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- 1 (A) is considered by the program to be officially enrolled;
2
3 (B) meets all attendance requirements established by the program; and
4
5 (C) is making progress toward successful completion of the program as
6 determined by the Board upon eligibility redetermination as described in
7 §809.42(b) of this chapter.
8

9 (2) Child--An individual who meets the general eligibility requirements contained
10 in this chapter for receiving child care services.
11

12 (3) Child care contractor--The entity or entities under contract with the Board to
13 manage child care services. This includes contractors involved in determining
14 eligibility for child care services, contractors involved in the billing and
15 reimbursement process related to child care subsidies, as well as contractors
16 involved in the funding of quality improvement activities as described in
17 §809.16 of this chapter.
18

19 (4) Child Care Licensing (CCL)--Division responsible for protecting the health,
20 safety, and well-being of children who attend or reside in regulated child care
21 facilities and homes. Previously a division of the Texas Department of Family
22 and Protective Services (DFPS), CCL is now part of the Texas Health and
23 Human Services Commission (HHSC).
24

25 (5) Child care services--Child care subsidies and quality improvement activities
26 funded by the Commission.
27

28 (6) Child care subsidies--Commission-funded child care reimbursements to an
29 eligible child care provider for the direct care of an eligible child.
30

31 (7) Child experiencing homelessness--A child who is homeless, as defined in the
32 McKinney-Vento Act (42 USC 11434(a)), Subtitle VII-B, §725.
33

34 (8) Child with disabilities--A child who has a physical or mental impairment that
35 substantially limits one or more major life activities, has a record of such an
36 impairment, or is regarded as having such an impairment. Major life activities
37 include, but are not limited to, caring for oneself; performing manual tasks;
38 walking; hearing; seeing, speaking, or breathing; learning; and working.
39

40 (9) Educational program--A program that leads to:
41

42 (A) a high school diploma;

43 (B) a Certificate of High School Equivalency; or

44 (C) a postsecondary degree from an institution of higher education.
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- (10) Excessive unexplained absences--More than 40 unexplained absences within a 12-month eligibility period as described in §809.78(a)(3) of this chapter.
- (11) Family--Two or more individuals related by blood, marriage, or decree of court, who are living in a single residence and are included in one or more of the following categories:
 - (A) Two individuals, married--including by common-law, and household dependents; or
 - (B) A parent and household dependents.
- (12) Household dependent--An individual living in the household who is:
 - (A) an adult considered a dependent of the parent for income tax purposes;
 - (B) a child of a teen parent; or
 - (C) a child or other minor living in the household who is the responsibility of the parent.
- (13) Improper payments--Any payment of Child Care Development Fund (CCDF) grant funds that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements governing the administration of CCDF grant funds and includes payments:
 - (A) to an ineligible recipient;
 - (B) for an ineligible service;
 - (C) for any duplicate payment; and
 - (D) for services not received.
- (14) Job training program--A program that provides training or instruction leading to:
 - (A) basic literacy;
 - (B) English proficiency;
 - (C) an occupational or professional certification or license; or

1 (D) the acquisition of technical skills, knowledge, and abilities specific to an
2 occupation.

3
4 (15) Listed family home--A family home, other than the eligible child's own
5 residence, that is listed, but not licensed or registered with, CCL pursuant to
6 Texas Human Resources Code, §42.052(c).

7
8 (16) Military deployment--The temporary duty assignment away from the
9 permanent military installation or place of residence for reserve components of
10 the single military parent or the dual military parents. This includes deployed
11 parents in the regular military, military reserves, or National Guard.

12
13 (17) Parent--An individual who is responsible for the care and supervision of a
14 child and is identified as the child's natural parent, adoptive parent, stepparent,
15 legal guardian, or person standing in loco parentis (as determined in
16 accordance with Commission policies and procedures). Unless otherwise
17 indicated, the term applies to a single parent or both parents.

18
19 (18) Pre-Star provider--A designation for subsidy providers licensed or registered
20 by CCL, based on meeting the Screening Criteria for Subsidized Child Care,
21 which is further defined in the CCDF State Plan.

22
23 (19) Protective services--Services provided when:

24
25 (A) a child is at risk of abuse or neglect in the immediate or short-term future
26 and the child's family cannot or will not protect the child without DFPS
27 Child Protective Services (CPS) intervention;

28
29 (B) a child is in the managing conservatorship of DFPS and residing with a
30 relative or a foster parent; or

31
32 (C) a child has been provided with protective services by DFPS within the
33 prior six months and requires services to ensure the stability of the
34 family.

35
36 (20) Provider--A provider is defined as:

37
38 (A) a regulated child care provider as defined in paragraph (21) of this
39 section;

40
41 (B) a relative child care provider as defined in paragraph (22) of this section;
42 or

43
44 (C) a listed family home as defined in paragraph (15) of this section, subject
45 to the requirements in §809.91(b) of this chapter.
46

- 1 (21) Regulated child care provider--A provider caring for an eligible child in a
2 location other than the eligible child's own residence that is:
3
4 (A) licensed by CCL;
5
6 (B) registered with CCL; or
7
8 (C) operated and monitored by the United States military services.
9
- 10 (22) Relative child care provider--An individual who is at least 18 years of age, and
11 is, by marriage, blood relationship, or court decree, the child's:
12
13 (A) grandparent;
14
15 (B) great-grandparent;
16
17 (C) aunt;
18
19 (D) uncle; or
20
21 (E) sibling (if the sibling does not reside in the same household as the
22 eligible child).
23
- 24 (23) Residing with--Unless otherwise stipulated in this chapter, a child is
25 considered to be residing with the parent when the child is living with, and
26 physically present with, the parent during the time period for which child care
27 services are being requested or received.
28
- 29 (24) Teen parent--A teen parent (teen) is an individual 18 years of age or younger,
30 or 19 years of age and attending high school or the equivalent, who has a child.
31
- 32 (25) Texas Rising Star program--A voluntary, quality-based rating system of child
33 care providers participating in Commission-subsidized child care.
34
- 35 (26) Texas Rising Star provider--A provider certified as meeting the Texas Rising
36 Star program standards. Texas Rising Star providers are certified as a:
37
38 (A) 2-Star Program Provider;
39
40 (B) 3-Star Program Provider; or
41
42 (C) 4-Star Program Provider.
43
- 44 (27) Working--Working is defined as:
45

- 1 (A) activities for which one receives monetary compensation such as a
2 salary, wages, tips, and commissions; or
3
- 4 (B) participation in Choices or Supplemental Nutrition Assistance Program
5 Employment and Training (SNAP E&T) activities.
6
7

8 *The provisions of this §809.2 adopted to be effective January 29, 2007, 32 TexReg 336;*
9 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective February*
10 *16, 2015, 40 TexReg 708; amended to be effective October 1, 2016, 41 TexReg 7529;*
11 *amended to be effective August 1, 2018, 43 TexReg 4474; amended to be effective January 8,*
12 *2019, 44 TexReg 114; amended to be effective January 25, 2021, 46 TexReg 593*

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16 **§809.3. Waiver Request.**
17

- 18 (a) The Commission may waive child care rules upon request from a person directly
19 affected by the rules, if it determines that the waiver benefits a parent, child care
20 contractor, or provider, and the Commission determines that the waiver does not
21 harm child care or violate state or federal statutes or regulations.
22
- 23 (b) Prior to submitting a waiver request to the Commission, the child must have been
24 determined by the Board's child care contractor to meet the minimum qualifications
25 set forth in §809.41(a).
26

27 *The provisions of this §809.3 adopted to be effective January 29, 2007, 32 TexReg 336*
28

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31 **SUBCHAPTER B. GENERAL MANAGEMENT**
32

33 **§809.11. Board Responsibilities.**
34

- 35 (a) A Board shall be responsible for the administration of child care in a manner
36 consistent with Texas Government Code, Chapter 2308, as amended, and related
37 provisions under Chapter 801 of this title (relating to Local Workforce Development
38 Boards).
39
- 40 (b) A Board shall ensure that access to child care services shall be available through all
41 Texas Workforce Centers within a workforce area.
42
- 43 (c) Child care services are support services for workforce employment, job training, and
44 services under Texas Government Code, Chapter 2308 and Chapter 801 of this title.

- 1
2 (d) Upon request, a Board shall provide the Commission with access to child care
3 administration records and submit related information for review and monitoring,
4 pursuant to Commission rules and policies.
5

6 *The provisions of this §809.11 adopted to be effective January 29, 2007, 32 TexReg 336*
7

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10 **§809.12. Board Plan for Child Care Services.**
11

- 12 (a) A Board shall, as part of its Texas Workforce Development Board Plan (Board plan),
13 develop, amend, and modify the Board plan to incorporate and coordinate the design
14 and management of the delivery of child care services with the delivery of other
15 workforce employment, job training, and educational services identified in Texas
16 Government Code, §2308.304, et seq., as well as other workforce training and
17 services included in the One-Stop Service Delivery Network.
18
19 (b) The goal of the Board plan is to coordinate workforce training and services, to
20 leverage private and public funds at the local level, and to fully integrate child care
21 services for low-income families with the network of workforce training and services
22 under the administration of the Boards.
23
24 (c) Boards shall design and manage the Board plan to maximize the delivery and
25 availability of safe and stable child care services that assist families seeking to
26 become independent from, or who are at risk of becoming dependent on, public
27 assistance while parents are either working or attending a job training or an
28 educational program.
29
30 (d) A Board shall include in the Board plan any strategies to use contracted slots
31 agreements, as described in §809.96 of this chapter, including any local priorities and
32 how contracted slots agreements will help increase access to high-quality care for
33 targeted communities and population.
34

35 *The provisions of this §809.12 adopted to be effective January 29, 2007, 32 TexReg 336;*
36 *amended to be effective January 25, 2021, 46 TexReg 593*
37

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40 **§809.13. Board Policies for Child Care Services.**
41

- 42 (a) A Board shall develop, adopt, and modify its policies for the design and management
43 of the delivery of child care services in a public process in accordance with Chapter
44 802 of this title.
45

- 1 (b) A Board shall maintain written copies of the policies that are required by federal and
2 state law, or as requested by the Commission, and make such policies available to
3 the Commission and the public upon request.
4
- 5 (c) At a minimum, a Board shall develop policies related to:
6
- 7 (1) how the Board determines that the parent is making progress toward successful
8 completion of a job training or educational program, as described in §809.2(1)
9 of this chapter;
 - 10 (2) maintenance of a waiting list, as described in §809.18(b) of this subchapter;
 - 11 (3) assessment of a parent share of cost, as described in §809.19(a)(1) of this
12 subchapter, including:
 - 13 (A) provisions for a parent's failure to pay the parent share of cost, including
14 the reimbursement of providers, as a program violation that is subject to
15 early termination of child care services within a 12-month eligibility
16 period; and
 - 17 (B) criteria for determining the affordability of the parent share of cost, as
18 described in §809.19(d) and (e) of this subchapter;
 - 19 (4) maximum reimbursement rates, as provided in §809.20 of this subchapter,
20 including policies related to reimbursement of providers that offer
21 transportation;
 - 22 (5) family income limits, as described in Subchapter C of this chapter (relating to
23 Eligibility for Child Care Services);
 - 24 (6) provision of child care services to a child with disabilities under the age of 19,
25 as described in §809.41(a)(1)(B) of this chapter;
 - 26 (7) minimum activity requirements for parents, as described in §809.48 and
27 §809.50 of this chapter;
 - 28 (8) time limits for the provision of child care while the parent is attending an
29 educational program, as described in §809.41(b) of this chapter;
 - 30 (9) Board priority groups, as described in §809.43(a) of this chapter;
 - 31 (10) transfer of a child from one provider to another, as described in §809.71(3) of
32 this chapter, including a waiting period of two weeks before the effective date
33 of a transfer, except in cases in which the provider is subject to a CCL action,
34 as described in §809.94 of this chapter, or on a case-by-case basis by the
35 Board;

- 1
2 (11) providers charging the difference between their published rate and the Board's
3 reimbursement rate as provided in §809.92(d) of this chapter;
4
5 (12) procedures for fraud fact-finding as provided in §809.111 of this chapter;
6
7 (13) policies and procedures to ensure that appropriate corrective actions are taken
8 against a provider or parent for violations of the automated attendance
9 requirements specified in §809.115(d) and (e) of this chapter;
10
11 (14) policies and procedures for contracted slots agreements as described in
12 §809.96 of this chapter, if the Board opts to enter into such agreements; and
13
14 (15) supporting direct referrals from recognized pre-K or HS/EHS partnerships, as
15 described in §809.22 of this subchapter.
16

17 *The provisions of this §809.13 adopted to be effective January 29, 2007, 32 TexReg 336;*
18 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*
19 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529;*
20 *amended to be effective August 1, 2018, 43 TexReg 4474; amended to be effective January*
21 *25, 2021, 46 TexReg 593*
22

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25 **§809.14. Coordination of Child Care Services.**
26

- 27 (a) A Board shall coordinate with federal, state, and local child care and early
28 development programs and representatives of local governments in developing its
29 Board plan and policies for the design and management of the delivery of child care
30 services, and shall maintain written documentation of its coordination efforts.
31
32 (b) Pursuant to Texas Education Code §29.158, and in a manner consistent with federal
33 law and regulations, a Board shall coordinate with school districts, Head Start, and
34 Early Head Start program providers to ensure, to the greatest extent practicable, that
35 full-day, full-year child care is available to meet the needs of low-income parents
36 who are working or attending a job training or educational program.
37

38 *The provisions of this §809.14 adopted to be effective January 29, 2007, 32 TexReg 336*
39

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42 **§809.15. Promoting Consumer Education.**
43

- 44 (a) A Board shall promote informed child care choices by providing consumer education
45 information to:
46

- 1 (1) parents who are eligible for child care services;
2
3 (2) parents who are placed on a Board's waiting list;
4
5 (3) parents who are no longer eligible for child care services; and
6
7 (4) applicants who are not eligible for child care services.
8
9 (b) The consumer education information, including consumer education information
10 provided through a Board's website, shall contain, at a minimum:
11
12 (1) information about the Texas Information and Referral Network/2-1-1 Texas
13 (2-1-1 Texas) information and referral system;
14
15 (2) the website and telephone number of CCL so parents may obtain health and
16 safety requirements including information on:
17
18 (A) the prevention and control of infectious diseases (including
19 immunizations);
20
21 (B) building and physical premises safety;
22
23 (C) minimum health and safety training appropriate to the provider setting;
24 and
25
26 (D) the regulatory compliance history of child care providers;
27
28 (3) a description of the full range of eligible child care providers set forth in
29 §809.91; and
30
31 (4) a description of programs available in the workforce area relating to school
32 readiness and quality rating systems, including:
33
34 (A) Texas Rising Star (TRS) Provider criteria, pursuant to Texas
35 Government Code §2308.315; and
36
37 (B) integrated school readiness models, pursuant to Texas Education Code
38 §29.160;
39
40 (5) a list of child care providers that meet quality indicators, pursuant to Texas
41 Government Code §2308.3171;
42
43 (6) information on existing resources and services available in the workforce area
44 for conducting developmental screenings and providing referrals to services
45 when appropriate for children eligible for child care services, including the use
46 of:

- 1
2 (A) the Early and Periodic Screening, Diagnosis, and Treatment program
3 under 42 USC 1396 et seq.; and
4
5 (B) developmental screening services available under Part B and Part C of
6 the Individuals with Disabilities Education Act (20 USC 1419, 1431 et
7 seq.; and
8
9 (7) a link to the Agency's designated child care consumer education website.
10
11 (c) A Board shall cooperate with HHSC to provide 2-1-1 Texas with information, as
12 determined by HHSC, for inclusion in the statewide information and referral
13 network.
14

15 *The provisions of this §809.15 adopted to be effective January 29, 2007, 32 TexReg 336;*
16 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*
17 *2016, 41 TexReg 7529; amended to be effective July 6, 2020, 45 TexReg 4528*
18

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20

21 **§809.16. Quality Improvement Activities.**
22

- 23 (a) Child care funds allocated by the Commission pursuant to its allocation rules
24 (generally, Chapter 800, Subchapter B of this title (relating to Allocations), and
25 specifically §800.58 of this title (relating to Child Care)), including local public
26 transferred funds and local private donated funds, as provided in §809.17 of this
27 subchapter, to the extent they are used for nondirect care quality improvement
28 activities, may be expended in accordance with 45 CFR Part 98, §98.53, any
29 applicable state laws, and the CCDF State Plan.
30
31 (b) Boards must ensure compliance with 45 CFR Part 98 regarding construction
32 expenditures, as follows:
33
34 (1) State and local agencies and nonsectarian agencies or organizations.
35
36 (A) Funds shall not be expended for the purchase or improvement of land, or
37 for the purchase, construction, or permanent improvement of any
38 building or facility.
39
40 (B) Funds may be expended for minor remodeling, and for upgrading child
41 care facilities to ensure that providers meet state and local child care
42 standards, including applicable health and safety requirements.
43
44 (2) Sectarian agencies or organizations.
45
46 (A) The prohibitions in paragraph (1) of this subsection apply.

1
2 (B) Funds may be expended for minor remodeling only if necessary to bring
3 the facility into compliance with the health and safety requirements
4 established pursuant to 45 CFR Part 98.
5

6 (c) Expenditures certified by a public entity, as provided in §809.17(b)(3) of this
7 subchapter, may include expenditures for any quality improvement activity described
8 in 45 CFR Part 98.
9

10 *The provisions of this §809.16 adopted to be effective January 29, 2007, 32 TexReg 336;*
11 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective February*
12 *16, 2015, 40 TexReg 708; amended to be effective October 1, 2016, 41 TexReg 7529;*
13 *amended to be effective January 25, 2021, 46 TexReg 593*
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16
17 **§809.17. Leveraging Local Resources.**

18
19 (a) Leveraging Local Funds.

- 20
21 (1) The Commission encourages Boards to secure local public and private funds
22 for the purpose of matching federal funds in order to maximize resources for
23 child care needs in the community.
24
25 (2) A Board is encouraged to secure additional local funds in excess of the amount
26 required to match federal funds allocated to the Board in order to maximize its
27 potential to receive additional federal funds should they become available.
28
29 (3) A Board's performance in securing and leveraging local funds for match may
30 make the Board eligible for incentive awards.
31

32 (b) The Commission accepts the following as local match:

- 33
34 (1) Funds from a private entity that:
35
36 (A) are donated without restrictions that require their use for:
37
38 (i) a specific individual, organization, facility, or institution; or
39
40 (ii) an activity not included in the CCDF State Plan or allowed under
41 this chapter;
42
43 (B) do not revert back to the donor's facility or use;
44
45 (C) are not used to match other federal funds; and
46

- 1 (D) are certified by both the donor and the Commission as meeting the
2 requirements of subparagraphs (A) - (C) of this paragraph.
3
- 4 (2) Funds from a public entity that:
5
6 (A) are transferred without restrictions that would require their use for an
7 activity not included in the CCDF State Plan or allowed under this
8 chapter;
9
10 (B) are not used to match other federal funds; and
11
12 (C) are not federal funds, unless authorized by federal law to be used to
13 match other federal funds.
14
- 15 (3) Expenditures by a public entity certifying that the expenditures:
16
17 (A) are for an activity included in the CCDF State Plan or allowed under this
18 chapter;
19
20 (B) are not used to match other federal funds; and
21
22 (C) are not federal funds, unless authorized by federal law to be used to
23 match other federal funds.
24
- 25 (c) A Board shall ensure that a public entity certifying expenditures for direct child care
26 as described in §809.17(b)(3), determines and verifies that the expenditures are for
27 child care provided to an eligible child. At a minimum, the public entity shall verify
28 that the child:
29
- 30 (1) is under 13 years of age, or at the option of the Board, is a child with
31 disabilities under 19 years of age; and
32
- 33 (2) resides with:
34
35 (A) a family whose income does not exceed 85 percent of the state median
36 income for a family of the same size; and
37
38 (B) a parent who requires child care in order to work or attend a job training
39 or educational program.
40
- 41 (d) A Board shall submit private donations, public transfers, and public certifications to
42 the Commission for acceptance, with sufficient information to determine that the
43 funds meet the requirements of subsection (b) of this section.
44
- 45 (e) Completing Private Donations, Public Transfers, and Public Certifications.
46

- 1 (1) A Board shall ensure that:
2
3 (A) private donations of cash and public transfers of funds are paid to the
4 Commission; and
5
6 (B) public certifications are submitted to the Commission.
7
8 (2) Private donations and public transfers are considered complete when the funds
9 have been received by the Commission.
10
11 (3) Public certifications are considered complete to the extent that a signed written
12 instrument is delivered to the Commission that reflects that the public entity
13 has expended a specific amount of funds on eligible activities described in
14 subsection (b)(3) of this section.
15
16 (f) A Board shall monitor the funds secured for match and the expenditure of any
17 resulting funds to ensure that expenditures of federal matching funds available
18 through the Commission do not exceed an amount that corresponds to the private
19 donations, public transfers, and public certifications that are completed by the end of
20 the program year.
21

22 *The provisions of this §809.17 adopted to be effective January 29, 2007, 32 TexReg 336;*
23 *amended to be effective October 1, 2016, 41 TexReg 7529*
24

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27 **§809.18. Maintenance of a Waiting List.**
28

- 29 (a) A Board shall ensure that a list of parents waiting for child care services, because of
30 the lack of funding or lack of providers, is maintained and available to the
31 Commission upon request.
32
33 (b) A Board shall establish a policy for the maintenance of a waiting list that includes, at
34 a minimum:
35
36 (1) the process for determining that the parent is potentially eligible for child care
37 services before placing the parent on the waiting list; and
38
39 (2) the frequency in which the parent information is updated and maintained on
40 the waiting list.
41
42 (c) A Board may exempt children from the waiting list who are directly referred from a
43 recognized pre-K or HS/EHS partnership as described in §809.22 of this subchapter
44 to a child care provider to receive services in the contracted partnership program,

1 which is subject to the availability of funding and the availability of subsidized slots
2 at the partnership site.

3
4 *The provisions of this §809.18 adopted to be effective January 29, 2007, 32 TexReg 336;*
5 *amended to be effective January 25, 2021, 46 TexReg 593*

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8
9 **§809.19. Assessing the Parent Share of Cost.**

- 10
11 (a) For child care funds allocated by the Commission pursuant to its allocation rules
12 (generally, Chapter 800, Subchapter B of this title (relating to Allocations), and
13 specifically, §800.58 of this title (relating to Child Care)), including local public
14 transferred funds and local private donated funds, as provided in §809.17 of this
15 subchapter, the following shall apply.
- 16
17 (1) A Board shall set a parent share of cost policy that assesses the parent share of
18 cost in a manner that results in the parent share of cost:
- 19
20 (A) being assessed to all parents, except in instances when an exemption
21 under paragraph (2) of this subsection applies;
- 22
23 (B) being an amount determined by a sliding fee scale based on the family's
24 size and gross monthly income, including a possible reexamination of
25 the sliding fee scale if there are frequent terminations for lack of
26 payment pursuant to subsection (e) of this section, which also may
27 consider the number of children in care;
- 28
29 (C) being an amount that is affordable and does not result in a barrier to
30 families receiving assistance;
- 31
32 (D) being assessed only at the following times:
- 33
34 (i) initial eligibility determination;
- 35
36 (ii) 12-month eligibility redetermination;
- 37
38 (iii) upon the addition of a child in care;
- 39
40 (iv) upon a parent's report of a change in income, family size, or number
41 of children in care that would result in a reduced parent share of cost
42 assessment; and
- 43
44 (v) upon resumption of work, job training, or education activities
45 following temporary changes described in §809.51(a)(2) of this
46 chapter, and upon resumption of work, job training, or education

1 activities during the three-month continuation of care period
2 described in §809.51(c) of this chapter; and
3

4 (E) not increasing above the amount assessed at initial eligibility
5 determination or at the 12-month eligibility redetermination based on the
6 factor in subparagraph (B) of this paragraph, except upon the addition of
7 a child in care as described in subparagraph (D)(iii) of this paragraph.
8

9 (2) Parents who are one or more of the following are exempt from paying the
10 parent share of cost:
11

12 (A) Parents who are participating in Choices or who are in Choices child care
13 described in §809.45 of this chapter;
14

15 (B) Parents who are participating in SNAP E&T services or who are in
16 SNAP E&T child care described in §809.47 of this chapter;
17

18 (C) Parents of a child receiving Child Care for Children Experiencing
19 Homelessness as described in §809.52 of this chapter; or
20

21 (D) Parents who have children who are receiving protective services child
22 care pursuant to §809.49 and §809.54(c) of this chapter, unless DFPS
23 assesses the parent share of cost.
24

25 (3) Teen parents who are not covered under exemptions listed in paragraph (2) of
26 this subsection shall be assessed a parent share of cost. The teen parent's share
27 of cost is based solely on the teen parent's income and size of the teen's family
28 as defined in §809.2 of this chapter.
29

30 (b) For child care services funded from sources other than those specified in subsection
31 (a) of this section, a Board shall set a parent share of cost policy based on a sliding
32 fee scale. The sliding fee scale may be the same as or different from the provisions
33 contained in subsection (a) of this section.
34

35 (c) A Board shall establish a policy regarding reimbursement of providers when parents
36 fail to pay the parent share of cost.
37

38 (d) A Board shall establish a policy regarding termination of child care services within a
39 12-month eligibility period when a parent fails to pay the parent share of cost. The
40 Board's policy must include:
41

42 (1) a requirement to evaluate and document each family's financial situation for
43 extenuating circumstances that may affect affordability of the assessed parent
44 share of cost pursuant to paragraph (2) of this subsection, and a possible
45 temporary reduction pursuant to subsection (g) of this section before the Board
46 or its child care contractor may terminate care under this section;

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- (2) general criteria for determining affordability of a Board's parent share of cost, and a process to identify and assess the circumstances that may jeopardize a family's self-sufficiency under subsection (g) of this section;
 - (3) maintenance of a list of all terminations due to failure to pay the parent share of cost, including family size, income, family circumstances, and the reason for termination, for use when conducting evaluations of affordability, as required under paragraph (4) of this subsection; and
 - (4) the Board's definition of what constitutes frequent terminations and its process for assessing the general affordability of the Board's parent share of cost schedule, pursuant to subsection (e) of this section.
- (e) A Board with frequent terminations of care for lack of payment of the parent share of cost must reexamine its sliding fee scale and adjust it to ensure that fees are not a barrier to assistance for families at certain income levels.
- (f) A Board that does not have a policy to reimburse providers when parents fail to pay the parent share of cost may establish a policy to require the parent to pay the provider before the family can be redetermined eligible for future child care services.
- (g) The Board or its child care contractor may review the assessed parent share of cost for a possible temporary reduction if there are extenuating circumstances that jeopardize a family's self-sufficiency. The Board or its child care contractor may temporarily reduce the assessed parent share of cost if warranted by these circumstances. Following the temporary reduction, the parent share of cost amount immediately prior to the reduction shall be reinstated.
- (h) If the parent is not covered by an exemption as specified in subsection (a)(2) of this section, then the Board or its child care contractor shall not waive the assessed parent share of cost under any circumstances.
- (i) If the parent share of cost, based on family income and family size, is calculated to be zero, then the Board or its child care contractor shall not charge the parent a minimum share of cost amount.
- (j) A Board may establish a policy to reduce the parent share of cost amount assessed pursuant to subsection (a)(1)(B) of this section upon the parent's selection of a Texas Rising Star--certified provider. Such Board policy shall ensure:
- (1) that the parent continue to receive the reduction if:
 - (A) the Texas Rising Star provider loses Texas Rising Star certification; or

1 (B) the parent moves or changes employment within the workforce area and
2 no Texas Rising Star--certified providers are available to meet the needs
3 of the parent's changed circumstances; and
4

5 (2) that the parent no longer receives the reduction if the parent voluntarily
6 transfers the child from a Texas Rising Star--certified provider to a non-Texas
7 Rising Star--certified provider.
8

9 (k) A Board may establish a policy to reduce the parent share of cost amount assessed
10 pursuant to subsection (a)(1)(B) of this section upon the child's referral for part-time
11 care. Such Board policy shall ensure that:
12

13 (1) the parent no longer receives the reduction if the referral is changed to full-time
14 care; and
15

16 (2) a parent who qualifies for a reduction in parent share of cost for both selecting
17 a Texas Rising Star--certified provider (as defined in subsection (j) of this
18 section) and a child's part-time care referral will receive the greater of the two
19 discounts.
20

21 *The provisions of this §809.19 adopted to be effective January 29, 2007, 32 TexReg 336;*
22 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*
23 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529;*
24 *amended to be effective August 1, 2018, 43 TexReg 4474; amended to be effective January*
25 *25, 2021, 46 TexReg 593*
26

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28

29 **§809.20. Maximum Provider Reimbursement Rates.**
30

31 (a) Based on local factors, including a market rate survey provided by the Commission,
32 a Board shall establish maximum reimbursement rates for child care subsidies at or
33 above a level established by the Commission to ensure that the rates provide equal
34 access to child care in the local market and in a manner consistent with state and
35 federal statutes and regulations governing child care. At a minimum, Boards shall
36 establish reimbursement rates for full-day and part-day units of service, as described
37 in §809.93(f), for the following:
38

39 (1) Provider types:
40

41 (A) Licensed child care centers, including before- or after-school programs
42 and school-age programs, as defined by CCL;
43

44 (B) Licensed child care homes as defined by CCL;
45

46 (C) Registered child care homes as defined by CCL; and

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- (D) Relative child care providers as defined in §809.2.
- (2) Age groups in each provider type:
 - (A) Infants age 0 to 17 months;
 - (B) Toddlers age 18 to 35 months;
 - (C) Preschool age children from 36 to 71 months; and
 - (D) School-age children 72 months and older.
- (b) A Board shall establish enhanced reimbursement rates:
 - (1) for all age groups at TRS provider facilities; and
 - (2) only for preschool-age children at child care providers that participate in integrated school readiness models pursuant to Texas Education Code §29.160.
- (c) The minimum enhanced reimbursement rates established under subsection (b) of this section shall be greater than the maximum rate established for providers not meeting the requirements of subsection (b) of this section for the same category of care up to, but not to exceed, the provider's published rate. The maximum rate must be at least:
 - (1) 5 percent greater for a:
 - (A) 2-Star Program Provider; or
 - (B) child care provider meeting the requirements of subsection (b)(2) of this section;
 - (2) 7 percent greater for a 3-Star Program Provider; and
 - (3) 9 percent greater for a 4-Star Program Provider.
- (d) Boards may establish a higher enhanced reimbursement rate than those specified in subsection (c) of this section for TRS providers, as long as there is a minimum 2 percentage point difference between each star level.
- (e) A Board or its child care contractor shall ensure that providers that are reimbursed for additional staff or equipment needed to assist in the care of a child with disabilities are paid a rate up to 190 percent of the provider's reimbursement rate for a child of that same age. The higher rate shall take into consideration the estimated cost of the additional staff or equipment needed by a child with disabilities. The Board shall ensure that a professional, who is familiar with assessing the needs of

1 children with disabilities, certifies the need for the higher reimbursement rate
2 described in this subsection.
3

- 4 (f) The Board shall determine whether to reimburse providers that offer transportation as
5 long as the combined total of the provider's published rate, plus the transportation
6 rate, is subject to the maximum reimbursement rate established in subsection (a) of
7 this section.
8

9 *The provisions of this §809.20 adopted to be effective January 29, 2007, 32 TexReg 336;*
10 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective January*
11 *8, 2013, 38 TexReg 155; amended to be effective February 16, 2015, 40 TexReg 708; amended*
12 *to be effective October 1, 2016, 41 TexReg 7529; amended to be effective July 6, 2020, 45*
13 *TexReg 4528*
14

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16

17 **§809.21. Determining the Amount of the Provider Reimbursement.**
18

- 19 (a) The actual reimbursement that the Board or the Board's child care contractor pays to
20 the provider shall be the Board's maximum daily rate or the provider's published
21 daily rate, whichever is lower, less the following amounts:
22

- 23 (1) The parent share of cost assessed and adjusted when the parent share of
24 cost is reduced; and
25
26 (2) Any child care funds received by the parent from other public or private
27 entities.
28

- 29 (b) A Board or its child care contractor shall ensure that the provider's published daily
30 rates are calculated according to Commission guidance and include the provider's
31 enrollment fees, supply fees, and activity fees.
32

33 *The provisions of this §809.21 adopted to be effective January 29, 2007, 32 TexReg 336;*
34 *amended to be effective January 8, 2013, 38 TexReg 155*
35

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37

38 **§809.22. Direct Referrals to Recognized Partnerships.**
39

- 40 (a) A recognized partnership is a partnership that:
41

- 42 (1) exists between a child care provider and one of the following:
43
44 (A) a public school prekindergarten provider;
45
46 (B) a local education agency; or

1
2 (C) a Head Start/Early Head Start program; and

3
4 (2) requires both parties to have entered into an agreement, such as a
5 memorandum of understanding, and serves some number of children
6 under age six who are dually enrolled in both programs.
7

8 (b) A Board shall establish policies and procedures to enroll eligible children who are
9 directly referred by a recognized partnership.
10

11 (c) A Board's policy shall exempt children directly referred from a recognized
12 partnership from the Board's waiting list, subject to the availability of funding and
13 the availability of subsidized slots at the partnership site.
14

15 *The provisions of this §809.22 adopted to be effective January 25, 2021, 46 TexReg 593*

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18
19 **SUBCHAPTER C. ELIGIBILITY FOR CHILD CARE SERVICES**

20
21 **§809.41. A Child's General Eligibility for Child Care Services.**

22
23 (a) Except for a child receiving or needing protective services as described in §809.49,
24 for a child to be eligible to receive child care services, at the time of eligibility
25 determination or redetermination, a Board shall ensure that the child:

26
27 (1) meets one of the following age requirements:

28 (A) be under 13 years of age; or

29 (B) at the option of the Board, be a child with disabilities under 19 years of
30 age;
31

32 (2) is a U.S. citizen or legal immigrant as determined under applicable federal
33 laws, regulations, and guidelines; and
34

35 (3) resides with:

36 (A) a family within the Board's workforce area:

37 (i) whose income does not exceed the income limit established by the
38 Board, which income limit must not exceed 85 percent of the state
39 median income (SMI) for a family of the same size; and
40

41 (ii) whose assets do not exceed \$1,000,000 as certified by a family
42 member; or
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(iii) that meets the definition of experiencing homelessness as defined in §809.2.

(B) parents who require child care in order to work or attend a job training or educational program; or

(C) a person standing in loco parentis for the child while the child's parent is on military deployment and the deployed military parent's income does not exceed the limits set forth in subparagraph (A) of this paragraph.

(b) Notwithstanding the requirements set forth in subsection (c) of this section, a Board shall establish policies, including time limits, for the provision of child care services while the parent is attending an educational program.

(c) Time limits pursuant to subsection (b) of this section shall ensure the provision of child care services for four years, if the eligible child's parent is enrolled in an associate's degree program that will prepare the parent for a job in a high-growth, high-demand occupation as determined by the Board.

(d) A Board may establish a policy to allow parents attending a program that leads to a postsecondary degree from an institution of higher education to be exempt from residing with the child as defined in §809.2.

(e) Boards that establish initial family income eligibility at a level less than 85 percent of SMI must ensure that the family remains income-eligible for care after passing the Board's initial income eligibility limit.

(f) Unless otherwise specified, this subchapter applies only to child care services using funds allocated pursuant to §800.58 of this title, including local public transferred funds and local private donated funds described in §809.17.

The provisions of this §809.41 adopted to be effective January 29, 2007, 32 TexReg 336; amended to be effective June 22, 2009, 34 TexReg 4197; amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529

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§809.42. Eligibility Verification, Determination, and Redetermination.

(a) A Board shall ensure that its child care contractor verifies all eligibility requirements for child care services prior to authorizing child care.

(b) A Board shall ensure that eligibility for child care services shall be redetermined no sooner than 12 months following the initial determination or most recent redetermination.

1 *The provisions of this §809.42 adopted to be effective January 29, 2007, 32 TexReg 336;*
2 *amended to be effective October 1, 2016, 41 TexReg 7529*

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5
6 **§809.43. Priority for Child Care Services.**

- 7
8 (a) A Board shall ensure that child care services are prioritized among the following
9 three priority groups:
- 10
11 (1) The first priority group is assured child care services and includes children of
12 parents eligible for the following:
- 13
14 (A) Choices child care as referenced in §809.45;
- 15
16 (B) Temporary Assistance for Needy Families (TANF) Applicant child care
17 as referenced in §809.46;
- 18
19 (C) SNAP E&T child care as referenced in §809.47; and
- 20
21 (D) Transitional child care as referenced in §809.48.
- 22
23 (2) The second priority group is served subject to the availability of funds and
24 includes, in the order of priority:
- 25
26 (A) children who need to receive protective services child care as referenced
27 in §809.49;
- 28
29 (B) children of a qualified veteran or qualified spouse as defined in §801.23
30 of this title;
- 31
32 (C) children of a foster youth as defined in §801.23 of this title;
- 33
34 (D) children experiencing homelessness as defined in §809.2 and described
35 in §809.52;
- 36
37 (E) children of parents on military deployment as defined in §809.2 whose
38 parents are unable to enroll in military-funded child care assistance
39 programs;
- 40
41 (F) children of teen parents as defined in §809.2; and
- 42
43 (G) children with disabilities as defined in §809.2.
- 44
45 (3) The third priority group includes any other priority adopted by the Board.

- 1
2 (b) A Board shall not establish a priority group under subsection (a)(3) of this section
3 based on the parent's choice of an individual provider or provider type.
4

5 *The provisions of this §809.43 adopted to be effective January 29, 2007, 32 TexReg 336;*
6 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*
7 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529*
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10
11 **§809.44. Calculating Family Income.**
12

- 13 (a) For the purposes of determining family income and assessing the parent share of
14 cost, Boards shall ensure that family income is calculated in accordance with
15 Commission guidelines that:
16

- 17 (1) take into account irregular fluctuations in earnings; and
18
19 (2) ensure that temporary increases in income, including temporary increases that
20 result in monthly income exceeding 85 percent of SMI do not affect eligibility
21 or parent share of cost.
22

- 23 (b) In accordance with Commission income calculation guidelines, Boards shall ensure
24 that the following income sources are excluded from the family income:
25

- 26 (1) Medicare, Medicaid, SNAP benefits, school meals, and housing assistance;
27
28 (2) Monthly monetary allowances provided to or for children of Vietnam veterans
29 born with certain birth defects;
30
31 (3) Needs-based educational scholarships, grants, and loans; including financial
32 assistance under Title IV of the Higher Education Act--Pell Grants, Federal
33 Supplemental Educational Opportunity grants, Federal Work Study Program,
34 PLUS, Stafford loans, and Perkins loans;
35
36 (4) Individual Development Account (IDA) withdrawals for the purchase of a
37 home, medical expenses, or educational expenses;
38
39 (5) Onetime cash payments, including tax refunds, Earned Income Tax Credit
40 (EITC) and Advanced EITC, onetime insurance payments, gifts, and lump sum
41 inheritances;
42
43 (6) VISTA and AmeriCorps living allowances and stipends;
44
45 (7) Noncash or in-kind benefits such as employer-paid fringe benefits, food, or
46 housing received in lieu of wages;

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- (8) Foster care payments and adoption assistance;
- (9) Special military pay or allowances, including subsistence allowances, housing allowances, family separation allowances, or special allowances for duty subject to hostile fire or imminent danger;
- (10) Income from a child in the household between 14 and 19 years of age who is attending school;
- (11) Early withdrawals from qualified retirement accounts specified as hardship withdrawals as classified by the Internal Revenue Service (IRS);
- (12) Unemployment compensation;
- (13) Child support payments;
- (14) Cash assistance payments, including Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), Refugee Cash Assistance, general assistance, emergency assistance, and general relief;
- (15) Onetime income received in lieu of TANF cash assistance;
- (16) Income earned by a veteran while on active military duty and certain other veterans' benefits, such as compensation for service-connected death, vocational rehabilitation, and education assistance;
- (17) Regular payments from Social Security, such as Old-Age, and Survivors Insurance Trust Fund;
- (18) Lump sum payments received as assets in the sale of a house, in which the assets are to be reinvested in the purchases of a new home (consistent with IRS guidance);
- (19) Payments received as the result of an automobile accident insurance settlement that are being applied to the repair or replacement of an automobile; and
- (20) Any income sources specifically excluded by federal law or regulation.

- 1
2 (c) Income that is not listed in subsection (b) of this section as excluded from income is
3 included as income.
4

5 *The provisions of this §809.44 adopted to be effective January 29, 2007, 32 TexReg 336;*
6 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*
7 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529*

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10
11 **§809.45. Choices Child Care.**

- 12
13 (a) A parent is eligible for Choices child care if the parent is participating in the Choices
14 program as stipulated in Chapter 811 of this title.
15
16 (b) For a parent receiving Choices child care who ceases participation in the Choices
17 program during the 12-month eligibility period, Boards must ensure that Choices
18 child care continues:
19
20 (1) for the three-month period pursuant to §809.51(b); and
21
22 (2) for the remainder of the eligibility period, if the parent resumes participation in
23 Choices or begins participation in work or attendance in a job training or
24 education program during the three-month period described in §809.51(c).
25

26 *The provisions of this §809.45 adopted to be effective January 29, 2007, 32 TexReg 336;*
27 *amended to be effective October 1, 2016, 41 TexReg 7529*

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30
31 **§809.46. Temporary Assistance for Needy Families Applicant Child Care.**

- 32
33 (a) A parent is eligible for TANF Applicant child care if the parent:
34
35 (1) receives a referral from the Health and Human Services Commission (HHSC)
36 to attend a Workforce Orientation for Applicants (WOA);
37
38 (2) locates employment or has increased earnings prior to TANF certification; and
39
40 (3) needs child care to accept or retain employment.
41
42 (b) To receive TANF Applicant child care, the parent shall be working and not have
43 voluntarily terminated paid employment of at least 25 hours a week within 30 days

1 prior to receiving the referral from HHSC to attend a WOA, unless the voluntary
2 termination was for good cause connected with the parent's work.

3
4 *The provisions of this §809.46 adopted to be effective January 29, 2007, 32 TexReg 336;*
5 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*
6 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529*

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9
10 **§809.47. Supplemental Nutrition Assistance Program Employment and Training Child**
11 **Care.**

- 12
13 (a) A parent is eligible to receive SNAP E&T child care services if the parent is
14 participating in SNAP E&T services, in accordance with the provisions of 7 CFR
15 Part 273.
16
17 (b) For a parent receiving SNAP E&T child care services who ceases participation in the
18 E&T program during the 12-month eligibility period, Boards must ensure that SNAP
19 E&T child care continues:
20
21 (1) for the three-month period pursuant to §809.51(b); and
22
23 (2) for the remainder of the eligibility period, if the parent resumes participation in
24 the SNAP E&T program or begins participation in work or attendance in a job
25 training or education program during the three-month period described in
26 §809.51(c).
27

28 *The provisions of this §809.47 adopted to be effective January 29, 2007, 32 TexReg 336;*
29 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*
30 *2016, 41 TexReg 7529*

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33
34 **§809.48. Transitional Child Care.**

- 35
36 (a) A parent is eligible for Transitional child care services if the parent:
37
38 (1) has been denied TANF and was employed at the time of TANF denial; or
39
40 (2) has been denied TANF within 30 days because of expiration of TANF time
41 limits; and
42
43 (3) requires child care to work or attend a job training or educational program for a
44 combination of at least an average of 25 hours per week for a single-parent
45 family or 50 hours per week for a two-parent family, or a higher number of
46 hours per week as established by a Board.

- 1
2 (b) Boards may establish an income eligibility limit for Transitional child care that is
3 higher than the eligibility limit for At-Risk child care, pursuant to §809.50, provided
4 that the higher income limit does not exceed 85 percent of the state median income
5 for a family of the same size.
6
7 (c) For former TANF recipients who are employed when TANF is denied, Transitional
8 child care shall be available for:
9
10 (1) a period of up to 12 months from the effective date of the TANF denial; or
11
12 (2) a period of up to 18 months from the effective date of the TANF denial in the
13 case of a former TANF recipient who was eligible for child caretaker
14 exemptions pursuant to Texas Human Resources Code §31.012(c) and
15 voluntarily participates in the Choices program.
16
17 (d) A Board may allow a reduction to the requirement in subsection (a)(3) of this section
18 if a parent's documented medical disability or need to care for a physically or
19 mentally disabled family member prevents the parent from participating in work,
20 education, or job training activities for the required hours per week.
21
22 (e) For purposes of meeting the education requirements stipulated in subsection (a)(3) of
23 this section, the following shall apply:
24
25 (1) each credit hour of postsecondary education counts as three hours of education
26 activity per week; and
27
28 (2) each credit hour of a condensed postsecondary education course counts as six
29 education activity hours per week.
30

31 *The provisions of this §809.48 adopted to be effective January 29, 2007, 32 TexReg 336;*
32 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*
33 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529*
34

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36
37 **§809.49. Child Care for Children Receiving or Needing Protective Services.**

- 38
39 (a) A Board shall ensure that determinations of eligibility for children needing
40 protective services are performed by DFPS.
41
42 (1) Child care will continue as long as authorized and funded by DFPS.
43
44 (2) DFPS may authorize child care for a child under court supervision under the
45 age of 19.
46

1 (3) Child care discontinued by DFPS prior to the end of the 12-month eligibility
2 period shall be subject to the Continuity of Care provisions in §809.54.
3

4 (b) A Board shall ensure that requests made by DFPS for specific eligible providers are
5 enforced for children in protective services, including children of foster parents when
6 the foster parent is the owner, director, assistant director or other individual with an
7 ownership interest in the provider.
8

9 *The provisions of this §809.49 adopted to be effective January 29, 2007, 32 TexReg 336;*
10 *amended to be effective October 1, 2016, 41 TexReg 7529*
11

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14 **§809.50. At-Risk Child Care.**
15

16 (a) A parent is eligible for child care services under this section if at initial eligibility
17 determination and at eligibility redetermination as described in §809.42:
18

19 (1) the family income does not exceed the income limit established by the Board
20 pursuant to §809.41(a)(3)(A); and
21

22 (2) child care is required for the parent to work or attend a job training or
23 educational program for a combination of at least an average of 25 hours per
24 week for a single-parent family or 50 hours per week for a two-parent family,
25 or a higher number of hours per week as established by the Board.
26

27 (b) A Board may allow a reduction to the work, education, or job training activity
28 requirements in subsection (a)(2) of this section if a parent's documented medical
29 disability or need to care for a physically or mentally disabled family member
30 prevents the parent from participating in these activities for the required hours per
31 week.
32

33 (c) For purposes of meeting the education requirements stipulated in subsection (a)(2) of
34 this section, the following shall apply:
35

36 (1) each credit hour of postsecondary education counts as three hours of education
37 activity per week;
38

39 (2) each credit hour of a condensed postsecondary education course counts as six
40 education activity hours per week; and
41

42 (3) teen parents attending high school or the equivalent shall be considered as
43 meeting the education requirements in subsection (a)(2) of this section.
44

45 (d) When calculating income eligibility for a child with disabilities, a Board shall deduct
46 the cost of the child's ongoing medical expenses from the family income.

- 1
2 (e) Boards may establish a higher income eligibility limit for teen parents than the
3 eligibility limit established pursuant to §809.41(a)(3)(A) provided that the higher
4 income limit does not exceed 85 percent of the state median income for a family of
5 the same size.
6
7 (f) A teen parent's family income is based solely on the teen parent's income and size of
8 the teen's family as defined in §809.2(9).
9
10 (g) Boards may establish a higher income eligibility limit for families with a child who
11 is enrolled in Head Start, Early Head Start, or public pre-K provided that the higher
12 income limit does not exceed 85 percent of the state median income for a family of
13 the same size.
14

15 *The provisions of this §809.50 adopted to be effective September 8, 2008, 33 TexReg 7568;*
16 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*
17 *2016, 41 TexReg 7529*

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20
21 **§809.51. Child Care during Interruptions in Work, Education, or Job Training.**
22

- 23 (a) Except for a child experiencing homelessness, as described in §809.52, if the child
24 met all of the applicable eligibility requirements for child care services in this
25 subchapter on the date of the most recent eligibility determination or
26 redetermination, the child shall be considered to be eligible and will receive services
27 during the 12-month eligibility period described in §809.42, regardless of any:
28
29 (1) change in family income, if that family income does not exceed 85 percent of
30 SMI for a family of the same size; or
31
32 (2) temporary change in the ongoing status of the child's parent as working or
33 attending a job training or education program. A temporary change shall
34 include, at a minimum, any:
35
36 (A) time-limited absence from work for an employed parent for periods of
37 family leave (including parental leave) or sick leave;
38
39 (B) interruption in work for a seasonal worker who is not working between
40 regular industry work seasons;
41
42 (C) student holiday or breaks within a semester, between the fall and spring
43 semesters, or between the spring and fall semesters, for a parent
44 participating in training or education;
45

- 1 (D) reduction in work, training, or education hours, as long as the parent is
2 still working or attending a training or education program;
3
4 (E) other cessation of work or attendance in a training or education program
5 that does not exceed three months;
6
7 (F) change in age, including turning 13 years old or a child with disabilities
8 turning 19 years old during the eligibility period; and
9
10 (G) change in residency within the state.
11
12 (b) During the period of time between eligibility redeterminations, a Board shall
13 discontinue child care services due to a parent's loss of work or cessation of
14 attendance at a job training or educational program that does not constitute a
15 temporary change in accordance with subsection (a)(2) of this section. However,
16 Boards must ensure that care continues at the same level for a period of not less than
17 three months after such loss of work or cessation of attendance at a job training or
18 educational program.
19
20 (c) If a parent resumes work or attendance at a job training or education program at any
21 level and at any time during the period described in subsection (b) of this section,
22 then the Board shall ensure that:
23
24 (1) care will continue to the end of the 12-month eligibility period at the same or
25 greater level, depending upon any increase in the activity hours of the parent;
26
27 (2) the parent share of cost will not be increased during the remainder of the 12-
28 month eligibility period, including for parents who are exempt from the parent
29 share of cost pursuant to §809.19; and
30
31 (3) the Board's child care contractor verifies only:
32
33 (A) that the family income does not exceed 85 percent of SMI; and
34
35 (B) the resumption of work or attendance at a job training or education
36 program.
37
38 (d) The Board may suspend child care services during interruptions in the parent's work,
39 job training, or education status only at the concurrence of the parent.

1
2 *The provisions of this §809.51 adopted to be effective October 1, 2016, 41 TexReg 7529*

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5
6 **§809.52. Child Care for Children Experiencing Homelessness.**

- 7
8 (a) For a child experiencing homelessness, as defined in §809.2, a Board shall ensure
9 that the child is initially enrolled for a period of three months.
- 10
11 (b) If, during the three-month initial enrollment period, the parent of a child
12 experiencing homelessness:
- 13
14 (1) is unable to provide documentation verifying that the child is eligible under
15 §809.41(a)(1) - (2) (regarding age and citizenship status), then care shall be
16 discontinued following the three-month enrollment period; or
- 17
18 (2) provides documentation verifying eligibility under §809.41(a), then care shall
19 continue through the end of the 12-month initial eligibility period (inclusive of
20 the three-month initial enrollment period).

21
22 *The provisions of this §809.52 adopted to be effective September 8, 2008, 33 TexReg 7568;*
23 *amended to be effective October 1, 2016, 41 TexReg 7529*

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26
27 **§809.53. Child Care for Children Served by Special Projects.**

- 28
29 (a) Special projects developed in federal and state statutes or regulations and funded
30 using non-CCDF sources may add groups of children eligible to receive child care.
- 31
32 (b) The eligibility criteria as stated in the statutes, regulations, or funding sources shall
33 control for the special project, unless otherwise indicated by the Commission.
- 34
35 (c) The time limit for receiving child care for children served by special projects may
36 be:
- 37
38 (1) specifically prescribed by federal or state statutes or regulations according to
39 the particular project;
- 40
41 (2) otherwise set by the Commission depending on the purpose and goals of the
42 special project; and

1
2 (3) limited to the availability of funds.
3

4 *The provisions of this §809.53 adopted to be effective January 29, 2007, 32 TexReg 336;*
5 *amended to be effective October 1, 2016, 41 TexReg 7529*
6

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9 **§809.54. Continuity of Care.**
10

- 11 (a) Enrolled children, including children whose eligibility for Transitional child care has
12 expired, shall receive child care through the end of the applicable eligibility periods
13 described in §809.42.
14
15 (b) Except as provided by §809.75 relating to child care during appeal, nothing in this
16 chapter shall be interpreted in a manner as to result in a child being removed from
17 care.
18
19 (c) In closed DFPS CPS cases (DFPS cases) where child care is no longer funded by
20 DFPS, child care shall continue through the end of the applicable eligibility periods
21 described in §809.42 using funds allocated to the Board by the Commission.
22
23 (d) A Board shall ensure that no enrolled children of military parents in military
24 deployment have a disruption of child care services or eligibility during military
25 deployment, including parents in military deployment at the end of the 12-month
26 eligibility redetermination period.
27
28 (e) A Board shall ensure that a child who is required by a court-ordered custody or
29 visitation arrangement to leave a provider's care is permitted to continue receiving
30 child care by the same provider, or another provider if agreed to by the parent in
31 advance of the leave, upon return from the court-ordered custody or visitation
32 arrangement.
33

34 *The provisions of this §809.54 adopted to be effective January 29, 2007, 32 TexReg 336;*
35 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*
36 *2016, 41 TexReg 7529*
37

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39

40 **§809.55. Waiting Period for Reapplication.**
41

- 42 (a) A parent is ineligible to reapply for child care services or to be placed on the waiting
43 list for services for 60 calendar days if the parent's eligibility or the child's
44 enrollment is terminated due to:
45
46 (1) excessive unexplained absences under §809.78(a); or

1
2 (2) nonpayment of parent share of cost pursuant to a Board’s established policy
3 under §809.19(d).
4

5 (b) To ensure full alignment between Child Care Services rules and the Choices program
6 requirements, the provisions of subsection (a) of this section will not apply to
7 individuals who, during the 60-calendar day waiting period:
8

9 (1) become Choices participants who require child care to participate in Choices;
10 or
11

12 (2) are on Choices sanction status and require child care to demonstrate
13 participation in Choices.
14

15 *The provisions of this §809.55 adopted to be effective August 1, 2018, 43 TexReg 4744*
16

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19 **SUBCHAPTER D. PARENT RIGHTS AND RESPONSIBILITIES**
20

21 **§809.71. Parent Rights.**
22

23 A Board shall ensure that the Board's child care contractor informs the parent in writing
24 that the parent has the right to:
25

26 (1) choose the type of child care provider that best suits their needs and to be
27 informed of all child care options available to them as included in the
28 consumer education information described in §809.15;
29

30 (2) visit available child care providers before making their choice of a child care
31 option;
32

33 (3) receive assistance in choosing initial or additional child care referrals including
34 information about the Board's policies regarding transferring children from one
35 provider to another;
36

37 (4) be informed of the Commission rules and Board policies related to providers
38 charging parents the difference between the Board's reimbursement and the
39 provider's published rate as described in §809.92(c) - (d);
40

41 (5) be represented when applying for child care services;
42

43 (6) be notified of their eligibility to receive child care services within 20 calendar
44 days from the day the Board's child care contractor receives all necessary
45 documentation required to initially determine eligibility for child care;
46

- 1 (7) receive child care services regardless of race, color, national origin, age, sex,
2 disability, political beliefs, or religion;
- 3
- 4 (8) have the Board and the Board's child care contractor treat information used to
5 determine eligibility for child care services as confidential;
- 6
- 7 (9) receive written notification at least 15 calendar days before termination of
8 child care services;
- 9
- 10 (10) reject an offer of child care services or voluntarily withdraw their child from
11 child care, unless the child is in protective services;
- 12
- 13 (11) be informed of the possible consequences of rejecting or ending the child care
14 that is offered;
- 15
- 16 (12) be informed of the eligibility documentation and reporting requirements
17 described in §809.72 and §809.73;
- 18
- 19 (13) be informed of the parent appeal rights described in §809.74;
- 20
- 21 (14) be informed of required background and criminal history checks for relative
22 child care providers through the listing process with CCL as described in
23 §809.91(e) before the parent or guardian selects the relative child care
24 provider;
- 25
- 26 (15) receive written notification pursuant to §809.78(d) of the possible termination
27 of child care services for excessive absences, as described in §809.78(a)(1);
28 and
- 29
- 30 (16) receive written notification of possible termination of child care services for
31 failure to pay the parent share of cost, pursuant to §809.19(d).
- 32

33 *The provisions of this §809.71 adopted to be effective January 29, 2007, 32 TexReg 336;*
34 *amended to be effective November 14, 2011, 36 TexReg 7675; amended to be effective*
35 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529;*
36 *amended to be effective August 1, 2018, 43 TexReg 4744; amended to be effective July 6,*
37 *2020, 45 TexReg 4528*

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40
41 **§809.72. Parent Eligibility Documentation Requirements.**

- 42
- 43 (a) Except for a child experiencing homelessness pursuant to §809.52 at initial
44 eligibility, before a child can be initially determined or redetermined eligible for
45 child care services and care authorized, parents shall provide the Board's child care

1 contractor with all information necessary to determine eligibility according to the
2 Board's administrative policies and procedures.

- 3
4 (b) A parent's failure to submit eligibility documentation shall result in initial denial of
5 child care services or termination of services at the 12-month eligibility
6 redetermination period.
7

8 *The provisions of this §809.72 adopted to be effective January 29, 2007, 32 TexReg 336;*
9 *amended to be effective October 1, 2016, 41 TexReg 7529*

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13 **§809.73. Parent Reporting Requirements.**
14

- 15 (a) Boards shall ensure that during the 12-month eligibility period, parents are only
16 required to report items that impact a family's eligibility or that enable the Board or
17 Board contractor to contact the family or pay the provider.
18
- 19 (b) Pursuant to subsection (a) of this section, parents shall report to the child care
20 contractor, within 14 calendar days of the occurrence, the following:
21
- 22 (1) Changes in family income or family size that would cause the family to exceed
23 85 percent of SMI for a family of the same size;
 - 24 (2) Changes in work or attendance at a job training or educational program not
25 considered to be temporary changes, as described in §809.51; and
26
 - 27 (3) Any change in family residence, primary phone number, or e-mail (if
28 available).
29
- 30
- 31 (c) Failure to report changes described in subsection (a) of this section may result in
32 fact-finding for suspected fraud as described in Subchapter F of this chapter.
33
- 34 (d) A Board shall allow parents to report and the child care contractor shall take
35 appropriate action regarding changes in:
36
- 37 (1) income and family size, which may result in a reduction in the parent share of
38 cost pursuant to §809.19; and

- 1
2 (2) work, job training, or education program participation that may result in an
3 increase in the level of child care services.
4

5 *The provisions of this §809.73 adopted to be effective January 29, 2007, 32 TexReg 336;*
6 *amended to be effective October 1, 2016, 41 TexReg 7529*
7

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10 **§809.74. Parent Appeal Rights.**

- 11
12 (a) Unless otherwise stated in this section, a parent may request a hearing pursuant to
13 Chapter 823 of this title:
14
15 (1) if the parent's eligibility or child's enrollment is denied, delayed, reduced,
16 suspended, or terminated by the Board's child care contractor, Choices
17 caseworker, or SNAP E&T caseworker; or
18
19 (2) regarding the amount of recoupment determined pursuant to Subchapter F of
20 this chapter.
21
22 (b) A parent may have an individual represent him or her during this process.
23
24 (c) A parent of a child in protective services may not appeal pursuant to Chapter 823 of
25 this title, but shall follow the procedures established by DFPS.
26

27 *The provisions of this §809.74 adopted to be effective January 29, 2007, 32 TexReg 336;*
28 *amended to be effective November 26, 2007, 32 TexReg 8543; amended to be effective*
29 *September 8, 2008, 33 TexReg 7568; amended to be effective January 8, 2013, 38 TexReg*
30 *155; amended to be effective October 1, 2016, 41 TexReg 7529*
31

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33

34 **§809.75. Child Care during Appeal.**

- 35
36 (a) For a child currently enrolled in child care, a Board shall ensure that child care
37 services continue during the appeal process until a decision is reached, if the parent
38 requests a hearing.
39
40 (b) A Board shall ensure that child care does not continue during the appeal process if
41 the child's enrollment is terminated due to excessive unexplained absences, pursuant
42 to §809.78(a), or nonpayment of parent share of cost, pursuant to §809.19(d).

- 1
2 (c) The cost of providing services during the appeal process is subject to recovery from
3 the parent by the Board, if the appeal decision is rendered against the parent.
4

5 *The provisions of this §809.75 adopted to be effective January 29, 2007, 32 TexReg 336;*
6 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*
7 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529;*
8 *amended to be effective August 1, 2018, 43 TexReg 4744*
9

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11
12 **§809.78. Attendance Standards and Notice and Reporting Requirements.**
13

- 14 (a) A Board shall ensure that parents are notified of the following:
15

- 16 (1) Parents shall ensure that the eligible child attends on a regular basis consistent
17 with the child's authorization for enrollment and attendance standards
18 described in paragraph (2) of this subsection. Failure to meet attendance
19 standards described in paragraph (2) of this subsection may result in
20 termination for the child due to excessive unexplained absences pursuant to
21 subsection (d) of this section.
22
- 23 (2) Meeting attendance standards for child care services consists of no more than
24 40 total unexplained absences in a 12-month eligibility period.
25
- 26 (3) Unexplained absences may include:
27
- 28 (A) Any absence that is not due to a child's documented chronic illness or
29 disability, or to a court-ordered custody or visitation agreement;
30
- 31 (B) Any missed attendance recording that cannot be explained, except if the
32 attendance reporting system is not available through no fault of the
33 parent or provider; or
34
- 35 (C) Any denied or rejected attendance recording in which the parent does not
36 contact the Agency's Child Care Services unit to report the issue.
37
- 38 (4) Notwithstanding paragraph (2) of this subsection, child care providers may end
39 a child's enrollment with the provider if the child does not meet the provider's
40 established policy regarding attendance.
41
- 42 (5) Parents shall use the attendance card to report daily attendance and absences.
43
- 44 (6) Parents shall not designate anyone under age 16 as a secondary cardholder,
45 unless the individual is a child's parent.
46

- 1 (7) Parents shall not designate the owner, assistant director, or director of the child
2 care facility as a secondary cardholder.
3
- 4 (8) Parents shall:
5
6 (A) ensure that the attendance card is not misused by secondary cardholders;
7
8 (B) inform secondary cardholders of the responsibilities for using the
9 attendance card;
10
11 (C) ensure that secondary cardholders comply with these responsibilities;
12 and
13
14 (D) ensure the protection of attendance cards issued to them or secondary
15 cardholders.
16
- 17 (9) The parent or secondary cardholders giving the attendance card or the personal
18 identification number (PIN) to another person, including the child care
19 provider, is grounds for a potential fraud determination pursuant to Subchapter
20 F of this chapter.
21
- 22 (10) Parents shall report to the child care contractor instances in which a parent's
23 attempt to record attendance in the child care automated attendance system is
24 denied or rejected and cannot be corrected at the provider site. Failure to report
25 such instances may result in an unexplained absence counted toward the
26 attendance standards described in paragraphs (2) and (3) of this subsection.
27
- 28 (b) Boards shall ensure that parents sign a written acknowledgment indicating their
29 understanding of the attendance standards and reporting requirements at each of the
30 following stages:
31
- 32 (1) initial eligibility determination; and
33
34 (2) each eligibility redetermination, as required in §809.42(b).
35
- 36 (c) Boards shall ensure that absences due to a child's documented chronic illness or
37 disability or court-ordered visitation are not counted in the number of unexplained
38 absences in subsection (a)(2) and (3) of this section.
39
- 40 (d) Boards shall ensure that before terminating care pursuant to §809.78(a)(1), the child
41 care contractor:
42
- 43 (1) provides written notice to the parent and the child care provider at reasonable
44 times through established communication channels of the child's absences and
45 the potential termination of services, at a minimum when a child reaches 15,
46 and 30 general absences cumulatively within a 12-month eligibility period; and

1
2 (2) documents that multiple attempts were made, as described in paragraph (1) of
3 this subsection, to determine why the child is absent and to explain the
4 importance of regular attendance.
5

6 (e) Where a child's enrollment has been ended by a provider in subsection (a)(4) of this
7 section, Boards shall work with the parent to place the otherwise eligible child with
8 another eligible provider.
9

10 *The provisions of this §809.78 adopted to be effective January 8, 2013, 38 TexReg 155;*
11 *amended to be effective October 1, 2016, 41 TexReg 7529; amended to be effective August 1,*
12 *2018, 43 TexReg 4744*
13

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16 **SUBCHAPTER E. REQUIREMENTS TO PROVIDE CHILD CARE**

17 **§809.91. Minimum Requirements for Providers.**

18 (a) A Board shall ensure that child care subsidies are paid only to:
19

- 20 (1) regulated child care providers as described in §809.2 of this chapter, subject to
21 the requirements in subsection (g) of this section;
22 (2) relative child care providers, as described in §809.2 of this chapter, subject to
23 the requirements in subsection (e) of this section; or
24

25 (3) at the Board's option, child care providers licensed in a neighboring state,
26 subject to the following requirements:
27

28 (A) Boards shall ensure that the Board's child care contractor reviews the
29 licensing status of the out-of-state provider every month, at a minimum,
30 to confirm the provider is meeting the minimum licensing standards of
31 the state.
32

33 (B) Boards shall ensure that the out-of-state provider meets the requirements
34 of the neighboring state to serve CCDF-subsidized children.
35

36 (C) The provider shall agree to comply with the requirements of this chapter
37 and all Board policies and Board child care contractor procedures.
38

39 (b) A Board shall not prohibit a relative child care provider that is listed with CCL and
40 meets the minimum requirements of this section from being an eligible relative child
41 care provider.
42
43
44

- 1 (c) Except as provided by the criteria for Texas Rising Star Provider certification, a
2 Board or the Board's child care contractor shall not place requirements on regulated
3 providers that:
4
- 5 (1) exceed Pre-Star designation requirements or the state licensing requirements
6 stipulated in Texas Human Resources Code, Chapter 42; or
7
- 8 (2) have the effect of monitoring the provider for compliance with state licensing
9 requirements stipulated in Texas Human Resources Code, Chapter 42.
10
- 11 (d) When a Board or the Board's child care contractor, in the course of fulfilling its
12 responsibilities, gains knowledge of any possible violation regarding regulatory
13 standards, the Board or its child care contractor shall report the information to the
14 appropriate regulatory agency.
15
- 16 (e) For relative child care providers to be eligible for reimbursement for Commission-
17 funded child care services, the following applies:
18
- 19 (1) Relative child care providers shall list with CCL; however, pursuant to 45 CFR
20 §98.41(e), relative child care providers listed with CCL shall be exempt from
21 the health and safety requirements of 45 CFR §98.41(a).
22
- 23 (2) A Board shall allow relative child care providers to care for a child in the
24 child's home (in-home child care) only for the following:
25
- 26 (A) A child with disabilities as defined in §809.2 of this chapter, and his or
27 her siblings;
28
- 29 (B) A child under 18 months of age and his or her siblings;
30
- 31 (C) A child of a teen parent; and
32
- 33 (D) When the parent's work schedule requires evening, overnight, or
34 weekend child care in which taking the child outside of the child's home
35 would be disruptive to the child.
36
- 37 (3) A Board may allow relative in-home child care for circumstances in which the
38 Board's child care contractor determines and documents that other child care
39 provider arrangements are not available in the community.
40
- 41 (f) Boards shall ensure that subsidies are not paid for a child at the following child care
42 providers:
43
- 44 (1) Except for foster parents authorized by DFPS pursuant to §809.49 of this
45 chapter, licensed child care centers, including before- or after-school programs
46 and school-age programs, in which the parent or his or her spouse, including

1 the child's parent or stepparent, is the director or assistant director, or has an
2 ownership interest; or

3
4 (2) Licensed, registered, or listed child care homes where the parent also works
5 during the hours his or her child is in care.

6
7 (g) Regulated child care providers, except those operated and monitored by the US
8 military, must meet Pre-Star provider designation unless exempted under
9 requirements of subsection (h)(3) of this section.

10
11 (h) Pre-Star provider designations and exemptions are defined in the Commission-
12 approved CCDF State Plan and include:

13
14 (1) minimum Pre-Star criteria required for each provider type;

15
16 (2) a progressive statewide roll out plan to require Pre-Star designation for receipt
17 of subsidies; and

18
19 (3) limited provider exemption criteria to ensure parent choice is not negatively
20 impacted by the Pre-Star requirements.

21
22 *The provisions of this §809.91 adopted to be effective January 29, 2007, 32 TexReg 336;*
23 *amended to be effective June 24, 2007, 32 TexReg 3698; amended to be effective October 18,*
24 *2010, 35 TexReg 9359; amended to be effective November 14, 2011, 36 TexReg 7675;*
25 *amended to be effective January 8, 2013, 39 TexReg 155; amended to be effective October 1,*
26 *2016, 41 TexReg 7529; amended to be effective July 6, 2020, 45 TexReg 4528; amended to*
27 *be effective January 25, 2021, 46 TexReg 593*

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30
31 **§809.92. Provider Responsibilities and Reporting Requirements.**

32
33 (a) A Board shall ensure that providers are given written notice of and agree to their
34 responsibilities, reporting requirements, and requirements for reimbursement under
35 this subchapter prior to enrolling a child.

36
37 (b) Providers shall:

38
39 (1) be responsible for collecting the parent share of cost as assessed under §809.19
40 before child care services are delivered;

41
42 (2) be responsible for collecting other child care funds received by the parent as
43 described in §809.21(a)(2);

44
45 (3) report to the Board or the Board's child care contractor instances in which the
46 parent fails to pay the parent share of cost; and

1
2 (4) follow attendance reporting and tracking procedures required by the
3 Commission under §809.95, the Board, or, if applicable, the Board's child care
4 contractor.

5
6 (c) Providers shall not charge the difference between the provider's published rate and
7 the amount of the Board's reimbursement rate as determined under §809.21 to
8 parents:

9
10 (1) who are exempt from the parent share of cost assessment under §809.19(a)(2);
11 or

12
13 (2) whose parent share of cost is calculated to be zero pursuant to §809.19(f).

14
15 (d) A Board may develop a policy that prohibits providers from charging the difference
16 between the provider's published rate and the amount of the Board's reimbursement
17 rate (including the assessed parent share of cost) to all parents eligible for child care
18 services.

19
20 (e) Providers shall not deny a child care referral based on the parent's income status,
21 receipt of public assistance, or the child's protective service status.

22
23 (f) Providers shall not charge fees to a parent receiving child care subsidies that are not
24 charged to a parent who is not receiving subsidies.

25
26 *The provisions of this §809.92 adopted to be effective January 29, 2007, 32 TexReg 336;*
27 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*
28 *2016, 41 TexReg 7529*

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31
32 **§809.93. Provider Reimbursement.**

33
34 (a) A Board shall ensure that reimbursement for child care is paid only to the provider.

35
36 (b) A Board or its child care contractor shall reimburse a regulated provider based on a
37 child's monthly enrollment authorization, excluding periods of suspension at the
38 concurrence of the parent, as described in §809.51(d) of this chapter.

39
40 (c) A Board shall ensure that a relative child care provider is not reimbursed for days on
41 which the child is absent.

42
43 (d) A relative child care provider shall not be reimbursed for more children than
44 permitted by the CCL minimum regulatory standards for Registered Child Care
45 Homes. A Board may permit more children to be cared for by a relative child care
46 provider on a case-by-case basis as determined by the Board.

- 1
2 (e) A Board shall not reimburse providers that are debarred from other state or federal
3 programs unless and until the debarment is removed.
4
5 (f) Unless otherwise determined by the Board and approved by the Commission for
6 automated reporting purposes, the monthly enrollment authorization described in
7 subsection (b) of this section is based on the unit of service authorized, as follows:
8
9 (1) A full-day unit of service is 6 to 12 hours of care provided within a 24-hour
10 period; and
11
12 (2) A part-day unit of service is fewer than 6 hours of care provided within a 24-
13 hour period
14
15 (g) A Board or its child care contractor shall ensure that providers are not paid for
16 holding spaces open without a valid contracted slots agreement, as described in
17 §809.96 of this subchapter.
18
19 (h) A Board or the Board's child care contractor shall not pay providers:
20
21 (1) less, when a child enrolled full time occasionally attends for a part day; or
22
23 (2) more, when a child enrolled part time occasionally attends for a full day.
24
25 (i) The Board or its child care contractor shall not reimburse a provider retroactively for
26 new Board maximum reimbursement rates or new provider published rates.
27
28 (j) A Board or its child care contractor shall ensure that the parent's travel time to and
29 from the child care facility and the parent's work, school, or job training site is
30 included in determining whether to authorize reimbursement for full-day or part-day
31 care under subsection (f) of this section.
32

33 *The provisions of this §809.93 adopted to be effective January 29, 2007, 32 TexReg 336;*
34 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*
35 *2016, 41 TexReg 7529; amended to be effective August 1, 2018, 43 TexReg 4774; amended to*
36 *be effective July 6, 2020, 45 TexReg 4528; amended to be effective January 25, 2021, 46*
37 *TexReg 593*
38

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40

41 **§809.94. Providers Placed on Corrective or Adverse Action by the Texas Department of**
42 **Family and Protective Services.**
43

- 44 (a) For a provider placed on probation corrective action (probationary status) by CCL,
45 Boards shall ensure that:
46

- 1 (1) parents with children in Commission-funded child care are notified in writing
2 of the provider's probationary status no later than five business days after
3 receiving notification from the Agency of CCL's decision to place the provider
4 on probationary status; and
5
6 (2) no new referrals are made to the provider while on probationary status.
7
8 (b) A parent receiving notification of a provider's probationary status with CCL
9 pursuant to subsection (a) of this section may transfer the child to another eligible
10 provider without being subject to the Board transfer policies described in §809.71(3)
11 if the parent requests the transfer within 14 calendar days of receiving such
12 notification.
13
14 (c) For a provider placed on probationary status by CCL, Boards shall ensure that the
15 provider is not reimbursed at the Boards' enhanced reimbursement rates described in
16 §809.20 while on probationary status.
17
18 (d) For a provider against whom CCL is taking adverse action, Boards shall ensure that:
19
20 (1) parents with children enrolled in Commission-funded child care are notified no
21 later than two business days after receiving notification from the Agency that
22 CCL intends to take adverse action against the provider;
23
24 (2) children enrolled in Commission-funded child care with the provider are
25 transferred to another eligible provider no later than five business days after
26 receiving notification from the Agency that CCL intends to take adverse action
27 against the provider; and
28
29 (3) no new referrals for Commission-funded child care are made to the provider
30 while CCL is taking adverse action.
31
32 (e) For adverse actions in which CCL has determined that the provider poses an
33 immediate risk to the health or safety of children and cannot operate pending appeal
34 of the adverse action, but for which there is a valid court order that overturns CCL's
35 determination and allows the provider to operate pending administrative review or
36 appeal, Boards shall take action consistent with subsection (d) of this section.
37

38 *The provisions of this §809.94 adopted to be effective June 22, 2009, 34 TexReg 4201;*
39 *amended to be effective October 1, 2016, 41 TexReg 7529; amended to be effective July 6,*
40 *2020, 45 TexReg 4528*

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43
44 **§809.95. Provider Automated Attendance Agreement.**

45
46 Boards shall notify providers of the following:

- 1
2 (1) Employees of child care providers shall not:
3
4 (A) possess, have on the premises, or otherwise have access to the attendance
5 card of a parent or secondary cardholder;
6
7 (B) accept or use the attendance card or PIN of a parent or secondary
8 cardholder; or
9
10 (C) perform the attendance or absence reporting function on behalf of the
11 parent;
12
13 (2) The owner, director, or assistant director of a child care provider shall not be
14 designated as the secondary cardholder by a parent with a child enrolled with
15 the provider;
16
17 (3) Providers shall report misuse of attendance cards and PINs to the Board or the
18 Board's child care contractor; and
19
20 (4) Providers shall report to the child care contractor authorized days that do not
21 match the referral in the Agency's automated attendance system within five
22 days of receiving the authorization. Failure to report the discrepancy may
23 result in withholding payment to the provider.
24
25 (5) Misuse of attendance reporting and violation of the requirements in this section
26 are grounds for a potential fraud determination pursuant to Subchapter F of this
27 chapter.
28

29 *The provisions of this §809.95 adopted to be effective January 8, 2013, 38 TexReg 155;*
30 *amended to be effective October 1, 2016, 41 TexReg 7529*
31

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33

34 **§809.96. Contracted Slots Agreements.**
35

- 36 (a) In this section, the term "contracted slots agreement" is defined as a Board entering
37 into a contract with a child care provider to reserve a specific number of places, or
38 slots, for children participating in the child care subsidy program. This contract shall:
39
40 (1) define the number of slots to be reserved by age group (infant, toddler,
41 preschool, or school-age); and
42
43 (2) meet the eligibility requirements as described in subsection (e) of this section.
44

- 1 (b) Boards may enter into a contracted slots agreement with providers that agree to
2 provide subsidized child care services to eligible children residing in the Board's
3 workforce area.
4
- 5 (c) A Board that enters into a contracted slots agreement shall include this strategy in
6 the Board Plan, as described in §809.12 of this chapter.
7
- 8 (d) Each contract between a Board and a provider must identify the number of places
9 (slots) to be reserved for children participating in the child care subsidy program.
10
- 11 (e) To be eligible for a contract, a child care provider must be a Texas Rising Star 3-star
12 or 4-star provider and meet one of the following priorities:
13
- 14 (1) Be located:
- 15
- 16 (A) where the number of children under age six with working parents is at
17 least three times greater than the capacity of licensed child care providers
18 in the area, based on data published annually by the Commission; or
19
- 20 (B) in an underserved area that has been identified by a Board as having an
21 inadequate supply of child care in accordance with the parameters
22 described in the CCDF State Plan.
23
- 24 (2) Have a partnership with local school districts to provide pre-K services;
25
- 26 (3) Have a partnership with EHS or HS;
27
- 28 (4) Increase the number of places reserved for infants and toddlers by high-quality
29 child care providers;
30
- 31 (5) Satisfy a priority identified in the Board's plan, as described in §809.12 of this
32 chapter.
33
- 34 (f) A Board that enters into a contracted slots agreement may continue payment for
35 reserved slots during times of transition between the time that one child leaves the
36 program and another child is placed in the slot. The period of continued payment
37 shall adhere to the Board's policy for contracted slots agreements, as described in
38 §809.13(c)(14) of this chapter, and may not exceed one month following the month
39 of the vacancy.
40
- 41 (g) Except for children directly referred from recognized partnerships, as described in
42 §809.22 of this chapter, to fill open reserved slots, Boards shall contact families in
43 order of the Board's waiting list:
44
- 45 (1) that requested care in the ZIP code where the provider with the open reserved
46 slot is located; and

1
2 (2) whose child is in the age group for which a slot is available.
3

4 (h) In accordance with Commission guidelines, Boards that enter into contracted slots
5 agreements shall submit a report to the Commission within six months of entering
6 into a contract, determining the contract's effect on the:
7

8 (1) financial stability of providers participating in the contract;
9

10 (2) availability of high-quality child care options available to participants in the
11 Commission's subsidy program;
12

13 (3) number of high-quality providers in any part of the workforce area with a high
14 concentration of families that need child care;
15

16 (4) percentage of children participating in the Commission's subsidized child care
17 program at each Texas Rising Star provider in the workforce area; and
18

19 (5) additional information as requested by the Commission.
20

21 (i) A Board shall resubmit the report every six months from the due date of the Board's
22 initial report to the Commission.
23

24 *The provisions of this §809.96 adopted to be effective January 25, 2021, 46 TexReg 593*
25

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27

28 **SUBCHAPTER F. FRAUD FACT-FINDING AND IMPROPER PAYMENTS**

29 **§809.111. General Fraud Fact-Finding Procedures.**

30
31
32 (a) This subchapter establishes authority for a Board to develop procedures for the
33 prevention of fraud by a parent, provider, or any other person in a position to commit
34 fraud consistent with fraud prevention provisions in the Agency-Board Agreement.
35

36 (b) In this subchapter, a person commits fraud if, to obtain or increase a benefit or other
37 payment, either for the person or another person, the person:
38

39 (1) makes a false statement or representation, knowing it to be false; or
40

41 (2) knowingly fails to disclose a material fact.
42

43 (c) A Board shall ensure that procedures for researching and fact-finding for possible
44 fraud are developed and implemented to deter and detect suspected fraud for child
45 care services in the workforce area.
46

- 1 (d) These procedures shall include provisions that suspected fraud is reported to the
2 Commission in accordance with Commission policies and procedures.
3
4 (e) Upon review of suspected fraud reports, the Commission may either accept the case
5 for investigation and action at the state level, or return the case to the Board or its
6 child care contractor for action including, but not limited to, the following:
7
8 (1) further fact-finding; or
9
10 (2) other corrective action as provided in this chapter or as may be appropriate.
11
12 (f) The Board shall ensure that a final fact-finding report is submitted to the
13 Commission after a case is returned to the Board or its child care contractor and all
14 feasible avenues of fact-finding and corrective actions have been exhausted.
15

16 *The provisions of this §809.111 adopted to be effective January 29, 2007, 32 TexReg 336;*
17 *amended to be effective October 1, 2016, 41 TexReg 7529*

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19 **§809.112. Suspected Fraud.**

- 20
21
22
23 (a) A parent, provider, or any other person in a position to commit fraud may be
24 suspected of fraud if the person presents or causes to be presented to the Board or its
25 child care contractor one or more of the following items:
26
27 (1) A request for reimbursement in excess of the amount charged by the provider
28 for the child care; or
29
30 (2) A claim for child care services if evidence indicates that the person may have:
31
32 (A) known, or should have known, that child care services were not provided
33 as claimed;
34
35 (B) known, or should have known, that information provided is false or
36 fraudulent;
37
38 (C) received child care services during a period in which the parent or child
39 was not eligible for services;
40
41 (D) known, or should have known, that child care subsidies were provided to
42 a person not eligible to be a provider; or
43
44 (E) otherwise indicated that the person knew or should have known that the
45 actions were in violation of this chapter or state or federal statute or
46 regulations relating to child care services.

1
2 (b) The following parental actions may be grounds for suspected fraud and cause for
3 Boards to conduct fraud fact-finding or the Commission to initiate a fraud
4 investigation:

5
6 (1) Not reporting or falsely reporting at initial eligibility or at eligibility
7 redetermination:

8
9 (A) household composition, or income sources or amounts that would have
10 resulted in ineligibility or a higher parent share of cost; or

11
12 (B) work, training, or education hours that would have resulted in
13 ineligibility; or

14
15 (2) Not reporting during the 12-month eligibility period:

16
17 (A) changes in income or household composition that would cause the family
18 income to exceed 85 percent of SMI (taking into consideration
19 fluctuations of income); or

20
21 (B) a permanent loss of job or cessation of training or education that exceeds
22 three months; or

23
24 (C) improper or inaccurate reporting of attendance.
25

26 *The provisions of this §809.112 adopted to be effective January 29, 2007, 32 TexReg 336;*
27 *amended to be effective October 1, 2016, 41 TexReg 7529*

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30
31 **§809.113. Action to Prevent or Correct Suspected Fraud.**

32
33 (a) The Commission or Board may take the following actions pursuant to Commission
34 policy if the Commission or Board finds that a provider has committed fraud:

35
36 (1) Temporary withholding of payments to the provider for child care services
37 delivered;

38
39 (2) Nonpayment of child care services delivered;

40
41 (3) Recoupment of funds from the provider;

42
43 (4) Stop authorizing care at the provider's facility or location;

44
45 (5) Prohibiting future eligibility to provide Commission-funded child care
46 services; or

1
2 (6) Any other action consistent with the intent of the governing statutes or
3 regulations to investigate, prevent, or stop suspected fraud.
4

5 (b) The Commission or Board may take the following actions pursuant to Commission
6 policy if the Commission or Board finds that a parent has committed fraud:
7

8 (1) recouping funds from the parent;
9

10 (2) prohibiting future child care eligibility, provided that the prohibition does not
11 result in a Choices or SNAP E&T participant becoming ineligible for child
12 care;
13

14 (3) limiting the enrollment of the parent's child to a regulated child care provider;
15

16 (4) terminating care during the 12-month eligibility period if eligibility was
17 determined using fraudulent information provided by the parent; or
18

19 (5) any other action consistent with the intent of the governing statutes or
20 regulations to investigate, prevent, or stop suspected fraud.
21

22 *The provisions of this §809.113 adopted to be effective January 29, 2007, 32 TexReg 336;*
23 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*
24 *2016, 41 TexReg 7529*
25

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28 **§809.114. Failure to Comply with Commission Rules and Board Policies.**
29

30 (a) The Board shall ensure that parents and providers comply with Commission rules.
31

32 (b) The Commission, Board or Board's child care contractor may consider failure by a
33 provider or parent to comply with this chapter as an act that may warrant corrective
34 and adverse action as detailed in §809.115 (relating to Corrective Adverse Actions).

- 1
2 (c) Failure by a provider or parent to comply with this chapter shall also be considered a
3 breach of contract, which may also result in corrective action as detailed in this
4 subchapter.
5

6 *The provisions of this §809.114 adopted to be effective January 29, 2007, 32 TexReg 336*
7

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9

10 **§809.115. Corrective Adverse Actions.**
11

- 12 (a) When determining appropriate corrective actions, the Board or Board's child care
13 contractor shall consider:

- 14 (1) the scope of the violation;
15
16 (2) the severity of the violation; and
17
18 (3) the compliance history of the person or entity.
19
20

- 21 (b) Corrective actions for providers may include, but are not limited to, the following:
22

- 23 (1) Closing intake;
24
25 (2) Moving children to another provider selected by the parent;
26
27 (3) Withholding provider payments or reimbursement of costs incurred; and
28
29 (4) Recoupment of funds.
30

- 31 (c) When a provider violates a provision of Subchapter E of this chapter, a written
32 Service Improvement Agreement may be negotiated between the provider and the
33 Board or the Board's child care contractor. At the least, the Service Improvement
34 Agreement shall include the following:
35

- 36 (1) The basis for the Service Improvement Agreement;
37
38 (2) The steps required to reach compliance including, if applicable, technical
39 assistance;
40
41 (3) The time limits for implementing the improvements; and
42
43 (4) The consequences of noncompliance with the Service Improvement
44 Agreement.
45

1 (d) The Board shall develop policies and procedures to ensure that the Board or the
2 Board's child care contractor take corrective action consistent with subsections (a) -
3 (c) of this section against a provider when a provider:

4
5 (1) possesses, or has on the premises, attendance cards without the parent being
6 present at the provider site;

7
8 (2) accepts or uses an attendance card or PIN of a parent or secondary cardholder;
9 or

10
11 (3) performs the attendance reporting function on behalf of a parent.
12

13 (e) The Board shall develop policies and procedures to require the Board's child care
14 contractor to take corrective action consistent with subsections (a) - (c) of this
15 section against a parent when a parent or parent's secondary cardholder gives his or
16 her:

17
18 (1) card to a provider; or

19
20 (2) PIN to a provider.
21

22 *The provisions of this §809.115 adopted to be effective January 29, 2007, 32 TexReg 336;*
23 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*
24 *2016, 41 TexReg 7529*

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28 **§809.117. Recovery of Improper Payments to a Provider or Parent.**
29

30 (a) A Board shall attempt recovery of all improper payments as defined in §809.2.
31

32 (b) Recovery of improper payments shall be managed in accordance with Commission
33 policies and procedures.
34

35 (c) The provider shall repay improper payments for child care services received in the
36 following circumstances:

37
38 (1) Instances involving fraud;

39
40 (2) Instances in which the provider did not meet the provider eligibility
41 requirements in this chapter;

42
43 (3) Instances in which the provider was paid for the child care services from
44 another source;

45
46 (4) Instances in which the provider did not deliver the child care services;

- 1
2 (5) Instances in which referred children have been moved from one facility to
3 another without authorization from the child care contractor; and
4
5 (6) Other instances when repayment is deemed an appropriate action.
6
7 (d) A parent shall repay improper payments for child care only in the following
8 circumstances:
9
10 (1) Instances involving fraud as defined in this subchapter;
11
12 (2) Instances in which the parent has received child care services while awaiting
13 an appeal and the determination is affirmed by the hearing officer; or
14
15 (3) Instances in which the parent fails to pay the parent share of cost and the
16 Board's policy is to pay the provider for the parent's failure to pay the parent
17 share of cost.
18
19 (e) A Board shall ensure that a parent subject to the repayment provisions in subsection
20 (d) of this section shall prohibit future child care eligibility until the repayment
21 amount is recovered, provided that the prohibition does not result in a Choices or
22 SNAP E&T participant becoming ineligible for child care.
23

24 *The provisions of this §809.117 adopted to be effective January 29, 2007, 32 TexReg 336;*
25 *amended to be effective October 1, 2016, 41 TexReg 7529*
26

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29 **SUBCHAPTER G. TEXAS RISING STAR PROGRAM**
30

31 **§809.130. Short Title and Purpose.**
32

- 33 (a) The rules contained in this subchapter may be cited as the Texas Rising Star
34 Program rules.
35
36 (b) The purpose of the Texas Rising Star Program rules is to interpret and implement
37 Texas Government Code, §2308.3155(b), which requires the Commission to
38 establish rules to administer the Texas Rising Star program, including guidelines for
39 rating a child care provider for Texas Rising Star certification.
40
41 (c) The Texas Rising Star Program rules identify the organizational structure and
42 categories of, and the scoring factors that shall be included in, the Texas Rising Star
43 guidelines.
44
45 (d) The Texas Rising Star guidelines for rating a child care provider shall:
46

- 1 (1) describe measures for the Texas Rising Star program that contain, at a
2 minimum, measures for child care providers regarding:
3
4 (A) director and staff qualifications and training;
5
6 (B) teacher-child interactions;
7
8 (C) program administration; and
9
10 (D) indoor/outdoor environments;
11
12 (2) specify measures that:
13
14 (A) must be met in order for a provider to be certified at each star level; and
15
16 (B) are observed and have points awarded through on-site assessments; and
17
18 (3) specify the scoring methodology and scoring thresholds for each star level.
19

20 (e) The Texas Rising Star guidelines:

- 21
22 (1) shall be reviewed and updated by the Commission at a minimum of every four
23 years in conjunction with the rule review of Chapter 809, conducted pursuant
24 to Texas Government Code, §2001.039, and the Texas Rising Star guidelines
25 review shall:
26
27 (A) consider input from stakeholders; and
28
29 (B) include at least one public hearing held prior to submitting the
30 stakeholder input to the Commission;
31
32 (2) shall be adopted by the Commission subject to the requirements of the Texas
33 Open Meetings Act; and
34
35 (3) may be reviewed and amended as determined necessary by the Commission in
36 accordance with the requirements of the Texas Open Meetings Act.
37

38 *The provisions of this §809.130 adopted to be effective February 16, 2015, 40 TexReg 708;*
39 *amended to be effective March 14, 2016, 41 TexReg 1975; amended to be effective January*
40 *25, 2021, 46 TexReg 593*

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43
44 **§809.131. Eligibility for the Texas Rising Star Program.**
45

1 A child care provider is eligible to apply for the Texas Rising Star program if the
2 provider has a current agreement to serve Commission-subsidized children and:

- 3
- 4 (1) has a permanent (nonexpiring) license or registration from CCL;
- 5
- 6 (2) has at least 12 months of licensing history with CCL, and is not on:
- 7
- 8 (A) corrective action with a Board pursuant to Subchapter F of this chapter;
- 9
- 10 (B) a "Notice of Freeze" with the Commission pursuant to Texas Labor
11 Code, Chapter 213 (Enforcement of the Texas Unemployment
12 Compensation Act) or Chapter 61 (Payment of Wages); or
- 13
- 14 (C) corrective or adverse action with CCL; and
- 15
- 16 (3) meets the requirements to be designated as a Pre-Star provider as specified in
17 §802.2(18) of this chapter.
- 18
- 19 (4) has director and teaching staff registered in the Texas Early Childhood
20 Professional Development System Workforce Registry; or
- 21
- 22 (5) is regulated by and in good standing with the US Military.

23

24 *The provisions of this §809.131 adopted to be effective February 16, 2015, 40 TexReg 708;*
25 *amended to be effective January 8, 2019, 44 TexReg 114; amended to be effective January*
26 *25, 2021, 46 TexReg 593*

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29

30 **§809.132. Impact of Certain Deficiencies on Texas Rising Star Certification.**

- 31
- 32 (a) A Texas Rising Star provider shall lose Texas Rising Star certification if the
33 provider:
- 34
- 35 (1) is placed on corrective action with a Board pursuant to Subchapter F of this
36 chapter;
- 37
- 38 (2) is under a "Notice of Freeze" with the Commission pursuant to Chapter 213 of
39 the Texas Labor Code (Enforcement of the Texas Unemployment
40 Compensation Act) or Chapter 61 of the Texas Labor Code (Payment of
41 Wages);
- 42
- 43 (3) is placed on corrective or adverse action by CCL;
- 44
- 45 (4) had 15 or more total high or medium-high weighted licensing deficiencies
46 during the most recent 12-month licensing history;

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- (5) had more than four probationary impacts during its three-year certification period;
 - (6) had a consecutive third probationary impact; or
 - (7) is cited for specified CCL minimum standards regarding weapons and ammunition.
- (b) Texas Rising Star providers with any of the specified "star level drop" licensing deficiencies listed in the Texas Rising Star guidelines during the most recent 12-month CCL licensing history shall be placed on a six-month Texas Rising Star program probationary period. Furthermore:
- (1) reduction of one star level for each deficiency cited, so a 4-star certified provider is reduced to a 3-star provider , a 3-star provider is reduced to a 2-star provider; or
 - (2) a 2-star provider loses certification.
- (c) Texas Rising Star providers with any of the specified "probationary" licensing deficiencies listed in the Texas Rising Star guidelines during the most recent 12-month CCL licensing history shall be placed on a six-month Texas Rising Star probationary period. Furthermore:
- (1) Texas Rising Star providers on a six-month Texas Rising Star probationary period that are cited by CCL for any additional specified probationary deficiencies within the probationary period shall be placed on a second, consecutive probation and lose a star level, with a 2-star certified provider losing certification;
 - (2) if CCL does not cite any additional specified probationary deficiencies during the probationary period, the provider can be removed from probation status; and
 - (3) if any additional specified probationary deficiencies are cited by CCL during the second probationary period, the Texas Rising Star provider shall lose certification.
- (d) Texas Rising Star providers with 10 to 14 total high or medium-high weighted licensing deficiencies during the most recent 12-month CCL licensing history shall be placed on a six-month Texas Rising Star program probationary period. Furthermore:
- (1) Texas Rising Star providers on a six-month probationary period that are cited by CCL within the probationary period for any additional high or medium-high

1 weighted deficiencies shall be placed on a second, consecutive probation and
2 lose a star level, with a 2-star provider losing certification;

3
4 (2) if no additional high or medium-high weighted deficiencies are cited by CCL
5 during the probationary period, the provider can be removed from probation
6 status ; and

7
8 (3) if any new high or medium-high weighted deficiencies--not to exceed 14 total
9 deficiencies--are cited by CCL during the second six-month probationary
10 period, a provider shall lose Texas Rising Star certification.

11
12 (e) Providers losing a star level due to licensing deficiencies shall be reinstated at the
13 former star level if no citations described in subsections (b) - (d) of this section occur
14 within the six-month reduction time frame.

15
16 (f) Providers losing Texas Rising Star certification shall be eligible to reapply for
17 certification after six months following the loss of the certification, as long as no
18 deficiencies described in subsections (b) - (d) of this section are cited during the
19 disqualification period.

20
21 *The provisions of this §809.132 adopted to be effective February 16, 2015, 40 TexReg 708;*
22 *amended to be effective January 8, 2019, 44 TexReg 114; amended to be effective July 6,*
23 *2020, 45 TexReg 4528; amended to be effective January 25, 2021, 46 TexReg 593*

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26
27 **§809.133. Application and Assessments for the Texas Rising Star Program.**

28
29 (a) Texas Rising Star certification applicants must complete:

30
31 (1) an orientation on the Texas Rising Star guidelines, including an overview of
32 the:

33
34 (A) Texas Rising Star program application process;

35
36 (B) Texas Rising Star program measures; and

37
38 (C) Texas Rising Star program assessment process;

39
40 (2) the creation of a continuous quality improvement plan; and

41
42 (3) a Texas Rising Star program self-assessment tool.

43
44 (b) Boards shall ensure that:

- 1 (1) written acknowledgment of receipt of the application and self-assessment is
2 sent to the provider;
3
4 (2) within 20 days of receipt of the application, the provider is sent an estimated
5 time frame for scheduling the initial assessment;
6
7 (3) an assessment is conducted for any provider that meets the eligibility
8 requirements in §809.131 of this subchapter and requests to participate in the
9 Texas Rising Star program; and
10
11 (4) Texas Rising Star certification is granted for any provider that is assessed and
12 verified as meeting the Texas Rising Star provider certification criteria set
13 forth in the Texas Rising Star guidelines.
14
15 (c) Boards shall ensure that Texas Rising Star assessments are conducted as follows:
16
17 (1) On-site assessment of 100 percent of the provider classrooms at the initial
18 assessment for Texas Rising Star certification and at each scheduled
19 recertification; and
20
21 (2) Recertification of all certified Texas Rising Star providers every three years.
22
23 (d) Boards shall ensure that certified Texas Rising Star providers are monitored on an
24 annual basis and the monitoring includes:
25
26 (1) at least one unannounced on-site visit; and
27
28 (2) a review of the provider's licensing compliance as described in §809.132 of
29 this subchapter.
30
31 (e) Boards shall ensure compliance with the process and procedures in the Texas Rising
32 Star guidelines for conducting assessments of nationally accredited child care
33 facilities and child care facilities regulated by the US Military.
34
35 (f) Boards shall ensure compliance with the process and procedures in the Texas Rising
36 Star guidelines for conducting assessments of certified Texas Rising Star providers
37 that have a change of ownership, move, or expand locations.
38
39 (g) Boards shall ensure compliance with the process and procedures in the Texas Rising
40 Star guidelines for implementing and supporting a continuous quality improvement
41 framework.
42

43 *The provisions of this §809.133 adopted to be effective February 16, 2015, 40 TexReg 708;*
44 *amended to be effective January 25, 2021, 46 TexReg 593*
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1
2 **§809.134. Minimum Qualifications for Texas Rising Star Staff.**
3

- 4 (a) Boards shall ensure that Texas Rising Star staff meet the minimum requirements in
5 subsections (b) - (g) of this section.
6
- 7 (b) Texas Rising Star staff shall meet the minimum education requirements as follows:
8
9 (1) Bachelor's degree from an accredited four-year college or university in early
10 childhood education, child development, special education, child psychology,
11 educational psychology, elementary education, or family consumer science
12
13 (2) Bachelor's degree from an accredited four-year college or university with at
14 least 18 credit hours in early childhood education, child development, special
15 education, child psychology, educational psychology, elementary education, or
16 family consumer science with at least 12 credit hours in child development
17
18 (3) Associate's degree in early childhood education, child development, special
19 education, child psychology, educational psychology, elementary education, or
20 family consumer science with two years of experience as a director in an early
21 childhood program, with preference given to experience with a provider that is
22 accredited or Texas Rising Star certified
23
- 24 (c) The Commission may grant a waiver of no more than two years to obtain the
25 minimum education requirements in subsection (b) of this section if a Board can
26 demonstrate that no applicants in its workforce area meet the minimum education
27 requirements.
28
- 29 (d) Texas Rising Star staff shall meet the minimum work experience requirements of
30 one year of full-time early childhood classroom experience in a child care, EHS, HS,
31 or pre-K through third-grade school program.
32
- 33 (e) Texas Rising Star staff shall meet the background check requirement consistent
34 with Chapter 745 of this title.
35
- 36 (f) Texas Rising Star staff shall demonstrate:
37
38 (1) knowledge of best practices in early childhood education; and
39
40 (2) understanding of early childhood evaluations, observations, and assessment
41 tools for both teachers and children.
42
- 43 (g) Texas Rising Star staff shall meet the following training and certification criteria:
44
45 (1) All staff must complete the Texas Rising Star standards training, as described
46 in the Texas Rising Star guidelines.

- 1
2 (2) All assessors must attain and maintain the Texas Rising Star Assessor
3 Certification, as described in the Texas Rising Star guidelines
4
5 (3) All mentors must attain mentor micro-credentialing, as described in the Texas
6 Rising Star guidelines.
7

8 *The provisions of this §809.134 adopted to be effective February 16, 2015, 40 TexReg 708;*
9 *amended to be effective January 8, 2019, 44 TexReg 114; amended to be effective January*
10 *25, 2021, 46 TexReg 593*

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14 **§809.135. TRS Process for Reconsideration.**
15

16 Boards shall ensure a process for reconsideration of facility assessment at the Board level
17 for the TRS program. The TRS program is not subject to Chapter 823 of this title, the
18 Integrated Complaints, Hearings, and Appeals rules.
19

20 *The provisions of this §809.135 adopted to be effective February 16, 2015, 40 TexReg 708*
21

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23

24 **§809.136. Roles and Responsibilities of Texas Rising Star Staff.**
25

26 Boards shall ensure that Texas Rising Star staff members comply with their assigned
27 responsibilities, as applicable.
28

- 29 (1) A mentor is defined as a designated staff member who helps providers obtain,
30 maintain, or achieve higher star levels of certification.
31
32 (2) An assessor is defined as a designated staff member who assesses and monitors
33 providers that obtain, maintain, and achieve higher levels of quality.
34
35 (3) Dual-role staff is defined as designated staff members who assume the role of
36 the assessor and mentor.
37
38 (4) If an individual performs the duties of both an assessor and a mentor, the
39 individual providing Texas Rising Star mentoring services to a provider does
40 not act as the assessor of that same provider when determining Texas Rising
41 Star certification.
42
43 (5) Texas Rising Star staff members are required to complete annual professional
44 development and continuing education consistent with the Texas Rising Star
45 annual minimum training hours requirement for a Texas Rising Star--certified
46 child care center director.

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9

- (6) Per the Texas Family Code, §261.101, Texas Rising Star staff members are mandated reporters when observing serious incidents as described in the Texas Rising Star guidelines.

The provisions of this §809.136 adopted to be effective January 25, 2021, 46 TexReg 593

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