

Waiver of Chapter 809 Child Care Services Texas Rising Star Rules Discussion Paper

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Background

Child Care & Early Learning (CC&EL) staff have identified two Texas Workforce Commission (TWC) Child Care Services (CCS) rules that are posing challenges with Texas Rising Star program implementation.

Under TWC CCS rules, [§809.3 Waiver Request](#), TWC’s three-member Commission (Commission) may waive child care rules if it determines that the waiver benefits a parent, child care contractor or providers, and if the Commission determines that waiver does not harm child care or violate state or federal statutes or regulations.

Issue 1: Waiver of Texas Rising Star Annual Monitoring Assessments

TWC’s CCS rules, [§809.133. Application and Assessments for Texas Rising Star Certification](#), define how TWC’s Centralized Assessor Entity (CAE) must conduct on-site assessment and monitoring of Texas Rising Star programs, including:

- Initial assessments for new Texas Rising Star programs
- Annual monitoring assessments for currently certified Texas Rising Star programs
- Recertification assessments for current Texas Rising Star programs every three years

The Children’s Learning Institute (CLI) at the University of Texas Health Science Center recently became TWC’s CAE. CLI has notified CC&EL that they are facing some initial implementation challenges as we are implementing the new mandatory Texas Rising Star requirement. As of October 1, 2023, there are currently 2,634 Texas Rising Star certified programs. There are just over 4,300 programs that will need to be assessed before September 30, 2024.

In order to prioritize the 4,300 on-site assessments that need to be conducted, CC&EL staff recommends that the Commission waive Texas Rising Star annual monitoring assessments, as required in TWC CCS rules, [§809.133 \(d\)\(1\)](#), through September 30, 2024.

All Texas Rising Star programs will still be subject to quarterly screening reviews of their compliance with Child Care Regulation standards.

Even with this waiver, CLI will still face capacity challenges in conducting just over 4,300 initial assessments before September 30, 2024. If CLI is unable to conduct an initial assessment for an Entry Level-designated child care program who requested an assessment, the Agency will need to authorize waivers of the Entry Level Designation deadline, based on factors outside of the child care program’s control, as allowable in TWC CCS rules, [§809.131\(f\)](#).

Issue 2: Waiver of Texas Rising Star Full Permit Requirement for Regulated Home Child Care Providers Expanding Their Capacity

TWC’s CCS rules, [§809.131\(a\)\(1\)](#), state that in order to be eligible for certification under Texas Rising Star, a child care program must have a permanent license/registration (e.g., *full permit*) from Child Care Regulation (CCR) and must have 12 months of licensing history.

Two Texas Rising Star-certified registered home-based child care programs have noted challenges that they are facing based upon their desire to expand their capacity. These *registered* homes can serve a maximum of 6 children; they would like to expand their capacity, at their existing location, to serve up to 12 children as a *licensed* child care home. In order to affect this change, CCR must change the type of

1 license/registration that the provider receives and will grant the licensed care home an *initial* permit.
2 Because of TWC’s CCS rule that requires a *full* permit, these Texas Rising Star homes are disincentivized
3 to expand their capacity because they will lose their Texas Rising Star certification.

4 In order to eliminate barriers to Texas Rising Star-certified home-based providers from expanding their
5 capacity, CC&EL staff recommends that the Commission waive TWC CCS rule, [§809.131\(a\)\(1\)](#), for
6 certified home-based providers who are moving from a registered home to a licensed home at the same
7 location for up to six months. During this period, Texas Rising Star assessors will conduct an on-site
8 assessment of the provider within three months of the facility change. In addition, the home-based child
9 care provider will continue to be subject to Texas Rising Star quarterly screening reviews of their
10 compliance with Child Care Regulation standards.

11 CC&EL is currently engaged in the four-year review of the Texas Rising Star program as required in
12 TWC CCS rules, [§809.130 Short Title and Purpose](#), which includes considering input from stakeholders.
13 The CC&EL Texas Rising Star stakeholder workgroup will conclude its work in early calendar year 2024.
14 Following this, CC&EL will be reviewing all Texas Rising Star recommendations, including potential
15 rule amendments. The waiver being recommended in this Discussion Paper will be considered in
16 conjunction with the larger four-year review of the Texas Rising Star program, and any potential rule
17 amendments.

18 **Decision Point**

19 CC&EL staff recommend that the Commission

- 20 • waive Texas Rising Star annual monitoring assessments, as required in TWC CCS rule [§809.133](#)
21 [\(d\)](#), through September 30, 2024; and
- 22 • waive TWC CCS rule [§809.131\(a\)\(1\)](#) for Texas Rising Star-certified home-based providers who
23 are moving from a registered home to a licensed home permit at the same location, as described
24 above, for up to six month; waivers may be authorized through September 30, 2024.