

# Texas Workforce Commission

A Member of Texas Workforce Solutions

Andres Alcantar, Chairman  
Commissioner Representing  
the Public

Ronald G. Congleton  
Commissioner Representing  
Labor

Hope Andrade  
Commissioner Representing  
Employers

Larry E. Temple  
Executive Director

November 17, 2014

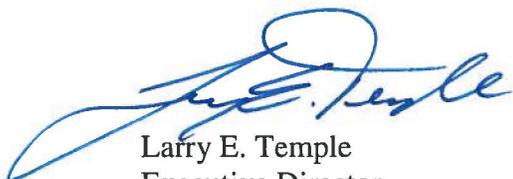
Ken Levine  
Director  
Sunset Advisory Commission  
1501 N. Congress Avenue  
Robert E. Johnson Bldg. 6<sup>th</sup> Fl.  
Austin, TX 78701

Dear Mr. Levine:

Please find enclosed the agency response to the Sunset Advisory Commission Report on the Texas Workforce Commission. I want to extend my appreciation for the work performed by your staff, given the complexities of this agency.

We look forward to the Hearing with the Sunset Advisory Commission scheduled for Wednesday, December 10, 2014.

Sincerely,



Larry E. Temple  
Executive Director

cc: Andres Alcantar, Chairman, Commissioner Representing the Public  
Ronny Congleton, Commissioner Representing Labor  
Hope Andrade, Commissioner Representing Employers

## **Responses to Sunset Recommendations on Issue 1, Civil Rights Division**

### **1.1 Transfer the powers and duties of the Human Rights Commission to the Texas Workforce Commission (TWC).**

TWC is neutral on this recommendation. If this recommendation is implemented, TWC will promulgate rules, policies, and procedures as necessary to conform to statutory changes.

### **1.2 Eliminate the statutory requirement for the division to review fire department exams for discriminatory factors.**

TWC agrees with this recommendation. If the recommendation is implemented, the resulting excess capacity of the Civil Rights Division's monitor will be redeployed for other monitoring tasks.

### **1.3 Require TWC, as part of its Civil Rights Division's annual report, to provide data on the number and type of state agency employment discrimination complaints with merit.**

TWC agrees with this recommendation. If this recommendation is implemented, data on the employment complaints with merit resolutions against state agencies can be reported annually in totals, without identifying any particular respondent to meet state and federal confidentiality requirements. The data can be added to the annual report that is currently posted on TWC's website.

### **1.4 Require TWC to develop risk assessment criteria in rule for determining when an agency could be subject to review more frequently than the regular six-year schedule.**

TWC agrees with this recommendation. If this recommendation is implemented, TWC will evaluate and adapt auditing-type practices for conducting risk assessments and implement with rulemaking. If the requirement to conduct reviews of initial firefighter testing is removed, the excess capacity of the division's monitor would be reallocated for these additional policy reviews.

### **1.5 Require TWC to charge state agencies a rate that covers the costs of reviewing their personnel policies and procedures, and annually reassess reimbursement rates to ensure true cost recovery.**

TWC supports and currently follows this recommendation. TWC has been conducting a reevaluation of the monitoring costs prior to setting the reimbursement rates for Fiscal Years 2013 and 2014.

## **Responses to Sunset Recommendations on Issue 2, Career Schools**

### **Changes in Statute**

#### **2.1 Require TWC to collect employees' occupation information as part of employers' wage records and use the records to verify employment information career schools submit.**

TWC acknowledges that the collection of employees' occupational information through the unemployment insurance (UI) wage records system would improve TWC's ability to measure this key career schools outcome and gauge how successful career schools are at placing graduates in appropriate employment related to the training they receive. Currently, TWC is able to crossmatch the self-reported data career schools submit against UI wage records, but based on the data currently collected, the crossmatch can identify the employer of record but not the occupation entered.

However, to implement this recommendation, fees collected from career schools will need to be increased. The cost of the automation enhancements required, which will be directed at the collection of data to benefit the Career Schools and Colleges program, must be borne by the career schools. Additionally, if the recommendation is adopted by the Texas legislature, TWC will have to educate employers on the enhanced reporting requirement.

#### **2.2 Require TWC to make information on enforcement actions available to the public on its website.**

TWC agrees that making additional information available would assist students with decisions regarding career schools. Currently, information is available on TWC's website regarding student completion, placement, and employment rates; schools receiving cease-and-desist orders; and tuition costs. Updates with additional details on regulatory actions taken by TWC—including a listing of administrative penalties, program revocations, and enrollment suspensions—are planned. Additionally, TWC will consider other categories for website updates, including substantiated complaints, with the goal of providing additional decision-making tools to the public.

#### **2.3 Eliminate TWC's statutory career school fees and fee caps, and authorize fees to be set in rule.**

TWC supports the recommendation and will set fees necessary to administer an effective program consistent with legislative appropriations.

### **Management Action**

#### **2.4 Direct TWC to provide a link to its Reality Check tool on its career schools web page.**

TWC supports the recommendation and, since receipt of the draft report, has updated the Career Schools and Colleges student website to include a link to Reality Check.

## Responses to Sunset Recommendations on Issue 3, Child Care Services

### Changes in Statute

#### **3.1 Require TWC to include additional, more in-depth data in its biennial report on the effectiveness of the child care program.**

TWC agrees with the recommendation to include additional data on the effectiveness of the child care program and to expand the scope of the report to look at Local Workforce Development Board (Board)-level data in addition to state-level data. TWC will also expand the scope of its monthly review of child care performance (see recommendation 2.4) to enhance analysis of parent employment status and the stability of related child care.

#### **3.2 Require TWC to establish a process in rule providing for regular review of the Texas Rising Stars child care quality standards.**

TWC agrees with the recommendation. On October 7, 2014, TWC proposed rules for the Texas Rising Star (TRS) program, including requirements for amending the TRS guideline standards. TWC agrees that stakeholder participation in current and future review and development of recommendations for modifications to the TRS program is invaluable. Future rule amendments will establish, based on stakeholder input, an appropriate time frame between comprehensive reviews and modification of the standards and operations of the program.

#### **3.3 Require TWC to develop a policy on gathering and using stakeholder input regarding the child care program.**

TWC agrees with the need for continued and expanded stakeholder input regarding early childhood education and the administration of the subsidized child care program. TWC will develop a formal policy for soliciting input from child care providers, Boards, and other organizations with an interest in early childhood education. The policy will also include how that stakeholder input will be used for the development of policy recommendations and the identification of the need for technical assistance.

### Management Action

#### **3.4 Direct TWC to evaluate measures of the child care program's effectiveness in its internal monthly performance analysis.**

TWC agrees with the need to enhance the use of measures regarding the effective use of subsidized child care as a support that aids parents in successfully participating in the workforce. The identification of variation in performance on measures reflecting the stability of employment and child care arrangements across Boards will support TWC's efforts to examine and identify best practices across the state and to proactively identify performance issues. TWC will also examine the incorporation of performance analysis outcome data into Board contracts.

**3.5 Direct TWC to establish baseline Board-level data on the Texas Rising Stars program and evaluate impacts and trends as implementation of program changes progresses.**

TWC agrees with the recommendation to evaluate impacts and trends relating to the TRS program. TWC maintains current baseline data on the number of TRS providers by Board. Using that baseline data, TWC will include the number of children whose parents have selected a TRS-certified child care provider and will closely monitor this data as the new TRS guidelines are implemented. Trends across time and by Board will provide important information regarding the effectiveness of the new TRS standards, mentoring functions, and any technical assistance being provided.

**3.6 Direct TWC to regularly gather feedback from Boards on the quality of TWC's assistance in managing the child care program.**

TWC agrees with the recommendation. Although TWC actively participates, upon request, in the discussion and deliberations of the Child Care Network, which includes representatives with expertise and responsibility for administration of child care services from each Board, there are areas in which Boards have identified the need for assistance. TWC will establish a workgroup, including representatives from various Board perspectives—executive management and Board and contractor staff responsible for child care management. The workgroup will identify the key areas and issues Boards consider critical in the oversight and management of child care services, which will assist TWC in improving its technical assistance functions, including what measures of effectiveness and performance would be most useful to the Boards.

**3.7 Direct TWC to establish and regularly update a consolidated policies and procedures manual for the child care program.**

TWC agrees with the recommendation and is currently in the process of developing a comprehensive Child Care guide. The first release of the guide will consist of all previously published guidance and technical assistance and will be available on TWC's website for Boards, Board contractors, and the general public.

**Responses to Sunset Recommendations on Issue 4, Wage Claim Precedent Manual and Annual Review Process to Transition Certain Appeal Precedents to Administrative Rule**

**4.1 Direct TWC to create a searchable and publicly accessible precedent manual for wage disputes.**

TWC agrees with the recommendation to create a separate, publicly accessible, and searchable manual of wage claim decisions designated as precedents by the three Commissioners. TWC also agrees that such a manual should contain published state and federal court decisions that inform the adjudication of wage claims, particularly since it may be some time before a significant number of wage claim precedent cases are adopted.

**4.2 Direct TWC to establish procedures and criteria for determining when policies clarified through precedents would be more appropriate for rulemaking.**

TWC agrees with the recommendation to establish procedures and criteria for determining when policies clarified through precedents would be more appropriate for rulemaking. The three Commissioners, with the assistance of staff, would develop a process for selecting precedents for formal rulemaking that have universal applicability. A process will also be developed to provide the Commissioners with recommendations on any unemployment insurance benefit and wage claim precedents that may have become obsolete.

**Response to Sunset Recommendation on Issue 5, Authority to Use Federal Offsets to Recover Millions of Dollars in Unemployment Compensation Debt**

**5.1 TWC Needs Authority to Use Federal Offsets to Recover Millions of Dollars in Unemployment Compensation Debt**

TWC agrees with the recommendation to implement legislative changes for TWC to participate in the Treasury Offset Program. Legislative changes to state statute ensure conformity with federal law and provide our state with an effective collection tool, contributing to Unemployment Insurance Trust Fund solvency.

## **Responses to Sunset Recommendations on Issue 6, Need for Texas Workforce Commission**

### **Change in Statute**

#### **6.1 Continue the Texas Workforce Commission (TWC) for 12 years.**

TWC agrees with the recommendation to continue the agency for the next 12 years.

### **Management Action**

#### **6.2 Direct TWC to provide greater public access to written materials up for discussion in its open public meetings to facilitate the public's ability to follow and understand its deliberations.**

TWC agrees to provide greater public access to written materials up for discussion in its open public meetings by posting electronic copies on its website prior to the open public meeting.