

1 **CHAPTER 809. CHILD CARE SERVICES**

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

6
7 **ON OCTOBER 6, 2020, THE TEXAS WORKFORCE COMMISSION PROPOSED THE**
8 **RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS REGISTER.**

9
10 Estimated Publication Date of the Proposal in the *Texas Register*: **October 23, 2020**
11 Estimated End of Comment Period: **November 23, 2020**

12
13 The Texas Workforce Commission (TWC) proposes amendments to the following sections of
14 Chapter 809, relating to Child Care Services:

- 15
16 Subchapter A. General Provisions, §809.2
17 Subchapter B. General Management, §§809.12, 809.13, 809.16, 809.18, and 809.19
18 Subchapter E. Requirements to Provide Child Care, §809.91 and §809.93
19 Subchapter G. Texas Rising Star Program, §§809.130 - 809.134

20
21 TWC proposes the following new sections to Chapter 809, relating to Child Care Services:

- 22
23 Subchapter B. General Management, §809.22
24 Subchapter E. Requirements to Provide Child Care, §809.96
25 Subchapter G. Texas Rising Star Program, §809.136

- 26
27 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**
28 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**
29 **PART III. IMPACT STATEMENTS**
30 **PART IV. COORDINATION ACTIVITIES**

31
32 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

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

38
39 **House Bill 680**

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

1 Allowable Uses of Boards' Child Care Quality Funds

2 HB 680, Section 1 amends Texas Government Code, §2308.317, by adding a new subsection
3 requiring each Board, to the extent practicable, to ensure that any professional development for
4 child care providers, directors, and employees using the Board's allocated quality improvement
5 funds:

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

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

15
16 Child Care Provider Contract Agreements

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

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

30
31 HB 680 requires that any such contract includes the number of slots reserved by a provider for
32 children who participate in the subsidized child care program.

33
34 To be eligible for a contract, HB 680 requires that a child care provider be a Texas Rising Star 3-
35 or 4-star provider and meet one of the following priorities:

36
37 --Be located in an area:

- 38 --where the number of children under age six with working parents is at least three times
- 39 greater than the capacity of licensed child care providers in the area; or
- 40 --determined by TWC to be underserved with respect to child care providers

41
42 --Have a partnership with local school districts to provide prekindergarten (pre-K)

43
44 --Have a partnership with Early Head Start (EHS) or Head Start (HS)

1 --Have an increased number of places reserved for infants and toddlers by high-quality child care
2 providers

3
4 --Satisfy a priority identified in the Board's plan.

5
6 HB 680 also requires that Boards choosing to contract with providers submit a report to TWC no
7 later than six months after entering into the contract, and every six months thereafter,
8 determining the contract's effect on the following:

9 --Financial stability of providers participating in the contract

10 --Availability of high-quality child care options for participants in TWC's subsidy program

11 --Number of high-quality providers in any part of the local workforce development area
12 (workforce area) with a high concentration of families with a need for child care

13 --Percentage of children participating in TWC's subsidized child care program at each Texas
14 Rising Star provider in the Board's workforce area

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

20 21 Reserved Slots

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

31 32 Waiting Lists and Priorities

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

41
42 Currently, the Board's waiting list for the subsidy voucher system is for the entire workforce
43 area. Families are contacted in order of priority to select any participating provider in the Board's
44 workforce area. Section 809.43 details the priority groups as follows:

1 The first priority group is assured child care services and includes children of parents eligible for
2 the following:

- 3 --Choices child care
- 4 --Temporary Assistance for Needy Families Applicant child care
- 5 --Supplemental Nutrition Assistance Program Employment and Training child care
- 6 --Transitional child care

7
8 The second priority group is served subject to the availability of funds and includes the
9 following, in the order of priority:

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

18
19 The third priority group includes any other priority adopted by the Board.

20
21 With a Contracted Slots model, the slots need to be filled quickly to avoid Boards paying for
22 vacant reserved slots. TWC proposes allowing families to indicate ZIP code preferences for
23 location of child care and prioritizing children with preferences matching ZIP codes with an
24 available contracted slot.

25
26 *Eligible Geographic Locations*

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

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

32
33 TWC proposes using data from the state demographer to analyze and publish annual information
34 about geographic areas that meet the requirements described in HB 680 and requiring Boards to
35 use this data to identify providers that are in areas of high need and low capacity.

36
37 *Direct Referrals from Public Prekindergarten and Head Start/Early Head Start Partnerships*

38 HB 680 explicitly authorizes contracts for Texas Rising Star providers engaged in partnerships
39 with public pre-K or HS/EHS. Additionally, HB 3, 86th Texas Legislature, Regular Session
40 (2019), supports expansion of pre-K partnerships.

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

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

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

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

16
17 TWC proposes creating a separate path for enrollment to support more stable partnerships,
18 maximize available funding to serve more children, and provide improved customer service to
19 participating families.

20
21 With a separate enrollment path for partnership direct referrals, services for eligible children who
22 are in TWC's second or third priority group, as defined in §809.43, Priority for Child Care
23 Services, would still be served subject to the availability of funding. Additionally, if the number
24 of referrals from a partnership exceeds the subsidized spots available at a single partnership site,
25 §809.43 would be applied, and any children who did not receive subsidized care through the
26 referring partnership would be placed on the Board's waiting list.

27 28 **Parent Share of Cost for Part-Time Referrals**

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

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

40
41 With this rule change, Boards were no longer able to offer "discounts" for part-time care, as
42 doing so could have been perceived as using the cost of care or amount of subsidy payment to
43 determine parent share of cost.

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

4
5 TWC proposes reducing the financial burden on families that need part-time child care by
6 authorizing Boards to assess the parent share of cost at the full-time rate and allow reductions for
7 families with part-time referrals. If a child's referral changes from part-time to full-time care, the
8 family will no longer qualify for the reduction and must revert to the original parent share of cost
9 assessment amount.

10 11 **Child Transfer Policies**

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

19
20 Providers commonly have policies for private-pay families that require families to give notice
21 before withdrawing their child from the program. Typically, these policies range from two weeks
22 to a full month. These waiting periods help providers to manage their enrollment efficiently and
23 ensure that they have adequate time to fill empty spots.

24
25 Section 809.13(c)(10) requires Boards to establish a policy for transfer of a child from one
26 provider to another. However, the rule does not require Boards to establish a waiting period for
27 families that request to transfer a child.

28
29 TWC proposes requiring Boards to institute a waiting period as part of their transfer policy to
30 support better alignment with CCDBG and greater stability for subsidy providers.

31 32 **Texas Rising Star Four-Year Review Recommendations**

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

36
37 To meet this requirement, on February 23, 2016, TWC's three-member Commission
38 (Commission) adopted §809.130(e)(1), which requires staff to facilitate a review of the Texas
39 Rising Star guidelines every four years.

40
41 Beginning in May 2019, TWC convened a workgroup to review the Texas Rising Star guidelines
42 and recommend revisions. The workgroup included early learning program directors from
43 around the state, early childhood advocacy organization representatives, professional
44 development providers, Board staff, and representatives from TWC, the Texas Education
45 Agency, the Texas Health and Human Services Commission's (HHSC) Child Care Regulation

1 Division (formerly Child Care Licensing (CCL)), and the State Center for Early Childhood,
2 Children's Learning Institute (CLI).

3
4 Over an eight-month period, the workgroup met regularly to review the Texas Rising Star
5 guidelines in detail and to engage in a collaborative effort to improve guidelines' standards. On
6 January 21, 2020, the Commission approved the publication of the workgroup's
7 recommendations for public comment. During February 2020, TWC partnered with Boards to
8 host seven public stakeholder meetings across the state. Throughout the review process, TWC
9 also provided the public with a website to view materials related to the review and a dedicated
10 email address to offer input.

11
12 The revisions in this proposed rule consider the recommendations of the workgroup as well as
13 stakeholder input received during public meetings or provided to TWC in writing.

14 15 Workforce Registry

16 The Texas Early Childhood Professional Development System (TECPDS) includes the
17 Workforce Registry (WFR), a web-based system for early childhood professionals to track their
18 experience, education, and training. The WFR offers benefits to programs and teachers by
19 streamlining record-keeping of staff qualifications and professional development. The WFR:
20 --reduces reliance on paper files and ensures reliable access to an employee's professional
21 development records;
22 --allows teachers to easily share their training records and to see a holistic view of their portfolio
23 of training and education;
24 --reduces administrative costs and simplifies processes for directors and owners;
25 --facilitates validation of compliance with CCL standards and documentation of Texas Rising
26 Star points; and
27 --allows for more efficient and strategic professional development planning.

28
29 TWC proposes integrating the WFR into Texas Rising Star, requiring programs applying for
30 certification to agree to participate in the WFR and encourage their staff to participate as well.
31 For all programs, adopting and maintaining use of the WFR will be included in ongoing
32 technical assistance and Continuous Quality Improvement Plans (CQIPs).

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

41 42 Creating a Pre-Star Provider Designation

43 TWC proposes a new Pre-Star provider definition in §809.2(18), and a requirement that all CCL-
44 regulated subsidy providers be designated as Pre-Star in §809.91(a)(1). Pre-Star designations are
45 outside of the statutorily defined Texas Rising Star quality-based rating system set forth in Texas
46 Government Code, §2308.3155 and will not receive an enhanced reimbursement rate. Programs

1 wishing to enter the Texas Rising Star system and apply for star-level certification must first
2 meet Pre-Star designation. Pre-Star designations are based upon a child care program's
3 demonstration that they do not have significant licensing findings, as set forth in the Screening
4 Criteria for Subsidized Child Care and defined in the CCDF State Plan.

5
6 Continuous Quality Improvement Framework

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

9
10 Early childhood programs and their mentors use CQIPs to identify areas for program and staff
11 improvement. The Texas Rising Star CQIP framework will provide targeted technical assistance
12 and customized coaching to set specific improvement goals and monitor progress.

13
14 New Training and Certification Requirements for Texas Rising Star Staff

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

19
20 The four-year review recommendations include new requirements for Texas Rising Star assessor
21 and mentor training and certification to ensure valid and consistent star-level certifications across
22 all Texas Rising Star programs and to improve mentoring and coaching to support the CQIP
23 framework.

24
25 Based on these recommendations, TWC proposes that assessors be required to take the Texas
26 Rising Star standards training and to obtain the Texas Rising Star Assessment Certification.
27 Additionally, TWC proposes that assessors be required to pass quarterly reliability checks.

28
29 TWC also proposes more robust training requirements for mentors. Increasing the number of
30 programs that attain and retain higher levels of quality will require strong mentoring support, and
31 successful implementation of a CQIP framework will depend on skillful coaching from Texas
32 Rising Star mentors. Specifically, TWC proposes requiring mentors to take the Texas Rising Star
33 standards training and to participate in competency-based professional development designed to
34 improve coaching practices.

35
36 Streamlining and Reweighting Categories of Texas Rising Star Measures

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

41
42 Many of the current measures are repetitive across categories or not well-correlated to the
43 category being measured. TWC proposes reorganizing measures under the following four
44 categories: (1) Director and Staff Qualifications and Training, (2) Teacher-Child Interactions, (3)
45 Program Administration, and (4) Indoor/Outdoor Environments.

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

8 9 Impact of Certain Deficiencies on Texas Rising Star Certification

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

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

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

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

35 36 Minimum Eligibility Requirements for Providers Serving CCDF Subsidized Children

37 Under federal regulations 45 CFR §98.30(g) regarding Parental Choice, the Administration for
38 Children and Families explicitly allows states to establish policies that requires subsidy providers
39 to meet higher standards of quality, as long as those requirements do not effectively limit
40 parental choice. TWC proposes a new Pre-Star provider designation, indicating those child care
41 programs that demonstrate that they do not have significant licensing findings. Pre-Star
42 designations are outside of the statutorily defined Texas Rising Star quality-based rating system
43 and will not receive an enhanced reimbursement rate. As previously described, programs that
44 meet the criteria for Pre-Star, and would like to enter the Texas Rising Star quality rating
45 improvement system, are eligible to apply for star-level certification.
46

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

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

14
15 During regional stakeholder meetings, many commenters supported this strategy as an effort to
16 ensure that public funds are being invested in child care programs that do not have significant
17 issues with basic licensing requirements and to create a framework for placing these programs on
18 a path to higher quality. At the same time, a few stakeholders also expressed concerns regarding
19 the cost of administering a new Pre-Star designation. TWC notes that the Pre-Star designation
20 may be determined through an automated process that reviews a program's licensing history, as
21 published by Child Care Regulation, and automatically makes the determination of whether a
22 provider may be designated as Pre-Star. Therefore, this proposed change does not require a
23 significant investment of staff resources. Additionally, TWC is also considering the
24 implementation of a continuous quality improvement framework to enhance mentoring and
25 coaching; these resources would be available to Pre-Star programs that would like to enter the
26 state's quality rating improvement system and apply for star-level certification.

27 28 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

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

31 32 **SUBCHAPTER A. GENERAL PROVISIONS**

33 **TWC proposes the following amendments to Subchapter A:**

34 35 **§809.2. Definitions**

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

37 38 **SUBCHAPTER B. GENERAL MANAGEMENT**

39 **TWC proposes the following amendments to Subchapter B:**

40 41 **§809.12. Board Plan for Child Care Services (Includes New Regulations)**

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

44 45 **§809.13. Board Policies for Child Care Services (Includes New Regulations)**

46 Section 809.13 is amended to require Boards to develop:

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

4
5 **§809.16. Quality Improvement Activities**

6 Section 809.16 is amended to allow Boards to expend child care funds on any quality
7 improvement activity described in applicable state laws and the CCDF State Plan.

8
9 **§809.18. Maintenance of a Waiting List**

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

13
14 **§809.19. Assessing the Parent Share of Cost**

15 Section 809.19 is amended to allow Boards to implement a policy to reduce the parent share of
16 cost amount assessed pursuant to §809.19(a)(1)(B) upon the child's referral for part-time care.

17
18 **§809.22. Partnership Direct Referrals (New Regulation)**

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

22
23 **SUBCHAPTER E. REQUIREMENTS TO PROVIDE CHILD CARE**

24 **TWC proposes the following amendments to Subchapter E:**

25
26 **§809.91. Minimum Requirements for Providers (Includes New Regulations)**

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

31
32 Section 809.91 is also amended to add new subsection (h) to provide additional details regarding
33 Pre-Star designations. The Screening Criteria for Subsidized Child Care will be defined in the
34 CCDF State Plan, as will a statewide rollout plan. TWC will carefully consider how to
35 implement the new requirement for all subsidy providers to be Pre-Star designated to ensure that
36 parent choice is not impacted. TWC plans to roll out this requirement over a five-year period;
37 this is intended to provide child care programs with ample time to ensure that they can attain Pre-
38 Star designation. The new Screening Criteria for Subsidized Child Care criteria are included in a
39 proposed amendment of the CCDF State Plan, which is available for public comment in
40 conjunction with these proposed rules (see meeting materials for October 6, 2020 Commission
41 meeting). The rollout plan will be developed as a future State Plan Amendment.

42
43 **§809.93. Provider Reimbursement**

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

1 **§809.96. Contracted Slots Agreements (New Regulation)**

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

3
4 **SUBCHAPTER G. TEXAS RISING STAR PROGRAM**

5 **TWC proposes the following amendments to Subchapter G:**

6
7 **§809.130. Short Title and Purpose**

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

- 10 --Director and Staff Qualifications and Training
11 --Teacher-Child Interactions
12 --Program Administration
13 --Indoor/Outdoor Environments

14
15 **§809.131. Eligibility for the Texas Rising Star Program (Includes New Regulations)**

16 Section 809.131 is amended to remove §809.131(b), as all CCL-regulated subsidy providers will
17 now be required to be designated as Pre-Star under proposed §809.91(a)(1). Additionally,
18 §809.131 is amended to require Texas Rising Star applicants to agree to participate in the WFR
19 and to encourage staff to create accounts within the WFR.

20
21 **§809.132. Impact of Certain Deficiencies on Texas Rising Star Certification (Includes New**
22 **Regulations)**

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

26
27 **§809.133. Application and Assessments for the Texas Rising Star Program (Includes New**
28 **Regulations)**

29 Section 809.133 is amended to require all programs to participate in the creation of an online-
30 generated CQIP that focuses on growth and evolving adherence to higher-quality standards and
31 to require Boards to ensure that CQIPs are implemented and supported as described in the Texas
32 Rising Star guidelines.

33
34 **§809.134. Minimum Qualifications for Texas Rising Star Staff (Includes New Regulations)**

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

40
41 Section 809.134 is also amended to move §809.134(d) and (e) to new §809.136.

42
43 **§809.136. Roles and Responsibilities of Texas Rising Star Staff**

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

1
2 New §809.136(4) and (5) clarify the separation of roles and professional development of Texas
3 Rising Star staff.
4

5 **PART III. IMPACT STATEMENTS**

6 Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the
7 rules will be in effect, the following statements will apply:
8

9 There are no additional estimated costs to the state and to local governments expected as a result
10 of enforcing or administering the rules.
11

12 There are no estimated cost reductions to the state and to local governments as a result of
13 enforcing or administering the rules.
14

15 There are no estimated losses or increases in revenue to the state or to local governments as a
16 result of enforcing or administering the rules.
17

18 There are no foreseeable implications relating to costs or revenue of the state or local
19 governments as a result of enforcing or administering the rules.
20

21 There are no anticipated economic costs to individuals required to comply with the rules.
22

23 There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural
24 communities as a result of enforcing or administering the rules.
25

26 Based on the analyses required by Texas Government Code, §2001.024, TWC has determined
27 that the requirement to repeal or amend a rule, as required by Texas Government Code,
28 §2001.0045, does not apply to this rulemaking.
29

30 Takings Impact Assessment

31 Under Texas Government Code, §2007.002(5), "taking" means a governmental action that
32 affects private real property, in whole or in part or temporarily or permanently, in a manner that
33 requires the governmental entity to compensate the private real property owner as provided by
34 the Fifth and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or
35 §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in
36 the absence of the governmental action, and is the producing cause of a reduction of at least 25
37 percent in the market value of the affected private real property, determined by comparing the
38 market value of the property as if the governmental action is not in effect and the market value of
39 the property determined as if the governmental action is in effect. The Commission completed a
40 Takings Impact Analysis for the proposed rulemaking action under Texas Government Code,
41 §2007.043. The primary purpose of this proposed rulemaking action, as discussed elsewhere in
42 this preamble, is to implement a contracted slots option for child care services, update the
43 allowable uses of CCQ funds, update how the parent co-payment is calculated, update the child
44 transfer policy, and implement changes to Texas Rising Star policy as recommended by the
45 Texas Rising Star four-year review.
46

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

8
9 Government Growth Impact Statement

10 TWC has determined that during the first five years the amendments will be in effect:
11 --the amendments will not create or eliminate a government program;
12 --implementation of the amendments will not require the creation or elimination of employee
13 positions;
14 --implementation of the amendments will not require an increase or decrease in future legislative
15 appropriations to TWC;
16 --the amendments will not require an increase or decrease in fees paid to TWC;
17 --the amendments will create new regulations;
18 --the amendments will expand existing regulations;
19 --the amendments will not limit or eliminate an existing regulation;
20 --the amendments will not change the number of individuals subject to the rules; and
21 --the amendments will not positively or adversely affect the state's economy.

22
23 Economic Impact Statement and Regulatory Flexibility Analysis

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

27
28 Mariana Vega, Director, Labor Market and Career Information, has determined that there is no
29 significant negative impact upon employment conditions in the state as a result of the rules.

30
31 Reagan Miller, Director, Child Care & Early Learning, has determined that for each year of the
32 first five years the rules are in effect, the public benefit anticipated as a result of enforcing the
33 rules will be to increase access to high quality child care for Texans.

34
35 TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be
36 within TWC's legal authority to adopt.

37
38 **PART IV. COORDINATION ACTIVITIES**

39 In the development of these rules for publication and public comment, TWC sought the
40 involvement of Texas' 28 Boards. TWC provided the policy concept regarding these rule
41 amendments to the Boards for consideration and review on June 23, 2020, for the policy concept
42 relating to contracted slots; July 14, 2020, for the policy concept relating to Texas Rising Star;
43 and July 21, 2020, for the policy concept relating to child transfers. TWC also conducted
44 conference calls to discuss the policy concepts with Board executive directors and Board staff:
45 on June 19, 2020, for the policy concept relating to contracted slots; and July 17, 2020, for the
46 policy concepts relating to Texas Rising Star and child transfers. During the rulemaking process,

1 TWC considered all information gathered in order to develop rules that provide clear and concise
2 direction to all parties involved.

3
4 Comments on the proposed rules may be submitted to TWCPolicyComments@twc.state.tx.us.
5 Comments must be received no later than 30 days from the date this proposal is published in the
6 *Texas Register*.

7
8 The rules are proposed under Texas Labor Code, §301.0015 and §302.002(d), which provide
9 TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the
10 effective administration of TWC services and activities.

11
12 The proposed rules implement changes made to Texas Labor Code Chapter 302 and Texas
13 Government Code, Chapter 2308, in a manner that comports with the existing requirements of 45
14 CFR Part 98.

15

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

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

1
2 (C) for any duplicate payment; and

3
4 (D) for services not received.

5
6 (14) Job training program--A program that provides training or instruction leading
7 to:

8
9 (A) basic literacy;

10
11 (B) English proficiency;

12
13 (C) an occupational or professional certification or license; or

14
15 (D) the acquisition of technical skills, knowledge, and abilities specific to an
16 occupation.

17
18 (15) Listed family home--A family home, other than the eligible child's own
19 residence, that is listed, but not licensed or registered with, CCL pursuant to
20 Texas Human Resources Code, §42.052(c).

21
22 (16) Military deployment--The temporary duty assignment away from the
23 permanent military installation or place of residence for reserve components of
24 the single military parent or the dual military parents. This includes deployed
25 parents in the regular military, military reserves, or National Guard.

26
27 (17) Parent--An individual who is responsible for the care and supervision of a
28 child and is identified as the child's natural parent, adoptive parent, stepparent,
29 legal guardian, or person standing in loco parentis (as determined in
30 accordance with Commission policies and procedures). Unless otherwise
31 indicated, the term applies to a single parent or both parents.

32
33 (18) Pre-Star provider--A designation for subsidy providers licensed or registered
34 by CCL, based on meeting the Screening Criteria for Subsidized Child Care,
35 which is further defined in the CCDF State Plan.

36
37 (19)~~(18)~~ Protective services--Services provided when:

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

42
43 (B) a child is in the managing conservatorship of DFPS and residing with a
44 relative or a foster parent; or
45

1 (C) a child has been provided with protective services by DFPS within the
2 prior six months and requires services to ensure the stability of the
3 family.
4

5 (20)~~(19)~~ Provider--A provider is defined as:

6
7 (A) a regulated child care provider as defined in ~~§809.2(20)~~paragraph (21) of
8 this section;

9
10 (B) a relative child care provider as defined in ~~§809.2(21)~~paragraph (22) of
11 this section; or

12
13 (C) a listed family home as defined in ~~§809.2~~paragraph (15) of this section,
14 subject to the requirements in §809.91(b) of this chapter.
15

16
17 (21)~~(20)~~ Regulated child care provider--A provider caring for an eligible child in a
18 location other than the eligible child's own residence that is:

19
20 (A) licensed by CCL;

21
22 (B) registered with CCL; or

23
24 (C) operated and monitored by the United States military services.
25

26 (22)~~(21)~~ Relative child care provider--An individual who is at least 18 years of age,
27 and is, by marriage, blood relationship, or court decree, the child's, ~~one of the~~
28 ~~following~~:

29
30 (A) ~~The child's~~ grandparent;

31
32 (B) ~~The child's~~ great-grandparent;

33
34 (C) ~~The child's~~ aunt;

35
36 (D) ~~The child's~~ uncle; or

37
38 (E) ~~The child's~~ sibling (if the sibling does not reside in the same household as
39 the eligible child).
40

41 (23)~~(22)~~ Residing with--Unless otherwise stipulated in this chapter, a child is
42 considered to be residing with the parent when the child is living with, and
43 physically present with, the parent during the time period for which child care
44 services are being requested or received.
45

1 ~~(24)~~(23) Teen parent--A teen parent (teen) is an individual 18 years of age or
2 younger, or 19 years of age and attending high school or the equivalent, who
3 has a child.

4
5 ~~(25)~~(24) Texas Rising Star program--A voluntary, quality-based rating system of
6 child care providers participating in Commission-subsidized child care.

7
8 ~~(26)~~(25) Texas Rising Star ~~Provider~~provider--A provider certified as meeting the
9 Texas Rising Star~~TRS~~ program standards. Texas Rising Star~~TRS~~ providers are
10 certified as ~~a one of the following~~:

11 (A) 2-Star Program Provider;

12 (B) 3-Star Program Provider; or

13 (C) 4-Star Program Provider.

14
15
16
17
18 ~~(27)~~(26) Working--Working is defined as:

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

21 (B) participation in Choices or Supplemental Nutrition Assistance Program
22 Employment and Training (SNAP E&T) activities.

23 24 25 26 **SUBCHAPTER B. GENERAL MANAGEMENT**

27 28 **§809.12. Board Plan for Child Care Services.**

- 29
- 30 (a) A Board shall, as part of its Texas Workforce Development Board Plan (Board plan),
31 develop, amend, and modify the Board plan to incorporate and coordinate the design
32 and management of the delivery of child care services with the delivery of other
33 workforce employment, job training, and educational services identified in Texas
34 Government Code, §2308.~~251304~~, et seq., as well as other workforce training and
35 services included in the One-Stop Service Delivery Network.
- 36
- 37 (b) The goal of the Board plan is to coordinate workforce training and services, to
38 leverage private and public funds at the local level, and to fully integrate child care
39 services for low-income families with the network of workforce training and services
40 under the administration of the Boards.
- 41
- 42 (c) Boards shall design and manage the Board plan to maximize the delivery and
43 availability of safe and stable child care services that assist families seeking to
44 become independent from, or who are at risk of becoming dependent on, public

1 assistance while parents are either working or attending a job training or an
2 educational program.

3
4 (d) A Board shall include in the Board plan any strategies to use contracted slots
5 agreements, as described in §809.96 of this chapter, including any local priorities and
6 how contracted slots agreements will help increase access to high-quality care for
7 targeted communities and population.

8
9 **§809.13. Board Policies for Child Care Services.**

10
11 (a) A Board shall develop, adopt, and modify its policies for the design and management
12 of the delivery of child care services in a public process in accordance with Chapter
13 802 of this title.

14
15 (b) A Board shall maintain written copies of the policies that are required by federal and
16 state law, or as requested by the Commission, and make such policies available to
17 the Commission and the public upon request.

18
19 (c) At a minimum, a Board shall develop policies related to:

20
21 (1) how the Board determines that the parent is making progress toward successful
22 completion of a job training or educational program, as described in §809.2(1)
23 of this chapter;

24
25 (2) maintenance of a waiting list, as described in §809.18(b) of this subchapter;

26
27 (3) assessment of a parent share of cost, as described in §809.19(a)(1) ~~of this~~
28 subchapter, including:

29
30 (A) provisions for a parent's failure to pay the parent share of cost, including
31 the reimbursement of providers, as a program violation that is subject to
32 early termination of child care services within a 12-month eligibility
33 period; and

34
35 (B) criteria for determining the affordability of the parent share of cost, as
36 described in §809.19(d) and- (e) of this subchapter;

37
38 (4) maximum reimbursement rates, as provided in §809.20 of this subchapter,
39 including policies related to reimbursement of providers that offer
40 transportation;

41
42 (5) family income limits, as described in Subchapter C of this chapter (relating to
43 Eligibility for Child Care Services);

44
45 (6) provision of child care services to a child with disabilities under the age of 19,
46 as described in §809.41(a)(1)(B) of this chapter;

- (7) minimum activity requirements for parents, as described in §809.48 and §809.50 of this chapter;
- (8) time limits for the provision of child care while the parent is attending an educational program, as described in §809.41(b) of this chapter;
- (9) Board priority groups, as described in §809.43(a) of this chapter;
- (10) transfer of a child from one provider to another, as described in §809.71(3), of this chapter, including a waiting period of two weeks before the effective date of a transfer, except in cases in which the provider is subject to a CCL action, as described in §809.94 of this chapter, or on a case-by-case basis by the Board;
- (11) providers charging the difference between their published rate and the Board's reimbursement rate as provided in §809.92(d) of this chapter;
- (12) procedures for fraud fact-finding as provided in §809.111 of this chapter; ~~and~~
- (13) policies and procedures to ensure that appropriate corrective actions are taken against a provider or parent for violations of the automated attendance requirements specified in §809.115(d) ~~and~~ (e) of this chapter;
- (14) policies and procedures for contracted slots agreements as described in §809.96 of this chapter, if the Board opts to enter into such agreements; and
- (15) supporting direct referrals from recognized pre-K or HS/EHS partnerships, as described in §809.22 of this subchapter.

§809.16. Quality Improvement Activities.

- (a) Child care funds allocated by the Commission pursuant to its allocation rules (generally, Chapter 800, ~~General Administration~~, Subchapter B of this title (relating to Allocations, Allocation and Funding), and specifically §800.58, of this title (relating to Child Care)), including local public transferred funds and local private donated funds, as provided in §809.17 of this subchapter, to the extent they are used for nondirect care quality improvement activities, may be expended on any quality improvement activity described in 45 CFR Part 98, any applicable state laws, and the CCDF State Plan.
- (b) Boards must ensure compliance with 45 CFR Part 98 regarding construction expenditures, as follows:
 - (1) State and local agencies and nonsectarian agencies or organizations.

1 (A) Funds shall not be expended for the purchase or improvement of land, or
2 for the purchase, construction, or permanent improvement of any
3 building or facility.

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

8
9 (2) Sectarian agencies or organizations.

10
11 (A) The prohibitions in paragraph (1) of this subsection apply.

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

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

20
21 **§809.18. Maintenance of a Waiting List.**

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

26
27 (b) A Board shall establish a policy for the maintenance of a waiting list that includes, at
28 a minimum:

29
30 (1) the process for determining that the parent is potentially eligible for child care
31 services before placing the parent on the waiting list; and

32
33 (2) the frequency in which the parent information is updated and maintained on
34 the waiting list.

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

41
42 **§809.19. Assessing the Parent Share of Cost.**

43
44 (a) For child care funds allocated by the Commission pursuant to its allocation rules
45 (generally, Chapter 800, ~~General Administration~~, Subchapter B, of this title (relating
46 to Allocations) ~~Allocation and Funding~~, and specifically, §800.58, of this title

1 [\(relating to Child Care\)](#)), including local public transferred funds and local private
2 donated funds, as provided in §809.17 [of this subchapter](#), the following shall apply.

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

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- (A) Parents who are participating in Choices or who are in Choices child care described in §809.45 [of this chapter](#);
 - (B) Parents who are participating in SNAP E&T services or who are in SNAP E&T child care described in §809.47 [of this chapter](#);
 - (C) Parents of a child receiving Child Care for Children Experiencing Homelessness as described in §809.52 [of this chapter](#); ~~or~~
 - (D) Parents who have children who are receiving protective services child care pursuant to §809.49 and §809.54(c) [of this chapter](#), unless DFPS assesses the parent share of cost.
- (3) Teen parents who are not covered under exemptions listed in paragraph (2) of this subsection shall be assessed a parent share of cost. The teen parent's share of cost is based solely on the teen parent's income and size of the teen's family as defined in §809.2 [of this chapter](#).
- (b) For child care services funded from sources other than those specified in subsection (a) of this section, a Board shall set a parent share of cost policy based on a sliding fee scale. The sliding fee scale may be the same as or different from the provisions contained in subsection (a) of this section.
 - (c) A Board shall establish a policy regarding reimbursement of providers when parents fail to pay the parent share of cost.
 - (d) A Board shall establish a policy regarding termination of child care services within a 12-month eligibility period when a parent fails to pay the parent share of cost. The Board's policy must include:
 - (1) a requirement to evaluate and document each family's financial situation for extenuating circumstances that may affect affordability of the assessed parent share of cost pursuant to paragraph (2) of this subsection, and a possible temporary reduction pursuant to subsection (g) of this section before the Board or its child care contractor may terminate care under this section;
 - (2) general criteria for determining affordability of a Board's parent share of cost, and a process to identify and assess the circumstances that may jeopardize a family's self-sufficiency under subsection (g) of this section;
 - (3) maintenance of a list of all terminations due to failure to pay the parent share of cost, including family size, income, family circumstances, and the reason for termination, for use when conducting evaluations of affordability, as required under paragraph (4) of this subsection; and

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

5 (e) A Board with frequent terminations of care for lack of payment of the parent share of
6 cost must reexamine its sliding fee scale and adjust it to ensure that fees are not a
7 barrier to assistance for families at certain income levels.
8

9 (f) A Board that does not have a policy to reimburse providers when parents fail to pay
10 the parent share of cost may establish a policy to require the parent to pay the
11 provider before the family can be redetermined eligible for future child care services.
12

13 (g) The Board or its child care contractor may review the assessed parent share of cost
14 for a possible temporary reduction if there are extenuating circumstances that
15 jeopardize a family's self-sufficiency. The Board or its child care contractor may
16 temporarily reduce the assessed parent share of cost if warranted by these
17 circumstances. Following the temporary reduction, the parent share of cost amount
18 immediately prior to the reduction shall be reinstated.
19

20 (h) If the parent is not covered by an exemption as specified in subsection (a)(2) of this
21 section, then the Board or its child care contractor shall not waive the assessed parent
22 share of cost under any circumstances.
23

24 (i) If the parent share of cost, based on family income and family size, is calculated to
25 be zero, then the Board or its child care contractor shall not charge the parent a
26 minimum share of cost amount.
27

28 (j) A Board may establish a policy to reduce the parent share of cost amount assessed
29 pursuant to subsection (a)(1)(B) of this section upon the parent's selection of a [Texas](#)
30 [Rising Star](#)~~TRS~~---certified provider. Such Board policy shall ensure:
31

32 (1) that the parent continue to receive the reduction if:
33

34 (A) the [Texas Rising Star](#)~~TRS~~ provider loses [Texas Rising Star](#)~~TRS~~
35 certification; or
36

37 (B) the parent moves or changes employment within the workforce area and
38 no [Texas Rising Star](#)~~TRS~~---certified providers are available to meet the
39 needs of the parent's changed circumstances; and

1
2 (2) that the parent no longer receives the reduction if the parent voluntarily
3 transfers the child from a Texas Rising Star~~TRS~~--certified provider to a non-
4 Texas Rising Star~~TRS~~--certified provider.
5

6 (k) A Board may establish a policy to reduce the parent share of cost amount assessed
7 pursuant to subsection (a)(1)(B) of this section upon the child's referral for part-time
8 care. Such Board policy shall ensure that:
9

10 (1) the parent no longer receives the reduction if the referral is changed to full-time
11 care; and
12

13 (2) a parent qualifies for a reduction in parent share of cost for both selecting a
14 Texas Rising Star--certified provider (as defined in subsection (j) of this
15 section) and a child's part-time care referral will receive the greater of the two
16 discounts.
17

18 **§809.22. Direct Referrals to Recognized Partnerships.**

19
20 (a) A recognized partnership is a partnership that:
21

22 (1) exists between a child care provider and one of the following:
23

24 (A) a public school prekindergarten provider;

25 (B) a local education agency; or
26

27 (C) a Head Start/Early Head Start program; and
28

29
30 (2) requires both parties to have entered into an agreement, such as a
31 memorandum of understanding, and serves some number of children
32 under age six who are dually enrolled in both programs.
33

34 (b) A Board shall establish policies and procedures to enroll eligible children who are
35 directly referred by a recognized partnership.
36

37 (c) A Board's policy shall exempt children directly referred from a recognized
38 partnership from the Board's waiting list, subject to the availability of funding and
39 the availability of subsidized slots at the partnership site.
40

41 **SUBCHAPTER E. REQUIREMENTS TO PROVIDE CHILD CARE**

42 **§809.91. Minimum Requirements for Providers.**

43
44
45 (a) A Board shall ensure that child care subsidies are paid only to:
46

- 1 (1) regulated child care providers as described in §809.2 [of this chapter, subject to](#)
2 [the requirements in subsection \(g\) of this section](#);
- 3
- 4 (2) relative child care providers, as described in §809.2 [of this chapter](#), subject to
5 the requirements in subsection (e) of this section; or
- 6
- 7 (3) at the Board's option, child care providers licensed in a neighboring state,
8 subject to the following requirements:
- 9
- 10 (A) Boards shall ensure that the Board's child care contractor reviews the
11 licensing status of the out-of-state provider every month, at a minimum,
12 to confirm the provider is meeting the minimum licensing standards of
13 the state.;
- 14
- 15 (B) Boards shall ensure that the out-of-state provider meets the requirements
16 of the neighboring state to serve CCDF-subsidized children.;
- 17
- 18 (C) The provider shall agree to comply with the requirements of this chapter
19 and all Board policies and Board child care contractor procedures.
- 20
- 21 (b) A Board shall not prohibit a relative child care provider ~~that~~[who](#) is listed with CCL
22 and ~~who~~ meets the minimum requirements of this section from being an eligible
23 relative child care provider.
- 24
- 25 (c) Except as provided by the criteria for [Texas Rising Star](#)~~TRS~~ Provider certification, a
26 Board or the Board's child care contractor shall not place requirements on regulated
27 providers that:
- 28
- 29 (1) exceed [Pre-Star designation requirements or](#) the state licensing requirements
30 stipulated in Texas Human Resources Code, Chapter 42; or
- 31
- 32 (2) have the effect of monitoring the provider for compliance with state licensing
33 requirements stipulated in Texas Human Resources Code, Chapter 42.
- 34
- 35 (d) When a Board or the Board's child care contractor, in the course of fulfilling its
36 responsibilities, gains knowledge of any possible violation regarding regulatory
37 standards, the Board or its child care contractor shall report the information to the
38 appropriate regulatory agency.
- 39
- 40 (e) For relative child care providers to be eligible for reimbursement for Commission-
41 funded child care services, the following applies:
- 42
- 43 (1) Relative child care providers shall list with CCL; however, pursuant to 45 CFR
44 §98.41(e), relative child care providers listed with CCL shall be exempt from
45 the health and safety requirements of 45 CFR §98.41(a).
- 46

1 (2) A Board shall allow relative child care providers to care for a child in the
2 child's home (in-home child care) only for the following:

3
4 (A) A child with disabilities as defined in §809.2, of this chapter, and his or
5 her siblings;

6
7 (B) A child under 18 months of age; and his or her siblings;

8
9 (C) A child of a teen parent; ~~and~~

10
11 (D) When the parent's work schedule requires evening, overnight, or
12 weekend child care in which taking the child outside of the child's home
13 would be disruptive to the child;

14
15 (3) A Board may allow relative in-home child care for circumstances in which the
16 Board's child care contractor determines and documents that other child care
17 provider arrangements are not available in the community.

18
19 (f) Boards shall ensure that subsidies are not paid for a child at the following child care
20 providers:

21
22 (1) Except for foster parents authorized by DFPS pursuant to §809.49 of this
23 chapter, licensed child care centers, including before- or after-school programs
24 and school-age programs, in which the parent or his or her spouse, including
25 the child's parent or stepparent, is the director or assistant director, or has an
26 ownership interest; or

27
28 (2) Licensed, registered, or listed child care homes where the parent also works
29 during the hours his or her child is in care.

30
31 (g) Regulated child care providers, except those operated and monitored by the U.S.
32 military, must meet Pre-Star provider designation unless exempted under
33 requirements of subsection (h)(3) of this section.

34
35 (h) Pre-Star provider designations and exemptions are defined in the Commission-
36 approved CCDF State Plan and include:

37
38 (1) minimum Pre-Star criteria required for each provider type;

39
40 (2) a progressive statewide roll out plan to require Pre-Star designation for receipt
41 of subsidies; and

42
43 (3) limited provider exemption criteria to ensure parent choice is not negatively
44 impacted by the Pre-Star requirements.

1
2 **§809.93. Provider Reimbursement.**
3

- 4 (a) A Board shall ensure that reimbursement for child care is paid only to the provider.
5
6 (b) A Board or its child care contractor shall reimburse a regulated provider based on a
7 child's monthly enrollment authorization, excluding periods of suspension at the
8 concurrence of the parent, as described in §809.51(d) of this chapter.
9
10 (c) A Board shall ensure that a relative child care provider is not reimbursed for days on
11 which the child is absent.
12
13 (d) A relative child care provider shall not be reimbursed for more children than
14 permitted by the CCL minimum regulatory standards for Registered Child Care
15 Homes. A Board may permit more children to be cared for by a relative child care
16 provider on a case-by-case basis as determined by the Board.
17
18 (e) A Board shall not reimburse providers that are debarred from other state or federal
19 programs unless and until the debarment is removed.
20
21 (f) Unless otherwise determined by the Board and approved by the Commission for
22 automated reporting purposes, the monthly enrollment authorization described in
23 subsection (b) of this section is based on the unit of service authorized, as follows:
24
25 (1) A full-day unit of service is 6 to 12 hours of care provided within a 24-hour
26 period; and
27
28 (2) A part-day unit of service is fewer than 6 hours of care provided within a 24-
29 hour period.
30
31 (g) A Board or its child care contractor shall ensure that providers are not paid for
32 holding spaces open without a valid contracted slots agreement, as described in
33 §809.96 of this subchapter.
34
35 (h) A Board or the Board's child care contractor shall not pay providers:
36
37 (1) less, when a child enrolled full time occasionally attends for a part day; or
38
39 (2) more, when a child enrolled part time occasionally attends for a full day.
40
41 (i) The Board or its child care contractor shall not reimburse a provider retroactively for
42 new Board maximum reimbursement rates or new provider published rates.
43
44 (j) A Board or its child care contractor shall ensure that the parent's travel time to and
45 from the child care facility and the parent's work, school, or job training site is

1 included in determining whether to authorize reimbursement for full-day or part-day
2 care under subsection (f) of this section.

3
4 **§809.96. Contracted Slots Agreements.**

5
6 (a) In this section, the term "contracted slots agreement" is defined as a Board entering
7 into a contract with a child care provider to reserve a specific number of places, or
8 slots, for children participating in the child care subsidy program. This contract shall:

9
10 (1) define the number of slots to be reserved by age group (infant, toddler,
11 preschool, or school-age); and

12
13 (2) meet the eligibility requirements as described in subsection (e) of this section.

14
15 (b) Boards may enter into a contracted slots agreement with providers that agree to
16 provide subsidized child care services to eligible children residing in the Board's
17 workforce area.

18
19 (c) A Board that enters into a contracted slots agreement shall include this strategy in
20 the Board Plan, as described in §809.12 of this chapter.

21
22 (d) Each contract between a Board and a provider must identify the number of places
23 (slots) to be reserved for children participating in the child care subsidy program.

24
25 (e) To be eligible for a contract, a child care provider must be a Texas Rising Star 3-star
26 or 4-star provider and meet one of the following priorities:

27
28 (1) Be located:

29
30 (A) where the number of children under age six with working parents is at
31 least three times greater than the capacity of licensed child care providers
32 in the area, based on data published annually by the Commission; or

33
34 (B) in an underserved area that has been identified by a Board as having an
35 inadequate supply of child care in accordance with the parameters
36 described in the CCDF State Plan.

37
38 (2) Have a partnership with local school districts to provide pre-K services

39
40 (3) Have a partnership with EHS or HS;

41
42 (4) Increase the number of places reserved for infants and toddlers by high-quality
43 child care providers;

44
45 (5) Satisfy a priority identified in the Board's plan, as described in §809.12 of this
46 chapter.

1
2 (f) A Board that enters into a contracted slots agreement may continue payment for
3 reserved slots during times of transition between the time that one child leaves the
4 program and another child is placed in the slot. The period of continued payment
5 shall adhere to the Board's policy for contracted slots agreements, as described in
6 §809.13(c)(14) of this chapter, and may not exceed one month following the month
7 of the vacancy.

8
9 (g) Except for children directly referred from recognized partnerships, as described in
10 §809.22 of this chapter, to fill open reserved slots, Boards shall contact families in
11 order of the Board's waiting list:

12
13 (1) that requested care in the ZIP code where the provider with the open reserved
14 slot is located; and

15
16 (2) whose child is in the age group for which a slot is available.

17
18 (h) In accordance with Commission guidelines, Boards that enter into contracted slots
19 agreements shall submit a report to the Commission within six months of entering
20 into a contract, determining the contract's effect on the:

21
22 (1) financial stability of providers participating in the contract;

23
24 (2) availability of high-quality child care options available to participants in the
25 Commission's subsidy program;

26
27 (3) number of high-quality providers in any part of the workforce area with a high
28 concentration of families that need child care;

29
30 (4) percentage of children participating in the Commission's subsidized child care
31 program at each Texas Rising Star provider in the workforce area; and

32
33 (5) additional information as requested by the Commission.

34
35 (i) A Board shall resubmit the report every six months from the due date of the Board's
36 initial report to the Commission.

37
38 **SUBCHAPTER G. TEXAS RISING STAR PROGRAM**

39
40 **§809.130. Short Title and Purpose.**

41
42 (a) The rules contained in this subchapter may be cited as the Texas Rising Star~~TRS~~
43 Program rules.

44
45 (b) The purpose of the Texas Rising Star~~TRS~~ Program rules is to interpret and
46 implement Texas Government Code, §2308.3155(b), which requiring requires the

1 Commission to establish rules to administer the [Texas Rising Star](#)~~TRS~~ program,
2 including guidelines for rating a child care provider for [Texas Rising Star](#)~~TRS~~
3 certification.
4

5 (c) The [Texas Rising Star](#)~~TRS~~ Program rules identify the organizational structure and
6 categories of, and the scoring factors that shall be included in, the [Texas Rising](#)
7 [Star](#)~~TRS~~ guidelines.
8

9 (d) The [Texas Rising Star](#)~~TRS~~ guidelines for rating a child care provider shall:
10

11 (1) describe measures for the [Texas Rising Star](#)~~TRS~~ program that contain, at a
12 minimum, measures for child care providers regarding:
13

14 (A) director and staff qualifications and training;
15

16 (B) ~~teacher~~~~caregiver~~-child interactions;
17

18 (C) ~~program administration; and~~~~curriculum;~~
19

20 (D) ~~indoor/outdoor environments;~~~~nutrition and indoor and outdoor activities;~~
21 ~~and~~
22 —

23 ~~(E) parent involvement and education;~~
24

25 (2) specify measures that:
26

27 (A) must be met in order for a provider to be certified at each star level; and
28

29 (B) are observed and have points awarded through on-site assessments; and
30

31 (3) specify the scoring methodology and scoring thresholds for each star level.
32

33 (e) The [Texas Rising Star](#)~~TRS~~ guidelines:
34

35 (1) shall be reviewed and updated by the Commission at a minimum of every four
36 years in conjunction with the rule review of Chapter 809, conducted pursuant
37 to Texas Government Code, §2001.039, and the [Texas Rising Star](#)~~TRS~~
38 guidelines review shall:
39

40 (A) consider input from stakeholders; and
41

42 (B) include at least one public hearing held prior to submitting the
43 stakeholder input to the Commission;
44

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

- 1
2 (3) ~~also~~ may be reviewed and amended as determined necessary by the
3 Commission in accordance with the requirements of the Texas Open Meetings
4 Act.
5

6 **§809.131. Eligibility for the Texas Rising StarTRRS Program.**
7

8 ~~(a)~~—A child care provider is eligible to apply for the Texas Rising StarTRRS program if
9 the provider has a current agreement to serve Commission-subsidized children and:

- 10
11 (1) has a permanent (nonexpiring) license or registration from CCL;
12
13 (2) has at least 12 months of licensing history with CCL, and is not on:
14
15 (A) corrective action with a Board pursuant to Subchapter F of this chapter;
16
17 (B) a "Notice of Freeze" with the Commission pursuant to Texas Labor
18 Code, Chapter 213 ~~of the Texas Labor Code~~ (Enforcement of the Texas
19 Unemployment Compensation Act) or Chapter 61 ~~of the Texas Labor~~
20 ~~Code~~ (Payment of Wages); or
21
22 (C) corrective or adverse action with CCL; ~~or~~ and

23
24 (3) meets the requirements to be designated as a Pre-Star provider as specified in
25 §802.2(18) of this chapter.

26
27 (4) has director and teaching staff registered in the Texas Early Childhood
28 Professional Development System Workforce Registry; or

29
30 (5)~~(3)~~ is regulated by and in good standing with the US Military.
31

32 ~~(b)~~—A child care facility is not eligible to apply for the TRRS program if, during the most
33 recent 12-month CCL licensing history, the provider had:

34
35 ~~(1) any of the critical licensing deficiencies listed in the TRS guidelines;~~

36
37 ~~(2) five or more of the high or medium-high licensing deficiencies listed in the TRS~~
38 ~~guidelines; or~~

39
40 ~~(3) 10 or more total licensing deficiencies of any type.~~
41

42 **§809.132. Impact of Certain Deficiencies on Texas Rising StarTRRS Certification.**
43

44 (a) A Texas Rising StarTRRS provider shall lose Texas Rising StarTRRS certification if
45 the provider:
46

- 1 (1) is placed on corrective action with a Board pursuant to Subchapter F of this
2 chapter;
- 3
- 4 (2) is under a "Notice of Freeze" with the Commission pursuant to Chapter 213 of
5 the Texas Labor Code (Enforcement of the Texas Unemployment
6 Compensation Act) or Chapter 61 of the Texas Labor Code (Payment of
7 Wages);
- 8
- 9 (3) is placed on corrective or adverse action by CCL; ~~or~~
- 10
- 11 (4) had 15 or more total high or medium-high weighted licensing deficiencies ~~of~~
12 ~~any type~~ during the most recent 12-month licensing history;
- 13
- 14 (5) had more than four probationary impacts during its three-year certification
15 period;
- 16
- 17 (6) had a consecutive third probationary impact; or
- 18
- 19 (7) is cited for specified CCL minimum standards regarding weapons and
20 ammunition.
- 21
- 22 (b) Texas Rising Star~~TRS~~ providers with any of the specified "star level drop" ~~critical~~
23 licensing deficiencies listed in the Texas Rising Star~~TRS~~ guidelines during the most
24 recent 12-month CCL licensing history ~~shall have the following consequences~~ shall
25 be placed on a six-month Texas Rising Star program probationary period.
26 Furthermore:
- 27
- 28 (1) reduction of one ~~star~~ star level for each deficiency cited, so a 4-star certified
29 provider ~~Star Program Provider~~ is reduced to a 3-star provider ~~Star Program~~
30 ~~Provider~~, a 3-star provider ~~Star Program Provider~~ is reduced to a 2-star
31 provider~~Star Provider~~; or
- 32
- 33 (2) a 2-star provider ~~Star Provider~~ loses certification.
- 34
- 35 (c) Texas Rising Star~~TRS~~ providers with any of the specified "probationary" licensing
36 ~~five or more of the high or medium-high~~ deficiencies listed in the Texas Rising
37 Star~~TRS~~ guidelines during the most recent 12-month CCL licensing history shall be
38 placed on a six-month Texas Rising Star probationary period. Furthermore: ~~shall lose~~
39 ~~a star level with a 2-Star Program Provider losing certification.~~
- 40
- 41 (1) Texas Rising Star providers on a six-month Texas Rising Star probationary
42 period that are cited by CCL for any additional specified probationary
43 deficiencies within the probationary period shall be placed on a second,
44 consecutive probation and lose a star level, with a 2-star certified provider
45 losing certification;
- 46

- 1 (2) if CCL does not cite any additional specified probationary deficiencies during
2 the probationary period, the provider can be removed from probation status;
3 and:
4
- 5 (3) if any additional specified probationary deficiencies are cited by CCL during
6 the second probationary period, the Texas Rising Star provider shall lose
7 certification.
8
- 9 (d) Texas Rising Star~~TRS~~ providers with 10 to 14 total high or medium-high weighted
10 licensing deficiencies ~~of any type~~ during the most recent 12-month CCL licensing
11 history shall be placed on a six-month Texas Rising Star~~TRS~~ program probationary
12 period. Furthermore:
13
- 14 (1) Texas Rising Star~~TRS~~ providers on a six-month probationary period that are
15 ~~re-~~cited by CCL within the probationary period for any ~~of the same~~additional
16 high or medium-high weighted deficiencies shall be placed on a second,
17 consecutive probation and lose a star level, with a 2-star provider ~~Star Program~~
18 ~~Provider~~-losing certification;
19
- 20 (2) if no additional high or medium-high weighted deficiencies are cited by CCL
21 during the probationary period, the provider can be removed from probation
22 status if any new deficiencies--not to exceed 14 total deficiencies--are cited by
23 ~~CCL during the first probationary period, a second six-month probationary~~
24 ~~period shall be established effective upon the date of final CCL determination~~
25 ~~of the deficiencies;~~ and
26
- 27 (3) if any new high or medium-high weighted deficiencies--not to exceed 14 total
28 deficiencies--are cited by CCL during the second six-month probationary
29 period, a provider shall lose Texas Rising Star~~TRS~~ certification.
30
- 31 (e) Providers losing a star level due to licensing deficiencies shall be reinstated at the
32 former star level if no citations described in ~~§809.132~~subsections (b) - (d) of this
33 section occur within the six-month reduction time frame.
34
- 35 (f) Providers losing Texas Rising Star~~TRS~~ certification shall be eligible to reapply for
36 certification after six months following the loss of the certification, as long as no
37 ~~current~~ deficiencies described in subsections (b) - (d) of this section~~are re-cited and~~
38 ~~no additional licensing deficiencies~~ are cited during the disqualification period.
39

40 **§809.133. Application and Assessments for the Texas Rising Star~~TRS~~ Program.**
41

- 42 (a) Texas Rising Star~~TRS~~ certification ~~program~~ applicants must complete:
43
- 44 (1) an orientation on the Texas Rising Star~~TRS~~ guidelines, including an overview
45 of the:
46

1 (A) Texas Rising Star~~TRS~~ program application process;

2
3 (B) Texas Rising Star~~TRS~~ program measures; and

4
5 (C) Texas Rising Star~~TRS~~ program assessment process;

6
7 (2) the creation of a continuous quality improvement plan; and

8
9 (3)(2) a Texas Rising Star~~TRS~~ program self-assessment tool.

10
11 (b) Boards shall ensure that:

12
13 (1) written acknowledgment of receipt of the application and self-assessment is
14 sent to the provider;

15
16 (2) within 20 days of receipt of the application, the provider is sent an estimated
17 time frame for scheduling the initial assessment;

18
19 (3) an assessment is conducted for any provider that meets the eligibility
20 requirements in §809.131 of this subchapter and requests to participate in the
21 Texas Rising Star~~TRS~~ program; and

22
23 (4) Texas Rising Star~~TRS~~ certification is granted for any provider that is assessed
24 and verified as meeting the Texas Rising Star~~TRS~~ provider certification
25 criteria set forth in the Texas Rising Star~~TRS~~ guidelines.

26
27 (c) Boards shall ensure that Texas Rising Star~~TRS~~ assessments are conducted as
28 follows:

29
30 (1) On-site assessment of 100 percent of the provider classrooms at the initial
31 assessment for Texas Rising Star~~TRS~~ certification and at each scheduled
32 recertification; and

33
34 (2) Recertification of all certified Texas Rising Star~~TRS~~ providers every three
35 years.

36
37 (d) Boards shall ensure that certified Texas Rising Star~~TRS~~ providers are monitored on
38 an annual basis and the monitoring includes:

39
40 (1) at least one unannounced on-site visit; and

41
42 (2) a review of the provider's licensing compliance as described in ~~new~~ §809.132
43 of this subchapter.

- 1 (e) Boards shall ensure compliance with the process and procedures in the [Texas Rising](#)
 2 [Star](#)~~TRS~~ guidelines for conducting assessments of nationally accredited child care
 3 facilities and child care facilities regulated by the US Military.
 4
- 5 (f) Boards shall ensure compliance with the process and procedures in the [Texas Rising](#)
 6 [Star](#)~~TRS~~ guidelines for conducting assessments of certified [Texas Rising Star](#)~~TRS~~
 7 providers that have a change of ownership, move, or expand locations.
 8
- 9 (g) [Boards shall ensure compliance with the process and procedures in the Texas Rising](#)
 10 [Star guidelines for implementing and supporting a continuous quality improvement](#)
 11 [framework.](#)
 12

13 **§809.134. Minimum Qualifications for [Texas Rising Star](#)~~TRS~~ Assessors and**
 14 **~~Mentors~~[Staff](#).**
 15

- 16 (a) [Boards shall ensure that Texas Rising Star](#)~~TRS~~ ~~staff~~~~mentors~~ [meet the minimum](#)
 17 [requirements in subsections \(b\) - \(g\) of this section.](#)
 18
- 19 ~~(b)(a)~~ [Boards shall ensure that Texas Rising Star](#)~~TRS~~ ~~staff~~~~assessors and mentors~~ [shall](#)
 20 [meet the minimum education requirements as follows:](#)
 21
- 22 (1) Bachelor's degree from an accredited four-year college or university in early
 23 childhood education, child development, special education, child psychology,
 24 educational psychology, elementary education, or family consumer science;
 25
- 26 (2) Bachelor's degree from an accredited four-year college or university with at
 27 least 18 credit hours in early childhood education, child development, special
 28 education, child psychology, educational psychology, elementary education, or
 29 family consumer science with at least 12 credit hours in child development;~~or~~
 30
- 31 (3) Associate's degree in early childhood education, child development, special
 32 education, child psychology, educational psychology, elementary education, or
 33 family consumer science with two years of experience as a director in an early
 34 childhood program, with preference given to experience with a provider that is
 35 accredited or [Texas Rising Star](#)~~TRS~~ certified.
 36
- 37 ~~(c)(b)~~ The Commission may grant a waiver of no more than two years [to obtain](#) ~~of~~ the
 38 minimum education requirements in subsection [\(b\)](#) ~~(a)~~ of this section if a Board can
 39 demonstrate that no applicants in its ~~local~~ workforce ~~development~~ area meet the
 40 minimum education requirements.
 41
- 42 ~~(d)(e)~~ [Boards shall ensure that Texas Rising Star](#)~~TRS~~ ~~staff~~ ~~assessors and mentors~~ [shall](#)
 43 [meet the minimum work experience requirements of one year of full-time early](#)
 44 [childhood classroom experience in a child care, ~~EHS~~Early Head Start, ~~HS~~Head Start,](#)
 45 [or ~~pre-K~~prekindergarten through third-grade school program.](#)
 46

1 ~~(d) Boards shall ensure that if an individual performs the duties of both an assessor and~~
2 ~~a mentor, the individual providing TRS mentoring services to a provider does not act~~
3 ~~as the assessor of that same provider when determining TRS certification.~~

4
5 ~~(e) Boards shall ensure that TRS assessors and mentors are required to complete annual~~
6 ~~professional development and continuing education consistent with the TRS annual~~
7 ~~minimum training hours requirement for a TRS-certified child care center director.~~

8
9 ~~(e) (f) Boards shall ensure that Texas Rising Star TRS staff assessors and mentors shall~~
10 ~~meet the background check requirement consistent with Chapter 745 of this title.~~

11
12 ~~(f) (g) Boards shall ensure that Texas Rising Star TRS staff assessors and mentors shall~~
13 ~~demonstrate:~~

- 14
15 (1) knowledge of best practices in early childhood education; and
16
17 (2) understanding of early childhood evaluations, observations, and assessment
18 tools for both teachers and children.

19
20 ~~(g) Texas Rising Star staff shall meet the following training and certification criteria:~~

- 21
22 (1) All staff must complete the Texas Rising Star standards training, as described
23 in the Texas Rising Star guidelines.
24
25 (2) All assessors must attain and maintain the Texas Rising Star Assessor
26 Certification, as described in the Texas Rising Star guidelines
27
28 (3) All mentors must attain mentor micro-credentialing, as described in the Texas
29 Rising Star guidelines.

30
31 **§809.136. Roles and Responsibilities of Texas Rising Star Staff**

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

- 35
36 (1) A mentor is defined as a designated staff member who helps providers obtain,
37 maintain, or achieve higher star levels of certification.
38
39 (2) An assessor is defined as a designated staff member who assesses and monitors
40 providers that obtain, maintain, and achieve higher levels of quality.
41
42 (3) Dual-role staff is defined as designated staff members who assume the role of
43 the assessor and mentor.
44
45 (4) If an individual performs the duties of both an assessor and a mentor, the
46 individual providing Texas Rising Star mentoring services to a provider does

1 not act as the assessor of that same provider when determining Texas Rising
2 Star certification.

3
4 (5) Texas Rising Star staff members are required to complete annual professional
5 development and continuing education consistent with the Texas Rising Star
6 annual minimum training hours requirement for a Texas Rising Star--certified
7 child care center director.

8
9 (6) Per the Texas Family Code, §261.101, Texas Rising Star staff members are
10 mandated reporters when observing serious incidents as described in the Texas
11 Rising Star guidelines.