

1 **CHAPTER 809. CHILD CARE SERVICES**

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

7
8 The Texas Workforce Commission (TWC) proposes amendments to the following sections of
9 Chapter 809, relating to Child Care Services:

- 10
11 Subchapter A. General Provisions, §809.2
12 Subchapter B. General Management, §§809.18 - 809.21
13 Subchapter C. Eligibility for Child Care Services, §§809.42, 809.51, and 809.56
14 Subchapter D. Parent Rights and Responsibilities, §809.73
15 Subchapter E. Requirements to Provide Child Care, §§809.92 - 809.94, and 809.96
16 Subchapter G. Texas Rising Star Program, §§809.130 - 809.134, and 809.136
17

18 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

19 The proposed amendments to Chapter 809:

- 20 --include changes to the Texas Rising Star program based on the program's four-year review as
21 required by Texas Government Code §2308.3155(b);
22 --clarify that the eligibility period for child care during job search is for 12 months, with a three-
23 month job search period;
24 --include the requirement that the Parent Share of Cost (PSoC) cannot exceed 7 percent of the
25 family income, regardless of the number of children receiving child care services;
26 --add children with disabilities as a priority population for child care using contracted slots;
27 --remove rule provisions that expired on December 1, 2023, and remove specific dates for
28 provisions that became effective on December 1, 2023; and
29 --change "provider reimbursement" to "provider payment" throughout the rules to align with
30 §809.93, which requires that regulated child care providers (which exclude relatives) be paid
31 prospectively rather than through reimbursement.
32

33 *Texas Rising Star Four-Year Review*

34 Texas Government Code §2308.3155(b) requires a regular review of the Texas Rising Star
35 program with stakeholder input, and §809.130(e) of this chapter requires the review to take place
36 every four years.
37

38 Beginning in July 2023, TWC's Child Care and Early Learning (CC&EL) Division convened a
39 workgroup to review the guidelines. The workgroup included child care program directors from
40 around the state; early childhood advocacy organization representatives; professional
41 development providers; Local Workforce Development Board (Board) staff; and representatives
42 from TWC, the Texas Health and Human Services Commission's (HHSC's) Child Care
43 Regulation (CCR) division, the State Center for Early Childhood, and the Children's Learning
44 Institute (CLI). The workgroup presented several recommendations for modifications to the
45 Texas Rising Star guidelines.
46

1 The workgroup also recommended rule changes under Subchapter G, Texas Rising Star
2 Program. TWC considered and incorporated the following workgroup recommendations into the
3 proposed rule amendments:

4
5 --Include reference to the points thresholds for high and medium-high CCR deficiencies
6 established in the Texas Rising Star guidelines to the requirements for initial Texas Rising Star
7 certification and to the standards for probationary status.

8 --Allow Texas Rising Star certified providers to retain certification for up to six months if the
9 program undergoes a facility change and is issued an initial permit from CCR.

10
11 Additionally, as part of the Texas Rising Star Program review, CC&EL staff identified the
12 following rule provisions for amendments:

13
14 --Modify the CCR licensing review period from 12 months to 6 months.

15 --Clarify that an Entry Level designated provider may receive new referrals if it is determined
16 that the provider's licensing history will meet certification criteria by the end of the 24-month
17 Entry Level period.

18 --Make a technical correction to clarify that TWC staff, rather than the three-member
19 Commission, reviews and approves Texas Rising Star mentor education waivers.

20 --Clarify Texas Rising Star staff background checks as they relate to CCR background check
21 requirements.

22 --Remove PSoC reductions for selecting a Texas Rising Star provider.

23 24 *12-Month Eligibility Period for Child Care during Job Search*

25 The rule amendments clarify that the eligibility period for child care during job search is for 12
26 months, with a three-month job search period, as allowed under 45 Code of Federal Regulations
27 (CFR) §98.21(a)(2)(iii). TWC notes that this is not a change in policy. Current rule language in
28 §809.56 of this chapter states that eligibility for child care during job search is limited to three
29 months unless the parent becomes employed and meets the work requirements before the end of
30 the job search period. If the parent meets work requirements, child care would continue for 12
31 months, inclusive of the three-month job search period.

32
33 The amended rules retain these time frames, but the rule language is amended to clarify that the
34 child care eligibility period is for 12 months provided that the parent meets work requirements
35 within the first three months of child care.

36 37 *Capping the PSoC at 7 Percent of Family Income*

38 The amended rules include the requirement that the PSoC cannot exceed 7 percent of the family
39 income, regardless of the number of children receiving child care services. The amended
40 language complies with the recently amended Child Care Development Fund (CCDF)
41 regulations in CFR 45 §98.45(1), as published in the *Federal Register* (89 FR 15366 - 15417) on
42 March 1, 2024, with an effective date of April 30, 2024.

43 44 *Remove Expired Provisions*

45 On September 13, 2022, TWC amended Chapter 809 with certain provisions set to be effective
46 prior to December 1, 2023, and subsequently replaced by provisions set to be effective on

1 December 1, 2023. The provisions effective prior to December 1, 2023, and those set to be
2 effective on December 1, 2023, were adopted and published in the *Texas Register (47 TexReg*
3 *6437)*. The affected sections are:

- 4
- 5 --§809.18. Maintenance of a Waiting List
- 6 --§809.19. Assessing the Parent Share of Cost
- 7 --§809.20. Maximum Provider Payment Rates
- 8 --§809.93. Provider Payment
- 9

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

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

13

14 **SUBCHAPTER A. GENERAL PROVISIONS**

15 TWC proposes the following amendments to Subchapter A:

16

17 **§809.2. Definitions**

18 Section 809.2 is amended to change "provider reimbursement" to "provider payment" in the
19 definitions of "child care contractor" and "child care subsidies" to align with §809.93, which
20 requires that child care providers be paid prospectively rather than as a reimbursement.

21

22 **SUBCHAPTER B. GENERAL MANAGEMENT**

23 TWC proposes the following amendments to Subchapter B:

24

25 **§809.18. Maintenance of a Waiting List**

26 Section 809.18 is amended to remove the provisions that are no longer effective as of December
27 1, 2023, and leaves the sections that were previously adopted by the Commission with an
28 effective date of December 1, 2023.

29

30 Specifically, the rules that became effective December 1, 2023, removed the Board-determined
31 process for determining the child is potentially eligible for services and the frequency in which
32 parent information is updated and maintained. The rules also created a statewide policy to
33 require that Boards contact the parent every three months and remove the child from the waiting
34 list if the parent indicates that child care services are no longer required or does not respond to
35 the Board regarding the continued need for child care services.

36

37 **§809.19. Assessing the Parent Share of Cost**

38 Section 809.19 is amended to remove the provisions that are no longer effective as of December
39 1, 2023, and retains the sections that were previously adopted by the Commission with an
40 effective date of December 1, 2023.

41

42 Specifically, the rules that became effective December 1, 2023, stated that the PSoC amount is
43 established by TWC and determined on a sliding fee scale based on the family size and gross
44 monthly income and represented by a percentage of the state median income, or SMI.

1 The rules effective December 1, 2023, removed the requirement that Board policy include the
2 general criteria for determining affordability of the Board's PSoC, as the PSoC is no longer
3 determined or established by the Board. The rules also removed the requirement that Boards
4 have a definition of what constitutes frequent terminations and its process for assessing PSoC
5 affordability.

6
7 Similarly, because the Board no longer determines the PSoC, the rules removed the requirement
8 that Boards with frequent terminations for parent failure to pay the PSoC must reexamine their
9 PSoC and adjust it to ensure the PSoC is not a barrier to assistance.

10
11 The proposed rule amendments also remove the option for Boards to reduce the PSoC based on
12 the parent selection of Texas Rising Star program providers. The intent of this reduction was to
13 encourage parents to choose a Texas Rising Star program provider. However, because
14 participation in the Texas Rising Star program is now a requirement for all CCS providers, this
15 PSoC reduction is no longer necessary.

16
17 Additionally, the proposed rule amendments include the requirement that the PSoC cannot
18 exceed 7 percent of the family income, regardless of the number of children receiving child care
19 services. The amended language complies with the recently amended CCDF regulations in CFR
20 45 §98.45(l). The US Department of Health and Human Services published the amended
21 regulations in the *Federal Register* (89 FR 15366 - 15417) on March 1, 2024, with an effective
22 date of April 30, 2024.

23 24 **§809.20. Maximum Provider Reimbursement Rates**

25 Section 809.20 is amended to rename the section "Maximum Provider Payment Rates" and
26 remove "reimbursement" from the title and the section to align with §809.93 of this chapter,
27 which requires that regulated child care providers be paid prospectively rather than as a
28 reimbursement. This change aligns with the recently amended CCDF regulations in 45 CFR 45
29 §98.45(m), which requires states to pay providers in advance of or at the beginning of the
30 delivery of child care services.

31
32 TWC notes that unregulated relative providers will continue to be paid as a reimbursement rather
33 than prospectively. This is in accordance with the CCDF regulation language in 45 CFR 45
34 §98.45(m), which allows states to exclude certain types of providers from prospective payments
35 if paying in advance is not a generally accepted practice for that provider type. TWC contends
36 that there is no generally accepted practice of parents paying in advance for unregulated relatives
37 caring for children related to them.

38
39 This section is also amended to remove the age groups used for payments that are no longer
40 effective as of December 1, 2023, and retains the age groups that were previously adopted by the
41 Commission with an effective date of December 1, 2023.

42
43 Specifically, the rules that became effective December 1, 2023, aligned the age groups for
44 payment with the age groups defined by CCR as required by Texas Government Code
45 §2308.315. The new age groups for payment are:

- 1 --Infants ages 0 through 11 months
- 2 --Infants ages 12 through 17 months
- 3 --Toddlers ages 18 through 23 months
- 4 --Toddlers age 2 years
- 5 --Preschool age 3 years
- 6 --Preschool age 4 years
- 7 --Preschool age 5 years
- 8 --School-age 6 years and older

9

10 **§809.21. Determining the Amount of the Provider Reimbursement**

11 Section 809.21 is amended to rename the section "Determining the Amount of the Provider
12 Payment" and remove "reimbursement" from the title and the section to align with §809.93 of
13 this chapter, which requires that child care providers be paid prospectively rather than as a
14 reimbursement.

15

16 **SUBCHAPTER C. ELIGIBILITY FOR CHILD CARE SERVICES**

17 TWC proposes the following amendments to Subchapter C:

18

19 **§809.42. Eligibility Verification, Determination, and Redetermination**

20 Section 809.42(b) is amended to remove the child care during job search exception for a
21 redetermination no sooner than 12 months. This clarifies that the eligibility period for child care
22 during job search is for 12 months. Boards must not conduct a full eligibility redetermination
23 following the initial 3-month job search period described in §809.56. Boards must only verify
24 that the parent is meeting the work requirements outlined in §809.56(c).

25

26 **§809.51. Child Care during Temporary Interruptions in Work, Education, or Job Training**

27 Section 809.51(a) is amended to remove the child care during job search exception for a
28 redetermination no sooner than 12 months. This clarifies that the eligibility period for child care
29 during job search is for 12 months. Similarly, the amended language also removes the 12-month
30 redetermination exception during the 12-month eligibility period for children experiencing
31 homelessness. Section 809.52 regarding child care for children experiencing homelessness states
32 that the eligibility period is for 12 months; therefore, the exception for redetermination prior to
33 the end of the 12-month eligibility period is not necessary for children experiencing
34 homelessness.

35

36 **§809.56. Child Care during Initial Job Search**

37 Section 809.56(c) is amended to clarify that eligibility for child care during initial job search is
38 for 12 months. The 12-month eligibility period consists of an initial 3-month job search period.
39 The previous rule language stated that child care is limited to 3 months but shall continue for the
40 remainder of a 12-month eligibility period if the parent meets work requirements before the end
41 of the 3-month job search period. The amended language shifts the emphasis of the eligibility
42 period from a 3-month initial period within a 12-month period that is contingent upon work
43 requirements to a full 12-month eligibility period, with a 3-month initial job search period. The
44 continuation of child care for the remainder of the 12-month eligibility period will continue to be
45 contingent upon the parent meeting work requirements in §809.56(c). TWC makes this change to
46 demonstrate compliance more fully with 45 CFR §98.21(a)(2)(iii).

1
2 **SUBCHAPTER D. PARENT RIGHTS AND RESPONSIBILITIES**

3 TWC proposes the following amendments to Subchapter D:

4
5 **§809.73. Parent Reporting Requirements**

6 Section 809.73(a) is amended to remove the references to child care during initial job search as a
7 separate eligibility period from the general 12-month eligibility period described in §809.41.

8 This change clarifies that the eligibility period for child care during job search is for 12 months
9 and is aligned with the general 12-month eligibility period for child care services.

10
11 **SUBCHAPTER E. REQUIREMENTS TO PROVIDE CHILD CARE**

12 TWC proposes the following amendments to Subchapter E:

13
14 **§809.92. Provider Responsibilities and Reporting Requirements**

15 Section 809.92 is amended to change "reimbursement" to "payment" to align with §809.93,
16 which requires that child care providers be paid prospectively rather than as a reimbursement.

17
18 **§809.93. Provider Reimbursement**

19 Section 809.93 is amended to rename the section from "Provider Reimbursement" to "Provider
20 Payment" and remove "reimbursement" from the section to align with the requirement that child
21 care providers be paid prospectively rather than through reimbursement.

22
23 Section 809.93 is amended to remove the effective date of December 1, 2023, specific to
24 §809.93(f) relating to the requirement that Boards pay regulated child care providers
25 prospectively every two weeks based on the enrollment authorization.

26
27 **§809.94. Providers Placed on Corrective or Adverse Action by Child Care Regulation**

28 Section 809.94 is amended to remove "reimbursement" from the language to align with §809.93
29 requiring providers be paid prospectively rather than through reimbursement.

30
31 **§809.96. Contracted Slots Agreements**

32 Section 809.96 is amended to add children with disabilities as a priority population that can be
33 served using contracted slots agreements. The amended language complies with the recently
34 amended CCDF regulations in CFR 45 §98.30(b), which requires states to increase the use of
35 grants or contracts for the delivery of child care services, including at a minimum for children in
36 underserved areas (for example, in child care deserts), for infants and toddlers, and for children
37 with disabilities.

38
39 TWC's current rules at §809.96(e)(1) already provides for contracted slots in child care deserts
40 and underserved areas, and §809.96(e)(4) provides for contracted slots for infant and toddler
41 child care.

42
43 **SUBCHAPTER G. TEXAS RISING STAR PROGRAM**

44 TWC proposes the following amendments to Subchapter G:

45
46 **§809.130. Short Title and Purpose**

1 Section 809.130(d)(4) is amended to state that the Texas Rising Star guidelines include a
2 description of high and medium-high CCR deficiencies points thresholds required in §809.132
3 relating to CCR deficiencies that impact the certification status of a Texas Rising Star certified
4 provider.

5
6 **§809.131. Requirements for the Texas Rising Star Program**

7 Section 809.131(a) is amended to clarify that this section applies to a child care provider's initial
8 certification under the Texas Rising Star Program. Specifically, the requirement for a permanent
9 (non-expiring) license or registration is a requirement for initial certification. A Texas Rising
10 Star certified provider's certification will not be affected if the provider changes its operations
11 that requires CCR to issue an initial license or registration such as changes in ownership or
12 location coupled with changes in administrative or program staff and previous noncompliance
13 with minimum standards.

14
15 Section 809.131(a)(2) is amended to include a required points threshold for high and medium-
16 high CCR deficiencies for a provider to meet Texas Rising Star certification requirements. TWC
17 makes this change to require initial certification to include a CCR deficiency points threshold
18 similar to the requirement for an Entry Level Designation.

19
20 Section 809.131(a)(2) is also amended to reduce the Texas Rising Star review period of CCR
21 licensing deficiencies from 12 months to 6 months. This change will support the review of a
22 child care provider's most recent licensing deficiencies to more accurately describe the current
23 status of quality of care being provided. This change also aligns with the current 6-month CCR
24 deficiency history for probationary and suspension periods.

25
26 Section 809.131(b)(2) is amended to clarify the current practice that the points threshold for
27 Entry Level Designation is described in the Texas Rising Star guidelines. Section 809.131(d)(2)
28 is also amended to reduce the licensing deficiency period from 12 months to 6 months.

29
30 Section 809.131(e) is amended to clarify that beginning on the 18th month of Entry Level
31 designation, the provider's licensing history will be reviewed and if it is determined that the
32 provider will not be eligible by the end of the 24th month based on the most recent 6-month
33 licensing history, the provider will not be able to receive referrals for new families. TWC has
34 noted instances in which a provider would be eligible for certification following the 18th month
35 but was not allowed to receive new referrals because of the current rule language. This rule
36 change will allow a provider to receive new referrals if it is determined that the provider's
37 licensing history will meet certification criteria by the end of the 24-month Entry Level period.

38
39 **§809.132. Impacts on Texas Rising Star Certification**

40 Section 809.132(a)(4) is amended to remove references to the number of high or medium-high
41 CCR deficiencies that would place a Texas Rising Star certified provider on suspension status.
42 The amended language states that a certified provider is placed on suspension status if the CCR
43 deficiency points exceed the probationary status points threshold described in the Texas Rising
44 Star guidelines.

1 Section 809.132(b) is amended to clarify that a provider placed on probation due to a "star level
2 drop" will be reinstated at the provider's previous star level if CCR does not cite any additional
3 specified star-level drop deficiencies during the probationary period. The previous rule language
4 in §809.132(e) did not specify that the additional deficiencies must be related to the deficiencies
5 that placed the provider on probation due to a star level drop. TWC makes this change to clarify
6 that the additional deficiencies are related to the star level drop probationary deficiencies.

7
8 Similarly, §809.132(c) is amended to clarify that providers on probationary status due to
9 specified probationary deficiencies and subsequently placed on a second probationary period that
10 also included a star level drop will be reinstated at the provider's previous star level if CCR does
11 not cite any additional probationary deficiencies during the second probationary period. The
12 previous rule language in §809.132(e) that established this requirement did not specify that the
13 additional deficiencies must be related to the deficiencies that placed the provider on probation.

14
15 Section 809.132(d) is amended to remove the total number of high or medium-high deficiencies
16 required to place a certified provider on a probationary period. The amended language adds that
17 certified providers whose total points for high or medium-high deficiencies fall within the points
18 threshold described in the Texas Rising Star guidelines will be placed on a six-month
19 probationary period.

20
21 Additionally, as with §809.132(c), §809.132(d) is amended to clarify that providers on a second
22 probationary period that also included a star level drop will be reinstated at the provider's
23 previous star level if CCR does not cite any high or medium-high deficiencies during the second
24 probationary period. The previous rule language in §809.132(e) that established this requirement
25 did not specify that the additional deficiencies must be related to the deficiencies that placed the
26 provider on probation.

27
28 Section 809.132(b) through (d) is amended to reduce the licensing deficiency period from 12
29 months to 6 months.

30
31 TWC also makes technical changes in §809.132(c) and (d) to align applicable language in these
32 two subsections.

33
34 TWC removes the previous §809.132(e), which stated that providers not on suspension status
35 with a star level drop shall be reinstated at the former star level if no citations in subsections (b)
36 through (d) are cited within six months. As explained previously, this language did not specify
37 which deficiencies would be applicable to reinstating the provider's star level; thus, TWC has
38 amended subsections (b) through (d) to clarify the process for reinstating a star level based on the
39 deficiencies specific to each level of probationary status.

40
41 Section 809.132 is also amended to change "reimbursement" to "payment" to align with §809.93,
42 which requires that providers be paid prospectively and not as a reimbursement.

43
44 **§809.133. Application and Assessments for Texas Rising Star Certification**

45 Section 809.133 is amended to remove subsection (h), which requires Boards to be responsible
46 for the tasks assigned to the Texas Rising Star assessor entity, within their respective local

1 workforce development areas, until the assessor entity is procured and designated by TWC.
2 TWC has designated an assessor entity and this provision is no longer applicable.

3
4 **§809.134. Minimum Qualifications for Texas Rising Star Staff**

5 Section 809.134(a) is amended to modify the background check requirement for Texas Rising
6 Star staff. The intent of the amended language is to clarify that the background check does not
7 need to be conducted using the same procedures and criteria used by CCR to conduct
8 background checks for child care providers and caregivers as required by Chapter 745 of the
9 HHSC child care regulations, which requires a Federal Bureau of Investigation fingerprint check.
10 The background checks required under Chapter 745 are designed for caregivers and individuals
11 who have unsupervised contact with children in a child care facility. Texas Rising Star staff do
12 not meet this standard and are not required to undergo this type of background check.

13
14 However, TWC continues to emphasize that Texas Rising Star staff should undergo a standard
15 background check as part of the basic requirements for employment. The amended language
16 requires the Board and the TWC's designated Texas Rising Star assessment entity to conduct a
17 background check on each staff member prior to hiring and again every five years.

18
19 Section 809.134(d) is amended to clarify that TWC, rather than the three-member Commission,
20 may grant the waiver regarding the minimum education requirements for Texas Rising Star
21 mentors.

22
23 **§809.136. Roles and Responsibilities of Texas Rising Star Staff**

24 Section 809.136 is amended to remove the requirements for dual-role staff (that is, individuals
25 who perform the functions of a Texas Rising Star mentor and assessor). With the separation of
26 mentors as Board staff and assessors as staff of the designated assessment entity, the system will
27 no longer have individuals performing dual roles, making these requirements unnecessary.

28
29 **PART III. IMPACT STATEMENTS**

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

32
33 There are no additional estimated costs to the state and to local governments expected as a result
34 of enforcing or administering the rules.

35
36 There are no estimated cost reductions to the state and to local governments as a result of
37 enforcing or administering the rules.

38
39 There are no estimated losses or increases in revenue to the state or to local governments as a
40 result of enforcing or administering the rules.

41
42 There are no foreseeable implications relating to costs or revenue of the state or local
43 governments as a result of enforcing or administering the rules.

44
45 There are no anticipated economic costs to individuals required to comply with the rules.
46

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

3
4 Based on the analyses required by Texas Government Code §2001.024, TWC has determined
5 that the requirement to repeal or amend a rule, as required by Texas Government Code
6 §2001.0045, does not apply to this rulemaking.

7
8 Takings Impact Assessment

9 Under Texas Government Code §2007.002(5), "taking" means a governmental action that affects
10 private real property, in whole or in part or temporarily or permanently, in a manner that requires
11 the governmental entity to compensate the private real property owner as provided by the Fifth
12 and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or §19,
13 Article I, or restricts or limits the owner's right to the property that would otherwise exist in the
14 absence of the governmental action, and is the producing cause of a reduction of at least 25
15 percent in the market value of the affected private real property, determined by comparing the
16 market value of the property as if the governmental action is not in effect and the market value of
17 the property determined as if the governmental action is in effect. TWC completed a Takings
18 Impact Assessment for the proposed rulemaking action under Texas Government Code,
19 §2007.043. The primary purpose of this proposed rulemaking action, as discussed elsewhere in
20 this preamble, is to remove rule provisions that expired on December 1, 2023, and remove
21 specific dates in provisions that became effective on December 1, 2023.

22
23 The proposed rulemaking action will not create any additional burden on private real property or
24 affect private real property in a manner that would require compensation to private real property
25 owners under the US Constitution or the Texas Constitution. The proposal also will not affect
26 private real property in a manner that restricts or limits an owner's right to the property that
27 would otherwise exist in the absence of the governmental action. Therefore, the proposed
28 rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

29
30 Government Growth Impact Statement

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

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

40
41 Economic Impact Statement and Regulatory Flexibility Analysis

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

45
46 Mariana Vega, Director, Labor Market Information, has determined that there is not a significant

1 negative impact upon employment conditions in the state as a result of the rules.

2
3 Reagan Miller, Director, Child Care & Early Learning, has determined that for each year of the
4 first five years the rules are in effect, the public benefit anticipated as a result of enforcing the
5 proposed rules will be to improve program quality, efficiency, and operational consistency.

6
7 TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be
8 within TWC's legal authority to adopt.

9
10 **PART IV. COORDINATION ACTIVITIES**

11 The Texas Rising Star 4-Year review involves the formation of a stakeholder workgroup
12 consisting of Boards, child care advocates, and child care providers. CC&EL conducted
13 workgroup meetings from August to December 2023 to get input on recommended changes to
14 the Texas Rising Star program. Further, CC&EL conducted five public stakeholder meetings in
15 February 2024 to solicit input on the Texas Rising Star program. The meetings were held in
16 Abilene, Round Rock, Dallas, Houston, and McAllen.

17
18 CC&EL informed stakeholders of local stakeholder meetings via email outreach by the Boards.
19 CC&EL also received input via TRS4YearReview@twc.texas.gov.

20
21 Information on the potential changes and recommendations from the workgroup will be posted
22 at: <https://www.twc.texas.gov/programs/texas-rising-star/2023-workgroup>. Information will also
23 be provided at the stakeholder meetings.

24
25 **PART V. PUBLIC COMMENTS**

26 Comments on the proposed rules may be submitted to TWCPolicyComments@twc.texas.gov
27 and must be received no later than June 17, 2024.

28
29 **PART VI. STATUTORY AUTHORITY**

30 The rules are proposed under:

- 31 --Texas Government Code §2308.3155(b), which provides TWC with the specific authority to
32 adopt rules to administer the Texas Rising Star Program;
33 --Texas Labor Code §301.0015(a)(6) and §302.002(d), which provide TWC with the general
34 authority to adopt, amend, or repeal such rules as it deems necessary for the effective
35 administration of TWC services and activities.

36
37 The proposed rules relate to Title 4, Texas Labor Code, Chapter 302, and Title 10, Texas
38 Government Code, Chapter 2308.

1 **CHAPTER 809. CHILD CARE SERVICES**

2
3 **SUBCHAPTER A. GENERAL PROVISIONS**

4
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 demonstrated through continued enrollment in the program upon
19 eligibility redetermination as described in §809.42 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 provider payment reimbursement process related to child care, as well as
28 contractors involved in the funding of quality improvement activities as
29 described in §809.16 of this chapter.
30
31 (4) Child Care Desert--An area described in Texas Labor Code, §302.0461 in
32 which the number of children under age six with working parents is at least
33 three times greater than the capacity of licensed child care providers in the
34 area, based on data published annually by the Commission.
35
36 (5) Child Care Regulation (CCR)--Division in the Texas Health and Human
37 Services Commission responsible for protecting the health, safety, and well-
38 being of children who attend or reside in regulated child care facilities and
39 homes.
40
41 (6) Child care services--Child care subsidies and quality improvement activities
42 funded by the Commission.
43
44 (7) Child care subsidies--Commission-funded child care payments reimbursements
45 to an eligible child care provider for the direct care of an eligible child.
46

- 1 (8) Child experiencing homelessness--A child who is homeless, as defined in the
2 McKinney-Vento Act (42 USC 11434(a)), Subtitle VII-B, §725.
3
- 4 (9) Child with disabilities--A child who has a physical or mental impairment that
5 substantially limits one or more major life activities, has a record of such an
6 impairment, or is regarded as having such an impairment. Major life activities
7 include, but are not limited to, caring for oneself; performing manual tasks;
8 walking; hearing; seeing, speaking, or breathing; learning; and working.
9
- 10 (10) Educational program--A program that leads to:
11
12 (A) a high school diploma;
13
14 (B) a Certificate of High School Equivalency; or
15
16 (C) an undergraduate degree from an institution of higher education.
17
- 18 (11) Excessive unexplained absences--More than 40 unexplained absences within a
19 12-month eligibility period as described in §809.78 of this chapter.
20
- 21 (12) Family--Two or more individuals related by blood, marriage, or decree of
22 court, who are living in a single residence and are included in one or more of
23 the following categories:
24
25 (A) Two individuals, married--including by common-law, and household
26 dependents; or
27
28 (B) A parent and household dependents.
29
- 30 (13) Household dependent--An individual living in the household who is:
31
32 (A) an adult considered a dependent of the parent for income tax purposes;
33
34 (B) a child of a teen parent; or
35
36 (C) a child or other minor living in the household who is the responsibility of
37 the parent.
38
- 39 (14) Improper payments--Any payment of Child Care Development Fund (CCDF)
40 funds that should not have been made or that was made in an incorrect amount
41 (including overpayments and underpayments) under statutory, contractual,
42 administrative, or other legally applicable requirements governing the
43 administration of CCDF grant funds and includes payments:
44
45 (A) to an ineligible recipient;
46

1 (B) for an ineligible service;

2
3 (C) for any duplicate payment; and

4
5 (D) for services not received.

6
7 (15) Job training program--A program that provides training or instruction leading
8 to:

9
10 (A) basic literacy;

11
12 (B) English proficiency;

13
14 (C) an occupational or professional certification or license; or

15
16 (D) the acquisition of technical skills, knowledge, and abilities specific to an
17 occupation.

18
19 (16) Listed family home--A family home, other than the eligible child's own
20 residence, that is listed, but not licensed or registered with, CCR pursuant to
21 Texas Human Resources Code, §42.052(c).

22
23 (17) Military deployment--The temporary duty assignment away from the
24 permanent military installation or place of residence for reserve components of
25 the single military parent or the dual military parents. This includes deployed
26 parents in the regular military, military reserves, or National Guard.

27
28 (18) Parent--An individual who is responsible for the care and supervision of a
29 child and is identified as the child's natural parent, adoptive parent, stepparent,
30 legal guardian, or person standing in loco parentis (as determined in
31 accordance with Commission policies and procedures). Unless otherwise
32 indicated, the term applies to a single parent or both parents.

33
34 (19) Protective services--Services provided when a child:

35
36 (A) is at risk of abuse or neglect in the immediate or short-term future and
37 the child's family cannot or will not protect the child without Texas
38 Department of Family and Protective Services (DFPS) Child Protective
39 Services (CPS) intervention;

40
41 (B) is in the managing conservatorship of DFPS and residing with a relative
42 or a foster parent; or

43
44 (C) has been provided with protective services by DFPS within the prior six
45 months and requires services to ensure the stability of the family.
46

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

- (A) designated as an Entry Level Provider;
- (B) certified as a Two-Star Provider;
- (C) certified as a Three-Star Provider; or
- (D) certified as a Four-Star Provider.

(27) Working--Working is defined as:

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

SUBCHAPTER B. GENERAL MANAGEMENT

§809.18. Maintenance of a Waiting List.

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

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

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

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

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

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

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

1 (a)(1) A Board shall ensure that a list of parents and children waiting for child care
2 services, because of the lack of funding or lack of providers, is maintained and
3 available to the Commission upon request.
4

5 (b)(2) A Board shall ensure that the child is potentially eligible for child care services
6 prior to placing the child on the waiting list.
7

8 (c)(3) A Board shall exempt children from the waiting list who are directly referred
9 from a recognized pre-K or HS/EHS partnership, as described in §809.22 of this
10 chapter, to a child care provider to receive services in the contracted partnership
11 program subject to the availability of funding and the availability of subsidized slots
12 at the partnership site.
13

14 (d)(4) A Board shall contact the parent every three months and shall remove the child
15 from the waiting list if the parent indicates that child care services are no longer
16 required or does not respond to the Board regarding the continued need for child care
17 services.
18

19 §809.19. Assessing the Parent Share of Cost. 20

21 ~~(a) The following provisions are effective prior to December 1, 2023:~~
22

23 ~~(1) For child care funds allocated by the Commission pursuant to its allocation~~
24 ~~rules (generally, Chapter 800, Subchapter B of this title (relating to~~
25 ~~Allocations), and specifically, §800.58 of this title (relating to Child Care)),~~
26 ~~including local public transferred funds and local private donated funds, as~~
27 ~~provided in §809.17 of this subchapter, the following shall apply:~~
28

29 ~~(A) A Board shall set a parent share of cost policy that assesses the parent~~
30 ~~share of cost in a manner that results in the parent share of cost:~~
31

32 ~~(i) being assessed to all parents, except in instances when an~~
33 ~~exemption under subparagraph (B) of this paragraph applies;~~
34

35 ~~(ii) being an amount determined by a sliding fee scale based on the~~
36 ~~family's size and gross monthly income, including a possible~~
37 ~~reevaluation of the sliding fee scale if there are frequent~~
38 ~~terminations for lack of payment pursuant to paragraph (4) of this~~
39 ~~subsection, which also may consider the number of children in~~
40 ~~care;~~
41

42 ~~(iii) being an amount that is affordable and does not result in a barrier~~
43 ~~to families receiving assistance;~~
44

45 ~~(iv) being assessed only at the following times:~~
46

- ~~(I) initial eligibility determination;~~
- ~~(II) 12-month eligibility redetermination;~~
- ~~(III) upon the addition of a child in care;~~
- ~~(IV) upon a parent's report of a change in income, family size, or number of children in care that would result in a reduced parent share of cost assessment; and~~
- ~~(V) upon resumption of work, job training, or education activities following temporary changes described in §809.51(a)(2) of this chapter, and upon resumption of work, job training, or education activities during the three-month continuation of care period described in §809.51(c) of this chapter; and~~
- ~~(v) not increasing above the amount assessed at initial eligibility determination or at the 12-month eligibility redetermination based on the factor in clause (ii) of this subparagraph, except upon the addition of a child in care as described in clause (iv)(III) of this subparagraph.~~

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

- ~~(i) Parents who are participating in Choices or who are in Choices child care described in §809.45 of this chapter;~~
- ~~(ii) Parents who are participating in SNAP E&T services or who are in SNAP E&T child care described in §809.47 of this chapter;~~
- ~~(iii) Parents of a child receiving Child Care for Children Experiencing Homelessness as described in §809.52 of this chapter; or~~
- ~~(iv) Parents who have children who are receiving protective services child care pursuant to §809.49 and §809.54(e) of this chapter, unless DFPS assesses the parent share of cost.~~

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

~~(2) A Board shall establish a policy stating whether or not the Board will reimburse providers when parents fail to pay the parent share of cost. If the Board does not reimburse providers under the adopted policy, the Board may establish a policy~~

1 requiring the parent pay the provider before the family can be redetermined
2 eligible for future child care services.

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

7
8 ~~(A) a requirement to evaluate and document each family's financial situation
9 for extenuating circumstances that may affect affordability of the
10 assessed parent share of cost pursuant to subparagraph (B) of this
11 paragraph, and a possible temporary reduction pursuant to paragraph (5)
12 of this subsection before the Board or its child care contractor may
13 terminate care under this section;~~

14
15 ~~(B) general criteria for determining affordability of a Board's parent share of
16 cost, and a process to identify and assess the circumstances that may
17 jeopardize a family's self-sufficiency under paragraph (5) of this
18 subsection;~~

19
20 ~~(C) maintenance of a list of all terminations due to failure to pay the parent
21 share of cost, for use when conducting evaluations of affordability, as
22 required under subparagraph (D) of this paragraph; and~~

23
24 ~~(D) the Board's definition of what constitutes frequent terminations and its
25 process for assessing the general affordability of the Board's parent share
26 of cost schedule, pursuant to paragraph (4) of this subsection.~~

27
28 ~~(4) A Board with frequent terminations of care for lack of payment of the parent
29 share of cost must reexamine its sliding fee scale and adjust it to ensure that fees
30 are not a barrier to assistance for families at certain income levels.~~

31
32 ~~(5) The Board or its child care contractor may review the assessed parent share of
33 cost for a possible temporary reduction if there are extenuating circumstances
34 that jeopardize a family's self-sufficiency. The Board or its child care contractor
35 may temporarily reduce the assessed parent share of cost if warranted by these
36 circumstances. Following the temporary reduction, the parent share of cost
37 amount immediately prior to the reduction shall be reinstated.~~

38
39 ~~(6) If the parent is not covered by an exemption as specified in paragraph (1)(B) of
40 this subsection, then the Board or its child care contractor shall not waive the
41 assessed parent share of cost under any circumstances.~~

42
43 ~~(7) If the parent share of cost, based on family income and family size, is calculated
44 to be zero, then the Board or its child care contractor shall not charge the parent
45 a minimum share of cost amount.~~

1 ~~(8) A Board may establish a policy to reduce the parent share of cost amount~~
2 ~~assessed pursuant to paragraph (1)(A)(ii) of this subsection upon the parent's~~
3 ~~selection of a Texas Rising Star certified provider. Such Board policy shall~~
4 ~~ensure:~~

5
6 ~~(A) that the parent continues to receive the reduction if:~~

7
8 ~~(i) the Texas Rising Star provider loses Texas Rising Star~~
9 ~~certification; or~~

10
11 ~~(ii) the parent moves or changes employment within the workforce~~
12 ~~area and no Texas Rising Star certified providers are available to~~
13 ~~meet the needs of the parent's changed circumstances; and~~

14
15 ~~(B) the parent no longer receives the reduction if the parent voluntarily~~
16 ~~transfers the child from a Texas Rising Star certified provider to a~~
17 ~~non-Texas Rising Star certified provider.~~

18
19 ~~(9) A Board may establish a policy to reduce the parent share of cost amount~~
20 ~~assessed pursuant to paragraph (1)(A)(ii) of this subsection upon the child's~~
21 ~~referral for part-time or blended care. Such Board policy shall ensure that:~~

22
23 ~~(A) the parent no longer receives the reduction if the referral is changed to~~
24 ~~full-time care; and~~

25
26 ~~(B) a parent who qualifies for a reduction in parent share of cost for both~~
27 ~~selecting a Texas Rising Star certified provider (as defined in paragraph~~
28 ~~(8) of this subsection) and a child's part-time or blended care referral will~~
29 ~~receive the greater of the two discounts.~~

30
31 ~~(b) The following provisions are effective on December 1, 2023:~~

32
33 ~~(a)(1)~~ For child care funds allocated by the Commission pursuant to its allocation rules
34 (generally, Chapter 800, Subchapter B of this title (relating to Allocations), and
35 specifically, §800.58 of this title (relating to Child Care)), including local public
36 transferred funds and local private donated funds, as provided in §809.17 of this
37 subchapter, the following shall apply:

38
39 ~~(1)(A)~~ The parent share of cost shall ~~be~~:

40
41 ~~(A)(i)~~ ~~be~~ assessed to all parents, except in instances when an exemption
42 under ~~paragraph (3) of this subsection~~ ~~subparagraph (C) of this paragraph~~
43 applies; and

44
45 ~~(B)(ii)~~ ~~be~~ established by the Commission and determined by a sliding fee
46 scale based on the family's size and gross monthly income determined in

1 §809.44 of this chapter and as represented by a percentage of the state
2 median income (SMI) up to 85 percent SMI; and

3
4 (C) not exceed 7 percent of the family income, regardless of the number of
5 children receiving child care services.

6
7 ~~(2)(B)~~ A Board shall assess the parent share of cost in accordance with subsection
8 (a)(1)(B) of this section ~~subparagraph (A)(ii) of this paragraph~~ and in a
9 manner that results in the parent share of cost:

10
11 (A)(i) being assessed only at the following times:

12
13 (i)(i) initial eligibility determination;

14
15 (ii)(ii) 12-month eligibility redetermination;

16
17 (iii)(iii) upon the addition of a child in care;

18
19 (iv)(iv) upon a parent's report of a change in income, family size, or
20 number of children in care that would result in a reduced parent share
21 of cost assessment; and

22
23 (v)(v) upon resumption of work, job training, or education activities
24 following temporary changes described in §809.51(a) of this chapter,
25 and upon resumption of work, job training, or education activities
26 during the three-month continuation of care period described in
27 §809.51(c) of this chapter; and

28
29 (B)(ii) not increasing above the amount assessed at initial eligibility
30 determination or at the 12-month eligibility redetermination, except
31 upon the addition of a child in care as described in clause (A)(iii) of this
32 paragraph ~~subclause (i)(III) of this subparagraph.~~

33
34 ~~(3)(C)~~ Parents who are one or more of the following are exempt from paying the
35 parent share of cost:

36
37 (A)(i) Parents who are participating in Choices or who are in Choices child
38 care described in §809.45 of this chapter;

39
40 (B)(ii) Parents who are participating in SNAP E&T services or who are in
41 SNAP E&T child care described in §809.47 of this chapter;

42
43 (C)(iii) Parents of a child receiving Child Care for Children Experiencing
44 Homelessness as described in §809.52 of this chapter; or

45
46 (D)(iv) Parents who have children who are receiving protective services child

1 care pursuant to §809.49 and §809.54(c) of this chapter, unless DFPS
2 assesses the parent share of cost.
3

4 ~~(4)(D)~~ Teen parents who are not covered under exemptions listed in [paragraph \(3\)](#)
5 [of this section](#) ~~subparagraph (C) of this paragraph~~ shall be assessed a parent
6 share of cost. The teen parent's share of cost is based solely on the teen
7 parent's income and size of the teen's family as defined in §809.2 of this
8 chapter.
9

10 ~~(b)(2)~~ A Board shall establish a policy stating whether or not the Board will [pay](#)
11 ~~reimburse~~ providers when parents fail to pay the parent share of cost. If the Board
12 does not [pay reimburse](#) providers under the adopted policy, the Board may
13 establish a policy requiring the parent pay the provider before the family can be
14 redetermined eligible for future child care services.
15

16 ~~(c)(3)~~ A Board shall establish a policy regarding termination of child care services
17 within a 12-month eligibility period when a parent fails to pay the parent share of
18 cost. The Board's policy must include:
19

20 ~~(1)(A)~~ a requirement to evaluate and document each family's financial
21 situation for extenuating circumstances that may affect affordability of
22 the assessed parent share of cost pursuant to [paragraph \(2\) of this](#)
23 [subsection](#) ~~subparagraph (B) of this paragraph~~, and a possible temporary
24 reduction pursuant to [subsection \(d\) of this section](#) ~~paragraph (4)~~ of this
25 subsection before the Board or its child care contractor may terminate
26 care under this section;
27

28 ~~(2)(B)~~ a process to identify and assess the circumstances that may jeopardize
29 a family's self-sufficiency under [subsection \(d\) of this section](#) ~~paragraph~~
30 ~~(4) of this subsection~~; and
31

32 ~~(3)(C)~~ maintenance of a list of all terminations due to failure to pay the
33 parent share of cost.
34

35 ~~(d)(4)~~ The Board or its child care contractor may review the assessed parent share of
36 cost for a possible temporary reduction if there are extenuating circumstances that
37 jeopardize a family's self-sufficiency. The Board or its child care contractor may
38 temporarily reduce the assessed parent share of cost if warranted by these
39 circumstances. Following the temporary reduction, the parent share of cost amount
40 immediately prior to the reduction shall be reinstated.
41

42 ~~(e)(5)~~ If the parent is not covered by an exemption as specified in [subsection \(a\)\(3\) of](#)
43 [this section](#) ~~paragraph (1)(C) of this subsection~~, then the Board or its child care
44 contractor shall not waive the assessed parent share of cost under any
45 circumstances.
46

1 ~~(f)(6)~~ If the parent share of cost, based on family income and family size, is calculated
2 to be zero, then the Board or its child care contractor shall not charge the parent a
3 minimum share of cost amount.
4

5 ~~(7) A Board may establish a policy to reduce the parent share of cost amount assessed~~
6 ~~pursuant to paragraph (1)(A) of this subsection upon the parent's selection of a~~
7 ~~Texas Rising Star certified provider. Such Board policy shall ensure:~~
8

9 ~~(A) that the parent continues to receive the reduction if:~~

10 ~~(i) the Texas Rising Star provider loses Texas Rising Star certification; or~~

11 ~~(ii) the parent moves or changes employment within the workforce area and no~~
12 ~~Texas Rising Star certified providers are available to meet the needs of the~~
13 ~~parent's changed circumstances; and~~
14

15 ~~(B) the parent no longer receives the reduction if the parent voluntarily transfers~~
16 ~~the child from a Texas Rising Star certified provider to a non-Texas Rising~~
17 ~~Star certified provider.~~
18
19
20

21 ~~(g)(8)~~ A Board may establish a policy to reduce the parent share of cost amount
22 assessed pursuant to subsection (a)(1) paragraph (1)(A) of this subsection upon the
23 child's referral for part-time or blended care. Such Board policy shall ensure that the
24 parent no longer receives the reduction if the referral is changed to full-time care.
25

26 ~~(A) parent no longer receives the reduction if the referral is changed to full-~~
27 ~~time care; and~~
28

29 ~~(B) a parent who qualifies for a reduction in parent share of cost for both~~
30 ~~selecting a Texas Rising Star certified provider (as defined in paragraph~~
31 ~~(7) of this subsection) and a child's part-time or blended care referral will~~
32 ~~receive the greater of the two discounts.~~
33

34 **§809.20. Maximum Provider Payment Reimbursement Rates.**
35

36 (a) Based on local factors, including a market rate survey provided by the Commission,
37 a Board shall establish maximum provider payment reimbursement rates for child
38 care subsidies at or above a level established by the Commission to ensure that the
39 rates provide equal access to child care in the local market and in a manner
40 consistent with state and federal statutes and regulations governing child care. At a
41 minimum, Boards shall establish provider payment reimbursement rates for full-day
42 and part-day units of service, as described in §809.93(f) of this chapter, for the
43 following:
44

45 (1) Provider types:
46

- (A) Licensed child care centers, including before- or after-school programs and school-age programs, as defined by CCR;
- (B) Licensed child care homes as defined by CCR;
- (C) Registered child care homes as defined by CCR; and
- (D) Relative child care providers as defined in §809.2 of this chapter.

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

- ~~(A) Infants age 0 to 17 months;~~
- ~~(B) Toddlers age 18 to 35 months;~~
- ~~(C) Preschool age children from 36 to 71 months; and~~
- ~~(D) School age children 72 months and older.~~

~~(3)~~ (2) Age groups in each provider type ~~effective December 1, 2023:~~

- (A) Infants ages 0 through 11 months;
- (B) Infants ages 12 through 17 months;
- (C) Toddlers ages 18 through 23 months;
- (D) Toddlers age 2 years;
- (E) Preschool age 3 years;
- (F) Preschool age 4 years;
- (G) Preschool age 5 years; and
- (H) School-age 6 years and older.

(b) A Board shall establish enhanced payment ~~reimbursement~~ rates:

- (1) for all age groups at certified Texas Rising Star provider facilities; and
- (2) only for infant, toddler, and preschool-age children at child care providers that participate in integrated school readiness models for those age groups pursuant to Texas Education Code, §29.160.

(c) The minimum enhanced payment ~~reimbursement~~ rates established under subsection

1 (b) of this section shall be greater than the maximum rate established for providers
2 not meeting the requirements of subsection (b) of this section for the same category
3 of care up to, but not to exceed, the provider's published rate. The maximum rate
4 must be at least:

5
6 (1) 5 percent greater for a:

7
8 (A) certified Two-Star Provider; or

9
10 (B) child care provider meeting the requirements of subsection (b)(2) of this
11 section;

12
13 (2) 7 percent greater for a certified Three-Star Provider; and

14
15 (3) 9 percent greater for a certified Four-Star Provider.

16
17 (d) Boards may establish a higher enhanced payment reimbursement rate than those
18 specified in subsection (c) of this section for certified Texas Rising Star providers, as
19 long as there is a minimum 2 percentage point difference between each star level.

20
21 (e) A Board or its child care contractor shall ensure that providers that are paid
22 reimbursed for additional staff or equipment needed to assist in the care of a child
23 with disabilities are paid a rate up to 190 percent of the provider's payment
24 reimbursement rate for a child of that same age. The higher rate shall take into
25 consideration the estimated cost of the additional staff or equipment needed by a
26 child with disabilities. The Board shall ensure that a professional, who is familiar
27 with assessing the needs of children with disabilities, certifies the need for the higher
28 payment reimbursement rate described in this subsection.

29
30 (f) The Board shall determine whether to pay reimburse providers that offer
31 transportation as long as the combined total of the provider's published rate, plus the
32 transportation rate, is subject to the maximum payment reimbursement rate
33 established in subsection (a) of this section.

34
35 (g) A Board may establish a higher enhanced payment reimbursement rate for
36 nontraditional hours, as defined by the Board.

37
38 **§809.21. Determining the Amount of the Provider PaymentReimbursement.**

39
40 (a) The actual payment reimbursement that the Board or the Board's child care contractor
41 pays to the provider shall be the Board's maximum daily rate or the provider's
42 published daily rate, whichever is lower, less the following amounts:

43
44 (1) The parent share of cost assessed and adjusted when the parent share of cost is
45 reduced; and
46

1 (2) Any child care funds received by the parent from other public or private
2 entities.

3
4 (b) A Board or its child care contractor shall ensure that the provider's published daily
5 rates are calculated according to Commission guidance and include the provider's
6 enrollment fees, supply fees, and activity fees.
7

8 **SUBCHAPTER C. ELIGIBILITY FOR CHILD CARE SERVICES**

9 **§809.42. Eligibility Verification, Determination, and Redetermination.**

10
11
12 (a) A Board shall ensure that its child care contractor verifies all eligibility requirements
13 for child care services prior to authorizing child care.
14

15 (b) A Board shall ensure that eligibility for child care services shall be redetermined no
16 sooner than 12 months following the initial determination or most recent
17 redetermination, ~~except for Child Care during Job Search as described in §809.56 of~~
18 ~~this chapter.~~
19

20 **§809.51. Child Care during Interruptions in Work, Education, or Job Training.**

21
22 (a) ~~A child meeting~~ ~~Except for a child experiencing homelessness, as described in~~
23 ~~§809.52 of this chapter, and for child care during job search, as described in §809.56~~
24 ~~of this chapter, if the child met~~ all of the applicable eligibility requirements for child
25 care services in this subchapter on the date of the most recent eligibility
26 determination or redetermination, the child shall be considered to be eligible and will
27 receive services during the 12-month eligibility period described in §809.42 of this
28 chapter, regardless of any:
29

30 (1) change in family income, if that family income does not exceed 85 percent of
31 SMI for a family of the same size; or
32

33 (2) temporary change in the ongoing status of the child's parent as working or
34 attending a job training or education program. A temporary change shall
35 include, at a minimum, any:
36

37 (A) time-limited absence from work for an employed parent for periods of
38 family leave (including parental leave) or sick leave;
39

40 (B) interruption in work for a seasonal worker who is not working between
41 regular industry work seasons;
42

43 (C) student holiday or breaks within a semester, between the fall and spring
44 semesters, or between the spring and fall semesters, for a parent
45 participating in training or education;
46

- (D) reduction in work, training, or education hours, as long as the parent is still working or attending a training or education program;
- (E) other cessation of work or attendance in a training or education program that does not exceed three months;
- (F) change in age, including turning 13 years old or a child with disabilities turning 19 years old during the eligibility period; and
- (G) change in residency within the state.

(b) During the period of time between eligibility redeterminations, a Board shall discontinue child care services due to a parent's loss of work or cessation of attendance at a job training or educational program that does not constitute a temporary change in accordance with subsection (a)(2) of this section. However, Boards must ensure that care continues at the same level for a period of not less than three months after such loss of work or cessation of attendance at a job training or educational program.

(c) If a parent resumes work or attendance at a job training or education program at any level and at any time during the period described in subsection (b) of this section, then the Board shall ensure that:

- (1) care will continue to the end of the 12-month eligibility period at the same or greater level, depending upon any increase in the activity hours of the parent;
- (2) the parent share of cost will not be increased during the remainder of the 12-month eligibility period, including for parents who are exempt from the parent share of cost pursuant to §809.19 of this chapter; and
- (3) the Board's child care contractor verifies only:
 - (A) that the family income does not exceed 85 percent of SMI; and
 - (B) the resumption of work or attendance at a job training or education program.

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

§809.56. Child Care during Initial Job Search.

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

- 1
2 (b) A Board shall allow parents to self-attest that the:
3
4 (1) family meets the requirements of subsection (a) of this section; and
5
6 (2) family income does not exceed 85 percent of the state median income.
7
8 (c) The 12-month eligibility period for child care under this section consists of ~~Child~~
9 ~~care under this section is limited to~~ an initial three-month job search period. If total
10 activity participation of at least 25 hours for a single-parent family or a total
11 combined 50 hours per week for dual-parent families, which must include a
12 minimum of 12 hours in employment for a single-parent family and a total combined
13 25 hours in employment for a dual-parent family, are met within the initial three
14 months, eligibility will continue for the remainder of the 12-month eligibility period,
15 ~~a total of 12 months, inclusive of the care provided during the initial job search~~
16 ~~period,~~ provided that the family income does not exceed 85 percent of the state
17 median income. If the family does not meet minimum activity requirements under
18 this subsection within three months, care must be terminated.
19
20 (d) For child care during the initial three-month job search period, the follow applies
21 regarding the parent share of cost:
22
23 (1) A Board shall initially assess the parent share of cost at the highest amount
24 based on the family size and number of children in care.
25
26 (2) The initially assessed amount will immediately be temporarily reduced to zero.
27 This provision also applies to dual-parent families in which one parent is
28 employed but the family meets the requirements in subsection (a) of this
29 section for child care during initial job search.
30
31 (3) If the parent begins to meet participation requirements of subsection (c) of this
32 section within or by the end of the three-month job search period, the parent
33 share of cost shall be reinstated at the initially assessed amount or the amount
34 based on the actual family income, whichever is lower.
35
36 (e) Eligibility for child care under this section is limited to one initial three-month job
37 search period per family within a 12-month period.
38
39 (f) A Board shall ensure that the parent in child care for job search is registered with the
40 state's labor exchange system and has access to appropriate services available
41 through the one-stop delivery network described in §801.28 of this title.

1
2 **SUBCHAPTER D. PARENT RIGHTS AND RESPONSIBILITIES**
3

4 **§809.73. Parent Reporting Requirements.**
5

- 6 (a) Boards shall ensure that during the 12-month eligibility period described in §809.41
7 of this chapter, ~~or during the three-month initial job search period and the subsequent~~
8 ~~eligibility period described in §809.56 of this chapter,~~ parents are only required to
9 report items that impact a family's eligibility or that enable the Board or Board
10 contractor to contact the family or pay the provider.
11
12 (b) Pursuant to subsection (a) of this section, parents shall report to the child care
13 contractor, within 14 calendar days of the occurrence, the following:
14
15 (1) Changes in family income or family size that would cause the family to exceed
16 85 percent of SMI for a family of the same size;
17
18 (2) Changes in work or attendance at a job training or educational program not
19 considered to be temporary changes, as described in §809.51 of this chapter;
20 and
21
22 (3) Any change in family residence, primary phone number, or e-mail (if
23 available).
24
25 (c) Failure to report changes described in subsection (a) of this section may result in
26 fact-finding for suspected fraud as described in Subchapter F of this chapter.
27
28 (d) A Board shall allow parents to report, and the child care contractor shall take
29 appropriate action, regarding changes in:
30
31 (1) income and family size, which may result in a reduction in the parent share of
32 cost pursuant to §809.19 of this chapter; and
33
34 (2) work, job training, or education program participation that may result in an
35 increase in the level of child care services.
36

37 **SUBCHAPTER E. REQUIREMENTS TO PROVIDE CHILD CARE**
38

39 **§809.92. Provider Responsibilities and Reporting Requirements.**
40

- 41 (a) A Board shall ensure that providers are given written notice of and agree to their
42 responsibilities, reporting requirements, and requirements for [payment](#)
43 ~~reimbursement~~ under this subchapter prior to enrolling a child.
44
45 (b) Providers shall:
46

- 1 (1) be responsible for collecting the parent share of cost as assessed under §809.19
2 of this chapter before child care services are delivered;
3
4 (2) be responsible for collecting other child care funds received by the parent as
5 described in §809.21 of this chapter;
6
7 (3) report to the Board or the Board's child care contractor instances in which the
8 parent fails to pay the parent share of cost; and
9
10 (4) follow attendance reporting and tracking procedures required by the
11 Commission under §809.95 of this chapter, the Board, or, if applicable, the
12 Board's child care contractor.
13
14 (c) Providers shall not charge more than the Board's ~~payment reimbursement~~ rate as
15 determined under §809.21 of this chapter to parents:
16
17 (1) who are exempt from the parent share of cost assessment under §809.19 of this
18 chapter;
19
20 (2) whose parent share of cost is calculated to be zero pursuant to §809.19 of this
21 chapter; or.
22
23 (3) parents in Child Care during Initial Job Search under §809.56 of this chapter
24 during the initial three-month period.
25
26 (d) A Board may develop a policy that allows providers to charge parents more than the
27 assessed parent share of cost in instances where the provider's published rate exceeds
28 the Board's ~~payment reimbursement~~ rate (including the assessed parent share of cost)
29 to all parents not included in subsection (c) of this section.
30
31 (e) For Boards that allow providers to charge additional amounts pursuant to subsection
32 (d) of this section, the Board must ensure the provider reports to the Board each
33 month:
34
35 (1) the specific families that were charged an additional amount above the assessed
36 amount;
37
38 (2) the frequency with which each family was charged; and
39
40 (3) the amount of each additional charge.
41
42 (f) Boards that develop a policy under subsection (d) of this section must:
43
44 (1) provide the rationale for the Board's policy to allow providers to charge
45 families additional amounts above the required copayment, including a
46 demonstration of how the policy promotes affordability and access for

1 families; and

2
3 (2) describe the Board's analysis of the interaction between the additional amounts
4 charged to families with the required parent share of cost and the ability of
5 current payment reimbursement rates to provide access to care without
6 additional fees.

7
8 (g) Providers shall not deny a child care referral based on the parent's income status,
9 receipt of public assistance, or the child's protective service status.

10
11 (h) Providers shall not charge fees to a parent receiving child care subsidies that are not
12 charged to a parent who is not receiving subsidies.

13
14 **§809.93. Provider Payment Reimbursement.**

15
16 (a) A Board shall ensure that payment reimbursement for child care is made paid only to
17 the provider.

18
19 (b) A Board or its child care contractor shall pay reimburse a regulated provider based
20 on a child's monthly enrollment authorization, excluding periods of suspension at the
21 concurrence of the parent, as described in §809.51(d) of this chapter.

22
23 (c) A Board shall ensure that a relative child care provider is not reimbursed for days on
24 which the child is absent.

25
26 (d) A relative child care provider shall not be reimbursed for more children than
27 permitted by the CCR minimum regulatory standards for Registered Child Care
28 Homes. A Board may permit more children to be cared for by a relative child care
29 provider on a case-by-case basis as determined by the Board.

30
31 (e) A Board shall not pay reimburse providers that are debarred from other state or
32 federal programs unless and until the debarment is removed.

33
34 (f) Unless otherwise determined by the Board and approved by the Commission for
35 automated reporting purposes, the monthly enrollment authorization described in
36 subsection (b) of this section is based on the unit of service authorized, as follows:

37
38 (1) A full-day unit of service is 6 to 12 hours of care provided within a 24-hour
39 period;

40
41 (2) A part-day unit of service is fewer than 6 hours of care provided within a 24-
42 hour period; and

43
44 (3) A blended-day unit of service is for a child enrolled in a school program, pre-
45 K, HS, or EHS in which child care is part-day with care provided occasionally
46 on a full-day basis.

- 1
2 (g) A Board or its child care contractor shall ensure that providers are not paid for
3 holding spaces open without a valid contracted slots agreement, as described in
4 §809.96 of this chapter.
5
6 (h) The Board or its child care contractor shall not ~~pay~~ ~~reimburse~~ a provider retroactively
7 for new Board maximum ~~payment~~ ~~reimbursement~~ rates or new provider published
8 rates.
9
10 (i) A Board or its child care contractor shall ensure that the parent's travel time to and
11 from the child care facility and the parent's work, school, or job training site is
12 included in determining the enrollment authorized under subsection (f) of this
13 section.
14
15 (j) ~~Effective December 1, 2023, a~~ ~~A~~ Board shall pay regulated child care providers
16 prospectively every two weeks based on the enrollment authorization described in
17 subsection (b) of this section.
18

19 **§809.94. Providers Placed on Corrective or Adverse Action by Child Care Regulation.**
20

- 21 (a) For a provider placed on probation corrective action (probationary status) by CCR,
22 Boards shall ensure that:
23
24 (1) parents with children in Commission-funded child care are notified in writing
25 of the provider's probationary status no later than five business days after
26 receiving notification from the Agency of CCR's decision to place the provider
27 on probationary status; and
28
29 (2) no new referrals are made to the provider while on probationary status.
30
31 (b) A parent receiving notification of a provider's probationary status with CCR
32 pursuant to subsection (a) of this section may transfer the child to another eligible
33 provider without being subject to the Board transfer policies described in §809.71 of
34 this chapter if the parent requests the transfer within 14 calendar days of receiving
35 such notification.
36
37 (c) For a provider placed on probationary status by CCR, Boards shall ensure that the
38 provider is not ~~paid~~ ~~reimbursed~~ at the Boards' enhanced ~~payment~~ ~~reimbursement~~
39 rates described in §809.20 while on probationary status.
40
41 (d) For a provider against whom CCR is taking adverse action, Boards shall ensure that:
42
43 (1) parents with children enrolled in Commission-funded child care are notified no
44 later than two business days after receiving notification from the Agency that
45 CCR intends to take adverse action against the provider;
46

- 1 (2) children enrolled in Commission-funded child care with the provider are
- 2 transferred to another eligible provider no later than five business days after
- 3 receiving notification from the Agency that CCR intends to take adverse action
- 4 against the provider; and
- 5
- 6 (3) no new referrals for Commission-funded child care are made to the provider
- 7 while CCR is taking adverse action.
- 8

9 **§809.96. Contracted Slots Agreements.**

- 10
- 11 (a) In this section, the term "contracted slots agreement" is defined as a Board entering
- 12 into a contract with a child care provider to reserve a specific number of places, or
- 13 slots, for children participating in the child care subsidy program. This contract shall:
- 14
- 15 (1) define the number of slots to be reserved by age group (infant, toddler,
- 16 preschool, or school-age); and
- 17
- 18 (2) meet the eligibility requirements as described in subsection (e) of this section.
- 19
- 20 (b) Boards may enter into a contracted slots agreement with providers that agree to
- 21 provide subsidized child care services to eligible children residing in the Board's
- 22 workforce area.
- 23
- 24 (c) A Board that enters into a contracted slots agreement shall include this strategy in
- 25 the Board Plan, as described in §809.12 of this chapter.
- 26
- 27 (d) Each contract between a Board and a provider must identify the number of places
- 28 (slots) to be reserved for children participating in the child care subsidy program.
- 29
- 30 (e) To be eligible for a contract, a child care provider must be a Texas Rising Star
- 31 Three-Star or Four-Star provider and meet one of the following priorities:
- 32
- 33 (1) Be located in:
- 34
- 35 (A) a child care desert; or
- 36
- 37 (B) an underserved area that has been identified by a Board as having an
- 38 inadequate supply of child care in accordance with the parameters
- 39 described in the CCDF State Plan.
- 40
- 41 (2) Have a recognized partnership with local school districts to provide pre-K
- 42 services;
- 43
- 44 (3) Have a recognized partnership with EHS or HS;
- 45
- 46 (4) Increase the number of places reserved for infants and toddlers by high-quality

1 child care providers; ~~or~~

2
3 (5) Increase the number of places reserved for children with disabilities; or

4
5 (6)(5) Satisfy a priority identified in the Board's plan, as described in §809.12 of
6 this chapter.

- 7
8 (f) A Board that enters into a contracted slots agreement may continue payment for
9 reserved slots during times of transition between the time that one child leaves the
10 program and another child is placed in the slot. The period of continued payment
11 shall adhere to the Board's policy for contracted slots agreements and may not
12 exceed one month following the month of the vacancy.
- 13
14 (g) Except for children directly referred from recognized partnerships, as described in
15 §809.22 of this chapter, to fill open reserved slots, Boards shall contact families in
16 order of the Board's waiting list:
- 17
18 (1) that requested care in the ZIP code where the provider with the open reserved
19 slot is located; and
- 20
21 (2) whose child is in the age group for which a slot is available.
- 22
23 (h) In accordance with Commission guidelines, Boards that enter into contracted slots
24 agreements shall submit a report to the Commission within six months of entering
25 into a contract, determining the contract's effect on the:
- 26
27 (1) financial stability of providers participating in the contract;
- 28
29 (2) availability of high-quality child care options available to participants in the
30 Commission's subsidy program;
- 31
32 (3) number of high-quality providers in any part of the workforce area with a high
33 concentration of families that need child care;
- 34
35 (4) percentage of children participating in the Commission's subsidized child care
36 program at each Texas Rising Star provider in the workforce area; and
- 37
38 (5) additional information as requested by the Commission.
- 39
40 (i) A Board shall resubmit the report every 12 months from the due date of the Board's
41 initial report to the Commission.

42
43 **SUBCHAPTER G. TEXAS RISING STAR PROGRAM**

44
45 **§809.130. Short Title and Purpose.**

- 1 (a) The rules contained in this subchapter may be cited as the Texas Rising Star Program
2 rules.
3
- 4 (b) The purpose of the Texas Rising Star Program rules is to interpret and implement
5 Texas Government Code, §2308.3155, which requires the Commission to establish
6 rules to administer the Texas Rising Star program, including guidelines for rating a
7 child care provider for Texas Rising Star certification and designation of an Entry
8 Level child care provider.
9
- 10 (c) The Texas Rising Star Program rules identify the organizational structure and
11 categories of, and the scoring factors that shall be included in, the Texas Rising Star
12 guidelines.
13
- 14 (d) The Texas Rising Star guidelines shall:
15
- 16 (1) describe measures for Texas Rising Star certification that contain, at a
17 minimum, measures for child care providers regarding:
18
- 19 (A) director and staff qualifications and training;
20
- 21 (B) teacher-child interactions;
22
- 23 (C) program administration; and
24
- 25 (D) indoor/outdoor environments;
26
- 27 (2) specify measures that:
28
- 29 (A) must be met in order for a provider to be certified at each star level; and
30
- 31 (B) are observed and have points awarded through on-site assessments;
32
- 33 (3) specify the scoring methodology and scoring thresholds for each certified star
34 level; ~~and~~
35
- 36 (4) describe the high and medium-high CCR deficiencies points threshold pursuant
37 to §809.131 and §809.132 of this chapter ~~and the process for designating~~
38 ~~providers at the Entry Level;~~ and
39
- 40 (5) the process for designating providers at the Entry Level.
41
- 42 (e) The Texas Rising Star guidelines:
43
- 44 (1) shall be reviewed and updated by the Commission at a minimum of every four
45 years in conjunction with the rule review of this chapter, conducted pursuant to
46 Texas Government Code, §2001.039; and the Texas Rising Star guidelines

1 review shall:

2
3 (A) consider input from stakeholders; and

4
5 (B) include at least one public hearing held prior to submitting the
6 stakeholder input to the Commission;

7
8 (2) shall be adopted by the Commission subject to the requirements of the Texas
9 Open Meetings Act; and

10
11 (3) may be reviewed and amended as determined necessary by the Commission in
12 accordance with the requirements of the Texas Open Meetings Act.
13

14 **§809.131. Requirements for the Texas Rising Star Program.**

15
16 (a) A regulated child care provider is eligible for initial certification under the Texas
17 Rising Star program if the provider has a current agreement to serve Commission-
18 subsidized children and:

19
20 (1) has a permanent (nonexpiring) license or registration from CCR;

21
22 (2) has at least 12 months of licensing history with CCR and does not exceed the
23 points threshold for high and medium-high CCR deficiencies within the most
24 recent 6-month period as established in the Texas Rising Star guidelines
25 pursuant to §809.130(d)(4), and is not on:

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

28
29 (B) a "Notice of Freeze" with the Commission pursuant to Texas Labor
30 Code, Chapter 213 (Enforcement of the Texas Unemployment
31 Compensation Act) or Chapter 61 (Payment of Wages); or

32
33 (C) corrective or adverse action with CCR; ~~and~~

34
35 (3) meets the criteria for star-level certification in the Texas Rising Star guidelines
36 pursuant to §809.130(d) of this subchapter; ~~and~~.

37
38 (4) has at minimum, a center director account registered in the Texas Early
39 Childhood Professional Development System Workforce Registry; or

40
41 (5) is regulated by and in good standing with the United States Military.
42

43 (b) Regulated child care providers not meeting the Texas Rising Star certification
44 requirements described in this subchapter and established in the Texas Rising Star
45 guidelines shall be initially designated as Entry Level if the child care provider:
46

- (1) is not on corrective or adverse action with CCR; and
- (2) does not exceed the points threshold for high and medium-high CCR deficiencies within the most recent 6-month ~~12-month~~ period as established in the Texas Rising Star guidelines pursuant to §809.130(d)(4) ~~guidelines~~.

(c) A provider initially meeting the requirements in subsection (b) of this section is eligible for mentoring services through the Texas Rising Star program during the time periods described in subsections (d) - (f) of this section.

(d) A provider shall be initially designated as Entry Level for no more than 24 months unless approved for a waiver under subsection (f) of this section.

(e) An Entry Level provider will be reviewed for Texas Rising Star certification no later than the end of the 12th month of the 24-month period. Beginning on the 18th month, an Entry Level provider will be reviewed monthly for Texas Rising Star certification, and if it is determined that they will not be eligible by the end of their 24-month timeframe based on the 6-month licensing review time period (as described in subsection (a)(2) of this section), ~~If an Entry Level provider is not eligible for certification as Texas Rising Star by the end of the 18th month,~~ the provider shall not receive referrals for new families as an Entry Level provider, unless the provider is located in a child care desert or serves an underserved population; and is approved by the Agency to accept new family referrals.

(f) The Agency may approve a waiver to extend the time limit under subsection (d) of this section if the provider is:

- (1) located in a child care desert or serves an underserved population as determined by the Agency;
- (2) unable to meet the certification requirements due to a federal or state declared emergency/disaster; or
- (3) unable to meet the certification requirements due to conditions that the Agency determines are outside the provider's control.

(g) Waivers approved under subsection (f) of this section shall not exceed a total of 36 months.

§809.132. Impacts on Texas Rising Star Certification.

(a) A Texas Rising Star-certified provider shall be placed on suspension status if the provider:

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

- (2) is under a "Notice of Freeze" with the Commission pursuant to Texas Labor Code, Chapter 213 (Enforcement of the Texas Unemployment Compensation Act) or Chapter 61 (Payment of Wages);
 - (3) is placed on corrective or adverse action by CCR
 - (4) exceeds the probationary status points threshold as described in the Texas Rising Star guidelines pursuant to §809.130(d)(4) ~~had 15 or more total high or medium-high weighted licensing deficiencies during the most recent 12-month licensing history;~~
 - (5) had more than four probationary impacts during its three-year certification period;
 - (6) had a consecutive third probationary impact;
 - (7) is cited for specified CCR minimum standards regarding weapons and ammunition; or
 - (8) is not meeting at least the Two-Star level due to noncompliance with Texas Rising Star guidelines at the most recent assessment of certification.
- (b) Texas Rising Star-certified providers with any of the specified "star level drop" licensing deficiencies listed in the Texas Rising Star guidelines during the most recent 6-month ~~12-month~~-CCR licensing history shall be placed on a six-month Texas Rising Star probationary period. Furthermore:
- (1) reduction of one star level for each deficiency cited, so a Four-Star certified provider is reduced to a Three-Star provider, a Three-Star provider is reduced to a Two-Star provider, and a Two-Star provider is placed on suspension status; and/or ~~or~~
 - (2) if CCR does not cite any additional specified star-level drop deficiencies during the 6-month probationary period the provider shall be reinstated at the former star level ~~a Two-Star provider is placed on suspension status.~~
- (c) Texas Rising Star-certified providers ~~Texas Rising Star-certified providers~~ with any of the specified "probationary" licensing deficiencies listed in the Texas Rising Star guidelines during the most recent 6-month ~~12-month~~-CCR licensing history shall be placed on a six-month Texas Rising Star probationary period. Furthermore:
- (1) Texas Rising Star-~~certified~~ providers on a six-month ~~Texas Rising Star~~ probationary period that are cited by CCR within the probationary period for any additional specified probationary deficiencies within the probationary period shall be placed on a second, consecutive probation and lose a star level,

1 with a Two-Star certified provider being placed on suspension status;

2
3 (2) if CCR does not cite any additional specified probationary deficiencies during
4 the probationary period, the provider can be removed from probation status
5 and shall be reinstated at the former star level, if applicable; and

6
7 (3) if any additional specified probationary deficiencies are cited by CCR during
8 the second six-month probationary period, the ~~Texas Rising Star~~ provider shall
9 be placed on suspension status.

10
11 (d) Texas Rising Star-certified providers whose total points for high or medium-high
12 deficiencies received with 10 to 14 total high or medium-high weighted licensing
13 deficiencies during the most recent 6-month ~~12-month~~ CCR licensing history fall
14 within the prescribed points threshold range as described in the Texas Rising Star
15 guidelines pursuant to §809.130(d)(4), shall be placed on a six-month Texas Rising
16 Star program probationary period. Furthermore:

17
18 (1) Texas Rising Star-certified providers on a six-month probationary period that
19 are cited by CCR within the probationary period for any additional high or
20 medium-high weighted deficiencies within the probationary period shall be
21 placed on a second, consecutive probation and lose a star level, with a Two-
22 Star certified provider being placed on suspension status;

23
24 (2) if CCR does not cite any ~~no~~ additional high or medium-high weighted
25 deficiencies ~~are cited by CCR~~ during the probationary period, the provider can
26 be removed from probation status and shall be reinstated at the former star
27 level, if applicable; and

28
29 (3) if any additional new high or medium-high weighted deficiencies ~~not to~~
30 ~~exceed 14 total deficiencies~~ are cited by CCR during the second six-month
31 probationary period, the a provider shall be placed on suspension status.

32
33 ~~(e) Certified providers not on suspension status losing a star level due to licensing~~
34 ~~deficiencies shall be reinstated at the former star level if no citations described in~~
35 ~~subsections (b) - (d) of this section occur within the six-month reduction time frame.~~

36
37 ~~(e)(f)~~ Certified providers in suspension status shall be eligible for a reassessment after
38 six months following the suspension date, as long as no deficiencies described in
39 subsections (b) - (d) of this section are cited during the previous six months.

40
41 ~~(f)(g)~~ Certified providers in suspension status shall achieve at least a Two-Star
42 certification no later than 15 months following the suspension date. Failure to
43 achieve at least a Two-Star certification within the 15-month period will result in the
44 provider's ineligibility to provide child care services under this chapter.

45
46 ~~(g)(h)~~ Certified providers on suspension status:

- (1) shall be eligible to provide child care services under this chapter as long as the provider meets at least the Entry Level criteria described in §809.131(b) of this chapter;
- (2) shall not be eligible for the enhanced ~~payment reimbursement~~ rate and shall be ~~paid reimbursed~~ at the Board's Entry Level ~~reimbursement~~ rate; and
- (3) ~~the provider~~ shall not be able to receive referrals from a new family during the last six months of the 15-month period, unless the provider is located in a child care desert or serves an underserved population; and is approved by the Agency to accept new family referrals.

~~(h)~~ Certified providers in suspension status that fail to achieve at least a Two-Star certification by the end the 15-month suspension period:

- (1) are not eligible to provide child care services under this chapter;
- (2) are not eligible for the Entry Level designation time frame described in §809.131(e) of this chapter;
- (3) are not eligible for the extension waiver described in §809.131(f) of this chapter; and
- (4) must subsequently meet at least a Two-Star certification eligibility and screening requirements to provide child care services under this subchapter.

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

(a) Texas Rising Star certification applicants must complete:

- (1) an orientation on the Texas Rising Star guidelines, including an overview of the:
 - (A) Texas Rising Star program application process;
 - (B) Texas Rising Star program measures; and
 - (C) Texas Rising Star program assessment process;
- (2) the creation of a continuous quality improvement plan; and
- (3) a Texas Rising Star program self-assessment tool.

(b) The Agency's designated Texas Rising Star assessment entity shall ensure that:

- 1 (1) written acknowledgment of receipt of the application and self-assessment is
2 sent to the provider;
3
- 4 (2) within 20 days of receipt of the application, the provider is sent an estimated
5 time frame for scheduling the initial assessment;
6
- 7 (3) an assessment is conducted for any provider that meets the eligibility
8 requirements in §809.131 of this subchapter and requests certification under
9 the Texas Rising Star program; and
10
- 11 (4) Texas Rising Star certification is granted for any provider that is assessed and
12 verified as meeting the Texas Rising Star provider certification criteria set
13 forth in the Texas Rising Star guidelines.
14
- 15 (c) The Agency's designated Texas Rising Star assessment entity shall ensure that Texas
16 Rising Star certification assessments are conducted as follows:
17
- 18 (1) On-site assessment of 100 percent of the provider classrooms at the initial
19 assessment for Texas Rising Star certification and at each scheduled
20 recertification; and
21
- 22 (2) Recertification of all certified Texas Rising Star providers every three years.
23
- 24 (d) The Agency's designated Texas Rising Star assessment entity shall ensure that
25 certified Texas Rising Star providers are monitored on an annual basis and the
26 monitoring includes:
27
- 28 (1) at least one unannounced on-site visit; and
29
- 30 (2) a review of the provider's licensing compliance as described in §809.132 of
31 this chapter.
32
- 33 (e) The Agency's designated Texas Rising Star assessment entity shall ensure
34 compliance with the process and procedures in the Texas Rising Star guidelines for
35 conducting assessments of nationally accredited child care facilities and child care
36 facilities regulated by the United States Military.
37
- 38 (f) The Agency's designated Texas Rising Star assessment entity shall ensure
39 compliance with the process and procedures in the Texas Rising Star guidelines for
40 conducting assessments of certified Texas Rising Star providers that have a change
41 of ownership, move, or expand locations.
42
- 43 (g) Boards shall ensure compliance with the process and procedures in the Texas Rising
44 Star guidelines for implementing and supporting a continuous quality improvement
45 framework.
46

1 ~~(h) Boards shall be responsible for the tasks assigned to the Texas Rising Star assessor~~
2 ~~entity in this subchapter, within their respective workforce areas, until the assessor~~
3 ~~entity is procured and designated by the Agency.~~

4
5 **§809.134. Minimum Qualifications for Texas Rising Star Staff.**

- 6
7 (a) Boards and the Agency's designated Texas Rising Star assessment entity shall ~~ensure~~
8 ~~that Texas Rising Star staff:~~
9
10 (1) ~~meets the background check requirement consistent with Chapter 745 of this~~
11 ~~title~~conduct a background check on each Texas Rising Star staff member prior
12 to hiring and again every five years; and
13
14 (2) ensure that each Texas Rising Star staff completes the Texas Rising Star
15 standards training, as described in the Texas Rising Star guidelines.
16
17 (b) Boards shall ensure that Texas Rising Star mentor staff meets the minimum
18 requirements in subsections (c) - (f) of this section.
19
20 (c) Texas Rising Star mentor staff shall meet the minimum education requirements as
21 follows:
22
23 (1) Bachelor's degree from an accredited four-year college or university in early
24 childhood education, child development, special education, child psychology,
25 educational psychology, elementary education, or family consumer science;
26
27 (2) Bachelor's degree from an accredited four-year college or university with at
28 least 18 credit hours in early childhood education, child development, special
29 education, child psychology, educational psychology, elementary education, or
30 family consumer science with at least 12 credit hours in child development; or
31
32 (3) Associate's degree in early childhood education, child development, special
33 education, child psychology, educational psychology, elementary education, or
34 family consumer science, and two years of suitable experience in early
35 childhood education as determined by the Board.
36
37 (d) The Agency Commission may grant a waiver of no more than two years to obtain
38 the minimum education requirements in subsection (c) of this section if a Board can
39 demonstrate that no applicants in its workforce area meet the minimum education
40 requirements.
41
42 (e) Texas Rising Star mentor staff shall meet the minimum work experience
43 requirements of one year of full-time early childhood classroom experience in a child
44 care, EHS, HS, or pre-K through third-grade school program.
45
46 (f) All mentors must attain mentor microcredentialing, as described in the Texas Rising

1 Star Guidelines.

- 2
3 (g) The Agency's designated Texas Rising Star assessment entity shall ensure that Texas
4 Rising Star assessor staff shall attain and maintain the Texas Rising Star Assessor
5 Certification, as described in the Texas Rising Star Guidelines.
6

7 **§809.136. Roles and Responsibilities of Texas Rising Star Staff.**
8

9 Boards and the Agency's designated Texas Rising Star assessment entity shall ensure that
10 Texas Rising Star staff members comply with their assigned responsibilities, as
11 applicable.
12

- 13 (1) A mentor is defined as a Board or Board contract staff member who helps
14 providers obtain, maintain, or achieve higher star levels of certification.
15
16 (2) An assessor is defined as a staff member or contractor of the Agency's
17 designated Texas Rising Star assessment entity who assesses and monitors
18 providers that obtain, maintain, and achieve higher levels of quality.
19

20 ~~(3) Dual role staff is defined as an individual meeting the definitions of a mentor
21 and assessor under this section.~~
22

23 ~~(4) For dual role staff, the Board and the Agency's designated Texas Rising Star
24 assessment entity shall ensure that the individual providing Texas Rising Star
25 mentoring services to a provider does not act as the assessor of that same
26 provider when determining Texas Rising Star certification.~~
27

28 ~~(3)(5)~~ Texas Rising Star staff members are required to complete annual
29 professional development and continuing education consistent with the Texas
30 Rising Star annual minimum training hours requirement for a Texas Rising
31 Star-certified child care center director.
32

33 ~~(4)(6)~~ Pursuant to Texas Family Code, §261.101, Texas Rising Star staff
34 members are mandated reporters when observing serious incidents as described
35 in the Texas Rising Star guidelines.