was applied for each Board.
- (2) Evaluations shall be performed using information at the Commission's disposal at the time of the evaluation. If no updated information is available, the Commission is not obligated to schedule a review or visit to confirm or obtain new information.
- (3) The Commission may update the Board ratings more often than annually if the Commission determines new information or circumstances warrant consideration.