

TEXAS WORKFORCE COMMISSION
Workforce Development Letter

ID/No:	WD 07-20, Change 2
Date:	September 11, 2020
Keyword:	Child Care; Natural Disaster;
Effective:	Immediately

To: Local Workforce Development Board Executive Directors
Commission Executive Offices
Integrated Service Area Managers



From: Reagan Miller, Director, Child Care & Early Learning Division

Subject: **COVID-19 Child Care Services Guidance—Update**

PURPOSE:

The purpose of this WD Letter is to provide Local Workforce Development Boards (Boards) with updated guidance on the implementation of child care services during the ongoing global pandemic of coronavirus disease 2019 (COVID-19).

RESCISSIONS:

WD 07-20, Change 1

BACKGROUND:

On March 17, 2020, the Texas Workforce Commission's (TWC) three-member Commission approved a policy pertaining to Board administration of the Child Care Services program in response to the COVID-19 pandemic.

COVID-19 may impact families and child care programs that participate in TWC's subsidized Child Care Services program. Parents might experience interruptions in their participation in work or education and training, and child care programs that serve subsidized children might be required to close because of contagion and public health risk-mitigation measures.

TWC's Child Care & Early Learning Division (CC&EL) is working closely with the Texas Health and Human Services Commission (HHSC) Child Care Regulation (CCR) division to determine the effect of the pandemic on programs that receive subsidies. Child care programs may be affected by COVID-19-related causes, including the following:

- A confirmed or suspected case of COVID-19 among staff, children, or their immediate family members

- Insufficient staffing to maintain required teacher-child ratios because of illness or risk-mitigation
- Directives from local, state, or federal authorities to close, reduce, or change child care services

PROCEDURES:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”

Parent Share of Cost Affordability during the COVID-19 Pandemic

NLF: TWC Chapter 809 Child Care Services rule §809.19(a)(1)(C) requires Boards to set the parent share of cost (PSOC) at an amount that is affordable and does not result in a barrier to families receiving assistance. Boards must be aware that families affected by COVID-19 might be unable to pay the PSOC due to loss of income, unforeseen health care expenses, inability to leave home because of self-isolation or quarantine, child care program closure, or other COVID-19–related reasons. Boards must consider COVID-19 as an extenuating circumstance for families during which the PSOC is unaffordable.

Interruptions in Parents’ Ongoing Participation in Work, Education, or Training

Temporary Loss of Work, Education, or Training

NLF: As described in §809.51, a temporary change in a parent’s ongoing status in work, education, or training does not affect a child’s ongoing eligibility for child care services.

NLF: Boards must not create *Activity Interruption* records in The Workforce Information System of Texas (TWIST) for temporary interruptions.

NLF: Boards must be aware that as required by §809.73, parents are not required to report temporary changes in ongoing participation in work, education, or training. Boards must ensure that parents are informed that a temporary change is defined as a time-limited absence from work for periods of family leave or sick leave. They may also include those that are accompanied by a specified return-to-work date provided by the employer or a specified return-to-education/training date if schools are temporarily closed. If a parent does not have a specific return-to-work/education/training date and the cessation of work is expected to exceed three months, the change is considered non-temporary (that is, permanent) and must be reported.

Permanent Loss of Work, Education, or Training

NLF: Boards must be aware that TWC has suspended the requirement in §809.51(b) to end care for permanent loss of work that exceeds three months. Boards must continue to provide care regardless of a parent’s permanent loss of work, education, or training. TWC will continue to monitor the labor market impacts of COVID-19 and will advise Boards when this policy suspension is discontinued.

NLF: Boards must continue to record the permanent loss of work, education, or training for parents receiving Child Care Services as described in Child Care Services Guide Section D-802, even if the permanent loss is due to COVID-19.

COVID-19 and Child Care Redeterminations

Income Calculations

NLF: Boards must be aware that parents might increase their work hours due to COVID-19 (for example, as a result of coworkers’ inability to work or because of increased demand for services in the parents’ occupation). These increased work hours might result in a temporary fluctuation of, and increase in, earnings.

Section 809.44(a) requires Boards to consider irregular fluctuations in earnings and to ensure that temporary fluctuations in income do not affect eligibility. Instructions on how to consider income fluctuations are found in section D-107.a of the Child Care Services Guide.

NLF: Boards must ensure that this flexibility is provided to parents whose income has been affected by COVID-19.

Minimum Work-Hour Requirements

NLF: Boards must be aware that parents who experience work interruptions might face reductions in work hours and find it difficult to access eligibility documents and/or proof of minimum activity hours.

Section D-202.a of the Child Care Services Guide includes guidance on how to account for fluctuations in participation hours for situations that are outside of the parent’s control.

NLF: Boards must ensure that this flexibility is provided to parents whose work hours have been affected by COVID-19.

Extension of Redetermination Period

LF: Boards may extend a family’s redetermination date pursuant to §809.42(b) for up to three months from the original redetermination date due to extenuating circumstances such as:

- a parent is experiencing a COVID-19–related temporary interruption in work, education, or training;
- a parent has become unemployed and is unable to find work due to COVID-19’s effect on the local labor; or
- the Board’s child care contractor is facing staffing shortages or office closures because of COVID-19 and they are unable to process recertifications timely.

If after a three-month extension, a parent is still unable to demonstrate adequate participation in work, education, or training, the Board may extend the redetermination an additional three months.

TWC will continue to monitor the COVID-19 emergency and may issue future guidance regarding extensions of eligibility redeterminations.

LF: Boards may continue to process redeterminations as long as consideration is given to how work hours and income are calculated (as noted above in this WD Letter).

NLF: Boards must ensure that staff documents the reason for redetermination extensions in *TWIST Counselor Notes*.

Payments to Closed Child Care Programs and Child Transfers

NLF: Boards must be aware that if a child care provider has an exposure to a presumed or confirmed COVID-19 case and needs to close in order to sanitize the facility and/or quarantine staff and children, the closure must be considered *involuntary*. Boards must continue to pay the provider for up to two consecutive weeks of involuntary closure.

LF: If the *involuntary* closure extends beyond two consecutive weeks, the Board may request that TWC review the situation. These situations will be handled on a case-by-case basis.

NLF: Boards must be aware that if a provider elects to close for reasons not related to a specific COVID-19 exposure, the closure is considered *voluntary*.

NLF: Boards must be aware that if a child care program *voluntarily* closes for reasons not related to a specific COVID-19 exposure, Boards must end authorizations for care at that facility and work with the families to find placement with another eligible program. If acceptable care cannot be found, then the child's care is suspended, and the child care referral is closed. The child's current eligibility period remains, and the TWIST program detail remains open.

LF: Boards may amend their local policies and procedures to require a waiting period for child care transfers except for cases in which the child's safety may be in jeopardy (including CCR actions against a provider as required by §809.94). Requiring a two-week waiting period before ending care at a facility aligns with common private-pay practices, which is a goal of the Child Care and Development Block Grant (CCDBG) Act. During the waiting period, the child's referral at the original provider shall continue unless the parent requests a suspension. Boards may apply this policy/procedure to all transfer requests, not just COVID-19–related transfers.

NLF: Boards must ensure that provider closures as well as requests to transfer children are documented in *TWIST Counselor Notes*.

COVID-19 Child Care Program Closures Report

NLF: Boards must be aware that CCR will regularly provide TWC with data on program closures. TWC will share these reports with Boards as the reports become available, which initially will be daily. Boards must monitor closures of CCDF-funded programs and use the data to implement the provisions of this guidance as well as to communicate about the local effects of COVID-19.

Texas Rising Star Processes

NLF: Due to ongoing challenges related to COVID-19, Boards must postpone all required assessments or visits for certified Texas Rising Star programs until further notice.

LF: Boards may conduct voluntary on-site assessments or mentoring activities at the request of a child care program. Boards are encouraged to consider the health and safety of their staff and the recommendations of local health authorities when authorizing in-person visits.

LF: Boards may extend assessments and monitoring visits with Texas Rising Star programs that were scheduled to occur on or after March 16, 2020, on a month-by-month basis.

NLF: Effective October 1, 2020, Boards must resume conducting required quarterly licensing screenings of Texas Rising Star programs. If a negative screening impact is discovered during this follow-up screening, Boards must contact TWC for case-by-case consideration.

NLF: Boards must ensure that the following COVID-19–related Texas Rising Star actions are documented in *TWIST Comments/Counselor Notes* and the *Engage Event Log*:

- Extensions to certifications
- Rescheduling of assessments or monitoring visits
- Postponed quarterly CCR screenings due to temporary closures
- Other relevant information related to COVID-19 and the program’s ongoing status in Texas Rising Star

Public Health Guidance for Child Care Programs

The Texas Department of State Health Services (DSHS) is working with the Centers for Disease Control and Prevention (CDC) in monitoring COVID-19. Boards can find more information about COVID-19 in Texas on the DSHS [website](#).

The CDC has created COVID-19–related [guidance](#) for schools and child care programs.

Governor Abbott’s Strike Force to Open Texas has issued guidance for [child care centers](#) and [child care families](#), and on June 25, 2020, CCR released new [emergency rules](#) for child care programs operating during COVID-19.

LF: Boards should become familiar with and may share this guidance with local child care programs.

ATTACHMENT:

Attachment 1: Revisions to WD Letter 07-20, Change 1, Shown in Track Changes

INQUIRIES:

Send inquiries regarding this WD Letter to childcare.programassistance@twc.state.tx.us.

REFERENCES:

“COVID-19: Guidance for School Settings,” Centers for Disease Control and Prevention, March 9, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/index.html>

“Coronavirus Disease 2019 (COVID-19),” Texas Department of State Health Services, March 14, 2020. <https://www.dshs.texas.gov/coronavirus/>

“Open Texas Checklist for Child Care Centers,” Office of the Texas Governor, May 18, 2020, <https://open.texas.gov/uploads/files/organization/opentexas/OpenTexas-Checklist-Child-Care-Centers.pdf>.

“Open Texas Checklist for Child Care Families,” Office of the Texas Governor, May 18, 2020, <https://open.texas.gov/uploads/files/organization/opentexas/OpenTexas-Checklist-Child-Care-Families.pdf>.

“[New Emergency Rules for Child Day Care Providers](https://hhs.texas.gov/about-hhs/communications-events/news/2020/06/new-emergency-rules-child-day-care-providers-effective-june-25-2020),” Texas Health and Human Services Commission, June 25, 2020. <https://hhs.texas.gov/about-hhs/communications-events/news/2020/06/new-emergency-rules-child-day-care-providers-effective-june-25-2020>.

Texas Workforce Commission Chapter 809 Child Care Services Rules

Texas Workforce Commission Child Care Services Guide