

1 **CHAPTER 809. CHILD CARE SERVICES**

2
3 **ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**
4 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**
5 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**
6

7 The Texas Workforce Commission (TWC) adopts amendments to the following sections of
8 Chapter 809, relating to Child Care Services, *without* changes, as published in the October 23,
9 2020, issue of the *Texas Register* (45 TexReg 7551):

- 10 Subchapter A. General Provisions, §809.2
- 11 Subchapter B. General Management, §§809.12, 809.13, and 809.18
- 12 Subchapter E. Requirements to Provide Child Care, §809.91 and §809.93
- 13 Subchapter G. Texas Rising Star Program, §§809.130 - 809.134

14
15
16 TWC adopts amendments to the following sections of Chapter 809, relating to Child Care
17 Services, *with* changes, as published in the October 23, 2020, issue of the *Texas Register* (45
18 TexReg 7551):

- 19 Subchapter B. General Management, §809.16 and §809.19

20
21
22 TWC adopts the following new sections to Chapter 809, relating to Child Care Services, *without*
23 changes, as published in the October 23, 2020, issue of the *Texas Register* (45 TexReg 7551):

- 24 Subchapter B. General Management, §809.22
- 25 Subchapter E. Requirements to Provide Child Care, §809.96
- 26 Subchapter G. Texas Rising Star Program, §809.136

27
28
29 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

30 The purpose of the Chapter 809 rule changes is to implement a contracted slots option for child
31 care services, clarify the allowable uses of Child Care Quality (CCQ) funds, update how the
32 parent co-payment is determined, align the child transfer policy with industry practices, and
33 implement changes to Texas Rising Star policy based on recommendations that arose from the
34 Texas Rising Star four-year review.

35
36 **House Bill 680**

37 House Bill 680 (HB 680), 86th Texas Legislature, Regular Session (2019), amended the Texas
38 Government Code and the Texas Labor Code regarding TWC's Child Care program. To fully
39 implement HB 680 requirements, Chapter 809 requires amendments to clarify allowable uses of
40 Local Workforce Development Boards' (Boards) CCQ funds to allow Boards to engage in child
41 care provider contract agreements for reserved slots, and to allow direct referrals for eligible
42 children participating in recognized public/private partnerships.

43
44 **Allowable Uses of Boards' Child Care Quality Funds**

45 HB 680, Section 1 amends Texas Government Code, §2308.317, by adding a new subsection
46 requiring each Board, to the extent practicable, to ensure that any professional development for

1 child care providers, directors, and employees using the Board's allocated quality improvement
2 funds:

3 --be used toward the requirements for a credential, certification, or degree program; and
4 --meet the Texas Rising Star program's professional development requirements.

5
6 Section 809.16, Quality Improvement Activities, outlines rules related to quality improvement
7 activities that are allowable for Boards. Section 809.16 currently allows Boards to expend quality
8 funds on any quality improvement activity described in 45 Code of Federal Regulations (CFR)
9 Part 98. TWC adopts requiring Boards to align expenditures for child care professional
10 development with applicable state statute and the activities described in the Child Care
11 Development Fund (CCDF) State Plan.

12 13 Child Care Provider Contract Agreements

14 HB 680, Section 5 adds Texas Labor Code, §302.0461, Child Care Provider Contract
15 Agreements, allowing Boards to contract with child care providers to provide subsidized child
16 care. This is congruent with §658E(c)(2)(A) of the Child Care and Development Block Grant
17 (CCDBG) Act of 2014, which authorizes states to offer financial assistance for child care
18 services through grants and contracts. Specific guidance from the US Department of Health and
19 Human Services' Office of Child Care confirms that:

20
21 "States can award grants and contracts to providers in order to provide financial incentives to
22 offer care for special populations, require higher quality standards, and guarantee certain
23 numbers of slots to be available for low-income children eligible for Child Care and
24 Development Fund (CCDF) financial assistance. Grants and contracts can provide financial
25 stability for child care providers by paying in regular installments, paying based on maintenance
26 of enrollment, or paying prospectively rather than on a reimbursement basis."

27
28 HB 680 requires that any such contract includes the number of slots reserved by a provider for
29 children who participate in the subsidized child care program.

30
31 To be eligible for a contract, HB 680 requires that a child care provider be a Texas Rising Star 3-
32 or 4-star provider and meet one of the following priorities:

33
34 --Be located in an area:

35 --where the number of children under age six with working parents is at least three times
36 greater than the capacity of licensed child care providers in the area; or

37 --determined by TWC to be underserved with respect to child care providers

38
39 --Have a partnership with local school districts to provide prekindergarten (pre-K)

40
41 --Have a partnership with Early Head Start (EHS) or Head Start (HS)

42
43 --Have an increased number of places reserved for infants and toddlers by high-quality child care
44 providers

45
46 --Satisfy a priority identified in the Board's plan.

1
2 HB 680 also requires that Boards choosing to contract with providers submit a report to TWC no
3 later than six months after entering into the contract, and every six months thereafter,
4 determining the contract's effect on the following:

- 5 --Financial stability of providers participating in the contract
- 6 --Availability of high-quality child care options for participants in TWC's subsidy program
- 7 --Number of high-quality providers in any part of the local workforce development area
8 (workforce area) with a high concentration of families with a need for child care
- 9 --Percentage of children participating in TWC's subsidized child care program at each Texas
10 Rising Star provider in the Board's workforce area

11
12 In December 2019, TWC's Child Care & Early Learning Division assembled a workgroup
13 consisting of TWC staff, Board staff, and Board child care services contractor staff to discuss
14 implementation recommendations related to contracted slots. Recommendations from the
15 contracted slots workgroup informed the revisions described.

16
17 Reserved Slots

18 Currently, §809.93(g) prohibits a Board or its child care contractor from paying providers for
19 holding spaces (slots) open. However, if a Board chooses to contract with child care providers
20 for a specific number of spaces, also known as a Contracted Slots model, the Board would
21 continue payment for reserved slots during the transition time between one child leaving and
22 another child being placed in the slot. TWC adopts allowing transition times to hold slots open
23 for another child participating in the subsidy program and requiring the slots to be filled one
24 month following the month of the vacancy. Adding new §809.96 to define the child care
25 provider contract agreement rules and requirements will clarify the policy and require that
26 Boards choosing to use contracted slots include the program in the Board plan.

27
28 Waiting Lists and Priorities

29 TWC prioritizes services for veterans and foster youth and former foster children in accordance
30 with Texas Labor Code, §302.152 and Texas Family Code, §264.121(a)(3). When providing
31 child care subsidies, Boards are required to prioritize these groups, subject to the availability of
32 funds. Furthermore, §809.18 requires Boards to maintain waiting lists for families that are
33 waiting for child care services. Because HB 680 authorizes Boards to contract with child care
34 providers to reserve a set number of child care slots, the contracted slots workgroup has
35 identified complications with continuing to use the current waiting list system for filling open
36 slots for providers with contracts.

37
38 Currently, the Board's waiting list for the subsidy voucher system is for the entire workforce
39 area. Families are contacted in order of priority to select any participating provider in the Board's
40 workforce area. Section 809.43 details the priority groups as follows:

41
42 The first priority group is assured child care services and includes children of parents eligible for
43 the following:

- 44 --Choices child care
- 45 --Temporary Assistance for Needy Families Applicant child care
- 46 --Supplemental Nutrition Assistance Program Employment and Training child care

1 --Transitional child care

2
3 The second priority group is served subject to the availability of funds and includes the
4 following, in the order of priority:

- 5 1. Children requiring protective services child care
- 6 2. Children of a qualified veteran or qualified spouse
- 7 3. Children of a foster youth
- 8 4. Children experiencing homelessness
- 9 5. Children of parents on military deployment whose parents are unable to enroll in
10 military-funded child care assistance programs
- 11 6. Children of teen parents
- 12 7. Children with disabilities

13
14 The third priority group includes any other priority adopted by the Board.

15
16 With a Contracted Slots model, the slots need to be filled quickly to avoid Boards paying for
17 vacant reserved slots. TWC is considering allowing families to indicate ZIP code preferences for
18 location of child care and prioritizing children with preferences matching ZIP codes with an
19 available contracted slot.

20
21 *Eligible Geographic Locations*

22 One of the qualifying priorities identified in HB 680 to allow contracted slots is that the child
23 care provider be located in an area of high need and low capacity, that is, an area:

- 24 --where the number of children under age six with working parents is at least three times
25 greater than the capacity of licensed child care providers in the area; or
- 26 --that TWC has determined to be "underserved with respect to child care providers."

27
28 TWC is considering using data from the state demographer to analyze and publish annual
29 information about geographic areas that meet the requirements described in HB 680 and
30 requiring Boards to use this data to identify providers that are in areas of high need and low
31 capacity.

32
33 *Direct Referrals from Public Prekindergarten and Head Start/Early Head Start Partnerships*

34 HB 680 explicitly authorizes contracts for Texas Rising Star providers engaged in partnerships
35 with public pre-K or HS/EHS. Additionally, HB 3, 86th Texas Legislature, Regular Session
36 (2019), supports expansion of pre-K partnerships.

37
38 Children served through these partnerships are dually enrolled in both early childhood programs.
39 When a child is dually enrolled in child care services and either public pre-K or HS/EHS, part of
40 the cost to CCDF is offset. Through these partnerships, eligible children can receive the full-day,
41 full-year care that working parents require at a lower cost to the Child Care Services program.

42
43 Eligible children served through these partnerships receive early care and education from
44 multiple funding sources. However, each funding source prioritizes certain populations slightly
45 differently (such as a low-income individual, a foster child or child of a foster youth, a veteran or
46 active duty service member, a child with a disability, or a child experiencing homelessness).

1
2 These variations can lead to mismatches of when a child is able to access services despite being
3 simultaneously eligible for both programs in a partnership. Operationally, not being able to
4 combine funding for dually eligible children can impact the enrollment efficiency and financial
5 stability of the partnership and limits TWC's ability to implement the contracted slots agreements
6 provisions of HB 680 and to support the pre-K partnership provisions of HB 3.

7
8 Chapter 809 does not currently allow for a separate path for enrolling eligible children who are
9 directly referred from a partnering program. Because of this structure, eligible children from
10 partnering programs must be placed on a Board's waiting list despite the federal, state, and local
11 policies that support partnerships and dual enrollment.

12
13 TWC adopts creating a separate path for enrollment to support more stable partnerships,
14 maximize available funding to serve more children, and provide improved customer service to
15 participating families.

16
17 With a separate enrollment path for partnership direct referrals, services for eligible children who
18 are in TWC's second or third priority group, as defined in §809.43, Priority for Child Care
19 Services, would still be served subject to the availability of funding. Additionally, if the number
20 of referrals from a partnership exceeds the subsidized spots available at a single partnership site,
21 §809.43 would be applied, and any children who did not receive subsidized care through the
22 referring partnership would be placed on the Board's waiting list.

23 24 **Parent Share of Cost for Part-Time Referrals**

25 A technical change is needed related to how the parent co-payment is determined. Families
26 participating in child care subsidies are responsible for a co-payment, known in Texas as the
27 "parent share of cost," that covers a portion of their child's care and education. Boards assess the
28 parent share of cost on a sliding-fee scale based on income, family size, and other appropriate
29 factors to ensure that the cost is affordable and is not a barrier to families receiving services.

30
31 The CCDBG Act of 2014 led to significant changes in the administration of child care services in
32 Texas. In September 2016, TWC adopted amendments to Chapter 809 to align with the new
33 federal requirements and §809.19, Assessing the Parent Share of Cost, was affected. In
34 compliance with federal requirements and guidance, TWC amended §809.19 to limit the basis of
35 the sliding-fee scale to family size and income, including the number of children in care.

36
37 With this rule change, Boards were no longer able to offer "discounts" for part-time care, as
38 doing so could have been perceived as using the cost of care or amount of subsidy payment to
39 determine parent share of cost.

40
41 The CCDF State Plan template for Federal Fiscal Years 2019 - 2021 (released after the final
42 federal rule) allows the number of hours the child is in care, in addition to the family's income
43 and size, to be considered when determining parent share of cost.

44
45 TWC adopts rule changes authorizing Boards to assess the parent share of cost at the full-time
46 rate and allow reductions for families with part-time referrals with the goal of reducing the

1 financial burden on families that need part-time child care. If a child's referral changes from part-
2 time to full-time care, the family will no longer qualify for the reduction and must revert to the
3 original parent share of cost assessment amount.
4

5 **Child Transfer Policies**

6 The CCDBG Act includes provisions to ensure equal access to child care for families receiving
7 subsidies, as compared to families that do not receive subsidies. To support equal access, the
8 final federal rule, 45 CFR §98.45(3), requires states to ensure that payments for subsidized child
9 care "reflect generally accepted payment practices of child care providers that serve children who
10 do not receive CCDF subsidies." Additionally, 45 CFR §98.45(5) requires states to ensure that
11 child care providers receive prompt notice of changes to a family's status, which may impact
12 payment.
13

14 Providers commonly have policies for private-pay families that require families to give notice
15 before withdrawing their child from the program. Typically, these policies range from two weeks
16 to a full month. These waiting periods help providers to manage their enrollment efficiently and
17 ensure that they have adequate time to fill empty spots.
18

19 Section 809.13(c)(10) requires Boards to establish a policy for transfer of a child from one
20 provider to another. However, the rule does not require Boards to establish a waiting period for
21 families that request to transfer a child.
22

23 TWC adopts requiring Boards to institute a waiting period as part of their transfer policy to
24 support better alignment with CCDBG and greater stability for subsidy providers.
25

26 **Texas Rising Star Four-Year Review Recommendations**

27 Texas Government Code, §2308.3155(b)(2) requires TWC to adopt a timeline and a process for
28 regularly reviewing and updating the Texas Rising Star quality standards. The statute also
29 requires TWC's consideration of input from interested parties regarding the quality standards.
30

31 To meet this requirement, on February 23, 2016, TWC's three-member Commission
32 (Commission) adopted §809.130(e)(1), which requires staff to facilitate a review of the Texas
33 Rising Star guidelines every four years.
34

35 Beginning in May 2019, TWC convened a workgroup to review the Texas Rising Star guidelines
36 and recommend revisions. The workgroup included early learning program directors from
37 around the state, early childhood advocacy organization representatives, professional
38 development providers, Board staff, and representatives from TWC, the Texas Education
39 Agency, the Texas Health and Human Services Commission's (HHSC) Child Care Regulation
40 Division (formerly Child Care Licensing (CCL)), and the State Center for Early Childhood,
41 Children's Learning Institute (CLI).
42

43 Over an eight-month period, the workgroup met regularly to review the Texas Rising Star
44 guidelines in detail and to engage in a collaborative effort to improve guidelines' standards. On
45 January 21, 2020, the Commission approved the publication of the workgroup's
46 recommendations for public comment. During February 2020, TWC partnered with Boards to

1 host seven public stakeholder meetings across the state. Throughout the review process, TWC
2 also provided the public with a website to view materials related to the review and a dedicated
3 email address to offer input.

4
5 The revisions in this adopted rulemaking consider the recommendations of the workgroup as
6 well as stakeholder input received during public meetings or provided to TWC in writing.

7 8 Workforce Registry

9 The Texas Early Childhood Professional Development System (TECPDS) includes the
10 Workforce Registry (WFR), a web-based system for early childhood professionals to track their
11 experience, education, and training. The WFR offers benefits to programs and teachers by
12 streamlining record-keeping of staff qualifications and professional development. The WFR:

- 13 --reduces reliance on paper files and ensures reliable access to an employee's professional
14 development records;
- 15 --allows teachers to easily share their training records and to see a holistic view of their portfolio
16 of training and education;
- 17 --reduces administrative costs and simplifies processes for directors and owners;
- 18 --facilitates validation of compliance with CCL standards and documentation of Texas Rising
19 Star points; and
- 20 --allows for more efficient and strategic professional development planning.

21
22 TWC adopts integrating the WFR into Texas Rising Star, requiring programs applying for
23 certification to agree to participate in the WFR and encourage their staff to participate as well.
24 For all programs, adopting and maintaining use of the WFR will be included in ongoing
25 technical assistance and Continuous Quality Improvement Plans (CQIPs).

26
27 During public stakeholder meetings, many child care providers expressed concerns that the WFR
28 could allow competitors to "steal" staff. TWC notes that the WFR does not have a searchable
29 database of teachers or their qualifications. A teacher's record is only available to others when
30 the teacher actively makes it available to a specified provider--typically the teacher's current
31 employer. Additionally, based on comments received, TWC requested that the WFR be modified
32 to no longer include job postings. This functionality is duplicative of the TWC-funded
33 WorkInTexas.com online job-matching portal.

34 35 Creating a Pre-Star Provider Designation

36 TWC adopts a new Pre-Star provider definition in §809.2(18), and a requirement that all CCL-
37 regulated subsidy providers be designated as Pre-Star in §809.91(a)(1). Pre-Star designations are
38 outside of the statutorily defined Texas Rising Star quality-based rating system set forth in Texas
39 Government Code, §2308.3155 and will not receive an enhanced reimbursement rate. Programs
40 wishing to enter the Texas Rising Star system and apply for star-level certification must first
41 meet Pre-Star designation. Pre-Star designations are based upon a child care program's
42 demonstration that they do not have significant licensing findings, as set forth in the Screening
43 Criteria for Subsidized Child Care and defined in the CCDF State Plan.

44
45 TWC will:

- 46 --outline implementation and rollout plans in more detail in the CCDF State Plan;

1 --solicit additional input from stakeholders on Pre-Star implementation details during the
2 development of the State Plan;
3 --host stakeholder webinars during State Plan development; and
4 --post the draft CCDF State Plan for formal public comment.
5

6 Continuous Quality Improvement Framework

7 Another recommendation from the Texas Rising Star four-year review was that TWC develop a
8 framework for CQIPs and require certified programs to engage in a formal CQIP process.
9

10 Early childhood programs and their mentors use CQIPs to identify areas for program and staff
11 improvement. The Texas Rising Star CQIP framework will provide targeted technical assistance
12 and customized coaching to set specific improvement goals and monitor progress.
13

14 New Training and Certification Requirements for Texas Rising Star Staff

15 TWC currently defines requirements for educational background, work experience, and
16 minimum annual training hours for Texas Rising Star mentors and assessors. However, there are
17 no uniform training requirements for mentors or assessors to learn the standards, how to
18 consistently measure them, or how to coach programs to improve.
19

20 The four-year review recommendations include new requirements for Texas Rising Star assessor
21 and mentor training and certification to ensure valid and consistent star-level certifications across
22 all Texas Rising Star programs and to improve mentoring and coaching to support the CQIP
23 framework.
24

25 Based on these recommendations, TWC adopts that assessors be required to take the Texas
26 Rising Star standards training and to obtain the Texas Rising Star Assessment Certification.
27 Additionally, TWC adopts that assessors be required to pass quarterly reliability checks.
28

29 TWC also adopts more robust training requirements for mentors. Increasing the number of
30 programs that attain and retain higher levels of quality will require strong mentoring support, and
31 successful implementation of a CQIP framework will depend on skillful coaching from Texas
32 Rising Star mentors. Specifically, TWC adopts requiring mentors to take the Texas Rising Star
33 standards training and to participate in competency-based professional development designed to
34 improve coaching practices.
35

36 Streamlining and Reweighting Categories of Texas Rising Star Measures

37 Section 809.130 defines the five categories of Texas Rising Star measures defined by previous
38 Texas Rising Star guidelines development efforts. Texas Rising Star categories currently are: (1)
39 Director and Staff Qualifications and Training, (2) Caregiver-Child Interactions, (3) Curriculum,
40 (4) Nutrition and Indoor and Outdoor Activities, and (5) Parent Involvement and Education.
41

42 Many of the current measures are repetitive across categories or not well-correlated to the
43 category being measured. TWC adopts reorganizing measures under the following four
44 categories: (1) Director and Staff Qualifications and Training, (2) Teacher-Child Interactions, (3)
45 Program Administration, and (4) Indoor/Outdoor Environments.
46

1 TWC will change the Texas Rising Star guidelines to adjust the relative weight of each category
2 in recognition of the categories that are most closely correlated with child outcomes. The
3 workgroup specifically recognized the importance of teacher-child interactions in child
4 development, also noting that the TWC-funded "Strengthening Texas Rising Star
5 Implementation Study" established validity and reliability for measures within this category. The
6 teacher-child interactions category will be assigned a weight of 40 percent, with the remaining
7 three categories weighted at 20 percent each.

8 9 Impact of Certain Deficiencies on Texas Rising Star Certification

10 Section 809.132 defines the impact of certain child care licensing deficiencies on programs'
11 Texas Rising Star certification status. Certain deficiencies or accumulation of total deficiencies
12 may result in a decrease in star level or loss of certification. Because enhanced reimbursement
13 rates are tied to star-level certification, the result can be a significant reduction in
14 reimbursements for affected programs.

15
16 Stakeholders, including early learning program directors, have observed that financial instability
17 is a barrier to maintaining and increasing quality. The workgroup recommended providing Texas
18 Rising Star programs that receive certain licensing deficiencies with an opportunity to remedy
19 those deficiencies within a six-month probationary period. The workgroup also recommended
20 increasing technical assistance for programs at risk of losing or dropping their Texas Rising Star
21 certification level. Stakeholders that commented on the revisions strongly supported these
22 recommendations.

23
24 A review of Texas Rising Star data from 2017 to 2019 showed that almost half of the 300
25 programs that lost a star level or dropped out of Texas Rising Star did so due to licensing
26 deficiencies. Eighty percent of star-level drops were due to licensing deficiencies, and of those
27 programs that lost their Texas Rising Star certification completely, 54 percent became
28 disqualified for certification due to licensing deficiencies.

29
30 TWC adopts a revised structure for considering licensing deficiencies for both new Texas Rising
31 Star applicants and existing certified programs. The revised structure will continue to provide a
32 high level of accountability for the most critical licensing issues but will also provide
33 opportunities for providers to correct issues that are less correlated with the quality of care
34 children receive.

35 36 Minimum Eligibility Requirements for Providers Serving CCDF Subsidized Children

37 Under federal regulations 45 CFR §98.30(g) regarding Parental Choice, the Administration for
38 Children and Families explicitly allows states to establish policies that requires subsidy providers
39 to meet higher standards of quality, as long as those requirements do not effectively limit
40 parental choice. TWC adopts a new Pre-Star provider designation, indicating those child care
41 programs that demonstrate that they do not have significant licensing findings. Pre-Star
42 designations are outside of the statutorily defined Texas Rising Star quality-based rating system
43 and will not receive an enhanced reimbursement rate. As previously described, programs that
44 meet the criteria for Pre-Star, and would like to enter the Texas Rising Star quality rating
45 improvement system, are eligible to apply for star-level certification.

1 The Pre-Star designation reviews a provider's licensing findings, as is currently done through the
2 Texas Rising Star Screening Form that is included in the Texas Rising Star guidelines. The new
3 Screening Criteria for Subsidized Child Care criteria have been adapted and included in a
4 proposed amendment of the CCDF State Plan, which is available for public comment (see
5 meeting materials for October 6, 2020, Commission Meeting). Additionally, based on feedback
6 from the four-year review, the total number of licensing deficiencies allowed has increased from
7 10 to 15.

8
9 TWC will establish a five-year timeline for all subsidy providers to achieve at least a Pre-Star
10 designation. TWC will develop a plan to roll out this requirement across the state and will codify
11 the details of this plan in the CCDF State Plan. TWC's rollout plan will consider potential supply
12 challenges, such as those in rural areas of the state which face a potential shortage of child care
13 providers. Additionally, TWC will:

- 14 --outline the Pre-Star implementation and rollout plans in more detail in the CCDF State Plan;
- 15 --solicit additional input from stakeholders on Pre-Star implementation details during the
- 16 development of the State Plan;
- 17 --host stakeholder webinars during State Plan development; and
- 18 --post the draft CCDF State Plan for formal public comment.

19
20 During regional stakeholder meetings, many commenters supported this strategy as an effort to
21 ensure that public funds are being invested in child care programs that do not have significant
22 issues with basic licensing requirements and to create a framework for placing these programs on
23 a path to higher quality. At the same time, a few stakeholders also expressed concerns regarding
24 the cost of administering a new Pre-Star designation. TWC notes that the Pre-Star designation
25 may be determined through an automated process that reviews a program's licensing history, as
26 published by Child Care Regulation, and automatically makes the determination of whether a
27 provider may be designated as Pre-Star. Therefore, this adopted change does not require a
28 significant investment of staff resources. Additionally, TWC is also considering the
29 implementation of a continuous quality improvement framework to enhance mentoring and
30 coaching; these resources would be available to Pre-Star programs that would like to enter the
31 state's quality rating improvement system and apply for star-level certification.

32 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

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

35 **SUBCHAPTER A. GENERAL PROVISIONS**

36 **TWC adopts the following amendments to Subchapter A:**

37 **§809.2. Definitions**

38 Section 809.2 is amended to add a definition for "Pre-Star provider."

39 **SUBCHAPTER B. GENERAL MANAGEMENT**

40 **TWC adopts the following amendments to Subchapter B:**

41 **§809.12. Board Plan for Child Care Services (Includes New Regulations)**

1 Section 809.12 is amended to require Boards to include their strategies to use contracted slots
2 agreements, if applicable, in their plans.

3
4 **§809.13. Board Policies for Child Care Services (Includes New Regulations)**

5 Section 809.13 is amended to require Boards to develop:

- 6 --a two-week waiting period policy for a child to transfer to a new provider;
- 7 --policies and procedures for contracted slots agreements, if applicable; and
- 8 --policies supporting direct referrals from recognized pre-K or HS/EHS partnerships.

9
10 **§809.16. Quality Improvement Activities**

11 Section 809.16 is amended to allow Boards to expend child care funds in accordance with quality
12 improvement activity described in applicable state laws and the CCDF State Plan. The
13 amendment to §809.16(a) is intended to note that Boards take into account all federal and state
14 requirements regarding quality improvement activities. In addition, any quality improvement
15 activities that are undertaken at the state or local level must be acknowledged in the state's CCDF
16 State Plan.

17
18 **§809.18. Maintenance of a Waiting List**

19 Section 809.18 is amended to add an allowable exemption from the waiting list for children who
20 are referred directly from a recognized pre-K or HS/EHS partnership to a child care provider to
21 receive services in the contracted partnership program.

22
23 **§809.19. Assessing the Parent Share of Cost**

24 Section 809.19 is amended to allow Boards to implement a policy to reduce the parent share of
25 cost amount assessed pursuant to §809.19(a)(1)(B) upon the child's referral for part-time care. In
26 response to comment, §809.19(k)(2) is amended to clarify that parent share of cost reductions are
27 for parents who qualify for the reduction based on the Board's policy.

28
29 **§809.22. Direct Referrals to Recognized Partnerships (New Regulation)**

30 New §809.22 adds a requirement for Boards to establish policies and procedures to enroll
31 eligible children who are directly referred by recognized pre-K or HS/EHS partnerships and
32 exempting these children from the waiting list.

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

35 **TWC adopts the following amendments to Subchapter E:**

36
37 **§809.91. Minimum Requirements for Providers (Includes New Regulations)**

38 Section 809.91(a)(1) is amended to reference new subsection (g), which requires that all CCL-
39 regulated child care providers be designated as Pre-Star based upon meeting TWC's Screening
40 Criteria for Subsidized Child Care. The Screening Criteria for Subsidized Child Care is removed
41 in §809.131(a) and (b) as a Texas Rising Star eligibility requirement.

42
43 Section 809.91 is also amended to add new subsection (h) to provide additional details regarding
44 Pre-Star designations. The Screening Criteria for Subsidized Child Care will be defined in the
45 CCDF State Plan, as will a statewide rollout plan. TWC will carefully consider how to
46 implement the new requirement for all subsidy providers to be Pre-Star designated to ensure that

1 parent choice is not impacted. TWC plans to roll out this requirement over a five-year period;
2 this is intended to provide child care programs with ample time to ensure that they can attain Pre-
3 Star designation. The new Screening Criteria for Subsidized Child Care criteria are included in a
4 proposed amendment of the CCDF State Plan, which is available for public comment (see
5 meeting materials for October 6, 2020 Commission meeting). TWC will:

- 6 --outline the Pre-Star implementation and rollout plans in more detail in the CCDF State Plan;
- 7 --solicit additional input from stakeholders on Pre-Star implementation details during the
- 8 development of the State Plan;
- 9 --host stakeholder webinars during State Plan development; and
- 10 --post the draft CCDF State Plan for formal public comment.

11
12 **§809.93. Provider Reimbursement**

13 Section 809.93 is amended to add the option for Boards to pay child care providers for holding
14 spaces open if they have a valid contracted slots agreement.

15
16 **§809.96. Contracted Slots Agreements (New Regulation)**

17 New §809.96 adds detailed requirements for Boards that use contracted slots agreements.

18
19 **SUBCHAPTER G. TEXAS RISING STAR PROGRAM**

20 **TWC adopts the following amendments to Subchapter G:**

21
22 **§809.130. Short Title and Purpose**

23 Section 809.130(d)(1) is amended to denote that Texas Rising Star measures align with the
24 following four categories:

- 25 --Director and Staff Qualifications and Training
- 26 --Teacher-Child Interactions
- 27 --Program Administration
- 28 --Indoor/Outdoor Environments

29
30 **§809.131. Eligibility for the Texas Rising Star Program (Includes New Regulations)**

31 Section 809.131 is amended to remove §809.131(b), as all CCL-regulated subsidy providers will
32 now be required to be designated as Pre-Star under §809.91(a)(1). Additionally, §809.131 is
33 amended to require Texas Rising Star applicants to agree to participate in the WFR and to
34 encourage staff to create accounts within the WFR.

35
36 **§809.132. Impact of Certain Deficiencies on Texas Rising Star Certification (Includes New**
37 **Regulations)**

38 Section 809.132 is amended to add compliance requirements for current Texas Rising Star
39 providers and amends the consequences of certain child care licensing deficiencies for certified
40 Texas Rising Star programs and applicants.

41
42 **§809.133. Application and Assessments for the Texas Rising Star Program (Includes New**
43 **Regulations)**

44 Section 809.133 is amended to require all programs to participate in the creation of an online-
45 generated CQIP that focuses on growth and evolving adherence to higher-quality standards and

1 to require Boards to ensure that CQIPs are implemented and supported as described in the Texas
2 Rising Star guidelines.

3
4 **§809.134. Minimum Qualifications for Texas Rising Star Staff (Includes New Regulations)**

5 Section 809.134 is amended to require all Texas Rising Star staff to complete the Texas Rising
6 Star standards training, require Texas Rising Star assessors to attain and maintain the Texas
7 Rising Star Assessor Certification, and require Texas Rising Star mentors to pursue the coaching
8 micro-credential through the attainment of competency badges over a time period defined by
9 TWC.

10
11 Section 809.134 is also amended to move §809.134(d) and (e) to new §809.136.

12
13 **§809.136. Roles and Responsibilities of Texas Rising Star Staff**

14 New §809.136 defines the separate roles and responsibilities of Texas Rising Star assessors and
15 mentors, including separation of roles; cross-functional collaboration and coordination; and
16 mandated reporting requirements related to observed licensing violations.

17
18 New §809.136(4) and (5) clarify the separation of roles and professional development of Texas
19 Rising Star staff.

20
21 **PART III. PUBLIC COMMENTS**

22 The public comment period ended on December 11, 2020. Comments were received from:

- 23
24 --A Habitat for Learning
25 --Alamo Workforce Development Board
26 --Children at Risk, on behalf of:
27 --Austin/Travis County Success By 6 Coalition
28 --Big Thought
29 --Child Care Partners
30 --Children at Risk
31 --Creative Corners
32 --Dallas College School of Education
33 --Early Matters Dallas
34 --Emergent ED. Child Care Consulting Inc.
35 --Gingerbread Kids Academy
36 --King Steps Academy
37 --Loving Touch Child Care
38 --Our Little Red Schoolhouse
39 --Paso del Norte Children's Development Center
40 --Pye's Day Care Center
41 --San Antonio Chapter of TXAEYC
42 --San Jacinto Christian Academy
43 --Shirley White, Director, Healy Murphy Child Development Center
44 --Silver Star Academy
45 --Texans Care for Children
46 --United Way of Metropolitan Dallas

- 1 --YWCA El Paso del Norte Region
- 2 --Country Home Learning Center
- 3 --Dallas Early Education Alliance
- 4 --Golden Crescent Workforce Development Board
- 5 --North Central Workforce Development Board
- 6 --Play and Learn Christian Academy
- 7 --Tiny Town Day Care Center
- 8 --West Central Workforce Development Board
- 9 --One Individual

10
11 **SUBCHAPTER B. GENERAL MANAGEMENT**

12
13 **§809.13. Board Policies for Child Care Services**

14
15 **Comment:** Three Boards supported the rule related to the two-week waiting period
16 policy for a child to transfer to a new provider. One Board agreed that this practice aligns
17 with child care industry practices. Another Board stated that it has implemented this
18 procedure and received positive feedback.

19
20 **Response:** TWC appreciates the comments.

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

23
24 **Comment:** One Board opposed the language change in §809.16(a) and requested to
25 continue to have the flexibility to offer the full range of quality improvement activities as
26 was intended by federal regulation. This flexibility will allow the Board to offer a wider
27 range of activities that more fully meets the unique needs of local providers in the area.

28
29 **Response:** The proposed language regarding the Board's expenditure of quality
30 improvement funds was not intended to limit a Board's flexibility in determining how to
31 design and deliver quality improvement activities. The amendment to §809.16(a) is
32 intended to note that Boards are to take into account all federal and state requirements
33 regarding quality improvement activities.

34
35 Under Texas Government Code, §2308.317(c), Boards shall use at least two percent of
36 their allocation on quality improvement activities and directs Boards to give priority to
37 quality child care initiatives that benefit child care providers that are working toward
38 Texas Rising Star certification or are Texas Rising Star--certified providers working
39 toward higher certification levels. The statute further directs Boards, to the extent
40 practicable, to ensure that professional development funds for child care providers,
41 directors, and employees be used toward the requirement for a credential, certification, or
42 degree program, and that the training meets the requirements of the Texas Rising Star
43 program. In addition, any quality improvement activities that are undertaken at the state
44 or local level must be acknowledged in the state's CCDF State Plan.

45
46 The language in §809.16(a) is changed to clarify this intent.

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

4 **Comment:** Two Boards supported the rule regarding direct referrals for children referred
5 from a recognized Prekindergarten, Head Start, and Early Head Start partnership. One
6 Board stated that this change will allow the Board to fill slots within the one-month
7 timeframe for contracted slots.
8

9 **Response:** TWC appreciates the comments.
10

11 **Comment:** One Board stated that the Board was unsure if it will be able to consistently
12 fill vacant slots within the one-month timeframe for other target populations due to their
13 status on the waitlist.
14

15 **Response:** TWC acknowledges that contracted slots must be managed in concert with a
16 Board's existing waiting list. Under current state statutes, Boards are required to prioritize
17 specific populations, and TWC does not have the flexibility to allow an exception for
18 contracted slots. Therefore, the current procedures for managing enrollments using the
19 Board's waiting list remain applicable for contracted slot vacancies, with the noted
20 exception for Prekindergarten and Head Start/Early Head Start.
21

22 No changes were made in response to this comment.
23

24 **§809.19. Assessing the Parent Share of Cost**
25

26 **Comment:** Two Boards supported the rule allowing flexibility related to parent share of
27 cost discounts for part-time referrals. One Board stated that the discounts will make child
28 care more affordable for low-income families and demonstrates flexibility and
29 consideration for families with unique child care needs.
30

31 **Response:** TWC appreciates the comments.
32

33 **Comment:** One Board appreciated the flexibility to establish a policy to reduce the
34 parent share of cost for children referred for part-time care. The Board requested
35 clarification regarding when the parent share of cost would change if the parent is
36 referred to full-time care, specifically if the change would be effective at the beginning of
37 the first full month after the referral change or at the end of the 12-month eligibility
38 period. The Board also requested clarification regarding whether the Board is now being
39 required to offer a reduction in parent share of cost for selecting a Texas Rising Star--
40 certified provider, as referenced in §809.19(k)(2).
41

42 **Response:** Section 809.19(k) allows a Board to establish a policy to reduce the parent
43 share of cost amount assessed on the child's referral for part-time care. The timing of the
44 parent share of cost amount change will be determined by the Board's policy. Boards may
45 consider a policy to implement a parent copay change effective at the beginning of the
46 first full month after the referral is effective.

1
2 If the Board establishes a policy described in §809.19(k), the policy must ensure that
3 parents who qualify for a reduction based on both part-time care and selecting a Texas
4 Rising Star provider receive the greater of the two discounts.

5
6 Section 809.19(k)(2) is modified to clarify that discounts are for parents who qualify for
7 the reduction based on the Board's policy.

8
9 **§809.22. Direct Referrals to Recognized Partnerships**

10
11 **Comment:** One Board supported the concept of making direct referrals from recognized
12 partnerships. However, the Board stated that more guidance is needed for successful
13 implementation.

14
15 **Response:** TWC appreciates the comment and will work with Boards to provide
16 guidance and technical assistance as needed.

17
18 No changes were made in response to this comment.

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

21
22 **§809.43. Priority for Child Care Services**

23
24 **Comment:** One individual requested that children of child care workers be included in
25 the first priority group of children in which are mandatory to be served.

26
27 **Response:** TWC appreciates the comment; however, this requested change is outside the
28 scope of the proposed rulemaking.

29
30 **SUBCHAPTER E. REQUIREMENTS TO PROVIDE CHILD CARE**

31
32 **§809.91. Minimum Requirements for Providers**

33
34 **Comment:** One Board agrees with the rule requiring all subsidy providers to deliver
35 quality care. However, the Board requested clarification on the following questions:

36
37 --Will Pre-Star program be required to move forward and apply for Texas Rising Star
38 certification?

39
40 --How will equal access be ensured, especially in rural areas with a limited number of
41 child care programs and the likelihood that the limited number of programs in the area
42 may not meet the Pre-Star level?

43
44 **Response:** Regarding the requirement to apply for Texas Rising Star certification, under
45 Texas Government Code, §2308.3155, participation in the Texas Rising Star program is

1 voluntary. Therefore, TWC does not have statutory authority to require subsidy providers
2 to participate in Texas Rising Star.

3
4 Regarding equal access, TWC plans to have a five-year implementation period, with the
5 details of this to be outlined in the CCDF State Plan. TWC understands that rural areas
6 may face challenges with the available supply of child care, and want to ensure that is
7 taking into consideration. TWC anticipates that in areas with limited supply, waivers of
8 the Pre-Star requirement may be needed.

9
10 TWC will be collecting and analyzing data within the first year or two to better
11 understand the impact of the Pre-Star designation requirement. TWC also wants to
12 consider how providers with licensing deficiencies are afforded an opportunity to address
13 those deficiencies while also considering providers that continue to have critical
14 deficiencies cited by Child Care Regulation.

15
16 No changes were made in response to this comment.

17
18 **Comment:** Two Boards requested clarification as to the consequences for providers that
19 meet Pre-Star provider designation initially but receive a licensing citation that would
20 result in the provider no longer meeting the Pre-Star designation and potentially not
21 eligible to provide subsidized child care services.

22
23 **Response:** TWC wants to carefully consider how negative licensing findings on Pre-Star
24 providers should be considered. TWC wants to ensure it considers the consequences for
25 providers that have quickly addressed and corrected issues, versus consequences for
26 providers that do not, and those that have repeated and continual Pre-Star licensing
27 deficiencies.

28
29 The rules implement this Pre-Star requirement and that the implementation be detailed in
30 the CCDF State Plan. The CCDF State Plan is currently under development and is due to
31 the Administration for Children and Families by June 30, 2021. TWC will engage with
32 stakeholders in the CCDF State Plan Development, and the draft State Plan will be
33 available for public comment.

34
35 No changes were made in response to these comments.

36
37 **Comment:** Several providers and advocacy groups expressed concerns that the Pre-Star
38 requirement does not meet a goal of all subsidy providers participating in Texas Rising
39 Star. Their goal is to ensure that child care providers that participate in the child care
40 subsidy program are able to offer high-quality services to families. To reach that goal, the
41 group supports an approach that requires all subsidy providers to participate in Texas
42 Rising Star, provides them with the necessary supports to improve and reach certification,
43 and phases in requirements to participate and to reach higher levels of quality.

44
45 **Response:** TWC appreciates the comment. However, TWC points out that under Texas
46 Government Code, §2308.3155, participation in the Texas Rising Star program is

1 voluntary. Therefore, TWC does not have statutory authority to require subsidy providers
2 to participate in Texas Rising Star.

3
4 No changes were made in response to these comments.

5
6 **Comment:** Several providers and advocacy groups expressed concerns regarding the
7 very long ramp-up period that does not set up providers for Texas Rising Star
8 participation. They advocate for a relatively short timeline for providers to participate in
9 Pre-Star and then a few years for providers to obtain a minimum certification level to
10 continue to participate in the state's subsidy program. The current five-year
11 implementation proposal for Pre-Star is not consistent with that approach.

12
13 **Response:** It is TWC's intent to have the majority, if not all, of subsidy providers
14 designated as Pre-Star prior to the five-year deadline. However, the timeline of five years
15 will allow TWC to ensure that equal and equitable access to child care is available across
16 the state, specifically in those areas with child care deserts. In addition, TWC wants to
17 ensure that it takes time to carefully consider how to structure consequences for providers
18 that receive licensing deficiencies denoted in Pre-Star. Following the adoption of the rule,
19 TWC will use a portion of this five-year period to work out the details regarding
20 consequences for providers that have quickly addressed and corrected issues, versus
21 consequences for providers that do not, and for those that have repeated and continued
22 Pre-Star licensing deficiencies. These details will be in the CCDF State Plan, which will
23 be available for public comment.

24
25 In addition, under Texas Government Code, §2308.3155, participation in Texas Rising
26 Star is voluntary; therefore, programs may choose to participate in certification at their
27 discretion.

28
29 No changes were made in response to these comments.

30
31 **Comment:** One Board supported the creation of a Pre-Star provider designation. The
32 Board encouraged TWC to consider offering incentives to Pre-Star providers to achieve
33 Texas Rising Star designation quickly, including offering a declining incentive to
34 encourage earlier adoption by providers.

35
36 **Response:** Boards may utilize CCDF Quality funds to incentivize programs to obtain
37 Texas Rising Star certification.

38
39 No changes were made in response to this comment.

40
41 **Comment:** One advocate organization supported the inclusion of a subsidy provider
42 mandatory entry level. The organization is hopeful that, in the future, the Pre-Star
43 designation will become an official part of the Texas Rising Star system and that
44 providers will be mandated to move up through a single system.

1 The organization stated that Pre-Star providers should receive supports such as
2 information and access to online resources that do not detract from resources available to
3 Texas Rising Star providers. The organization expressed agreement with the decision not
4 to provide enhanced reimbursement rates for Pre-Star programs. The organization also
5 stated that Pre-Star providers should progress to higher levels of quality on a more
6 aggressive timeline. Considering the minimal requirements of Pre-Star and even two-star
7 Texas Rising Star levels, all providers should be mandated to enter into the Pre-Star or
8 Texas Rising Star system within 18 months of the rule change. The organization also
9 recommended that adequate supports should be provided once providers enter into the
10 Texas Rising Star system, and that they should be required to continue to progress to
11 higher levels in order to continue receiving subsidy funding.

12
13 **Response:** Boards will provide information about Texas Rising Star to all early learning
14 programs designated as Pre-Star and the supports and resources that are available to
15 them. Pre-Star designated programs that are working toward Texas Rising Star
16 certification are provided a mentor. Boards may choose to allow Pre-Star designated
17 programs that are not currently working toward Texas Rising Star certification to
18 participate in local initiatives, receive other mentoring services, or participate in the
19 continuous quality improvement process. Timelines for progressively higher-quality
20 ratings are determined by the early learning program. In addition, under Texas
21 Government Code, §2308.3155, participation in Texas Rising Star is voluntary; therefore,
22 TWC cannot mandate entry into Texas Rising Star.

23
24 No changes were made in response to this comment.

25 26 **§809.93. Provider Reimbursement**

27
28 **Comment:** One individual requested that TWC's reimbursement model be more similar
29 to how non-subsidized families pay for child care, primarily by paying providers prior to
30 services being provided.

31
32 **Response:** TWC appreciates the comment; however, this requested change is outside the
33 scope of the proposed rulemaking.

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

36
37 **Comment:** One Board supports the rule; however, requested that the payments to
38 providers with contracts be part of an automated system as making payments outside of
39 the current automated system is not a sound accounting function and could cause
40 disallowed costs.

41
42 **Response:** TWC appreciates the comment and will work with Boards choosing to have
43 contracted slots agreements to provide assistance in developing payment methodologies
44 that ensure sound accounting processes. At this time, TWC is unable to modify The
45 Workforce Information System of Texas (TWIST) to process contracted slots payments.

1 TWC is pursuing a potential replacement of the TWIST child care system, and will take
2 this comment into consideration for future automation enhancements.

3
4 No changes were made in response to this comment.

5
6 **Comment:** One Board appreciated the flexibility to decide whether or not to enter into
7 contracted slots agreements with providers. The Board also supported the plan to make
8 these contracts available only to Texas Rising Star three and four-star providers. The
9 Board stated that implementation would require extensive support from TWC in terms of
10 availability of data in order to determine need as required in §809.96(e) and to adhere to
11 the reporting requirements in §809.96(h).

12
13 **Response:** TWC appreciates the comment and will work with Boards choosing to have
14 contracted slots agreements to provide implementation assistance.

15
16 No changes were made in response to this comment.

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

19
20 **Comment:** One provider stated that the changes are good. However, the commenter
21 requested that TWC allow time to implement the amended rules.

22
23 **Response:** TWC appreciates your comment and began providing information about these
24 proposed changes in November via three webinars for existing Texas Rising Star
25 providers and one webinar for all providers. These webinars are also posted on TWC's
26 website. TWC encourages all providers to begin familiarizing themselves with this
27 information. When the changes are final, TWC plans to provide additional time for child
28 care programs to become familiar with the changes. Implementation is planned for April
29 1, 2021; however, all programs will not be required to immediately implement the
30 changes. Texas Rising Star revisions will have a rolling implementation, in which the
31 program will be assessed against the new requirements during its next visit.

32
33 No changes were made in response to this comment.

34
35 **Comment:** One organization appreciated TWC's commitment to institute a marketing
36 plan to provide enhanced consumer education so that parents are better educated about
37 the importance of quality and the meaning and value of each higher Texas Rising Star
38 level. The organization hopes that the plan will include consistent messaging around
39 choosing high-quality programs at each parent touch point--from Agency to Board to
40 contractor, and that the messaging also promotes optimal child development through the
41 use of developmental milestones.

42
43 **Response:** TWC appreciates the input and will take these comments into consideration as
44 TWC finalizes this plan.

45
46 No changes were made in response to this comment.

1
2 **Comment:** One Board requested that the rules in Subchapter G be clarified to ensure that
3 it is clear that the clause in §809.135, specifically, "The Texas Rising Star program is not
4 subject to Chapter 823 of this title, the Integrated Complaints, Hearings, and Appeals
5 rules," applies to the Texas Rising Star program as a whole and not just to the Texas
6 Rising Star Process for Reconsideration.

7
8 **Response:** TWC appreciates the comment; however, this requested change is outside the
9 scope of the proposed rulemaking.

10
11 **§809.130. Short Title and Purpose**

12
13 **Comment:** One Board and several commenters supported the reorganizing of Texas
14 Rising Star measures and assigning more weight to the teacher-child interaction category
15 in recognition of its correlation with child outcomes. The commenters support the
16 streamlining of standards and reducing the standards from five to four categories. The
17 commenters believe it will help avoid redundancy and eliminate duplication.
18 Additionally, the commenters support the new reweighting of the categories, so they are
19 most closely correlated with child outcomes, and believe that the heavy focus on teacher-
20 child interactions is paramount to strong childhood outcomes.

21
22 **Response:** TWC appreciates the comment.

23
24 **Comment:** Several commenters requested additional clarification about how the changes
25 in standards impact providers' current and future ratings.

26
27 **Response:** TWC has conducted an initial review of reweighting impacts noting that most
28 impacts resulted in a higher overall star level being determined. However, with the
29 additional revisions of specific measures, scoring methodology for teacher-child
30 interactions, and new measures added, there may be impacts to some programs that TWC
31 is unable to currently quantify. Mentoring, training modules, a director's toolkit of
32 resources, use of the continuous quality improvement plan, and additional supports will
33 be provided to programs to minimize any negative impacts.

34
35 No changes were made in response to these comments.

36
37 **Comment:** One advocacy group recommended coupling these requirements with
38 additional resources to support providers in their efforts to improve interactions.

39
40 **Response:** Mentoring, training modules, a director's toolkit of resources, use of the
41 continuous quality improvement plan, and additional supports will be provided to
42 programs.

43
44 No changes were made in response to this comment.

45
46 **§809.131. Eligibility for the Texas Rising Star Program**

1
2 **Comment:** Several commenters support requiring current Texas Rising Star programs
3 and applicants to create staff accounts within the WFR. Because of the increased
4 challenges of recruiting and retaining staff, one commenter applauded the
5 recommendation that the WFR not include a searchable database of teachers or their
6 qualifications nor job postings.
7

8 **Response:** TWC appreciates the comments.
9

10 **Comment:** Two Boards requested clarification on potential ramifications on programs
11 that do not comply with the requirement to agree to participate in the WFR and to
12 encourage staff to create accounts within the WFR.
13

14 **Response:** TWC will require that Texas Rising Star child care providers create a director
15 account in the WFR. TWC recommends that Texas Rising Star providers encourage their
16 staff members to create individual accounts within the WFR.
17

18 Texas Rising Star staff will work with each provider to set individual CQIP goals to
19 increase staff participation in the WFR. Additionally, mentors can assist in identifying
20 any barriers that may have prevented an individual from creating his or her account.
21

22 A director account will be required for each Texas Rising Star provider so that
23 participating staff members may associate their WFR profiles with their employer.
24 However, if an individual staff member declines to create a WFR account, the provider's
25 Texas Rising Star certification will not be affected.
26

27 No changes were made in response to these comments.
28

29 **Comment:** One Board supported the purpose behind the TECPDS WFR. However, the
30 Board expressed concerns regarding providers that may not wish to participate due to
31 privacy concerns related to posting information on the systems.
32

33 Two providers expressed similar concerns. One provider stated that the idea of a web-
34 based professional development tool that tracks training, education, and employment
35 seems very convenient and easily accessible for staff, employers, and other interested
36 parties such as Child Care Licensing and Child Care Services. However, the provider
37 stated that the information, which is easily accessible to the previously mentioned, can
38 also become accessible to hackers and others who have nefarious intentions.
39

40 Sharing information concerning training, employment, and other personal identifying
41 data is a matter of individual choice. Additionally, this is a right of privacy. By
42 mandating enrollment in the WFR in order to participate as a Texas Rising Star provider,
43 each individual's right to privacy is not being upheld.
44

45 The other provider stated that the provider can give copies of trainings to the local
46 assessor.

1
2 **Response:** TWC acknowledges commenters' concerns regarding the privacy of their
3 personal data in relation to the WFR. TWC shares these concerns and is committed to
4 ensuring privacy and security of personal data. The WFR registry does not include any
5 search function and access to individual data is controlled, monitored, and audited.
6

7 TWC's rule changes related to the WFR are intended to increase use of the WFR to
8 provide TWC and Boards with summative information to support data-driven decisions
9 on the investment of CCQ funds. Additionally, TWC uses the WFR's aggregate
10 workforce data to satisfy federal reporting requirements on the state's annual CCDF
11 Quality Progress Report, which asks for state-level information on the state of and
12 progress of the workforce. [[https://twc.texas.gov/files/partners/child-care-quality-
13 performance-report-2019.pdf](https://twc.texas.gov/files/partners/child-care-quality-performance-report-2019.pdf)]
14

15 Everyone who creates an account in the WFR owns their own data and decides who can
16 see their data. The database is not searchable by the public. Individuals have the option to
17 share their education, employment, and training information with the directors of centers
18 or facilities that also have accounts, such as the individual's employer. The individual
19 also has the ability to stop sharing his or her profile with a director.
20

21 As stated previously, TWC will require that Texas Rising Star child care providers create
22 a director account in the WFR. The provider may determine who fills the director role in
23 the WFR, and that individual may decide how much employment, education, and training
24 data to include in his or her professional profile.
25

26 TWC also recommends that Texas Rising Star providers encourage their staff members to
27 create individual accounts within the WFR. All information entered into the WFR is
28 stored securely and may only be viewed by approved TECPDS/WFR staff and your local
29 Board for the purposes of record validation and to assist assessors with scoring Texas
30 Rising Star staff training/qualifications measures. All of these users are subject to
31 contract provisions that limit their access to the data they need to do their jobs. For
32 example, a Texas Rising Star assessor will only view records for individuals who had
33 associated themselves with a provider with an agreement to provide subsidized child care
34 in the assessor's assigned Board area. TWC staff do not have access to individual WFR
35 records.
36

37 UTHealth, which houses the WFR, complies with the Family Educational Rights and
38 Privacy Act, which prohibits the release of most education records without an individual's
39 permission. Additionally, WFR data is governed by the University of Texas Health
40 Science Center's data security standards, which adhere to the National Institute of
41 Standards and Technology (NIST) Cybersecurity regular security scanning for
42 vulnerabilities and an annual NIST security audit.
43

44 No changes were made in response to these comments.
45

1 **Comment:** One provider stated that it should not be mandatory to participate in the
2 TECPDS WFR if a center has its own Training Tracking System. The provider
3 suggested instead, that if a center has an electronic program that tracks its staff training, it
4 should not have to use the registry because that would create an increased workload for a
5 duplicate job.
6

7 **Response:** The intent of participation within the WFR is multi-faceted, including the
8 integration of automatic scoring for applicable Category 1 measures within the Texas
9 Rising Star assessment tool.
10

11 TWC will explore opportunities to create interface capabilities between the WFR and
12 providers' individual systems in order to reduce duplicate data entry.
13

14 No changes were made in response to this comment.
15

16 **§809.132. Impact of Certain Deficiencies on Texas Rising Star Certification**

17

18 **Comment:** Two Boards expressed concerns regarding certain aspects of the impact of
19 licensing deficiencies. One Board expressed concerns that some deficiencies regarding
20 the safety of children were not included. One Board is concerned that four probationary
21 impacts during a three-year certification period decreases motivation to resolve issues
22 when there is no financial impact to the program and would suggest reducing to three the
23 number of probationary impacts during the three-year certification period.
24

25 **Response:** TWC recognizes that these standards contain elements that are supported by
26 some, while others would prefer modifications. TWC has crafted these changes based on
27 extensive discussions and input from the Texas Rising Star Workgroup. TWC will
28 monitor the impact of these changes, including how many probationary periods providers
29 are subject to, and determine if revisions are needed in the future.
30

31 No changes were made in response to these comments.
32

33 **Comment:** Several commenters supported a revised structure that continues to provide a
34 high level of accountability for the most critical licensing issues, while also providing the
35 opportunity for providers to correct issues without losing their star-level certification.
36 Specifically, the group requested Texas Rising Star programs that receive licensing
37 deficiencies have an opportunity to remedy those deficiencies within a six-month
38 probationary period. Providers need increased technical assistance for programs at risk of
39 losing or dropping their certification level.
40

41 **Response:** The revised screening form minimized the number of deficiencies that
42 resulted in an immediate star-level drop and modified the impact for most to be placed on
43 probation while receiving targeted assistance to address future compliance.
44

45 No changes were made in response to these comments.
46

1 **Comment:** One commenter appreciated the openness to consider COVID-19 in
2 assessment and recommended that TWC provide adequate support and mentorship to
3 better support providers.
4

5 The commenter also appreciated the recommendation to minimize deficiencies from ten
6 to four that result in immediate star-level impact as well as the recommendation to
7 institute probationary rather than star-level impacts in situations in which an employee is
8 fired for inadequate care. The commenter further suggested that providers that have a
9 proven record of exemplary star ratings be considered for a less stringent annual
10 assessment. The commenter also stated that Texas Rising Star programs that receive
11 licensing deficiencies that do not compromise child safety get an opportunity to remedy
12 those deficiencies within a six-month probationary period.
13

14 **Response:** TWC appreciates the comments. Regarding adequate support and mentorship
15 to support providers, TWC will provide coaching, credentialing, training modules, a
16 mentor's toolkit of resources, and additional supports to mentors to assist in supporting
17 programs during this time.
18

19 Regarding the impact of deficiencies on providers with a proven record of exemplary star
20 rating being considered for less stringent annual assessment and providing opportunities
21 to providers to remedy certain deficiencies within a certain period, TWC will make a
22 future determination on modifications to annual assessments for providers that have a
23 proven record of exemplary star rating.
24

25 No changes were made in response to these comments.
26

27 **Comment:** One Board supported the new approach on licensing deficiencies that allows
28 providers to remedy deficiencies and maintain their star level or certification as this
29 promotes financial stability. The Board asked if HHSC has evaluated inner-rater
30 reliability to ensure consistency. Some providers have stated that some CCL
31 representatives are more lenient on some standards.
32

33 **Response:** TWC appreciates your feedback. HHSC processes are not addressed in this
34 rulemaking.
35

36 **§809.133. Application and Assessments for the Texas Rising Star Program**

37

38 **Comment:** One Board and several commenters support the development of a statewide
39 Texas Rising Star Continuous Quality Improvement (CQI) framework. The Board
40 expressed appreciation of the enhancement that will allow CLI Engage to automatically
41 generate CQI documents that will better define needed areas of improvement, while
42 allowing Texas Rising Star mentor staff the flexibility to address staff-specific needs.
43

44 Several commenters stated that the Texas Rising Star CQI framework will provide
45 targeted technical assistance and customized coaching to help providers work toward
46 achieving higher levels of quality. The group requested additional details on how the CQI

1 framework will be implemented, and whether there will be an opportunity to provide
2 input on how the framework should look.

3
4 **Response:** TWC appreciates the support. A draft CQI document is available for review
5 on the TWC Texas Rising Star 4-Year Review webpage.

6
7 No changes were made in response to these comments.
8

9 **§809.134. Minimum Qualifications for Texas Rising Star Staff**

10
11 **Comment:** One Board asked whether a staff member's education level and years of
12 experience will be taken into consideration when determining who needs to attend the
13 training or will automatically qualify staff for some credentialing badges. The Board
14 stated the different levels of education and experience should also be weighed when
15 determining staff training.

16
17 **Response:** All mentors and assessors must take the Texas Rising Star Assessment
18 Training course, regardless of education and experience. All Texas Rising Star assessors
19 will be required to pass the test and achieve a Texas Rising Star Assessment certification.
20 This will ensure all staff are trained and assessors are certified on the Texas Rising Star
21 certification program, thus ensuring reliable and valid assessment scoring.

22
23 No changes were made in response to this comment.

24
25 **Comment:** One Board asked what are TWC's expectations if a Texas Rising Star staff
26 member at the contractor or Board level does not achieve certification as an assessor.
27 Currently hired staff were not required to pass any type of certifications and imposing
28 this requirement now may cause issues for employers.

29
30 **Response:** Statewide training for Texas Rising Star staff on the revisions will begin in
31 January 2021, followed by a period for assessor staff to attain certification. Assessors are
32 expected to pass all ten modules, and to attain their certification prior to the roll-out date
33 for the new standards, which is scheduled for April 1, 2021. Assistance will be provided
34 to assessor staff throughout the certification course to assist in increasing their
35 knowledge, skills, and abilities so they can receive certification. This will include the
36 availability of online training content, self-study online modules, small group-facilitated
37 sessions. and peer learning communities. However, if the staff member still cannot
38 become certified, employers should consider utilizing the staff member in a different role.

39
40 No changes were made in response to this comment.

41
42 **Comment:** Several commenters supported ensuring that all mentors and assessors
43 complete the required certification as it will improve the reliability and ratings. The
44 commenters requested that assessments be centralized under TWC to help ensure
45 program reliability. The commenters encourage TWC to develop partnerships between
46 TWC and Boards to strengthen the mentor and assessor collaboration and consistency.

1
2 **Response:** TWC appreciates the input. In order to centralize Texas Rising Star assessors,
3 the Texas Government Code, §2308.3155, must be amended. TWC has included this in
4 its legislative proposals to the 87th Texas Legislature.
5

6 No changes were made in response to these comments.
7

8 **Comment:** One Board requested that there should be training or certification
9 requirements for Texas Rising Star program directors. Because directors are the leaders
10 of their programs, to properly maintain Texas Rising Star standards, the Board believes
11 that it is just as, if not more important, for them to be certified to lead a Texas Rising Star
12 program.
13

14 **Response:** TWC appreciates the input. The current measure in the Texas Rising Star
15 guidelines for director training is being removed and integrated into the continuous
16 quality improvement plan, which is individualized to the director and program's specific
17 needs and goals.
18

19 No changes were made in response to this comment.
20

21 **Comment:** One Board expressed concern that, by imposing certain education
22 requirements, work experience, and annual training-hour requirements for Texas Rising
23 Star mentor and assessor staff, TWC is subverting local control of Boards (as the
24 employer of record) to hire staff they believe are qualified to meet the demands of these
25 positions. The Board requested TWC to evaluate the existing and proposed criteria to
26 ensure they are not in violation of Title VII, which prohibits employers from using
27 neutral tests or selection procedures that have the effect of disproportionately excluding
28 individuals based on race, color, religion, sex (including sexual orientation and gender
29 identity), or national origin if the tests or selection procedures are not "job-related for the
30 position in question and consistent with business necessity." To that end, the Board
31 encouraged TWC to review the current composition of mentors and assessors to
32 determine if, in fact, it has potentially eliminated from consideration individuals in a
33 disparate manner.
34

35 **Response:** Title VII prohibits employers from using neutral tests or selection procedures
36 that have the effect of disproportionately excluding individuals based on race, color,
37 religion, sex, or national origin if the tests or selection procedures are not job-related for
38 the position in question and consistent with business necessity. The education and
39 certification requirements for Texas Rising Star mentors and assessors are directly related
40 to their job duties.
41

42 Regarding the new certification requirement for assessors, assistance will be provided to
43 any assessor who is unable to pass a training module to help them achieve certification
44 status. TWC's intent is to provide ample support and resources to Texas Rising Star staff
45 who need additional assistance in mastering the competencies needed to serve as a Texas
46 Rising Star assessor.

1
2 Mentors and assessors are responsible for making important determinations of a child
3 care program's quality status, based on multiple measures and factors. Therefore, it is
4 critical that the child care program has highly qualified staff, as their judgements impact a
5 child care provider's Texas Rising Star certification. TWC also notes that other
6 occupations have similar job-related education and certification requirements.
7

8 Boards may also wish to consider any opportunities they have to support their staff in the
9 pursuit of their required education levels. Many employers, including TWC, offer
10 education stipends/tuition assistance programs.
11

12 No changes were made in response to this comment.
13

14 **PART IV. STATUTORY AUTHORITY**

15 The rules are adopted under Texas Labor Code, §301.0015 and §302.002(d), which provide
16 TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the
17 effective administration of TWC services and activities.
18

19 The adopted rules implement changes made to Texas Labor Code, Chapter 302 and Texas
20 Government Code, Chapter 2308, in a manner that comports with the existing requirements of 45
21 CFR Part 98.
22

1
2
3 **CHAPTER 809. CHILD CARE SERVICES**

4 **SUBCHAPTER A. GENERAL PROVISIONS**

5 **§809.2. Definitions.**

6
7 The following words and terms, when used in this chapter, shall have the following
8 meanings, unless the context clearly indicates otherwise.

- 9
10 (1) Attending a job training or educational program--An individual is attending a
11 job training or educational program if the individual:
12
13 (A) is considered by the program to be officially enrolled;
14
15 (B) meets all attendance requirements established by the program; and
16
17 (C) is making progress toward successful completion of the program as
18 determined by the Board upon eligibility redetermination as described in
19 §809.42(b) of this chapter.
20
21 (2) Child--An individual who meets the general eligibility requirements contained
22 in this chapter for receiving child care services.
23
24 (3) Child care contractor--The entity or entities under contract with the Board to
25 manage child care services. This includes contractors involved in determining
26 eligibility for child care services, contractors involved in the billing and
27 reimbursement process related to child care subsidies, as well as contractors
28 involved in the funding of quality improvement activities as described in
29 §809.16 of this chapter.
30
31 (4) Child Care Licensing (CCL)--Division responsible for protecting the health,
32 safety, and well-being of children who attend or reside in regulated child care
33 facilities and homes. Previously a division of the Texas Department of Family
34 and Protective Services (DFPS), CCL is now part of the Texas Health and
35 Human Services Commission (HHSC).
36
37 (5) Child care services--Child care subsidies and quality improvement activities
38 funded by the Commission.
39
40 (6) Child care subsidies--Commission-funded child care reimbursements to an
41 eligible child care provider for the direct care of an eligible child.
42
43 (7) Child experiencing homelessness--A child who is homeless, as defined in the
44 McKinney-Vento Act (42 USC 11434(a)), Subtitle VII-B, §725.
45

- 1 (8) Child with disabilities--A child who has a physical or mental impairment that
2 substantially limits one or more major life activities, has a record of such an
3 impairment, or is regarded as having such an impairment. Major life activities
4 include, but are not limited to, caring for oneself; performing manual tasks;
5 walking; hearing; seeing, speaking, or breathing; learning; and working.
6
- 7 (9) Educational program--A program that leads to:
8
9 (A) a high school diploma;
10
11 (B) a Certificate of High School Equivalency; or
12
13 (C) a postsecondary degree from an institution of higher education.
14
- 15 (10) Excessive unexplained absences--More than 40 unexplained absences within a
16 12-month eligibility period as described in §809.78(a)(3) of this chapter.
17
- 18 (11) Family--Two or more individuals related by blood, marriage, or decree of
19 court, who are living in a single residence and are included in one or more of
20 the following categories:
21
22 (A) Two individuals, married--including by common-law, and household
23 dependents; or
24
25 (B) A parent and household dependents.
26
- 27 (12) Household dependent--An individual living in the household who is:
28
29 (A) an adult considered a dependent of the parent for income tax purposes;
30
31 (B) a child of a teen parent; or
32
33 (C) a child or other minor living in the household who is the responsibility of
34 the parent.
35
- 36 (13) Improper payments--Any payment of Child Care Development Fund (CCDF)
37 grant funds that should not have been made or that was made in an incorrect
38 amount (including overpayments and underpayments) under statutory,
39 contractual, administrative, or other legally applicable requirements governing
40 the administration of CCDF grant funds and includes payments:
41
42 (A) to an ineligible recipient;
43
44 (B) for an ineligible service;
45
46 (C) for any duplicate payment; and

- 1
2 (D) for services not received.
3
4 (14) Job training program--A program that provides training or instruction leading
5 to:
6
7 (A) basic literacy;
8
9 (B) English proficiency;
10
11 (C) an occupational or professional certification or license; or
12
13 (D) the acquisition of technical skills, knowledge, and abilities specific to an
14 occupation.
15
16 (15) Listed family home--A family home, other than the eligible child's own
17 residence, that is listed, but not licensed or registered with, CCL pursuant to
18 Texas Human Resources Code, §42.052(c).
19
20 (16) Military deployment--The temporary duty assignment away from the
21 permanent military installation or place of residence for reserve components of
22 the single military parent or the dual military parents. This includes deployed
23 parents in the regular military, military reserves, or National Guard.
24
25 (17) Parent--An individual who is responsible for the care and supervision of a
26 child and is identified as the child's natural parent, adoptive parent, stepparent,
27 legal guardian, or person standing in loco parentis (as determined in
28 accordance with Commission policies and procedures). Unless otherwise
29 indicated, the term applies to a single parent or both parents.
30
31 (18) Pre-Star provider--A designation for subsidy providers licensed or registered
32 by CCL, based on meeting the Screening Criteria for Subsidized Child Care,
33 which is further defined in the CCDF State Plan.
34
35 (19) Protective services--Services provided when:
36
37 (A) a child is at risk of abuse or neglect in the immediate or short-term future
38 and the child's family cannot or will not protect the child without DFPS
39 Child Protective Services (CPS) intervention;
40
41 (B) a child is in the managing conservatorship of DFPS and residing with a
42 relative or a foster parent; or
43
44 (C) a child has been provided with protective services by DFPS within the
45 prior six months and requires services to ensure the stability of the
46 family.

- 1
2 (20) Provider--A provider is defined as:
3
4 (A) a regulated child care provider as defined in paragraph (21) of this
5 section;
6
7 (B) a relative child care provider as defined in paragraph (22) of this section;
8 or
9
10 (C) a listed family home as defined in paragraph (15) of this section, subject
11 to the requirements in §809.91(b) of this chapter.
12
13 (21) Regulated child care provider--A provider caring for an eligible child in a
14 location other than the eligible child's own residence that is:
15
16 (A) licensed by CCL;
17
18 (B) registered with CCL; or
19
20 (C) operated and monitored by the United States military services.
21
22 (22) Relative child care provider--An individual who is at least 18 years of age, and
23 is, by marriage, blood relationship, or court decree, the child's:
24
25 (A) grandparent;
26
27 (B) great-grandparent;
28
29 (C) aunt;
30
31 (D) uncle; or
32
33 (E) sibling (if the sibling does not reside in the same household as the
34 eligible child).
35
36 (23) Residing with--Unless otherwise stipulated in this chapter, a child is
37 considered to be residing with the parent when the child is living with, and
38 physically present with, the parent during the time period for which child care
39 services are being requested or received.
40
41 (24) Teen parent--A teen parent (teen) is an individual 18 years of age or younger,
42 or 19 years of age and attending high school or the equivalent, who has a child.
43
44 (25) Texas Rising Star program--A voluntary, quality-based rating system of child
45 care providers participating in Commission-subsidized child care.
46

1 (26) Texas Rising Star provider--A provider certified as meeting the Texas Rising
2 Star program standards. Texas Rising Star providers are certified as a:

3
4 (A) 2-Star Program Provider;

5
6 (B) 3-Star Program Provider; or

7
8 (C) 4-Star Program Provider.
9

10 (27) Working--Working is defined as:

11
12 (A) activities for which one receives monetary compensation such as a
13 salary, wages, tips, and commissions; or

14
15 (B) participation in Choices or Supplemental Nutrition Assistance Program
16 Employment and Training (SNAP E&T) activities.
17

18 **SUBCHAPTER B. GENERAL MANAGEMENT**

19 **§809.12. Board Plan for Child Care Services.**

20
21
22 (a) A Board shall, as part of its Texas Workforce Development Board Plan (Board plan),
23 develop, amend, and modify the Board plan to incorporate and coordinate the design
24 and management of the delivery of child care services with the delivery of other
25 workforce employment, job training, and educational services identified in Texas
26 Government Code, §2308.304, et seq., as well as other workforce training and
27 services included in the One-Stop Service Delivery Network.
28

29 (b) The goal of the Board plan is to coordinate workforce training and services, to
30 leverage private and public funds at the local level, and to fully integrate child care
31 services for low-income families with the network of workforce training and services
32 under the administration of the Boards.
33

34 (c) Boards shall design and manage the Board plan to maximize the delivery and
35 availability of safe and stable child care services that assist families seeking to
36 become independent from, or who are at risk of becoming dependent on, public
37 assistance while parents are either working or attending a job training or an
38 educational program.
39

40 (d) A Board shall include in the Board plan any strategies to use contracted slots
41 agreements, as described in §809.96 of this chapter, including any local priorities and

1 how contracted slots agreements will help increase access to high-quality care for
2 targeted communities and population.
3

4 **§809.13. Board Policies for Child Care Services.**
5

- 6 (a) A Board shall develop, adopt, and modify its policies for the design and management
7 of the delivery of child care services in a public process in accordance with Chapter
8 802 of this title.
9
- 10 (b) A Board shall maintain written copies of the policies that are required by federal and
11 state law, or as requested by the Commission, and make such policies available to
12 the Commission and the public upon request.
13
- 14 (c) At a minimum, a Board shall develop policies related to:
15
- 16 (1) how the Board determines that the parent is making progress toward successful
17 completion of a job training or educational program, as described in §809.2(1)
18 of this chapter;
19
- 20 (2) maintenance of a waiting list, as described in §809.18(b) of this subchapter;
21
- 22 (3) assessment of a parent share of cost, as described in §809.19(a)(1) of this
23 subchapter, including:
24
- 25 (A) provisions for a parent's failure to pay the parent share of cost, including
26 the reimbursement of providers, as a program violation that is subject to
27 early termination of child care services within a 12-month eligibility
28 period; and
29
- 30 (B) criteria for determining the affordability of the parent share of cost, as
31 described in §809.19(d) and (e) of this subchapter;
32
- 33 (4) maximum reimbursement rates, as provided in §809.20 of this subchapter,
34 including policies related to reimbursement of providers that offer
35 transportation;
36
- 37 (5) family income limits, as described in Subchapter C of this chapter (relating to
38 Eligibility for Child Care Services);
39
- 40 (6) provision of child care services to a child with disabilities under the age of 19,
41 as described in §809.41(a)(1)(B) of this chapter;
42
- 43 (7) minimum activity requirements for parents, as described in §809.48 and
44 §809.50 of this chapter;
45

- 1 (8) time limits for the provision of child care while the parent is attending an
2 educational program, as described in §809.41(b) of this chapter;
- 3
- 4 (9) Board priority groups, as described in §809.43(a) of this chapter;
- 5
- 6 (10) transfer of a child from one provider to another, as described in §809.71(3) of
7 this chapter, including a waiting period of two weeks before the effective date
8 of a transfer, except in cases in which the provider is subject to a CCL action,
9 as described in §809.94 of this chapter, or on a case-by-case basis by the
10 Board;
- 11
- 12 (11) providers charging the difference between their published rate and the Board's
13 reimbursement rate as provided in §809.92(d) of this chapter;
- 14
- 15 (12) procedures for fraud fact-finding as provided in §809.111 of this chapter;
- 16
- 17 (13) policies and procedures to ensure that appropriate corrective actions are taken
18 against a provider or parent for violations of the automated attendance
19 requirements specified in §809.115(d) and (e) of this chapter;
- 20
- 21 (14) policies and procedures for contracted slots agreements as described in
22 §809.96 of this chapter, if the Board opts to enter into such agreements; and
- 23
- 24 (15) supporting direct referrals from recognized pre-K or HS/EHS partnerships, as
25 described in §809.22 of this subchapter.
- 26

27 **§809.16. Quality Improvement Activities.**

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

1 (B) Funds may be expended for minor remodeling, and for upgrading child
2 care facilities to ensure that providers meet state and local child care
3 standards, including applicable health and safety requirements.
4

5 (2) Sectarian agencies or organizations.
6

7 (A) The prohibitions in paragraph (1) of this subsection apply.
8

9 (B) Funds may be expended for minor remodeling only if necessary to bring
10 the facility into compliance with the health and safety requirements
11 established pursuant to 45 CFR Part 98.
12

13 (c) Expenditures certified by a public entity, as provided in §809.17(b)(3) of this
14 subchapter, may include expenditures for any quality improvement activity described
15 in 45 CFR Part 98.
16

17 **§809.18. Maintenance of a Waiting List.**
18

19 (a) A Board shall ensure that a list of parents waiting for child care services, because of
20 the lack of funding or lack of providers, is maintained and available to the
21 Commission upon request.
22

23 (b) A Board shall establish a policy for the maintenance of a waiting list that includes, at
24 a minimum:
25

26 (1) the process for determining that the parent is potentially eligible for child care
27 services before placing the parent on the waiting list; and
28

29 (2) the frequency in which the parent information is updated and maintained on
30 the waiting list.
31

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

38 **§809.19. Assessing the Parent Share of Cost.**
39

40 (a) For child care funds allocated by the Commission pursuant to its allocation rules
41 (generally, Chapter 800, Subchapter B of this title (relating to Allocations), and
42 specifically, §800.58 of this title (relating to Child Care)), including local public
43 transferred funds and local private donated funds, as provided in §809.17 of this
44 subchapter, the following shall apply.
45

- 1 (1) A Board shall set a parent share of cost policy that assesses the parent share of
2 cost in a manner that results in the parent share of cost:
3
4 (A) being assessed to all parents, except in instances when an exemption
5 under paragraph (2) of this subsection applies;
6
7 (B) being an amount determined by a sliding fee scale based on the family's
8 size and gross monthly income, including a possible reexamination of
9 the sliding fee scale if there are frequent terminations for lack of
10 payment pursuant to subsection (e) of this section, which also may
11 consider the number of children in care;
12
13 (C) being an amount that is affordable and does not result in a barrier to
14 families receiving assistance;
15
16 (D) being assessed only at the following times:
17
18 (i) initial eligibility determination;
19
20 (ii) 12-month eligibility redetermination;
21
22 (iii) upon the addition of a child in care;
23
24 (iv) upon a parent's report of a change in income, family size, or number
25 of children in care that would result in a reduced parent share of cost
26 assessment; and
27
28 (v) upon resumption of work, job training, or education activities
29 following temporary changes described in §809.51(a)(2) of this
30 chapter, and upon resumption of work, job training, or education
31 activities during the three-month continuation of care period
32 described in §809.51(c) of this chapter; and
33
34 (E) not increasing above the amount assessed at initial eligibility
35 determination or at the 12-month eligibility redetermination based on the
36 factor in subparagraph (B) of this paragraph, except upon the addition of
37 a child in care as described in subparagraph (D)(iii) of this paragraph.
38
39 (2) Parents who are one or more of the following are exempt from paying the
40 parent share of cost:
41
42 (A) Parents who are participating in Choices or who are in Choices child care
43 described in §809.45 of this chapter;
44
45 (B) Parents who are participating in SNAP E&T services or who are in
46 SNAP E&T child care described in §809.47 of this chapter;

1
2 (C) Parents of a child receiving Child Care for Children Experiencing
3 Homelessness as described in §809.52 of this chapter; or
4

5 (D) Parents who have children who are receiving protective services child
6 care pursuant to §809.49 and §809.54(c) of this chapter, unless DFPS
7 assesses the parent share of cost.
8

9 (3) Teen parents who are not covered under exemptions listed in paragraph (2) of
10 this subsection shall be assessed a parent share of cost. The teen parent's share
11 of cost is based solely on the teen parent's income and size of the teen's family
12 as defined in §809.2 of this chapter.
13

14 (b) For child care services funded from sources other than those specified in subsection
15 (a) of this section, a Board shall set a parent share of cost policy based on a sliding
16 fee scale. The sliding fee scale may be the same as or different from the provisions
17 contained in subsection (a) of this section.
18

19 (c) A Board shall establish a policy regarding reimbursement of providers when parents
20 fail to pay the parent share of cost.
21

22 (d) A Board shall establish a policy regarding termination of child care services within a
23 12-month eligibility period when a parent fails to pay the parent share of cost. The
24 Board's policy must include:
25

26 (1) a requirement to evaluate and document each family's financial situation for
27 extenuating circumstances that may affect affordability of the assessed parent
28 share of cost pursuant to paragraph (2) of this subsection, and a possible
29 temporary reduction pursuant to subsection (g) of this section before the Board
30 or its child care contractor may terminate care under this section;
31

32 (2) general criteria for determining affordability of a Board's parent share of cost,
33 and a process to identify and assess the circumstances that may jeopardize a
34 family's self-sufficiency under subsection (g) of this section;
35

36 (3) maintenance of a list of all terminations due to failure to pay the parent share
37 of cost, including family size, income, family circumstances, and the reason for
38 termination, for use when conducting evaluations of affordability, as required
39 under paragraph (4) of this subsection; and
40

41 (4) the Board's definition of what constitutes frequent terminations and its process
42 for assessing the general affordability of the Board's parent share of cost
43 schedule, pursuant to subsection (e) of this section.
44

- 1 (e) A Board with frequent terminations of care for lack of payment of the parent share of
2 cost must reexamine its sliding fee scale and adjust it to ensure that fees are not a
3 barrier to assistance for families at certain income levels.
4
- 5 (f) A Board that does not have a policy to reimburse providers when parents fail to pay
6 the parent share of cost may establish a policy to require the parent to pay the
7 provider before the family can be redetermined eligible for future child care services.
8
- 9 (g) The Board or its child care contractor may review the assessed parent share of cost
10 for a possible temporary reduction if there are extenuating circumstances that
11 jeopardize a family's self-sufficiency. The Board or its child care contractor may
12 temporarily reduce the assessed parent share of cost if warranted by these
13 circumstances. Following the temporary reduction, the parent share of cost amount
14 immediately prior to the reduction shall be reinstated.
15
- 16 (h) If the parent is not covered by an exemption as specified in subsection (a)(2) of this
17 section, then the Board or its child care contractor shall not waive the assessed parent
18 share of cost under any circumstances.
19
- 20 (i) If the parent share of cost, based on family income and family size, is calculated to
21 be zero, then the Board or its child care contractor shall not charge the parent a
22 minimum share of cost amount.
23
- 24 (j) A Board may establish a policy to reduce the parent share of cost amount assessed
25 pursuant to subsection (a)(1)(B) of this section upon the parent's selection of a Texas
26 Rising Star--certified provider. Such Board policy shall ensure:
27
- 28 (1) that the parent continue to receive the reduction if:
29
- 30 (A) the Texas Rising Star provider loses Texas Rising Star certification; or
31
- 32 (B) the parent moves or changes employment within the workforce area and
33 no Texas Rising Star--certified providers are available to meet the needs
34 of the parent's changed circumstances; and
35
- 36 (2) that the parent no longer receives the reduction if the parent voluntarily
37 transfers the child from a Texas Rising Star--certified provider to a non-Texas
38 Rising Star--certified provider.
39
- 40 (k) A Board may establish a policy to reduce the parent share of cost amount assessed
41 pursuant to subsection (a)(1)(B) of this section upon the child's referral for part-time
42 care. Such Board policy shall ensure that:
43
- 44 (1) the parent no longer receives the reduction if the referral is changed to full-time
45 care; and
46

- 1 (2) a parent **who** qualifies for a reduction in parent share of cost for both selecting
2 a Texas Rising Star--certified provider (as defined in subsection (j) of this
3 section) and a child's part-time care referral will receive the greater of the two
4 discounts.
5

6 **§809.22. Direct Referrals to Recognized Partnerships.**
7

- 8 (a) A recognized partnership is a partnership that:
9

- 10 (1) exists between a child care provider and one of the following:

11 (A) a public school prekindergarten provider;

12 (B) a local education agency; or
13

14 (C) a Head Start/Early Head Start program; and
15

- 16 (2) requires both parties to have entered into an agreement, such as a
17 memorandum of understanding, and serves some number of children
18 under age six who are dually enrolled in both programs.
19

- 20 (b) A Board shall establish policies and procedures to enroll eligible children who are
21 directly referred by a recognized partnership.
22

- 23 (c) A Board's policy shall exempt children directly referred from a recognized
24 partnership from the Board's waiting list, subject to the availability of funding and
25 the availability of subsidized slots at the partnership site.
26
27
28

29 **SUBCHAPTER E. REQUIREMENTS TO PROVIDE CHILD CARE**
30

31 **§809.91. Minimum Requirements for Providers.**
32

- 33 (a) A Board shall ensure that child care subsidies are paid only to:
34

- 35 (1) regulated child care providers as described in §809.2 of this chapter, subject to
36 the requirements in subsection (g) of this section;

- 37 (2) relative child care providers, as described in §809.2 of this chapter, subject to
38 the requirements in subsection (e) of this section; or
39

- 40 (3) at the Board's option, child care providers licensed in a neighboring state,
41 subject to the following requirements:
42

- 43 (A) Boards shall ensure that the Board's child care contractor reviews the
44 licensing status of the out-of-state provider every month, at a minimum,
45 to confirm the provider is meeting the minimum licensing standards of
46 the state.

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- (B) Boards shall ensure that the out-of-state provider meets the requirements of the neighboring state to serve CCDF-subsidized children.
 - (C) The provider shall agree to comply with the requirements of this chapter and all Board policies and Board child care contractor procedures.
- (b) A Board shall not prohibit a relative child care provider that is listed with CCL and meets the minimum requirements of this section from being an eligible relative child care provider.
 - (c) Except as provided by the criteria for Texas Rising Star Provider certification, a Board or the Board's child care contractor shall not place requirements on regulated providers that:
 - (1) exceed Pre-Star designation requirements or the state licensing requirements stipulated in Texas Human Resources Code, Chapter 42; or
 - (2) have the effect of monitoring the provider for compliance with state licensing requirements stipulated in Texas Human Resources Code, Chapter 42.
 - (d) When a Board or the Board's child care contractor, in the course of fulfilling its responsibilities, gains knowledge of any possible violation regarding regulatory standards, the Board or its child care contractor shall report the information to the appropriate regulatory agency.
 - (e) For relative child care providers to be eligible for reimbursement for Commission-funded child care services, the following applies:
 - (1) Relative child care providers shall list with CCL; however, pursuant to 45 CFR §98.41(e), relative child care providers listed with CCL shall be exempt from the health and safety requirements of 45 CFR §98.41(a).
 - (2) A Board shall allow relative child care providers to care for a child in the child's home (in-home child care) only for the following:
 - (A) A child with disabilities as defined in §809.2 of this chapter, and his or her siblings;
 - (B) A child under 18 months of age and his or her siblings;
 - (C) A child of a teen parent; and
 - (D) When the parent's work schedule requires evening, overnight, or weekend child care in which taking the child outside of the child's home would be disruptive to the child.

- 1
2 (3) A Board may allow relative in-home child care for circumstances in which the
3 Board's child care contractor determines and documents that other child care
4 provider arrangements are not available in the community.
5
- 6 (f) Boards shall ensure that subsidies are not paid for a child at the following child care
7 providers:
8
- 9 (1) Except for foster parents authorized by DFPS pursuant to §809.49 of this
10 chapter, licensed child care centers, including before- or after-school programs
11 and school-age programs, in which the parent or his or her spouse, including
12 the child's parent or stepparent, is the director or assistant director, or has an
13 ownership interest; or
14
- 15 (2) Licensed, registered, or listed child care homes where the parent also works
16 during the hours his or her child is in care.
17
- 18 (g) Regulated child care providers, except those operated and monitored by the US
19 military, must meet Pre-Star provider designation unless exempted under
20 requirements of subsection (h)(3) of this section.
21
- 22 (h) Pre-Star provider designations and exemptions are defined in the Commission-
23 approved CCDF State Plan and include:
24
- 25 (1) minimum Pre-Star criteria required for each provider type;
26
- 27 (2) a progressive statewide roll out plan to require Pre-Star designation for receipt
28 of subsidies; and
29
- 30 (3) limited provider exemption criteria to ensure parent choice is not negatively
31 impacted by the Pre-Star requirements.
32

33 **§809.93. Provider Reimbursement.** 34

- 35 (a) A Board shall ensure that reimbursement for child care is paid only to the provider.
36
- 37 (b) A Board or its child care contractor shall reimburse a regulated provider based on a
38 child's monthly enrollment authorization, excluding periods of suspension at the
39 concurrence of the parent, as described in §809.51(d) of this chapter.
40
- 41 (c) A Board shall ensure that a relative child care provider is not reimbursed for days on
42 which the child is absent.
43
- 44 (d) A relative child care provider shall not be reimbursed for more children than
45 permitted by the CCL minimum regulatory standards for Registered Child Care

1 Homes. A Board may permit more children to be cared for by a relative child care
2 provider on a case-by-case basis as determined by the Board.

- 3
- 4 (e) A Board shall not reimburse providers that are debarred from other state or federal
5 programs unless and until the debarment is removed.
- 6
- 7 (f) Unless otherwise determined by the Board and approved by the Commission for
8 automated reporting purposes, the monthly enrollment authorization described in
9 subsection (b) of this section is based on the unit of service authorized, as follows:
- 10
- 11 (1) A full-day unit of service is 6 to 12 hours of care provided within a 24-hour
12 period; and
- 13
- 14 (2) A part-day unit of service is fewer than 6 hours of care provided within a 24-
15 hour period
- 16
- 17 (g) A Board or its child care contractor shall ensure that providers are not paid for
18 holding spaces open without a valid contracted slots agreement, as described in
19 §809.96 of this subchapter.
- 20
- 21 (h) A Board or the Board's child care contractor shall not pay providers:
- 22
- 23 (1) less, when a child enrolled full time occasionally attends for a part day; or
- 24
- 25 (2) more, when a child enrolled part time occasionally attends for a full day.
- 26
- 27 (i) The Board or its child care contractor shall not reimburse a provider retroactively for
28 new Board maximum reimbursement rates or new provider published rates.
- 29
- 30 (j) A Board or its child care contractor shall ensure that the parent's travel time to and
31 from the child care facility and the parent's work, school, or job training site is
32 included in determining whether to authorize reimbursement for full-day or part-day
33 care under subsection (f) of this section.
- 34

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

36

- 37 (a) In this section, the term "contracted slots agreement" is defined as a Board entering
38 into a contract with a child care provider to reserve a specific number of places, or
39 slots, for children participating in the child care subsidy program. This contract shall:
- 40
- 41 (1) define the number of slots to be reserved by age group (infant, toddler,
42 preschool, or school-age); and
- 43
- 44 (2) meet the eligibility requirements as described in subsection (e) of this section.
- 45

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

- 1 (1) that requested care in the ZIP code where the provider with the open reserved
2 slot is located; and
3
- 4 (2) whose child is in the age group for which a slot is available.
5
- 6 (h) In accordance with Commission guidelines, Boards that enter into contracted slots
7 agreements shall submit a report to the Commission within six months of entering
8 into a contract, determining the contract's effect on the:
9
 - 10 (1) financial stability of providers participating in the contract;
 - 11
 - 12 (2) availability of high-quality child care options available to participants in the
13 Commission's subsidy program;
 - 14
 - 15 (3) number of high-quality providers in any part of the workforce area with a high
16 concentration of families that need child care;
 - 17
 - 18 (4) percentage of children participating in the Commission's subsidized child care
19 program at each Texas Rising Star provider in the workforce area; and
20
 - 21 (5) additional information as requested by the Commission.
22
- 23 (i) A Board shall resubmit the report every six months from the due date of the Board's
24 initial report to the Commission.
25

26 **SUBCHAPTER G. TEXAS RISING STAR PROGRAM**
27

28 **§809.130. Short Title and Purpose.**
29

- 30 (a) The rules contained in this subchapter may be cited as the Texas Rising Star
31 Program rules.
32
- 33 (b) The purpose of the Texas Rising Star Program rules is to interpret and implement
34 Texas Government Code, §2308.3155(b), which requires the Commission to
35 establish rules to administer the Texas Rising Star program, including guidelines for
36 rating a child care provider for Texas Rising Star certification.
37
- 38 (c) The Texas Rising Star Program rules identify the organizational structure and
39 categories of, and the scoring factors that shall be included in, the Texas Rising Star
40 guidelines.
41
- 42 (d) The Texas Rising Star guidelines for rating a child care provider shall:
43
 - 44 (1) describe measures for the Texas Rising Star program that contain, at a
45 minimum, measures for child care providers regarding:
46

1 (A) director and staff qualifications and training;

2 (B) teacher-child interactions;

3 (C) program administration; and

4 (D) indoor/outdoor environments;

5 (2) specify measures that:

6 (A) must be met in order for a provider to be certified at each star level; and

7 (B) are observed and have points awarded through on-site assessments; and

8 (3) specify the scoring methodology and scoring thresholds for each star level.

9 (e) The Texas Rising Star guidelines:

10 (1) shall be reviewed and updated by the Commission at a minimum of every four
11 years in conjunction with the rule review of Chapter 809, conducted pursuant
12 to Texas Government Code, §2001.039, and the Texas Rising Star guidelines
13 review shall:

14 (A) consider input from stakeholders; and

15 (B) include at least one public hearing held prior to submitting the
16 stakeholder input to the Commission;

17 (2) shall be adopted by the Commission subject to the requirements of the Texas
18 Open Meetings Act; and

19 (3) may be reviewed and amended as determined necessary by the Commission in
20 accordance with the requirements of the Texas Open Meetings Act.

21 **§809.131. Eligibility for the Texas Rising Star Program.**

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

24 (1) has a permanent (nonexpiring) license or registration from CCL;

25 (2) has at least 12 months of licensing history with CCL, and is not on:

26 (A) corrective action with a Board pursuant to Subchapter F of this chapter;

1 (B) a "Notice of Freeze" with the Commission pursuant to Texas Labor
2 Code, Chapter 213 (Enforcement of the Texas Unemployment
3 Compensation Act) or Chapter 61 (Payment of Wages); or
4

5 (C) corrective or adverse action with CCL; and
6

7 (3) meets the requirements to be designated as a Pre-Star provider as specified in
8 §802.2(18) of this chapter.
9

10 (4) has director and teaching staff registered in the Texas Early Childhood
11 Professional Development System Workforce Registry; or
12

13 (5) is regulated by and in good standing with the US Military.
14

15 **§809.132. Impact of Certain Deficiencies on Texas Rising Star Certification.**
16

17 (a) A Texas Rising Star provider shall lose Texas Rising Star certification if the
18 provider:
19

20 (1) is placed on corrective action with a Board pursuant to Subchapter F of this
21 chapter;
22

23 (2) is under a "Notice of Freeze" with the Commission pursuant to Chapter 213 of
24 the Texas Labor Code (Enforcement of the Texas Unemployment
25 Compensation Act) or Chapter 61 of the Texas Labor Code (Payment of
26 Wages);
27

28 (3) is placed on corrective or adverse action by CCL;
29

30 (4) had 15 or more total high or medium-high weighted licensing deficiencies
31 during the most recent 12-month licensing history;
32

33 (5) had more than four probationary impacts during its three-year certification
34 period;
35

36 (6) had a consecutive third probationary impact; or
37

38 (7) is cited for specified CCL minimum standards regarding weapons and
39 ammunition.
40

41 (b) Texas Rising Star providers with any of the specified "star level drop" licensing
42 deficiencies listed in the Texas Rising Star guidelines during the most recent 12-
43 month CCL licensing history shall be placed on a six-month Texas Rising Star
44 program probationary period. Furthermore:
45

- 1 (1) reduction of one star level for each deficiency cited, so a 4-star certified
2 provider is reduced to a 3-star provider , a 3-star provider is reduced to a 2-
3 star provider; or
4
- 5 (2) a 2-star provider loses certification.
6
- 7 (c) Texas Rising Star providers with any of the specified "probationary" licensing
8 deficiencies listed in the Texas Rising Star guidelines during the most recent 12-
9 month CCL licensing history shall be placed on a six-month Texas Rising Star
10 probationary period. Furthermore:
11
- 12 (1) Texas Rising Star providers on a six-month Texas Rising Star probationary
13 period that are cited by CCL for any additional specified probationary
14 deficiencies within the probationary period shall be placed on a second,
15 consecutive probation and lose a star level, with a 2-star certified provider
16 losing certification;
17
- 18 (2) if CCL does not cite any additional specified probationary deficiencies during
19 the probationary period, the provider can be removed from probation status;
20 and
21
- 22 (3) if any additional specified probationary deficiencies are cited by CCL during
23 the second probationary period, the Texas Rising Star provider shall lose
24 certification.
25
- 26 (d) Texas Rising Star providers with 10 to 14 total high or medium-high weighted
27 licensing deficiencies during the most recent 12-month CCL licensing history shall
28 be placed on a six-month Texas Rising Star program probationary period.
29 Furthermore:
30
- 31 (1) Texas Rising Star providers on a six-month probationary period that are cited
32 by CCL within the probationary period for any additional high or medium-high
33 weighted deficiencies shall be placed on a second, consecutive probation and
34 lose a star level, with a 2-star provider losing certification;
35
- 36 (2) if no additional high or medium-high weighted deficiencies are cited by CCL
37 during the probationary period, the provider can be removed from probation
38 status ; and
39
- 40 (3) if any new high or medium-high weighted deficiencies--not to exceed 14 total
41 deficiencies--are cited by CCL during the second six-month probationary
42 period, a provider shall lose Texas Rising Star certification.
43
- 44 (e) Providers losing a star level due to licensing deficiencies shall be reinstated at the
45 former star level if no citations described in subsections (b) - (d) of this section occur
46 within the six-month reduction time frame.

- 1
2 (f) Providers losing Texas Rising Star certification shall be eligible to reapply for
3 certification after six months following the loss of the certification, as long as no
4 deficiencies described in subsections (b) - (d) of this section are cited during the
5 disqualification period.
6

7 **§809.133. Application and Assessments for the Texas Rising Star Program.**
8

- 9 (a) Texas Rising Star certification applicants must complete:
10
11 (1) an orientation on the Texas Rising Star guidelines, including an overview of
12 the:
13 (A) Texas Rising Star program application process;
14 (B) Texas Rising Star program measures; and
15 (C) Texas Rising Star program assessment process;
16
17 (2) the creation of a continuous quality improvement plan; and
18
19 (3) a Texas Rising Star program self-assessment tool.
20
21 (b) Boards shall ensure that:
22
23 (1) written acknowledgment of receipt of the application and self-assessment is
24 sent to the provider;
25
26 (2) within 20 days of receipt of the application, the provider is sent an estimated
27 time frame for scheduling the initial assessment;
28
29 (3) an assessment is conducted for any provider that meets the eligibility
30 requirements in §809.131 of this subchapter and requests to participate in the
31 Texas Rising Star program; and
32
33 (4) Texas Rising Star certification is granted for any provider that is assessed and
34 verified as meeting the Texas Rising Star provider certification criteria set
35 forth in the Texas Rising Star guidelines.
36
37 (c) Boards shall ensure that Texas Rising Star assessments are conducted as follows:
38
39 (1) On-site assessment of 100 percent of the provider classrooms at the initial
40 assessment for Texas Rising Star certification and at each scheduled
41 recertification; and
42
43 (2) Recertification of all certified Texas Rising Star providers every three years.
44
45
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2 (d) Boards shall ensure that certified Texas Rising Star providers are monitored on an
3 annual basis and the monitoring includes:
4
5 (1) at least one unannounced on-site visit; and
6
7 (2) a review of the provider's licensing compliance as described in §809.132 of
8 this subchapter.
9
10 (e) Boards shall ensure compliance with the process and procedures in the Texas Rising
11 Star guidelines for conducting assessments of nationally accredited child care
12 facilities and child care facilities regulated by the US Military.
13
14 (f) Boards shall ensure compliance with the process and procedures in the Texas Rising
15 Star guidelines for conducting assessments of certified Texas Rising Star providers
16 that have a change of ownership, move, or expand locations.
17
18 (g) Boards shall ensure compliance with the process and procedures in the Texas Rising
19 Star guidelines for implementing and supporting a continuous quality improvement
20 framework.
21

22 **§809.134. Minimum Qualifications for Texas Rising Star Staff.**
23

- 24 (a) Boards shall ensure that Texas Rising Star staff meet the minimum requirements in
25 subsections (b) - (g) of this section.
26
27 (b) Texas Rising Star staff shall meet the minimum education requirements as follows:
28
29 (1) Bachelor's degree from an accredited four-year college or university in early
30 childhood education, child development, special education, child psychology,
31 educational psychology, elementary education, or family consumer science
32
33 (2) Bachelor's degree from an accredited four-year college or university with at
34 least 18 credit hours in early childhood education, child development, special
35 education, child psychology, educational psychology, elementary education, or
36 family consumer science with at least 12 credit hours in child development
37
38 (3) Associate's degree in early childhood education, child development, special
39 education, child psychology, educational psychology, elementary education, or
40 family consumer science with two years of experience as a director in an early
41 childhood program, with preference given to experience with a provider that is
42 accredited or Texas Rising Star certified
43
44 (c) The Commission may grant a waiver of no more than two years to obtain the
45 minimum education requirements in subsection (b) of this section if a Board can

1 demonstrate that no applicants in its workforce area meet the minimum education
2 requirements.

- 3
- 4 (d) Texas Rising Star staff shall meet the minimum work experience requirements of
5 one year of full-time early childhood classroom experience in a child care, EHS, HS,
6 or pre-K through third-grade school program.
- 7
- 8 (e) Texas Rising Star staff shall meet the background check requirement consistent
9 with Chapter 745 of this title.
- 10
- 11 (f) Texas Rising Star staff shall demonstrate:
- 12
- 13 (1) knowledge of best practices in early childhood education; and
- 14
- 15 (2) understanding of early childhood evaluations, observations, and assessment
16 tools for both teachers and children.
- 17
- 18 (g) Texas Rising Star staff shall meet the following training and certification criteria:
- 19
- 20 (1) All staff must complete the Texas Rising Star standards training, as described
21 in the Texas Rising Star guidelines.
- 22
- 23 (2) All assessors must attain and maintain the Texas Rising Star Assessor
24 Certification, as described in the Texas Rising Star guidelines
- 25
- 26 (3) All mentors must attain mentor micro-credentialing, as described in the Texas
27 Rising Star guidelines.
- 28

29 **§809.136. Roles and Responsibilities of Texas Rising Star Staff.**

30
31 Boards shall ensure that Texas Rising Star staff members comply with their assigned
32 responsibilities, as applicable.

- 33
- 34 (1) A mentor is defined as a designated staff member who helps providers obtain,
35 maintain, or achieve higher star levels of certification.
- 36
- 37 (2) An assessor is defined as a designated staff member who assesses and monitors
38 providers that obtain, maintain, and achieve higher levels of quality.
- 39
- 40 (3) Dual-role staff is defined as designated staff members who assume the role of
41 the assessor and mentor.
- 42
- 43 (4) If an individual performs the duties of both an assessor and a mentor, the
44 individual providing Texas Rising Star mentoring services to a provider does
45 not act as the assessor of that same provider when determining Texas Rising
46 Star certification.

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- (5) 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.

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