

CHAPTER 809. CHILD CARE SERVICES

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

ON SEPTEMBER 1, 2026, THE TEXAS WORKFORCE COMMISSION ADOPTED THE RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Publication Date of the Adoption in the *Texas Register*: **September 18, 2026**

The Rules are Effective: **October 1, 2026 and November 1, 2026 (Subchapter G)**

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

Subchapter A. General Provisions, §809.2

Subchapter B. General Management, §§809.18, 809.19, and 809.21

Subchapter C. Eligibility for Child Care Services, §§809.41 - 809.43, 809.45, 809.47, 809.49, 809.51, 809.52, 809.54, and 809.56

Subchapter D. Parent Rights and Responsibilities, §§809.72, 809.73, and 809.78

Subchapter E. Requirements to Provide Child Care, §§809.92, 809.95, and 809.96

Subchapter G. Texas Rising Star Program, §§809.130 - 809.134 and 809.136

TWC adopts the following new sections to Chapter 809, relating to Child Care Services:

Subchapter A. General Provisions, §809.4 and §809.5

Subchapter G. Texas Rising Star Program, §809.137

TWC adopts the repeal of the following section of Chapter 809, relating to Child Care Services:

Subchapter B. General Management, §809.22

Amended §§809.2, 809.18, 809.19, 809.21, 809.41 - 809.43, 809.45, 809.47, 809.49, 809.51, 809.52, 809.54, 809.56, 809.72, 809.73, 809.78, 809.92, 809.95, 809.96, 809.130 - 809.134, and §809.136; new §§809.4, 809.5, and 809.137; and repealed §809.22 are adopted *without changes* to the proposal, as published in the June 5, 2026, issue of the *Texas Register* (51 TexReg 3777 and 3823), and, therefore, the adopted rule text will not be published.

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the Chapter 809 rule change is to comply with recent legislative statutory changes, improve operational efficiency, strengthen confidentiality of data policy, and align rules with operational practices with the implementation of Texas Child Care Connection (TX3C) case management system.

House Bill 2294 Paying the Maximum Payment Rate Regardless of Provider's Published Rate
[House Bill \(HB\) 2294](#), 89th Texas Legislature, Regular Session, 2025, amended Texas Government Code, [§2308.3151](#), to allow, but not require, a Local Workforce Development Board (Board) to pay Texas Rising Star providers at the Board's maximum payment rate regardless of the provider's published rate. HB 2294 requires, however, that a Board may do this only if paying the higher rate does not reduce the target performance measure for the average number of children serviced in the Board's workforce area.

To align Chapter 809 with the language in statute, the amendments allow a Board to pay the Board's maximum rate for Texas Rising Star providers only if paying the higher rate does not prevent the Board from meeting the Commission's performance target for the average number of children served in the Board's local workforce development area (workforce area).

Calculating the Blended-Day Payment Rates

The rules clarify the rates used to calculate the blended-day enrollment. Pursuant to §809.93(f)(3), the blended-day unit of service is for a child enrolled in a school program, prekindergarten, Head Start, or Early Head Start in which child care is primarily part-day, with full-time child care provided occasionally, such as when schools are on spring break.

Consistent with §809.21(a), requiring that Boards pay the lower of the Board's maximum rate or the provider's published rate, §809.21(c) is added to state that the payment for a blended-day enrollment is calculated as a weighted blend across the school year of the lower of the provider's published full-day rate or the maximum Board full-day rate, and the lower of the provider's part-day rate or the maximum Board part-day rate.

The Commission notes that this is not a change to the methodology for calculating the blended-day rate. The blended rate was developed to improve operational efficiency for creating one blended child authorization rather than requiring child care case workers to modify each child's authorization when the school calendar changes and children require full-time child care. The blended rate's operational efficiency reduces the child care caseworker workload for the approximately 50,000 school-age CCS children, whose schedules would need to be modified throughout the school year. If the blended rate was not in use, payments for CCS children would be based on the lower of the provider's published rate for full-day care and for part-day care. These are the same factors that TWC uses in calculating the blended rate. The methodology for calculating the blended-day rate described in the rules has been in place since 2010. The intent of adding the methodology in the rule language is to provide transparency regarding the methodology.

Child Care Services Eligibility and Authorization Periods

Pursuant to 45 Code of Federal Regulations (CFR) [§98.21\(a\)](#), states must establish a minimum 12-month authorization period for eligible families receiving child care assistance. Texas currently implements this requirement through [§809.42\(b\)](#) of the Child Care Services rules, which requires Boards to ensure that eligibility for child care services is not redetermined sooner than 12 months following the initial determination or the most recent redetermination.

The US Department of Health and Human Services, Administration for Children and Families (ACF), has clarified that the intent of 45 CFR §98.21(a) is to ensure that children receive a full 12 months of child care services once the child begins receiving child care (which often occurs after the initial eligibility determination date).

Child Care & Early Learning (CC&EL) recently issued Workforce Development (WD) Letter 05-26, “12-Month Eligibility and Authorization of Child Care Services” to help Boards implement a process that ensures each eligible child is guaranteed a minimum of 12 months of child care services to align with ACF’s clarifying instructions. The amendments add the definition of “eligibility period,” which includes a 12-month authorization to receive child care services to clarify that the required 12-month authorization for child care services begins from the time a child begins receiving child care after being determined eligible.

The rules further ensure that Boards meet the intent of 45 CFR §98.21 by clarifying eligibility and service periods throughout Chapter 809, and to include, as necessary, the guidance outlined in WD Letter 05-26, including adding definitions for the eligibility determination and redetermination periods.

Exceptions for Providers Recording Attendance

[Section 809.95](#) prohibits providers, including provider staff, from recoding attendance on behalf of the parents through the TX3C attendance tracking system. With the implementation of TX3C, in limited instances, when the parent is not available to record attendance at drop-off or pick-up of the child (such as when the provider is transporting the child to or from school), the provider may record the appropriate check-in or check-out. The parent must still record at least one daily check-in or check-out for the child. However, in these limited circumstances, the parent is not required to perform both a check-in and a check-out. Additionally, parents may backdate attendance records by up to six days.

TWC has provided guidance to the Boards through WD Letter 08-23 describing these limited instances in which the provider may record attendance on behalf of the parents.

The rules include language that mirrors the guidance in WD Letter 08-23 regarding exceptions to allow providers to record attendance.

Clarify 90-day Period for Temporary Cessation of Activities, Job Search, and Homelessness Eligibility

[Section 809.51](#) requires that child care continue for at least three months if a parent experiences a temporary cessation of work or attendance in a training or education program.

Depending upon the months involved (such as if the months include 31 days), the three months rule language has led to an inconsistent number of days the parent may experience temporary cessation of activities and continued care following a non-temporary cessation of activities.

The rules provide for a consistent “90 calendar day” period for a temporary cessation of activities, and continuation of care for a non-temporary cessation of activities. Similarly, the

rules clarify the 90 calendar day period for initial enrollment of a child experiencing homelessness in [§809.52](#), and for child care during job search in [§809.56](#).

Services to Children Experiencing Homelessness

Child Care Development Fund (CCDF) regulations at 45 CFR [§98.46\(a\)\(3\)](#) requires states to prioritize child care services for children experiencing homelessness. However, the regulations do not specify how states implement this prioritization of services. The CCDF State Plan allows states to choose how states prioritize child care services for children experiencing homelessness through one or all of these options:

- prioritize for enrollment in child care services;
- serve without placing on a waiting list;
- waive parent share of cost;
- pay higher rates for access to higher quality care; and
- use grants or contracts to reserve child care spots.

Additionally, 45 CFR [§98.51](#) requires states to establish procedures to permit enrollment (after an initial eligibility determination) of children experiencing homelessness while required documentation is obtained. Section 809.52 requires a three-month initial eligibility period for children experiencing homelessness while parents are obtaining required documentation regarding age and citizenship status.

CCDF regulations at 45 CFR [§98.2](#) and 40 TAC [§809.2](#) define “Child experiencing homelessness” as child who is homeless as defined in McKinney-Vento Act ([42 USC 11434a](#)).

The McKinney-Vento Act defines “homeless children and youths” as individuals who lack a fixed, regular, and adequate nighttime residence; and includes:

- children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;
- children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- migratory children who qualify as homeless for the purposes of the McKinney Vento Act because the children are living in circumstances described previously.

Current Chapter 809 prioritizes enrollment for children experiencing homelessness through presumptive eligibility as described in [§809.41\(a\)\(3\)](#), which states that a child is eligible at the time of eligibility determination or redetermination if the child resides with a family within the Board’s workforce area:

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

- whose assets do not exceed \$1,000,000 as certified by a family member; or
- that meets the definition of experiencing homelessness.

Additionally, current Child Care Services rules prioritize enrollment from a Board's waiting list ([§809.43\(a\)\(2\)\(D\)](#)) and waives the parent share of cost ([§809.19\(a\)\(3\)\(C\)](#)) for children experiencing homelessness. The Child Care Services rules also do not establish a comparable work requirement for homeless families.

The McKinney-Vento definition "sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason" is broad and could include families who reside with relatives, as is the case with many low-income families.

The amendments remove the presumptive eligibility in §809.41 for children experiencing homelessness. The amendments also establish parameters for establishing the parent share of cost following a 90-day initial enrollment period.

The rules continue to implement the priority of services for children experiencing homelessness as required under CCDF regulations as follows:

- Continue to allow up to 90 days of initial eligibility while parents obtain necessary documentation to demonstrate eligibility under [§809.41](#) regarding age, citizenship, activity, and income requirements.
- Require homeless families to meet work, education, or job training activity requirements (§809.41(b)) on or before the end of the 90-day initial enrollment.

Streamline Language Regarding Children Receiving Services from a Recognized Prekindergarten Partnership

[Section 809.22](#) contains the requirements for "Direct Referrals to Recognized Partnerships" and includes the definition of a recognized partnership to be a formal agreement partnership that exists between a child care provider and one of the following:

- a public school prekindergarten provider;
- a local education agency; or
- a Head Start/Early Head Start program.

This definition was developed prior to the creation of the Prekindergarten Partnership Program in statute at [§302.0051](#) of the Texas Labor Code, which defines an eligible prekindergarten partnership program as a private provider under [§29.171](#) of the Texas Education Code. To be eligible under §29.171, the provider must:

- be accredited by a research-based, nationally recognized, and universally accessible accreditation system approved by the Texas Education Agency;
- be a Texas Rising Star Program provider with a three-star certification or higher;
- be a Texas School Ready! Participant;
- have an existing partnership with a school district to provide a prekindergarten program not provided under this subchapter; or

--be accredited by an organization that is recognized by the Texas Private School Accreditation Commission.

The amendments add the definition of a prekindergarten partnership program to §809.2 and reference providers meeting the requirements in Texas Education Code, §29.171. The amendments also add children served through a recognized prekindergarten partnership to the priority list for the waiting list and repeals §809.22.

Additionally, under the new priority for prekindergarten partnerships, the amendments also prioritize services for prekindergarten-age children receiving a Texas Educational Freedom Account to attend a private prekindergarten provider as described in Texas Education Code §16.404(h) when the provider is also a CCS provider offering wrap-around child care for eligible children. This change aligns priorities so that children qualifying for state-funded prekindergarten receive priority treatment regardless of whether their educational services are provided by a school district, charter school, or provided by a qualified private provider.

Clarifications Regarding Priority for Child Care Services for Children Receiving Protective Services

The rules clarify the provisions relating to authorizing and funding child care services for children needing or receiving Texas Department of Family and Protective Services (DFPS) protective services. The amendments remove the priority for child care services authorized and funded by DFPS in §809.43(a)(2)(A), because §809.43(a) refers to the second priority group for CCS services, which are TWC-funded and administered by Boards.

The amendments add §809.43(b), regarding provisions on how to prioritize protective services child care, as further explained in §809.49.

As described in §809.49 regarding Protective Services Child Care, child care for children receiving or needing protective services is funded and authorized by DFPS and is not subject to the Board's waiting list. Additionally, §809.49© notes that Boards are required to provide child care (often referred to as Former-DFPS child care) under §809.54, Continuity of Care, for any DFPS child care paid for with CCDF funds that is terminated by DFPS prior to the end of the child's required eligibility period.

Confidentiality of Child Care Information

Under 45 CFR [§98.15\(b\)\(13\)](#), CCDF Lead Agencies must have policies in effect to govern the use and disclosure of confidential and personally identifiable information (PII) about children and families receiving CCDF assistance and child care providers receiving CCDF funds.

Section 809.71(8) specifies that parents have the right to "have the Board and the Board's child care contractor treat information used to determine eligibility for child care services as confidential." Currently, TWC's contracts with Boards as well as guidance directives include requirements to protect sensitive and personally identifiable information. However, Chapter 809 does not include language to specifically meet the requirements of 45 CFR §98.15(b)(13).

The rules add provisions related to confidentiality of information. The rules ensure consistent application of data privacy standards regarding the TWC's use of PII, and sensitive personal information (SPI). The rules specifically state that any disclosure of child care information must be in strict compliance with federal regulations, state law, and TWC policies. This includes, but is not limited to:

- child and family information, including names, addresses, contact information, dates of birth, family composition, income levels, and any information related to eligibility for CCS; and
- provider information, such as child records and background check information related to licensed or registered child care providers and their business practices.

Child Abuse and Neglect Reporting for Staff Conducting Provider On-site Visits

Board, Board contractor, and Agency grantees and contractor staff are required to conduct on-site visits at a provider's facility for a variety of reasons. The Commission proposes to amend Chapter 809 to clarify that any staff conducting such site visits are required to comply with state statutory abuse and neglect reporting pursuant to Texas Family Code, §261.101. This requirement is in §809.136 relating to Texas Rising Star staff and will be relocated to a new §809.5 in Subchapter A.

Texas Rising Star Program Facility Changes

Chapter 809, [Subchapter G](#), establishes the requirements for participating in Texas Rising Star. Current rule language regarding child care providers that undergo a facility change does not specify the requirements for a provider to retain a current or previous Texas Rising Star status or be granted a new status after the change. The Texas Rising Star Guidelines (Guidelines) include the parameters for facility changes for certified providers. However, the Guidelines lack a clear process for determining whether an Entry Level-designated (ELD) provider or a provider in poor standing should retain the status of the predecessor program.

The rules state that Texas Rising Star providers, including ELD providers, shall, with limited exceptions, retain the provider's star level, Entry Level designation, probationary, or suspension status if the facility has a change of ownership, change of facility type, a move, or expansion of locations.

The rules also state that if a provider is terminated from the Texas Rising Star program due to the failure to achieve at least a Two-Star certification by the end of the 18-month suspension period, or whose Entry Level designation expires without achieving at least a Two-Star certification, and the provider subsequently applies for the Texas Rising Star program under a new ownership, the provider is eligible to participate in the Texas Rising Star program based on the status of the provider at the time of termination from the program.

Impacts of Child Care Regulation Licensing Compliance on Texas Rising Star Certification
[Section 809.132](#) establishes the impacts that are placed on a child care provider based on the provider's licensing compliance. These impacts include suspension, star-level drops, and probationary status dependent on the licensing issue that has occurred or continues to occur.

These impacts can result in a provider's loss of certification and ultimately, termination from Texas Rising Star participation when reviewed against the [Certified Screening Form](#).

The intent of the amendments to §809.132 is to focus on high-weighted deficiencies (eliminating the current parameter which also looks at medium-high weighted deficiencies) when considering the points incurred for Entry Level and certification compliance and providing a probationary period, rather than an immediate star-level drop for providers that incur one of four specified CCR licensing deficiencies related to background checks and abuse and neglect. CCR requires providers to immediately address these deficiencies; providing a probationary period allows the provider to demonstrate continued compliance with the standards. This change would eliminate one of the two current probationary statuses. TWC will retain a singular probationary status that is based on one of two factors, the first being a list of specific high-weighted CCR licensing standards (that used to result in a star level drop) and the other related to total points incurred based on high-weighted deficiencies. Child care providers will continue to be monitored for the number of high-weighted licensing deficiencies occurred within the most recent six months. The Certified Screening Form would be revised as drafted.

The Commission also makes amendments to §809.132, regarding the process for reinstating child care providers that are in suspension status due to licensing deficiencies. Currently, providers are eligible to be reinstated after the six-month period; however, they must submit a request for assessment and achieve certification that may extend their suspension status. The amendments state that providers in suspension status for licensing deficiencies be automatically reviewed at the end of the six months and reinstated to their previously assessed star level as long as the provider can pass the initial screening form. Additionally, the timeline for suspension is revised from 15 to 18 months. This change is made to accommodate legislative changes in House Bill 2789, 89th Texas Legislature, Regular Session, 2025, that extended initial permits from six months to 12 months.

Removing the 20-Day Texas Rising Star Assessment Schedule Deadline

[Section 809.133](#) establishes the protocols the Agency's Centralized Assessment Entity (CAE) follows when reviewing and conducting Texas Rising Star assessments. The assessment entity is required to notify a child care provider within 20 days of application of the provider's timeline for assessment. CAE requires more than 20 days to develop this timeline.

The amendments to §809.133 remove the requirement for CAE to provide an estimated time frame for scheduling the initial assessment within 20 days of receiving the provider's application. TWC will establish an expectation that CAE will notify child care providers when their initial assessment will be scheduled, within 30 days of application. This information will be published in the Guidelines, rather than in Chapter 809.

Texas Rising Star Mentor Qualifications

Section 809.134(c) establishes the minimum qualifications for Texas Rising Star mentors. Current minimum education qualifications include having an associate degree or higher with a prescribed number of credit hours earned in early childhood education or related fields. The current rule includes a separate and unclear credit hour requirement for bachelor's degrees in family consumer science.

The amendments to [§809.134\(c\)\(2\)](#) streamline and clarify the language. The amended language allows for degrees in a variety of areas as long as the individual has at least 18 credit hours relevant to early childhood education, child development, special education, child psychology, educational psychology, elementary education, or family consumer science.

Additionally, amendments to §809.134 allow an individual without a bachelor's or an associate degree to be a mentor if the individual has a Child Development Associate (CDA) credential and commitment to achieve the mentor microcredential within two years of employment. Additionally, the amendments add a requirement that all mentors must attain mentor microcredentialing within two years of employment.

Coordination Activities

On December 12, 2025, CC&EL solicited input from Board staff on the changes being considered for the rules. TWC also met with a group of stakeholders, including child care providers, on March 2, 2026, to discuss the rule changes and solicit their input. Additionally, TWC discussed and solicited input on the rules during the March 24, 2026, meeting of the Quad Agency Child Care Initiative Commission.

Rule Review

Texas Government Code, §2001.039, requires a state agency to review and consider for readoption each of its rules every four years. In accordance with the statute, TWC has reviewed Chapter 809, Child Care Services, and readopts the rules as amended.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

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

SUBCHAPTER A. GENERAL PROVISIONS

TWC adopts the following amendments to Subchapter A:

§809.2. Definitions

Section 809.2 is amended to add new definitions related to eligibility determination, redetermination, and eligibility periods. The definitions clarify when eligibility determinations and redeterminations start, the length of the eligibility period, and when the 12-month authorization period begins.

New §809.2(12) defines that the "eligibility determination or redetermination" is the date the family is notified of the initial determination or redetermination of eligibility for child care services. The definition clarifies that the redetermination date must not be prior to the last day of the eligibility period.

New §809.2(13) defines that the "eligibility period" consists of the eligibility determination or redetermination date, plus a 12-month authorization for child care services, which is 12 consecutive months an eligible child is authorized to receive child care services. The 12 months begin when the first eligible child in the family begins receiving care with the authorized

provider.

The addition of new §809.2(13) also results in amending language throughout the rules from "12-month eligibility period" to align with the new "eligibility period" definition.

New §809.2(23) defines "recognized prekindergarten partnership" as a formal partnership that exists between a school district that offers a prekindergarten program under Texas Education Code, §29.153 and an eligible provider described in Texas Education Code, §29.171.

Texas Education Code, §29.171, defines an "eligible provider" as a private provider licensed by and in good standing with Child Care Regulation (CCR), and a provider in which CCR has not taken an action against under Texas Human Resources Code, §§42.071, 42.072, or 42.078 during the 24-month period preceding the date of a contract with a school district. The private provider must also:

- be accredited by a research-based, nationally recognized, and universally accessible accreditation system approved by the Texas Education Agency;
- be a Texas Rising Star Program provider with a three-star certification or higher;
- be a Texas School Ready! participant;
- have an existing partnership with a school district to provide a prekindergarten program; or
- be accredited by an organization that is recognized by the Texas Private School Accreditation Commission.

The definition in new §809.2(23) also states that the formal partnership requires both parties to have entered into an agreement, such as a memorandum of understanding, and serves some number of children under age six who are dually enrolled in both programs.

Section 809.2 is also amended to remove the definition of "excessive unexplained absences" as the provisions stipulated in this definition are duplicated in the rules related to absences in §809.78.

§809.4. Confidentiality of Information

New §809.4 states that TWC, TWC contractors, Boards, Board contractors, and child care providers participating in the child care services program must ensure the confidentiality of child care information and prevent the disclosure of PII about children and families applying for or receiving child care services.

The rules state that any disclosure of child care information must be in strict compliance with federal regulations, state law, and TWC policies. This includes, but is not limited to, non-disclosure of:

- child and family information, including names, addresses, contact information, dates of birth, family composition, income levels, and any information related to eligibility for child care services; and
- provider information, such as child records and background-check information related to licensed or registered child care providers and their business practices.

§809.5. Reporting Potential Abuse and Neglect at Child Care Provider Sites

New §809.5 requires Boards, Board contractors, and TWC's grantees and contractors to have procedures that ensure staff conducting onsite visits to providers report potential child abuse and neglect at the provider site as required by Texas Family Code, §261.101.

SUBCHAPTER B. GENERAL MANAGEMENT

TWC adopts the following amendments to Subchapter B:

§809.18. Maintenance of a Waiting List

Section 809.18 is amended to remove the exemption from the waiting list for children who are directly referred from a recognized prekindergarten or Head Start/Early Head Start partnership to receive services in the contracted partnership program described in repealed §809.22.

§809.19. Assessing the Parent Share of Cost

Section 809.19 is amended to clarify that the parent share of cost is assessed at the eligibility determination or redetermination and aligns with the new definition of eligibility determination or redetermination, which states that this period starts when the parent is notified or at eligibility determination or redetermination. The amendments also change the three-month period to 90 calendar days related to reassessment of the parent share of cost upon resumption of work, job training, or education activities.

§809.21. Determining the Amount of the Provider Payment

New §809.21(c) is added to clarify the rates used to calculate the blended-day enrollment. Consistent with §809.21(a) requiring that Boards pay the lower of the Board's maximum rate or the provider's published rate, §809.21(c) is added to state that the payment for a blended-day enrollment is calculated as a weighted blend across the school year of the lower of the provider's published full-day rate or the maximum Board full-day rate, and the lower of the provider's part-day rate or the maximum Board part-day rate.

New §809.21(d) adds the provision pursuant to Texas Government Code, §2308.3151, that a Board may establish a policy to pay Texas Rising Star Program providers, including Entry Level designated providers, at the Board's maximum payment rate for the providers' Texas Rising Star Program rating level regardless of the providers' published rate only if paying the higher rate does not prevent the Board from meeting the Commission's performance target for the average number of children served in the workforce area served by the Board.

The Commission notes that Boards choosing to exercise this option must apply it to all providers in the workforce area and cannot be applied to individual providers or group of providers. The Commission also notes that pursuant to 40 TAC §802.1(f), Boards choosing this option must do so in an open public meeting.

Additionally, the amendment necessitates changes to the TX3C case management system, and the Agency anticipates that the changes will be implemented by the effective date of the rules.

§809.22. Direct Referrals to Recognized Partnerships

Section 809.22 is repealed to remove provisions related to direct referrals to recognized

partnerships.

SUBCHAPTER C. ELIGIBILITY FOR CHILD CARE SERVICES

TWC adopts the following amendments to Subchapter C:

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

Section 809.41 is amended to remove the language that a child experiencing homelessness is presumptively eligible for child care services. This change clarifies that parents of children experiencing homelessness are required to participate in work, job training, or education activities within the 90-day period described in §809.52.

§809.42. Eligibility Verification, Determination, and Redetermination

Section 809.42 is amended to clarify the eligibility period for child care services in accordance with federal guidelines. The amended language clarifies that the Board's child care contractor must verify eligibility prior to eligibility determination or redetermination for child care services to align with the new definition related to eligibility determination or redetermination.

Amended §809.42 also requires Boards to ensure that eligible children receive a minimum 12-month authorization of child care services. The amended rule also specifies that for a family with one eligible child at the time of eligibility determination, if the child does not require care immediately, the parent may request a voluntary suspension until care is needed, and the 12-month authorization will begin on the first day care begins.

Section 809.42 is amended to also state that for a family with multiple eligible children at the time of eligibility determination, if all the children do not require care immediately, the parent may request a voluntary suspension until care is needed, and the 12-month authorization will begin on the date the first child begins care.

Amended §809.42 further clarifies that a family's eligibility period is the date of eligibility determination or redetermination plus the 12-month authorization period, and that a family's redetermination date is the day after the last day of the eligibility period.

§809.43. Priority for Child Care Services

Section 809.43(a)(2) is amended to add children enrolled in a prekindergarten partnership and children receiving a Texas Educational Freedom Account to attend a private prekindergarten provider as described in Texas Education Code §16.404(h) when the provider is also a CCS provider offering wrap-around child care for eligible children. These children are added to the second waiting list priority group, subject to the availability of funds.

Section 809.43(a)(2) is amended to remove the priority for child care services authorized and funded by DFPS. Section 809.43(a) describes the priorities for TWC-funded child care services. The priority of care for children needing and receiving protective services is described in §809.49, which requires Boards to enroll children authorized by DFPS and are not subject to the Board's waiting list. However, §809.43 is further amended to add §809.43(b), stating that a Board shall enroll children needing protective services as authorized by DFPS, and as further described in §809.49.

§809.45. Choices Child Care

Section 809.45 is amended to update language related to the "12-month eligibility period" to "eligibility period" to align with the new "eligibility period" definition in §809.2.

§809.47. Supplemental Nutrition Assistance Program Employment and Training Child Care

Section 809.47 is amended to updated language related to the "12-month eligibility period" to align with the new "eligibility period" definition in §809.2.

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

Section 809.49 renamed "Protective Services Child Care."

Section 809.49 is amended to clarify that Boards must enroll children authorized by DFPS. Rule amendments also clarify that DFPS child care services funded through CCDF but discontinued by DFPS prior to the end of the required eligibility period must be continued by the Board (often referred to as Former-DFPS child care) using TWC-allocated funds as required by the Continuity of Care provisions of §809.54.

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

Section 809.51 is amended to update language related to the "12-month eligibility period" to align with the new "eligibility period" definition in §809.2. The amendments also change the three-month continued care period to "90 calendar days."

§809.52. Child Care for Children Experiencing Homelessness

Section 809.52 is amended to change the three-month initial enrollment period pending documentation and activity requirements to "90 calendar days."

Amended §809.52 is amended to clarify that parents of children experiencing homelessness meet the minimum participation requirements for At-Risk Child Care in order for child care to continue through the remainder of the eligibility period.

Section 809.52 is also amended to add that, for child care during the initial 90-day enrollment period, the Board will initially assess the parent share of cost at the highest amount based on the family size and number of children in care. The initially assessed amount will immediately be temporarily reduced to zero, including for dual-parent families in which one parent is employed but the family does not meet the minimum participation requirements for At-Risk Child Care as described in §809.50.

Amended §809.52 adds that if the parent begins to meet participation requirements, within or by the end of the 90-day enrollment period, the parent share of cost shall be reinstated at the initially assessed amount or the amount based on the actual family income, whichever is lower.

§809.54. Continuity of Care

Section 809.54 is amended to update language related to the "12-month eligibility period" to align with the new "eligibility period" definition in §809.2.

Section 809.54 is also amended to clarify that closed DFPS cases are the "Former-DFPS" protective services cases previously funded using CCDF through DFPS. Rule language also clarifies that the "Former-DFPS" child care continues through the end of the eligibility period using funds provided to the Board by TWC.

§809.56. Child Care during Initial Job Search

Section 809.56 is amended to update language related to the "12-month eligibility period" to align with the new "eligibility period" definition in §809.2 and changes the initial job search period from three months to "90 calendar days."

SUBCHAPTER D. PARENT RIGHTS AND RESPONSIBILITIES

TWC adopts the following amendments to Subchapter D:

§809.72. Parent Eligibility Documentation Requirements

Section 809.72 is amended to update language related to the "12-month eligibility period" to align with the new "eligibility period" definition in §809.2.

§809.73. Parent Reporting Requirements

Section 809.73 is amended to update language related to the "12-month eligibility period" to align with the new "eligibility period" definition in §809.2.

§809.78. Attendance Standards and Notice and Reporting Requirements

Section 809.78 is amended to update language related to the "12-month eligibility period" to align with the new "eligibility period" definition and the new definition of "eligibility determination or redetermination" as they relate to when the parent signs a written acknowledgment indicating their understanding of the attendance standards and reporting requirements.

Section 809.78 is also amended to clarify that "missed attendance" includes when only a check-in or a check-out is recorded for a child. Both a check-in and a check-out must exist for a child to be counted as present.

SUBCHAPTER E. REQUIREMENTS TO PROVIDE CHILD CARE

TWC adopts the following amendments to Subchapter E:

§809.92. Provider Responsibilities and Reporting Requirements

Section 809.92(f) is amended to make a technical change to replace "copayment" with "parent share of cost" to align with language regarding parent share of cost throughout Chapter 809.

§809.95. Provider Automated Attendance Agreement

Section 809.95 is amended to reiterate the current requirement that providers are required to use the TWC-approved automated attendance system.

Section 809.95 is also amended to add language relating to instances in which a provider may perform the attendance or absence reporting function on behalf of the parent. The new language

specifies that in instances when the parent is not available to record the drop-off or pick-up of the child (such as when the provider is transporting the child to or from school), the provider may record the appropriate check-in or check-out. The new language also requires that the parent must record at least one daily check-in or check-out for the child. However, in these limited circumstances, the parent does not have to perform both check-in and check-out.

§809.96. Contracted Slots Agreements

Section 809.96 is amended to clarify that a provider is eligible for a contracted slots agreement if the provider has a recognized prekindergarten partnership as defined in the amended §809.2.

Section 809.96 is also amended to remove the waiting list exception for children directly referred from a recognized partnership in the repeal of §809.22.

SUBCHAPTER G. TEXAS RISING STAR PROGRAM

TWC adopts the following amendments to Subchapter G:

§809.130. Short Title and Purpose

Section 809.130 is amended to remove the reference to medium-high CCR deficiencies points threshold to achieve Texas Rising Star certification, with the focus to be on high-weighted CCR deficiencies as they relate to the impact on Texas Rising Star certification.

§809.131. Requirements for the Texas Rising Star Program

Section 809.131(a) is amended to remove references to medium-high CCR deficiencies points threshold related to eligibility for Entry Level designation.

Section 809.131(b) is also amended to clarify that to be eligible for the Entry Level designation, a provider is not under a "Notice of Freeze" with the Commission pursuant to Texas Labor Code, Chapter 213 (Enforcement of the Texas Unemployment Compensation Act), or Texas Labor Code, Chapter 61 (Payment of Wages). This change aligns Entry Level designation with the basic requirement related to freeze notices for Texas Rising Star eligibility in §809.131(a).

§809.132. Impacts on Texas Rising Star Certification

Section 809.132 is renamed "Impacts of Child Care Regulation Licensing Compliance on Texas Rising Star Certification" to specify that the impacts on the Texas Rising Star certification detailed in this section are related to CCR licensing compliance.

Section 809.132 is amended to remove the "star level drop" status based on a list of specific CCR licensing deficiencies. The intent of this change is to focus on high-weighted deficiencies when considering the points incurred for Entry Level and certification compliance and providing a probationary period, rather than an immediate star-level drop for providers that incur one of four specified CCR licensing deficiencies related to background checks and abuse and neglect. CCR requires providers to immediately address these deficiencies; providing a probationary period allows the provider to demonstrate continued compliance with the standards. This change eliminates one of the two current probationary statuses. TWC will retain a singular probationary status that is based on one of two factors, the first being a list of specific high-weighted Child Care Regulation licensing standards and the other related to total points incurred based on high-

weighed deficiencies. Child care providers will continue to be monitored for the number of high-weighted licensing deficiencies occurred within the most recent six months.

Other amendments to §809.132 also involve the process for reinstating child care providers who are in suspension status due to licensing deficiencies. Currently, providers are eligible to be reinstated after the six-month period; however, they must submit a request for assessment and achieve certification that may extend their suspension status. The rule amendments state that providers in suspension status for licensing deficiencies be reviewed at the end of the six months and reinstated to their previously assessed star level as long as the provider can pass the initial screening form.

Additional amendments to §809.132 revise the timeline for suspension from 15 months to 18 months. This change is to align the rule with Human Resources Code, §42.051(b), as amended by House Bill 2789, 89th Texas Legislature, Regular Session, 2025, which extended initial licenses from six months to 12 months.

§809.133. Application and Assessments for Texas Rising Star Certification

Section 809.133 is amended to remove the requirement that the Centralized Assessor Entity give an estimated time frame for scheduling an initial assessment to providers within 20 days of receipt of the application.

§809.134. Minimum Qualifications for Texas Rising Star Staff

Section 809.134 is amended to add a CDA credential and commitment to achieve the Texas Rising Star mentor microcredential within two years of employment as an option for meeting the mentor education requirements. The amendments also remove the 12 credit hours in child development from the bachelor's degree option for meeting the education requirements for a mentor.

Section 809.134 is also amended to require that all mentors attain the Texas Rising Star microcredential within two years of employment.

§809.136. Roles and Responsibilities of Texas Rising Star Staff

Section 809.136 is amended to remove language requiring Texas Rising Star staff members to be mandated reporters when observing serious abuse and neglect incidents at child care providers. This requirement has been moved to new §809.5 related to all Board, contractor, and Agency grantee or contractor staff to report potential abuse and neglect.

§809.137. Texas Rising Star Facility Changes

New §809.137 describes the impact on a Texas Rising Star provider's status if the facility has a change of ownership, change of facility type, move, or expansion.

New §809.137(a) defines terms used in this section as they relate to facility changes. One of the terms defined, "business structure," refers to the legal and organizational form a business adopts. A change in business structure triggers legal and tax consequences that include liability, taxation, management, and registration requirements, as further outlined in the Texas Business Organizations Code. The Office of the Secretary of State publishes information about business

structure on its Selecting a Business Structure web page at <https://www.sos.state.tx.us/corp/businessstructure.shtml>.

New §809.137(b) acknowledges that facility changes may impact how the child care provider participates in Texas Rising Star.

New §809.137(c) refers to new Figure: 40 TAC §809.137(c), which outlines the different types of facility changes and the impact of those changes on a provider's Texas Rising Star status. The five types of facility changes are: ownership, move, split, facility type, and expansion.

TWC hereby certifies that the rules have been reviewed by legal counsel and found to be within TWC's legal authority to adopt.

PART III. PUBLIC COMMENTS

The comment period ended on July 6, 2026.

TWC received comments from the following:

- Ivy Kids Tomball
- Texas Department of Family and Protective Services (DFPS)
- Workforce Solutions Capital Area

§809.43. Priority for Child Care Services

COMMENT: DFPS suggested revisions to §809.43 to align with DFPS rules by using "day care" instead of "child care" and moving the priority for children of foster youth.

RESPONSE: TWC declines to change "child care" to "day care" in §809.43, as these are TWC rules, and the term must align with TWC terminology and the chapter title.

TWC also declines to move §809.43(a)(2)(B), relating to children of a foster youth. This priority group is defined in TWC's statute and cannot be changed by rule. Additionally, the current definition of children needing protective services does not preclude children of foster youth if they have an open DFPS case.

No changes were made in response to this comment.

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

COMMENT: DFPS suggested revisions to §809.49 to align with DFPS rules by using "day care" instead of "child care" and moving TWC's priority for children of a foster youth under the category for children needing protective services. DFPS also suggested technical edits to §809.49(b)(2), which addresses children under court supervision.

RESPONSE: TWC declines to change "child care" to "day care" in §809.49, because the term must align with TWC terminology and this chapter's title.

TWC also declines to revise the title of §809.49. "Protective Services Child Care" is a term that TWC is required to define per CCDF regulations and is included in the CCDF State Plan; therefore, the Texas Administrative Code must align with the plan.

TWC has revised the language in §809.49(b)(2) for improved readability.

§809.132. Impacts on Texas Rising Star Certification

COMMENT: Workforce Solutions Capital Area sought clarification on whether TWC will update the Texas Rising Star Guidelines to align with the revised 18-month suspension timeline under §809.132.

RESPONSE: The Texas Rising Star Guidelines will be updated to align with any revisions made to the Child Care Services rules regarding the suspension timeline. No changes were made in response to this comment.

New §809.137. Texas Rising Star Facility Changes.

COMMENT: Workforce Solutions Capital Area sought clarification regarding whether programs that expand locations and have varied participation status would be given an Entry Level designation.

RESPONSE: Yes, programs in this situation would be designated as Entry Level upon the initial change but could request an assessment sooner, bypassing specified certification eligibility requirements. No changes were made in response to this comment.

COMMENT: Ivy Kids Tomball suggested that when a new owner has no affiliation with the prior owner and no role in the decisions that led to the program's Texas Rising Star history, the new owner should have the option to either retain the prior child care program's status, including any star level, probation, or suspension and its associated conditions, or begin as an Entry Level participant and be assessed independently.

RESPONSE: New §809.137(c) is revised to allow a new external owner to either retain the certified status of a program or request an Entry Level designation upon ownership change. TWC also revised the chart on the Child Care Facility Change Rubric to reflect this allowance, and clarify that for the purpose of reassessment, the requirements outlined in §809.131(a)(1) and (2) of the subchapter (permanent license (full permit) issued by Child Care Regulation and 12-month history) will be deemed to have been met in any facility change type, regardless of the current provider's status prior to change.

PART IV. EFFECTIVE DATES

TWC adopts staggered effective dates for the rule amendments in Chapter 809 as follows:

--October 1, 2026: Subchapters A, B, C, D, and E will become effective. This date aligns the rule changes with the start of the Boards' new contract year.

--**November 1, 2026:** Subchapter G will become effective. This later date provides the necessary time to implement corresponding automation changes to the Texas Rising Star program systems.

Pursuant to its authority under Texas Government Code, §2001.036, TWC finds that adopting these specific effective dates, rather than the 20th day after filing with the Office of the Secretary of State, is necessary to ensure the orderly implementation of these rules.

PART V. STATUTORY AUTHORITY

The rules are adopted under Texas Government Code, §2308.3155(b), Texas Labor Code §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the Texas Rising Star Program and TWC services and activities.

The adopted rules implement HB 2294, 89th Texas Legislature, Regular Session, 2025, and relate to Texas Labor Code, Title 4, particularly Chapters 301 and 302, as well as Texas Government Code, Chapter 2308.

CHAPTER 809. CHILD CARE SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

§809.2. Definitions.

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

- (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 provider payment 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 payments to an eligible child care provider for the direct care of an eligible child.

- (8) Child care worker--for purposes of the waiting list priority described in §809.43 of this chapter, and pursuant to Texas Labor Code, §302.0064, a child care worker is an individual employed by and working in a child care facility licensed under Texas Human Resources Code, Chapter 42 for a minimum of 25 hours per week. The term does not include the owner or director of a child care facility unless the owner's or director's child is served in a program other than a program directly supervised by the owner or director.
- (9) Child experiencing homelessness--A child who is homeless, as defined in the McKinney-Vento Act (42 USC 11434(a)), Subtitle VII-B, §725.
- (10) 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.
- (11) 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.
- (12) Eligibility determination or redetermination--The date the family is notified of the initial determination or redetermination of eligibility for child care services. The redetermination date shall not be prior to the last day of the eligibility period.
- (13) Eligibility period--The eligibility period begins on the eligibility determination or redetermination date and includes a minimum of 12 consecutive months an eligible child is authorized to receive child care services, which starts when the first eligible child in the family begins receiving care with the authorized provider.
- (14) 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.
- (15) 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.
- (16) Improper payments--Any payment of Child Care Development Fund (CCDF) 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.
- (17) Job training program--A program that provides training or instruction leading to:
- (A) basic literacy;
 - (B) English proficiency;
 - (C) an occupational or professional certification or license; or
 - (D) the acquisition of technical skills, knowledge, and abilities specific to an occupation.
- (18) Listed family home--A family home, other than the eligible child's own residence, that is listed, but not licensed or registered with, CCR pursuant to Texas Human Resources Code, §42.052(c).
- (19) Military deployment--The temporary duty assignment away from the permanent military installation or place of residence for reserve components of the single military parent or the dual military parents. This includes deployed parents in the regular military, military reserves, or National Guard.
- (20) Parent--An individual who is responsible for the care and supervision of a child and is identified as the child's natural parent, adoptive parent, stepparent, legal guardian, or person standing in loco parentis (as determined in

accordance with Commission policies and procedures). Unless otherwise indicated, the term applies to a single parent or both parents.

(21) Protective services--Services provided when a child:

- (A) is at risk of abuse or neglect in the immediate or short-term future and the child's family cannot or will not protect the child without Texas Department of Family and Protective Services (DFPS) Child Protective Services (CPS) intervention;
- (B) is in the managing conservatorship of DFPS and residing with a relative or a foster parent; or
- (C) has been provided with protective services by DFPS within the prior six months and requires services to ensure the stability of the family.

(22) Provider--A provider is defined as a:

- (A) regulated child care provider;
- (B) relative child care provider; or
- (C) listed family home subject to the requirements in §809.91(e) of this chapter.

(23) Recognized prekindergarten partnership--A formal partnership that exists between a school district that offers a prekindergarten program under Texas Education Code, §29.153, and an eligible provider described in Texas Education Code, §29.171. A formal partnership requires both parties to have entered into an agreement, such as a memorandum of understanding, and serves some number of children under age six who are dually enrolled in both programs.

(24) 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.

(25) 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).
- (26) 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.
- (27) 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.
- (28) Texas Rising Star program--A quality-based rating system of child care providers participating in Commission-subsidized child care.
- (29) 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.
- (30) 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.

§809.4. Confidentiality of Information.

- (a) The Agency, Agency contractors, Boards, Board contractors, and child care

providers participating in the child care services program shall ensure the confidentiality of child care information and prevent the disclosure of personally identifiable information about children and families applying for or receiving child care services.

- (b) Any disclosure of child care information must be in strict compliance with federal regulations, state law, and Agency policies. This includes, but is not limited to, non-disclosure of:
 - (1) child and family information, including names, addresses, contact information, dates of birth, family composition, income levels, and any information related to eligibility for child care services; and
 - (2) provider information, such as child records and background-check information related to licensed or registered child care providers and their business practices.

§809.5. Reporting Potential Abuse and Neglect at Child Care Provider Sites.

Boards, Board contractors, and Agency grantee and contractor staff must have procedures to ensure that staff conducting onsite visits to provider sites report potential child abuse and neglect at the provider site as required by Texas Family Code, §261.101.

SUBCHAPTER B. GENERAL MANAGEMENT

§809.18. Maintenance of a Waiting List.

- (a) A Board shall ensure that a list of parents and children waiting for child care services, because of the lack of funding or lack of providers, is maintained and available to the Commission upon request.
- (b) A Board shall ensure that the child is potentially eligible for child care services prior to placing the child on the waiting list.
- (c) A Board shall contact the parent every three months and shall remove the child from the waiting list if the parent indicates that child care services are no longer required or does not respond to the Board regarding the continued need for child care services.

§809.19. Assessing the Parent Share of Cost.

- (a) For child care funds allocated by the Commission pursuant to its allocation rules (generally, Chapter 800, Subchapter B of this title, and specifically §800.58 of this title), including local public transferred funds and local private donated funds, as provided in §809.17 of this subchapter, the following shall apply:
 - (1) The parent share of cost shall:

- (A) be assessed to all parents, except in instances when an exemption under paragraph (3) of this subsection applies; and
 - (B) be established by the Commission and determined by a sliding fee scale based on the family's size and gross monthly income determined in §809.44 of this chapter and as represented by a percentage of the state median income (SMI) up to 85 percent SMI; and
 - (C) not exceed 7 percent of the family income, regardless of the number of children receiving child care services.
- (2) A Board shall assess the parent share of cost in accordance with paragraph (1)(B) of this subsection and in a manner that results in the parent share of cost:
- (A) being assessed only at the following times:
 - (i) eligibility determination or redetermination;
 - (ii) upon the addition of a child in care;
 - (iii) upon a parent's report of a change in income, family size, or number of children in care that would result in a reduced parent share of cost assessment; and
 - (iv) upon resumption of work, job training, or education activities following temporary changes described in §809.51(a) of this chapter, and upon resumption of work, job training, or education activities during the 90-day continuation of care period described in §809.51(c) of this chapter; and
 - (B) not increasing above the amount assessed at eligibility determination or redetermination, except upon the addition of a child in care as described in subparagraph (A)(ii) of this paragraph.
- (3) Parents who are one or more of the following are exempt from paying the parent share of cost:
- (A) Parents who are participating in Choices or who are in Choices child care described in §809.45 of this chapter;
 - (B) Parents who are participating in SNAP E&T services or who are in SNAP E&T child care described in §809.47 of this chapter;
 - (C) Parents of a child receiving Child Care for Children Experiencing

Homelessness as described in §809.52 of this chapter; or

- (D) Parents who have children who are receiving protective services child care pursuant to §809.49 and §809.54(c) of this chapter, unless DFPS assesses the parent share of cost.
- (4) Teen parents who are not covered under exemptions listed in paragraph (3) of this section shall be assessed a parent share of cost. The teen parent's share of cost is based solely on the teen parent's income and size of the teen's family as defined in §809.2 of this chapter.
- (b) A Board shall establish a policy stating whether or not the Board will pay providers when parents fail to pay the parent share of cost. If the Board does not pay providers under the adopted policy, the Board may establish a policy requiring the parent pay the provider before the family can be redetermined eligible for future child care services.
- (c) A Board shall establish a policy regarding termination of child care services within the eligibility period when a parent fails to pay the parent share of cost. The Board's policy must include:
 - (1) a requirement to evaluate and document each family's financial situation for extenuating circumstances that may affect affordability of the assessed parent share of cost pursuant to paragraph (2) of this subsection, and a possible temporary reduction pursuant to subsection (d) of this section before the Board or its child care contractor may terminate care under this section;
 - (2) a process to identify and assess the circumstances that may jeopardize a family's self-sufficiency under subsection (d) of this section; and
 - (3) maintenance of a list of all terminations due to failure to pay the parent share of cost.
- (d) The Board or its child care contractor may review the assessed parent share of cost for a possible temporary reduction if there are extenuating circumstances that jeopardize a family's self-sufficiency. The Board or its child care contractor may temporarily reduce the assessed parent share of cost if warranted by these circumstances. Following the temporary reduction, the parent share of cost amount immediately prior to the reduction shall be reinstated.
- (e) If the parent is not covered by an exemption as specified in subsection (a)(3) of this section, then the Board or its child care contractor shall not waive the assessed parent share of cost under any circumstances.
- (f) If the parent share of cost, based on family income and family size, is calculated to

be zero, then the Board or its child care contractor shall not charge the parent a minimum share of cost amount.

- (g) A Board may establish a policy to reduce the parent share of cost amount assessed pursuant to subsection (a)(1) upon the child's referral for part-time or blended care as described in §809.21 of this chapter. Such Board policy shall ensure that the parent no longer receives the reduction if the referral is changed to full-time care.

§809.21. Determining the Amount of the Provider Payment.

- (a) Notwithstanding subsection (c) of this section, the actual payment that the Board or the Board's child care contractor pays to the provider shall be the Board's maximum daily rate or the provider's published daily rate, whichever is lower, less the following amounts:
 - (1) The parent share of cost assessed and adjusted when the parent share of cost is reduced; and
 - (2) Any child care funds received by the parent from other public or private entities.
- (b) A Board or its child care contractor shall ensure that the provider's published daily rates are calculated according to Commission guidance and include the provider's enrollment fees, supply fees, and activity fees.
- (c) The payment for a blended-day enrollment as described in §809.93(f) of this chapter is calculated as a weighted blend using the part-day rate for the estimated number of school days, and the full-day rate for the estimated number of non-school days across the school year. The full-day and part-day rates are based on the provider's published rate, or the Board's maximum rate, whichever is lower.
- (d) Pursuant to Texas Government Code, §2308.3151, a Board may establish a policy to pay Texas Rising Star Program providers, including Entry Level designated providers, at the Board's maximum payment rate, less the amounts specified in subsection (a) of this section, for the providers' Texas Rising Star Program rating level regardless of the providers' published rate only if paying the higher rate does not prevent the Board from meeting the Commission's performance target for the average number of children served in the workforce development area served by the Board.

SUBCHAPTER C. ELIGIBILITY FOR CHILD CARE SERVICES

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

- (a) Except for a child receiving or needing protective services as described in §809.49 of this chapter, for a child to be eligible to receive child care services, at the time of

eligibility determination or redetermination, a Board shall ensure that the child:

- (1) meets one of the following age requirements:
 - (A) be under 13 years of age; or
 - (B) be a child with disabilities under 19 years of age;
 - (2) is a United States citizen or legal immigrant as determined under applicable federal laws, regulations, and guidelines; and
 - (3) resides with:
 - (A) a family within the Board's workforce area:
 - (i) whose income does not exceed 85 percent of the state median income (SMI) for a family of the same size; and
 - (ii) whose assets do not exceed \$1,000,000 as certified by a family member.
 - (B) parents who require child care in order to work, including job search, or attend a job training or educational program; or
 - (C) a person standing in loco parentis for the child while the child's parent is on military deployment and the deployed military parent's income does not exceed the limits set forth in subparagraph (A) of this paragraph.
- (b) A Board shall ensure that child care services while the parent is enrolled full-time in a postsecondary undergraduate educational program is provided for, but does not exceed, a cumulative total of 60 months.
- (c) A Board may establish a policy to allow parents attending a program that leads to an undergraduate degree from an institution of higher education to be exempt from residing with the child as defined in §809.2 of this chapter.

§809.42. Eligibility Verification, Determination, and Redetermination.

- (a) A Board shall ensure that its child care contractor verifies all eligibility requirements for child care services prior to eligibility determination or redetermination for child care services.
- (b) A Board shall ensure eligible children receive a minimum 12-month authorization of child care services as follows:
 - (1) For a family of one eligible child at the time of eligibility determination or

redetermination, if the child does not require care immediately, the parent may request a voluntary suspension until care is needed, and the 12-month authorization will begin on the first day care begins; or

- (2) For a family with multiple eligible children at the time of eligibility determination or redetermination, if all the children do not require care immediately, the parent may request a voluntary suspension until care is needed, and the 12-month authorization will begin on the date the first child begins care.

§809.43. Priority for Child Care Services.

- (a) A Board shall ensure that child care services are prioritized among the following three priority groups:
 - (1) The first priority group is assured child care services and includes children of parents eligible for the following:
 - (A) Choices child care as referenced in §809.45 of this subchapter;
 - (B) Temporary Assistance for Needy Families (TANF) Applicant child care as referenced in §809.46 of this subchapter;
 - (C) SNAP E&T child care as referenced in §809.47 of this subchapter; and
 - (D) Transitional child care as referenced in §809.48 of this subchapter.
 - (2) The second priority group is served subject to the availability of funds and includes, in the order of priority, shall be:
 - (A) children of a qualified veteran or qualified spouse as defined in §801.23 of this title;
 - (B) children of a foster youth as defined in §801.23 of this title;
 - (C) children experiencing homelessness as defined in §809.2 of this chapter and described in §809.52 of this subchapter;
 - (D) children of parents on military deployment as defined in §809.2 of this chapter whose parents are unable to enroll in military-funded child care assistance programs;
 - (E) children of teen parents as defined in §809.2 of this chapter;
 - (F) children with disabilities as defined in §809.2 of this chapter;

- (G) children of a child care worker as defined in §809.2 of this chapter; and
 - (H) children enrolled in a prekindergarten partnership program, as defined in §809.2 of this chapter, or enrolled at a private prekindergarten provider and receiving a Texas Educational Freedom Account for prekindergarten, as described in 34 TAC §16.404(h).
- (3) The third priority group includes any other priority adopted by the Board.
- (b) A Board shall enroll children needing DFPS protective services, as described in §809.49 of this subchapter.
- (c) A Board shall not establish a priority group under subsection (a)(3) of this section based on the parent's choice of an individual provider or provider type.

§809.45. Choices Child Care.

- (a) A parent is eligible for Choices child care if the parent is participating in the Choices program as stipulated in Chapter 811 of this title.
- (b) For a parent receiving Choices child care who ceases participation in the Choices program during the eligibility period, Boards must ensure that Choices child care continues:
 - (1) for the 90-day period pursuant to §809.51(b) of this subchapter; and
 - (2) for the remainder of the eligibility period, if the parent resumes participation in Choices or begins participation in work or attendance in a job training or education program during the 90-day period described in §809.51(c) of this subchapter.

§809.47. Supplemental Nutrition Assistance Program Employment and Training Child Care.

- (a) A parent is eligible to receive SNAP E&T child care services if the parent is participating in SNAP E&T services, in accordance with the provisions of 7 CFR Part 273.
- (b) For a parent receiving SNAP E&T child care services who ceases participation in the E&T program during the eligibility period, Boards must ensure that SNAP E&T child care continues:
 - (1) for the 90-day period pursuant to §809.51(b) of this subchapter; and

- (2) for the remainder of the eligibility period, if the parent resumes participation in the SNAP E&T program or begins participation in work or attendance in a job training or education program during the 90-day period described in §809.51(c) of this subchapter.

§809.49. Protective Services Child Care.

- (a) Protective Services child care includes child care funded by DFPS for children receiving or needing protective services, as further described in subsection (b) of this section; it also includes former-DFPS child care funded by the Commission, as further described in subsection (c) of this section.
- (b) A Board shall ensure that determinations of eligibility for children needing protective services are performed by DFPS:
 - (1) A Board shall enroll children authorized by DFPS and continue services as long as authorized and funded by DFPS.
 - (2) DFPS may authorize child care services for an eligible child under the age of 19 who remains under court supervision.
- (c) Child care services funded by DFPS through CCDF and discontinued by DFPS prior to the end of the eligibility period shall be subject to the Continuity of Care provisions in §809.54 of this subchapter.
- (d) A Board shall ensure that requests made by DFPS for specific eligible providers are enforced for children in protective services, including children of foster parents, when the foster parent is the owner, director, assistant director, or other individual with an ownership interest in the provider.

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

- (a) A child meeting all of the applicable eligibility requirements for child care services in this subchapter on the date of the most recent eligibility determination or redetermination shall be considered to be eligible and will receive services during the eligibility period regardless of any:
 - (1) change in family income, if that family income does not exceed 85 percent of SMI for a family of the same size; or
 - (2) temporary change in the ongoing status of the child's parent as working or attending a job training or education program. A temporary change shall include, at a minimum, any:
 - (A) time-limited absence from work for an employed parent for periods of family leave (including parental leave) or sick leave;

- (B) interruption in work for a seasonal worker who is not working between regular industry work seasons;
 - (C) student holiday or breaks within a semester, between the fall and spring semesters, or between the spring and fall semesters, for a parent participating in training or education;
 - (D) reduction in work, training, or education hours, as long as the parent is still working or attending a training or education program;
 - (E) other cessation of work or attendance in a training or education program that does not exceed 90 calendar days;
 - (F) change in age, including turning 13 years old or a child with disabilities turning 19 years old during the eligibility period; and
 - (G) change in residency within the state.
- (b) During the period of time between eligibility redeterminations, a Board shall discontinue child care services due to a parent's loss of work or cessation of attendance at a job training or educational program that does not constitute a temporary change in accordance with subsection (a)(2) of this section. However, Boards must ensure that care continues at the same level for a period of not less than 90 calendar days after such loss of work or cessation of attendance at a job training or educational program.
- (c) If a parent resumes work or attendance at a job training or education program at any level and at any time during the period described in subsection (b) of this section, then the Board shall ensure that:
- (1) care will continue to the end of the eligibility period at the same or greater level, depending upon any increase in the activity hours of the parent;
 - (2) the parent share of cost will not be increased during the remainder of the eligibility period, including for parents who are exempt from the parent share of cost pursuant to §809.19 of this chapter; and
 - (3) the Board's child care contractor verifies only:
 - (A) that the family income does not exceed 85 percent of SMI; and
 - (B) the resumption of work or attendance at a job training or education program.
- (d) The Board may suspend child care services during interruptions in the parent's work,

job training, or education status only at the concurrence of the parent.

§809.52. Child Care for Children Experiencing Homelessness.

- (a) For a child experiencing homelessness, as defined in §809.2 of this chapter, a Board shall ensure that the child is initially enrolled for a period of 90 calendar days.
- (b) If, during the 90-day initial enrollment period, the parent of a child experiencing homelessness:
 - (1) is unable to provide documentation verifying that the child is eligible under §809.41(a)(1) - (2) of this subchapter (regarding age and citizenship status), then care shall be discontinued following the 90-day enrollment period; or
 - (2) provides documentation verifying eligibility under §809.41(a) of this subchapter and meeting minimum participation requirements for At-Risk Child Care as described in §809.50 of this subchapter, then care shall continue through the end of the initial eligibility period (inclusive of the 90-day initial enrollment period).
- (c) For child care during the initial 90-day enrollment period, the following applies regarding the parent share of cost:
 - (1) A Board shall initially assess the parent share of cost at the highest amount based on the family size and number of children in care.
 - (2) The initially assessed amount will immediately be temporarily reduced to zero. This provision also applies to dual-parent families in which one parent is employed but the family does not meet the minimum participation requirements for At-Risk Child Care as described in §809.50 of this subchapter.
 - (3) If the parent begins to meet participation requirements under subsection (b)(2) of this section, within or by the end of the 90-day enrollment period, the parent share of cost shall be reinstated at the initially assessed amount or the amount based on the actual family income, whichever is lower.

§809.54. Continuity of Care.

- (a) Enrolled children, including children whose eligibility for Transitional child care has expired, shall receive child care through the end of the applicable eligibility periods described in §809.42 of this subchapter.
- (b) Except as provided by §809.75 of this chapter relating to child care during appeal, nothing in this chapter shall be interpreted in a manner as to result in a child being removed from care.

- (c) In closed DFPS protective services cases funded by CCDF (DFPS cases) where child care is no longer funded by DFPS, former-DFPS child care shall continue through the end of the applicable eligibility periods described in §809.42 of this subchapter using funds provided to the Board by the Commission.
- (d) A Board shall ensure that no enrolled children of military parents in military deployment have a disruption of child care services or eligibility during military deployment, including parents in military deployment at the end of the eligibility period.
- (e) A Board shall ensure that a child who is required by a court-ordered custody or visitation arrangement to leave a provider's care is permitted to continue receiving child care by the same provider, or another provider if agreed to by the parent in advance of the leave, upon return from the court-ordered custody or visitation arrangement.

§809.56. Child Care during Initial Job Search.

- (a) A parent, including a parent in a dual-parent family, is eligible for child care services under this section if at initial eligibility determination the family does not meet the minimum participation requirements for At-Risk Child Care as described in §809.50 of this subchapter.
- (b) A Board shall allow parents to self-attest that the:
 - (1) family meets the requirements of subsection (a) of this section; and
 - (2) family income does not exceed 85 percent of the state median income.
- (c) The eligibility period for child care under this section consists of an initial 90-day job search period. If total activity participation of at least 25 hours for a single-parent family or a total combined 50 hours per week for dual-parent families, which must include a minimum of 12 hours in employment for a single-parent family and a total combined 25 hours in employment for a dual-parent family, are met within the initial 90 calendar days, child care services will continue for the remainder of the eligibility period, provided that the family income does not exceed 85 percent of the state median income. If the family does not meet minimum activity requirements under this subsection within 90 calendar days, care must be terminated.
- (d) For child care during the initial 90-day job search period, the following applies regarding the parent share of cost:
 - (1) A Board shall initially assess the parent share of cost at the highest amount based on the family size and number of children in care.

- (2) The initially assessed amount will immediately be temporarily reduced to zero. This provision also applies to dual-parent families in which one parent is employed but the family meets the requirements in subsection (a) of this section for child care during initial job search.
- (3) If the parent begins to meet participation requirements of subsection (c) of this section within or by the end of the 90-day job search period, the parent share of cost shall be reinstated at the initially assessed amount or the amount based on the actual family income, whichever is lower.
- (e) Eligibility for child care under this section is limited to one initial 90-day job search period per family within an eligibility period.
- (f) A Board shall ensure that the parent in child care for job search is registered with the state's labor exchange system and has access to appropriate services available through the one-stop delivery network described in §801.28 of this title.

SUBCHAPTER D. PARENT RIGHTS AND RESPONSIBILITIES

§809.72. Parent Eligibility Documentation Requirements.

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

§809.73. Parent Reporting Requirements.

- (a) Boards shall ensure that during the eligibility period parents are only required to report items that impact a family's eligibility or that enable the Board or Board contractor to contact the family or pay the provider.
- (b) Pursuant to subsection (a) of this section, parents shall report to the child care contractor, within 14 calendar days of the occurrence, the following:
 - (1) Changes in family income or family size that would cause the family to exceed 85 percent of SMI for a family of the same size;
 - (2) Changes in work or attendance at a job training or educational program not considered to be temporary changes, as described in §809.51 of this chapter;

and

- (3) Any change in family residence, primary phone number, or e-mail (if available).
- (c) Failure to report changes described in subsection (a) of this section may result in fact-finding for suspected fraud as described in Subchapter F of this chapter.
- (d) A Board shall allow parents to report, and the child care contractor shall take appropriate action, regarding changes in:
 - (1) income and family size, which may result in a reduction in the parent share of cost pursuant to §809.19 of this chapter; and
 - (2) work, job training, or education program participation that may result in an increase in the level of child care services.

§809.78. Attendance Standards and Notice and Reporting Requirements.

- (a) A Board shall ensure that parents are notified of the following:
 - (1) Parents shall ensure that the eligible child attends on a regular basis consistent with the child's authorization for enrollment and attendance standards described in paragraph (2) of this subsection. Failure to meet attendance standards described in paragraph (2) of this subsection may result in termination for the child due to excessive unexplained absences pursuant to subsection (d) of this section.
 - (2) Parents shall ensure that their children are checked in and out each day, in accordance with TWC parameters, including §809.95 of this chapter.
 - (3) Meeting attendance standards for child care services consists of no more than 40 total unexplained absences in a eligibility period.
 - (4) Unexplained absences may include:
 - (A) any absence that is not due to a child's documented chronic illness or disability, or to a court-ordered custody or visitation agreement; or
 - (B) any missed attendance recording that cannot be explained, except if the attendance reporting system is not available through no fault of the parent or provider.
 - (5) Notwithstanding paragraph (2) of this subsection, child care providers may end a child's enrollment with the provider if the child does not meet the provider's established policy regarding attendance.

- (6) Parents shall report attendance and absences and adhere to Agency procedures for reporting attendance and absences, including the use of the Agency's attendance reporting system.
- (b) Boards shall ensure that parents sign a written acknowledgment indicating their understanding of the attendance standards and reporting requirements at eligibility determination or redetermination.
- (c) Boards shall ensure that absences due to a child's documented chronic illness or disability or court-ordered visitation are not counted in the number of unexplained absences in subsection (a)(2) and (3) of this section.
- (d) Boards shall ensure that before terminating care pursuant to subsection (a)(1) of this section, the child care contractor:
 - (1) provides written notice to the parent and the child care provider at reasonable times through established communication channels of the child's absences and the potential termination of services, at a minimum as soon as practicable after child reaches 15, and 30 general absences cumulatively within an eligibility period; and
 - (2) documents that multiple attempts were made, as described in paragraph (1) of this subsection, to determine why the child is absent and to explain the importance of regular attendance.
- (e) Where a child's enrollment has been ended by a provider in subsection (a)(4) of this section, Boards shall work with the parent to place the otherwise eligible child with another eligible provider.

SUBCHAPTER E. REQUIREMENTS TO PROVIDE CHILD 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 payment 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 payment rate as determined under §809.21 of this chapter to parents:
 - (1) who are exempt from the parent share of cost assessment under §809.19 of this chapter;
 - (2) whose parent share of cost is calculated to be zero pursuant to §809.19 of this chapter; or
 - (3) in Child Care during Initial Job Search under §809.56 of this chapter during the initial 90-day period.
- (d) A Board may develop a policy that allows providers to charge parents more than the assessed parent share of cost in instances where the provider's published rate exceeds the Board's payment rate (including the assessed parent share of cost) to all parents not included in subsection (c) of this section.
- (e) For Boards that allow providers to charge additional amounts pursuant to subsection (d) of this section, the Board must ensure the provider reports to the Board each month:
 - (1) the specific families that were charged an additional amount above the assessed amount;
 - (2) the frequency with which each family was charged; and
 - (3) the amount of each additional charge.
- (f) Boards that develop a policy under subsection (d) of this section must:
 - (1) provide the rationale for the Board's policy to allow providers to charge families additional amounts above the required parent share of cost, including a demonstration of how the policy promotes affordability and access for families; and
 - (2) describe the Board's analysis of the interaction between the additional amounts charged to families with the required parent share of cost and the ability of current payment rates to provide access to care without additional fees.

- (g) Providers shall not deny a child care referral based on the parent's income status, receipt of public assistance, or the child's protective service status.
- (h) Providers shall not charge fees to a parent receiving child care subsidies that are not charged to a parent who is not receiving subsidies.

§809.95. Provider Automated Attendance Agreement.

Boards shall notify providers of the following:

- (1) Providers shall use the Agency-approved automated attendance system;
- (2) The owner, director, assistant director, or other employees of child care providers shall not:
 - (A) possess, have on the premises, or otherwise have access to a parent's information to access the Agency's attendance system; or
 - (B) perform the attendance or absence reporting function on behalf of the parent except as provided in paragraph (3) of this section;
- (3) In instances when the parent is not available to record the drop-off or pick-up of the child (such as when the provider is transporting the child to or from school), the provider may record the appropriate check-in or check-out. The parent must record at least one daily check-in or check-out for the child. However, the parent does not have to perform both check-in and check-out;
- (4) Providers shall report misuse of the Agency's automated attendance system to the Board or the Board's child care contractor;
- (5) Providers shall report to the child care contractor authorized days that do not match the referral in the Agency's automated attendance system within five days of receiving the authorization. Failure to report the discrepancy may result in withholding payment to the provider; and
- (6) Misuse of attendance reporting and violation of the requirements in this section are grounds for a potential fraud determination pursuant to Subchapter F of this chapter.

§809.96. Contracted Slots Agreements.

- (a) In this section, the term "contracted slots agreement" is defined as a Board entering into a contract with a child care provider to reserve a specific number of places, or slots, for children participating in the child care subsidy program. This contract shall:
 - (1) define the number of slots to be reserved by age group (infant, toddler,

preschool, or school-age); and

- (2) meet the eligibility requirements as described in subsection (e) of this section.
- (b) Boards may enter into a contracted slots agreement with providers that agree to provide subsidized child care services to eligible children residing in the Board's workforce area.
- (c) A Board that enters into a contracted slots agreement shall include this strategy in the Board Plan, as described in §809.12 of this chapter.
- (d) Each contract between a Board and a provider must identify the number of places (slots) to be reserved for children participating in the child care subsidy program.
- (e) To be eligible for a contract, a child care provider must be a Texas Rising Star Three-Star or Four-Star provider and meet one of the following priorities:
 - (1) Be located in:
 - (A) a child care desert; or
 - (B) an underserved area that has been identified by a Board as having an inadequate supply of child care in accordance with the parameters described in the CCDF State Plan.
 - (2) Have a recognized prekindergarten partnership as defined in §809.2 of this chapter;
 - (3) Have a recognized partnership with EHS or HS;
 - (4) Increase the number of places reserved for infants and toddlers by high-quality child care providers;
 - (5) Increase the number of places reserved for children with disabilities; or
 - (6) Satisfy a priority identified in the Board's plan, as described in §809.12 of this chapter.
- (f) A Board that enters into a contracted slots agreement may continue payment for reserved slots during times of transition between the time that one child leaves the program and another child is placed in the slot. The period of continued payment shall adhere to the Board's policy for contracted slots agreements and may not exceed one month following the month of the vacancy.
- (g) Boards shall contact families in order of the Board's waiting list:

- (1) that requested care in the zip code where the provider with the open reserved slot is located; and
 - (2) whose child is in the age group for which a slot is available.
- (h) In accordance with Agency guidelines, Boards that enter into contracted slots agreements shall submit a report to the Agency within six months of entering into a contract, determining the contract's effect on the:
 - (1) financial stability of providers participating in the contract;
 - (2) availability of high-quality child care options available to participants in the Agency's subsidy program;
 - (3) number of high-quality providers in any part of the workforce area with a high concentration of families that need child care;
 - (4) percentage of children participating in the Agency's subsidized child care program at each Texas Rising Star provider in the workforce area; and
 - (5) additional information as requested by the Agency.
- (i) A Board shall resubmit the report every 12 months from the due date of the Board's initial report to the Commission.

SUBCHAPTER G. TEXAS RISING STAR PROGRAM

§809.130. Short Title and Purpose.

- (a) The rules contained in this subchapter may be cited as the Texas Rising Star Program rules.
- (b) The purpose of the Texas Rising Star Program rules is to interpret and implement Texas Government Code, §2308.3155, which requires the Commission to establish rules to administer the Texas Rising Star program, including guidelines for rating a child care provider for Texas Rising Star certification and designation of an Entry Level child care provider.
- (c) The Texas Rising Star Program rules identify the organizational structure and categories of, and the scoring factors that shall be included in, the Texas Rising Star guidelines.
- (d) The Texas Rising Star guidelines shall:
 - (1) describe measures for Texas Rising Star certification that contain, at a minimum, measures for child care providers regarding:

- (A) director and staff qualifications and training;
 - (B) teacher-child interactions;
 - (C) program administration; and
 - (D) indoor/outdoor environments;
 - (2) specify measures that:
 - (A) must be met in order for a provider to be certified at each star level; and
 - (B) are observed and have points awarded through on-site assessments;
 - (3) specify the scoring methodology and scoring thresholds for each certified star level;
 - (4) describe the high CCR deficiencies points threshold pursuant to §809.131 and §809.132 of this subchapter; and
 - (5) the process for designating providers at the Entry Level.
- (e) The Texas Rising Star guidelines:
- (1) shall be reviewed and updated by the Commission at a minimum of every four years in conjunction with the rule review of this chapter, conducted pursuant to Texas Government Code, §2001.039, and the Texas Rising Star guidelines review shall:
 - (A) consider input from stakeholders; and
 - (B) include at least one public hearing held prior to submitting the stakeholder input to the Commission;
 - (2) shall be adopted by the Commission subject to the requirements of the Texas Open Meetings Act; and
 - (3) may be reviewed and amended as determined necessary by the Commission in accordance with the requirements of the Texas Open Meetings Act.

§809.131. Requirements for the Texas Rising Star Program.

- (a) A regulated child care provider is eligible for initial certification under the Texas Rising Star program if the provider has a current agreement to serve Commission-subsidized children and:

- (1) has a permanent (nonexpiring) license or registration from CCR;
 - (2) has at least 12 months of licensing history with CCR and does not exceed the points threshold for high CCR deficiencies within the most recent six-month period as established in the Texas Rising Star guidelines pursuant to §809.130(d)(4) of this subchapter, and is not on:
 - (A) corrective action with a Board pursuant to Subchapter F of this chapter;
 - (B) 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); or
 - (C) corrective or adverse action with CCR;
 - (3) meets the criteria for star-level certification in the Texas Rising Star guidelines pursuant to §809.130(d) of this subchapter; and
 - (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;
 - (2) is not under a "Notice of Freeze" with the Commission pursuant to Texas Labor Code, Chapter 213 (Enforcement of the Texas Unemployment Compensation Act), or Texas Labor Code, Chapter 61 (Payment of Wages); and
 - (3) does not exceed the points threshold for high and medium-high CCR deficiencies within the most recent six-month period as established in the Texas Rising Star guidelines pursuant to §809.130(d)(4) of this subchapter.
- (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. Beginning on the 18th month, an Entry Level provider will be reviewed monthly for Texas Rising Star certification, and if it is determined that they will not be eligible by the end of their 24-month time frame based on the six-month licensing review time period (as described in subsection (a)(2) of this section), 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 of Child Care Regulation Licensing Compliance on Texas Rising Star Certification.

- (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 more than four probationary impacts during its three-year certification period;
 - (5) had a consecutive third probationary impact;
 - (6) is cited for specified CCR minimum standards regarding weapons and

ammunition; or

- (7) 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 shall be placed on a six-month Texas Rising Star probationary period if one of the following factors occurs when reviewing the most recent six-month CCR licensing history:
 - (1) any of the specified probationary licensing deficiencies listed in the Texas Rising Star guidelines have been cited by CCR; or
 - (2) whose total points for high weighted deficiencies received during the most recent six-month CCR licensing history exceed the prescribed points threshold as described in the Texas Rising Star guidelines pursuant to §809.130(d)(4) of this subchapter.
- (c) Texas Rising Star-certified providers on a six-month probationary period based on either of the factors of this section will incur a consecutive six-month probationary period (ending the first one) if additional deficiencies occur. Furthermore:
 - (1) if any specified probationary deficiencies or additional high weighted deficiencies resulting in the provider to exceed the prescribed points threshold as described in the Texas Rising Star guidelines pursuant to §809.130(d)(4) of this subchapter within the probationary period shall be placed on a second, consecutive probation and lose a star level, with a Two-Star certified provider being placed on suspension status;
 - (2) if no additional specified probationary deficiencies are cited by CCR during the probationary period or the provider falls below the prescribed points threshold as described in the Texas Rising Star guidelines pursuant to §809.130(d)(4) of this subchapter by the end of the probationary period, the provider can be removed from probation status and shall be reinstated at the former star level, if applicable; and
 - (3) if any additional specified probationary deficiencies are cited by CCR during the second six-month probationary period or the provider continues to exceed the prescribed points threshold, as described in the Texas Rising Star guidelines pursuant to §809.130(d)(4) of this subchapter by the end of the second six-month probationary period, the provider shall be placed on suspension status.
- (d) Certified providers in suspension status due to actions described in:
 - (1) subsection (a)(1) - (3) of this section shall be eligible for reinstatement to the provider's previous assessed star level once the provider meets the initial certification eligibility;

- (2) subsection (a)(4) - (6) and (c)(3) of this section shall be eligible for reinstatement to the provider's previous assessed star level after six months following the suspension date, as long as the provider meets the initial certification eligibility; or
 - (3) subsection (a)(7) of this section shall be eligible for assessment as long as the provider meets the initial certification eligibility.
- (e) Certified providers in suspension status shall achieve at least a Two-Star certification no later than 18 months following the suspension date. Failure to achieve at least a Two-Star certification within the 18-month period will result in the provider's ineligibility to provide child care services under this chapter.
- (f) Certified providers on suspension status:
 - (1) shall be eligible to provide child care services under this chapter as long as the provider meets at least the Entry Level criteria described in §809.131(b) of this subchapter;
 - (2) shall not be eligible for the enhanced payment rate and shall be paid at the Board's Entry Level rate; and
 - (3) shall not be able to receive referrals from a new family during the last six months of the 18-month period, 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.
- (g) Certified providers in suspension status that fail to achieve at least a Two-Star certification by the end the 18-month suspension period or that are terminated due to exceeding the points threshold as described in §809.131(b) of this subchapter:
 - (1) are not eligible to provide child care services under this chapter;
 - (2) are not eligible for the Entry Level designation time frame described in §809.131(e) of this subchapter;
 - (3) are not eligible for the extension waiver described in §809.131(f) of this subchapter; and
 - (4) must subsequently meet at least a Two-Star certification eligibility and screening requirements to provide child care services under this subchapter.

§809.133. Application and Assessments for Texas Rising Star Certification.

- (a) Texas Rising Star certification applicants must complete:

- (1) an orientation on the Texas Rising Star guidelines, including an overview of the:
 - (A) Texas Rising Star program application process;
 - (B) Texas Rising Star program measures; and
 - (C) Texas Rising Star program assessment process;
 - (2) the creation of a continuous quality improvement plan; and
 - (3) a Texas Rising Star program self-assessment tool.
- (b) The Agency's designated Texas Rising Star assessment entity shall ensure that:
- (1) written acknowledgment of receipt of the application and self-assessment is sent to the provider;
 - (2) 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 that 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 subchapter.

- (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.

§809.134. Minimum Qualifications for Texas Rising Star Staff.

- (a) Boards and the Agency's designated Texas Rising Star assessment entity shall:
 - (1) conduct a background check on each Texas Rising Star staff member prior to hiring and again every five years; and
 - (2) ensure that each Texas Rising Star staff member completes the Texas Rising Star standards training, as described in the Texas Rising Star guidelines.
- (b) Boards shall ensure that Texas Rising Star mentor staff members meet the minimum requirements in subsections (c) - (f) of this section.
- (c) Texas Rising Star mentor staff shall meet the minimum education requirements as follows:
 - (1) Bachelor's degree from an accredited four-year college or university in early childhood education, child development, special education, child psychology, educational psychology, elementary education, or family consumer science;
 - (2) Bachelor's degree from an accredited four-year college or university with at least 18 credit hours in early childhood education, child development, special education, child psychology, educational psychology, elementary education, or family consumer science;
 - (3) Associate's degree in early childhood education, child development, special education, child psychology, educational psychology, elementary education, or family consumer science, and two years of suitable experience in early childhood education as determined by the Board; or

- (4) a Child Development Associate credential and commitment to achieve the mentor microcredential, as described in the Texas Rising Star guidelines, within two years of employment.
- (d) The Agency may grant a waiver of no more than two years to obtain the minimum education requirements in subsection (c) of this section if a Board can demonstrate that no applicants in its workforce area meet the minimum education requirements.
- (e) Texas Rising Star mentor staff shall meet the minimum work experience requirements of one year of full-time early childhood classroom experience in a child care, EHS, HS, or a pre-K through third-grade school program.
- (f) All mentors must attain mentor microcredentialing, as described in the Texas Rising Star guidelines within two years of employment.
- (g) The Agency's designated Texas Rising Star assessment entity shall ensure that Texas Rising Star assessor staff shall attain and maintain the Texas Rising Star Assessor Certification, as described in the Texas Rising Star guidelines.

§809.136. Roles and Responsibilities of Texas Rising Star Staff.

Boards and the Agency's designated Texas Rising Star assessment entity shall ensure that Texas Rising Star staff members comply with their assigned responsibilities, as applicable.

- (1) A mentor is defined as a Board or Board contract staff member who helps providers obtain, maintain, or achieve higher star levels of certification.
- (2) An assessor is defined as a staff member or contractor of the Agency's designated Texas Rising Star assessment entity who assesses and monitors providers that obtain, maintain, and achieve higher levels of quality.
- (3) Texas Rising Star staff members are required to complete annual professional development and continuing education consistent with the Texas Rising Star annual minimum training hours requirement for a Texas Rising Star-certified child care center director.

§809.137. Texas Rising Star Facility Changes.

- (a) For the purposes of this section, the following definitions apply:
 - (1) Affiliated person--A relative, as defined in paragraph (9) of this subsection, or a person with substantial interest in both the facility being changed and the receiving facility.
 - (2) Business Structure--The legal form of a business entity that includes in part its

liability, taxation, management, and registration requirements.

- (3) External Change in Ownership--A change in ownership to a person who is not an affiliated person, and the new owner has no existing facilities in operation.
 - (4) Facility Expansion--The existing provider opens a new facility, or purchases an existing facility, while continuing to operate at their current location.
 - (5) Facility Move--The facility relocates to a new location regardless of previous location.
 - (6) Facility Split--The existing provider opens a new facility that is not or was not currently in operation, to serve a subset of the ages currently served. This change results in the composition of the ages served by the current Child Care Services facility changing.
 - (7) Facility Type--The facility is regulated under a different set of CCR minimum standards.
 - (8) Internal Change in Ownership--A change in ownership to an affiliated person.
 - (9) Relative--Any person related by marriage, blood relationship, or court decree. This may include parents, grandparents, spouses, siblings, or children.
 - (10) Substantial Interest--A person has a substantial interest in a facility if he or she owns 10 percent or more of the facility or receives funds from the facility unrelated to a facility change.
- (b) Specific types of facility changes for child care operations may impact how the operation participates in Texas Rising Star.
 - (c) The Child Care Facility Change Rubric in the figure in this subsection describes the impacts that specific types of facility changes have on a facility's Texas Rising Star certification or designation status.

Figure: 40 TAC §809.137(c)

Child Care Facility Change Rubric

Facility Change – Internal Change in Ownership

A change in ownership to an affiliated person or a change in business structure. An affiliated person is a relative, or a person with a substantial interest in both the facility being changed and the receiving facility. A change in business structure is one that impacts the legal form of a business to include liability, taxation, management, and registration requirements, such as changing from sole proprietor to corporation, or from for-profit to non-profit. For more information on business structure, see the Office of the Secretary of State's Business Structure web page at <https://www.sos.state.tx.us/corp/businessstructure.shtml>.

For the purpose of the reassessment, the requirements outlined in §809.131(a)(1) and (2) of this subchapter (permanent license (full permit) issued by Child Care Regulation and 12-month history) will be deemed to have been met in this facility change type.

Status Prior to Change	Status After Change
Entry Level	Entry Level designation remains with facility's existing 24-month issued timeline
Certified	Star level retained and fully reassessed three months from the change
Suspension	Suspension status remains with facility's existing 18-month issued timeline
Terminated from CCS	Termination from Child Care Services remains and: • If Entry Level designation timeline remains, returns with any Entry Level designation time remaining • If Entry Level designation with no time remaining, returns once certification is achieved • If in suspension when terminated, returns once certification is achieved

Facility Change – External Change in Ownership

A change in ownership to a person who is not an affiliated person, and the new owner has no existing child care programs in operation.

For the purpose of the reassessment, the requirements outlined in §809.131(a)(1) and (2) of this subchapter (permanent license (full permit) issued by Child Care Regulation and 12-month history) will be deemed to have been met in this facility change type.

Status Prior to Change	Status After Change
Entry Level	Entry Level designation remains and a new 24-month timeline is issued

Certified	Star level retained, including any probationary impacts which were in effect, and fully reassessed three months from the change Provider can elect to be designated as Entry Level.
Suspension	Suspension status remains and a new 18-month timeline is issued
Terminated from CCS	Termination from CCS remains and may return once certification is achieved

Facility Change – Move

The facility relocates to a new location, regardless of previous location.

For the purpose of the reassessment, the requirements outlined in §809.131(a)(1) and (2) of this subchapter (permanent license (full permit) issued by Child Care Regulation and 12-month history) will be deemed to have been met in this facility change type.

Status Prior to Change	Status After Change
Entry Level	Entry Level designation remains with facility's existing 24-month issued timeline
Certified	Star level retained and fully reassessed three months from the change
Suspension	Suspension status remains with facility's existing 18-month issued timeline
Terminated from CCS	Termination from CCS remains and: • If Entry Level designation timeline remains, returns with any Entry Level designation time remaining • If Entry Level designation with no time remaining, returns once certification is achieved • If in suspension when terminated, returns once certification is achieved

Facility Change – Facility Type

The facility is regulated under a different set of CCR minimum standards. For example, from licensed center (CCR minimum standards 26 TAC, Chapter 746) to school-age only (CCR minimum standards 26 TAC, Chapter 744), or from registered or licensed home (CCR minimum standards 26 TAC, Chapter 747) to licensed center (CCR minimum standards 26 TAC, Chapter 746).

For the purpose of the reassessment, the requirements outlined in §809.131(a)(1) and (2) of this subchapter (permanent license (full permit) issued by Child Care Regulation and 12-month history) will be deemed to have been met in this facility change type.

Status Prior to Change	Status After Change
Entry Level	Entry Level designation remains and a new 24-month timeline is issued
Certified	Star level retained and fully reassessed three months from the change
Suspension	Suspension status remains and a new 18-month timeline is issued
Terminated from CCS	Termination from CCS remains and: • If Entry Level designation timeline remains, returns with any Entry Level designation time remaining • If Entry Level designation with no time remaining, returns once certification is achieved • If in suspension when terminated, returns once certification is achieved

Facility Change – Split

The existing provider opens a new facility, that is not or was not currently in operation, to serve a subset of the ages currently served. This change results in the composition of the ages served by the current facility changing.

For example, an all-ages provider opens a second location to serve Infants only, while the current provider continues to serve Toddlers through School-Age.

For the purpose of the reassessment, the requirements outlined in §809.131(a)(1) and (2) of this subchapter (permanent license (full permit) issued by Child Care Regulation and 12-month history) will be deemed to have been met in this facility change type.

Current Provider's Status Prior to Change	Current and New Provider Status After Change
Entry Level	• Current Provider's Entry Level designation remains with facility's existing 24-month issued timeline • New Provider receives Entry Level designation
Certified	• Current Provider's star level retained and fully reassessed three months from the change • New Provider receives Current Provider's star level and fully reassessed three months from the change
Suspension	• Current Provider's suspension remains with facility's existing 18-month issued timeline • New Provider receives suspension status with new timeline
Terminated from CCS	• Current Provider remains terminated from CCS and: ○ If Entry Level designation timeline remains, returns with any Entry Level designation time remaining ○ If Entry Level designation with no time remaining, returns once certification is achieved ○ If in suspension when terminated, returns once certification is achieved

	• New Provider is considered terminated from CCS and: ○ If Current Provider has Entry Level designation timeline remaining, returns with any Entry Level designation time remaining ○ If Current Provider has Entry Level designation with no time remaining, returns once certification is achieved ○ If Current Provider was in suspension when terminated, returns once certification is achieved
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Facility Change – Expansion

An existing provider that opens a new facility, or purchases an existing facility, while continuing to operate at their current location(s)

If all existing facilities are certified, the new facility receives the average star-level (rounded down) of all existing facilities.

For example, Little Cubby Bears opens a sixth facility, Little Cubby Bears #6. Little Cubby Bears #1 - #4 are all Four-Star certified facilities and Little Cubby Bears #5 is a Three-Star certified facility. The average of these five existing facilities is 3.8; thus, Little Cubby Bears #6 will receive a Three-Star certification.

For the purpose of the reassessment, the requirements outlined in §809.131(a)(1) and (2) of this subchapter (permanent license (full permit) issued by Child Care Regulation and 12-month history) will be deemed to have been met in this facility change type.

Current Provider's Status Prior to Change	New Provider's Status After Change
All Existing Facilities are Certified.	• Receives the star level based on the average of all existing facilities. ○ The average star-level calculation will always be rounded down. • Requests to participate in CCS must be made within six months of the new facility opening. • The new facility will be reassessed three months from the request to participate in CCS.
The Provider has some Existing Facilities that are Certified; however, one or more facilities are Entry Level designated, in Suspension, or have	• Entry Level designation with 24-month timeline • The new provider may request a Texas Rising Star assessment as soon as they are ready. Where the assessment occurs prior to the new facility receiving a permanent (nonexpiring) license from CCR, the requirements outlined in §809.131(a)(1) and (2) of this subchapter (permanent license (full permit) issued by Child Care Regulation and 12-month history) will be deemed to have been met in this facility change type.

been Terminated from CCS.	
None of the Existing Facilities are Certified.	Entry Level Designation with 24-month timeline

1