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

4 **SUBCHAPTER A. GENERAL PROVISIONS**  
5

6 **§809.1. Short Title and Purpose.**  
7

- 8 (a) The rules contained in this chapter may be cited as the Child Care Rules.  
9  
10 (b) The purpose of these rules is to interpret and implement the requirements of state and  
11 federal statutes and regulations governing child care and quality improvement  
12 activities funded through the Texas Workforce Commission (Commission), to  
13 include:  
14  
15 (1) the Child Care and Development Fund (CCDF), which includes:  
16  
17 (A) funds allocated to local workforce development areas (workforce areas)  
18 as provided in §800.58 of this title;  
19  
20 (B) private donated funds described in §809.17(b)(1);  
21  
22 (C) public transferred funds described in §809.17(b)(2);  
23  
24 (D) public certified expenditures described in §809.17(b)(3); and  
25  
26 (E) funds used for children receiving protective services described in  
27 §809.49.  
28  
29 (2) other funds that are used for child care services allocated to workforce areas  
30 under Chapter 800 of this title.  
31  
32 (c) The rules contained in this chapter shall apply to the Commission, Local Workforce  
33 Development Boards (Boards), their child care contractors, child care providers, and  
34 parents applying for or eligible to receive child care services.  
35

36 *The provisions of this §809.1 adopted to be effective January 29, 2007, 32 TexReg 336*  
37

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39

40 **§809.2. Definitions.**  
41

42 The following words and terms, when used in this chapter, shall have the following  
43 meanings, unless the context clearly indicates otherwise.  
44

- 45 (1) Attending a job training or educational program--An individual is attending a  
46 job training or educational program if the individual:

- 1  
2 (A) is considered by the program to be officially enrolled;  
3  
4 (B) meets all attendance requirements established by the program; and  
5  
6 (C) is making progress toward successful completion of the program as  
7 determined by the Board upon eligibility redetermination as described in  
8 §809.42(b).  
9

10 (2) Child--An individual who meets the general eligibility requirements contained  
11 in this chapter for receiving child care services.  
12

13 (3) Child care contractor--The entity or entities under contract with the Board to  
14 manage child care services. This includes contractors involved in determining  
15 eligibility for child care services, contractors involved in the billing and  
16 reimbursement process related to child care subsidies, as well as contractors  
17 involved in the funding of quality improvement activities as described in  
18 §809.16.  
19

20 (4) Child Care Licensing (CCL)--Division responsible for protecting the health,  
21 safety, and well-being of children who attend or reside in regulated child care  
22 facilities and homes. Previously a division of the Texas Department of Family  
23 and Protective Services (DFPS), CCL is now part of the Texas Health and  
24 Human Services Commission (HHSC).  
25

26 (5) Child care services--Child care subsidies and quality improvement activities  
27 funded by the Commission.  
28

29 (6) Child care subsidies--Commission-funded child care reimbursements to an  
30 eligible child care provider for the direct care of an eligible child.  
31

32 (7) Child experiencing homelessness--A child who is homeless, as defined in the  
33 McKinney-Vento Act (42 USC 11434(a)), Subtitle VII-B, §725.  
34

35 (8) Child with disabilities--A child who has a physical or mental impairment that  
36 substantially limits one or more major life activities, has a record of such an  
37 impairment, or is regarded as having such an impairment. Major life activities  
38 include, but are not limited to, caring for oneself; performing manual tasks;  
39 walking; hearing; seeing, speaking, or breathing; learning; and working.  
40

41 (9) Educational program--A program that leads to:  
42

43 (A) a high school diploma;

44 (B) a Certificate of High School Equivalency; or  
45  
46

1 (C) a postsecondary degree from an institution of higher education.  
2

3 (10) Excessive unexplained absences--More than 40 unexplained absences within a  
4 12-month eligibility period as described in §809.78(a)(3).  
5

6 (11) Family--Two or more individuals related by blood, marriage, or decree of  
7 court, who are living in a single residence and are included in one or more of  
8 the following categories:  
9

10 (A) Two individuals, married--including by common-law, and household  
11 dependents; or  
12

13 (B) A parent and household dependents.  
14

15 (12) Household dependent--An individual living in the household who is one of the  
16 following:  
17

18 (A) An adult considered a dependent of the parent for income tax purposes;  
19

20 (B) A child of a teen parent; or  
21

22 (C) A child or other minor living in the household who is the responsibility  
23 of the parent.  
24

25 (13) Improper payments--Any payment of CCDF grant funds that should not have  
26 been made or that was made in an incorrect amount (including overpayments  
27 and underpayments) under statutory, contractual, administrative, or other  
28 legally applicable requirements governing the administration of CCDF grant  
29 funds and includes payments:  
30

31 (A) to an ineligible recipient;  
32

33 (B) for an ineligible service;  
34

35 (C) for any duplicate payment; and  
36

37 (D) for services not received.  
38

39 (14) Job training program--A program that provides training or instruction leading  
40 to:  
41

42 (A) basic literacy;  
43

44 (B) English proficiency;  
45

46 (C) an occupational or professional certification or license; or

1  
2 (D) the acquisition of technical skills, knowledge, and abilities specific to an  
3 occupation.  
4

5 (15) Listed family home--A family home, other than the eligible child's own  
6 residence, that is listed, but not licensed or registered with, CCL pursuant to  
7 Texas Human Resources Code §42.052(c).  
8

9 (16) Military deployment--The temporary duty assignment away from the  
10 permanent military installation or place of residence for reserve components of  
11 the single military parent or the dual military parents. This includes deployed  
12 parents in the regular military, military reserves, or National Guard.  
13

14 (17) Parent--An individual who is responsible for the care and supervision of a  
15 child and is identified as the child's natural parent, adoptive parent, stepparent,  
16 legal guardian, or person standing in loco parentis (as determined in  
17 accordance with Commission policies and procedures). Unless otherwise  
18 indicated, the term applies to a single parent or both parents.  
19

20 (18) Protective services--Services provided when:  
21

22 (A) a child is at risk of abuse or neglect in the immediate or short-term future  
23 and the child's family cannot or will not protect the child without DFPS  
24 Child Protective Services (CPS) intervention;  
25

26 (B) a child is in the managing conservatorship of DFPS and residing with a  
27 relative or a foster parent; or  
28

29 (C) a child has been provided with protective services by DFPS within the  
30 prior six months and requires services to ensure the stability of the  
31 family.  
32

33 (19) Provider--A provider is defined as:  
34

35 (A) a regulated child care provider as defined in §809.2(20);  
36

37 (B) a relative child care provider as defined in §809.2(21); or  
38

39 (C) a listed family home as defined in §809.2(15), subject to the  
40 requirements in §809.91(b).  
41

42 (20) Regulated child care provider--A provider caring for an eligible child in a  
43 location other than the eligible child's own residence that is:  
44

45 (A) licensed by CCL;  
46

- 1 (B) registered with CCL; or  
2  
3 (C) operated and monitored by the United States military services.  
4  
5 (21) Relative child care provider--An individual who is at least 18 years of age, and  
6 is, by marriage, blood relationship, or court decree, one of the following:  
7  
8 (A) The child's grandparent;  
9  
10 (B) The child's great-grandparent;  
11  
12 (C) The child's aunt;  
13  
14 (D) The child's uncle; or  
15  
16 (E) The child's sibling (if the sibling does not reside in the same household as  
17 the eligible child).  
18  
19 (22) Residing with--Unless otherwise stipulated in this chapter, a child is  
20 considered to be residing with the parent when the child is living with and  
21 physically present with the parent during the time period for which child care  
22 services are being requested or received.  
23  
24 (23) Teen parent--A teen parent (teen) is an individual 18 years of age or younger,  
25 or 19 years of age and attending high school or the equivalent, who has a child.  
26  
27 (24) Texas Rising Star program--A voluntary, quality-based rating system of child  
28 care providers participating in Commission-subsidized child care.  
29  
30 (25) Texas Rising Star Provider--A provider certified as meeting the TRS program  
31 standards. TRS providers are certified as one of the following:  
32  
33 (A) 2-Star Program Provider;  
34  
35 (B) 3-Star Program Provider; or  
36  
37 (C) 4-Star Program Provider.  
38  
39 (26) Working--Working is defined as:  
40  
41 (A) activities for which one receives monetary compensation such as a  
42 salary, wages, tips, and commissions; or



- 1  
2 (B) participation in Choices or Supplemental Nutrition Assistance Program  
3 Employment and Training (SNAP E&T) activities.  
4

5 *The provisions of this §809.2 adopted to be effective January 29, 2007, 32 TexReg 336;*  
6 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective February*  
7 *16, 2015, 40 TexReg 708; amended to be effective October 1, 2016, 41 TexReg 7529;*  
8 *amended to be effective August 1, 2018, 43 TexReg 4474; amended to be effective January 8,*  
9 *2019, 44 TexReg 114*

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13 **§809.3. Waiver Request.**  
14

- 15 (a) The Commission may waive child care rules upon request from a person directly  
16 affected by the rules, if it determines that the waiver benefits a parent, child care  
17 contractor, or provider, and the Commission determines that the waiver does not  
18 harm child care or violate state or federal statutes or regulations.  
19  
20 (b) Prior to submitting a waiver request to the Commission, the child must have been  
21 determined by the Board's child care contractor to meet the minimum qualifications  
22 set forth in §809.41(a).  
23

24 *The provisions of this §809.3 adopted to be effective January 29, 2007, 32 TexReg 336*  
25

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28 **SUBCHAPTER B. GENERAL MANAGEMENT**  
29

30 **§809.11. Board Responsibilities.**  
31

- 32 (a) A Board shall be responsible for the administration of child care in a manner  
33 consistent with Texas Government Code, Chapter 2308, as amended, and related  
34 provisions under Chapter 801 of this title (relating to Local Workforce Development  
35 Boards).  
36  
37 (b) A Board shall ensure that access to child care services shall be available through all  
38 Texas Workforce Centers within a workforce area.  
39  
40 (c) Child care services are support services for workforce employment, job training, and  
41 services under Texas Government Code, Chapter 2308 and Chapter 801 of this title.

- 1  
2 (d) Upon request, a Board shall provide the Commission with access to child care  
3 administration records and submit related information for review and monitoring,  
4 pursuant to Commission rules and policies.  
5

6 *The provisions of this §809.11 adopted to be effective January 29, 2007, 32 TexReg 336*  
7

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10 **§809.12. Board Plan for Child Care Services.**  
11

- 12 (a) A Board shall, as part of its Texas Workforce Development Board Plan (Board plan),  
13 develop, amend, and modify the Board plan to incorporate and coordinate the design  
14 and management of the delivery of child care services with the delivery of other  
15 workforce employment, job training, and educational services identified in Texas  
16 Government Code §2308.251 et seq., as well as other workforce training and  
17 services included in the One-Stop Service Delivery Network.  
18  
19 (b) The goal of the Board plan is to coordinate workforce training and services, to  
20 leverage private and public funds at the local level, and to fully integrate child care  
21 services for low-income families with the network of workforce training and services  
22 under the administration of the Boards.  
23  
24 (c) Boards shall design and manage the Board plan to maximize the delivery and  
25 availability of safe and stable child care services that assist families seeking to  
26 become independent from, or who are at risk of becoming dependent on, public  
27 assistance while parents are either working or attending a job training or educational  
28 program.  
29

30 *The provisions of this §809.12 adopted to be effective January 29, 2007, 32 TexReg 336*  
31

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34 **§809.13. Board Policies for Child Care Services.**  
35

- 36 (a) A Board shall develop, adopt, and modify its policies for the design and management  
37 of the delivery of child care services in a public process in accordance with Chapter  
38 802 of this title.  
39  
40 (b) A Board shall maintain written copies of the policies that are required by federal and  
41 state law, or as requested by the Commission, and make such policies available to  
42 the Commission and the public upon request.  
43  
44 (c) At a minimum, a Board shall develop policies related to:  
45

- 1 (1) how the Board determines that the parent is making progress toward successful  
2 completion of a job training or educational program as described in §809.2(1);  
3
- 4 (2) maintenance of a waiting list as described in §809.18(b);  
5
- 6 (3) assessment of a parent share of cost as described in §809.19(a)(1), including:  
7
  - 8 (A) provisions for a parent's failure to pay the parent share of cost, including  
9 the reimbursement of providers, as a program violation that is subject to  
10 early termination of child care services within a 12-month eligibility  
11 period; and  
12
  - 13 (B) criteria for determining the affordability of the parent share of cost, as  
14 described in §809.19(d) - (e);  
15
- 16 (4) maximum reimbursement rates as provided in §809.20, including policies  
17 related to reimbursement of providers that offer transportation;  
18
- 19 (5) family income limits as described in Subchapter C of this chapter (relating to  
20 Eligibility for Child Care Services);  
21
- 22 (6) provision of child care services to a child with disabilities under the age of 19  
23 as described in §809.41(a)(1)(B);  
24
- 25 (7) minimum activity requirements for parents as described in §809.48 and  
26 §809.50;  
27
- 28 (8) time limits for the provision of child care while the parent is attending an  
29 educational program as described in §809.41(b);  
30
- 31 (9) Board priority groups as described in §809.43(a);  
32
- 33 (10) transfer of a child from one provider to another as described in §809.71(3);  
34
- 35 (11) providers charging the difference between their published rate and the Board's  
36 reimbursement rate as provided in §809.92(d);  
37
- 38 (12) procedures for fraud fact-finding as provided in §809.111; and  
39
- 40 (13) policies and procedures to ensure that appropriate corrective actions are taken  
41 against a provider or parent for violations of the automated attendance  
42 requirements specified in §809.115(d) - (e).  
43

44 *The provisions of this §809.13 adopted to be effective January 29, 2007, 32 TexReg 336;*  
45 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*

1 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529;*  
2 *amended to be effective August 1, 2018, 43 TexReg 4474*

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5  
6 **§809.14. Coordination of Child Care Services.**

- 7  
8 (a) A Board shall coordinate with federal, state, and local child care and early  
9 development programs and representatives of local governments in developing its  
10 Board plan and policies for the design and management of the delivery of child care  
11 services, and shall maintain written documentation of its coordination efforts.  
12  
13 (b) Pursuant to Texas Education Code §29.158, and in a manner consistent with federal  
14 law and regulations, a Board shall coordinate with school districts, Head Start, and  
15 Early Head Start program providers to ensure, to the greatest extent practicable, that  
16 full-day, full-year child care is available to meet the needs of low-income parents  
17 who are working or attending a job training or educational program.  
18

19 *The provisions of this §809.14 adopted to be effective January 29, 2007, 32 TexReg 336*

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22  
23 **§809.15. Promoting Consumer Education.**

- 24  
25 (a) A Board shall promote informed child care choices by providing consumer education  
26 information to:  
27  
28 (1) parents who are eligible for child care services;  
29  
30 (2) parents who are placed on a Board's waiting list;  
31  
32 (3) parents who are no longer eligible for child care services; and  
33  
34 (4) applicants who are not eligible for child care services.  
35  
36 (b) The consumer education information, including consumer education information  
37 provided through a Board's website, shall contain, at a minimum:  
38  
39 (1) information about the Texas Information and Referral Network/2-1-1 Texas  
40 (2-1-1 Texas) information and referral system;  
41  
42 (2) the website and telephone number of DFPS, so parents may obtain health and  
43 safety requirements including information on:  
44  
45 (A) the prevention and control of infectious diseases (including  
46 immunizations);

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- (B) building and physical premises safety;
  - (C) minimum health and safety training appropriate to the provider setting;  
and
  - (D) the regulatory compliance history of child care providers;
- (3) a description of the full range of eligible child care providers set forth in §809.91; and
  - (4) a description of programs available in the workforce area relating to school readiness and quality rating systems, including:
    - (A) Texas Rising Star (TRS) Provider criteria, pursuant to Texas Government Code §2308.315; and
    - (B) integrated school readiness models, pursuant to Texas Education Code §29.160;
  - (5) a list of child care providers that meet quality indicators, pursuant to Texas Government Code §2308.3171;
  - (6) information on existing resources and services available in the workforce area for conducting developmental screenings and providing referrals to services when appropriate for children eligible for child care services, including the use of:
    - (A) the Early and Periodic Screening, Diagnosis, and Treatment program under 42 U.S.C. 1396 et seq.; and
    - (B) developmental screening services available under Part B and Part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.); and
  - (7) a link to the Agency's designated child care consumer education website.

- 1  
2 (c) A Board shall cooperate with the Texas Health and Human Services Commission  
3 (HHSC) to provide 2-1-1 Texas with information, as determined by HHSC, for  
4 inclusion in the statewide information and referral network.  
5

6 *The provisions of this §809.15 adopted to be effective January 29, 2007, 32 TexReg 336;*  
7 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*  
8 *2016, 41 TexReg 7529*  
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12 **§809.16. Quality Improvement Activities.**  
13

- 14 (a) Child care funds allocated by the Commission pursuant to its allocation rules  
15 (generally, Chapter 800, General Administration, Subchapter B, Allocation and  
16 Funding, and specifically §800.58, Child Care), including local public transferred  
17 funds and local private donated funds, as provided in §809.17, to the extent they are  
18 used for nondirect care quality improvement activities, may be expended on any  
19 quality improvement activity described in 45 CFR Part 98.  
20
- 21 (b) Boards must ensure compliance with 45 CFR Part 98 regarding construction  
22 expenditures, as follows:  
23
- 24 (1) State and local agencies and nonsectarian agencies or organizations.  
25
- 26 (A) Funds shall not be expended for the purchase or improvement of land, or  
27 for the purchase, construction, or permanent improvement of any  
28 building or facility.  
29
- 30 (B) Funds may be expended for minor remodeling, and for upgrading child  
31 care facilities to ensure that providers meet state and local child care  
32 standards, including applicable health and safety requirements.  
33
- 34 (2) Sectarian agencies or organizations.  
35
- 36 (A) The prohibitions in paragraph (1) of this subsection apply.  
37
- 38 (B) Funds may be expended for minor remodeling only if necessary to bring  
39 the facility into compliance with the health and safety requirements  
40 established pursuant to 45 CFR Part 98.  
41
- 42 (c) Expenditures certified by a public entity, as provided in §809.17(b)(3), may include  
43 expenditures for any quality improvement activity described in 45 CFR Part 98.

1  
2 *The provisions of this §809.16 adopted to be effective January 29, 2007, 32 TexReg 336;*  
3 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective February*  
4 *16, 2015, 40 TexReg 708; amended to be effective October 1, 2016, 41 TexReg 7529*  
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8 **§809.17. Leveraging Local Resources.**  
9

10 (a) Leveraging Local Funds.

- 11  
12 (1) The Commission encourages Boards to secure local public and private funds  
13 for the purpose of matching federal funds in order to maximize resources for  
14 child care needs in the community.  
15  
16 (2) A Board is encouraged to secure additional local funds in excess of the amount  
17 required to match federal funds allocated to the Board in order to maximize its  
18 potential to receive additional federal funds should they become available.  
19  
20 (3) A Board's performance in securing and leveraging local funds for match may  
21 make the Board eligible for incentive awards.  
22

23 (b) The Commission accepts the following as local match:

- 24  
25 (1) Funds from a private entity that:  
26  
27 (A) are donated without restrictions that require their use for:  
28  
29 (i) a specific individual, organization, facility, or institution; or  
30  
31 (ii) an activity not included in the CCDF State Plan or allowed under  
32 this chapter;  
33  
34 (B) do not revert back to the donor's facility or use;  
35  
36 (C) are not used to match other federal funds; and  
37  
38 (D) are certified by both the donor and the Commission as meeting the  
39 requirements of subparagraphs (A) - (C) of this paragraph.  
40  
41 (2) Funds from a public entity that:  
42  
43 (A) are transferred without restrictions that would require their use for an  
44 activity not included in the CCDF State Plan or allowed under this  
45 chapter;  
46

- 1 (B) are not used to match other federal funds; and  
2  
3 (C) are not federal funds, unless authorized by federal law to be used to  
4 match other federal funds.  
5  
6 (3) Expenditures by a public entity certifying that the expenditures:  
7  
8 (A) are for an activity included in the CCDF State Plan or allowed under this  
9 chapter;  
10  
11 (B) are not used to match other federal funds; and  
12  
13 (C) are not federal funds, unless authorized by federal law to be used to  
14 match other federal funds.  
15  
16 (c) A Board shall ensure that a public entity certifying expenditures for direct child care  
17 as described in §809.17(b)(3), determines and verifies that the expenditures are for  
18 child care provided to an eligible child. At a minimum, the public entity shall verify  
19 that the child:  
20  
21 (1) is under 13 years of age, or at the option of the Board, is a child with  
22 disabilities under 19 years of age; and  
23  
24 (2) resides with:  
25  
26 (A) a family whose income does not exceed 85 percent of the state median  
27 income for a family of the same size; and  
28  
29 (B) a parent who requires child care in order to work or attend a job training  
30 or educational program.  
31  
32 (d) A Board shall submit private donations, public transfers, and public certifications to  
33 the Commission for acceptance, with sufficient information to determine that the  
34 funds meet the requirements of subsection (b) of this section.  
35  
36 (e) Completing Private Donations, Public Transfers, and Public Certifications.  
37  
38 (1) A Board shall ensure that:  
39  
40 (A) private donations of cash and public transfers of funds are paid to the  
41 Commission; and  
42  
43 (B) public certifications are submitted to the Commission.  
44  
45 (2) Private donations and public transfers are considered complete when the funds  
46 have been received by the Commission.



1  
2 (3) Public certifications are considered complete to the extent that a signed written  
3 instrument is delivered to the Commission that reflects that the public entity  
4 has expended a specific amount of funds on eligible activities described in  
5 subsection (b)(3) of this section.  
6

7 (f) A Board shall monitor the funds secured for match and the expenditure of any  
8 resulting funds to ensure that expenditures of federal matching funds available  
9 through the Commission do not exceed an amount that corresponds to the private  
10 donations, public transfers, and public certifications that are completed by the end of  
11 the program year.  
12

13 *The provisions of this §809.17 adopted to be effective January 29, 2007, 32 TexReg 336;*  
14 *amended to be effective October 1, 2016, 41 TexReg 7529*  
15

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17

18 **§809.18. Maintenance of a Waiting List.**  
19

- 20 (a) A Board shall ensure that a list of parents waiting for child care services, because of  
21 the lack of funding or lack of providers, is maintained and available to the  
22 Commission upon request.  
23
- 24 (b) A Board shall establish a policy for the maintenance of a waiting list that includes, at  
25 a minimum:  
26
- 27 (1) the process for determining that the parent is potentially eligible for child care  
28 services before placing the parent on the waiting list; and
  - 29 (2) the frequency in which the parent information is updated and maintained on  
30 the waiting list.  
31
- 32

33 *The provisions of this §809.18 adopted to be effective January 29, 2007, 32 TexReg 336*  
34

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36

37 **§809.19. Assessing the Parent Share of Cost.**  
38

- 39 (a) For child care funds allocated by the Commission pursuant to its allocation rules  
40 (generally, Chapter 800, General Administration, Subchapter B, Allocation and  
41 Funding, and specifically, §800.58, Child Care), including local public transferred  
42 funds and local private donated funds, as provided in §809.17, the following shall  
43 apply.  
44
- 45 (1) A Board shall set a parent share of cost policy that assesses the parent share of  
46 cost in a manner that results in the parent share of cost:

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45
- (A) being assessed to all parents, except in instances when an exemption under paragraph (2) of this subsection applies;
  - (B) being an amount determined by a sliding fee scale based on the family's size and gross monthly income, including a possible reexamination of the sliding fee scale if there are frequent terminations for lack of payment pursuant to subsection (e) of this section, which also may consider the number of children in care;
  - (C) being an amount that is affordable and does not result in a barrier to families receiving assistance;
  - (D) being assessed only at the following times:
    - (i) initial eligibility determination;
    - (ii) 12-month eligibility redetermination;
    - (iii) upon the addition of a child in care;
    - (iv) upon a parent's report of a change in income, family size, or number of children in care that would result in a reduced parent share of cost assessment; and
    - (v) upon resumption of work, job training, or education activities following temporary changes described in §809.51(a)(2) and upon resumption of work, job training, or education activities during the three-month continuation of care period described in §809.51(c); and
  - (E) not increasing above the amount assessed at initial eligibility determination or at the 12-month eligibility redetermination based on the factor in subparagraph (B) of this paragraph, except upon the addition of a child in care as described in subsection (a)(1)(C)(iii) of this section.
- (2) Parents who are one or more of the following are exempt from paying the parent share of cost:
- (A) Parents who are participating in Choices or who are in Choices child care described in §809.45;
  - (B) Parents who are participating in SNAP E&T services or who are in SNAP E&T child care described in §809.47;

- 1 (C) Parents of a child receiving Child Care for Children Experiencing  
2 Homelessness as described in §809.52; or  
3  
4 (D) Parents who have children who are receiving protective services child  
5 care pursuant to §809.49 and §809.54(c), unless DFPS assesses the  
6 parent share of cost.  
7  
8 (3) Teen parents who are not covered under exemptions listed in paragraph (2) of  
9 this subsection shall be assessed a parent share of cost. The teen parent's share  
10 of cost is based solely on the teen parent's income and size of the teen's family  
11 as defined in §809.2.  
12  
13 (b) For child care services funded from sources other than those specified in subsection  
14 (a) of this section, a Board shall set a parent share of cost policy based on a sliding  
15 fee scale. The sliding fee scale may be the same as or different from the provisions  
16 contained in subsection (a) of this section.  
17  
18 (c) A Board shall establish a policy regarding reimbursement of providers when parents  
19 fail to pay the parent share of cost.  
20  
21 (d) A Board shall establish a policy regarding termination of child care services within a  
22 12-month eligibility period when a parent fails to pay the parent share of cost. The  
23 Board's policy must include:  
24  
25 (1) a requirement to evaluate and document each family's financial situation for  
26 extenuating circumstances that may affect affordability of the assessed parent  
27 share of cost pursuant to paragraph (2) of this subsection, and a possible  
28 temporary reduction pursuant to subsection (g) of this section before the Board  
29 or its child care contractor may terminate care under this section;  
30  
31 (2) general criteria for determining affordability of a Board's parent share of cost,  
32 and a process to identify and assess the circumstances that may jeopardize a  
33 family's self-sufficiency under subsection (g) of this section;  
34  
35 (3) maintenance of a list of all terminations due to failure to pay the parent share  
36 of cost, including family size, income, family circumstances, and the reason for  
37 termination, for use when conducting evaluations of affordability, as required  
38 under paragraph (4) of this subsection; and  
39  
40 (4) the Board's definition of what constitutes frequent terminations and its process  
41 for assessing the general affordability of the Board's parent share of cost  
42 schedule, pursuant to subsection (e) of this section.  
43  
44 (e) A Board with frequent terminations of care for lack of payment of the parent share of  
45 cost must reexamine its sliding fee scale and adjust it to ensure that fees are not a  
46 barrier to assistance for families at certain income levels.

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- (f) A Board that does not have a policy to reimburse providers when parents fail to pay the parent share of cost may establish a policy to require the parent to pay the provider before the family can be redetermined eligible for future child care services.
- (g) The Board or its child care contractor may review the assessed parent share of cost for a possible temporary reduction if there are extenuating circumstances that jeopardize a family's self-sufficiency. The Board or its child care contractor may temporarily reduce the assessed parent share of cost if warranted by these circumstances. Following the temporary reduction, the parent share of cost amount immediately prior to the reduction shall be reinstated.
- (h) If the parent is not covered by an exemption as specified in subsection (a)(2) of this section, then the Board or its child care contractor shall not waive the assessed parent share of cost under any circumstances.
- (i) If the parent share of cost, based on family income and family size, is calculated to be zero, then the Board or its child care contractor shall not charge the parent a minimum share of cost amount.
- (j) A Board may establish a policy to reduce the parent share of cost amount assessed pursuant to subsection (a)(1)(B) of this section upon the parent's selection of a TRS-certified provider. Such Board policy shall ensure:
  - (1) that the parent continue to receive the reduction if:
    - (A) the TRS provider loses TRS certification; or
    - (B) the parent moves or changes employment within the workforce area and no TRS-certified providers are available to meet the 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 TRS-certified provider to a non-TRS-certified  
4 provider.  
5

6 *The provisions of this §809.19 adopted to be effective January 29, 2007, 32 TexReg 336;*  
7 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*  
8 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529;*  
9 *amended to be effective August 1, 2018, 43 TexReg 4474*

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12

13 **§809.20. Maximum Provider Reimbursement Rates.**  
14

- 15 (a) Based on local factors, including a market rate survey provided by the Commission,  
16 a Board shall establish maximum reimbursement rates for child care subsidies to  
17 ensure that the rates provide equal access to child care in the local market and in a  
18 manner consistent with state and federal statutes and regulations governing child  
19 care. At a minimum, Boards shall establish reimbursement rates for full-day and  
20 part-day units of service, as described in §809.93(f), for the following:  
21

- 22 (1) Provider types:  
23

- 24 (A) Licensed child care centers, including before- or after-school programs  
25 and school-age programs, as defined by DFPS;  
26  
27 (B) Licensed child care homes as defined by DFPS;  
28  
29 (C) Registered child care homes as defined by DFPS; and  
30  
31 (D) Relative child care providers as defined in §809.2.  
32

- 33 (2) Age groups in each provider type:  
34

- 35 (A) Infants age 0 to 17 months;  
36  
37 (B) Toddlers age 18 to 35 months;  
38  
39 (C) Preschool age children from 36 to 71 months; and  
40  
41 (D) School age children 72 months and over.  
42

- 43 (b) A Board shall establish enhanced reimbursement rates:  
44

- 45 (1) for all age groups at TRS provider facilities; and  
46

1 (2) only for preschool-age children at child care providers that participate in  
2 integrated school readiness models pursuant to Texas Education Code §29.160.  
3

4 (c) The minimum enhanced reimbursement rates established under subsection (b) of this  
5 section shall be greater than the maximum rate established for providers not meeting  
6 the requirements of subsection (b) of this section for the same category of care up to,  
7 but not to exceed, the provider's published rate. The maximum rate must be at least:  
8

9 (1) 5 percent greater for a:

10 (A) 2-Star Program Provider; or

11 (B) child care provider meeting the requirements of subsection (b)(2) of this  
12 section;  
13

14 (2) 7 percent greater for a 3-Star Program Provider; and

15 (3) 9 percent greater for a 4-Star Program Provider.  
16

17 (d) Boards may establish a higher enhanced reimbursement rate than those specified in  
18 subsection (c) of this section for TRS providers, as long as there is a minimum 2  
19 percentage point difference between each star level.  
20

21 (e) A Board or its child care contractor shall ensure that providers that are reimbursed  
22 for additional staff or equipment needed to assist in the care of a child with  
23 disabilities are paid a rate up to 190 percent of the provider's reimbursement rate for  
24 a child of that same age. The higher rate shall take into consideration the estimated  
25 cost of the additional staff or equipment needed by a child with disabilities. The  
26 Board shall ensure that a professional, who is familiar with assessing the needs of  
27 children with disabilities, certifies the need for the higher reimbursement rate  
28 described in this subsection.  
29

30 (f) The Board shall determine whether to reimburse providers that offer transportation as  
31 long as the combined total of the provider's published rate, plus the transportation  
32 rate, is subject to the maximum reimbursement rate established in subsection (a) of  
33 this section.  
34

35 *The provisions of this §809.20 adopted to be effective January 29, 2007, 32 TexReg 336;*  
36 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*  
37 *January 8, 2013, 38 TexReg 155; amended to be effective February 16, 2015, 40 TexReg*  
38 *708; amended to be effective October 1, 2016, 41 TexReg 7529*  
39

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41

42 **§809.21. Determining the Amount of the Provider Reimbursement.**  
43  
44  
45  
46

1 (a) The actual reimbursement that the Board or the Board's child care contractor pays to  
2 the provider shall be the Board's maximum daily rate or the provider's published  
3 daily rate, whichever is lower, less the following amounts:  
4

5 (1) The parent share of cost assessed and adjusted when the parent share of  
6 cost is reduced; and  
7

8 (2) Any child care funds received by the parent from other public or private  
9 entities.  
10

11 (b) A Board or its child care contractor shall ensure that the provider's published daily  
12 rates are calculated according to Commission guidance and include the provider's  
13 enrollment fees, supply fees, and activity fees.  
14

15 *The provisions of this §809.21 adopted to be effective January 29, 2007, 32 TexReg 336;*  
16 *amended to be effective January 8, 2013, 38 TexReg 155*  
17

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19

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

### 21 **§809.41. A Child's General Eligibility for Child Care Services.**

22 (a) Except for a child receiving or needing protective services as described in §809.49,  
23 for a child to be eligible to receive child care services, at the time of eligibility  
24 determination or redetermination, a Board shall ensure that the child:  
25  
26

27 (1) meets one of the following age requirements:  
28

29 (A) be under 13 years of age; or  
30

31 (B) at the option of the Board, be a child with disabilities under 19 years of  
32 age;  
33

34 (2) is a U.S. citizen or legal immigrant as determined under applicable federal  
35 laws, regulations, and guidelines; and  
36

37 (3) resides with:  
38

39 (A) a family within the Board's workforce area:  
40

41 (i) whose income does not exceed the income limit established by the  
42 Board, which income limit must not exceed 85 percent of the state  
43 median income (SMI) for a family of the same size; and  
44  
45

- 1 (ii) whose assets do not exceed \$1,000,000 as certified by a family
- 2 member; or
- 3
- 4 (iii) that meets the definition of experiencing homelessness as defined in
- 5 §809.2.
- 6
- 7 (B) parents who require child care in order to work or attend a job training or
- 8 educational program; or
- 9
- 10 (C) a person standing in loco parentis for the child while the child's parent is
- 11 on military deployment and the deployed military parent's income does
- 12 not exceed the limits set forth in subparagraph (A) of this paragraph.
- 13
- 14 (b) Notwithstanding the requirements set forth in subsection (c) of this section, a Board
- 15 shall establish policies, including time limits, for the provision of child care services
- 16 while the parent is attending an educational program.
- 17
- 18 (c) Time limits pursuant to subsection (b) of this section shall ensure the provision of
- 19 child care services for four years, if the eligible child's parent is enrolled in an
- 20 associate's degree program that will prepare the parent for a job in a high-growth,
- 21 high-demand occupation as determined by the Board.
- 22
- 23 (d) A Board may establish a policy to allow parents attending a program that leads to a
- 24 postsecondary degree from an institution of higher education to be exempt from
- 25 residing with the child as defined in §809.2.
- 26
- 27 (e) Boards that establish initial family income eligibility at a level less than 85 percent
- 28 of SMI must ensure that the family remains income-eligible for care after passing the
- 29 Board's initial income eligibility limit.
- 30
- 31 (f) Unless otherwise specified, this subchapter applies only to child care services using
- 32 funds allocated pursuant to §800.58 of this title, including local public transferred
- 33 funds and local private donated funds described in §809.17.
- 34

35 *The provisions of this §809.41 adopted to be effective January 29, 2007, 32 TexReg 336;*  
36 *amended to be effective June 22, 2009, 34 TexReg 4197; amended to be effective January 8,*  
37 *2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529*

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40  
41 **§809.42. Eligibility Verification, Determination, and Redetermination.**

- 42
- 43 (a) A Board shall ensure that its child care contractor verifies all eligibility requirements
- 44 for child care services prior to authorizing child care.
- 45



- 1 (b) A Board shall ensure that eligibility for child care services shall be redetermined no  
2 sooner than 12 months following the initial determination or most recent  
3 redetermination.

4 *The provisions of this §809.42 adopted to be effective January 29, 2007, 32 TexReg 336;*  
5 *amended to be effective October 1, 2016, 41 TexReg 7529*

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8  
9 **§809.43. Priority for Child Care Services.**

- 10  
11 (a) A Board shall ensure that child care services are prioritized among the following  
12 three priority groups:

- 13  
14 (1) The first priority group is assured child care services and includes children of  
15 parents eligible for the following:

- 16  
17 (A) Choices child care as referenced in §809.45;  
18  
19 (B) Temporary Assistance for Needy Families (TANF) Applicant child care  
20 as referenced in §809.46;  
21  
22 (C) SNAP E&T child care as referenced in §809.47; and  
23  
24 (D) Transitional child care as referenced in §809.48.

- 25  
26 (2) The second priority group is served subject to the availability of funds and  
27 includes, in the order of priority:

- 28  
29 (A) children who need to receive protective services child care as referenced  
30 in §809.49;  
31  
32 (B) children of a qualified veteran or qualified spouse as defined in §801.23  
33 of this title;  
34  
35 (C) children of a foster youth as defined in §801.23 of this title;  
36  
37 (D) children experiencing homelessness as defined in §809.2 and described  
38 in §809.52;  
39  
40 (E) children of parents on military deployment as defined in §809.2 whose  
41 parents are unable to enroll in military-funded child care assistance  
42 programs;  
43  
44 (F) children of teen parents as defined in §809.2; and  
45  
46 (G) children with disabilities as defined in §809.2.

1  
2 (3) The third priority group includes any other priority adopted by the Board.  
3

4 (b) A Board shall not establish a priority group under subsection (a)(3) of this section  
5 based on the parent's choice of an individual provider or provider type.  
6

7 *The provisions of this §809.43 adopted to be effective January 29, 2007, 32 TexReg 336;*  
8 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*  
9 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529*

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12

13 **§809.44. Calculating Family Income.**  
14

15 (a) For the purposes of determining family income and assessing the parent share of  
16 cost, Boards shall ensure that family income is calculated in accordance with  
17 Commission guidelines that:  
18

19 (1) take into account irregular fluctuations in earnings; and  
20

21 (2) ensure that temporary increases in income, including temporary increases that  
22 result in monthly income exceeding 85 percent of SMI do not affect eligibility  
23 or parent share of cost.  
24

25 (b) In accordance with Commission income calculation guidelines, Boards shall ensure  
26 that the following income sources are excluded from the family income:  
27

28 (1) Medicare, Medicaid, SNAP benefits, school meals, and housing assistance;  
29

30 (2) Monthly monetary allowances provided to or for children of Vietnam veterans  
31 born with certain birth defects;  
32

33 (3) Needs-based educational scholarships, grants, and loans; including financial  
34 assistance under Title IV of the Higher Education Act--Pell Grants, Federal  
35 Supplemental Educational Opportunity grants, Federal Work Study Program,  
36 PLUS, Stafford loans, and Perkins loans;  
37

38 (4) Individual Development Account (IDA) withdrawals for the purchase of a  
39 home, medical expenses, or educational expenses;  
40

41 (5) Onetime cash payments, including tax refunds, Earned Income Tax Credit  
42 (EITC) and Advanced EITC, onetime insurance payments, gifts, and lump sum  
43 inheritances;  
44

45 (6) VISTA and AmeriCorps living allowances and stipends;  
46

- 1 (7) Noncash or in-kind benefits such as employer-paid fringe benefits, food, or  
2 housing received in lieu of wages;
- 3
- 4 (8) Foster care payments and adoption assistance;
- 5
- 6 (9) Special military pay or allowances, including subsistence allowances, housing  
7 allowances, family separation allowances, or special allowances for duty  
8 subject to hostile fire or imminent danger;
- 9
- 10 (10) Income from a child in the household between 14 and 19 years of age who is  
11 attending school;
- 12
- 13 (11) Early withdrawals from qualified retirement accounts specified as hardship  
14 withdrawals as classified by the Internal Revenue Service (IRS);
- 15
- 16 (12) Unemployment compensation;
- 17
- 18 (13) Child support payments;
- 19
- 20 (14) Cash assistance payments, including Temporary Assistance for Needy  
21 Families (TANF), Supplemental Security Income (SSI), Refugee Cash  
22 Assistance, general assistance, emergency assistance, and general relief;
- 23
- 24 (15) Onetime income received in lieu of TANF cash assistance;
- 25
- 26 (16) Income earned by a veteran while on active military duty and certain other  
27 veterans' benefits, such as compensation for service-connected death,  
28 vocational rehabilitation, and education assistance;
- 29
- 30 (17) Regular payments from Social Security, such as Old-Age, and Survivors  
31 Insurance Trust Fund;
- 32
- 33 (18) Lump sum payments received as assets in the sale of a house, in which the  
34 assets are to be reinvested in the purchases of a new home (consistent with IRS  
35 guidance);
- 36
- 37 (19) Payments received as the result of an automobile accident insurance settlement  
38 that are being applied to the repair or replacement of an automobile; and
- 39
- 40 (20) Any income sources specifically excluded by federal law or regulation.

- 1  
2 (c) Income that is not listed in subsection (b) of this section as excluded from income is  
3 included as income.  
4

5 *The provisions of this §809.44 adopted to be effective January 29, 2007, 32 TexReg 336;*  
6 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*  
7 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529*  
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10  
11 **§809.45. Choices Child Care.**

- 12  
13 (a) A parent is eligible for Choices child care if the parent is participating in the Choices  
14 program as stipulated in Chapter 811 of this title.  
15  
16 (b) For a parent receiving Choices child care who ceases participation in the Choices  
17 program during the 12-month eligibility period, Boards must ensure that Choices  
18 child care continues:  
19  
20 (1) for the three-month period pursuant to §809.51(b); and  
21  
22 (2) for the remainder of the eligibility period, if the parent resumes participation in  
23 Choices or begins participation in work or attendance in a job training or  
24 education program during the three-month period described in §809.51(c).  
25

26 *The provisions of this §809.45 adopted to be effective January 29, 2007, 32 TexReg 336;*  
27 *amended to be effective October 1, 2016, 41 TexReg 7529*  
28

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30  
31 **§809.46. Temporary Assistance for Needy Families Applicant Child Care.**

- 32  
33 (a) A parent is eligible for TANF Applicant child care if the parent:  
34  
35 (1) receives a referral from the Health and Human Services Commission (HHSC)  
36 to attend a Workforce Orientation for Applicants (WOA);  
37  
38 (2) locates employment or has increased earnings prior to TANF certification; and  
39  
40 (3) needs child care to accept or retain employment.  
41

- 1 (b) To receive TANF Applicant child care, the parent shall be working and not have  
2 voluntarily terminated paid employment of at least 25 hours a week within 30 days  
3 prior to receiving the referral from HHSC to attend a WOA, unless the voluntary  
4 termination was for good cause connected with the parent's work.  
5

6 *The provisions of this §809.46 adopted to be effective January 29, 2007, 32 TexReg 336;*  
7 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*  
8 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529*  
9

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11  
12 **§809.47. Supplemental Nutrition Assistance Program Employment and Training Child**  
13 **Care.**

- 14  
15 (a) A parent is eligible to receive SNAP E&T child care services if the parent is  
16 participating in SNAP E&T services, in accordance with the provisions of 7 CFR  
17 Part 273.  
18  
19 (b) For a parent receiving SNAP E&T child care services who ceases participation in the  
20 E&T program during the 12-month eligibility period, Boards must ensure that SNAP  
21 E&T child care continues:  
22  
23 (1) for the three-month period pursuant to §809.51(b); and  
24  
25 (2) for the remainder of the eligibility period, if the parent resumes participation in  
26 the SNAP E&T program or begins participation in work or attendance in a job  
27 training or education program during the three-month period described in  
28 §809.51(c).  
29

30 *The provisions of this §809.47 adopted to be effective January 29, 2007, 32 TexReg 336;*  
31 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*  
32 *2016, 41 TexReg 7529*  
33

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35  
36 **§809.48. Transitional Child Care.**

- 37  
38 (a) A parent is eligible for Transitional child care services if the parent:  
39  
40 (1) has been denied TANF and was employed at the time of TANF denial; or  
41  
42 (2) has been denied TANF within 30 days because of expiration of TANF time  
43 limits; and  
44  
45 (3) requires child care to work or attend a job training or educational program for a  
46 combination of at least an average of 25 hours per week for a single-parent

1 family or 50 hours per week for a two-parent family, or a higher number of  
2 hours per week as established by a Board.

- 3
- 4 (b) Boards may establish an income eligibility limit for Transitional child care that is  
5 higher than the eligibility limit for At-Risk child care, pursuant to §809.50, provided  
6 that the higher income limit does not exceed 85 percent of the state median income  
7 for a family of the same size.
- 8
- 9 (c) For former TANF recipients who are employed when TANF is denied, Transitional  
10 child care shall be available for:
- 11
- 12 (1) a period of up to 12 months from the effective date of the TANF denial; or  
13
- 14 (2) a period of up to 18 months from the effective date of the TANF denial in the  
15 case of a former TANF recipient who was eligible for child caretaker  
16 exemptions pursuant to Texas Human Resources Code §31.012(c) and  
17 voluntarily participates in the Choices program.
- 18
- 19 (d) A Board may allow a reduction to the requirement in subsection (a)(3) of this section  
20 if a parent's documented medical disability or need to care for a physically or  
21 mentally disabled family member prevents the parent from participating in work,  
22 education, or job training activities for the required hours per week.
- 23
- 24 (e) For purposes of meeting the education requirements stipulated in subsection (a)(3) of  
25 this section, the following shall apply:
- 26
- 27 (1) each credit hour of postsecondary education counts as three hours of education  
28 activity per week; and  
29
- 30 (2) each credit hour of a condensed postsecondary education course counts as six  
31 education activity hours per week.
- 32

33 *The provisions of this §809.48 adopted to be effective January 29, 2007, 32 TexReg 336;*  
34 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*  
35 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529*

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38  
39 **§809.49. Child Care for Children Receiving or Needing Protective Services.**

- 40
- 41 (a) A Board shall ensure that determinations of eligibility for children needing  
42 protective services are performed by DFPS.
- 43
- 44 (1) Child care will continue as long as authorized and funded by DFPS.
- 45

1 (2) DFPS may authorize child care for a child under court supervision under the  
2 age of 19.

3  
4 (3) Child care discontinued by DFPS prior to the end of the 12-month eligibility  
5 period shall be subject to the Continuity of Care provisions in §809.54.  
6

7 (b) A Board shall ensure that requests made by DFPS for specific eligible providers are  
8 enforced for children in protective services, including children of foster parents when  
9 the foster parent is the owner, director, assistant director or other individual with an  
10 ownership interest in the provider.  
11

12 *The provisions of this §809.49 adopted to be effective January 29, 2007, 32 TexReg 336;*  
13 *amended to be effective October 1, 2016, 41 TexReg 7529*  
14

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16

17 **§809.50. At-Risk Child Care.**  
18

19 (a) A parent is eligible for child care services under this section if at initial eligibility  
20 determination and at eligibility redetermination as described in §809.42:  
21

22 (1) the family income does not exceed the income limit established by the Board  
23 pursuant to §809.41(a)(3)(A); and  
24

25 (2) child care is required for the parent to work or attend a job training or  
26 educational program for a combination of at least an average of 25 hours per  
27 week for a single-parent family or 50 hours per week for a two-parent family,  
28 or a higher number of hours per week as established by the Board.  
29

30 (b) A Board may allow a reduction to the work, education, or job training activity  
31 requirements in subsection (a)(2) of this section if a parent's documented medical  
32 disability or need to care for a physically or mentally disabled family member  
33 prevents the parent from participating in these activities for the required hours per  
34 week.  
35

36 (c) For purposes of meeting the education requirements stipulated in subsection (a)(2) of  
37 this section, the following shall apply:  
38

39 (1) each credit hour of postsecondary education counts as three hours of education  
40 activity per week;  
41

42 (2) each credit hour of a condensed postsecondary education course counts as six  
43 education activity hours per week; and  
44

45 (3) teen parents attending high school or the equivalent shall be considered as  
46 meeting the education requirements in subsection (a)(2) of this section.

- 1  
2 (d) When calculating income eligibility for a child with disabilities, a Board shall deduct  
3 the cost of the child's ongoing medical expenses from the family income.  
4  
5 (e) Boards may establish a higher income eligibility limit for teen parents than the  
6 eligibility limit established pursuant to §809.41(a)(3)(A) provided that the higher  
7 income limit does not exceed 85 percent of the state median income for a family of  
8 the same size.  
9  
10 (f) A teen parent's family income is based solely on the teen parent's income and size of  
11 the teen's family as defined in §809.2(9).  
12  
13 (g) Boards may establish a higher income eligibility limit for families with a child who  
14 is enrolled in Head Start, Early Head Start, or public pre-K provided that the higher  
15 income limit does not exceed 85 percent of the state median income for a family of  
16 the same size.  
17

18 *The provisions of this §809.50 adopted to be effective September 8, 2008, 33 TexReg 7568;*  
19 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*  
20 *2016, 41 TexReg 7529*  
21

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23

24 **§809.51. Child Care during Interruptions in Work, Education, or Job Training.**  
25

- 26 (a) Except for a child experiencing homelessness, as described in §809.52, if the child  
27 met all of the applicable eligibility requirements for child care services in this  
28 subchapter on the date of the most recent eligibility determination or  
29 redetermination, the child shall be considered to be eligible and will receive services  
30 during the 12-month eligibility period described in §809.42, regardless of any:  
31  
32 (1) change in family income, if that family income does not exceed 85 percent of  
33 SMI for a family of the same size; or  
34  
35 (2) temporary change in the ongoing status of the child's parent as working or  
36 attending a job training or education program. A temporary change shall  
37 include, at a minimum, any:  
38  
39 (A) time-limited absence from work for an employed parent for periods of  
40 family leave (including parental leave) or sick leave;  
41  
42 (B) interruption in work for a seasonal worker who is not working between  
43 regular industry work seasons;  
44



- 1 (C) student holiday or breaks within a semester, between the fall and spring  
2 semesters, or between the spring and fall semesters, for a parent  
3 participating in training or education;  
4
- 5 (D) reduction in work, training, or education hours, as long as the parent is  
6 still working or attending a training or education program;  
7
- 8 (E) other cessation of work or attendance in a training or education program  
9 that does not exceed three months;  
10
- 11 (F) change in age, including turning 13 years old or a child with disabilities  
12 turning 19 years old during the eligibility period; and  
13
- 14 (G) change in residency within the state.  
15
- 16 (b) During the period of time between eligibility redeterminations, a Board shall  
17 discontinue child care services due to a parent's loss of work or cessation of  
18 attendance at a job training or educational program that does not constitute a  
19 temporary change in accordance with subsection (a)(2) of this section. However,  
20 Boards must ensure that care continues at the same level for a period of not less than  
21 three months after such loss of work or cessation of attendance at a job training or  
22 educational program.  
23
- 24 (c) If a parent resumes work or attendance at a job training or education program at any  
25 level and at any time during the period described in subsection (b) of this section,  
26 then the Board shall ensure that:  
27
- 28 (1) care will continue to the end of the 12-month eligibility period at the same or  
29 greater level, depending upon any increase in the activity hours of the parent;  
30
- 31 (2) the parent share of cost will not be increased during the remainder of the 12-  
32 month eligibility period, including for parents who are exempt from the parent  
33 share of cost pursuant to §809.19; and  
34
- 35 (3) the Board's child care contractor verifies only:  
36
- 37 (A) that the family income does not exceed 85 percent of SMI; and  
38
- 39 (B) the resumption of work or attendance at a job training or education  
40 program.  
41
- 42 (d) The Board may suspend child care services during interruptions in the parent's work,  
43 job training, or education status only at the concurrence of the parent.

1  
2 *The provisions of this §809.51 adopted to be effective October 1, 2016, 41 TexReg 7529*

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5  
6 **§809.52. Child Care for Children Experiencing Homelessness.**

- 7  
8 (a) For a child experiencing homelessness, as defined in §809.2, a Board shall ensure  
9 that the child is initially enrolled for a period of three months.
- 10  
11 (b) If, during the three-month initial enrollment period, the parent of a child  
12 experiencing homelessness:
- 13
- 14 (1) is unable to provide documentation verifying that the child is eligible under  
15 §809.41(a)(1) - (2) (regarding age and citizenship status), then care shall be  
16 discontinued following the three-month enrollment period; or
- 17  
18 (2) provides documentation verifying eligibility under §809.41(a), then care shall  
19 continue through the end of the 12-month initial eligibility period (inclusive of  
20 the three-month initial enrollment period).

21  
22 *The provisions of this §809.52 adopted to be effective September 8, 2008, 33 TexReg 7568;*  
23 *amended to be effective October 1, 2016, 41 TexReg 7529*

24  
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26  
27 **§809.53. Child Care for Children Served by Special Projects.**

- 28
- 29 (a) Special projects developed in federal and state statutes or regulations and funded  
30 using non-CCDF sources may add groups of children eligible to receive child care.
- 31  
32 (b) The eligibility criteria as stated in the statutes, regulations, or funding sources shall  
33 control for the special project, unless otherwise indicated by the Commission.
- 34  
35 (c) The time limit for receiving child care for children served by special projects may  
36 be:
- 37
- 38 (1) specifically prescribed by federal or state statutes or regulations according to  
39 the particular project;
- 40  
41 (2) otherwise set by the Commission depending on the purpose and goals of the  
42 special project; and

1  
2 (3) limited to the availability of funds.  
3

4 *The provisions of this §809.53 adopted to be effective January 29, 2007, 32 TexReg 336;*  
5 *amended to be effective October 1, 2016, 41 TexReg 7529*  
6

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8

9 **§809.54. Continuity of Care.**  
10

- 11 (a) Enrolled children, including children whose eligibility for Transitional child care has  
12 expired, shall receive child care through the end of the applicable eligibility periods  
13 described in §809.42.  
14  
15 (b) Except as provided by §809.75 relating to child care during appeal, nothing in this  
16 chapter shall be interpreted in a manner as to result in a child being removed from  
17 care.  
18  
19 (c) In closed DFPS CPS cases (DFPS cases) where child care is no longer funded by  
20 DFPS, child care shall continue through the end of the applicable eligibility periods  
21 described in §809.42 using funds allocated to the Board by the Commission.  
22  
23 (d) A Board shall ensure that no enrolled children of military parents in military  
24 deployment have a disruption of child care services or eligibility during military  
25 deployment, including parents in military deployment at the end of the 12-month  
26 eligibility redetermination period.  
27  
28 (e) A Board shall ensure that a child who is required by a court-ordered custody or  
29 visitation arrangement to leave a provider's care is permitted to continue receiving  
30 child care by the same provider, or another provider if agreed to by the parent in  
31 advance of the leave, upon return from the court-ordered custody or visitation  
32 arrangement.  
33

34 *The provisions of this §809.54 adopted to be effective January 29, 2007, 32 TexReg 336;*  
35 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*  
36 *2016, 41 TexReg 7529*  
37

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39

40 **§809.55. Waiting Period for Reapplication.**  
41

- 42 (a) A parent is ineligible to reapply for child care services or to be placed on the waiting  
43 list for services for 60 calendar days if the parent's eligibility or the child's  
44 enrollment is terminated due to:  
45  
46 (1) excessive unexplained absences under §809.78(a); or

1  
2 (2) nonpayment of parent share of cost pursuant to a Board’s established policy  
3 under §809.19(d).  
4

5 (b) To ensure full alignment between Child Care Services rules and the Choices program  
6 requirements, the provisions of subsection (a) of this section will not apply to  
7 individuals who, during the 60-calendar day waiting period:  
8

9 (1) become Choices participants who require child care to participate in Choices;  
10 or  
11

12 (2) are on Choices sanction status and require child care to demonstrate  
13 participation in Choices.  
14

15 *The provisions of this §809.55 adopted to be effective August 1, 2018, 43 TexReg 4744*  
16

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18

19 **SUBCHAPTER D. PARENT RIGHTS AND RESPONSIBILITIES**  
20

21 **§809.71. Parent Rights.**  
22

23 A Board shall ensure that the Board's child care contractor informs the parent in writing  
24 that the parent has the right to:  
25

26 (1) choose the type of child care provider that best suits their needs and to be  
27 informed of all child care options available to them as included in the  
28 consumer education information described in §809.15;  
29

30 (2) visit available child care providers before making their choice of a child care  
31 option;  
32

33 (3) receive assistance in choosing initial or additional child care referrals including  
34 information about the Board's policies regarding transferring children from one  
35 provider to another;  
36

37 (4) be informed of the Commission rules and Board policies related to providers  
38 charging parents the difference between the Board's reimbursement and the  
39 provider's published rate as described in §809.92(c) - (d);  
40

41 (5) be represented when applying for child care services;  
42

43 (6) be notified of their eligibility to receive child care services within 20 calendar  
44 days from the day the Board's child care contractor receives all necessary  
45 documentation required to initially determine eligibility for child care;  
46

- 1 (7) receive child care services regardless of race, color, national origin, age, sex,  
2 disability, political beliefs, or religion;
- 3
- 4 (8) have the Board and the Board's child care contractor treat information used to  
5 determine eligibility for child care services as confidential;
- 6
- 7 (9) receive written notification at least 15 calendar days before termination of  
8 child care services;
- 9
- 10 (10) reject an offer of child care services or voluntarily withdraw their child from  
11 child care, unless the child is in protective services;
- 12
- 13 (11) be informed of the possible consequences of rejecting or ending the child care  
14 that is offered;
- 15
- 16 (12) be informed of the eligibility documentation and reporting requirements  
17 described in §809.72 and §809.73;
- 18
- 19 (13) be informed of the parent appeal rights described in §809.74;
- 20
- 21 (14) be informed of required background and criminal history checks for relative  
22 child care providers through the listing process with DFPS, as described in  
23 §809.91(e), before the parent or guardian selects the relative child care  
24 provider;
- 25
- 26 (15) receive written notification pursuant to §809.78(d) of the possible termination  
27 of child care services for excessive absences, as described in §809.78(a)(1);  
28 and
- 29
- 30 (16) receive written notification of possible termination of child care services for  
31 failure to pay the parent share of cost, pursuant to §809.19(d).
- 32

33 *The provisions of this §809.71 adopted to be effective January 29, 2007, 32 TexReg 336;*  
34 *amended to be effective November 14, 2011, 36 TexReg 7675; amended to be effective*  
35 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529;*  
36 *amended to be effective August 1, 2018, 43 TexReg 4744*

37  
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39  
40 **§809.72. Parent Eligibility Documentation Requirements.**

- 41
- 42 (a) Except for a child experiencing homelessness pursuant to §809.52 at initial  
43 eligibility, before a child can be initially determined or redetermined eligible for  
44 child care services and care authorized, parents shall provide the Board's child care  
45 contractor with all information necessary to determine eligibility according to the  
46 Board's administrative policies and procedures.

- 1  
2 (b) A parent's failure to submit eligibility documentation shall result in initial denial of  
3 child care services or termination of services at the 12-month eligibility  
4 redetermination period.  
5

6 *The provisions of this §809.72 adopted to be effective January 29, 2007, 32 TexReg 336;*  
7 *amended to be effective October 1, 2016, 41 TexReg 7529*  
8

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10  
11 **§809.73. Parent Reporting Requirements.**  
12

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

- 1  
2 (2) work, job training, or education program participation that may result in an  
3 increase in the level of child care services.  
4

5 *The provisions of this §809.73 adopted to be effective January 29, 2007, 32 TexReg 336;*  
6 *amended to be effective October 1, 2016, 41 TexReg 7529*  
7

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9

10 **§809.74. Parent Appeal Rights.**

- 11  
12 (a) Unless otherwise stated in this section, a parent may request a hearing pursuant to  
13 Chapter 823 of this title:  
14  
15 (1) if the parent's eligibility or child's enrollment is denied, delayed, reduced,  
16 suspended, or terminated by the Board's child care contractor, Choices  
17 caseworker, or SNAP E&T caseworker; or  
18  
19 (2) regarding the amount of recoupment determined pursuant to Subchapter F of  
20 this chapter.  
21  
22 (b) A parent may have an individual represent him or her during this process.  
23  
24 (c) A parent of a child in protective services may not appeal pursuant to Chapter 823 of  
25 this title, but shall follow the procedures established by DFPS.  
26

27 *The provisions of this §809.74 adopted to be effective January 29, 2007, 32 TexReg 336;*  
28 *amended to be effective November 26, 2007, 32 TexReg 8543; amended to be effective*  
29 *September 8, 2008, 33 TexReg 7568; amended to be effective January 8, 2013, 38 TexReg*  
30 *155; amended to be effective October 1, 2016, 41 TexReg 7529*  
31

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33

34 **§809.75. Child Care during Appeal.**

- 35  
36 (a) For a child currently enrolled in child care, a Board shall ensure that child care  
37 services continue during the appeal process until a decision is reached, if the parent  
38 requests a hearing.  
39  
40 (b) A Board shall ensure that child care does not continue during the appeal process if  
41 the child's enrollment is terminated due to excessive unexplained absences, pursuant  
42 to §809.78(a), or nonpayment of parent share of cost, pursuant to §809.19(d).

- 1  
2 (c) The cost of providing services during the appeal process is subject to recovery from  
3 the parent by the Board, if the appeal decision is rendered against the parent.  
4

5 *The provisions of this §809.75 adopted to be effective January 29, 2007, 32 TexReg 336;*  
6 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*  
7 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529;*  
8 *amended to be effective August 1, 2018, 43 TexReg 4744*  
9

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11  
12 **§809.78. Attendance Standards and Notice and Reporting Requirements.**  
13

- 14 (a) A Board shall ensure that parents are notified of the following:  
15

- 16 (1) Parents shall ensure that the eligible child attends on a regular basis consistent  
17 with the child's authorization for enrollment and attendance standards  
18 described in paragraph (2) of this subsection. Failure to meet attendance  
19 standards described in paragraph (2) of this subsection may result in  
20 termination for the child due to excessive unexplained absences pursuant to  
21 subsection (d) of this section.  
22
- 23 (2) Meeting attendance standards for child care services consists of no more than  
24 40 total unexplained absences in a 12-month eligibility period.  
25
- 26 (3) Unexplained absences may include:  
27
- 28 (A) Any absence that is not due to a child's documented chronic illness or  
29 disability, or to a court-ordered custody or visitation agreement;  
30
- 31 (B) Any missed attendance recording that cannot be explained, except if the  
32 attendance reporting system is not available through no fault of the  
33 parent or provider; or  
34
- 35 (C) Any denied or rejected attendance recording in which the parent does not  
36 contact the Agency's Child Care Services unit to report the issue.  
37
- 38 (4) Notwithstanding paragraph (2) of this subsection, child care providers may end  
39 a child's enrollment with the provider if the child does not meet the provider's  
40 established policy regarding attendance.  
41
- 42 (5) Parents shall use the attendance card to report daily attendance and absences.  
43
- 44 (6) Parents shall not designate anyone under age 16 as a secondary cardholder,  
45 unless the individual is a child's parent.  
46



- 1 (7) Parents shall not designate the owner, assistant director, or director of the child  
2 care facility as a secondary cardholder.  
3
- 4 (8) Parents shall:  
5  
6 (A) ensure that the attendance card is not misused by secondary cardholders;  
7  
8 (B) inform secondary cardholders of the responsibilities for using the  
9 attendance card;  
10  
11 (C) ensure that secondary cardholders comply with these responsibilities;  
12 and  
13  
14 (D) ensure the protection of attendance cards issued to them or secondary  
15 cardholders.  
16
- 17 (9) The parent or secondary cardholders giving the attendance card or the personal  
18 identification number (PIN) to another person, including the child care  
19 provider, is grounds for a potential fraud determination pursuant to Subchapter  
20 F of this chapter.  
21
- 22 (10) Parents shall report to the child care contractor instances in which a parent's  
23 attempt to record attendance in the child care automated attendance system is  
24 denied or rejected and cannot be corrected at the provider site. Failure to report  
25 such instances may result in an unexplained absence counted toward the  
26 attendance standards described in paragraphs (2) and (3) of this subsection.  
27
- 28 (b) Boards shall ensure that parents sign a written acknowledgment indicating their  
29 understanding of the attendance standards and reporting requirements at each of the  
30 following stages:  
31
- 32 (1) initial eligibility determination; and  
33  
34 (2) each eligibility redetermination, as required in §809.42(b).  
35
- 36 (c) Boards shall ensure that absences due to a child's documented chronic illness or  
37 disability or court-ordered visitation are not counted in the number of unexplained  
38 absences in subsection (a)(2) and (3) of this section.  
39
- 40 (d) Boards shall ensure that before terminating care pursuant to §809.78(a)(1), the child  
41 care contractor:  
42
- 43 (1) provides written notice to the parent and the child care provider at reasonable  
44 times through established communication channels of the child's absences and  
45 the potential termination of services, at a minimum when a child reaches 15,  
46 and 30 general absences cumulatively within a 12-month eligibility period; and

1  
2 (2) documents that multiple attempts were made, as described in paragraph (1) of  
3 this subsection, to determine why the child is absent and to explain the  
4 importance of regular attendance.  
5

6 (e) Where a child's enrollment has been ended by a provider in subsection (a)(4) of this  
7 section, Boards shall work with the parent to place the otherwise eligible child with  
8 another eligible provider.  
9

10 *The provisions of this §809.78 adopted to be effective January 8, 2013, 38 TexReg 155;*  
11 *amended to be effective October 1, 2016, 41 TexReg 7529; amended to be effective August 1,*  
12 *2018, 43 TexReg 4744*  
13

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15

## 16 SUBCHAPTER E. REQUIREMENTS TO PROVIDE CHILD CARE

### 17 §809.91. Minimum Requirements for Providers.

18 (a) A Board shall ensure that child care subsidies are paid only to:  
19

20 (1) regulated child care providers as described in §809.2;  
21

22 (2) relative child care providers as described in §809.2, subject to the requirements  
23 in subsection (e) of this section; or  
24

25 (3) at the Board's option, child care providers licensed in a neighboring state,  
26 subject to the following requirements:  
27

28 (A) Boards shall ensure that the Board's child care contractor reviews the  
29 licensing status of the out-of-state provider every month, at a minimum,  
30 to confirm the provider is meeting the minimum licensing standards of  
31 the state;  
32

33 (B) Boards shall ensure that the out-of-state provider meets the requirements  
34 of the neighboring state to serve CCDF-subsidized children; and  
35

36 (C) The provider shall agree to comply with the requirements of this chapter  
37 and all Board policies and Board child care contractor procedures.  
38

39 (b) A Board shall not prohibit a relative child care provider who is listed with DFPS and  
40 who meets the minimum requirements of this section from being an eligible relative  
41 child care provider.  
42  
43  
44

- 1 (c) Except as provided by the criteria for TRS Provider certification, a Board or the  
2 Board's child care contractor shall not place requirements on regulated providers  
3 that:  
4
- 5 (1) exceed the state licensing requirements stipulated in Texas Human Resources  
6 Code, Chapter 42; or  
7
- 8 (2) have the effect of monitoring the provider for compliance with state licensing  
9 requirements stipulated in Texas Human Resources Code, Chapter 42.  
10
- 11 (d) When a Board or the Board's child care contractor, in the course of fulfilling its  
12 responsibilities, gains knowledge of any possible violation regarding regulatory  
13 standards, the Board or its child care contractor shall report the information to the  
14 appropriate regulatory agency.  
15
- 16 (e) For relative child care providers to be eligible for reimbursement for Commission-  
17 funded child care services, the following applies:  
18
- 19 (1) Relative child care providers shall list with DFPS; however, pursuant to 45  
20 CFR §98.41(e), relative child care providers listed with DFPS shall be exempt  
21 from the health and safety requirements of 45 CFR §98.41(a).  
22
- 23 (2) A Board shall allow relative child care providers to care for a child in the  
24 child's home (in-home child care) only for the following:  
25
- 26 (A) A child with disabilities as defined in §809.2, and his or her siblings;  
27
- 28 (B) A child under 18 months of age, and his or her siblings;  
29
- 30 (C) A child of a teen parent; and  
31
- 32 (D) When the parent's work schedule requires evening, overnight, or  
33 weekend child care in which taking the child outside of the child's home  
34 would be disruptive to the child.  
35
- 36 (3) A Board may allow relative in-home child care for circumstances in which the  
37 Board's child care contractor determines and documents that other child care  
38 provider arrangements are not available in the community.  
39
- 40 (f) Boards shall ensure that subsidies are not paid for a child at the following child care  
41 providers:  
42
- 43 (1) Except for foster parents authorized by DFPS pursuant to §809.49, licensed  
44 child care centers, including before- or after-school programs and school-age  
45 programs, in which the parent or his or her spouse, including the child's parent

1 or stepparent, is the director or assistant director, or has an ownership interest;  
2 or

- 3  
4 (2) Licensed, registered, or listed child care homes where the parent also works  
5 during the hours his or her child is in care.  
6

7 *The provisions of this §809.91 adopted to be effective January 29, 2007, 32 TexReg 336;*  
8 *amended to be effective June 24, 2007, 32 TexReg 3698; amended to be effective October 18,*  
9 *2010, 35 TexReg 9359; amended to be effective November 14, 2011, 36 TexReg 7675; amended*  
10 *to be effective January 8, 2013, 39 TexReg 155; amended to be effective October 1, 2016, 41*  
11 *TexReg 7529*

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14  
15 **§809.92. Provider Responsibilities and Reporting Requirements.**

- 16  
17 (a) A Board shall ensure that providers are given written notice of and agree to their  
18 responsibilities, reporting requirements, and requirements for reimbursement under  
19 this subchapter prior to enrolling a child.  
20  
21 (b) Providers shall:  
22  
23 (1) be responsible for collecting the parent share of cost as assessed under §809.19  
24 before child care services are delivered;  
25  
26 (2) be responsible for collecting other child care funds received by the parent as  
27 described in §809.21(a)(2);  
28  
29 (3) report to the Board or the Board's child care contractor instances in which the  
30 parent fails to pay the parent share of cost; and  
31  
32 (4) follow attendance reporting and tracking procedures required by the  
33 Commission under §809.95, the Board, or, if applicable, the Board's child care  
34 contractor.  
35  
36 (c) Providers shall not charge the difference between the provider's published rate and  
37 the amount of the Board's reimbursement rate as determined under §809.21 to  
38 parents:  
39  
40 (1) who are exempt from the parent share of cost assessment under §809.19(a)(2);  
41 or  
42  
43 (2) whose parent share of cost is calculated to be zero pursuant to §809.19(f).  
44  
45 (d) A Board may develop a policy that prohibits providers from charging the difference  
46 between the provider's published rate and the amount of the Board's reimbursement

1 rate (including the assessed parent share of cost) to all parents eligible for child care  
2 services.

- 3  
4 (e) Providers shall not deny a child care referral based on the parent's income status,  
5 receipt of public assistance, or the child's protective service status.  
6  
7 (f) Providers shall not charge fees to a parent receiving child care subsidies that are not  
8 charged to a parent who is not receiving subsidies.  
9

10 *The provisions of this §809.92 adopted to be effective January 29, 2007, 32 TexReg 336;*  
11 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*  
12 *2016, 41 TexReg 7529*

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15  
16 **§809.93. Provider Reimbursement.**

- 17  
18 (a) A Board shall ensure that reimbursement for child care is paid only to the provider.  
19  
20 (b) A Board or its child care contractor shall reimburse a regulated provider based on a  
21 child's monthly enrollment authorization, excluding periods of suspension at the  
22 concurrence of the parent as described in §809.51(d).  
23  
24 (c) A Board shall ensure that a relative child care provider is not reimbursed for days on  
25 which the child is absent.  
26  
27 (d) A relative child care provider shall not be reimbursed for more children than  
28 permitted by the DFPS minimum regulatory standards for Registered Child Care  
29 Homes. A Board may permit more children to be cared for by a relative child care  
30 provider on a case-by-case basis as determined by the Board.  
31  
32 (e) A Board shall not reimburse providers that are debarred from other state or federal  
33 programs unless and until the debarment is removed.  
34  
35 (f) Unless otherwise determined by the Board and approved by the Commission for  
36 automated reporting purposes, the monthly enrollment authorization described in  
37 subsection (b) of this section is based on the unit of service authorized, as follows:  
38  
39 (1) A full-day unit of service is 6 to 12 hours of care provided within a 24-hour  
40 period; and  
41  
42 (2) A part-day unit of service is fewer than 6 hours of care provided within a 24-  
43 hour period.  
44  
45 (g) A Board or its child care contractor shall ensure that providers are not paid for  
46 holding spaces open.

- 1  
2 (h) A Board or the Board's child care contractor shall not pay providers:  
3  
4 (1) less, when a child enrolled full time occasionally attends for a part day; or  
5  
6 (2) more, when a child enrolled part time occasionally attends for a full day.  
7  
8 (i) The Board or its child care contractor shall not reimburse a provider retroactively for  
9 new Board maximum reimbursement rates or new provider published rates.  
10  
11 (j) A Board or its child care contractor shall ensure that the parent's travel time to and  
12 from the child care facility and the parent's work, school, or job training site is  
13 included in determining whether to authorize reimbursement for full-day or part-day  
14 care under subsection (f) of this section.  
15

16 *The provisions of this §809.93 adopted to be effective January 29, 2007, 32 TexReg 336;*  
17 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective*  
18 *October 1, 2016, 41 TexReg 7529; amended to be effective August 1, 2018, 43 TexReg*  
19 *4774*  
20

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22  
23 **§809.94. Providers Placed on Corrective or Adverse Action by the Texas Department**  
24 **of Family and Protective Services.**  
25

- 26 (a) For a provider placed on evaluation corrective action (evaluation status) by DFPS,  
27 Boards shall ensure that:  
28  
29 (1) parents with children enrolled in Commission-funded child care are notified in  
30 writing of the provider's evaluation status no later than five business days after  
31 receiving notification from the Agency of DFPS' decision to place the provider  
32 on evaluation status; and  
33  
34 (2) parents choosing to enroll children in Commission-funded child care with the  
35 provider are notified in writing of the provider's evaluation status prior to  
36 enrolling the children with the provider.  
37  
38 (b) For a provider placed on probation corrective action (probationary status) by DFPS,  
39 Boards shall ensure that:  
40  
41 (1) parents with children in Commission-funded child care are notified in writing  
42 of the provider's probationary status no later than five business days after  
43 receiving notification from the Agency of DFPS' decision to place the provider  
44 on probationary status; and  
45  
46 (2) no new referrals are made to the provider while on probationary status.

- 1  
2 (c) A parent receiving notification of a provider's evaluation or probationary status with  
3 DFPS pursuant to subsections (a) and (b) of this section may transfer the child to  
4 another eligible provider without being subject to the Board transfer policies  
5 described in §809.71(3) if the parent requests the transfer within 14 calendar days of  
6 receiving such notification.  
7  
8 (d) For a provider placed on evaluation or probationary status by DFPS, Boards shall  
9 ensure that the provider is not reimbursed at the Boards' enhanced reimbursement  
10 rates described in §809.20 while on evaluation or probationary status.  
11  
12 (e) For a provider against whom DFPS is taking adverse action, Boards shall ensure  
13 that:  
14  
15 (1) parents with children enrolled in Commission-funded child care are notified no  
16 later than two business days after receiving notification from the Agency that  
17 DFPS intends to take adverse action against the provider;  
18  
19 (2) children enrolled in Commission-funded child care with the provider are  
20 transferred to another eligible provider no later than five business days after  
21 receiving notification from the Agency that DFPS intends to take adverse  
22 action against the provider; and  
23  
24 (3) no new referrals for Commission-funded child care are made to the provider  
25 while DFPS is taking adverse action.  
26  
27 (f) For adverse actions in which DFPS has determined that the provider poses an  
28 immediate risk to the health or safety of children and cannot operate pending appeal  
29 of the adverse action, but for which there is a valid court order that overturns DFPS'  
30 determination and allows the provider to operate pending administrative review or  
31 appeal, Boards shall take action consistent with subsection (e) of this section.  
32

33 *The provisions of this §809.94 adopted to be effective June 22, 2009, 34 TexReg 4201;*  
34 *amended to be effective October 1, 2016, 41 TexReg 7529*  
35

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37

### 38 **§809.95. Provider Automated Attendance Agreement.** 39

40 Boards shall notify providers of the following:  
41

- 42 (1) Employees of child care providers shall not:  
43  
44 (A) possess, have on the premises, or otherwise have access to the attendance  
45 card of a parent or secondary cardholder;  
46

1 (B) accept or use the attendance card or PIN of a parent or secondary  
2 cardholder; or

3  
4 (C) perform the attendance or absence reporting function on behalf of the  
5 parent;

6  
7 (2) The owner, director, or assistant director of a child care provider shall not be  
8 designated as the secondary cardholder by a parent with a child enrolled with  
9 the provider;

10  
11 (3) Providers shall report misuse of attendance cards and PINs to the Board or the  
12 Board's child care contractor; and

13  
14 (4) Providers shall report to the child care contractor authorized days that do not  
15 match the referral in the Agency's automated attendance system within five  
16 days of receiving the authorization. Failure to report the discrepancy may  
17 result in withholding payment to the provider.

18  
19 (5) Misuse of attendance reporting and violation of the requirements in this section  
20 are grounds for a potential fraud determination pursuant to Subchapter F of this  
21 chapter.

22  
23 *The provisions of this §809.95 adopted to be effective January 8, 2013, 38 TexReg 155;*  
24 *amended to be effective October 1, 2016, 41 TexReg 7529*

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27  
28 **SUBCHAPTER F. FRAUD FACT-FINDING AND IMPROPER PAYMENTS**

29  
30 **§809.111. General Fraud Fact-Finding Procedures.**

31  
32 (a) This subchapter establishes authority for a Board to develop procedures for the  
33 prevention of fraud by a parent, provider, or any other person in a position to commit  
34 fraud consistent with fraud prevention provisions in the Agency-Board Agreement.

35  
36 (b) In this subchapter, a person commits fraud if, to obtain or increase a benefit or other  
37 payment, either for the person or another person, the person:

38  
39 (1) makes a false statement or representation, knowing it to be false; or

40  
41 (2) knowingly fails to disclose a material fact.

42  
43 (c) A Board shall ensure that procedures for researching and fact-finding for possible  
44 fraud are developed and implemented to deter and detect suspected fraud for child  
45 care services in the workforce area.



- 1 (d) These procedures shall include provisions that suspected fraud is reported to the  
2 Commission in accordance with Commission policies and procedures.  
3
- 4 (e) Upon review of suspected fraud reports, the Commission may either accept the case  
5 for investigation and action at the state level, or return the case to the Board or its  
6 child care contractor for action including, but not limited to, the following:  
7
- 8 (1) further fact-finding; or  
9
- 10 (2) other corrective action as provided in this chapter or as may be appropriate.  
11
- 12 (f) The Board shall ensure that a final fact-finding report is submitted to the  
13 Commission after a case is returned to the Board or its child care contractor and all  
14 feasible avenues of fact-finding and corrective actions have been exhausted.  
15

16 *The provisions of this §809.111 adopted to be effective January 29, 2007, 32 TexReg 336;*  
17 *amended to be effective October 1, 2016, 41 TexReg 7529*  
18

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20

21 **§809.112. Suspected Fraud.**  
22

- 23 (a) A parent, provider, or any other person in a position to commit fraud may be  
24 suspected of fraud if the person presents or causes to be presented to the Board or its  
25 child care contractor one or more of the following items:  
26
- 27 (1) A request for reimbursement in excess of the amount charged by the provider  
28 for the child care; or  
29
- 30 (2) A claim for child care services if evidence indicates that the person may have:  
31
- 32 (A) known, or should have known, that child care services were not provided  
33 as claimed;  
34
- 35 (B) known, or should have known, that information provided is false or  
36 fraudulent;  
37
- 38 (C) received child care services during a period in which the parent or child  
39 was not eligible for services;  
40
- 41 (D) known, or should have known, that child care subsidies were provided to  
42 a person not eligible to be a provider; or  
43
- 44 (E) otherwise indicated that the person knew or should have known that the  
45 actions were in violation of this chapter or state or federal statute or  
46 regulations relating to child care services.

1  
2 (b) The following parental actions may be grounds for suspected fraud and cause for  
3 Boards to conduct fraud fact-finding or the Commission to initiate a fraud  
4 investigation:

5  
6 (1) Not reporting or falsely reporting at initial eligibility or at eligibility  
7 redetermination:

8  
9 (A) household composition, or income sources or amounts that would have  
10 resulted in ineligibility or a higher parent share of cost; or

11  
12 (B) work, training, or education hours that would have resulted in  
13 ineligibility; or

14  
15 (2) Not reporting during the 12-month eligibility period:

16  
17 (A) changes in income or household composition that would cause the family  
18 income to exceed 85 percent of SMI (taking into consideration  
19 fluctuations of income); or

20  
21 (B) a permanent loss of job or cessation of training or education that exceeds  
22 three months; or

23  
24 (C) improper or inaccurate reporting of attendance.  
25

26 *The provisions of this §809.112 adopted to be effective January 29, 2007, 32 TexReg 336;*  
27 *amended to be effective October 1, 2016, 41 TexReg 7529*

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30  
31 **§809.113. Action to Prevent or Correct Suspected Fraud.**

32  
33 (a) The Commission or Board may take the following actions pursuant to Commission  
34 policy if the Commission or Board finds that a provider has committed fraud:

35  
36 (1) Temporary withholding of payments to the provider for child care services  
37 delivered;

38  
39 (2) Nonpayment of child care services delivered;

40  
41 (3) Recoupment of funds from the provider;

42  
43 (4) Stop authorizing care at the provider's facility or location;

44  
45 (5) Prohibiting future eligibility to provide Commission-funded child care  
46 services; or

1  
2 (6) Any other action consistent with the intent of the governing statutes or  
3 regulations to investigate, prevent, or stop suspected fraud.  
4

5 (b) The Commission or Board may take the following actions pursuant to Commission  
6 policy if the Commission or Board finds that a parent has committed fraud:  
7

8 (1) recouping funds from the parent;  
9

10 (2) prohibiting future child care eligibility, provided that the prohibition does not  
11 result in a Choices or SNAP E&T participant becoming ineligible for child  
12 care;  
13

14 (3) limiting the enrollment of the parent's child to a regulated child care provider;  
15

16 (4) terminating care during the 12-month eligibility period if eligibility was  
17 determined using fraudulent information provided by the parent; or  
18

19 (5) any other action consistent with the intent of the governing statutes or  
20 regulations to investigate, prevent, or stop suspected fraud.  
21

22 *The provisions of this §809.113 adopted to be effective January 29, 2007, 32 TexReg 336;*  
23 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*  
24 *2016, 41 TexReg 7529*  
25

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27

28 **§809.114. Failure to Comply with Commission Rules and Board Policies.**  
29

30 (a) The Board shall ensure that parents and providers comply with Commission rules.  
31

32 (b) The Commission, Board or Board's child care contractor may consider failure by a  
33 provider or parent to comply with this chapter as an act that may warrant corrective  
34 and adverse action as detailed in §809.115 (relating to Corrective Adverse Actions).

- 1  
2 (c) Failure by a provider or parent to comply with this chapter shall also be considered a  
3 breach of contract, which may also result in corrective action as detailed in this  
4 subchapter.  
5

6 *The provisions of this §809.114 adopted to be effective January 29, 2007, 32 TexReg 336*  
7

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9

10 **§809.115. Corrective Adverse Actions.**  
11

- 12 (a) When determining appropriate corrective actions, the Board or Board's child care  
13 contractor shall consider:  
14  
15 (1) the scope of the violation;  
16  
17 (2) the severity of the violation; and  
18  
19 (3) the compliance history of the person or entity.  
20  
21 (b) Corrective actions for providers may include, but are not limited to, the following:  
22  
23 (1) Closing intake;  
24  
25 (2) Moving children to another provider selected by the parent;  
26  
27 (3) Withholding provider payments or reimbursement of costs incurred; and  
28  
29 (4) Recoupment of funds.  
30  
31 (c) When a provider violates a provision of Subchapter E of this chapter, a written  
32 Service Improvement Agreement may be negotiated between the provider and the  
33 Board or the Board's child care contractor. At the least, the Service Improvement  
34 Agreement shall include the following:  
35  
36 (1) The basis for the Service Improvement Agreement;  
37  
38 (2) The steps required to reach compliance including, if applicable, technical  
39 assistance;  
40  
41 (3) The time limits for implementing the improvements; and  
42  
43 (4) The consequences of noncompliance with the Service Improvement  
44 Agreement.  
45

1 (d) The Board shall develop policies and procedures to ensure that the Board or the  
2 Board's child care contractor take corrective action consistent with subsections (a) -  
3 (c) of this section against a provider when a provider:

4  
5 (1) possesses, or has on the premises, attendance cards without the parent being  
6 present at the provider site;

7  
8 (2) accepts or uses an attendance card or PIN of a parent or secondary cardholder;  
9 or

10  
11 (3) performs the attendance reporting function on behalf of a parent.  
12

13 (e) The Board shall develop policies and procedures to require the Board's child care  
14 contractor to take corrective action consistent with subsections (a) - (c) of this  
15 section against a parent when a parent or parent's secondary cardholder gives his or  
16 her:

17  
18 (1) card to a provider; or

19  
20 (2) PIN to a provider.  
21

22 *The provisions of this §809.115 adopted to be effective January 29, 2007, 32 TexReg 336;*  
23 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*  
24 *2016, 41 TexReg 7529*

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27  
28 **§809.117. Recovery of Improper Payments to a Provider or Parent.**

29  
30 (a) A Board shall attempt recovery of all improper payments as defined in §809.2.

31  
32 (b) Recovery of improper payments shall be managed in accordance with Commission  
33 policies and procedures.

34  
35 (c) The provider shall repay improper payments for child care services received in the  
36 following circumstances:

37  
38 (1) Instances involving fraud;

39  
40 (2) Instances in which the provider did not meet the provider eligibility  
41 requirements in this chapter;

42  
43 (3) Instances in which the provider was paid for the child care services from  
44 another source;

45  
46 (4) Instances in which the provider did not deliver the child care services;

- 1  
2 (5) Instances in which referred children have been moved from one facility to  
3 another without authorization from the child care contractor; and  
4  
5 (6) Other instances when repayment is deemed an appropriate action.  
6  
7 (d) A parent shall repay improper payments for child care only in the following  
8 circumstances:  
9  
10 (1) Instances involving fraud as defined in this subchapter;  
11  
12 (2) Instances in which the parent has received child care services while awaiting  
13 an appeal and the determination is affirmed by the hearing officer; or  
14  
15 (3) Instances in which the parent fails to pay the parent share of cost and the  
16 Board's policy is to pay the provider for the parent's failure to pay the parent  
17 share of cost.  
18  
19 (e) A Board shall ensure that a parent subject to the repayment provisions in subsection  
20 (d) of this section shall prohibit future child care eligibility until the repayment  
21 amount is recovered, provided that the prohibition does not result in a Choices or  
22 SNAP E&T participant becoming ineligible for child care.  
23

24 *The provisions of this §809.117 adopted to be effective January 29, 2007, 32 TexReg 336;*  
25 *amended to be effective October 1, 2016, 41 TexReg 7529*  
26

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28

## 29 **SUBCHAPTER G. TEXAS RISING STAR PROGRAM**

### 30 **§809.130. Short Title and Purpose.**

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

- 1  
2 (A) director and staff qualifications and training;  
3  
4 (B) caregiver-child interactions;  
5  
6 (C) curriculum;  
7  
8 (D) nutrition and indoor and outdoor activities; and  
9  
10 (E) parent involvement and education;

11  
12 (2) specify measures that:

- 13  
14 (A) must be met in order for a provider to be certified at each star level; and  
15  
16 (B) are observed and have points awarded through on-site assessments; and

17  
18 (3) specify the scoring methodology and scoring thresholds for each star level.  
19

20 (e) The TRS guidelines:

21  
22 (1) shall be reviewed and updated by the Commission at a minimum of every four  
23 years in conjunction with the rule review of Chapter 809, conducted pursuant  
24 to Texas Government Code §2001.039, and the TRS guidelines review shall:

- 25  
26 (A) consider input from stakeholders; and  
27  
28 (B) include at least one public hearing held prior to submitting the  
29 stakeholder input to the Commission;

30  
31 (2) shall be adopted by the Commission subject to the requirements of the Texas  
32 Open Meetings Act; and

33  
34 (3) also may be reviewed and amended as determined necessary by the  
35 Commission in accordance with the requirements of the Texas Open Meetings  
36 Act.  
37

38 *The provisions of this §809.130 adopted to be effective February 16, 2015, 40 TexReg 708;*  
39 *amended to be effective March 14, 2016, 41 TexReg 1975*

40  
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42  
43 **§809.131. Eligibility for the TRS Program.**

44  
45 (a) A child care provider is eligible to apply for the TRS program if the provider has a  
46 current agreement to serve Commission-subsidized children and:

- 1
- 2 (1) has a permanent (nonexpiring) license or registration from CCL;
- 3
- 4 (2) has at least 12 months of licensing history with CCL, and is not on:
- 5
- 6 (A) corrective action with a Board pursuant to Subchapter F of this chapter;
- 7
- 8 (B) a "Notice of Freeze" with the Commission pursuant to Chapter 213 of the
- 9 Texas Labor Code (Enforcement of the Texas Unemployment
- 10 Compensation Act) or Chapter 61 of the Texas Labor Code (Payment of
- 11 Wages); or
- 12
- 13 (C) corrective or adverse action with CCL; or
- 14
- 15 (3) is regulated by and in good standing with the US Military.
- 16
- 17 (b) A child care facility is not eligible to apply for the TRS program if, during the most
- 18 recent 12-month CCL licensing history, the provider had:
- 19
- 20 (1) any of the critical licensing deficiencies listed in the TRS guidelines;
- 21
- 22 (2) five or more of the high or medium-high licensing deficiencies listed in the
- 23 TRS guidelines; or
- 24
- 25 (3) 10 or more total licensing deficiencies of any type.
- 26

27 *The provisions of this §809.131 adopted to be effective February 16, 2015, 40 TexReg 708;*  
 28 *amended to be effective January 8, 2019, 44 TexReg 114*

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31  
 32 **§809.132. Impact of Certain Deficiencies on TRS Certification.**

- 33
- 34 (a) A TRS provider shall lose TRS certification if the provider:
- 35
- 36 (1) is placed on corrective action with a Board pursuant to Subchapter F of this
- 37 chapter;
- 38
- 39 (2) is under a "Notice of Freeze" with the Commission pursuant to Chapter 213 of
- 40 the Texas Labor Code (Enforcement of the Texas Unemployment
- 41 Compensation Act) or Chapter 61 of the Texas Labor Code(Payment of
- 42 Wages);
- 43
- 44 (3) is placed on corrective or adverse action by CCL; or
- 45



- 1 (4) had 15 or more total licensing deficiencies of any type during the most recent  
2 12-month licensing history.  
3
- 4 (b) TRS providers with any of the critical licensing deficiencies listed in the TRS  
5 guidelines during the most recent 12-month CCL licensing history shall have the  
6 following consequences:  
7
- 8 (1) reduction of one-star level, so a 4-Star Program Provider is reduced to a 3-Star  
9 Program Provider, a 3-Star Program Provider is reduced to a 2-Star Program  
10 Provider; or  
11
- 12 (2) a 2-Star Program Provider loses certification.  
13
- 14 (c) TRS providers with five or more of the high or medium-high deficiencies listed in  
15 the TRS guidelines during the most recent 12-month CCL licensing history shall lose  
16 a star level with a 2-Star Program Provider losing certification.  
17
- 18 (d) TRS providers with 10 to 14 total licensing deficiencies of any type during the most  
19 recent 12-month CCL licensing history shall be placed on a six-month TRS program  
20 probationary period. Further:  
21
- 22 (1) TRS providers on a six-month probationary period that are re-cited by CCL  
23 within the probationary period for any of the same deficiencies shall lose a star  
24 level with a 2-Star Program Provider losing certification;  
25
- 26 (2) if any new deficiencies--not to exceed 14 total deficiencies--are cited by CCL  
27 during the first probationary period, a second six-month probationary period  
28 shall be established effective upon the date of final DFPS determination of the  
29 deficiencies; and  
30
- 31 (3) if any new deficiencies--not to exceed 14 total deficiencies--are cited by CCL  
32 during the second six-month probationary period, a provider shall lose TRS  
33 certification.  
34
- 35 (e) Providers losing a star level due to licensing deficiencies shall be reinstated at the  
36 former star level if no citations described in §809.132(b) - (d) occur within the six-  
37 month reduction time frame.  
38
- 39 (f) Providers losing TRS certification shall be eligible to reapply for certification after  
40 six months following the loss of the certification, as long as no current deficiencies  
41 are re-cited and no additional licensing deficiencies are cited during the  
42 disqualification period.  
43

44 *The provisions of this §809.132 adopted to be effective February 16, 2015, 40 TexReg 708;*  
45 *amended to be effective January 8, 2019, 44 TexReg 114*  
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2  
3 **§809.133. Application and Assessments for the TRS Program.**

- 4  
5 (a) TRS program applicants must complete:
- 6  
7 (1) an orientation on the TRS guidelines, including an overview of the:
- 8  
9 (A) TRS program application process;
- 10  
11 (B) TRS program measures; and
- 12  
13 (C) TRS program assessment process; and
- 14  
15 (2) a TRS program self-assessment tool.
- 16  
17 (b) Boards shall ensure that:
- 18  
19 (1) written acknowledgment of receipt of the application and self-assessment is
- 20  
21 sent to the provider;
- 22  
23 (2) within 20 days of receipt of the application, the provider is sent an estimated
- 24  
25 time frame for scheduling the initial assessment;
- 26  
27 (3) an assessment is conducted for any provider that meets the eligibility
- 28  
29 requirements in §809.131 and requests to participate in the TRS program; and
- 30  
31 (4) TRS certification is granted for any provider that is assessed and verified as
- 32  
33 meeting the TRS provider certification criteria set forth in the TRS guidelines.
- 34  
35 (c) Boards shall ensure that TRS assessments are conducted as follows:
- 36  
37 (1) On-site assessment of 100 percent of the provider classrooms at the initial
- 38  
39 assessment for TRS certification and at each scheduled recertification; and
- 40  
41 (2) Recertification of all TRS providers every three years.
- 42  
43 (d) Boards shall ensure that certified TRS providers are monitored on an annual basis
- 44  
and the monitoring includes:
- (1) at least one unannounced on-site visit; and
- (2) a review of the provider's licensing compliance as described in new §809.132.

- 1 (e) Boards shall ensure compliance with the process and procedures in the TRS  
2 guidelines for conducting assessments of nationally accredited child care facilities  
3 and child care facilities regulated by the US Military.  
4
- 5 (f) Boards shall ensure compliance with the process and procedures in the TRS  
6 guidelines for conducting assessments of certified TRS providers that have a change  
7 of ownership, move, or expand locations.  
8

9 *The provisions of this §809.133 adopted to be effective February 16, 2015, 40 TexReg 708*

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13 **§809.134. Minimum Qualifications for TRS Assessors and Mentors.**  
14

- 15 (a) Boards shall ensure that TRS assessors and mentors meet the minimum education  
16 requirements as follows:  
17
- 18 (1) Bachelor's degree from an accredited four-year college or university in early  
19 childhood education, child development, special education, child psychology,  
20 educational psychology, elementary education, or family consumer science;  
21
- 22 (2) Bachelor's degree from an accredited four-year college or university with at  
23 least 18 credit hours in early childhood education, child development, special  
24 education, child psychology, educational psychology, elementary education, or  
25 family consumer science with at least 12 credit hours in child development; or  
26
- 27 (3) Associate's degree in early childhood education, child development, special  
28 education, child psychology, educational psychology, elementary education, or  
29 family consumer science with two years of experience as a director in an early  
30 childhood program, with preference given to experience with a provider that is  
31 accredited or TRS certified.  
32
- 33 (b) The Commission may grant a waiver of no more than two years of the minimum  
34 education requirements in subsection (a) of this section if a Board can demonstrate  
35 that no applicants in its local workforce development area meet the minimum  
36 education requirements.  
37
- 38 (c) Boards shall ensure that TRS assessors and mentors meet the minimum work  
39 experience requirements of one year of full-time early childhood classroom  
40 experience in a child care, Early Head Start, Head Start, or prekindergarten through  
41 third-grade school program.  
42
- 43 (d) Boards shall ensure that if an individual performs the duties of both an assessor and  
44 a mentor, the individual providing TRS mentoring services to a provider does not act  
45 as the assessor of that same provider when determining TRS certification.  
46

- 1 (e) Boards shall ensure that TRS assessors and mentors are required to complete annual  
2 professional development and continuing education consistent with the TRS annual  
3 minimum training hours requirement for a TRS-certified child care center director.  
4
- 5 (f) Boards shall ensure that TRS assessors and mentors meet the background check  
6 requirement consistent with Chapter 745 of this title.  
7
- 8 (g) Boards shall ensure that TRS assessors and mentors demonstrate:  
9
- 10 (1) knowledge of best practices in early childhood education; and  
11
- 12 (2) understanding of early childhood evaluations, observations, and assessment  
13 tools for both teachers and children.  
14

15 *The provisions of this §809.134 adopted to be effective February 16, 2015, 40 TexReg 708;*  
16 *amended to be effective January 8, 2019, 44 TexReg 114*  
17

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20 **§809.135. TRS Process for Reconsideration.**  
21

22 Boards shall ensure a process for reconsideration of facility assessment at the Board level  
23 for the TRS program. The TRS program is not subject to Chapter 823 of this title, the  
24 Integrated Complaints, Hearings, and Appeals rules.  
25

26 *The provisions of this §809.135 adopted to be effective February 16, 2015, 40 TexReg 708*  
27

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