

1 **CHAPTER 809. CHILD CARE SERVICES**

2  
3 **ADOPTED RULES TO BE PUBLISHED IN THE *TEXAS REGISTER*. THIS**  
4 **DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO**  
5 **FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF THE SECRETARY**  
6 **OF STATE.**

7  
8 **ON SEPTEMBER 13, 2022, THE TEXAS WORKFORCE COMMISSION ADOPTED THE**  
9 **RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.**

10  
11 Publication Date of the Adoption in the *Texas Register*: **September 30, 2022**

12 The Rules are Effective: **October 3, 2022**

13  
14 The Texas Workforce Commission (TWC) adopts amendments to the following sections of  
15 Chapter 809, relating to Child Care Services:

16  
17 Subchapter A. General Provisions, §809.1 and §809.2

18 Subchapter B. General Management, §§809.13 - 809.16 and §§809.18 - 809.20

19 Subchapter C. Eligibility for Child Care Services, §§809.41, 809.42, 809.44, 809.48,  
20 809.50, 809.51, and 809.55

21 Subchapter D. Parent Rights and Responsibilities, §§809.71 - 809.73, 809.75, and 809.78

22 Subchapter E. Requirements to Provide Child Care, §§809.91 - 809.96

23 Subchapter F. Fraud Fact-Finding and Improper Payments, §809.112 and §809.115

24 Subchapter G. Texas Rising Star Program, §§809.130 - 809.136

25  
26 TWC adopts the following new section to Chapter 809, relating to Child Care Services:

27  
28 Subchapter C. Eligibility for Child Care Services, §809.56

29  
30 The amendments to §§809.1, 809.2, 809.13 - 809.16, 809.42, 809.44, 809.48, 809.50, 809.51,  
31 809.55, 809.71 - 809.73, 809.75, 809.78, 809.91, 809.92, 809.94 - 809.96, 809.112, 809.115,  
32 809.130, 809.135, and 809.136 are adopted *without* changes to the proposed text as published in  
33 the April 29, 2022, issue of the *Texas Register* (47 TexReg 2464), and, therefore, the adopted  
34 rule text will not be published. The amendments to §§809.18 - 809.20, 809.41, 809.93, 809.131 -  
35 809.134; and new §809.56 are adopted *with changes* to the proposed text as published and,  
36 therefore, the adopted rule text will be published.

37  
38 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

39 The purpose of the amendments to Chapter 809 is to implement House Bill (HB) 2607, HB 1792,  
40 Senate Bill (SB) 1555, 87th Texas Legislature, Regular Session (2021), and improve TWC's  
41 Child Care Services (CCS) program.

42  
43 **House Bill 2607**

44  
45 *Texas Rising Star Entry Level Rating*

46 HB 2607 amended Texas Government Code, §2308.3155 to require all regulated providers of

1 TWC-funded CCS be included in the Texas Rising Star program and to require TWC to amend  
2 its Texas Rising Star program rules to include an Entry Level rating and a maximum length of  
3 time that a child care provider can participate at the Entry Level rating. Amended Texas  
4 Government Code, §2308.3155(b-2) requires TWC to develop a process to allow a child care  
5 provider to request a waiver to extend the length of time that the child care provider may  
6 participate at the Entry Level rating. The waiver cannot exceed 36 months. Amended Texas  
7 Government Code, §2308.3155(b-1) specifies that an Entry Level child care provider is not  
8 eligible for enhanced reimbursement rates available to Two-, Three-, and Four-Star certified  
9 child care providers.

10  
11 Prior to the enactment of HB 2607, TWC's three-member Commission (Commission) amended  
12 Chapter 809 in January 2021 to adopt a Pre-Star child care provider designation and a  
13 requirement that all regulated CCS child care providers achieve that designation. The  
14 Commission is repealing the Pre-Star designation and replacing it with the legislatively  
15 mandated Texas Rising Star Entry Level designation.

16  
17 *Mandatory Texas Rising Star Participation and Enhanced Reimbursement Rates*

18  
19 Because amended Texas Government Code, §2308.3155(a) makes Texas Rising Star mandatory  
20 for regulated CCS providers, the definition of Texas Rising Star in §809.2 is amended to remove  
21 "voluntary" and to reflect that the program is required for CCS providers; and §809.91 is  
22 amended to require all regulated CCS providers participate in Texas Rising Star. Relative  
23 providers are not required to participate in Texas Rising Star and will continue to operate under  
24 the current rules for relative providers set forth in §809.91.

25  
26 Additionally, because the Entry Level rating is intended to be a temporary designation and not  
27 eligible for enhanced reimbursement rates, the definition of a Texas Rising Star provider in  
28 §809.2 is amended to distinguish Entry Level child care providers from "certified" child care  
29 providers, reserving Texas Rising Star "certification" only for certifications at the Two-, Three-,  
30 and Four-Star level.

31  
32 Also, amended Texas Government Code, §2308.3155(b-1) clarifies that providers at the Entry  
33 Level designation are not eligible for the enhanced rate, therefore §809.20 is amended to include  
34 that only "certified" Texas Rising Star providers receive the enhanced reimbursement rate.

35  
36 To implement the requirements of HB 2607, Chapter 809, Subchapter G, Texas Rising Star  
37 Program is amended to include an Entry Level designation within the Texas Rising Star  
38 program. Amended Subchapter G includes the requirements to be considered for Entry Level  
39 designation based upon a child care provider's demonstration that it does not have excessive  
40 licensing findings.

41  
42 *Eligibility to be Considered for Entry Level Rating*

43  
44 Amended Texas Government Code, §2308.3155(b-1) stipulates that to qualify for the Entry  
45 Level rating, a child care provider must meet the minimum quality standards that qualify the  
46 child care provider to receive technical assistance and support under the Texas Rising Star

1 program.

2  
3 The Commission amended Chapter 809 Subchapter G to establish the basic requirements for  
4 Entry Level designation. A regulated provider, that is, providers licensed or registered with the  
5 Texas Health and Human Services Commission's Child Care Regulation (CCR) department  
6 (including an initial permit) or regulated by the United States Military, are eligible to be  
7 considered for Entry Level Eligibility. This is the same basic criteria that was used in the Pre-  
8 Star designation, which is now removed. If the child care provider is eligible to be considered for  
9 the Entry Level rating, the child care provider will then need to meet the new proposed points  
10 threshold for high and medium-high CCR deficiencies required for the Entry Level designation;  
11 and once designated as Entry Level, will be eligible for technical assistance as required by Texas  
12 Government Code, §2308.3155(b-1).

13  
14 *Points Threshold for Meeting Entry Level Rating*

15  
16 The Commission-established criteria for Entry Level designation described below will be set  
17 forth in the Texas Rising Star Guidelines.

18  
19 To be designated as Entry Level, the Commission established a points threshold of 75 based on:  
20 --points assigned to CCR-weighted high and medium-high deficiencies received; and  
21 --high-weighted deficiencies receiving a higher number of points (5 points each) than medium-  
22 high-weighted deficiencies (3 points each).

23  
24 A child care provider's most recent 12-month CCR licensing history will be reviewed. Providers  
25 with initial permits or providers with fewer than 12 months of licensing history will be reviewed  
26 based on all available CCR licensing history.

27  
28 *Time Limits for Entry Level Rating*

29  
30 Amended Texas Government Code, §2308.3155(b-1) requires the Commission to establish, by  
31 rule, the maximum length of time a CCS provider can be at the Entry Level rating. The  
32 Commission amended Chapter 809 Subchapter G to establish a 24-month maximum time frame a  
33 CCS provider could be at the Entry Level designation. The CCS provider must achieve Texas  
34 Rising Star certification of at least the Two-Star level within the 24-month period, unless the  
35 provider requests, and TWC approves, a waiver extension as allowed by amended Texas  
36 Government Code, §2308.3155(b-2).

37  
38 All CCS providers must meet Entry Level requirements, and once designated as Entry Level,  
39 will have a maximum of 24 months to attain star-level certification in Texas Rising Star. Entry  
40 Level providers will be reviewed for Texas Rising Star certification no later than the 12th month  
41 of the 24-month period. If an Entry Level provider is not eligible for certification as Texas  
42 Rising Star by the 18th month, the provider cannot receive referrals for new families as an Entry  
43 Level provider, unless the provider is located in a child care desert or serves an underserved  
44 population, and the Agency approves the provider to receive new family referrals.

45  
46 The intent of not allowing new family referrals after the 18th month is to minimize the likelihood

1 that children are placed in a facility that ultimately fails to meet Texas Rising Star certification.  
 2 This approach recognizes the importance of stable child care to children's healthy development.  
 3 Children who were previously referred may continue to be served during the provider's Entry  
 4 Level designation.

5  
 6 The Commission notes that Entry Level providers can be assessed for certification at any time if  
 7 they meet eligibility and screening requirements. At minimum, each Entry Level provider will  
 8 be screened at 12 months to determine eligibility for assessment.

9  
 10 The table below shows the milestones during the 24-month Entry Level period for regulated  
 11 child care providers that are new to the CCS system.

12  
 13 Entry Level Timeline – New CCS Regulated Providers  
 14

No Later Than...	Action
CCS Agreement Start	Must meet Entry Level designation
12th Month from CCS Start	Screening review for initial star-level certification
18th Month from CCS Start	If not meeting Texas Rising Star certification, no new family referrals
24th Month CCS Start	Deadline for attaining Texas Rising Star certification

15  
 16 *Entry-Level for Current CCS Providers*  
 17

18 For providers that have existing agreements with Local Workforce Development Boards  
 19 (Boards) to provide child care services, the 24-month Entry Level period will begin upon the  
 20 effective date of these rules--October 1, 2022--and providers will have until September 30, 2024,  
 21 to attain Texas Rising Star certification. For current providers that do not meet the points  
 22 threshold for Entry Level designation on October 1, 2022, TWC will provide a period of six  
 23 months, through March 31, 2023, for these providers to meet Entry Level requirements. If a  
 24 current CCS provider fails to attain at least Entry Level status after six months, the provider will  
 25 no longer be an eligible CCS provider and may apply for Entry Level designation at a later date.  
 26

27 The table below shows the milestones during the 24-month Entry Level period for current CCS  
 28 regulated child care providers.

29  
 30 Entry Level Timeline – Current CCS Regulated Providers  
 31

No Later Than...	Action
October 1, 2022	Determine if meeting Entry Level designation
March 31, 2023	Deadline for meeting Entry Level designation
March 31, 2024	If not meeting Texas Rising Star certification, no new family referrals
September 30, 2024	Deadline for attaining Texas Rising Star certification

32  
 33 *Criteria for the Entry-Level Extension Waiver*  
 34

35 Amended Texas Government Code, §2308.3155(b-2) allows for up to an additional 36 months

1 for a provider to remain at Entry Level and directs the Commission to establish the criteria for  
2 approving this Entry Level extension waiver. Amended Texas Government Code, §2308.3155(b-  
3 2) requires that the rules specify that approved waivers must not exceed 36 months.

4  
5 The Commission amended Chapter 809 and establishes the following criteria for an Entry Level  
6 extension waiver. The provider must be:

- 7 --located in a child care desert (as defined in Texas Labor Code, §302.0461(b)(2)(A)(i), and in
- 8 amended §809.2); or serving an underserved population as determined by TWC;
- 9 --unable to meet the certification requirements due to a declared emergency/disaster; or
- 10 --unable to meet the certification requirements due to conditions that are outside the provider's
- 11 control.

12  
13 An underserved population could include limited availability of infant capacity or care for  
14 children with disabilities.

#### 15 16 *Texas Rising Star Providers on Suspension Status*

17  
18 Under the former rules, there was no requirement that a Texas Rising Star provider become  
19 recertified following the loss of certification. However, amended Texas Government Code,  
20 §2308.3155(b-1) requires that CCS providers must meet Texas Rising Star certification. Because  
21 state statute requires providers participating in the CCS program to be certified as Texas Rising  
22 Star, the Commission amended Chapter 809 to establish a suspension status for certified Texas  
23 Rising Star providers that no longer meet certification criteria.

24  
25 Providers placed on suspension status must meet Entry Level requirements and be recertified  
26 within 15 months of being placed on suspension status. The provider will not be able to receive  
27 enhanced rates while on suspension status or be eligible for Entry Level designation.

28  
29 Providers on suspension status will be eligible to request a reassessment after six months  
30 following the start of the suspension status if they meet certification eligibility and screening  
31 requirements. If the provider is not eligible to request a reassessment or is not certified at least at  
32 the Two-Star level by the ninth month of the suspension, the provider will not receive new  
33 family referrals during the remainder of the suspension period. However, TWC may approve the  
34 provider to accept new family referrals if the provider is in a child care desert or serves an  
35 underserved population. The Commission notes that providers on suspension status can be  
36 assessed for certification at any time after the initial six months of suspension status in which  
37 they meet certification eligibility and screening requirements.

38  
39 Texas Rising Star providers on suspension status and not achieving recertification by the end of  
40 the 15-month period are not eligible to provide TWC-funded child care services, are not eligible  
41 for Entry Level designation, and must subsequently meet Texas Rising Star certification  
42 eligibility and screening requirements to provide CCS.

#### 43 44 *Prekindergarten Partnerships*

45  
46 HB 2607 also added §302.00436 to the Texas Labor Code, to require Boards to inform the local

1 school districts and open-enrollment charter schools in the local workforce development area  
2 (workforce area) regarding opportunities to partner with child care providers in the Boards'  
3 workforce areas to expand access to and provide facilities for prekindergarten (pre-K) programs.

4  
5 Pursuant to Texas Labor Code, §302.00436 the Commission amended §809.14 (Coordination of  
6 Child Care Services) to require Boards to inform the local school districts/open-enrollment  
7 charter schools of opportunities to partner with child care providers to expand access to and  
8 provide facilities for pre-K programs. On July 1, 2022, TWC issued Workforce Development  
9 (WD) Letter 09-22 and Technical Assistance Bulletin (TAB) 300 to provide Boards with  
10 guidance and technical assistance on pre-K partnerships, including guidance on informing the  
11 local education agencies, such as school districts and open-enrollment charter schools in the  
12 workforce area, about opportunities to partner with child care providers in the Board's workforce  
13 area to expand access to and provide facilities for pre-K programs.

14  
15 Additionally, the Commission approved, with one-time stimulus funding, the hiring of local  
16 TWC staff to serve as a resource to support, expand, and enhance pre-K partnership settings that  
17 will focus on informing and engaging potential partners, and supporting and navigating the  
18 formalization of partnerships. During the time of this stimulus-funded TWC pre-K partnership  
19 initiative, this will allow for a collaborative approach, with the Boards, in meeting the  
20 requirements of the amended Texas Labor Code, §302.00436 and the needs of the community.

#### 21 22 Contracted Slots Reporting Requirements

23  
24 Finally, HB 2607 amended Texas Labor Code, §302.0461(d) to change the Board reporting  
25 requirements for contracted providers from every six months to every 12 months. On September  
26 9, 2021, TWC issued WD Letter 19-21, which included the new 12-month reporting  
27 requirement. The Commission amended §809.96 (Contracted Slots Agreements) to change the  
28 Board reporting requirements for contracted providers from every six months to every 12  
29 months.

#### 30 31 **House Bill 1792**

#### 32 33 Statewide Texas Rising Star Assessors

34  
35 HB 1792 amended Texas Government Code, §2308.3155 to require TWC to competitively  
36 procure a single entity to oversee a statewide roster of qualified assessors to evaluate child care  
37 providers participating in the Texas Rising Star program during the initial certification process  
38 and at any other time during the child care provider's participation in the program.

39  
40 Amended Texas Government Code, §2308.3155(d) requires amendments to Chapter 809,  
41 Subchapter G to separate the roles and responsibilities of Texas Rising Star assessments  
42 provided by the single statewide entity and mentoring services provided by Boards, as well as  
43 qualifications specific to assessors and mentors.

44  
45 Specifically, §809.134 is amended to specify that both the Boards and TWC's designated  
46 assessment entity shall ensure that Texas Rising Star staff:

1 --meet the background check requirements; and  
2 --complete the Texas Rising Star standards training, as described in the Texas Rising Star  
3 Guidelines.

4  
5 The amended rules also specify that Boards ensure mentoring staff meet requirements for:  
6 --minimum education;  
7 --work experience requirements; and  
8 --attaining mentor microcredentialing, as described in the Texas Rising Star Guidelines.

9  
10 The amended rules specify that TWC's designated Texas Rising Star assessment entity ensure  
11 that assessors attain and maintain the Texas Rising Star Assessor Certification, which will  
12 replace the former minimum education and experience requirements for assessors.

13  
14 Under former rules, Boards were allowed to have staff members who act as both mentors and  
15 assessors, as long as the staff does not mentor and assess the same child care provider. With the  
16 separation of assessors into a single entity, the amended rules continue this separation of duties  
17 to address situations in which an individual may be under contract with or be employed by a  
18 Board for mentoring services as well as under contract or employed by the single entity to  
19 conduct Texas Rising Star assessments, to ensure that no conflict of interest exists during the  
20 assessment process.

21  
22 However, the Commission expects that communication and coordination among mentors and  
23 assessors continue. The contract with TWC's designated Texas Rising Star assessment entity will  
24 include specifications for communication with mentors, and TWC's contract with Boards will  
25 include requirements for coordination with assessors.

26  
27 Additionally, former rule language placed the responsibility regarding child care provider  
28 requests for a reconsideration of the child care provider's Texas Rising Star assessment on  
29 Boards. The amended rules continue the reconsideration practice but will require TWC's  
30 designated Texas Rising Star assessment entity, rather than the Boards, have a procedure for  
31 child care providers that request a reconsideration of their certification based on an assessment.

## 32 33 **Senate Bill 1555**

### 34 35 Age Groups for Reimbursement

36  
37 SB 1555 amended Texas Government Code, §2308.315 to require Boards to establish graduated  
38 reimbursement rates that align TWC's age groups with CCR ratios and group sizes and to require  
39 higher rates in age groups with the lowest child-to-caregiver ratios. SB 1555 stipulates that the  
40 reimbursement rates must be in place no later than December 1, 2023.

41  
42 The former §809.20 requires Boards to have maximum reimbursement rates for the following  
43 age groups:

44 --Infants ages 0 through 17 months;  
45 --Toddlers ages 18 through 35 months;  
46 --Preschool ages 36 through 71 months; and

1 --School ages 72 months and older.

2  
3 The Commission amended §809.20 (Maximum Provider Reimbursement Rates) to require  
4 Boards to have maximum reimbursement rates that align with the CCR age groups for a  
5 Licensed Child Care Center, as defined in 40 TAC §746.1601 and §746.1609. The new age  
6 groups will also be applied to licensed and registered homes. The new age groups are as follows:

7 --Infants ages 0 through 11 months;

8 --Infants ages 12 through 17 months;

9 --Toddlers ages 18 through 23 months;

10 --Toddlers age 2 years;

11 --Preschool age 3 years;

12 --Preschool age 4 years;

13 --Preschool age 5 years; and

14 --School ages 6 through 13 years.

15  
16 In accordance with §809.20(a), which requires Boards to establish maximum reimbursement  
17 rates at or above a level established by the Commission and in accordance with state regulations,  
18 TWC will issue guidance requiring Boards to establish rates that are graduated to provide higher  
19 rates for the age groups with the lowest child-to-caregiver ratios as established in CCR, pursuant  
20 to amended Texas Government Code, §2308.315.

21  
22 Amended Texas Government Code, §2308.315 requires TWC to supply any demographic data  
23 needed by the Board to establish the rates. TWC supplies market rates, through the annual  
24 Market Rate Survey (MRS), for the previously defined age groups as a benchmark to assist  
25 Boards in establishing maximum reimbursement rates. TWC is working with the MRS contractor  
26 to ensure that the contractor can collect and analyze market rates based on the CCR age groups,  
27 and these rates will be included in the next MRS due in the fall of 2022.

28  
29 Additionally, implementing SB 1555 will require TWC's child care information system to align  
30 with the new age groups.

31  
32 TWC is planning to replace the child care information system, The Workforce Information  
33 System of Texas (TWIST), with a new Child Care Case Management System (CCCMS). TWC  
34 will include the changes to implement SB 1555 in the requirements for the new CCCMS,  
35 scheduled to be completed in 2023.

36  
37 The authors of SB 1555 recognized that implementation would require time for TWC to collect  
38 and analyze market rates data and make necessary information technology changes. As such, SB  
39 1555 stipulates that implementation of the bill should be no later than December 1, 2023.

40  
41 The provisions of the amended rules regarding age-group reimbursement rates will be effective  
42 on December 1, 2023.

#### 43 44 **Rule Amendments for Program Improvements**

45  
46 Additionally, the Commission, with input from stakeholders, identified potential amendments to



1 Chapter 809 for program improvements that will:  
2 --standardize statewide policies for service delivery consistency;  
3 --streamline the list of Board policy requirements;  
4 --codify the current TWC waiver to allow job search at initial eligibility;  
5 --update language regarding automated attendance reporting;  
6 --strengthen child care provider payment requirements to align with the industry practice of  
7 prospective payments;  
8 --include federal reporting requirements for providers charging parents above the parent share of  
9 cost (PSoC), if allowed by the Board; and  
10 --make technical changes and clarifications.

11  
12 *Statewide Policies for Service Delivery Consistency*

13  
14 Chapter 809 allows Boards to establish policies for various aspects of the Child Care Services  
15 program, and those policies vary greatly among the 28 Boards.

16  
17 To provide greater consistency in child care service delivery throughout the state, particularly for  
18 the management of waiting lists, assessing the PSoC, and general eligibility requirements, the  
19 Commission amended Chapter 809 to provide standard eligibility requirements statewide and  
20 ensure greater efficiency in service delivery for the following policy areas.

21  
22 *Statewide Waiting List Management*

23  
24 Section 809.18 requires Boards to maintain a list of parents waiting for child care services due to  
25 the lack of funding or lack of providers. The section requires Boards to have a policy that sets the  
26 frequency in which the parent information is updated and maintained on the waiting list. Board  
27 policies for requiring a parent to contact the Board to keep the child on the waiting list vary by  
28 Board and range from 30 to 180 days. This wide range in waiting list maintenance policies  
29 creates statewide inconsistencies in the accuracy of the number of children waiting for child care  
30 services.

31  
32 The Commission amended §809.18 to require Boards to contact parents with children on the  
33 waiting list every three months and to remove the child from the waiting list if the parents  
34 indicate that child care services are no longer required or if they do not respond to the Board  
35 regarding the continued need for child care services.

36  
37 As mentioned previously, TWC is planning to replace the child care information system in  
38 TWIST with a new CCCMS. The new CCCMS will have the ability to automate the process for  
39 contacting parents regarding the waitlist status. The provisions of the amended rules regarding  
40 contacting parents with children on the waiting list will be effective on December 1, 2023.

41  
42 *Statewide Parent Share of Cost Assessment*

43  
44 Federal Child Care Development Fund (CCDF) regulations at 45 Code of Federal Regulations  
45 (CFR) §98.45(k) require Lead Agencies to "establish, and periodically revise, by rule, a sliding  
46 fee scale(s) for families that receive CCDF." Regulations also require that the sliding fee scales

1 must be based on income and family size, affordable, and not be a barrier to a family receiving  
2 assistance. The sliding fee scale should be designed in a manner that gradually increases the  
3 percentage of family income the parent pays as the income increases. Although not a regulatory  
4 requirement, federal guidance suggests that the sliding fee scale not exceed 7 percent of the  
5 family income.

6  
7 Former §809.19 required Boards to establish PSoC amounts based on the federal requirements.  
8 The PSoC is established based upon family income and family size.

9  
10 Board sliding fee scales vary greatly among the workforce areas. For example:

11 --For a family at the lowest income range (10 percent state median income (SMI)/33 percent  
12 federal poverty guidelines (FPG)) with a family size of three and \$600 monthly income, Board  
13 sliding scales range from 1.6 percent to 8.2 percent of the family income.

14 --For a family in the mid-income range (55 percent SMI/150 FPG) with a family size of three  
15 and \$3,288 monthly income, Board scales range from 4.3 percent to 9.5 percent.

16 --For a family at the highest income range (85 percent SMI) with a family size of three and  
17 \$5,081 monthly income, Board scales range of 2.3 percent to 9.8 percent.

18  
19 Board policies also vary greatly on additional amounts that may be added to the PSoC for each  
20 additional child in care.

21  
22 Additionally, TWC's former standard sliding scale requires Boards to have a static PSoC amount  
23 within nine established income ranges. If the family income changes, but remains within the  
24 income range, then the PSoC will not change. This methodology was established prior to the  
25 requirement for the PSoC to remain stable within the 12-month eligibility period and was  
26 designed to minimize the impact on the PSoC of relatively small changes in income.

27  
28 However, the disadvantage of this methodology is that once the family income crosses an  
29 income range, the increased PSoC could be greater than the income amount increase, resulting  
30 "mini-cliffs" that create relatively substantial increases in the percentage of income a family pays  
31 if a family experiences small increases in income.

32  
33 The Commission amended Chapter 809 to create a consistent statewide policy on PSoC  
34 assessments that would allow for greater consistency in ensuring that the PSoC amount is  
35 affordable and would be aligned more closely with the percentage of the family income. The  
36 policy:

37 --standardizes the PSoC assessment to provide a sliding-fee scale that could start from 2 percent  
38 to 3.5 percent of family income and gradually increase as the family income increases, but does  
39 not exceed 7 percent of the family income for one child in care; and

40 --allows for a lower incremental increased percentage of the family income for families and for  
41 each additional child in care.

42  
43 The former PSoC assessments led to variances in the amount charged to parents among  
44 workforce areas, including among workforce areas with similar demographics, income levels,  
45 and cost of living levels. The new statewide policy for PSoC assessments will standardize the  
46 percentage of income a parent pays, limited to 7 percent of the family income, and will create

1 greater consistency in PSoC.

2  
3 The Commission acknowledges that the new statewide PSoC standard will require substantial  
4 changes to the child care automated system. As mentioned previously, TWC is planning to  
5 replace the child care information system in TWIST with the new CCCMS. TWC will include  
6 the changes to the PSoC in the requirements for the new CCCMS, scheduled to be completed in  
7 2023.

8  
9 The provisions of the amended rules regarding the statewide PSoC will be effective on  
10 December 1, 2023.

### 11 *Statewide Income and Activity Eligibility Requirements*

12  
13 Chapter 809, Subchapter C (Eligibility for Child Care Services) establishes general statewide  
14 eligibility requirements that reflect the eligibility requirements in the CCDF regulations.  
15 However, within the general requirements, Boards have some flexibility to place additional  
16 requirements for eligibility. For example, the rules require that family income cannot exceed the  
17 federal income limits of 85 percent of the SMI. However, the rules also allow Boards to have  
18 lower income limits. Currently, five Boards have income limits lower than 85 percent of the  
19 SMI. Similarly, TWC rules require that parents must participate in work, job training, or  
20 education activities for 25 hours a week (50 hours for a dual-parent family), but Boards are  
21 allowed to place higher hourly activity requirements on families. Currently, only one Board has  
22 activity requirements greater than the minimum requirements in rule.  
23

24  
25 The Commission amended Chapter 809 to create a consistent statewide policy to:  
26 --implement a standard income eligibility limit of 85 percent of the SMI; and  
27 --require that parents must participate in work, job training, or education activities for 25 hours a  
28 week (50 hours for a dual-parent family).

### 29 *Statewide Policy on Child Care during Education*

30  
31  
32 Boards place varying restrictions on providing child care for parents pursuing certain types of  
33 education and degrees, and how Boards determine a parent is making progress in achieving  
34 education and job training completions. For example, five Boards specifically allow child care  
35 services while a parent is pursuing postgraduate degrees, while five other Boards do not specify  
36 if advanced degrees are allowed, and 16 Boards specifically state that child care services while  
37 pursuing a postgraduate degree are not allowed.  
38

39 Additionally, the time limits for receiving child care services while participating in education  
40 activities vary greatly by Board. Time limits range from 48 months to a maximum of 96 months  
41 for all postsecondary education. Time limits also vary according to the type of education  
42 pursued. For example, Boards allow from 60 months to 72 months for a bachelor's degree, and  
43 from 24 months to 48 months for a certification program.  
44

45 The Commission amended Chapter 809 to create a consistent statewide policy regarding child  
46 care while the parent is in education activities. The rules establish a cumulative total of 60

1 months for parents to participate in CCS while enrolled full-time in an undergraduate degree  
2 program.

3  
4 The Commission notes that this limit applies to parents enrolled full-time in the education  
5 programs and are meeting the participation requirements only through education hours. The  
6 Commission also notes that the cumulate 60-month limit does not need to be consecutive  
7 months, but it does include cumulative months enrolled in an undergraduate degree program.

8  
9 The Commission notes that the amended rules remove postgraduate degrees from the definition  
10 of an educational program, thus, removing the inclusion of postgraduate enrollment in counting  
11 education activity hours for child care services eligibility. This creates a consistent policy  
12 followed by a majority of Boards. As mentioned previously, 16 Boards specifically state in  
13 policy that child care services while pursuing a postgraduate degree are not allowed.

14  
15 Finally, §809.2(1) currently requires Boards to establish a policy to determine how a parent is  
16 making progress toward successful completion of an education program or job training program.  
17 Currently, Board policies vary widely regarding attendance requirements, grade point average,  
18 and consideration for an education or training program's requirements specific requirements.

19  
20 The Commission amended the definition of attending a job training or educational program to  
21 establish a statewide policy that "making progress toward successful completion" of a job  
22 training or education program is demonstrated through continued enrollment in the training or  
23 educational program. This policy is intended to streamline and standardize the verification that  
24 the parent is making progress toward completion of the program.

#### 25 26 *Statewide Policies on Children with Disabilities*

27  
28 CCDF regulations at 45 CFR §98.20(a)(1)(ii) allows Lead Agencies to serve children with  
29 disabilities up to the age of 19 and §809.41(a)(1)(B) gives this flexibility to Boards. Currently,  
30 27 Boards provide child care services for children with disabilities up to age 19.

31  
32 The Commission amended Chapter 809 to create a consistent statewide policy to have children  
33 with disabilities up to age 19 eligible for child care services.

#### 34 35 *Streamline Rules on Board-Required Policies, and Remove Operational Procedures*

36  
37 The Commission amended §809.13 to remove the list in §809.13(c) of required Board policies as  
38 the required Board policies are described in other Chapter 809 sections, as well as in the Child  
39 Care Services Guide. Section 809.13(c) was created to assist Boards in identifying in one place  
40 their required policies. However, the section predated the issuance of the Child Care Services  
41 Guide, which also provides the same comprehensive list of required Board policies.

42  
43 The Commission notes that the requirement that Boards have policies formerly listed in  
44 §809.13(c) has not changed in other sections of Chapter 809. This change simply removes  
45 repeating these requirements in §809.13(c).

1 Allowing Job Search for Initial Eligibility

2  
3 The Commission adopts new §809.56, Child Care during Initial Job Search. Under federal Child  
4 Care Development Block Grant (CCDBG) regulation 45 CFR §98.21(a)(2)(iii), states may  
5 initially qualify a family for assistance if the parent is seeking employment or engaging in job  
6 search and may end assistance after a minimum of three months if the parent has not found  
7 employment.

8  
9 However, unemployed parents who are looking for work are not initially eligible for CCS under  
10 the former §809.41(a)(3)(B). On June 15, 2021, the Commission approved a temporary waiver  
11 for §809.41(a)(3)(B) to provide additional flexibility, allowable under federal CCDBG law and  
12 regulations, to support parents who do not meet the activity requirements when eligibility is  
13 determined. This waiver allows up to three months of child care for parents to search for work.  
14 The waiver expires on October 1, 2022.

15  
16 On June 30, 2021, TWC issued guidance to the Boards in WD Letter 13-21, regarding eligibility  
17 for child care during the initial job search period.

18  
19 The Commission amended §809.2 to include job search in the definition of working and added  
20 new §809.56 in Chapter 809, Subchapter C (Eligibility for Child Care Services) for job search  
21 child care with provisions consistent with the guidance issued in WD Letter 13-21, specifically:

22  
23 --A parent, including a parent in a dual-parent family, is eligible for child care services if at  
24 initial eligibility determination the family does not meet the minimum participation requirements  
25 for At-Risk Child Care. (Note: Parents in the CCS program who are unemployed at the time of  
26 eligibility redetermination are provided three months of continued care under §809.51(b)  
27 regarding child care during interruptions in work.)

28  
29 --Boards must allow parents to self-attest that the family meets the requirements for job search  
30 child care, and that the family income does not exceed 85 percent of the state median income.

31  
32 --Child care for job search at initial eligibility is limited to three months (with the clarification in  
33 guidance that a Board may extend an initial job search period for a maximum of 30 calendar  
34 days to ensure continuity of care in order to verify and determine eligibility requirements for  
35 continued care).

36  
37 --Total activity participation by the end of the three months must be at least 25 hours for a single-  
38 parent family or 50 hours per week for a dual-parent family, and must consist of a minimum of  
39 12 hours in employment for a single-parent family and 25 hours in employment for a dual-parent  
40 family.

41  
42 --If the family meets the participation requirements above, within, or by the end of the three  
43 months, child care services will continue for a total of 12 months, inclusive of the months in  
44 initial job search, as long as the family income is below 85 percent SMI.

45  
46 --If the family does not meet minimum activity requirements by the end of the three months, care

1 must be terminated.

2

3 --The PSoC is initially assessed at the highest amount based on the family size and number of  
4 children in care.

5

6 --The initially assessed amount will immediately be reduced to zero, which includes dual-parent  
7 families in which one parent is working but the participation requirements are not met.

8

9 --If the parent begins to meet participation requirements within or by the end of the job search  
10 period, the PSoC must be reinstated at the initially assessed amount or the amount based on the  
11 actual family income, whichever is lower.

12

13 Adopted §809.56 also requires that eligibility for job search child care be limited to one three-  
14 month job search period within a 12-month period.

15

16 The Commission notes the intent of requiring the 12/25 minimum number of activity hours in  
17 employment is to emphasize employment outcomes during job search, while also allowing  
18 families to meet the full 25/50 hourly requirement through a combination of employment,  
19 education, and training. This policy strikes a balance between requiring job search individuals to  
20 meet the activity through 100 percent employment and allowing the family to meet the full 25/50  
21 requirement through a combination of employment, education, and training hours.

22

23 TWC currently has a Board Incentive Award that provides an incentive for Boards to assist  
24 parents in child care job search to obtain employment. To emphasize this connection with the  
25 workforce delivery network, the Commission included a requirement that a Board ensures that  
26 the parent in child care for job search is registered in the state's labor exchange system and has  
27 access to appropriate services available through the one-stop service delivery network.

28

### 29 Automated Attendance and Attendance Standards

30

31 TWC is conducting a procurement for a new automated attendance system. However, Chapter  
32 809 rules included several requirements that are specific to the previous automated system,  
33 particularly regarding the use of attendance cards for point-of-service devices. The type of  
34 automated system and the process for recording attendance, including the use of attendance  
35 cards, has not been determined.

36

37 The Commission amended the attendance reporting language in §809.78 (regarding parent  
38 reporting requirements), §809.95 (regarding provider reporting requirements), and §809.115  
39 (regarding corrective actions) related to using attendance cards or other language specific to the  
40 previous system, which would allow flexibility for future automated attendance systems.

41

### 42 Provider Payments

43

44 CCDF regulations at 45 CFR §98.45(l) requires Lead Agencies to establish payment practices  
45 that ensure timeliness of payment and reflect generally accepted payment practices of child care  
46 providers that do receive CCDF. The regulations cite paying based on a child's enrollment rather

1 than attendance and paying prospectively prior to the delivery of services.

2  
3 Section 809.93(b) requires Boards to reimburse regulated providers based on the child's  
4 enrollment rather than attendance; however, former rules do not allow for providers to be paid  
5 prospectively. Because payments are based on the enrollment authorization and not attendance,  
6 the Commission amended §809.93 to require Boards to pay providers on that enrollment every  
7 two weeks prior to the delivery of services, pursuant to 45 CFR §98.45(l).

8  
9 Currently, 24 Boards reimburse providers either weekly or every two weeks. Additionally, the  
10 two-week prospective payment aligns with current Commission policy regarding transfers that  
11 includes a waiting period of two weeks before the effective date of a transfer, except in cases in  
12 which the provider is subject to a CCL corrective action, when the transfer is authorized by Child  
13 Protective Services (CPS) for a child in protective services, or on a case-by-case basis as  
14 determined by the Board.

15  
16 The Commission acknowledges this change will require detailed operational guidance to Boards  
17 regarding reconciling payments, payment estimations, and child transfers. Additionally, paying  
18 prospectively will also require changes to the child care information systems. In order to work  
19 with Boards on operational details of this new policy and to include this change in the new  
20 CCCMS, the provisions of the amended rules will be effective on December 1, 2023.

21  
22 *Providers Charging Parents the Difference between the Board Rate and the Provider Published*  
23 *Rate*

24  
25 TWC rules at §809.92(c) prohibit providers from charging the difference to parents who are  
26 exempt from the PSoC (parents participating in Choices, Supplemental Nutrition Assistance  
27 Program Employment and Training, parents of children experiencing homelessness, and parents  
28 of children in protective services) and whose PSoC is calculated to be zero. However, §809.92(d)  
29 allows Boards to prohibit providers from charging the difference to all parents. Currently eight  
30 Boards allow providers to charge the difference to parents not exempt from the PSoC.

31  
32 CCDF regulations at 45 CFR §98.45(b) requires Lead Agencies to ensure that their payment  
33 rates ensure equal access to the full range of providers that are available to parents not receiving  
34 CCDF services, and that the rates are adequate without additional amounts above the assessed  
35 PSoC for instances in which the provider's published rate exceeds the subsidy amount.

36  
37 CCDF regulations at 45 CFR §98.45(b)(5) requires a rationale for the policy on whether child  
38 care providers may charge additional amounts to families above the PSoC, including:  
39 --a demonstration that the policy promotes affordability and access; and  
40 --an analysis of the interaction between any such additional amounts with the required family  
41 copayments, and of the ability of subsidy payment rates to provide access to care without  
42 additional fees.

43  
44 Additionally, 45 CFR §98.45(d)(2) requires Lead Agencies to track the extent to which "CCDF  
45 child care providers charge amounts to families more than the required family co-payment...in  
46 instances where the provider's price exceeds the subsidy payment, including data on the size and

1 frequency of any such payments."  
2

3 To align with federal CCDF requirements, the Commission amended §809.92 to require Boards  
4 that allow providers to charge parents amounts above the assessed PSoC to:

5 --require that each month, any provider that charges a family an amount above the PSoC reports  
6 the following:

7 ----the specific families that were charged an additional amount above the PSoC;

8 ----the frequency with which each family was charged; and

9 ----the amount of each additional charge;

10 --provide the rationale for the Board's policy to allow providers to charge families additional  
11 amounts above the required copayment, including a demonstration of how the policy promotes  
12 affordability and access for families; and

13 --describe the Board's analysis of the interaction between the additional amounts charged to  
14 families with the required PSoC and the ability of subsidy payment rates to provide access to  
15 care without additional fees.

16  
17 According to the most recent MRS, 5.2 percent of centers and 6.5 percent of homes charge  
18 parents the difference between the reimbursement rate and the provider published rate. Further,  
19 on August 31, 2021, the Commission approved substantial rate increases for all providers  
20 designed to ensure that the payment rates ensure equal access required by 45 CFR §98.45. This  
21 rate action could also reduce instances in which the provider's published rates are higher than  
22 Board reimbursement rates.

23

#### 24 Rule Clarifications and Technical Amendments

25

26 The Commission also amended the following sections of Chapter 809 to provide clarifications of  
27 the rule provisions and technical changes:

28

29 --Throughout Chapter 809 - Changed Child Care Licensing (CCL) to Child Care Regulation  
30 (CCR).

31 --§809.1 - Specified which sections of Chapter 809 do not apply to Board child care services  
32 funded through non-CCDF sources.

33 --§809.16 - Clarified that Board quality activities must be in accordance with the CCDF State  
34 Plan. Removed language regarding compliance with federal and state regulations as these  
35 requirements are reflected in the CCDF State Plan.

36 --§809.20 - Included enhanced rate for infants and toddlers at a Texas School Ready provider  
37 participating in the Texas School Ready infant/toddler program.

38 --§809.20 - Codified the current practice of Boards establishing a higher enhanced  
39 reimbursement rate for nontraditional hours, as defined by the Board.

40 --§809.44 - Separated exclusions for one-time cash payments from tax credits and refunds from  
41 the income calculation.

42 --§809.48 and §809.50 - Specified that dual-parent activity hours include a combination of work,  
43 training, or education.

44 --§809.78 - Clarified the process regarding the 15- and 30-day thresholds for Boards notifying  
45 parents of potential excessive absences.

46 --§809.93 - Included "blended-day" as an enrollment type.



- 1 --§809.93 - Revised outdated language regarding payments for "occasional" part-day/full-day  
2 attendance.  
3 --§809.94 - Removed the language prohibiting subsidy eligibility for providers that are on  
4 Adverse Action with CCR but are appealing the action as this language is not necessary, due to  
5 SB 764 (87th Texas Legislature, Regular Session (2021)), which prohibited these providers from  
6 operating.  
7 --§809.131 - Clarified that at minimum, a center director account is required to be created within  
8 the Texas Early Childhood Professional Development System's Workforce Registry to meet  
9 Texas Rising Star eligibility requirements.  
10 --§809.134 - Revised that Texas Rising Star mentor staff with allowable associate degrees have  
11 two years of suitable experience in early childhood education as determined by the Board to  
12 allow Boards to determine suitable experience.

13  
14 Chapter 809 Rule Review

15  
16 Texas Government Code, §2001.039 requires that every four years each state agency review and  
17 consider for readoption, revision, or repeal each rule adopted by that agency. TWC reviewed the  
18 rules in Chapter 809 and determined that the rules are needed, reflect current legal and policy  
19 considerations, and reflect current TWC procedures. The reasons for initially adopting the rules  
20 continue to exist and any changes to the rules as a result of the rule review are described in Part  
21 II of this preamble.

22  
23 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

24 (Note: Minor editorial changes are made that do not change the meaning of the rules and,  
25 therefore, are not discussed in the Explanation of Individual Provisions.)

26  
27 **SUBCHAPTER A. GENERAL PROVISIONS**

28 TWC adopts the following amendments to Subchapter A:

29  
30 **§809.1. Short Title and Purpose**

31 Section 809.1 is amended to clarify the following sections of Chapter 809 do not apply to child  
32 care services that use non-Child Care and Development Fund sources allocated to workforce  
33 areas:

- 34 --Funds used for quality improvement activities described in §809.16;  
35 --Assessing the PSoC described in §809.19; and  
36 --Subchapter C, relating to Eligibility for Child Care Services.

37  
38 **§809.2. Definitions**

39 Section 809.2(1)(C) is amended to establish a statewide policy that "making progress toward  
40 successful completion" of a job training or education program is demonstrated through continued  
41 enrollment in the training or educational program. This policy is intended to streamline and  
42 standardize the verification that the parent is making progress toward completion of the program,  
43 aligning with the policies currently in place at a majority of Boards.

44  
45 Section 809.2 is amended to add the definition of a Child Care Desert in paragraph (4). A child  
46 care desert is defined as an area described in Texas Labor Code, §302.0461 in which the number

1 of children under age six with working parents is at least three times greater than the capacity of  
2 licensed child care providers in the area, based on data published annually by the Commission.

3  
4 Section 809.2(5), as renumbered, is amended to change the name of the child care licensing  
5 entity from "Child Care Licensing (CCL)" to current "Child Care Regulation (CCR)." This  
6 change is also made throughout the chapter.

7  
8 Section 809.2(10)(C), as renumbered, is amended to state that an education program at an  
9 institution of higher education must lead to an undergraduate degree. The change is made to  
10 create a statewide standard that postgraduate degrees are not included in the definition of an  
11 educational program for CCS eligibility activity hours. The Commission emphasizes that  
12 enrollment in postgraduate degree programs does not in and of itself disqualify a parent from  
13 CCS eligibility. The intent is that postgraduate hours are not included in the parent's or family's  
14 activity hours for eligibility.

15  
16 Section 809.2 is amended to remove the definition of a "Pre-Star provider." The Commission is  
17 creating a new "Entry Level" designation as part of the definition of a Texas Rising Star provider  
18 pursuant to Texas Government Code, §2308.3155 that requires all providers of TWC-funded  
19 CCS be included in the Texas Rising Star program.

20  
21 Section 809.2(25) is amended to remove "voluntary" from the definition of the Texas Rising Star  
22 program, as this program is now a statutory requirement for CCS providers.

23  
24 Section 809.2(26) is amended to include "Entry Level" provider designation in the definition of a  
25 Texas Rising Star provider. Additionally, §809.2(26) is amended to clarify that star-level (Two-  
26 Star, Three-Star, and Four-Star) Texas Rising Star providers are considered to be "certified"  
27 providers throughout the rule language and "Entry Level" is considered to be a "designation."

28  
29 Section 809.2(27) is amended to include job search in the definition of working.

### 30 31 **SUBCHAPTER B. GENERAL MANAGEMENT**

32 TWC adopts the following amendments to Subchapter B:

#### 33 34 **§809.13. Board Policies for Child Care Services**

35 Section 809.13 is amended to remove the list of required Board procedures and policies in  
36 subsection (c) as the required Board policies are described in other Chapter 809 sections. A  
37 comprehensive list of policies required in Chapter 809 as well as procedural requirements for  
38 Boards will be included in TWC's Child Care Services Guide and updated with any subsequent  
39 rule amendments that require Board policies.

#### 40 41 **§809.14. Coordination of Child Care Services**

42 Section 809.14 is amended to add subsection (c) pursuant to Texas Labor Code, §302.00436,  
43 requiring Boards to inform local school districts and open-enrollment charter schools of  
44 opportunities to partner with child care providers to expand access to and provide facilities for  
45 pre-K programs.

1 **§809.15. Promoting Consumer Education**

2 Section 809.15(b)(2) is amended to change "CCL" to "CCR" as described in §809.2.

4 **§809.16. Quality Improvement Activities**

5 Section 809.16(a) is amended to clarify that Board quality activities must be in accordance with  
6 the CCDF State Plan and to remove language regarding compliance with federal and state  
7 regulations as these requirements are reflected in the CCDF State Plan.

9 **§809.18. Maintenance of a Waiting List**

10 Section 809.18 is amended to establish two new subsections. New subsection (a) will be  
11 effective until December 1, 2023, and contains the waiting list maintenance provisions that are  
12 currently in rule with the following changes:

13 --New §809.18(a)(1) clarifies that the waiting list includes children, as well as parents.

14 --New §809.18(a)(3) clarifies, pursuant to §809.22, that children who are directly referred from a  
15 recognized pre-K or Head Start/Early Head Start partnership are exempted from the waiting list.

17 New §809.18(b) will be effective December 1, 2023, and contains the amended provisions in  
18 new §809.18(a) and is further amended to remove the Board-determined process for determining  
19 the child is potentially eligible for services and the frequency in which parent information is  
20 updated and maintained. New §809.18(b)(4) creates a statewide policy to require that Boards  
21 contact the parent every three months and remove the child from the waiting list if the parent  
22 indicates that child care services are no longer required or does not respond to the Board  
23 regarding the continued need for child care services.

25 **§809.19. Assessing the Parent Share of Cost**

26 Section 809.19 is amended to establish two new subsections. New subsection (a) will be  
27 effective until December 1, 2023, and contains the PSoC provisions that are currently in rule  
28 with the following changes:

29 --New §809.19(a) removes the requirement that child care funded through non-CCDF sources  
30 must be assessed a PSoC.

31 --New §809.19(a)(2) clarifies that the Board policy regarding reimbursing providers if a parent  
32 fails to pay the PSoC must state whether or not the Board will reimburse the provider if the  
33 parent fails to pay. New §809.19(a)(2) also combines the language in current rule that if the  
34 Board policy does not reimburse the provider, then the Board may have a policy that requires the  
35 parent to pay the provider prior to being redetermined for future TWC-funded child care  
36 services;

37 --New §809.19(a)(10) adds blended care referrals as eligible for a PSoC reduction by Board  
38 policy.

40 New §809.19(b) will be effective December 1, 2023, and establishes a statewide PSoC policy.

42 New §809.19(b) states that the PSoC must be assessed to all parents, except those parents  
43 exempted from the PSoC, and the amount is established by the Commission and determined on a  
44 sliding fee scale based on the family size and gross monthly income and represented by a  
45 percentage of the SMI.

1 The Commission notes that the actual percentage of income to be used will be established,  
2 reviewed, and, if necessary, modified by the Commission on an annual basis as the annual SMI  
3 amounts are released.

4  
5 New §809.19(b) requires Boards to assess the PSoC in accordance with the amount established  
6 by the Commission.

7  
8 New §809.19(b) removes the requirement that Board policy include the general criteria for  
9 determining affordability of the Board's PSoC, as the PSoC is no longer determined or  
10 established by the Board. The amended rules remove the requirement that Boards have a  
11 definition of what constitutes frequent terminations and its process for assessing PSoC  
12 affordability.

13  
14 Similarly, because the Board no longer determines the PSoC, new §809.19(b) removes the  
15 requirement that Boards with frequent terminations for parent failure to pay the PSoC must  
16 reexamine its PSoC and adjust it to ensure the PSoC is not a barrier to assistance.

17  
18 The Commission notes that TWC will monitor and analyze terminations due to failure to pay the  
19 PSoC and evaluate the state PSoC policy to determine if changes are needed to ensure the  
20 amounts charged are a barrier to access.

21  
22 **§809.20. Maximum Provider Reimbursement Rates**

23 Section 809.20(a)(2) is amended to be effective until December 1, 2023, and contains the  
24 reimbursement age groups currently in rule.

25  
26 Section 809.20(a) is amended to add new paragraph (3) to be effective December 1, 2023, and  
27 aligns the age groups for reimbursement with the age groups defined by CCR as required by  
28 amended Texas Government Code, §2308.315. The amended language adds new Board rates for  
29 Infants ages 12 through 17 months, Toddlers age 2 years, Preschool age 4 years, Preschool age 5  
30 years, and redefines school-age rates to start at six years (from the previous five years of age).

31  
32 Sections 809.20(b)(1), (c), and (d) are amended to state that the enhanced reimbursement rates  
33 are required for certified Texas Rising Star providers (Two-, Three- and Four-Star providers),  
34 which aligns with Texas Government Code, §2308.3155(b-1) prohibiting providers at the Entry  
35 Level designation from being eligible for the enhanced rate.

36  
37 Section 809.20(b)(2) is amended to include infants and toddlers for enhanced rates for providers  
38 participating in the Texas School Ready program for those age groups.

39  
40 New §809.20(g) is added to include in rule the current practice that Boards may establish a  
41 higher enhanced reimbursement rate for nontraditional hours, as defined by the Board.

42  
43 **SUBCHAPTER C. ELIGIBILITY FOR CHILD CARE SERVICES**

44 TWC adopts the following amendments to Subchapter C:

45  
46 **§809.41. A Child's General Eligibility for Child Care Services**

1 Section 809.41(a)(1)(B) is amended to establish a statewide policy that a child with disabilities  
2 under 19 years of age meets age eligibility for child care services. Currently, 27 of the 28 Boards  
3 allow eligibility for children with disabilities up to age 19.

4  
5 Section 809.41(a)(3)(A)(i) is amended to establish a statewide income limit of 85 percent of the  
6 SMI, which is the federal income limit. Accordingly, §809.41(e), regarding Boards that have  
7 initial income limits lower than 85 percent SMI, is removed.

8  
9 Section 809.41(a)(3)(B) is amended to allow job search as an allowable activity for child care  
10 services eligibility.

11  
12 Section 809.41(b) is amended to establish a statewide policy for parents enrolled in an  
13 educational program, which allows them to participate in CCS for a cumulative total of 60  
14 months. The limit applies only to parents enrolled in a full-time (as defined by the educational  
15 institution) in a postsecondary undergraduate education program. Accordingly, with the new 60-  
16 month requirement, §809.41(c) requiring four years of child care services for parents enrolled in  
17 a program leading to a high-growth, high-demand occupation is removed.

18  
19 Renumbered §809.41(c) is amended to change "postsecondary" to "undergraduate" degree to  
20 align with the new definition of an educational program in §809.2.

21  
22 Section 809.41(f), specifying that Subchapter C only applies to child care services using funds  
23 allocated to the Boards pursuant to §800.58 (Child Care and Development Fund), is removed.  
24 This provision is now included in §809.1.

25  
26 **§809.42. Eligibility Verification, Determination, and Redetermination**  
27 Section 809.42(b) is amended to include the three-month initial job search eligibility period in  
28 new §809.56 as an exception to the 12-month eligibility period.

29  
30 **§809.44. Calculating Family Income**  
31 Section 809.44(b)(5) is amended to include tax-related exemptions from the family income  
32 calculation and to clarify that all tax credits, not just the specified Earned Income Tax Credit  
33 (EITC) and the Advanced EITC, are exempted from the family income calculation. Section  
34 809.44(b)(5) is also amended to move onetime payments from this paragraph to new  
35 §809.44(b)(20) related to one-time payments.

36  
37 **§809.48. Transitional Child Care**  
38 Section 809.48(a)(3) is amended to clarify that the minimum weekly activity requirement of 50  
39 hours per week for a dual-parent family is a combined total from both parents. The Commission  
40 clarifies that there is no minimum activity requirement for each parent.

41  
42 Section 809.48 is amended to remove subsection (b) allowing Boards to establish a higher  
43 income limit for Transitional Child Care. This paragraph is no longer needed with the statewide  
44 income eligibility limit of 85 percent SMI established in §809.41.

45  
46 Relettered §809.48(d) is amended to change postsecondary to undergraduate to reflect the

1 amended definition of an educational program in §809.2.

2  
3 **§809.50. At-Risk Child Care**

4 Section 809.50(a)(1) is amended to establish a statewide income limit of 85 percent SMI for At-  
5 Risk Child Care.

6  
7 Section 809.50(a)(2) is amended to clarify that the minimum weekly activity requirement of 50  
8 hours per week for a dual-parent family is a combined total from both parents. The Commission  
9 clarifies that there is no minimum activity requirement for each parent.

10  
11 Section 809.50(c) is amended to change postsecondary to undergraduate to reflect the amended  
12 definition of an educational program in §809.2.

13  
14 Section 809.50 is amended to remove subsection (e) which allows Boards to establish a higher  
15 income limit for teen parents and subsection (g) which allows Boards to establish a higher  
16 income limit for families with children enrolled in Head Start, Early Head Start, or public pre-K.  
17 These provisions are no longer needed with the statewide income eligibility limit of 85 percent  
18 SMI established in §809.41.

19  
20 Subsections are relettered accordingly.

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

23 Section 809.51(a) is amended to include the three-month initial job search eligibility period in  
24 new §809.56 as an exception to the 12-month eligibility period.

25  
26 **§809.55. Waiting Period for Reapplication**

27 Section 809.55(a) is amended to remove specific paragraph citations in other sections of the  
28 rules.

29  
30 **§809.56. Child Care during Initial Job Search**

31 New §809.56 sets forth the requirements for child care during a parent's initial job search  
32 activities. Section 809.56(a) states that a parent, including a parent in a dual-parent family, is  
33 eligible for child care services at initial eligibility if the family does not meet the minimum  
34 participation requirements for At-Risk Child Care. Section 809.56(b) allows parents to self-attest  
35 that the parent does not meet the At-Risk participation requirements.

36  
37 New §809.56(c) limits child care for job search to three months. Child care services will  
38 continue following this three-month period, if, by the end of the three months, the family meets  
39 family income eligibility and the following activity requirements:

40 --25 hours for a single parent, with at least 12 hours in employment; or

41 --50 hours combined for dual-parent families, with at least 25 combined hours in employment.

42  
43 If the above participation requirements are met within or by the end of the three-month period,  
44 care will continue for 12 months, inclusive of the care provided during the initial job search  
45 period.

1 New §809.56(d) sets forth the requirements for the PSoC during the initial job search period.  
2 Boards will initially assess the PSoC at the highest amount based on the family size and number  
3 of children in care. However, this assessed amount will immediately be temporarily reduced to  
4 zero. This reduction also applies to dual-parent families in which one parent is employed, but the  
5 family meets the requirements for job search child care (that is, the family is not meeting the At-  
6 Risk participation requirements). If the parent begins to meet the participation requirements  
7 described in §809.56(c), the PSoC will be reinstated at the initially assessed amount or the  
8 amount based on the actual family income, whichever is lower.

9  
10 New §809.56(e) limits child care during the initial job search period to one such period within a  
11 12-month period.

12  
13 New §809.56(f) requires Boards to ensure that the parent in child care job search:  
14 --registers with the state's labor exchange system (currently, WorkInTexas.com); and  
15 --has access the appropriate services available through the one-stop delivery network described  
16 in 40 TAC §801.28.

#### 17 **SUBCHAPTER D. PARENT RIGHTS AND RESPONSIBILITIES**

18 TWC adopts the following amendments to Subchapter D:

##### 19 **§809.71. Parent Rights**

20  
21 Section 809.71(3) is amended to require that the information about transfer policies include the  
22 two-week waiting period before the effective date of a transfer, except in cases in which the  
23 provider is placed on corrective action by CCR, when the transfer is authorized by CPS for a  
24 child in protective services, or on a case-by-case basis as determined by the Board.

25  
26 Section 809.71(4), related to information on Board policies regarding providers charging parents  
27 additional amounts above the PSoC, is amended to clarify that the information must include  
28 providers charging any amounts above the assessed PSoC, not just an amount that makes up the  
29 full difference between the PSoC and the provider's published rate.

##### 30 **§809.72. Parent Eligibility Documentation Requirements**

31  
32 Section 809.72 is amended to allow a child whose parents are conducting an initial job search  
33 under the respective rule provisions for these conditions to receive child care services without the  
34 parent first providing the Board's child care contractor with all information necessary to  
35 determine initial eligibility.

##### 36 **§809.73. Parent Reporting Requirements**

37  
38 Section 809.73(a) is amended to clarify that parents in initial job search are only required to  
39 report items that impact a family's eligibility or that enable the Board or contractor to contact the  
40 family or pay the provider.

##### 41 **§809.75. Child Care during Appeal**

42  
43 Section 809.75 is amended to correct a reference in §809.19 related to nonpayment of the PSoC  
44 as it relates to a parent appeal.

1 **§809.78. Attendance Standards and Notice and Reporting Requirements**

2 Section 809.78 is amended to remove or clarify requirements for attendance tracking that are  
3 specific to the former automated attendance tracking or would be specific to a particular future  
4 automated attendance system.

5  
6 Section 809.78(a)(3) is amended to remove from unexplained absences any denied or rejected  
7 attendance recording in which the parent does not contact TWC's Child Care Services unit to  
8 report the issue.

9  
10 Section 809.78(a)(5) is amended to remove language related to using attendance cards and to  
11 include language stating that parents shall adhere to TWC procedures for reporting attendance  
12 and absences, including the use of the attendance reporting system.

13  
14 Section 809.78(a) is also amended to remove paragraphs (6) - (10) as these provisions apply  
15 specifically to the previous system's use of attendance cards or use of the previous automated  
16 attendance system.

17  
18 Section 809.78(d)(1) clarifies that the written notification of potential termination due to the  
19 failure to meet attendance standards should be provided "as soon as practicable" after the child  
20 reaches the 15- or 30-day cumulative absence threshold.

21  
22 **SUBCHAPTER E. REQUIREMENTS TO PROVIDE CHILD CARE**

23 TWC adopts the following amendments to Subchapter E:

24  
25 **§809.91. Minimum Requirements for Providers**

26 Section 809.91 is amended to include Texas Rising Star certification or Entry Level designation  
27 as a requirement to provide child care services. This section is also amended to remove  
28 references to the Pre-Star designation.

29  
30 **§809.92. Provider Responsibilities and Reporting Requirements**

31 Section 809.92(c) is amended to clarify that providers must not charge any amounts over the  
32 PSoC, not just the full difference between the PSoC and the provider's published rates, to parents  
33 who are exempt from the PSoC or have a zero PSoC assessment. This subsection is also  
34 amended to add parents in initial job search child care during the initial job search period.

35  
36 Section 809.92(d) is amended to also state that Boards may have a policy that allows providers to  
37 charge amounts above the PSoC to parents not included in the subsection (c) exemptions.

38  
39 New §809.92(e) requires Boards that allow providers to charge additional amounts pursuant to  
40 §809.92(d) to ensure that the provider reports to the Board each month the:

41 --specific families that were charged an additional amount above the assessed amount;

42 --frequency with which each family was charged; and

43 --amount of each additional charge.

44  
45 New §809.92(f) is added to include the federal reporting requirements regarding polices allowing  
46 providers to charge parents above the PSoC amount. The new rule language requires Boards that



1 have a policy allowing providers to charge such amounts to:  
2 --provide the rationale for the Board's policy, including a demonstration of how the policy  
3 promotes affordability and access for families; and  
4 --describe the Board's analysis of the interaction between the additional amounts charged to  
5 families with the required PSoC and the ability of current reimbursement rates to provide access  
6 to care without additional fees.

7  
8 **§809.93. Provider Reimbursement**

9 Section 809.93(f) is amended to add in rule the current practice of blended-day enrollment  
10 authorizations. The rule language clarifies that the blended-day referrals are for children enrolled  
11 in a school program, pre-K, Head Start, or Early Head Start, in which child care is part-time with  
12 care provided occasionally on a full-day basis. The Commission clarifies that there is not a  
13 requirement in rules that providers accept part-day care as a prerequisite to receive blended-day  
14 referrals. The part-day rate, however, is used in the calculation for the blended-day rate.

15  
16 Accordingly, the amendment removes §809.93(h) prohibiting providers from being paid less  
17 with a child enrolled in full-day care who occasionally attends part-day, or more when a part-day  
18 child occasionally attends full-day. These occasional days should be reviewed and changed to a  
19 blended-day referral if applicable.

20  
21 New §809.93(j) is added to require Boards to pay regulated child care providers prospectively  
22 every two weeks based on the monthly enrollment authorization. The Commission notes that this  
23 provision is effective December 1, 2023.

24  
25 **§809.94. Providers Placed on Corrective or Adverse Action by Child Care Regulation**

26 Section 809.94 is amended to update the change of the child care licensing entity to CCR.

27  
28 Section 809.94(e), regarding providers appealing an Adverse Action by CCR but remain open  
29 under a court order, is removed as providers appealing an Adverse Action are prohibited from  
30 continuing operations by SB 764.

31  
32 **§809.95. Provider Automated Attendance Agreement**

33 Section 809.95 is amended to remove references specific to the former automated attendance  
34 system. The amended language states that owners, directors, assistant directors, or other provider  
35 employees must not have access to a parent's information to access TWC's automated attendance  
36 system. The language is general and does not specify any specific type of future automated  
37 attendance system.

38  
39 **§809.96. Contracted Slots Agreements**

40 Section 809.96(e)(1)(A) is amended to reference a child care desert, which is now defined in new  
41 §809.2(4). The definition of a child care desert in new §809.2(4) includes the language  
42 previously specified in §809.96(e)(1)(A). Section 809.96(e)(2) and (3) are amended to clarify  
43 that eligibility for contracted slots include "recognized" pre-K, Early Head Start, and Head Start  
44 partnerships, which are defined in §809.22.

45  
46 Section 809.96(f) is amended to remove the reference to Board policies in §809.13(c) as that

1 subsection is removed.

2  
3 Section 809.96(i) is amended to change the Board contracted slots reporting requirement from  
4 six to 12 months pursuant to amended Texas Labor Code, §302.0461(d).

5  
6 **SUBCHAPTER F. FRAUD FACT-FINDING AND IMPROPER PAYMENTS**

7 TWC adopts the following amendments to Subchapter F:

8  
9 **§809.112. Suspected Fraud**

10 Section 809.112(b)(2) is amended to include reporting requirements during the three-month  
11 initial job search period.

12  
13 **§809.115. Corrective Adverse Actions**

14 Section 809.115(d) is amended to remove language specific to the former automated attendance  
15 system.

16  
17 **SUBCHAPTER G. TEXAS RISING STAR PROGRAM**

18 TWC adopts the following amendments to Subchapter G:

19  
20 **§809.130. Short Title and Purpose**

21 Section 809.130(b) is amended to include Entry Level providers in the purpose of Subchapter G.

22  
23 Section 809.130(d) is amended to add language that the Texas Rising Star guidelines distinguish  
24 certified Texas Rising Star providers (Two-, Three-, and Four-Star providers) from designated  
25 Entry Level providers.

26  
27 **§809.131. Requirements for the Texas Rising Star Program**

28 Section 809.131 is amended to change the section name from "Eligibility for the Texas Rising  
29 Star Program" to "Requirements for the Texas Rising Star Program." This change is made to  
30 emphasize that Texas Rising Star is a mandatory program for child care services providers that  
31 meet the requirements of Subchapter G and the Texas Rising Star guidelines.

32  
33 New §809.131(a) outlines the requirements for Texas Rising Star certification. The new  
34 subsection retains the previous requirements for application to the Texas Rising Star program,  
35 namely, that the provider:

36 --has a permanent (nonexpiring) license or registration from CCR;

37 --has at least 12 months of licensing history with CCR, and is not on:

38 ----corrective action with a Board;

39 ----a "Notice of Freeze" with the Commission pursuant to Texas Labor Code, Chapter 213  
40 (Enforcement of the Texas Unemployment Compensation Act) or Chapter 61 (Payment of  
41 Wages); or

42 ----corrective or adverse action with CCR; or

43 --is regulated by and in good standing with the United States Military.

44  
45 New §809.131(a) removes the former requirements that the provider must meet the Pre-Star  
46 designation and adds that the provider must meet the criteria for star-level (Two-, Three- or

1 Four-Star) certification in the Texas Rising Star guidelines.  
2  
3 New §809.131(a) requires that Texas Rising Star-certified provider's center director is registered  
4 in the Texas Early Childhood Professional Development System Workforce Registry (workforce  
5 registry). The new rule language removes the former requirement that teaching staff are also  
6 registered in the workforce registry.  
7  
8 New §809.131(b) contains the requirements for Entry Level designation.  
9  
10 Regulated child care providers not meeting the Texas Rising Star certification requirements in  
11 §809.131 shall be initially designated as Entry Level if the child care provider:  
12 --is not on corrective or adverse action with CCR; and  
13 --does not exceed the points threshold for high and medium-high CCR deficiencies within the  
14 most recent 12-month period as established in the guidelines.  
15  
16 New §809.131(c) states that providers meeting the Entry Level designation is eligible for  
17 mentoring services.  
18  
19 New §809.131(d) states that the Entry Level designation is limited to an initial 24 months, unless  
20 approved for a waiver.  
21  
22 New §809.131(e) sets forth the time periods for Entry Level-designated providers to be reviewed  
23 for Texas Rising Star certification. The rule language states that Entry Level providers will be  
24 reviewed for Texas Rising Star certification no later than the 12th month of the 24-month period.  
25 If an Entry Level provider is not eligible for certification by the 18th month, the provider shall  
26 not receive referrals for new families as an Entry Level provider unless the provider is located in  
27 a "child care desert" or an "underserved" area.  
28  
29 New §809.131(f) and (g) sets forth the criteria for an Entry Level extension waiver. Section  
30 809.131(f) allows TWC to approve a waiver to extend the 24-month Entry Level time limit, if  
31 the provider is:  
32 --located in a "child care desert" or an "underserved" area described in §809.96(e)(1);  
33 --unable to meet the certification requirements due to a federal- or state-declared  
34 emergency/disaster; or  
35 --unable to meet the certification requirements due to conditions that TWC determines are  
36 outside of the provider's control.  
37  
38 **§809.132. Impacts on Texas Rising Star Certification**  
39 Because state statute requires providers participating in the CCS program to be certified as Texas  
40 Rising Star, a certified program that drops below a Two-Star level due to licensing deficiencies  
41 or non-compliance with Texas Rising Star standards, falls into a unique category of being a  
42 certified provider, but with suspended certification and not eligible for enhanced reimbursement  
43 or Entry Level designation.  
44  
45 Section 809.132(a) is amended to state that certified Texas Rising Star providers will be placed  
46 on a "suspension status" for certain deficiencies, namely, if the provider:

1 --is placed on corrective action with a Board;  
2 --is under a "Notice of Freeze" with the Commission pursuant to Texas Labor Code, Chapter 213  
3 (Enforcement of the Texas Unemployment Compensation Act) or Chapter 61 (Payment of  
4 Wages);  
5 --is placed on corrective or adverse action by CCR;  
6 --had 15 or more total high or medium-high weighted licensing deficiencies during the most  
7 recent 12-month licensing history;  
8 --had more than four probationary impacts during its three-year certification period;  
9 --had a consecutive third probationary impact;  
10 --is cited for specified CCR minimum standards regarding weapons and ammunition; or  
11 --is not meeting at least the Two-Star level due to noncompliance with Texas Rising Star  
12 guidelines at the most recent assessment of certification.

13  
14 Section 809.132(b) regarding licensing deficiencies listed in the Texas Rising Star guidelines  
15 that result in a "star-level drop" is amended to reflect the change that a Two-Star certified  
16 provider will be placed on suspension status for the applicable licensing deficiencies.

17  
18 Section 809.132(c) and (d) regarding licensing deficiencies listed in the Texas Rising Star  
19 guidelines that result in a second probation period are amended to reflect the change that a Two-  
20 Star certified provider will be placed on suspension status.

21  
22 Section 809.132(e) relating to reinstatement at the former star level is amended to clarify that this  
23 provision is for certified providers that are not on suspension status. This primarily relates to  
24 Three- or Four-Star providers that have a star-level drop to Two- or Three-Star respectively, as  
25 these providers are not placed on suspension status.

26  
27 New §809.132(f) - (i) set forth the conditions for certified providers on suspension status.

28  
29 Amended §809.132(f) states that providers on suspension status are eligible for a reassessment  
30 after six months following the suspension date, as long as no deficiencies in subsections (b) - (d)  
31 are cited during the previous six months. The six months is to allow sufficient time to  
32 demonstrate that the provider's licensing history will not preclude the provider from eligibility.  
33 This is similar to the former requirement that providers dropping below a Two-Star level must  
34 wait six months before reapplying for the Texas Rising Star program. The Commission notes  
35 that providers can be assessed for certification at any time after the six months in which they  
36 meet eligibility and screening requirements.

37  
38 New §809.132(g) states that providers on suspension status must achieve at least a Two-Star  
39 certification no later than 15 months following the suspension and failure to achieve at least a  
40 Two-Star certification will result in the provider's ineligibility to provide subsidized child care  
41 services.

42  
43 New §809.132(h) states that providers on suspension status are:  
44 --eligible to provide subsidized child care services as long as the provider meets the Entry Level  
45 criteria;  
46 --not eligible for the enhanced reimburse rate and will be reimbursed at the Board's Entry Level

1 reimbursement rate; and  
2 --not able to receive referrals from a new family during the last six months of the 15-month  
3 period unless the provider is in a child care desert or serves an underserved population and is  
4 approved by TWC to accept new family referrals.  
5

6 New §809.132(i) states that providers on suspension status and not achieving recertification by  
7 the end of the 15-month period are not eligible to provide TWC-funded child care services, are  
8 not eligible for Entry Level designation, and must subsequently meet Texas Rising Star  
9 certification eligibility and screening requirements to provide CCS.  
10

11 **§809.133. Application and Assessments for the Texas Rising Star Certification**

12 Section 809.133 is amended to describe the separate roles of the Boards for mentoring and the  
13 new TWC-designated statewide entity for conducting assessments. The following sections are  
14 amended to move responsibility from the Board to the statewide entity.  
15

16 Section 809.133(b) is amended to clarify that TWC's designated assessment entity is responsible  
17 for the following application and certification requirements:

- 18 --Written acknowledgment of receipt of the application and self-assessment is sent to the  
19 provider;
- 20 --Within 20 days of receipt of the application, the provider is sent an estimated time frame for  
21 scheduling the initial assessment;
- 22 --An assessment is conducted for any provider that meets the eligibility requirements in  
23 §809.131 and requests certification to participate in the Texas Rising Star program; and
- 24 --Texas Rising Star certification is granted for any provider that is assessed and verified as  
25 meeting the Texas Rising Star provider certification criteria set forth in the Texas Rising Star  
26 guidelines.  
27

28 Section 809.133(c) is amended to clarify that TWC's designated assessment entity is responsible  
29 for the following assessment requirements:

- 30 --On-site assessment of 100 percent of the provider classrooms at the initial assessment for  
31 certification and at each scheduled recertification; and
- 32 --Recertification of all certified providers every three years.  
33

34 Section 809.133(d) is amended to clarify that TWC's designated assessment entity is responsible  
35 for the following monitoring requirements:

- 36 --At least one unannounced on-site visit; and
- 37 --A review of the provider's licensing compliance as described in §809.132.  
38

39 Section 809.133(e) and (f) are amended to clarify that TWC's designated assessment entity is  
40 responsible for complying with the process and procedures in the Texas Rising Star guidelines  
41 for:

- 42 --conducting assessment of nationally accredited facilities and facilities operated by the United  
43 States Military; and
- 44 --conducting assessments of certified Texas Rising Star providers that have a change of  
45 ownership, move, or expand locations.  
46

1 At adoption, §809.133(h) is added to clarify that Boards will continue to perform the tasks of the  
2 designated entity outlined in Chapter 809, Subchapter G until the statewide assessment entity is  
3 procured and designated by TWC. TWC estimates that the statewide assessment entity will be  
4 procured and begin operations by late summer 2023.

5  
6 **§809.134. Minimum Qualifications for Texas Rising Star Staff**

7 Section 809.134 is amended to clarify the minimum qualifications specific to Board mentor staff,  
8 qualifications specific to the statewide entity assessor staff, and qualifications applying to both  
9 mentors and assessors.

10  
11 New §809.134(a) states that Boards and the statewide assessment entity are responsible for  
12 ensuring that Texas Rising Star staff:

13 --meet the CCR background check requirement consistent with Chapter 745 (formerly in  
14 §809.134(e)); and

15 --complete the Texas Rising Star standards training, as described in the Texas Rising Star  
16 guidelines (formerly in §809.134(g)(1)).

17  
18 Relettered §809.134(b) is amended to clarify that mentor staff must meet the minimum  
19 education, experience, and microcredentialing requirements in relettered §809.134(c) - (f).

20  
21 Renumbered §809.134(c)(3), relating to the requirements for mentors with associate degrees, is  
22 amended to state that the mentor must also have two years of "suitable" experience in early  
23 childhood education, as determined by the Board. The former language required that mentors  
24 with associate degrees be required to have two years of experience as a director in an early  
25 childhood program.

26  
27 New §809.134(f) requires that all mentors must attain mentor microcredentialing as described in  
28 the Texas Rising Star guidelines (formerly in §809.134(g)(3)).

29  
30 Section 809.134(g) is amended to retain only the requirement that assessors attain and maintain  
31 the Texas Rising Star Assessor Certification, as described in the guidelines.

32  
33 Section 809.134(f), regarding all Texas Rising Star staff to demonstrate early childhood  
34 education knowledge and best practices and an understanding of early childhood evaluations,  
35 observations, and assessment tools for both teachers and children, is removed, as these practices  
36 are demonstrated through the mentor microcredentialing and assessor certifications.

37  
38 **§809.135. Texas Rising Star Process for Reconsideration**

39 Section 809.135 is amended to clarify that the statewide assessment entity is responsible for  
40 ensuring that there is a process for reconsiderations of a facility assessment.

41  
42 **§809.136. Roles and Responsibilities of Texas Rising Star Staff**

43 Section 809.136 is amended to clarify and separate the roles of mentor and assessor staff.

44  
45 Section 809.136(1) is amended to specify that a mentor is a Board or Board contractor staff  
46 member.

1  
2 Section 809.136(2) is amended to specify that an assessor is a staff member or contractor of the  
3 statewide assessment entity.

4  
5 Section 809.136(3) is amended to clarify that a "dual-role" staff member is an individual who  
6 meets the definition of both mentor and assessor staff.

7  
8 Section 809.136(4) is amended to state that both the Board and the statewide assessment entity  
9 are responsible for ensuring that "dual-role" mentoring staff members do not perform the  
10 assessment function of the same provider, and that assessment staff members do not perform  
11 mentoring for the same provider.

12  
13 TWC hereby certifies that the adoption has been reviewed by legal counsel and found to be  
14 within TWC's legal authority to adopt.

15  
16 **PART III. PUBLIC COMMENTS**

17 Public comment closed on May 31, 2022. TWC received comments from the following Boards:

- 18  
19 Alamo Workforce Development Board  
20 Texoma Workforce Development Board  
21 West Central Texas Workforce Development Board

22  
23 TWC received group comments on behalf of the following organizations:

- 24  
25 --Child Care Associates  
26 --Children at Risk  
27 --Early Matters (Austin, Dallas, El Paso, Houston, San Antonio, Waco)  
28 --North Texas Early Education Alliance  
29 --Pre-K 4 SA  
30 --Ready Nation Council for a Strong America (Texas)  
31 --Texas Association for the Education of Young Children  
32 --Texas PN-3 Collaborative  
33 --Texans Care for Children  
34 --United Ways of Texas

35  
36 TWC received additional comments from the following:

- 37  
38 --Christian Preschool Centers, Inc.  
39 --Paradigm Shift  
40 --Magers Consulting  
41 --Treehouse Children's Academy, Lubbock  
42 --an individual

43  
44 **§809.14. Coordination of Child Care Services**

45  
46 **COMMENT:** One Board requested operational guidance for implementation of new  
47 §809.14(c), specifically the manner and frequency in which Boards are to inform school

1 districts and charter schools about opportunities to partner with child care providers to  
2 expand access to and provide facilities for pre-K programs.

3  
4 **RESPONSE:** TWC has issued guidance WD Letter 09-22) to Boards regarding  
5 requirements for informing districts and charter schools of partnership opportunities.  
6 TWC has also issued technical assistance (TAB 300) to Boards regarding implementing  
7 the partnership requirements of Texas Labor Code, §302.00436. No changes were made  
8 in response to this comment.

9  
10 **COMMENT:** Commenters recommended strengthening rules to incentivize and ensure  
11 authentic, two-way engagement between Boards, school districts, and charter schools as  
12 it relates to partnership opportunities. The commenters stated that this will require  
13 removing the following barriers at TWC:

14  
15 --Aligning subsidy and pre-K eligibility such that military children and English Language  
16 Learners who currently qualify for pre-K may also qualify for child care scholarships;  
17 and

18 --Requiring two-way engagement between Boards and school districts to discuss  
19 partnership opportunities, analyze local child care capacity and potential partnership  
20 sights based on community need, and include high-ranked Texas Rising Star providers in  
21 recruitment efforts.

22  
23 **RESPONSE:** The Commission acknowledges that communication between the Boards,  
24 school districts, and charter schools regarding pre-K partnerships is important in the  
25 ultimate success of partnerships. WD Letter 09-22 and TAB 300 will assist Boards with  
26 effective engagement. Regarding aligning TWC-funded child care and pre-K eligibility,  
27 all children eligible to receive TWC-funded child care must meet CCDF requirements,  
28 including military children and English Language Learners, as listed in 45 CFR §98.20.  
29 No changes were made in response to this comment.

30  
31 **§809.16. Quality Improvement Activities**

32  
33 **COMMENT:** One Board requested that, rather than being prohibited from using federal  
34 funds to implement quality activities allowed by federal guidelines but not specifically  
35 addressed in the CCDF State Plan, Boards should be allowed to request a waiver from  
36 TWC to include in their annual quality plan any activities allowed by federal guidelines  
37 but not specifically addressed in the CCDF State Plan.

38  
39 **RESPONSE:** A waiver will not be necessary. Boards can include activities that are  
40 allowable by federal guidelines in their annual quality plans and TWC will amend its  
41 CCDF State Plan accordingly. No changes were made in response to this comment.

42  
43 **§809.18. Maintenance of a Waiting List**

44  
45 **COMMENT:** One Board was supportive of standardizing waiting list management.  
46 However, the Board recommended keeping the practice of having the parent be  
47 responsible for contacting the Board if the parent wishes to have the child remain on the



1 waiting list rather than Boards bearing the burden to contact the parent, as doing so would  
2 require additional staff time and increased operations costs.

3  
4 **RESPONSE:** TWC anticipates including in its new CCCMS an automated functionality  
5 for contacting parents regarding their waiting list status. Through an automated solution,  
6 TWC does not anticipate any increased operation burden to the Boards. No changes were  
7 made in response to this comment.

8  
9 **COMMENT:** TWC received several comments regarding the implementation of the new  
10 requirement that Boards contact parents with children on the waiting list every three  
11 months and remove the child from the list if the parent indicates that child care services  
12 are no longer needed or does not respond to the Board.

13  
14 One Board asked if the new automated system will automatically remove parents who do  
15 not respond to the notification. One commenter requested that the rules specify that  
16 Boards will contact the parent through multiple means (text, email, phone) and multiple  
17 attempts and allow for sufficient time to respond. Commenters also recommended that  
18 TWC give Boards adequate support and reasonable timelines to meet this requirement  
19 until the roll-out of the automated system is complete.

20  
21 **RESPONSE:** The Commission appreciates the comments and notes that the three-month  
22 notification requirement was scheduled to be effective on October 1, 2023, thereby  
23 allowing time for Boards to arrange for contacting parents through appropriate means and  
24 in managing their waiting lists. The Commission recognizes the challenge some Boards  
25 may face in complying with this requirement and moves the effective date to December  
26 1, 2023. The Commission will examine the request to ensure the automation system  
27 provides sufficient functionality to assist Boards in contacting parents and managing their  
28 waiting lists. At adoption, the Commission modified the dates in §809.18(a) and (b).

29  
30 **§809.19. Assessing the Parent Share of Cost**

31  
32 **COMMENT:** One Board strongly supported the new rule establishing a statewide PSoC  
33 policy.

34  
35 **RESPONSE:** The Commission appreciates the comment.

36  
37 **COMMENT:** One Board asked if the PSoC discount parents receive for selecting a  
38 Texas Rising Star certified provider can be extended to those selecting an Entry Level  
39 provider.

40  
41 **RESPONSE:** No. The rule language in §809.19 states that the PSoC reductions are only  
42 allowed for parents choosing a Texas Rising Star certified provider. The Entry Level  
43 designation is not a Texas Rising Star certification. The effective date for revisions to the  
44 PSoC was October 1, 2023. In light of changes made to the effective date in other  
45 sections and the need to reduce confusion, the effective date in this section will also be  
46 changed to December 1, 2023. At adoption, the Commission modified the dates in

1 §809.19(a) and (b).  
2

3 **§809.20. Maximum Reimbursement Rates**  
4

5 **COMMENT:** One Board supported the restructuring of reimbursement rates to align  
6 with age groups defined by CCR. The Board also supported the addition of §809.20(g)  
7 codifying the practice of Boards establishing a higher enhanced reimbursement rate for  
8 nontraditional hours. However, the Board noted this will require the new CCCMS to  
9 support this rate structure.

10  
11 **RESPONSE:** The Commission appreciates the comment and agrees that all  
12 functionalities will be reviewed during CCCMS implementation to support this rule  
13 amendment. No changes were made in response to this comment.  
14

15 **COMMENT:** Several providers recommended that they be given a six-month notice in  
16 advance of the new age group rates to allow them to budget and adjust accordingly. Other  
17 commenters encouraged the Commission to ensure that Boards provide adequate  
18 resources to support staff regarding determining rates for providers.  
19

20 **RESPONSE:** TWC will have the market rates for the new age groups in the 2022 Market  
21 Rate Survey released in the fall of 2022. TWC anticipates that preliminary  
22 reimbursement rates should be available in summer 2023. This timeline and early  
23 availability of MRS rates should provide adequate time for providers and Boards to  
24 prepare for the rate changes. The new age group reimbursements were scheduled to go  
25 into effect on October 1, 2023, but the Commission changes that date to December 1,  
26 2023, to provide additional time for providers and Boards to reach compliance. At  
27 adoption, the Commission modified the dates in §809.20(a)(2) and (3).  
28

29 **COMMENT:** Commenters applauded the alignment of age groups with CCR and  
30 requested consideration of blended rates for mixed-age classrooms.  
31

32 **RESPONSE:** The Commission notes that reimbursements are per child, not per  
33 classroom making a blended classroom rate unnecessary. For example, children under 12  
34 months will get the higher infant rate, even if those children are in a room with infants  
35 from 12 to 18 months receiving the lower infant rate. No changes were made in response  
36 to this comment.  
37

38 **COMMENT:** Commenters recommended a full-time rate for children enrolled in pre-K  
39 partnerships to ensure that child care providers have the adequate resources to cover the  
40 additional hours of care in the child care facility.  
41

42 **RESPONSE:** The Texas Education Agency is the agency designated by the legislature  
43 for funding full-day pre-K for eligible 4-year old's, and for funding part-day pre-K for  
44 eligible 3-year old's. TWC's child care funding supports the wraparound child care  
45 services that are provided before and after pre-K. As such, TWC funds part-time child  
46 care to wraparound full-day 4-year-old pre-K, and TWC funds full-day child care to

1 wraparound part-day 3-year-old pre-K. No changes were made in response to this  
2 comment.

3  
4 **COMMENT:** Commenters strongly recommended that high quality Texas Rising Star  
5 providers are reimbursed at the maximum rate regardless of the published rate to ensure  
6 equitable access and sustainable programs throughout the state.

7  
8 **RESPONSE:** The Commission appreciates the comment. No changes were made in  
9 response to this comment.

10  
11 **§809.41. A Child's General Eligibility for Child Care Services**

12  
13 **COMMENT:** One Board supported the recommended policy changes to §809.41 related  
14 to providing care to children with disabilities under the age of 19, establishing a statewide  
15 income limit, allowing job search as an allowable activity for child care services  
16 eligibility, and establishing a statewide policy for time limits for care on parents enrolled  
17 in educational activities.

18  
19 **RESPONSE:** The Commission appreciates the support. No changes were made in  
20 response to this comment.

21  
22 **COMMENT:** One Board requested that parents currently receiving TWC-funded child  
23 care while enrolled in a postgraduate program be given a 12-month grace period to allow  
24 them to be informed at redetermination that this will be the last year they will be eligible  
25 for education-related CCS as a postgraduate student.

26  
27 **RESPONSE:** The Commission agrees that parents receiving TWC-funded child care  
28 while enrolled in a graduate program when these rules become effective be given time to  
29 complete the current semester of graduate work. No changes were made in response to  
30 this comment.

31  
32 **COMMENT:** One Board and an individual requested clarification on how the 60-month  
33 time limit affects teen parents attending high school or high school equivalency courses.  
34 The individual recommended that if the time limit includes high school and high school  
35 equivalency, then the time limit should be extended to 100 months. The Board pointed  
36 out that if a teen uses two years of TWC-funded child care during high school, that the  
37 parent would only have three years remaining to receive TWC-funded care while  
38 completing an undergraduate degree program that traditionally takes four or more years.

39  
40 **RESPONSE:** The Commission appreciates the comment. The 60-month limit was  
41 intended to only apply to postsecondary undergraduate education. At adoption, the  
42 Commission modified §809.41(b) to clarify that the 60-month limit applies to parents  
43 enrolled full-time in a postsecondary undergraduate educational program.

44  
45 **COMMENT:** Two Boards asked if parents who are working less than 25 hours a week  
46 and attending school part-time to meet the activity requirements are subject to the

1 cumulative 60-month limit for child care.

2  
3 **RESPONSE:** Parents who are both working and attending an educational program are  
4 not subject to the cumulative 60-month limit. This only applies if the parent is meeting  
5 participation requirements with postsecondary undergraduate education only. Parents  
6 who work and are in an educational program will follow the current procedures. No  
7 changes were made in response to this comment.

8  
9 **COMMENT:** One Board requested clarification if months are counted when the parent  
10 is receiving education-related child care, but not currently attending school. The Board  
11 specifically asked if summer breaks in school enrollment are included in the cumulative  
12 60-month limit.

13  
14 **RESPONSE:** Temporary breaks in a postsecondary undergraduate educational program  
15 are not included in the cumulative 60-month limit. No changes were made in response to  
16 this comment.

17  
18 **COMMENT:** One Board requested clarification on whether training programs that do  
19 not lead to a degree are included in the cumulative 60-month limit.

20  
21 **RESPONSE:** The cumulative 60-month limit does not apply to training programs. It  
22 only applies to parents in postsecondary undergraduate educational programs. No  
23 changes were made in response to this comment.

24  
25 **COMMENT:** One Board asked if the new CCCMS will be able to help track the  
26 cumulative months. Because many years may pass between education enrollments while  
27 receiving TWC-funded child care, it would be helpful to have a method of tracking in the  
28 system other than just in the notes.

29  
30 **RESPONSE:** This functionality will be reviewed during CCCMS implementation. No  
31 changes were made in response to this comment.

32  
33 **§809.42. Eligibility Verification, Determination, and Redetermination**

34  
35 **COMMENT:** With the change in the definition of "attending a job training or  
36 educational program" in §809.2(1)(C), one Board asked if the intent is that Boards only  
37 verify "continued enrollment in the training or educational program" every 12 months at  
38 eligibility redetermination, or if Boards should be verifying "continued enrollment" based  
39 on the frequency with which parents must reenroll in training/education components  
40 during their 12-month eligibility period.

41  
42 **RESPONSE:** Continued participation in a job training or educational program is only  
43 reviewed at redetermination. No changes were made in response to this comment.

44  
45 **§809.48. Transitional Child Care**

1           **COMMENT:** One Board asked if the term "Transitional Child Care" is still being used.

2  
3           **RESPONSE:** Yes, the term remains in state statute. However, the federal Child Care and  
4           Development Block Grant Act requires 12 months of child care, rendering "transitional"  
5           child care effectively obsolete. No changes were made in response to this comment.

6  
7           **§809.50. At-Risk Child Care**

8  
9           **COMMENT:** One Board asked if there is local flexibility for Boards to have a procedure  
10          for dual-parent families requiring each parent to participate in an eligible activity at least  
11          25 hours per week.

12  
13          **RESPONSE:** Boards are not allowed under the amended rules to have such a policy. The  
14          standard statewide policy of a combined 50 hours is to ensure family stability with child  
15          care and consistency across the state in child care eligibility. No changes were made in  
16          response to this comment.

17  
18          **COMMENT:** One Board appreciated the clarification that the 50 hours per week activity  
19          requirement for a dual-parent family is a combined total from both parents and that there  
20          is no minimum activity requirement for each parent. The Board was somewhat concerned  
21          about circumstances in which one parent may meet the entirety of the 50-hour  
22          requirement, allowing families with only one parent participating to receive child care,  
23          though the Board does acknowledge that this occurrence is rare.

24  
25          **RESPONSE:** The Commission understands the concern, but, as the Board  
26          acknowledged, this situation is rare, and the amended rules are to ensure family stability  
27          with child care and consistency across the state in child care eligibility. No changes were  
28          made in response to this comment.

29  
30          **§809.56. Child Care during Initial Job Search**

31  
32          **COMMENT:** Commenters applauded the extension of §809.56 for parents engaged in  
33          job search and requested additional clarification on how parent job-search activities will  
34          be monitored. The commenters advised against burdening child care providers with  
35          tracking and monitoring parent eligibility as it relates to this job search period.

36  
37          **RESPONSE:** The Commission appreciates the comment and agrees that child care  
38          providers are not responsible for monitoring job search activities. Additionally, the  
39          Commission notes that §809.56 does not place requirements for documenting job search  
40          activities on parents beyond those required under other Commission rules, and Boards  
41          will not be required to monitor job search activities during the three-month job search  
42          period.

43  
44          **COMMENT:** One Board requested clarification that parents must be meeting  
45          participation requirements and be under the 85 percent SMI to qualify for continued  
46          services for the remainder of the 12 months (inclusive of the three months already given).

1  
2 **RESPONSE:** The Commission appreciates the comment and confirms that the family  
3 must meet the federal income guidelines for continued eligibility. At adoption, the  
4 Commission modified §809.56(c) to include this clarification.  
5

6 **COMMENT:** One Board asked if parents will be able to self-attest that they registered  
7 with the state's labor exchange system or will they need to submit verification of their  
8 registration.  
9

10 **RESPONSE:** The Board should grant access to WorkInTexas.com for the child care staff  
11 to verify registration. No changes were made in response to this comment.  
12

13 **COMMENT:** One Board heartily supported the addition of §809.56. The lack of child  
14 care while seeking employment has long been a barrier for families and the Board is  
15 delighted that the Commission has chosen to address this challenge in a proactive  
16 manner. The Board also accepted the Commission's reasoning related to the 12/25  
17 minimum number of activity hours in employment at the end of the three-month job  
18 search period. However, the Board stated that this will require operational guidance for  
19 implementation.  
20

21 **RESPONSE:** The Commission appreciates the comment and support. TWC will provide  
22 guidance to Boards regarding this requirement. No changes were made in response to this  
23 comment.  
24

#### 25 **§809.91. Minimum Requirements for Providers**

26

27 **COMMENT:** One commenter expressed concerns over the requirement that all CCS  
28 providers be Texas Rising Star. The commenter stated that there will be a percentage of  
29 providers that will not participate, despite the financial consequences, or cannot meet the  
30 criteria, and this will result in fewer providers available to parents in the workforce area.  
31 This contradicts the effort to assist parents that are attempting to enter the workforce  
32 because there will be fewer options, fewer placements, and longer waitlists.  
33

34 One Board expressed similar concerns. The Board stated that it seems more logical that  
35 the new requirement would be to keep the plan for the Entry Level Rating to serve as a  
36 Child Care Services provider, rather than have them continue to Texas Rising Star status.  
37 Setting some type of points threshold status for an Entry Level Rating would require that  
38 CCS providers maintain a certain level of quality standard, without the volume and  
39 expense of making all become Texas Rising Star. The Board stated that forcing all  
40 providers to become Texas Rising Star to continue serving as CCS takes away the  
41 uniqueness and voluntary piece of the Texas Rising Star program. Not only that, but  
42 TWC will be further limiting CCS capacity that is available in the workforce area. Some  
43 providers will stop serving as CCS providers simply because they do not want to be  
44 forced to go down this route. The Board currently has 13 Texas Rising Star providers and  
45 pays roughly 60 providers every two weeks. It does not seem logical that all will make it  
46 to Entry Level or to Texas Rising Star status. The Board also asked if additional funding

1 will be allocated to assist Boards with the additional volume of work that will be required  
2 in the future to move all providers to an Entry Level Rating and ultimately to Texas  
3 Rising Star accreditation.

4  
5 **RESPONSE:** State law requires all TWC-funded regulated providers participate in the  
6 Texas Rising Star program. TWC will work with Boards to support providers during the  
7 transition to mandatory Texas Rising Star. Texas Government Code, §2308.3155, as  
8 amended by HB 1792, requires TWC to competitively procure a single entity to oversee  
9 Texas Rising Star assessments, previously a responsibility of the Board. The procured  
10 centralized entity will allow Boards to focus their efforts on mentoring programs through  
11 the Texas Rising Star program.

12  
13 Further, the Commission will also provide additional resources for Boards to assist  
14 providers with becoming Texas Rising Star certified. In state fiscal year (SFY) 2022, the  
15 Commission distributed \$17 million to Boards for both the assessment and mentoring  
16 functions. Starting in SFY 2023, the Commission will increase the distribution to \$22  
17 million, which will be dedicated only for mentoring services to assist providers to  
18 achieve, maintain, and increase the level of Texas Rising Star certification. No changes  
19 were made in response to these comments.

20  
21 **§809.92. Provider Responsibilities and Reporting Requirements.**

22  
23 **COMMENT:** Regarding the requirement for reporting instances in which the provider  
24 charges parents more than the assessed PSoC, commenters recommended that TWC  
25 ensure adequate support and timelines for providers to submit documentation regarding  
26 PSoC, as the amended rule requires substantial amounts of documentation from the  
27 provider that may distract them from necessary operations.

28  
29 **RESPONSE:** CCDF regulations require the Lead Agency to track the extent to which  
30 child care providers charge amounts to families more than the required family co-  
31 payment, including data on the size and frequency of any such payments. The  
32 Commission does not prohibit Boards from allowing providers to charge parents amounts  
33 above the PSoC. However, if a Board allows this and if a provider does charge parents,  
34 then the provider, as required by federal regulations, must report this to the Board. TWC  
35 will issue guidance to Boards stating that the Board will only be allowed to require the  
36 provider to submit the minimum information required under federal regulations. No  
37 changes were made in response to these comments.

38  
39 **COMMENT:** One Board appreciated the flexibility to continue to determine locally  
40 whether to allow child care providers to charge parents more than the assessed PSoC in  
41 instances where the provider's published rate exceeds the Board's reimbursement rate.

42  
43 **RESPONSE:** The Commission appreciates the comment. No changes were made in  
44 response to this comment.

1 **§809.93. Provider Reimbursement.**  
2

3 **COMMENT:** One Board supported paying providers prospectively to align with  
4 generally accepted payment practices within the child care industry. The Board  
5 appreciates the Commission's acknowledgement that this change will require detailed  
6 operational guidance and thus additional implementation time; the Board looks forward  
7 to working with the Commission on the operational details required to implement this  
8 new policy.  
9

10 Other commenters greatly appreciated the decision to allow Boards to reimburse child  
11 care providers prospectively. The commenters stated that paying providers in advance of  
12 services mirrors the payment structure for providers not accepting subsidies and allows  
13 for planning, stability, and sustainability.  
14

15 **RESPONSE:** The Commission appreciates the comments. No changes were made in  
16 response to these comments.  
17

18 **COMMENT:** One Board asked if relative providers will be paid prospectively.  
19

20 **RESPONSE:** The Commission appreciates the comment and clarifies that the intent of  
21 the rule is to pay providers using standard payment practices of the regulated child care  
22 industry. Unregulated relative providers do not fall under this requirement. At adoption,  
23 the Commission modified §809.93(j) to clarify that only regulated child care providers  
24 will be paid prospectively.  
25

26 **COMMENT:** Several providers were highly in favor of the reimbursement being based  
27 on enrollment rather than attendance and that the reimbursement be paid prospectively.  
28

29 **RESPONSE:** The Commission appreciates the support and notes that rules have required  
30 payments based on enrollments since 2016. No changes were made in response to this  
31 comment.  
32

33 **COMMENT:** One Board requested that the Commission reconsider paying providers  
34 prospectively. The Board believes paying providers ahead of time would be more work  
35 intensive for staff and that reconciling the payments would be a continual, arduous, and  
36 ongoing process, leaving the process open to mistakes and that the reconciling process  
37 would continue for weeks after the initial payment was made. Using taxpayer funds, it  
38 seems counterintuitive to pay for services before they are rendered. Additionally, the  
39 Board stated it is unclear how the Board's finance department would note a pre-paid  
40 expense. The Board noted that the new CCCMS should have a built-in way to process  
41 these types of payments easily and accurately.  
42

43 The Board also asked how the new attendance system relates the new prospective  
44 payment process and if the new attendance system will assist the Board's finance staff in  
45 reconciling after the payments are made.  
46



1 **RESPONSE:** Federal regulations require that providers be paid in accordance with  
2 standard payment practices, and paying providers prospectively is allowed by the federal  
3 regulations. Paying prospectively should not be more labor intensive than the current  
4 payment process. As noted previously, payments to providers have been based on the  
5 child enrollment (not on the child's attendance) since 2016. Paying the provider at the  
6 beginning of the two-week enrollment period should not be any more labor intensive than  
7 paying after the two-week enrollment period. The only change is in the timing of the  
8 payment. Additionally, with the payment based on enrollment and not attendance, there  
9 should be no need to reconcile the payments with attendance. TWC is reviewing all  
10 functionality for the new CCCMS, which includes the functionality to assist Boards in  
11 implementing prospective payments. No changes were made in response to this  
12 comment.

13  
14 **COMMENT:** Regarding prospective reimbursements, several providers recommend that  
15 if a provider terminates a family due to nonpayment or failure to comply with behavior  
16 code of conduct, then that provider is not required to pay back that reimbursement. The  
17 intent behind this specification is to not punish providers from a family's failure to  
18 comply with the parent responsibilities of CCS or any circumstances that put others in  
19 harm's way.

20  
21 **RESPONSE:** Federal requirements prevent multiple child care providers from being paid  
22 for the same child within the same time frame. If the provider ends care due to the  
23 parent's failure to pay the PSoC, the provider should follow Board policies and  
24 procedures regarding reimbursement and payment of PSoC. However, if the termination  
25 is based on provider policy, the provider will need to pay back the prospective payment  
26 amount. No changes were made in response to this comment.

27  
28 **COMMENT:** Regarding prospective reimbursements, one commenter requested  
29 clarification for situations in which the child has an enrollment authorization, but has not  
30 been in attendance, the parent will not communicate with the program, and the program  
31 continues to keep the child "enrolled" and receives reimbursements. The commenters  
32 asked at what point would the child be "disenrolled."

33  
34 **RESPONSE:** Termination of enrollment should be taken by the Board in accordance  
35 with attendance policies that are currently in rule and guidance. The Commission notes  
36 that this requirement was to be effective October 1, 2023. The Commission extends the  
37 effective date in the rule to December 1, 2023, to afford Boards additional time for  
38 preparation. At adoption, the Commission modified the date in §809.93(j).

#### 40 **§809.95. Provider Automated Attendance Agreement**

41  
42 **COMMENT:** Several providers recommended using a system that is integrated with  
43 Child Care Management Systems such as Procure, Brightwheel, Kinderlime, Jackrabbit,  
44 etc. The commenters' experience with the previous point-of-service devices and  
45 attendance cards were not a positive nor productive one for providers or families.  
46

1           **RESPONSE:** TWC is reviewing all available functionality of the automated attendance  
2 system during implementation to address this recommendation. No changes were made in  
3 response to this comment.  
4

5           **§809.96. Contracted Slots Agreements**  
6

7           **COMMENT:** Commenters recommended that Boards and providers jointly develop and  
8 implement procedures to manage enrollment and waitlists most efficiently for contracted  
9 slots.  
10

11           **RESPONSE:** Boards are required to enter into a contract with an eligible provider.  
12 Through this jointly developed contract, it is possible to focus on and implement  
13 procedures to most efficiently manage enrollment and waitlists. Each Board can take into  
14 consideration priorities of its area and include this "contracted slots agreement" strategy  
15 in the Board Plan, as described in §809.12. No changes were made in response to this  
16 comment.  
17

18           **§809.131. Requirements for the Texas Rising Star Program**  
19

20           **COMMENT:** Several providers supported the Entry Level point threshold and changing  
21 Pre-Star to Entry Level.  
22

23           **RESPONSE:** The Commission appreciates the comments. No changes were made in  
24 response to this comment.  
25

26           **COMMENT:** One Board requested clarification on who will review the CCR points  
27 threshold for an Entry Level Rating and asked if this process will be automated with the  
28 new CCCMS.  
29

30           **RESPONSE:** Because this is a requirement for a provider agreement with the Board, the  
31 Board or Board contracted staff would review the points threshold. TWC is working with  
32 the Children's Learning Institute (CLI) to provide an automated report of child care  
33 programs that comply with the Entry Level designation points threshold. Specific  
34 guidance on implementation of this report will be provided once finalized. No changes  
35 were made in response to this comment.  
36

37           **COMMENT:** Commenters encouraged TWC to ensure adequate and ongoing support,  
38 resources, and communication for Boards and mentors as they onboard and support a  
39 significant number of new programs into the Texas Rising Star program.  
40

41           **RESPONSE:** TWC will continue to fund support provided by CLI and via CLI Engage.  
42 No changes were made in response to this comment.  
43

44           **COMMENT:** Commenters encouraged TWC to work with vendors who conduct  
45 background checks and finger printing to ensure increased and more rapid access to  
46 checks of prospective employees to expedite hiring.

1  
2 **RESPONSE:** The Commission notes that this is a CCR function. CCR works with their  
3 background check vendor. No changes were made in response to this comment.  
4

5 **COMMENT:** Regarding the workforce registry requirement, one commenter expressed  
6 concerns that some centers do not have the technology in place to access CLI Engage and  
7 Texas Early Childhood Professional Development System (TECPDS). The commenters  
8 stated that the system is very frustrating and challenging to upload documents onto  
9 TECPDS via a phone.  
10

11 **RESPONSE:** Boards may choose to use their 2 percent child care quality funding to  
12 provide scanners or other technology to child care programs on a loan or consistent basis  
13 to meet the requirements of Texas Rising Star. Additionally, Boards may choose to staff  
14 personnel specific to this support, open their offices outside of "normal work hours," or  
15 outfit their mentors with this technology to support the child care programs in meeting  
16 this requirement. No changes were made in response to this comment.  
17

18 **COMMENT:** Commenters recommended that the Commission extend the workforce  
19 registry requirement to require all staff to be registered in TECPDS. The commenters also  
20 encouraged TWC to support the ongoing maintenance of TECPDS, as well as the ability  
21 for Boards to extract data to drive decision-making on their workforce.  
22

23 **RESPONSE:** TWC will review data regarding participation within the Workforce  
24 Registry to determine any future changes to requirements regarding participation. Boards  
25 may choose to offer incentives to providers to have all staff participate in the Workforce  
26 Registry. TWC will also continue to fund TECPDS to provide enhancements and  
27 supports via the Workforce Registry. No changes were made in response to this  
28 comment.  
29

30 **COMMENT:** One Board requested clarification on the date by which Entry Level  
31 designation for existing CCS providers must be met.  
32

33 **RESPONSE:** Existing CCS child care programs will have up to six months from the  
34 effective date of the rules to obtain Entry Level designation. No changes were made in  
35 response to this comment.  
36

37 **COMMENT:** Regarding the six-month timeline for current providers with agreements to  
38 meet the Entry Level requirements, one commenter asked why it would be a six-month  
39 window from their last licensing inspection. The commenter contended that providers  
40 that were most recently inspected and received the violations would be penalized by the  
41 time frame, while those that were inspected earlier would benefit from this time frame.  
42 By only providing a six-month window from the rollout date of the program, TWC is  
43 providing an opportunity for centers that had an inspection at approximately the prior 12-  
44 month mark. Their violations in months one through six would fall off with that six-  
45 month extension. However, the providers that had an inspection within the last six  
46 months will not have enough time at the sixth-month mark for any licensing history

1 within their first one to six months of the 12-month window to fall off of their points  
2 threshold.

3  
4 **RESPONSE:** The Commission notes that this timeline is specific to child care programs  
5 that are currently providing TWC-funded child care and do not meet the Entry Level  
6 designation points threshold. While up to the most recent 12 months of a provider's  
7 licensing history is reviewed, the situation described could happen at any time. No  
8 changes were made in response to this comment.

9  
10 **COMMENT:** Regarding the 24-month time limit for Entry Level providers, several  
11 providers were concerned that Entry Level providers will not be eligible for certification  
12 until after the first 12 months of the 24-month period.

13  
14 **RESPONSE:** The Commission appreciates the comments. The Commission clarifies that  
15 providers can be assessed for certification at any time in which they meet eligibility  
16 screening requirements, not just after the first 12 months of Entry Level designation. At  
17 adoption, the Commission modified §809.131(e) to state that providers will be reviewed  
18 for certification no later than the 12th month of the 24-month period.

19  
20 **COMMENT:** Several providers and one Board disagreed with the requirement that no  
21 new family referrals are made in the last six months. The Board stated that restricting  
22 new enrollments for the last six months of the providers time frame to become an Entry  
23 Level Rating facility will further limit Board's enrollment processes and restrict access to  
24 child care in our Board area and limit parent choices.

25  
26 **RESPONSE:** The intent of not allowing new family referrals after the 18th month of the  
27 Entry Level designation is to minimize the impact of needing to place children in a  
28 facility for a short-term if the provider fails to meet certification during the remainder of  
29 the provider's Entry Level designation.

30  
31 **COMMENT:** One commenter asked if there will be a rolling schedule for conducting  
32 assessments during the initial 12-month Entry Level designation period.

33  
34 **RESPONSE:** Providers will be assessed for certification at any time in which they meet  
35 eligibility and screening requirements. At minimum, each Entry Level provider will be  
36 screened at 12-months to determine eligibility for assessment. TWC will have a  
37 centralized entity overseeing assessments and these will be conducted timely and  
38 efficiently. No changes were made in response to this comment.

39  
40 **COMMENT:** One commenter asked if mentors will be expected to do a continuous  
41 quality improvement plan (CQIP) with each center at the beginning of the Entry Level  
42 process.

43  
44 **RESPONSE:** CQIPs are required for any program working toward Texas Rising Star,  
45 therefore, mentors will create a CQIP in collaboration with the child care program for  
46 attaining Texas Rising Star certification. No changes were made in response to this

1 comment.

2  
3 **COMMENT:** One Board requested clarification as to whether a non-CCS provider that  
4 wishes to become a CCS provider must meet the requirements for Entry Level  
5 designation in order to sign an agreement with a Board to begin providing services, or if  
6 there is a grace period before such time as the new CCS provider must meet the  
7 requirements for Entry Level designation as set forth in §809.131(b).  
8

9 **RESPONSE:** Once the rule is effective, any child care program not currently CCS and is  
10 wanting to provide CCS will be required to meet the Entry Level designation points  
11 threshold before an agreement is signed and children are referred. No changes were made  
12 in response to this comment.  
13

14 **COMMENT:** One Board found the instructions regarding the allowable length of  
15 months for each type of provider to gain Entry Level designation or become certified as  
16 Texas Rising Star to be confusing. The Board requested a flowchart to easily understand  
17 the time limits for each type of potential provider is suggested.  
18

19 **RESPONSE:** The Commission appreciates the comment and has included timeline tables  
20 in the preamble with the milestones and Entry Level time limits for current and new CCS  
21 providers. Additionally, the Commission understands the confusion surrounding the  
22 various milestone dates for a provider to become certified described in proposed  
23 §809.131(e)(1) and (2). At adoption, the Commission amended §809.131(e) to remove  
24 paragraphs (1) and (2) and to streamline the process for an Entry Level provider to  
25 become a certified Texas Rising Star provider. To further create consistent language  
26 within the chapter, the Commission also amended §809.131(e) to include the provision  
27 that providers located in a child care desert or serving an underserved population are  
28 allowed to have new family referrals during the Entry Level designation, if approved by  
29 TWC. This aligns §809.131(e) with §809.132(h)(3), which also allows providers in child  
30 care deserts or serving underserved populations to have new family referrals while on  
31 suspension status, if approved by TWC.  
32

33 **COMMENT:** Regarding the 36-month extension waiver period, one commenter stated  
34 that this extension is too lengthy and that programs should be expected to complete  
35 certification in 12 to 18 months. Additionally, the commenter stated that the language  
36 allowing waivers due to "conditions outside of their control" is too vague and needs to be  
37 defined so that waivers are not abused.  
38

39 **RESPONSE:** TWC will review each child care program and make a case-by-case  
40 determination if it qualifies for an extension waiver and how long that waiver may be  
41 granted. The waiver is not required to be 36 months, but state statute requires that it  
42 cannot exceed 36 months. No changes were made in response to this comment.  
43

44 **COMMENT:** One Board commented that the 36-month extension language is not clear  
45 on what the initial time frame is that the additional 36 months are attached to.  
46

1 **RESPONSE:** The program has 24 months to obtain at minimum a Two-Star  
2 certification. If at 24 months, the program still does not pass the certification screening  
3 and qualifies for an extension waiver, it is applied at that time. At adoption, the  
4 Commission modified §809.131(f) for clarification.  
5

6 **§809.132. Impacts on Texas Rising Star Certification**  
7

8 **COMMENT:** Two Boards requested clarification on the difference between suspension  
9 status and loss of certification. One of the Boards stated that §809.132 is unclear on how  
10 providers are placed on suspension status and asked if the new suspension status aligns  
11 with current Texas Rising Star Guidelines in which a provider must wait 12 months  
12 before it can reapply after losing its Texas Rising Star status.  
13

14 **RESPONSE:** Legislation requires programs participating in the CCS program to be  
15 certified as Texas Rising Star; therefore, a program that would have previously lost its  
16 certification due to CCR screening issues or noncompliance with required Texas Rising  
17 Star standards, falls into a unique category of being a certified provider, but with  
18 suspended certification and not eligible for enhanced reimbursement or an Entry Level  
19 rating. Once the program has completed its suspension status time frame and does not  
20 meet certification requirements, it will lose its certification. No changes were made in  
21 response to this comment.  
22

23 **COMMENT:** Several providers expressed concerns about the timeline for suspensions.  
24 The requirement is to be recertified with a star-level certification within 12 months of  
25 being placed on suspension status. However, according to proposed §809.132(f) and (h),  
26 the provider cannot be assessed until after the initial six months of the suspension status,  
27 resulting in only a six-month period to get recertified after being placed on suspension  
28 status. Additionally, it states that if the provider is not certified at least at the Two-Star  
29 level by the sixth month of the suspension, the provider will not receive new family  
30 referrals during the remainder of the suspension. This provides no time allowed to get  
31 recertified without an immediate referral penalty. The providers stated that after being  
32 involved in certifications, they have discovered that a six-month window is an unrealistic  
33 time frame for both providers and assessors.  
34

35 **RESPONSE:** The Commission appreciates the comments. To clarify the timeline for  
36 suspension, at adoption the Commission modified §809.132(f) to state that suspended  
37 providers are eligible for reassessment after six months of the 12-month suspension  
38 period. The Commission also appreciates the comments regarding the restrictions on new  
39 family referrals in the last six months that prohibit new referrals without allowing the  
40 provider adequate time after the initial six-month period to become recertified.  
41 Accordingly, at adoption, the Commission extended the period available for providers to  
42 achieve their Two-Star status to 15 months, which will allow for a three-month period  
43 between the mandatory initial six-month suspension and the requirement for no new  
44 referrals during the last six months of the suspension period.  
45

46 **COMMENT:** Several providers expressed concerns about the criteria for placing a

1 certified provider on suspension status. A provider will be placed on suspension status if  
2 the provider has "had 15 or more total high or medium-high weighted licensing  
3 deficiencies during the most recent 12-month licensing history." The providers were  
4 concerned that the criteria does not line up with the Entry Level designation threshold of  
5 75 points. More specifically, if a provider accumulated 15 medium-high deficiencies in a  
6 12-month licensing history, the points would total to 45, which is significantly lower than  
7 the 75-point threshold. Commenters recommended this to be changed to the 75-point  
8 threshold based on the points being assigned to CCR-weighted high (5 points each) and  
9 medium-high (3 points each) deficiencies.

10  
11 **RESPONSE:** The difference in the threshold criteria for Entry Level and for certified  
12 providers is intentional. The Entry Level designation is a lower threshold as a step toward  
13 higher quality. However, certified Texas Rising Star providers provide an even higher  
14 quality of care and compliance. Thus, the screening form compliance and impact criteria  
15 are at a higher level than Entry Level designation for any certified providers. No changes  
16 were made in response to this comment.

17  
18 **COMMENT:** One Board requested clarification regarding the consequences if a certified  
19 provider in suspension status does receive a deficiency as described in §809.132(b) - (d)  
20 during the first six months of suspension status. The Board specifically asked whether the  
21 six months start over or will the provider have to wait the full 12 months to be assessed  
22 for certification reinstatement.

23  
24 **RESPONSE:** Current guidance will remain, requiring the provider on suspension status  
25 to have six consecutive months of clean CCR history (no additional deficiencies as  
26 described in §809.132(b) - (d)) within the adopted 15-month suspension period. If the  
27 provider does not have six consecutive months of clean CCR history by the end of the 15-  
28 month suspension period, the provider loses certification and will be required to be  
29 eligible for star-level certification prior to returning as a CCS provider. No changes were  
30 made in response to this comment.

31  
32 **§809.133. Application and Assessments for the Texas Rising Star Certification**

33  
34 **COMMENT:** One Board requested clarification on the Texas Rising Star Certification  
35 application process. The Board asked if applications would continue to be sent initially to  
36 Boards, who then in turn would forward these applications to the newly designated  
37 assessment entity.

38  
39 **RESPONSE:** With the enhancements made to Engage, TWC recommends that Boards  
40 encourage programs to continue to use the online upload feature within Engage to submit  
41 their application documents. This allows for an automated notification to the centralized  
42 entity that a provider is ready for assessment. The process will be detailed in  
43 implementation guidance to the Boards. No changes were made in response to this  
44 comment.

45  
46 **COMMENT:** One Board requested verification that the new assessment entity will

1 assume the responsibility of conducting quarterly licensing screenings. Assuming that is  
2 the case, the Board asked what date that transition will occur.

3  
4 **RESPONSE:** The centralized entity will assume all assessment duties, to include  
5 screenings prior to assessment and quarterly screening. Transfer of these duties will be  
6 determined once the contract is executed and an approved business plan is in place. TWC  
7 estimates that the statewide assessment entity will be procured and begin operations by  
8 late summer 2023. In the transition period between the effective date of the rules and the  
9 date TWC designates the assessment entity, the Boards will continue to perform the tasks  
10 of the designated entity outlined in Chapter 809, Subchapter G. At adoption, the  
11 Commission added §809.133(h) to clarify that the Boards will be responsible for the tasks  
12 assigned to the Texas Rising Star assessor entity, within their respective workforce areas,  
13 until the assessor entity is procured and designated by TWC.

14  
15 **§809.134. Minimum Qualifications for Texas Rising Star Staff**

16  
17 **COMMENT:** One commenter requested clarification on the time frame for mentors to  
18 attain microcredentialing. The commenter expressed concerns with the process. The  
19 commenter has been participating in microcredentialing since September 2021 and has  
20 only made 10 submissions because it is taking CLI Engage approximately 4.3 weeks to  
21 grade a submission. After nine months in the program, the commenter has only met 31 of  
22 the 253 competencies and earned 28 badges.

23  
24 **RESPONSE:** There is no time frame attached to obtaining the mentoring microcredential  
25 or a prescribed number of badges earned. Mentors are required to participate in the  
26 program, which includes attending a monthly Peer Learning Community and submission  
27 of videos. No changes were made in response to this comment.

28  
29 **COMMENT:** One Board requested that in addition to the Texas Rising Star standards  
30 training offered virtually, that TWC staff continue to offer this training in person, and on  
31 a more frequent basis, to address the anticipated hiring increase that will be required to  
32 serve all Entry Level and certified Texas Rising Star providers.

33  
34 **RESPONSE:** To ensure the integrity, consistency, and validity of the assessment training  
35 and certification program, all new staff will be required to complete the coursework as  
36 currently provided. TWC and CLI can discuss options to collaborate on providing some  
37 additional in-person training sessions on applicable topics. No changes were made in  
38 response to this comment.

39  
40 **COMMENT:** One Board expressed gratitude for the flexibility for Boards to determine  
41 "suitable" experience in early childhood education for mentors with associate degrees.  
42 The Board requested clarification regarding how current mentor staff who have associate  
43 degrees and suitable experience in early childhood education can have their TWC  
44 waivers rescinded, as it appears this rule change will no longer require such a waiver for  
45 those with suitable experience. The Board also requested operational guidance as to any  
46 required local policies/procedures needed to document suitable experience.



1  
2 **RESPONSE:** Boards may submit to TWC for review any staff résumés and transcripts  
3 that the Board is unsure fits the suitable experience allowance. TWC guidance (WD  
4 Letter 02-21) will be revised to indicate this change and provide some clarifying  
5 terminology on suitable experience and current waivers. No changes were made in  
6 response to this comment.  
7

8 **COMMENT:** One Board expressed concerns that there are minimum education and  
9 experience requirements for mentors (in addition to the requirement to attain  
10 microcredentials), but the minimum education and experience requirements for assessors  
11 has been replaced by the requirement only to attain and maintain Texas Rising Star  
12 Assessor Certification. If attaining/maintaining the Texas Rising Star Assessor  
13 Certification is adequate to replace the minimum education and experience requirement  
14 for assessors, attaining mentor microcredentials should suffice for the  
15 education/experience requirements for mentors, or assessor staff should be required to  
16 meet minimum education/experience standards just as mentor staff must. The Board is  
17 seeking consistency in education/experience/certification requirements amongst both  
18 entities.  
19

20 **RESPONSE:** The centralized entity will be responsible for identifying the education and  
21 experience requirements for the assessment staff. TWC will require, at minimum, the  
22 participation in and certification through the assessment training and certification  
23 program. Mentors do not have a certification similar to the assessor certification  
24 requirements; and, therefore, must have minimum education requirements. No changes  
25 were made in response to this comment.  
26

### 27 **§809.135. Texas Rising Star Process for Reconsideration**

28  
29 **COMMENT:** One Board expressed support for the transfer of responsibility for Texas  
30 Rising Star assessment reconsiderations to the TWC's designated assessment entity.  
31

32 **RESPONSE:** The Commission appreciates the support. No changes were made in  
33 response to this comment.  
34

### 35 **PART IV. STATUTORY AUTHORITY**

36 The rules are adopted under Texas Labor Code, §301.0015 and §302.002(d), which provide  
37 TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the  
38 effective administration of TWC services and activities.  
39

40 The adopted rules implement changes made to Texas Government Code, Chapter 2308 by House  
41 Bill (HB) 1792, HB 2607, and Senate Bill 1555, 87th Texas Legislature, Regular Session (2021).  
42

1 **CHAPTER 809. CHILD CARE SERVICES**

2  
3 **SUBCHAPTER A. GENERAL PROVISIONS**

4  
5 **§809.1. Short Title and Purpose.**

6  
7 (a) The rules contained in this chapter may be cited as the Child Care Services rules.

8  
9 (b) The purpose of the rules contained in this chapter is to interpret and implement the  
10 requirements of state and federal statutes and regulations governing child care and  
11 quality improvement activities funded through the Texas Workforce Commission  
12 (Commission), to include the Child Care and Development Fund (CCDF), which  
13 includes:

14  
15 (1) funds allocated to local workforce development areas (workforce areas) as  
16 provided in §800.58 of this title;

17  
18 (2) private donated funds described in §809.17 of this chapter;

19  
20 (3) public transferred funds described in §809.17 of this chapter;

21  
22 (4) public certified expenditures described in §809.17 of this chapter; and

23  
24 (5) funds used for children receiving protective services described in §809.49 of  
25 this chapter.

26  
27 (c) The rules contained in this chapter apply to other funds that are used for child care  
28 services allocated to workforce areas under Chapter 800 of this title, except for the  
29 following:

30  
31 (1) Funds used for quality improvement activities described in §809.16 of this  
32 chapter;

33  
34 (2) Assessing the parent share of cost described in §809.19 of this chapter; and

35  
36 (3) Subchapter C of this chapter (relating to Eligibility for Child Care Services).

37  
38 (d) The rules contained in this chapter shall apply to the Commission, Local Workforce  
39 Development Boards (Boards), their child care contractors, child care providers, and  
40 parents applying for or eligible to receive child care services.

41  
42 **§809.2. Definitions.**

43  
44 The following words and terms, when used in this chapter, shall have the following  
45 meanings, unless the context clearly indicates otherwise.

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- (1) Attending a job training or educational program--An individual is attending a job training or educational program if the individual:
    - (A) is considered by the program to be officially enrolled;
    - (B) meets all attendance requirements established by the program; and
    - (C) is making progress toward successful completion of the program as demonstrated through continued enrollment in the program upon eligibility redetermination as described in §809.42 of this chapter.
  - (2) Child--An individual who meets the general eligibility requirements contained in this chapter for receiving child care services.
  - (3) Child care contractor--The entity or entities under contract with the Board to manage child care services. This includes contractors involved in determining eligibility for child care services, contractors involved in the billing and reimbursement process related to child care, as well as contractors involved in the funding of quality improvement activities as described in §809.16 of this chapter.
  - (4) Child Care Desert--An area described in Texas Labor Code, §302.0461 in which the number of children under age six with working parents is at least three times greater than the capacity of licensed child care providers in the area, based on data published annually by the Commission.
  - (5) Child Care Regulation (CCR)--Division in the Texas Health and Human Services Commission responsible for protecting the health, safety, and well-being of children who attend or reside in regulated child care facilities and homes.
  - (6) Child care services--Child care subsidies and quality improvement activities funded by the Commission.
  - (7) Child care subsidies--Commission-funded child care reimbursements to an eligible child care provider for the direct care of an eligible child.
  - (8) Child experiencing homelessness--A child who is homeless, as defined in the McKinney-Vento Act (42 USC 11434(a)), Subtitle VII-B, §725.
  - (9) Child with disabilities--A child who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. Major life activities include, but are not limited to, caring for oneself; performing manual tasks; walking; hearing; seeing, speaking, or breathing; learning; and working.

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- (10) Educational program--A program that leads to:
    - (A) a high school diploma;
    - (B) a Certificate of High School Equivalency; or
    - (C) an undergraduate degree from an institution of higher education.
  - (11) Excessive unexplained absences--More than 40 unexplained absences within a 12-month eligibility period as described in §809.78 of this chapter.
  - (12) 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.
  - (13) 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.
  - (14) 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.
  - (15) Job training program--A program that provides training or instruction leading to:

- 1 (A) basic literacy;  
2  
3 (B) English proficiency;  
4  
5 (C) an occupational or professional certification or license; or  
6  
7 (D) the acquisition of technical skills, knowledge, and abilities specific to an  
8 occupation.  
9
- 10 (16) Listed family home--A family home, other than the eligible child's own  
11 residence, that is listed, but not licensed or registered with, CCR pursuant to  
12 Texas Human Resources Code, §42.052(c).  
13
- 14 (17) Military deployment--The temporary duty assignment away from the  
15 permanent military installation or place of residence for reserve components of  
16 the single military parent or the dual military parents. This includes deployed  
17 parents in the regular military, military reserves, or National Guard.  
18
- 19 (18) Parent--An individual who is responsible for the care and supervision of a child  
20 and is identified as the child's natural parent, adoptive parent, stepparent, legal  
21 guardian, or person standing in loco parentis (as determined in accordance with  
22 Commission policies and procedures). Unless otherwise indicated, the term  
23 applies to a single parent or both parents.  
24
- 25 (19) Protective services--Services provided when a child:  
26
- 27 (A) is at risk of abuse or neglect in the immediate or short-term future and  
28 the child's family cannot or will not protect the child without Texas  
29 Department of Family and Protective Services (DFPS) Child Protective  
30 Services (CPS) intervention;  
31
- 32 (B) is in the managing conservatorship of DFPS and residing with a relative  
33 or a foster parent; or  
34
- 35 (C) has been provided with protective services by DFPS within the prior six  
36 months and requires services to ensure the stability of the family.  
37
- 38 (20) Provider--A provider is defined as a:  
39
- 40 (A) regulated child care provider;  
41
- 42 (B) relative child care provider; or  
43
- 44 (C) listed family home subject to the requirements in §809.91(e) of this  
45 chapter.  
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- (21) Regulated child care provider--A provider caring for an eligible child in a location other than the eligible child's own residence that is:
    - (A) licensed by CCR;
    - (B) registered with CCR; or
    - (C) operated and monitored by the United States military services.
  - (22) Relative child care provider--An individual who is at least 18 years of age, and is, by marriage, blood relationship, or court decree, the child's:
    - (A) grandparent;
    - (B) great-grandparent;
    - (C) aunt;
    - (D) uncle; or
    - (E) sibling (if the sibling does not reside in the same household as the eligible child).
  - (23) Residing with--Unless otherwise stipulated in this chapter, a child is considered to be residing with the parent when the child is living with, and physically present with, the parent during the time period for which child care services are being requested or received.
  - (24) Teen parent--A teen parent (teen) is an individual 18 years of age or younger, or 19 years of age and attending high school or the equivalent, who has a child.
  - (25) Texas Rising Star program--A quality-based rating system of child care providers participating in Commission-subsidized child care.
  - (26) Texas Rising Star provider--A regulated child care provider meeting the Texas Rising Star program standards. Texas Rising Star providers are:
    - (A) designated as an Entry Level Provider;
    - (B) certified as a Two-Star Provider;
    - (C) certified as a Three-Star Provider; or
    - (D) certified as a Four-Star Provider.
  - (27) Working--Working is defined as:

- (A) activities for which one receives monetary compensation such as a salary, wages, tips, and commissions;
- (B) participation in Choices or Supplemental Nutrition Assistance Program Employment and Training (SNAP E&T) activities; or
- (C) engaging in job search at the time of eligibility determination or redetermination as described in §809.56 of this chapter.

**SUBCHAPTER B. GENERAL MANAGEMENT**

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

- (a) A Board shall develop, adopt, and modify its policies for the design and management of the delivery of child care services in a public process in accordance with Chapter 802 of this title.
- (b) A Board shall maintain written copies of the policies that are required by federal and state law, or as required under this chapter, and make such policies available to the Commission and the public upon request.

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

- (a) A Board shall coordinate with federal, state, and local child care and early development programs and representatives of local governments in developing its Board plan and policies for the design and management of the delivery of child care services, and shall maintain written documentation of its coordination efforts.
- (b) Pursuant to Texas Education Code, §29.158, and in a manner consistent with federal law and regulations, a Board shall coordinate with school districts, Head Start, and Early Head Start program providers to ensure, to the greatest extent practicable, that full-day, full-year child care is available to meet the needs of low-income parents who are working or attending a job training or educational program.
- (c) Pursuant to Texas Labor Code, §302.00436, a Board shall inform the local school districts and open-enrollment charter schools in the Board's workforce area regarding opportunities to partner with child care providers in the Board's area to expand access to and provide facilities for prekindergarten (pre-K) programs.

**§809.15. Promoting Consumer Education.**

- (a) A Board shall promote informed child care choices by providing consumer education information to:
  - (1) parents who are eligible for child care services;

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- (2) parents who are placed on a Board's waiting list;
  - (3) parents who are no longer eligible for child care services; and
  - (4) applicants who are not eligible for child care services.
- (b) The consumer education information, including consumer education information provided through a Board's website, shall contain, at a minimum:
- (1) information about the Texas Information and Referral Network/2-1-1 Texas (2-1-1 Texas) information and referral system;
  - (2) the website and telephone number of CCR so parents may obtain health and safety requirements including information on:
    - (A) the prevention and control of infectious diseases (including immunizations);
    - (B) building and physical premises safety;
    - (C) minimum health and safety training appropriate to the provider setting; and
    - (D) the regulatory compliance history of child care providers;
  - (3) a description of the full range of eligible child care providers set forth in §809.91 of this chapter; and
  - (4) a description of programs available in the workforce area relating to school readiness and quality rating systems, including:
    - (A) Texas Rising Star (TRS) Provider criteria, pursuant to Texas Government Code, §2308.315; and
    - (B) integrated school readiness models, pursuant to Texas Education Code, §29.160;
  - (5) a list of child care providers that meet quality indicators, pursuant to Texas Government Code, §2308.3171;
  - (6) information on existing resources and services available in the workforce area for conducting developmental screenings and providing referrals to services when appropriate for children eligible for child care services, including the use of:



1 (A) the Early and Periodic Screening, Diagnosis, and Treatment program  
2 under 42 USC 1396 et seq.; and  
3

4 (B) developmental screening services available under Part B and Part C of  
5 the Individuals with Disabilities Education Act (20 USC 1419, 1431 et  
6 seq.; and  
7

8 (7) a link to the Agency's designated child care consumer education website.  
9

10 (c) A Board shall cooperate with HHSC to provide 2-1-1 Texas with information, as  
11 determined by HHSC, for inclusion in the statewide information and referral  
12 network.  
13

14 **§809.16. Quality Improvement Activities.**  
15

16 (a) Child care funds allocated by the Commission pursuant to its allocation rules  
17 (generally, Chapter 800, Subchapter B of this title (relating to Allocations), and  
18 specifically §800.58 of this title (relating to Child Care)), including local public  
19 transferred funds and local private donated funds, as provided in §809.17 of this  
20 subchapter, to the extent they are used for nondirect care quality improvement  
21 activities, shall be expended in accordance with the CCDF State Plan.  
22

23 (b) Boards must ensure compliance with 45 CFR Part 98 regarding construction  
24 expenditures, as follows:  
25

26 (1) State and local agencies and nonsectarian agencies or organizations.  
27

28 (A) Funds shall not be expended for the purchase or improvement of land, or  
29 for the purchase, construction, or permanent improvement of any  
30 building or facility.  
31

32 (B) Funds may be expended for minor remodeling, and for upgrading child  
33 care facilities to ensure that providers meet state and local child care  
34 standards, including applicable health and safety requirements.  
35

36 (2) Sectarian agencies or organizations.  
37

38 (A) The prohibitions in paragraph (1) of this subsection apply.  
39

40 (B) Funds may be expended for minor remodeling only if necessary to bring  
41 the facility into compliance with the health and safety requirements  
42 established pursuant to 45 CFR Part 98.  
43

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

1  
2 **§809.18. Maintenance of a Waiting List.**  
3

4 (a) The following provisions are effective prior to December 1, 2023:  
5

6 (1) A Board shall ensure that a list of parents and children waiting for child care  
7 services, because of the lack of funding or lack of providers, is maintained and  
8 available to the Commission upon request.  
9

10 (2) A Board shall establish a policy for the maintenance of a waiting list that  
11 includes, at a minimum:  
12

13 (A) the process for determining that the parent is potentially eligible for child  
14 care services before placing the parent on the waiting list; and  
15

16 (B) the frequency in which the parent information is updated and maintained  
17 on the waiting list.  
18

19 (3) A Board shall exempt children from the waiting list who are directly referred  
20 from a recognized pre-K or Head Start/Early Head Start (HS/EHS) partnership  
21 as described in §809.22 of this chapter to a child care provider to receive  
22 services in the contracted partnership program subject to the availability of  
23 funding and the availability of subsidized slots at the partnership site.  
24

25 (b) The following provisions are effective December 1, 2023:  
26

27 (1) A Board shall ensure that a list of parents and children waiting for child care  
28 services, because of the lack of funding or lack of providers, is maintained and  
29 available to the Commission upon request.  
30

31 (2) A Board shall ensure that the child is potentially eligible for child care services  
32 prior to placing the child on the waiting list.  
33

34 (3) A Board shall exempt children from the waiting list who are directly referred  
35 from a recognized pre-K or HS/EHS partnership, as described in §809.22 of this  
36 chapter, to a child care provider to receive services in the contracted partnership  
37 program subject to the availability of funding and the availability of subsidized  
38 slots at the partnership site.  
39

40 (4) A Board shall contact the parent every three months and shall remove the child  
41 from the waiting list if the parent indicates that child care services are no longer  
42 required or does not respond to the Board regarding the continued need for child  
43 care services.  
44

45 **§809.19. Assessing the Parent Share of Cost.**  
46

1 (a) The following provisions are effective prior to December 1, 2023:  
2

3 (1) For child care funds allocated by the Commission pursuant to its allocation rules  
4 (generally, Chapter 800, Subchapter B of this title (relating to Allocations), and  
5 specifically, §800.58 of this title (relating to Child Care)), including local public  
6 transferred funds and local private donated funds, as provided in §809.17 of this  
7 subchapter, the following shall apply:  
8

9 (A) A Board shall set a parent share of cost policy that assesses the parent  
10 share of cost in a manner that results in the parent share of cost:  
11

12 (i) being assessed to all parents, except in instances when an exemption  
13 under subparagraph (B) of this paragraph applies;  
14

15 (ii) being an amount determined by a sliding fee scale based on the  
16 family's size and gross monthly income, including a possible  
17 reexamination of the sliding fee scale if there are frequent  
18 terminations for lack of payment pursuant to paragraph (4) of this  
19 subsection, which also may consider the number of children in  
20 care;  
21

22 (iii) being an amount that is affordable and does not result in a barrier to  
23 families receiving assistance;  
24

25 (iv) being assessed only at the following times:  
26

27 (I) initial eligibility determination;  
28

29 (II) 12-month eligibility redetermination;  
30

31 (III) upon the addition of a child in care;  
32

33 (IV) upon a parent's report of a change in income, family size,  
34 or number of children in care that would result in a reduced  
35 parent share of cost assessment; and  
36

37 (V) upon resumption of work, job training, or education  
38 activities following temporary changes described in  
39 §809.51(a)(2) of this chapter, and upon resumption of  
40 work, job training, or education activities during the three-  
41 month continuation of care period described in §809.51(c)  
42 of this chapter; and  
43

44 (v) not increasing above the amount assessed at initial eligibility  
45 determination or at the 12-month eligibility redetermination based  
46 on the factor in clause (ii) of this subparagraph, except upon the

1 addition of a child in care as described in clause (iv)(III) of this  
2 subparagraph.

3  
4 (B) Parents who are one or more of the following are exempt from paying the  
5 parent share of cost:

6  
7 (i) Parents who are participating in Choices or who are in Choices child  
8 care described in §809.45 of this chapter;

9  
10 (ii) Parents who are participating in SNAP E&T services or who are in  
11 SNAP E&T child care described in §809.47 of this chapter;

12  
13 (iii) Parents of a child receiving Child Care for Children Experiencing  
14 Homelessness as described in §809.52 of this chapter; or

15  
16 (iv) Parents who have children who are receiving protective services  
17 child care pursuant to §809.49 and §809.54(c) of this chapter,  
18 unless DFPS assesses the parent share of cost.  
19

20 (C) Teen parents who are not covered under exemptions listed in  
21 subparagraph (B) of this paragraph shall be assessed a parent share of  
22 cost. The teen parent's share of cost is based solely on the teen parent's  
23 income and size of the teen's family as defined in §809.2 of this chapter.  
24

25 (2) A Board shall establish a policy stating whether or not the Board will reimburse  
26 providers when parents fail to pay the parent share of cost. If the Board does not  
27 reimburse providers under the adopted policy, the Board may establish a policy  
28 requiring the parent pay the provider before the family can be redetermined  
29 eligible for future child care services.  
30

31 (3) A Board shall establish a policy regarding termination of child care services  
32 within a 12-month eligibility period when a parent fails to pay the parent share  
33 of cost. The Board's policy must include:  
34

35 (A) a requirement to evaluate and document each family's financial situation  
36 for extenuating circumstances that may affect affordability of the  
37 assessed parent share of cost pursuant to subparagraph (B) of this  
38 paragraph, and a possible temporary reduction pursuant to paragraph (5)  
39 of this subsection before the Board or its child care contractor may  
40 terminate care under this section;

41  
42 (B) general criteria for determining affordability of a Board's parent share of  
43 cost, and a process to identify and assess the circumstances that may  
44 jeopardize a family's self-sufficiency under paragraph (5) of this  
45 subsection;  
46

- 1 (C) maintenance of a list of all terminations due to failure to pay the parent  
2 share of cost, for use when conducting evaluations of affordability, as  
3 required under subparagraph (D) of this paragraph; and  
4
- 5 (D) the Board's definition of what constitutes frequent terminations and its  
6 process for assessing the general affordability of the Board's parent share  
7 of cost schedule, pursuant to paragraph (4) of this subsection.  
8
- 9 (4) A Board with frequent terminations of care for lack of payment of the parent  
10 share of cost must reexamine its sliding fee scale and adjust it to ensure that fees  
11 are not a barrier to assistance for families at certain income levels.  
12
- 13 (5) The Board or its child care contractor may review the assessed parent share of  
14 cost for a possible temporary reduction if there are extenuating circumstances  
15 that jeopardize a family's self-sufficiency. The Board or its child care contractor  
16 may temporarily reduce the assessed parent share of cost if warranted by these  
17 circumstances. Following the temporary reduction, the parent share of cost  
18 amount immediately prior to the reduction shall be reinstated.  
19
- 20 (6) If the parent is not covered by an exemption as specified in paragraph (1)(B) of  
21 this subsection, then the Board or its child care contractor shall not waive the  
22 assessed parent share of cost under any circumstances.  
23
- 24 (7) If the parent share of cost, based on family income and family size, is calculated  
25 to be zero, then the Board or its child care contractor shall not charge the parent  
26 a minimum share of cost amount.  
27
- 28 (8) A Board may establish a policy to reduce the parent share of cost amount  
29 assessed pursuant to paragraph (1)(A)(ii) of this subsection upon the parent's  
30 selection of a Texas Rising Star-certified provider. Such Board policy shall  
31 ensure:  
32
- 33 (A) that the parent continues to receive the reduction if:  
34
- 35 (i) the Texas Rising Star provider loses Texas Rising Star  
36 certification; or  
37
- 38 (ii) the parent moves or changes employment within the workforce  
39 area and no Texas Rising Star-certified providers are available to  
40 meet the needs of the parent's changed circumstances; and  
41
- 42 (B) the parent no longer receives the reduction if the parent voluntarily  
43 transfers the child from a Texas Rising Star-certified provider to a  
44 non-Texas Rising Star-certified provider.  
45
- 46 (9) A Board may establish a policy to reduce the parent share of cost amount

1 assessed pursuant to paragraph (1)(A)(ii) of this subsection upon the child's  
2 referral for part-time or blended care. Such Board policy shall ensure that:

3  
4 (A) the parent no longer receives the reduction if the referral is changed to  
5 full-time care; and

6  
7 (B) a parent who qualifies for a reduction in parent share of cost for both  
8 selecting a Texas Rising Star-certified provider (as defined in paragraph  
9 (8) of this subsection) and a child's part-time or blended care referral will  
10 receive the greater of the two discounts.

11  
12 (b) The following provisions are effective on December 1, 2023:

13  
14 (1) For child care funds allocated by the Commission pursuant to its allocation  
15 rules (generally, Chapter 800, Subchapter B of this title (relating to  
16 Allocations), and specifically, §800.58 of this title (relating to Child Care)),  
17 including local public transferred funds and local private donated funds, as  
18 provided in §809.17 of this subchapter, the following shall apply:

19  
20 (A) The parent share of cost shall be:

21  
22 (i) assessed to all parents, except in instances when an exemption  
23 under subparagraph (C) of this paragraph applies; and

24  
25 (ii) established by the Commission and determined by a sliding fee  
26 scale based on the family's size and gross monthly income  
27 determined in §809.44 of this chapter and as represented by a  
28 percentage of the state median income (SMI) up to 85 percent SMI.

29  
30 (B) A Board shall assess the parent share of cost in accordance with  
31 subparagraph (A)(ii) of this paragraph and in a manner that results in the  
32 parent share of cost:

33  
34 (i) being assessed only at the following times:

35  
36 (I) initial eligibility determination;

37  
38 (II) 12-month eligibility redetermination;

39  
40 (III) upon the addition of a child in care;

41  
42 (IV) upon a parent's report of a change in income, family size, or  
43 number of children in care that would result in a reduced  
44 parent share of cost assessment; and

45  
46 (V) upon resumption of work, job training, or education activities

1 following temporary changes described in §809.51(a) of this  
2 chapter, and upon resumption of work, job training, or  
3 education activities during the three-month continuation of  
4 care period described in §809.51(c) of this chapter; and  
5

6 (ii) not increasing above the amount assessed at initial eligibility  
7 determination or at the 12-month eligibility redetermination, except  
8 upon the addition of a child in care as described in subclause (i)(III)  
9 of this subparagraph.

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

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

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

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

22  
23 (iv) Parents who have children who are receiving protective services  
24 child care pursuant to §809.49 and §809.54(c) of this chapter, unless  
25 DFPS assesses the parent share of cost.  
26

27 (D) Teen parents who are not covered under exemptions listed in  
28 subparagraph (C) of this paragraph shall be assessed a parent share of  
29 cost. The teen parent's share of cost is based solely on the teen parent's  
30 income and size of the teen's family as defined in §809.2 of this chapter.  
31

32 (2) A Board shall establish a policy stating whether or not the Board will  
33 reimburse providers when parents fail to pay the parent share of cost. If the  
34 Board does not reimburse providers under the adopted policy, the Board may  
35 establish a policy requiring the parent pay the provider before the family can  
36 be redetermined eligible for future child care services.  
37

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

41  
42 (A) a requirement to evaluate and document each family's financial situation  
43 for extenuating circumstances that may affect affordability of the  
44 assessed parent share of cost pursuant to subparagraph (B) of this  
45 paragraph, and a possible temporary reduction pursuant to paragraph (4)  
46 of this subsection before the Board or its child care contractor may

- 1 terminate care under this section;
- 2
- 3 (B) a process to identify and assess the circumstances that may jeopardize a
- 4 family's self-sufficiency under paragraph (4) of this subsection; and
- 5
- 6 (C) maintenance of a list of all terminations due to failure to pay the parent
- 7 share of cost.
- 8
- 9 (4) The Board or its child care contractor may review the assessed parent share of
- 10 cost for a possible temporary reduction if there are extenuating circumstances
- 11 that jeopardize a family's self-sufficiency. The Board or its child care
- 12 contractor may temporarily reduce the assessed parent share of cost if
- 13 warranted by these circumstances. Following the temporary reduction, the
- 14 parent share of cost amount immediately prior to the reduction shall be
- 15 reinstated.
- 16
- 17 (5) If the parent is not covered by an exemption as specified in paragraph (1)(C) of
- 18 this subsection, then the Board or its child care contractor shall not waive the
- 19 assessed parent share of cost under any circumstances.
- 20
- 21 (6) If the parent share of cost, based on family income and family size, is
- 22 calculated to be zero, then the Board or its child care contractor shall not
- 23 charge the parent a minimum share of cost amount.
- 24
- 25 (7) A Board may establish a policy to reduce the parent share of cost amount
- 26 assessed pursuant to paragraph (1)(A) of this subsection upon the parent's
- 27 selection of a Texas Rising Star-certified provider. Such Board policy shall
- 28 ensure:
- 29
- 30 (A) that the parent continues to receive the reduction if:
- 31
- 32 (i) the Texas Rising Star provider loses Texas Rising Star certification;
- 33 or
- 34
- 35 (ii) the parent moves or changes employment within the workforce area
- 36 and no Texas Rising Star-certified providers are available to meet
- 37 the needs of the parent's changed circumstances; and
- 38
- 39 (B) the parent no longer receives the reduction if the parent voluntarily
- 40 transfers the child from a Texas Rising Star-certified provider to a non-
- 41 Texas Rising Star-certified provider.
- 42
- 43 (8) A Board may establish a policy to reduce the parent share of cost amount
- 44 assessed pursuant to paragraph (1)(A) of this subsection upon the child's
- 45 referral for part-time or blended care. Such Board policy shall ensure that:
- 46



- 1 (A) the parent no longer receives the reduction if the referral is changed to  
2 full-time care; and  
3  
4 (B) a parent who qualifies for a reduction in parent share of cost for both  
5 selecting a Texas Rising Star-certified provider (as defined in paragraph  
6 (7) of this subsection) and a child's part-time or blended care referral will  
7 receive the greater of the two discounts.  
8

9 **§809.20. Maximum Provider Reimbursement Rates.**

- 10  
11 (a) Based on local factors, including a market rate survey provided by the Commission,  
12 a Board shall establish maximum reimbursement rates for child care subsidies at or  
13 above a level established by the Commission to ensure that the rates provide equal  
14 access to child care in the local market and in a manner consistent with state and  
15 federal statutes and regulations governing child care. At a minimum, Boards shall  
16 establish reimbursement rates for full-day and part-day units of service, as described  
17 in §809.93(f) of this chapter, for the following:  
18

19 (1) Provider types:

- 20  
21 (A) Licensed child care centers, including before- or after-school programs  
22 and school-age programs, as defined by CCR;  
23  
24 (B) Licensed child care homes as defined by CCR;  
25  
26 (C) Registered child care homes as defined by CCR; and  
27  
28 (D) Relative child care providers as defined in §809.2 of this chapter.  
29

30 (2) Age groups in each provider type effective prior to December 1, 2023:

- 31  
32 (A) Infants age 0 to 17 months;  
33  
34 (B) Toddlers age 18 to 35 months;  
35  
36 (C) Preschool age children from 36 to 71 months; and  
37  
38 (D) School-age children 72 months and older.  
39

40 (3) Age groups in each provider type effective December 1, 2023:

- 41  
42 (A) Infants ages 0 through 11 months;  
43  
44 (B) Infants ages 12 through 17 months;  
45  
46 (C) Toddlers ages 18 through 23 months;

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- (D) Toddlers age 2 years;
- (E) Preschool age 3 years;
- (F) Preschool age 4 years;
- (G) Preschool age 5 years; and
- (H) School-age 6 years and older.

(b) A Board shall establish enhanced reimbursement rates:

- (1) for all age groups at certified Texas Rising Star provider facilities; and
- (2) only for infant, toddler, and preschool-age children at child care providers that participate in integrated school readiness models for those age groups 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) certified Two-Star Provider; or
  - (B) child care provider meeting the requirements of subsection (b)(2) of this section;
- (2) 7 percent greater for a certified Three-Star Provider; and
- (3) 9 percent greater for a certified Four-Star Provider.

(d) Boards may establish a higher enhanced reimbursement rate than those specified in subsection (c) of this section for certified Texas Rising Star 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 children with disabilities, certifies the need for the higher reimbursement rate

1 described in this subsection.  
2

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

8 (g) A Board may establish a higher enhanced reimbursement rate for nontraditional  
9 hours, as defined by the Board.  
10

## 11 **SUBCHAPTER C. ELIGIBILITY FOR CHILD CARE SERVICES**

### 12 **§809.41. A Child's General Eligibility for Child Care Services.**

13 (a) Except for a child receiving or needing protective services as described in §809.49 of  
14 this chapter, for a child to be eligible to receive child care services, at the time of  
15 eligibility determination or redetermination, a Board shall ensure that the child:  
16  
17  
18

19 (1) meets one of the following age requirements:  
20

21 (A) be under 13 years of age; or  
22

23 (B) be a child with disabilities under 19 years of age;  
24

25 (2) is a United States citizen or legal immigrant as determined under applicable  
26 federal laws, regulations, and guidelines; and  
27

28 (3) resides with:  
29

30 (A) a family within the Board's workforce area:  
31

32 (i) whose income does not exceed 85 percent of the state median  
33 income (SMI) for a family of the same size; and  
34

35 (ii) whose assets do not exceed \$1,000,000 as certified by a family  
36 member; or  
37

38 (iii) that meets the definition of experiencing homelessness as defined in  
39 §809.2 of this chapter.  
40

41 (B) parents who require child care in order to work, including job search, or  
42 attend a job training or educational program; or  
43

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

- 1  
2 (b) A Board shall ensure that child care services while the parent is enrolled full-time in  
3 a postsecondary undergraduate educational program is provided for, but does not  
4 exceed, a cumulative total of 60 months.  
5  
6 (c) A Board may establish a policy to allow parents attending a program that leads to an  
7 undergraduate degree from an institution of higher education to be exempt from  
8 residing with the child as defined in §809.2 of this chapter.  
9

10 **§809.42. Eligibility Verification, Determination, and Redetermination.**  
11

- 12 (a) A Board shall ensure that its child care contractor verifies all eligibility requirements  
13 for child care services prior to authorizing child care.  
14  
15 (b) A Board shall ensure that eligibility for child care services shall be redetermined no  
16 sooner than 12 months following the initial determination or most recent  
17 redetermination, except for Child Care during Job Search as described in §809.56 of  
18 this chapter.  
19

20 **§809.44. Calculating Family Income.**  
21

- 22 (a) For the purposes of determining family income and assessing the parent share of cost,  
23 Boards shall ensure that family income is calculated in accordance with Commission  
24 guidelines that:  
25  
26 (1) take into account irregular fluctuations in earnings; and  
27  
28 (2) ensure that temporary increases in income, including temporary increases that  
29 result in monthly income exceeding 85 percent of SMI do not affect eligibility  
30 or parent share of cost.  
31  
32 (b) In accordance with Commission income calculation guidelines, Boards shall ensure  
33 that the following income sources are excluded from the family income:  
34  
35 (1) Medicare, Medicaid, SNAP benefits, school meals, and housing assistance;  
36  
37 (2) Monthly monetary allowances provided to or for children of Vietnam veterans  
38 born with certain birth defects;  
39  
40 (3) Needs-based educational scholarships, grants, and loans; including financial  
41 assistance under Title IV of the Higher Education Act--Pell Grants, Federal  
42 Supplemental Educational Opportunity grants, Federal Work Study Program,  
43 PLUS, Stafford loans, and Perkins loans;  
44  
45 (4) Individual Development Account (IDA) withdrawals for the purchase of a  
46 home, medical expenses, or educational expenses;

- 1
- 2 (5) Tax refunds and tax credits;
- 3
- 4 (6) VISTA and AmeriCorps living allowances and stipends;
- 5
- 6 (7) Noncash or in-kind benefits such as employer-paid fringe benefits, food, or
- 7 housing received in lieu of wages;
- 8
- 9 (8) Foster care payments and adoption assistance;
- 10
- 11 (9) Special military pay or allowances, including subsistence allowances, housing
- 12 allowances, family separation allowances, or special allowances for duty
- 13 subject to hostile fire or imminent danger;
- 14
- 15 (10) Income from a child in the household between 14 and 19 years of age who is
- 16 attending school;
- 17
- 18 (11) Early withdrawals from qualified retirement accounts specified as hardship
- 19 withdrawals as classified by the Internal Revenue Service (IRS);
- 20
- 21 (12) Unemployment compensation;
- 22
- 23 (13) Child support payments;
- 24
- 25 (14) Cash assistance payments, including Temporary Assistance for Needy
- 26 Families (TANF), Supplemental Security Income (SSI), Refugee Cash
- 27 Assistance, general assistance, emergency assistance, and general relief;
- 28
- 29 (15) Onetime income received in lieu of TANF cash assistance;
- 30
- 31 (16) Income earned by a veteran while on active military duty and certain other
- 32 veterans' benefits, such as compensation for service-connected death,
- 33 vocational rehabilitation, and education assistance;
- 34
- 35 (17) Regular payments from Social Security, such as Old-Age, and Survivors
- 36 Insurance Trust Fund;
- 37
- 38 (18) Lump sum payments received as assets in the sale of a house, in which the
- 39 assets are to be reinvested in the purchases of a new home (consistent with IRS
- 40 guidance);
- 41
- 42 (19) Payments received as the result of an automobile accident insurance settlement
- 43 that are being applied to the repair or replacement of an automobile;
- 44
- 45 (20) One-time cash payments, including insurance payments, gifts, and lump sum
- 46 inheritances; and

1  
2 (21) Any income sources specifically excluded by federal law or regulation.  
3

4 (c) Income that is not listed in subsection (b) of this section as excluded from income is  
5 included as income.  
6

7 **§809.48. Transitional Child Care.**  
8

9 (a) A parent is eligible for Transitional child care services if the parent:  
10

11 (1) has been denied TANF and was employed at the time of TANF denial; or  
12

13 (2) has been denied TANF within 30 days because of expiration of TANF time  
14 limits; and  
15

16 (3) requires child care to work or attend a job training or educational program for a  
17 combination of at least an average of 25 hours per week for a single-parent  
18 family or a total combined 50 hours per week for a dual-parent family.  
19

20 (b) For former TANF recipients who are employed when TANF is denied, Transitional  
21 child care shall be available for:  
22

23 (1) a period of up to 12 months from the effective date of the TANF denial; or  
24

25 (2) a period of up to 18 months from the effective date of the TANF denial in the  
26 case of a former TANF recipient who was eligible for child caretaker  
27 exemptions pursuant to Texas Human Resources Code, §31.012(c) and  
28 voluntarily participates in the Choices program.  
29

30 (c) A Board may allow a reduction to the requirement in subsection (a)(3) of this section  
31 if a parent's documented medical disability or need to care for a physically or  
32 mentally disabled family member prevents the parent from participating in work,  
33 education, or job training activities for the required hours per week.  
34

35 (d) For purposes of meeting the education requirements stipulated in subsection (a)(3) of  
36 this section, the following shall apply:  
37

38 (1) each credit hour of undergraduate education counts as three hours of education  
39 activity per week; and  
40

41 (2) each credit hour of a condensed undergraduate education course counts as six  
42 education activity hours per week.  
43

44 **§809.50. At-Risk Child Care.**  
45

46 (a) A parent is eligible for child care services under this section if at initial eligibility

1 determination and at eligibility redetermination as described in §809.42 of this  
2 chapter:

3  
4 (1) the family income does not exceed the income limit pursuant to §809.41 of this  
5 chapter; and

6  
7 (2) child care is required for the parent to work or attend a job training or  
8 educational program for a combination of at least an average of 25 hours per  
9 week for a single-parent family or a total combined 50 hours per week for a  
10 dual-parent family.

11  
12 (b) A Board may allow a reduction to the work, education, or job training activity  
13 requirements in subsection (a)(2) of this section if a parent's documented medical  
14 disability or need to care for a physically or mentally disabled family member  
15 prevents the parent from participating in these activities for the required hours per  
16 week.

17  
18 (c) For purposes of meeting the education requirements stipulated in subsection (a)(2) of  
19 this section, the following shall apply:

20  
21 (1) each credit hour of undergraduate education counts as three hours of education  
22 activity per week;

23  
24 (2) each credit hour of a condensed undergraduate education course counts as six  
25 education activity hours per week; and

26  
27 (3) teen parents attending high school or the equivalent shall be considered as  
28 meeting the education requirements in subsection (a)(2) of this section.

29  
30 (d) When calculating income eligibility for a child with disabilities, a Board shall deduct  
31 the cost of the child's ongoing medical expenses from the family income.

32  
33 (e) A teen parent's family income is based solely on the teen parent's income and size of  
34 the teen's family as defined in §809.2 of this chapter.

35  
36 **§809.51. Child Care during Interruptions in Work, Education, or Job Training.**

37  
38 (a) Except for a child experiencing homelessness, as described in §809.52 of this  
39 chapter, and for child care during job search, as described in §809.56 of this chapter,  
40 if the child met all of the applicable eligibility requirements for child care services in  
41 this subchapter on the date of the most recent eligibility determination or  
42 redetermination, the child shall be considered to be eligible and will receive services  
43 during the 12-month eligibility period described in §809.42 of this chapter,  
44 regardless of any:

45  
46 (1) change in family income, if that family income does not exceed 85 percent of

- 1 SMI for a family of the same size; or  
2  
3 (2) temporary change in the ongoing status of the child's parent as working or  
4 attending a job training or education program. A temporary change shall  
5 include, at a minimum, any:  
6  
7 (A) time-limited absence from work for an employed parent for periods of  
8 family leave (including parental leave) or sick leave;  
9  
10 (B) interruption in work for a seasonal worker who is not working between  
11 regular industry work seasons;  
12  
13 (C) student holiday or breaks within a semester, between the fall and spring  
14 semesters, or between the spring and fall semesters, for a parent  
15 participating in training or education;  
16  
17 (D) reduction in work, training, or education hours, as long as the parent is  
18 still working or attending a training or education program;  
19  
20 (E) other cessation of work or attendance in a training or education program  
21 that does not exceed three months;  
22  
23 (F) change in age, including turning 13 years old or a child with disabilities  
24 turning 19 years old during the eligibility period; and  
25  
26 (G) change in residency within the state.  
27  
28 (b) During the period of time between eligibility redeterminations, a Board shall  
29 discontinue child care services due to a parent's loss of work or cessation of  
30 attendance at a job training or educational program that does not constitute a  
31 temporary change in accordance with subsection (a)(2) of this section. However,  
32 Boards must ensure that care continues at the same level for a period of not less than  
33 three months after such loss of work or cessation of attendance at a job training or  
34 educational program.  
35  
36 (c) If a parent resumes work or attendance at a job training or education program at any  
37 level and at any time during the period described in subsection (b) of this section,  
38 then the Board shall ensure that:  
39  
40 (1) care will continue to the end of the 12-month eligibility period at the same or  
41 greater level, depending upon any increase in the activity hours of the parent;  
42  
43 (2) the parent share of cost will not be increased during the remainder of the 12-  
44 month eligibility period, including for parents who are exempt from the parent  
45 share of cost pursuant to §809.19 of this chapter; and  
46



1 (3) the Board's child care contractor verifies only:  
2

3 (A) that the family income does not exceed 85 percent of SMI; and  
4

5 (B) the resumption of work or attendance at a job training or education  
6 program.  
7

8 (d) The Board may suspend child care services during interruptions in the parent's work,  
9 job training, or education status only at the concurrence of the parent.  
10

11 **§809.55. Waiting Period for Reapplication.**  
12

13 (a) A parent is ineligible to reapply for child care services or to be placed on the waiting  
14 list for services for 60 calendar days if the parent's eligibility or the child's  
15 enrollment is terminated due to:  
16

17 (1) excessive unexplained absences under §809.78 of this chapter; or  
18

19 (2) nonpayment of parent share of cost pursuant to a Board's established policy  
20 under §809.19 of this chapter.  
21

22 (b) To ensure full alignment between Child Care Services rules and the Choices program  
23 requirements, the provisions of subsection (a) of this section will not apply to  
24 individuals who, during the 60-calendar day waiting period:  
25

26 (1) become Choices participants who require child care to participate in Choices;  
27 or  
28

29 (2) are on Choices sanction status and require child care to demonstrate  
30 participation in Choices.  
31

32 **§809.56. Child Care during Initial Job Search.**  
33

34 (a) A parent, including a parent in a dual-parent family, is eligible for child care services  
35 under this section if at initial eligibility determination the family does not meet the  
36 minimum participation requirements for At-Risk Child Care as described in §809.50  
37 of this chapter.  
38

39 (b) A Board shall allow parents to self-attest that the:  
40

41 (1) family meets the requirements of subsection (a) of this section; and  
42

43 (2) family income does not exceed 85 percent of the state median income.  
44

45 (c) Child care under this section is limited to an initial three-month job search period. If  
46 total activity participation of at least 25 hours for a single-parent family or a total

1 combined 50 hours per week for dual-parent families, which must include a  
2 minimum of 12 hours in employment for a single-parent family and a total combined  
3 25 hours in employment for a dual-parent family, are met within the initial three  
4 months, eligibility will continue for a total of 12 months, inclusive of the care  
5 provided during the initial job search period, provided that the family income does  
6 not exceed 85 percent of the state median income. If the family does not meet  
7 minimum activity requirements under this subsection within three months, care must  
8 be terminated.

9  
10 (d) For child care during the initial three-month job search period, the follow applies  
11 regarding the parent share of cost:

12  
13 (1) A Board shall initially assess the parent share of cost at the highest amount  
14 based on the family size and number of children in care.

15  
16 (2) The initially assessed amount will immediately be temporarily reduced to zero.  
17 This provision also applies to dual-parent families in which one parent is  
18 employed but the family meets the requirements in subsection (a) of this  
19 section for child care during initial job search.

20  
21 (3) If the parent begins to meet participation requirements of subsection (c) of this  
22 section within or by the end of the three-month job search period, the parent  
23 share of cost shall be reinstated at the initially assessed amount or the amount  
24 based on the actual family income, whichever is lower.

25  
26 (e) Eligibility for child care under this section is limited to one initial three-month job  
27 search period per family within a 12-month period.

28  
29 (f) A Board shall ensure that the parent in child care for job search is registered with the  
30 state's labor exchange system and has access to appropriate services available  
31 through the one-stop delivery network described in §801.28 of this title.

32  
33 **SUBCHAPTER D. PARENT RIGHTS AND RESPONSIBILITIES**

34  
35 **§809.71. Parent Rights.**

36  
37 A Board shall ensure that the Board's child care contractor informs the parent in writing  
38 that the parent has the right to:

39  
40 (1) choose the type of child care provider that best suits their needs and to be  
41 informed of all child care options available to them as included in the  
42 consumer education information described in §809.15 of this chapter;

43  
44 (2) visit available child care providers before making their choice of a child care  
45 option;

- 1 (3) receive assistance in choosing initial or additional child care referrals including  
2 information about the Board's policies regarding transferring children from one  
3 provider to another, which shall include a waiting period of two weeks before  
4 the effective date of a transfer, except in cases in which the provider is subject  
5 to a CCR action, as described in §809.94 of this chapter; when the transfer is  
6 authorized by CPS for a child in protective services; or on a case-by-case basis  
7 determined by the Board;  
8
- 9 (4) be informed of the Commission rules and Board policies related to providers  
10 charging parents amounts above the assessed parent share of cost" as described  
11 in §809.92 of this chapter;  
12
- 13 (5) be represented when applying for child care services;  
14
- 15 (6) be notified of their eligibility to receive child care services within 20 calendar  
16 days from the day the Board's child care contractor receives all necessary  
17 documentation required to initially determine eligibility for child care;  
18
- 19 (7) receive child care services regardless of race, color, national origin, age, sex,  
20 disability, political beliefs, or religion;  
21
- 22 (8) have the Board and the Board's child care contractor treat information used to  
23 determine eligibility for child care services as confidential;  
24
- 25 (9) receive written notification at least 15 calendar days before termination of  
26 child care services;  
27
- 28 (10) reject an offer of child care services or voluntarily withdraw their child from  
29 child care, unless the child is in protective services;  
30
- 31 (11) be informed of the possible consequences of rejecting or ending the child care  
32 that is offered;  
33
- 34 (12) be informed of the eligibility documentation and reporting requirements  
35 described in §809.72 and §809.73 of this chapter;  
36
- 37 (13) be informed of the parent appeal rights described in §809.74 of this chapter;  
38
- 39 (14) be informed of required background and criminal history checks for relative  
40 child care providers through the listing process with CCR as described in  
41 §809.91 of this chapter before the parent or guardian selects the relative child  
42 care provider;  
43
- 44 (15) receive written notification pursuant to §809.78 of this chapter of the possible  
45 termination of child care services for excessive absences, as described in  
46 §809.78 of this chapter; and

1  
2 (16) receive written notification of possible termination of child care services for  
3 failure to pay the parent share of cost, pursuant to §809.19 of this chapter.  
4

5 **§809.72. Parent Eligibility Documentation Requirements.**  
6

- 7 (a) Parents shall provide the Board's child care contractor with all information necessary  
8 to determine initial eligibility according to the Board's administrative policies and  
9 procedures before a child can be initially determined or redetermined eligible for  
10 child care services and care authorized, unless the child is experiencing  
11 homelessness pursuant to §809.52 of this chapter or receiving child care during  
12 initial job search pursuant to §809.56 of this chapter.  
13  
14 (b) A parent's failure to submit eligibility documentation shall result in initial denial of  
15 child care services or termination of services at the 12-month eligibility  
16 redetermination period.  
17

18 **§809.73. Parent Reporting Requirements.**  
19

- 20 (a) Boards shall ensure that during the 12-month eligibility period described in §809.41  
21 of this chapter, or during the three-month initial job search period and the subsequent  
22 eligibility period described in §809.56 of this chapter, parents are only required to  
23 report items that impact a family's eligibility or that enable the Board or Board  
24 contractor to contact the family or pay the provider.  
25  
26 (b) Pursuant to subsection (a) of this section, parents shall report to the child care  
27 contractor, within 14 calendar days of the occurrence, the following:  
28  
29 (1) Changes in family income or family size that would cause the family to exceed  
30 85 percent of SMI for a family of the same size;  
31  
32 (2) Changes in work or attendance at a job training or educational program not  
33 considered to be temporary changes, as described in §809.51 of this chapter;  
34 and  
35  
36 (3) Any change in family residence, primary phone number, or e-mail (if  
37 available).  
38  
39 (c) Failure to report changes described in subsection (a) of this section may result in  
40 fact-finding for suspected fraud as described in Subchapter F of this chapter.  
41  
42 (d) A Board shall allow parents to report, and the child care contractor shall take  
43 appropriate action, regarding changes in:  
44  
45 (1) income and family size, which may result in a reduction in the parent share of  
46 cost pursuant to §809.19 of this chapter; 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 **§809.75. Child Care during Appeal.**  
6

- 7 (a) For a child currently enrolled in child care, a Board shall ensure that child care  
8 services continue during the appeal process until a decision is reached, if the parent  
9 requests a hearing.  
10  
11 (b) A Board shall ensure that child care does not continue during the appeal process if  
12 the child's enrollment is terminated due to excessive unexplained absences, pursuant  
13 to §809.78(a) of this chapter, or nonpayment of parent share of cost, pursuant to  
14 §809.19 of this chapter.  
15  
16 (c) The cost of providing services during the appeal process is subject to recovery from  
17 the parent by the Board if the appeal decision is rendered against the parent.  
18

19 **§809.78. Attendance Standards and Notice and Reporting Requirements.**  
20

- 21 (a) A Board shall ensure that parents are notified of the following:  
22  
23 (1) Parents shall ensure that the eligible child attends on a regular basis consistent  
24 with the child's authorization for enrollment and attendance standards  
25 described in paragraph (2) of this subsection. Failure to meet attendance  
26 standards described in paragraph (2) of this subsection may result in  
27 termination for the child due to excessive unexplained absences pursuant to  
28 subsection (d) of this section.  
29  
30 (2) Meeting attendance standards for child care services consists of no more than  
31 40 total unexplained absences in a 12-month eligibility period.  
32  
33 (3) Unexplained absences may include:  
34  
35 (A) Any absence that is not due to a child's documented chronic illness or  
36 disability, or to a court-ordered custody or visitation agreement; or  
37  
38 (B) Any missed attendance recording that cannot be explained, except if the  
39 attendance reporting system is not available through no fault of the  
40 parent or provider.  
41  
42 (4) Notwithstanding paragraph (2) of this subsection, child care providers may end  
43 a child's enrollment with the provider if the child does not meet the provider's  
44 established policy regarding attendance.  
45  
46 (5) Parents shall report attendance and absences and adhere to Agency procedures

1 for reporting attendance and absences, including the use of the Agency's  
2 attendance reporting system.

3  
4 (b) Boards shall ensure that parents sign a written acknowledgment indicating their  
5 understanding of the attendance standards and reporting requirements at each of the  
6 following stages:

7  
8 (1) initial eligibility determination; and

9  
10 (2) each eligibility redetermination, as required in §809.42 of this chapter.

11  
12 (c) Boards shall ensure that absences due to a child's documented chronic illness or  
13 disability or court-ordered visitation are not counted in the number of unexplained  
14 absences in subsection (a)(2) and (3) of this section.

15  
16 (d) Boards shall ensure that before terminating care pursuant to subsection (a)(1) of this  
17 section, the child care contractor:

18  
19 (1) provides written notice to the parent and the child care provider at reasonable  
20 times through established communication channels of the child's absences and  
21 the potential termination of services, at a minimum as soon as practicable after  
22 child reaches 15, and 30 general absences cumulatively within a 12-month  
23 eligibility period; and

24  
25 (2) documents that multiple attempts were made, as described in paragraph (1) of  
26 this subsection, to determine why the child is absent and to explain the  
27 importance of regular attendance.

28  
29 (e) Where a child's enrollment has been ended by a provider in subsection (a)(4) of this  
30 section, Boards shall work with the parent to place the otherwise eligible child with  
31 another eligible provider.

32  
33 **SUBCHAPTER E. REQUIREMENTS TO PROVIDE CHILD CARE**

34  
35 **§809.91. Minimum Requirements for Providers.**

36  
37 (a) A Board shall ensure that child care subsidies are paid only to:

38  
39 (1) regulated child care providers as described in §809.2 of this chapter meeting  
40 the Texas Rising Star requirements as a certified provider, or designated as an  
41 Entry Level provider for the prescribed time periods as described in §809.131  
42 of this chapter;

43  
44 (2) relative child care providers, as described in §809.2 of this chapter, subject to  
45 the requirements in subsection (e) of this section; or  
46

- 1 (3) at the Board's option, child care providers licensed in a neighboring state,  
2 subject to the following requirements:  
3
- 4 (A) Boards shall ensure that the Board's child care contractor reviews the  
5 licensing status of the out-of-state provider every month, at a minimum,  
6 to confirm the provider is meeting the minimum licensing standards of  
7 the state.  
8
- 9 (B) Boards shall ensure that the out-of-state provider meets the requirements  
10 of the neighboring state to serve CCDF-subsidized children.  
11
- 12 (C) The provider shall agree to comply with the requirements of this chapter  
13 and all Board policies and Board child care contractor procedures.  
14
- 15 (b) A Board shall not prohibit a relative child care provider that is listed with CCR and  
16 meets the minimum requirements of this section from being an eligible relative child  
17 care provider.  
18
- 19 (c) Except as provided by the criteria for Texas Rising Star Provider certification or  
20 designation, a Board or the Board's child care contractor shall not place requirements  
21 on regulated providers that:  
22
- 23 (1) exceed Entry Level designation requirements or the state licensing  
24 requirements stipulated in Texas Human Resources Code, Chapter 42; or  
25
- 26 (2) have the effect of monitoring the provider for compliance with state licensing  
27 requirements stipulated in Texas Human Resources Code, Chapter 42.  
28
- 29 (d) When a Board or the Board's child care contractor, in the course of fulfilling its  
30 responsibilities, gains knowledge of any possible violation regarding regulatory  
31 standards, the Board or its child care contractor shall report the information to the  
32 appropriate regulatory agency.  
33
- 34 (e) For relative child care providers to be eligible for reimbursement for Commission-  
35 funded child care services, the following applies:  
36
- 37 (1) Relative child care providers shall list with CCR; however, pursuant to 45 CFR  
38 §98.41(e), relative child care providers listed with CCR shall be exempt from  
39 the health and safety requirements of 45 CFR §98.41(a).  
40
- 41 (2) A Board shall allow relative child care providers to care for a child in the  
42 child's home (in-home child care) only for the following:  
43
- 44 (A) A child with disabilities as defined in §809.2 of this chapter, and his or  
45 her siblings;  
46

- (B) A child under 18 months of age and his or her siblings;
- (C) A child of a teen parent; and
- (D) When the parent's work schedule requires evening, overnight, or weekend child care in which taking the child outside of the child's home would be disruptive to the child.

(3) A Board may allow relative in-home child care for circumstances in which the Board's child care contractor determines and documents that other child care provider arrangements are not available in the community.

(f) Boards shall ensure that subsidies are not paid for a child at the following child care providers:

- (1) Except for foster parents authorized by DFPS pursuant to §809.49 of this chapter, licensed child care centers, including before- or after-school programs and school-age programs, in which the parent or his or her spouse, including the child's parent or stepparent, is the director or assistant director, or has an ownership interest; or
- (2) Licensed, registered, or listed child care homes where the parent also works during the hours his or her child is in care.

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

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

(b) Providers shall:

- (1) be responsible for collecting the parent share of cost as assessed under §809.19 of this chapter before child care services are delivered;
- (2) be responsible for collecting other child care funds received by the parent as described in §809.21 of this chapter;
- (3) report to the Board or the Board's child care contractor instances in which the parent fails to pay the parent share of cost; and
- (4) follow attendance reporting and tracking procedures required by the Commission under §809.95 of this chapter, the Board, or, if applicable, the Board's child care contractor.

(c) Providers shall not charge more than the Board's reimbursement rate as determined



1 under §809.21 of this chapter to parents:  
2

3 (1) who are exempt from the parent share of cost assessment under §809.19 of this  
4 chapter;

5  
6 (2) whose parent share of cost is calculated to be zero pursuant to §809.19 of this  
7 chapter; or.

8  
9 (3) parents in Child Care during Initial Job Search under §809.56 of this chapter  
10 during the initial three-month period.  
11

12 (d) A Board may develop a policy that allows providers to charge parents more than the  
13 assessed parent share of cost in instances where the provider's published rate  
14 exceeds the Board's reimbursement rate (including the assessed parent share of cost)  
15 to all parents not included in subsection (c) of this section.  
16

17 (e) For Boards that allow providers to charge additional amounts pursuant to subsection  
18 (d) of this section, the Board must ensure the provider reports to the Board each  
19 month:  
20

21 (1) the specific families that were charged an additional amount above the assessed  
22 amount;

23  
24 (2) the frequency with which each family was charged; and  
25

26 (3) the amount of each additional charge.  
27

28 (f) Boards that develop a policy under subsection (d) of this section must:  
29

30 (1) provide the rationale for the Board's policy to allow providers to charge  
31 families additional amounts above the required copayment, including a  
32 demonstration of how the policy promotes affordability and access for  
33 families; and  
34

35 (2) describe the Board's analysis of the interaction between the additional amounts  
36 charged to families with the required parent share of cost and the ability of  
37 current reimbursement rates to provide access to care without additional fees.  
38

39 (g) Providers shall not deny a child care referral based on the parent's income status,  
40 receipt of public assistance, or the child's protective service status.  
41

42 (h) Providers shall not charge fees to a parent receiving child care subsidies that are not  
43 charged to a parent who is not receiving subsidies.  
44

45 **§809.93. Provider Reimbursement.**  
46

- 1 (a) A Board shall ensure that reimbursement for child care is paid only to the provider.  
2
- 3 (b) A Board or its child care contractor shall reimburse a regulated provider based on a  
4 child's monthly enrollment authorization, excluding periods of suspension at the  
5 concurrence of the parent, as described in §809.51(d) of this chapter.  
6
- 7 (c) A Board shall ensure that a relative child care provider is not reimbursed for days on  
8 which the child is absent.  
9
- 10 (d) A relative child care provider shall not be reimbursed for more children than  
11 permitted by the CCR minimum regulatory standards for Registered Child Care  
12 Homes. A Board may permit more children to be cared for by a relative child care  
13 provider on a case-by-case basis as determined by the Board.  
14
- 15 (e) A Board shall not reimburse providers that are debarred from other state or federal  
16 programs unless and until the debarment is removed.  
17
- 18 (f) Unless otherwise determined by the Board and approved by the Commission for  
19 automated reporting purposes, the monthly enrollment authorization described in  
20 subsection (b) of this section is based on the unit of service authorized, as follows:  
21
- 22 (1) A full-day unit of service is 6 to 12 hours of care provided within a 24-hour  
23 period;  
24
- 25 (2) A part-day unit of service is fewer than 6 hours of care provided within a 24-  
26 hour period; and  
27
- 28 (3) A blended-day unit of service is for a child enrolled in a school program, pre-  
29 K, HS, or EHS in which child care is part-day with care provided occasionally  
30 on a full-day basis.  
31
- 32 (g) A Board or its child care contractor shall ensure that providers are not paid for  
33 holding spaces open without a valid contracted slots agreement, as described in  
34 §809.96 of this chapter.  
35
- 36
- 37 (h) The Board or its child care contractor shall not reimburse a provider retroactively for  
38 new Board maximum reimbursement rates or new provider published rates.  
39
- 40 (i) A Board or its child care contractor shall ensure that the parent's travel time to and  
41 from the child care facility and the parent's work, school, or job training site is  
42 included in determining the enrollment authorized under subsection (f) of this  
43 section.  
44
- 45 (j) Effective December 1, 2023, a Board shall pay regulated child care providers  
46 prospectively every two weeks based on the enrollment authorization described in

1 subsection (b) of this section.  
2

3 **§809.94. Providers Placed on Corrective or Adverse Action by Child Care Regulation.**  
4

5 (a) For a provider placed on probation corrective action (probationary status) by CCR,  
6 Boards shall ensure that:

7  
8 (1) parents with children in Commission-funded child care are notified in writing of  
9 the provider's probationary status no later than five business days after  
10 receiving notification from the Agency of CCR's decision to place the provider  
11 on probationary status; and

12  
13 (2) no new referrals are made to the provider while on probationary status.  
14

15 (b) A parent receiving notification of a provider's probationary status with CCR  
16 pursuant to subsection (a) of this section may transfer the child to another eligible  
17 provider without being subject to the Board transfer policies described in §809.71 of  
18 this chapter if the parent requests the transfer within 14 calendar days of receiving  
19 such notification.  
20

21 (c) For a provider placed on probationary status by CCR, Boards shall ensure that the  
22 provider is not reimbursed at the Boards' enhanced reimbursement rates described in  
23 §809.20 while on probationary status.  
24

25 (d) For a provider against whom CCR is taking adverse action, Boards shall ensure that:

26  
27 (1) parents with children enrolled in Commission-funded child care are notified no  
28 later than two business days after receiving notification from the Agency that  
29 CCR intends to take adverse action against the provider;

30  
31 (2) children enrolled in Commission-funded child care with the provider are  
32 transferred to another eligible provider no later than five business days after  
33 receiving notification from the Agency that CCR intends to take adverse action  
34 against the provider; and  
35

36 (3) no new referrals for Commission-funded child care are made to the provider  
37 while CCR is taking adverse action.  
38

39 **§809.95. Provider Automated Attendance Agreement.**  
40

41 Boards shall notify providers of the following:

42  
43 (1) The owner, director, assistant director, or other employees of child care  
44 providers shall not:

45  
46 (A) possess, have on the premises, or otherwise have access to a parent's

1 information to access the Agency's attendance system; or

2  
3 (B) perform the attendance or absence reporting function on behalf of the  
4 parent;

5  
6 (2) Providers shall report misuse of the Agency's automated attendance system to  
7 the Board or the Board's child care contractor;

8  
9 (3) Providers shall report to the child care contractor authorized days that do not  
10 match the referral in the Agency's automated attendance system within five  
11 days of receiving the authorization. Failure to report the discrepancy may  
12 result in withholding payment to the provider; and

13  
14 (4) Misuse of attendance reporting and violation of the requirements in this section  
15 are grounds for a potential fraud determination pursuant to Subchapter F of this  
16 chapter.

17  
18 **§809.96. Contracted Slots Agreements.**

19  
20 (a) In this section, the term "contracted slots agreement" is defined as a Board entering  
21 into a contract with a child care provider to reserve a specific number of places, or  
22 slots, for children participating in the child care subsidy program. This contract shall:

23  
24 (1) define the number of slots to be reserved by age group (infant, toddler,  
25 preschool, or school-age); and

26  
27 (2) meet the eligibility requirements as described in subsection (e) of this section.

28  
29 (b) Boards may enter into a contracted slots agreement with providers that agree to  
30 provide subsidized child care services to eligible children residing in the Board's  
31 workforce area.

32  
33 (c) A Board that enters into a contracted slots agreement shall include this strategy in  
34 the Board Plan, as described in §809.12 of this chapter.

35  
36 (d) Each contract between a Board and a provider must identify the number of places  
37 (slots) to be reserved for children participating in the child care subsidy program.

38  
39 (e) To be eligible for a contract, a child care provider must be a Texas Rising Star  
40 Three-Star or Four-Star provider and meet one of the following priorities:

41  
42 (1) Be located in:

43  
44 (A) a child care desert; or

45  
46 (B) an underserved area that has been identified by a Board as having an

1 inadequate supply of child care in accordance with the parameters  
2 described in the CCDF State Plan.

3  
4 (2) Have a recognized partnership with local school districts to provide pre-K  
5 services;

6  
7 (3) Have a recognized partnership with EHS or HS;

8  
9 (4) Increase the number of places reserved for infants and toddlers by high-quality  
10 child care providers; or

11  
12 (5) Satisfy a priority identified in the Board's plan, as described in §809.12 of this  
13 chapter.

14  
15 (f) A Board that enters into a contracted slots agreement may continue payment for  
16 reserved slots during times of transition between the time that one child leaves the  
17 program and another child is placed in the slot. The period of continued payment  
18 shall adhere to the Board's policy for contracted slots agreements and may not  
19 exceed one month following the month of the vacancy.

20  
21 (g) Except for children directly referred from recognized partnerships, as described in  
22 §809.22 of this chapter, to fill open reserved slots, Boards shall contact families in  
23 order of the Board's waiting list:

24  
25 (1) that requested care in the ZIP code where the provider with the open reserved  
26 slot is located; and

27  
28 (2) whose child is in the age group for which a slot is available.

29  
30 (h) In accordance with Commission guidelines, Boards that enter into contracted slots  
31 agreements shall submit a report to the Commission within six months of entering  
32 into a contract, determining the contract's effect on the:

33  
34 (1) financial stability of providers participating in the contract;

35  
36 (2) availability of high-quality child care options available to participants in the  
37 Commission's subsidy program;

38  
39 (3) number of high-quality providers in any part of the workforce area with a high  
40 concentration of families that need child care;

41  
42 (4) percentage of children participating in the Commission's subsidized child care  
43 program at each Texas Rising Star provider in the workforce area; and

44  
45 (5) additional information as requested by the Commission.  
46

- 1 (i) A Board shall resubmit the report every 12 months from the due date of the Board's  
2 initial report to the Commission.  
3

4 **SUBCHAPTER F. FRAUD FACT-FINDING AND IMPROPER PAYMENTS**  
5

6 **§809.112. Suspected Fraud.**  
7

- 8 (a) A parent, provider, or any other person in a position to commit fraud may be  
9 suspected of fraud if the person presents or causes to be presented to the Board or its  
10 child care contractor one or more of the following items:  
11

12 (1) A request for reimbursement in excess of the amount charged by the provider  
13 for the child care; or  
14

15 (2) A claim for child care services if evidence indicates that the person may have:  
16

17 (A) known, or should have known, that child care services were not provided  
18 as claimed;  
19

20 (B) known, or should have known, that information provided is false or  
21 fraudulent;  
22

23 (C) received child care services during a period in which the parent or child  
24 was not eligible for services;  
25

26 (D) known, or should have known, that child care subsidies were provided to  
27 a person not eligible to be a provider; or  
28

29 (E) otherwise indicated that the person knew or should have known that the  
30 actions were in violation of this chapter or state or federal statute or  
31 regulations relating to child care services.  
32

- 33 (b) The following parental actions may be grounds for suspected fraud and cause for  
34 Boards to conduct fraud fact-finding or the Commission to initiate a fraud  
35 investigation:  
36

37 (1) Not reporting or falsely reporting at initial eligibility or at eligibility  
38 redetermination:  
39

40 (A) household composition, or income sources or amounts that would have  
41 resulted in ineligibility or a higher parent share of cost; or  
42

43 (B) work, training, or education hours that would have resulted in  
44 ineligibility; or  
45

46 (2) Not reporting during the 12-month eligibility period inclusive of the three-

1 month initial job search period, if applicable:  
2

3 (A) changes in income or household composition that would cause the family  
4 income to exceed 85 percent of SMI (taking into consideration  
5 fluctuations of income); or  
6

7 (B) a permanent loss of job or cessation of training or education that exceeds  
8 three months; or  
9

10 (C) improper or inaccurate reporting of attendance.  
11

12 **§809.115. Corrective Adverse Actions.**  
13

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

16 (1) the scope of the violation;  
17

18 (2) the severity of the violation; and  
19

20 (3) the compliance history of the person or entity.  
21

22 (b) Corrective actions for providers may include, but are not limited to, the following:  
23

24 (1) Closing intake;  
25

26 (2) Moving children to another provider selected by the parent;  
27

28 (3) Withholding provider payments or reimbursement of costs incurred; and  
29

30 (4) Recoupment of funds.  
31

32 (c) When a provider violates a provision of Subchapter E of this chapter, a written  
33 Service Improvement Agreement may be negotiated between the provider and the  
34 Board or the Board's child care contractor. At the least, the Service Improvement  
35 Agreement shall include the following:  
36

37 (1) The basis for the Service Improvement Agreement;  
38

39 (2) The steps required to reach compliance including, if applicable, technical  
40 assistance;  
41

42 (3) The time limits for implementing the improvements; and  
43

44 (4) The consequences of noncompliance with the Service Improvement  
45 Agreement.  
46

1  
2 (d) The Board shall develop policies and procedures to ensure that the Board or the  
3 Board's child care contractor take corrective action consistent with subsections  
4 (a) - (c) of this section against a provider when a provider performs the  
5 attendance reporting function on behalf of a parent.  
6

7 (e) The Board shall develop policies and procedures to require the Board's child care  
8 contractor to take corrective action consistent with subsections (a) - (c) of this  
9 section against a parent when a parent violates the Commission rules and  
10 procedures related to attendance reporting.  
11

## 12 **SUBCHAPTER G. TEXAS RISING STAR PROGRAM**

### 13 **§809.130. Short Title and Purpose.**

14 (a) The rules contained in this subchapter may be cited as the Texas Rising Star Program  
15 rules.  
16

17 (b) The purpose of the Texas Rising Star Program rules is to interpret and implement  
18 Texas Government Code, §2308.3155, which requires the Commission to establish  
19 rules to administer the Texas Rising Star program, including guidelines for rating a  
20 child care provider for Texas Rising Star certification and designation of an Entry  
21 Level child care provider.  
22

23 (c) The Texas Rising Star Program rules identify the organizational structure and  
24 categories of, and the scoring factors that shall be included in, the Texas Rising Star  
25 guidelines.  
26

27 (d) The Texas Rising Star guidelines shall:  
28

29 (1) describe measures for Texas Rising Star certification that contain, at a  
30 minimum, measures for child care providers regarding:  
31

32 (A) director and staff qualifications and training;  
33

34 (B) teacher-child interactions;  
35

36 (C) program administration; and  
37

38 (D) indoor/outdoor environments;  
39

40 (2) specify measures that:  
41

42 (A) must be met in order for a provider to be certified at each star level; and  
43

44 (B) are observed and have points awarded through on-site assessments;  
45  
46



- 1  
2 (3) specify the scoring methodology and scoring thresholds for each certified star  
3 level; and  
4  
5 (4) describe the high and medium-high CCR deficiencies points threshold pursuant  
6 to §809.131 of this chapter and the process for designating providers at the  
7 Entry Level.  
8

9 (e) The Texas Rising Star guidelines:

- 10  
11 (1) shall be reviewed and updated by the Commission at a minimum of every four  
12 years in conjunction with the rule review of this chapter, conducted pursuant to  
13 Texas Government Code, §2001.039, and the Texas Rising Star guidelines  
14 review shall:  
15  
16 (A) consider input from stakeholders; and  
17  
18 (B) include at least one public hearing held prior to submitting the  
19 stakeholder input to the Commission;  
20  
21 (2) shall be adopted by the Commission subject to the requirements of the Texas  
22 Open Meetings Act; and  
23  
24 (3) may be reviewed and amended as determined necessary by the Commission in  
25 accordance with the requirements of the Texas Open Meetings Act.  
26

27 **§809.131. Requirements for the Texas Rising Star Program.**

- 28  
29 (a) A regulated child care provider is eligible for certification under the Texas Rising  
30 Star program if the provider has a current agreement to serve Commission-  
31 subsidized children and:  
32  
33 (1) has a permanent (nonexpiring) license or registration from CCR;  
34  
35 (2) has at least 12 months of licensing history with CCR, and is not on:  
36  
37 (A) corrective action with a Board pursuant to Subchapter F of this chapter;  
38  
39 (B) a "Notice of Freeze" with the Commission pursuant to Texas Labor  
40 Code, Chapter 213 (Enforcement of the Texas Unemployment  
41 Compensation Act) or Chapter 61 (Payment of Wages); or  
42  
43 (C) corrective or adverse action with CCR; and  
44  
45 (3) meets the criteria for star-level certification in the Texas Rising Star guidelines  
46 pursuant to §809.130(d) of this subchapter.

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- (4) has at minimum, a center director account registered in the Texas Early Childhood Professional Development System Workforce Registry; or
- (5) is regulated by and in good standing with the United States Military.
- (b) Regulated child care providers not meeting the Texas Rising Star certification requirements described in this subchapter and established in the Texas Rising Star guidelines shall be initially designated as Entry Level if the child care provider:
  - (1) is not on corrective or adverse action with CCR; and
  - (2) does not exceed the points threshold for high and medium-high CCR deficiencies within the most recent 12-month period as established in the guidelines.
- (c) A provider initially meeting the requirements in subsection (b) of this section is eligible for mentoring services through the Texas Rising Star program during the time periods described in subsections (d) - (f) of this section.
- (d) A provider shall be initially designated as Entry Level for no more than 24 months unless approved for a waiver under subsection (f) of this section.
- (e) An Entry Level provider will be reviewed for Texas Rising Star certification no later than the end of the 12th month of the 24-month period. If an Entry Level provider is not eligible for certification as Texas Rising Star by the end of the 18th month, the provider shall not receive referrals for new families as an Entry Level provider, unless the provider is located in a child care desert or serves an underserved population, and is approved by the Agency to accept new family referrals.
- (f) The Agency may approve a waiver to extend the time limit under subsection (d) of this section if the provider is:
  - (1) located in a child care desert or serves an underserved population as determined by the Agency;
  - (2) unable to meet the certification requirements due to a federal or state declared emergency/disaster; or
  - (3) unable to meet the certification requirements due to conditions that the Agency determines are outside the provider's control.
- (g) Waivers approved under subsection (f) of this section shall not exceed a total of 36 months.

**§809.132. Impacts on Texas Rising Star Certification.**

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- (a) A Texas Rising Star-certified provider shall be placed on suspension status if the provider:
  - (1) is placed on corrective action with a Board pursuant to Subchapter F of this chapter;
  - (2) is under a "Notice of Freeze" with the Commission pursuant to Texas Labor Code, Chapter 213 (Enforcement of the Texas Unemployment Compensation Act) or Chapter 61 (Payment of Wages);
  - (3) is placed on corrective or adverse action by CCR
  - (4) had 15 or more total high or medium-high weighted licensing deficiencies during the most recent 12-month licensing history;
  - (5) had more than four probationary impacts during its three-year certification period;
  - (6) had a consecutive third probationary impact;
  - (7) is cited for specified CCR minimum standards regarding weapons and ammunition; or
  - (8) is not meeting at least the Two-Star level due to noncompliance with Texas Rising Star guidelines at the most recent assessment of certification.
- (b) Texas Rising Star-certified providers with any of the specified "star level drop" licensing deficiencies listed in the Texas Rising Star guidelines during the most recent 12-month CCR licensing history shall be placed on a six-month Texas Rising Star probationary period. Furthermore:
  - (1) reduction of one star level for each deficiency cited, so a Four-Star certified provider is reduced to a Three-Star provider, a Three-Star provider is reduced to a Two-Star provider; or
  - (2) a Two-Star provider is placed on suspension status.
- (c) Texas Rising Star certified providers with any of the specified "probationary" licensing deficiencies listed in the Texas Rising Star guidelines during the most recent 12-month CCR 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 CCR for any additional specified probationary deficiencies within the probationary period shall be placed on a second,

- 1 consecutive probation and lose a star level, with a Two-Star certified provider  
2 being placed on suspension status;  
3
- 4 (2) if CCR does not cite any additional specified probationary deficiencies during  
5 the probationary period, the provider can be removed from probation status;  
6 and  
7
- 8 (3) if any additional specified probationary deficiencies are cited by CCR during  
9 the second probationary period, the Texas Rising Star provider shall be placed  
10 on suspension status.  
11
- 12 (d) Texas Rising Star-certified providers with 10 to 14 total high or medium-high  
13 weighted licensing deficiencies during the most recent 12-month CCR licensing  
14 history shall be placed on a six-month Texas Rising Star program probationary  
15 period. Furthermore:  
16
- 17 (1) Texas Rising Star-certified providers on a six-month probationary period that  
18 are cited by CCR within the probationary period for any additional high or  
19 medium-high weighted deficiencies shall be placed on a second, consecutive  
20 probation and lose a star level, with a Two-Star provider being placed on  
21 suspension status;  
22
- 23 (2) if no additional high or medium-high weighted deficiencies are cited by CCR  
24 during the probationary period, the provider can be removed from probation  
25 status; and  
26
- 27 (3) if any new high or medium-high weighted deficiencies--not to exceed 14 total  
28 deficiencies--are cited by CCR during the second six-month probationary  
29 period, a provider shall be placed on suspension status.  
30
- 31 (e) Certified providers not on suspension status losing a star level due to licensing  
32 deficiencies shall be reinstated at the former star level if no citations described in  
33 subsections (b) - (d) of this section occur within the six-month reduction time frame.  
34
- 35 (f) Certified providers in suspension status shall be eligible for a reassessment after six  
36 months following the suspension date, as long as no deficiencies described in  
37 subsections (b) - (d) of this section are cited during the previous six months.  
38
- 39 (g) Certified providers in suspension status shall achieve at least a Two-Star certification  
40 no later than 15 months following the suspension date. Failure to achieve at least a  
41 Two-Star certification within the 15-month period will result in the provider's  
42 ineligibility to provide child care services under this chapter.  
43
- 44 (h) Certified providers on suspension status:  
45
- 46 (1) shall be eligible to provide child care services under this chapter as long as the

1 provider meets at least the Entry Level criteria described in §809.131(b) of this  
2 chapter;

3  
4 (2) shall not be eligible for the enhanced reimbursement rate and shall be  
5 reimbursed at the Board's Entry Level reimbursement rate; and

6  
7 (3) the provider shall not be able to receive referrals from a new family during the  
8 last six months of the 15-month period, unless the provider is located in a child  
9 care desert or serves an underserved population, and is approved by the  
10 Agency to accept new family referrals.

11  
12 (i) Certified providers in suspension status that fail to achieve at least a Two-Star  
13 certification by the end the 15-month suspension period:

14  
15 (1) are not eligible to provide child care services under this chapter;

16  
17 (2) are not eligible for the Entry Level designation time frame described in  
18 §809.131(e) of this chapter;

19  
20 (3) are not eligible for the extension waiver described in §809.131(f) of this  
21 chapter; and

22  
23 (4) must subsequently meet at least a Two-Star certification eligibility and  
24 screening requirements to provide child care services under this subchapter.  
25

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

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

29  
30 (1) an orientation on the Texas Rising Star guidelines, including an overview of  
31 the:

32  
33 (A) Texas Rising Star program application process;

34  
35 (B) Texas Rising Star program measures; and

36  
37 (C) Texas Rising Star program assessment process;

38  
39 (2) the creation of a continuous quality improvement plan; and

40  
41 (3) a Texas Rising Star program self-assessment tool.

42  
43 (b) The Agency's designated Texas Rising Star assessment entity shall ensure that:

44  
45 (1) written acknowledgment of receipt of the application and self-assessment is  
46 sent to the provider;

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- (2) within 20 days of receipt of the application, the provider is sent an estimated time frame for scheduling the initial assessment;
  - (3) an assessment is conducted for any provider that meets the eligibility requirements in §809.131 of this subchapter and requests certification under the Texas Rising Star program; and
  - (4) Texas Rising Star certification is granted for any provider that is assessed and verified as meeting the Texas Rising Star provider certification criteria set forth in the Texas Rising Star guidelines.
- (c) The Agency's designated Texas Rising Star assessment entity shall ensure that Texas Rising Star certification assessments are conducted as follows:
- (1) On-site assessment of 100 percent of the provider classrooms at the initial assessment for Texas Rising Star certification and at each scheduled recertification; and
  - (2) Recertification of all certified Texas Rising Star providers every three years.
- (d) The Agency's designated Texas Rising Star assessment entity shall ensure that certified Texas Rising Star providers are monitored on an annual basis and the monitoring includes:
- (1) at least one unannounced on-site visit; and
  - (2) a review of the provider's licensing compliance as described in §809.132 of this chapter.
- (e) The Agency's designated Texas Rising Star assessment entity shall ensure compliance with the process and procedures in the Texas Rising Star guidelines for conducting assessments of nationally accredited child care facilities and child care facilities regulated by the United States Military.
- (f) The Agency's designated Texas Rising Star assessment entity shall ensure compliance with the process and procedures in the Texas Rising Star guidelines for conducting assessments of certified Texas Rising Star providers that have a change of ownership, move, or expand locations.
- (g) Boards shall ensure compliance with the process and procedures in the Texas Rising Star guidelines for implementing and supporting a continuous quality improvement framework.
- (h) Boards shall be responsible for the tasks assigned to the Texas Rising Star assessor entity in this subchapter, within their respective workforce areas, until the assessor

1 entity is procured and designated by the Agency.

2  
3 **§809.134. Minimum Qualifications for Texas Rising Star Staff.**

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

1 Rising Star assessor staff shall attain and maintain the Texas Rising Star Assessor  
2 Certification, as described in the Texas Rising Star Guidelines.  
3

4 **§809.135. Texas Rising Star Process for Reconsideration.**  
5

6 The Agency's designated Texas Rising Star assessment entity shall ensure a process for  
7 reconsideration of facility assessment for Texas Rising Star certification. Texas Rising  
8 Star assessments are not subject to Chapter 823 of this title (relating to Integrated  
9 Complaints, Hearings, and Appeals).  
10

11 **§809.136. Roles and Responsibilities of Texas Rising Star Staff.**  
12

13 Boards and the Agency's designated Texas Rising Star assessment entity shall ensure that  
14 Texas Rising Star staff members comply with their assigned responsibilities, as  
15 applicable.  
16

- 17 (1) A mentor is defined as a Board or Board contract staff member who helps  
18 providers obtain, maintain, or achieve higher star levels of certification.  
19
- 20 (2) An assessor is defined as a staff member or contractor of the Agency's  
21 designated Texas Rising Star assessment entity who assesses and monitors  
22 providers that obtain, maintain, and achieve higher levels of quality.  
23
- 24 (3) Dual-role staff is defined as an individual meeting the definitions of a mentor  
25 and assessor under this section.  
26
- 27 (4) For dual-role staff, the Board and the Agency's designated Texas Rising Star  
28 assessment entity shall ensure that the individual providing Texas Rising Star  
29 mentoring services to a provider does not act as the assessor of that same  
30 provider when determining Texas Rising Star certification.  
31
- 32 (5) Texas Rising Star staff members are required to complete annual professional  
33 development and continuing education consistent with the Texas Rising Star  
34 annual minimum training hours requirement for a Texas Rising Star-certified  
35 child care center director.  
36
- 37 (6) Pursuant to Texas Family Code, §261.101, Texas Rising Star staff members  
38 are mandated reporters when observing serious incidents as described in the  
39 Texas Rising Star guidelines.