

CHAPTER 809. CHILD CARE SERVICES

PROPOSED 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 **MARCH 10, 2026**, THE TEXAS WORKFORCE COMMISSION PROPOSED THE RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS REGISTER.

Estimated Publication Date of the Proposal in the *Texas Register*: March 27, 2026

Estimated End of Comment Period: April 27, 2026

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

Subchapter F. Fraud Fact-Finding and Improper Payments, §§809.111 - 809.115 and §809.117

TWC proposes the following new section to Chapter 809, relating to Child Care Services:

Subchapter F. Fraud Fact-Finding and Improper Payments, §809.116

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the proposed Chapter 809 rule change is to strengthen the integrity of the child care services program by enhancing fraud detection, prevention, and enforcement mechanisms. The amendments clarify procedures for investigating suspected fraud, specify corrective actions, establish clear accountability measures for Local Workforce Development Boards (Boards), and reinforce TWC's authority to recover improper payments. These changes are designed to safeguard public funds and ensure that child care subsidies are directed to eligible Texas families and qualified providers.

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 F. FRAUD FACT-FINDING AND IMPROPER PAYMENTS

TWC proposes the following amendments to Subchapter F:

§809.111. General Fraud Fact-Finding Procedures

Section 809.111 is amended to clarify TWC's authority over fraud cases and its oversight role with Boards and to better align the definition of fraud. Amendments to §809.111 also include technical corrections regarding the use of "Agency" and "Commission."

Section 809.111(b) is amended to redefine the knowledge standard for fraud from "knowing it to be false" to "knew or should have known" standard, consistent with program integrity best practices.

Section 809.111(e), (f), and (g) are amended to clarify TWC's procedures and Board responsibilities for reporting, investigating, and documenting cases of suspected fraud.

New §809.111(h) explicitly states TWC's jurisdiction to intervene in fraud cases when a Board fails to adhere to established procedures or needs assistance.

New §809.111(i) requires Fraud Deterrence and Compliance Monitoring approval before a Board restricts a provider's eligibility to provide Commission-funded child care services due to a finding of fraud, which will allow TWC to ensure consistent standards are applied.

§809.112. Suspected Fraud

Section 809.112 is amended to make several technical edits including correcting the use of "Agency" and "Commission," clarifying that suspected fraud includes payments, clarifying what constitutes suspected fraud, and removing reference to specific eligibility periods.

§809.113. Action to Prevent or Correct Suspected Fraud

Section 809.113 is amended to more clearly delineate the corrective actions that TWC or a Board may take against a provider versus a parent when fraud is found. A key amendment adds language allowing TWC to prohibit future eligibility for providers or individuals who are connected with a program determined to have committed fraud, and is a critical tool to prevent fraudulent actors from reentering the program under a new business name.

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

Section 809.114 is renamed "Failure to Comply with Commission Rules and Agency and Board Policies."

Section 809.114 is amended to require parents and providers to comply with TWC's policies, to include "other contracted entity" to the list of parties subject to corrective action, which reinforces that all entities involved in the child care system must comply with Commission rules. New §809.114(d) requires Boards to develop and implement a plan to monitor child care providers compliance with Commission rules and TWC and Board policies. The monitoring plan must include in-person site visits. New subsection (e) clarifies the authority for the Director of Child Care Services to issue corrective actions or sanctions for a Board's failure to comply with the requirements of Chapter 809.

§809.115. Corrective Adverse Actions

Section 809.115 is amended to make several technical edits including correcting the use of "Agency" and "Commission."

§809.116. Referral for Criminal Prosecution

New §809.116 is added to mandate that Boards refer cases of fraud to prosecutors for criminal prosecution in accordance with TWC policy. New §809.116 strengthens the program's stance

against fraud by pursuing legal consequences beyond administrative recovery and requires that such referrals be documented in TWC's case management system.

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

Section 809.117 is amended to clarify the responsibilities for recovering improper payments, assigning recovery efforts to the entity that issued the determination (either TWC or the Board).

PART III. IMPACT STATEMENTS

Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the rules will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the rules.

There are no estimated cost reductions to the state and to local governments as a result of enforcing or administering the rules.

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the rules.

There are no anticipated economic costs to individuals required to comply with the rules.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the rules.

Based on the analyses required by Texas Government Code §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by Texas Government Code, §2001.0045, does not apply to this rulemaking.

Takings Impact Assessment

Under Texas Government Code, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Assessment for the proposed rulemaking action under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking action, as discussed elsewhere in this preamble, is to strengthen the integrity of the child care services program by enhancing fraud detection, prevention, and enforcement mechanisms.

The proposed rulemaking action will not create any additional burden on private real property or affect private real property in a manner that would require compensation to private real property owners under the US Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

Government Growth Impact Statement

TWC has determined that during the first five years the rules will be in effect, they:

- will not create or eliminate a government program;
- will not require the creation or elimination of employee positions;
- will not require an increase or decrease in future legislative appropriations to TWC;
- will not require an increase or decrease in fees paid to TWC;
- will not create a new regulation;
- will not expand, limit, or eliminate an existing regulation;
- will not change the number of individuals subject to the rules; and
- will not positively or adversely affect the state's economy.

Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the rules will not have an adverse economic impact on small businesses or rural communities, as the proposed rules place no requirements on small businesses or rural communities.

Mariana Vega, Director, Labor Market Information, has determined that there is not a significant negative impact upon employment conditions in the state as a result of the proposed rules.

Jason Stalinsky, Director, Fraud Deterrence and Compliance Monitoring, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to enhance the integrity of the child care services program by clarifying the Boards' responsibilities and better protect public funds from fraud, waste, and abuse ensuring that financial assistance is reserved for eligible families and children.

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

PART IV. REQUEST FOR IMPACT INFORMATION

TWC requests, from any person required to comply with the proposed rule or any other interested person, information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis. Please submit the requested information to TWCPolicyComments@twc.texas.gov no later than April 27, 2026.

PART V. PUBLIC COMMENTS

Comments on the proposed rules may be submitted to TWCPolicyComments@twc.texas.gov and must be received no later than April 27, 2026.

PART VI. STATUTORY AUTHORITY

The rules are proposed under the authority of:

- Texas Labor Code, §301.192, which requires TWC to ensure that corrective action is taken against a child care provider or parent who commits fraud; and
- Texas Labor Code, §301.0015(6) 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 TWC services and activities.

The proposed rules relate to Texas Labor Code, Title 4, particularly Chapters 301 and 302, and Texas Government Code, Chapter 2308.

CHAPTER 809. CHILD CARE SERVICES

SUBCHAPTER F. FRAUD FACT-FINDING AND IMPROPER PAYMENTS

§809.111. General Fraud Fact-Finding Procedures.

- (a) This subchapter establishes ~~authority for~~:
- (1) procedures for the Agency to issue fraud determinations and take appropriate corrective actions involving Commission-funded child care, including child care quality improvement activities, child care statewide initiatives, and child care special projects pursuant to the Agency's authority under Texas Labor Code, §§301.191, 301.192, and 301.201; and
 - (2) requirement for a Board to develop procedures for the prevention of fraud by a parent, provider, or any other person in a position to commit fraud consistent with fraud prevention provisions in the Agency-Board Agreement.
- (b) In this subchapter, a person commits fraud if, to obtain or increase a benefit or other payment, either for the person or another person, the person:
- (1) makes a false statement or representation that the person knew or should have known was ~~knowing it to be~~ false; or
 - (2) fails to disclose a fact when the person knew or should have known the fact was material ~~knowingly fails to disclose a material fact.~~
- (c) A Board shall ensure that procedures for researching and fact-finding for possible fraud are developed and implemented to deter and detect suspected fraud for child care services in the workforce area.
- (d) These procedures shall include provisions that suspected fraud is reported to the ~~Commission~~ Agency in accordance with ~~Commission~~ Agency policies and procedures.
- (e) The Board shall report cases of suspected fraud identified by the Board to the Agency and shall conduct fact-finding in accordance with Agency policies and procedures. ~~Upon review of suspected fraud reports, the Commission may either accept the case for investigation and action at the state level, or return the case to the Board or its child care contractor for action including, but not limited to, the following:~~
- ~~(1) further fact finding; or~~
 - ~~(2) other corrective action as provided in this chapter or as may be appropriate.~~

- (f) The Board shall review and complete fact-finding for all cases of suspected fraud that the Agency refers to the Board~~ensure that a final fact-finding report is submitted to the Commission after a case is returned to the Board or its child care contractor and all feasible avenues of fact-finding and corrective actions have been exhausted.~~
- (g) The Board shall document all cases of suspected fraud, including cases referred to the Board, in the Agency's case management system. The Board shall include in this documentation information on fact finding, determinations, appeals, decisions, and improper payment recovery in accordance with Agency policies and procedures.
- (h) The Agency retains jurisdiction over fraud cases and can intervene in a case if a Board fails to follow Agency policies and procedures or if a Board requires assistance.
- (i) A Board must notify the Fraud Deterrence and Compliance Monitoring Division and receive approval before issuing a determination that removes, limits, or prohibits a provider from providing Commission-funded child care services due to a finding of fraud. A determination issued without the required approval cannot become final.

§809.112. Suspected Fraud.

- (a) A parent, provider, or any other person in a position to commit fraud may be suspected of fraud if the person presents or causes to be presented to the Agency, Board, or its child care contractor one or more of the following items:
 - (1) A request for payment or reimbursement in excess of the amount charged by the provider for the child care; or
 - (2) ~~A claim for child care services~~An application, document, record, or statement related to the eligibility to receive or provide child care services or to receive payment of child care funds, if evidence indicates that the person may have:
 - (A) known, or should have known, that child care services were not provided as claimed;
 - (B) known, or should have known, that information provided is false or fraudulent;
 - (C) received child care services during a period in which the parent or child was not eligible for services;
 - (D) known, or should have known, that child care subsidies were provided to a person not eligible to be a provider; or
 - (E) otherwise indicated that the person knew or should have known that the

actions were in violation of this chapter or state or federal statute or regulations relating to child care ~~fund~~services.

- (b) The following parental actions may be grounds for suspected fraud ~~and cause for Boards to conduct fraud fact finding or the Commission to initiate a fraud investigation:~~
- (1) Not reporting or falsely reporting at initial eligibility or at eligibility redetermination:
 - (A) household composition, or income sources or amounts that would have resulted in ineligibility or a higher parent share of cost; or
 - (B) work, training, or education hours that would have resulted in ineligibility; or
 - (2) Not reporting during the ~~12-month~~ eligibility period inclusive of the 90-day ~~three-month~~ initial job search period, if applicable:
 - (A) changes in income or household composition that would cause the family income to exceed 85 percent of SMI (taking into consideration fluctuations of income); or
 - (B) a permanent loss of job or cessation of training or education that exceeds 90 days ~~three months~~; or
 - (C) improper or inaccurate reporting of attendance.

§809.113. Action to Prevent or Correct Suspected Fraud.

- (a) The Agency Commission ~~or Board~~ may take the following actions pursuant to Agency Commission ~~policy~~ if the Agency Commission ~~or Board~~ finds that a provider has committed fraud:
- (1) Temporarily or permanently ~~Temporary~~ withholding ~~of~~ payments to the provider for child care services delivered;
 - ~~(2) Nonpayment of child care services delivered;~~
 - ~~(2)~~(3) Recoupment of funds from the provider;
 - ~~(3)~~(4) Stop authorizing care at the provider's facility or location;
 - ~~(4)~~(5) Prohibiting future eligibility to provide Commission-funded child care services or to participate in the management, ownership, or operation of a

provider engaged in Commission-funded child care services for any of the following:

- (A) the provider;
- (B) an owner, director, or board member of the provider;
- (C) an individual who, either alone or in connection with others, has the ability to influence or direct the management, expenditures, or policies of the provider;
- (D) a family member of subparagraph (A), (B), or (C) of this paragraph; or
- (E) an individual who was found to have engaged, aided, or abetted in the fraudulent activities; or

~~(5)(6)~~ Any other action consistent with the intent of the governing statutes or regulations to investigate, prevent, or stop suspected fraud.

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

- (1) recouping funds from the parent;
- (2) prohibiting future child care eligibility, provided that the prohibition does not result in a Choices or SNAP E&T participant becoming ineligible for child care;
- (3) limiting the enrollment of the parent's child to a regulated child care provider;
- (4) terminating care during the ~~12-month~~ eligibility period if eligibility was determined using fraudulent information provided by the parent; or
- (5) any other action consistent with the intent of the governing statutes or regulations to investigate, prevent, or stop suspected fraud.

§809.114. Failure to Comply with Commission Rules and Agency and Board Policies.

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

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

(c) Failure by a provider, ~~or parent,~~ or other contracted entity to comply with this chapter shall also be considered a breach of contract, which may also result in corrective action as detailed in this subchapter.

(d) The Board shall develop and implement a system to monitor providers for compliance with Commission rules and Agency and Board policies. The monitoring system must include in-person site visits to providers.

(e) The Agency may issue an intent to sanction, a sanction, a penalty, or other corrective action if a Board does not comply with the requirements of this chapter subject to the rules and procedures set forth in Chapter 802, Subchapters G and H of this title, except to the extent that such sections are clearly inapplicable or contrary to provisions set out under this chapter. The Director of the Agency's Child Care Services Division determines whether a corrective action or sanction shall be imposed, including whether it is appropriate to impose a sanction level on the Board and whether it is appropriate to assign a penalty.

§809.115. Corrective Adverse Actions.

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

- (1) the scope of the violation;
- (2) the severity of the violation; and
- (3) the compliance history of the person or entity.

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

- (1) Closing intake;
- (2) Moving children to another provider selected by the parent;
- (3) Withholding provider payments or reimbursement of costs incurred; and
- (4) Recoupment of funds.

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

- (1) The basis for the Service Improvement Agreement;

- (2) The steps required to reach compliance including, if applicable, technical assistance;
 - (3) The time limits for implementing the improvements; and
 - (4) The consequences of noncompliance with the Service Improvement Agreement.
- (d) The Board shall develop policies and procedures to ensure that the Board or the Board's child care contractor take corrective action consistent with subsections (a) - (c) of this section against a provider when a provider performs the attendance reporting function on behalf of a parent.
- (e) The Board shall develop policies and procedures to require the Board's child care contractor to take corrective action consistent with subsections (a) - (c) of this section against a parent when a parent violates the Commission rules and [Agency](#) procedures related to attendance reporting.

§809.116. Referral for Criminal Prosecution.

- [\(a\) A Board shall refer cases of fraud, in accordance with Agency policies and procedures, to federal, state, and/or local prosecutors for criminal prosecution.](#)
- [\(b\) The Board shall document the referral and subsequent updates in the Agency's case management system in accordance with Agency policies and procedures.](#)

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

- (a) A Board ~~shall~~must attempt recovery of all improper payments as defined in §809.2 [of this chapter, that were identified in a Board-issued determination or decision. The Agency must attempt recovery of all improper payments as defined in §809.2 of this chapter, that were identified in an -Agency-issued determination or decision.](#)
- (b) Recovery of improper payments shall be managed in accordance with ~~Commission~~ [Agency](#) policies and procedures.
- (c) The provider shall repay improper payments for child care services received in the following circumstances:
 - (1) Instances involving fraud;
 - (2) Instances in which the provider did not meet the provider eligibility requirements in this chapter;
 - (3) Instances in which the provider was paid for the child care services from another source;

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