

TEXAS WORKFORCE COMMISSION LETTER

ID/No: WD 24-02

Date: September 26, 2002

Key Word: Administration

To: Local Workforce Development Board Executive Directors
Commission Executive Staff
LWDA Coordinators
Commission Local Offices

From: Luis M. Macias, Director, Workforce Development Division

Subject: House Bill 3473: Protection of Professionals Who Report Cases of Child Abuse or Neglect

PURPOSE:

To inform Local Workforce Development Boards (Boards) that Texas Family Code §261.110 prohibits retaliation against certain professional employees for reporting cases of child abuse or neglect.

REFERENCE:

Texas Family Code, Chapter 261, Sections 101 and 110
Texas Penal Code, Chapter 21, Section 11

FLEXIBILITY RATINGS:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and State laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. Federal and State laws, rules, policies, and required procedures with a “No Local Flexibility” rating are indicated by the acronym, **NLF**, in the margin to the right of the applicable paragraph. Additionally, all information with a “No Local Flexibility” rating is indicated by “must” or “shall.”

Failure to comply with the federal and State laws, rules, policies, and required procedures with a “No Local Flexibility” rating may result in corrective action, up to and including sanction and penalty.

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All guidance or recommended practices with a “Local Flexibility” rating are indicated by the acronym, **LF**, located in the margin to the right of the applicable paragraph. Additionally, guidance or

recommended practices with a “Local Flexibility” rating are indicated by “may” or “recommend.”

Boards are not subject to corrective action for failure to comply with guidance or recommended practices with a “Local Flexibility” rating.

BACKGROUND:

Section 261.101(b) of the Texas Family Code defines a professional as:

“...an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, employees of a clinic or health care facility that provides reproductive services, juvenile probation officers, and juvenile detention or correctional officers.”

Section 261.101 of the Texas Family Code requires that a person having cause to believe that a child’s physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report of such abuse or neglect.

A professional, as defined in the above-noted paragraph, is required to make a report to the appropriate supervisor or official not later than 48 hours after the professional first suspects that a child:

- has been abused; or
- may be abused or neglected; or
- is a victim of an offense under the Texas Penal Code §21.11.

Texas Family Code §261.111 (House Bill 3473, as passed by the 77th Legislature, Regular Session) prohibits an employer from retaliating against a professional who reports an incident or incidences of child abuse or neglect. Section 261.110 also provides legal remedies a professional may pursue if he or she is suspended, terminated, or discriminated against for reporting incidents of child abuse or neglect.

PROCEDURES:

Boards must ensure that all contractual parties affected by this WD Letter are informed of the requirements of Texas Family Code §261.110 prohibiting employers from retaliating against certain employees (i.e., professionals) for reporting incidents of child abuse or neglect.

NLF

ACTIONS REQUIRED:

Boards must ensure that all appropriate staff are apprised of and comply with the requirements in this WD Letter.

INQUIRIES:

Direct inquiries to Bill Stanley at (512) 936-0395 or by e-mail to bill.stanley@twc.state.tx.us.

Rescissions: None

Expiration: Continuing