

1 **CHAPTER 809. CHILD CARE SERVICES**

2  
3 **PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**  
4 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**  
5 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**  
6

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

- 9
- 10 Subchapter A. General Provisions, §809.2
- 11 Subchapter B. General Management, §§809.12, 809.13, 809.16, 809.18, and 809.19
- 12 Subchapter E. Requirements to Provide Child Care, §809.91 and §809.93
- 13 Subchapter G. Texas Rising Star Program, §§809.130 - 809.134
- 14

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

- 16
- 17 Subchapter B. General Management, §809.22
- 18 Subchapter E. Requirements to Provide Child Care, §809.96
- 19 Subchapter G. Texas Rising Star Program, §809.136
- 20

- 21 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**
- 22 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**
- 23 **PART III. IMPACT STATEMENTS**
- 24 **PART IV. COORDINATION ACTIVITIES**
- 25

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

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

32  
33 **House Bill 680**

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

40  
41 **Allowable Uses of Boards' Child Care Quality Funds**

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

46 --be used toward the requirements for a credential, certification, or degree program; and

1 --meet the Texas Rising Star program's professional development requirements.

2  
3 Section 809.16, Quality Improvement Activities, outlines rules related to quality improvement  
4 activities that are allowable for Boards. Section 809.16 currently allows Boards to expend quality  
5 funds on any quality improvement activity described in 45 Code of Federal Regulations (CFR)  
6 Part 98. TWC proposes requiring Boards to align expenditures for child care professional  
7 development with applicable state statute and the activities described in the Child Care  
8 Development Fund (CCDF) State Plan.

9  
10 Child Care Provider Contract Agreements

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

17  
18 "States can award grants and contracts to providers in order to provide financial incentives to  
19 offer care for special populations, require higher quality standards, and guarantee certain  
20 numbers of slots to be available for low-income children eligible for Child Care and  
21 Development Fund (CCDF) financial assistance. Grants and contracts can provide financial  
22 stability for child care providers by paying in regular installments, paying based on maintenance  
23 of enrollment, or paying prospectively rather than on a reimbursement basis."

24  
25 HB 680 requires that any such contract includes the number of slots reserved by a provider for  
26 children who participate in the subsidized child care program.

27  
28 To be eligible for a contract, HB 680 requires that a child care provider be a Texas Rising Star 3-  
29 or 4-star provider and meet one of the following priorities:

30  
31 --Be located in an area:

32 --where the number of children under age six with working parents is at least three times  
33 greater than the capacity of licensed child care providers in the area; or

34 --determined by TWC to be underserved with respect to child care providers

35  
36 --Have a partnership with local school districts to provide prekindergarten (pre-K)

37  
38 --Have a partnership with Early Head Start (EHS) or Head Start (HS)

39  
40 --Have an increased number of places reserved for infants and toddlers by high-quality child care  
41 providers

42  
43 --Satisfy a priority identified in the Board's plan.

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

- 4 --Financial stability of providers participating in the contract
- 5 --Availability of high-quality child care options for participants in TWC's subsidy program
- 6 --Number of high-quality providers in any part of the local workforce development area  
7 (workforce area) with a high concentration of families with a need for child care
- 8 --Percentage of children participating in TWC's subsidized child care program at each Texas  
9 Rising Star provider in the Board's workforce area

10  
11 In December 2019, TWC's Child Care & Early Learning Division assembled a workgroup  
12 consisting of TWC staff, Board staff, and Board child care services contractor staff to discuss  
13 implementation recommendations related to contracted slots. Recommendations from the  
14 contracted slots workgroup informed the revisions described.

15  
16 Reserved Slots

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

26  
27 Waiting Lists and Priorities

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

36  
37 Currently, the Board's waiting list for the subsidy voucher system is for the entire workforce  
38 area. Families are contacted in order of priority to select any participating provider in the Board's  
39 workforce area. Section 809.43 details the priority groups as follows:

40  
41 The first priority group is assured child care services and includes children of parents eligible for  
42 the following:

- 43 --Choices child care
- 44 --Temporary Assistance for Needy Families Applicant child care
- 45 --Supplemental Nutrition Assistance Program Employment and Training child care
- 46 --Transitional child care

1  
2 The second priority group is served subject to the availability of funds and includes the  
3 following, in the order of priority:

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

12  
13 The third priority group includes any other priority adopted by the Board.

14  
15 With a Contracted Slots model, the slots need to be filled quickly to avoid Boards paying for  
16 vacant reserved slots. TWC proposes allowing families to indicate ZIP code preferences for  
17 location of child care and prioritizing children with preferences matching ZIP codes with an  
18 available contracted slot.

#### 19 20 *Eligible Geographic Locations*

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

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

26  
27 TWC proposes using data from the state demographer to analyze and publish annual information  
28 about geographic areas that meet the requirements described in HB 680 and requiring Boards to  
29 use this data to identify providers that are in areas of high need and low capacity.

#### 30 31 *Direct Referrals from Public Prekindergarten and Head Start/Early Head Start Partnerships*

32 HB 680 explicitly authorizes contracts for Texas Rising Star providers engaged in partnerships  
33 with public pre-K or HS/EHS. Additionally, HB 3, 86th Texas Legislature, Regular Session  
34 (2019), supports expansion of pre-K partnerships.

35  
36 Children served through these partnerships are dually enrolled in both early childhood programs.  
37 When a child is dually enrolled in child care services and either public pre-K or HS/EHS, part of  
38 the cost to CCDF is offset. Through these partnerships, eligible children can receive the full-day,  
39 full-year care that working parents require at a lower cost to the Child Care Services program.

40  
41 Eligible children served through these partnerships receive early care and education from  
42 multiple funding sources. However, each funding source prioritizes certain populations slightly  
43 differently (such as a low-income individual, a foster child or child of a foster youth, a veteran or  
44 active duty service member, a child with a disability, or a child experiencing homelessness).

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

6  
7 Chapter 809 does not currently allow for a separate path for enrolling eligible children who are  
8 directly referred from a partnering program. Because of this structure, eligible children from  
9 partnering programs must be placed on a Board's waiting list despite the federal, state, and local  
10 policies that support partnerships and dual enrollment.

11  
12 TWC proposes creating a separate path for enrollment to support more stable partnerships,  
13 maximize available funding to serve more children, and provide improved customer service to  
14 participating families.

15  
16 With a separate enrollment path for partnership direct referrals, services for eligible children who  
17 are in TWC's second or third priority group, as defined in §809.43, Priority for Child Care  
18 Services, would still be served subject to the availability of funding. Additionally, if the number  
19 of referrals from a partnership exceeds the subsidized spots available at a single partnership site,  
20 §809.43 would be applied, and any children who did not receive subsidized care through the  
21 referring partnership would be placed on the Board's waiting list.

### 22 23 **Parent Share of Cost for Part-Time Referrals**

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

29  
30 The CCDBG Act of 2014 led to significant changes in the administration of child care services in  
31 Texas. In September 2016, TWC adopted amendments to Chapter 809 to align with the new  
32 federal requirements and §809.19, Assessing the Parent Share of Cost, was affected. In  
33 compliance with federal requirements and guidance, TWC amended §809.19 to limit the basis of  
34 the sliding-fee scale to family size and income, including the number of children in care.

35  
36 With this rule change, Boards were no longer able to offer "discounts" for part-time care, as  
37 doing so could have been perceived as using the cost of care or amount of subsidy payment to  
38 determine parent share of cost.

39  
40 The CCDF State Plan template for Federal Fiscal Years 2019 - 2021 (released after the final  
41 federal rule) allows the number of hours the child is in care, in addition to the family's income  
42 and size, to be considered when determining parent share of cost.

43  
44 TWC proposes reducing the financial burden on families that need part-time child care by  
45 authorizing Boards to assess the parent share of cost at the full-time rate and allow reductions for  
46 families with part-time referrals. If a child's referral changes from part-time to full-time care, the

1 family will no longer qualify for the reduction and must revert to the original parent share of cost  
2 assessment amount.

3  
4 **Child Transfer Policies**

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

12  
13 Providers commonly have policies for private-pay families that require families to give notice  
14 before withdrawing their child from the program. Typically, these policies range from two weeks  
15 to a full month. These waiting periods help providers to manage their enrollment efficiently and  
16 ensure that they have adequate time to fill empty spots.

17  
18 Section 809.13(c)(10) requires Boards to establish a policy for transfer of a child from one  
19 provider to another. However, the rule does not require Boards to establish a waiting period for  
20 families that request to transfer a child.

21  
22 TWC proposes requiring Boards to institute a waiting period as part of their transfer policy to  
23 support better alignment with CCDBG and greater stability for subsidy providers.

24  
25 **Texas Rising Star Four-Year Review Recommendations**

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

29  
30 To meet this requirement, on February 23, 2016, TWC's three-member Commission  
31 (Commission) adopted §809.130(e)(1), which requires staff to facilitate a review of the Texas  
32 Rising Star guidelines every four years.

33  
34 Beginning in May 2019, TWC convened a workgroup to review the Texas Rising Star guidelines  
35 and recommend revisions. The workgroup included early learning program directors from  
36 around the state, early childhood advocacy organization representatives, professional  
37 development providers, Board staff, and representatives from TWC, the Texas Education  
38 Agency, the Texas Health and Human Services Commission's (HHSC) Child Care Regulation  
39 Division (formerly Child Care Licensing (CCL)), and the State Center for Early Childhood,  
40 Children's Learning Institute (CLI).

41  
42 Over an eight-month period, the workgroup met regularly to review the Texas Rising Star  
43 guidelines in detail and to engage in a collaborative effort to improve guidelines' standards. On  
44 January 21, 2020, the Commission approved the publication of the workgroup's  
45 recommendations for public comment. During February 2020, TWC partnered with Boards to  
46 host seven public stakeholder meetings across the state. Throughout the review process, TWC

1 also provided the public with a website to view materials related to the review and a dedicated  
2 email address to offer input.

3  
4 The revisions in this proposed rule consider the recommendations of the workgroup as well as  
5 stakeholder input received during public meetings or provided to TWC in writing.

### 6 7 Workforce Registry

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

20  
21 TWC proposes integrating the WFR into Texas Rising Star, requiring programs applying for  
22 certification to agree to participate in the WFR and encourage their staff to participate as well.  
23 For all programs, adopting and maintaining use of the WFR will be included in ongoing  
24 technical assistance and Continuous Quality Improvement Plans (CQIPs).

25  
26 During public stakeholder meetings, many child care providers expressed concerns that the WFR  
27 could allow competitors to "steal" staff. TWC notes that the WFR does not have a searchable  
28 database of teachers or their qualifications. A teacher's record is only available to others when  
29 the teacher actively makes it available to a specified provider--typically the teacher's current  
30 employer. Additionally, based on comments received, TWC requested that the WFR be modified  
31 to no longer include job postings. This functionality is duplicative of the TWC-funded  
32 WorkInTexas.com online job-matching portal.

### 33 34 Creating a Pre-Star Provider Designation

35 TWC proposes a new Pre-Star provider definition in §809.2(18), and a requirement that all CCL-  
36 regulated subsidy providers be designated as Pre-Star in §809.91(a)(1). Pre-Star designations are  
37 outside of the statutorily defined Texas Rising Star quality-based rating system set forth in Texas  
38 Government Code, §2308.3155 and will not receive an enhanced reimbursement rate. Programs  
39 wishing to enter the Texas Rising Star system and apply for star-level certification must first  
40 meet Pre-Star designation. Pre-Star designations are based upon a child care program's  
41 demonstration that they do not have significant licensing findings, as set forth in the Screening  
42 Criteria for Subsidized Child Care and defined in the CCDF State Plan.

### 43 44 Continuous Quality Improvement Framework

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

1  
2 Early childhood programs and their mentors use CQIPs to identify areas for program and staff  
3 improvement. The Texas Rising Star CQIP framework will provide targeted technical assistance  
4 and customized coaching to set specific improvement goals and monitor progress.

5  
6 New Training and Certification Requirements for Texas Rising Star Staff

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

11  
12 The four-year review recommendations include new requirements for Texas Rising Star assessor  
13 and mentor training and certification to ensure valid and consistent star-level certifications across  
14 all Texas Rising Star programs and to improve mentoring and coaching to support the CQIP  
15 framework.

16  
17 Based on these recommendations, TWC proposes that assessors be required to take the Texas  
18 Rising Star standards training and to obtain the Texas Rising Star Assessment Certification.  
19 Additionally, TWC proposes that assessors be required to pass quarterly reliability checks.

20  
21 TWC also proposes more robust training requirements for mentors. Increasing the number of  
22 programs that attain and retain higher levels of quality will require strong mentoring support, and  
23 successful implementation of a CQIP framework will depend on skillful coaching from Texas  
24 Rising Star mentors. Specifically, TWC proposes requiring mentors to take the Texas Rising Star  
25 standards training and to participate in competency-based professional development designed to  
26 improve coaching practices.

27  
28 Streamlining and Reweighting Categories of Texas Rising Star Measures

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

33  
34 Many of the current measures are repetitive across categories or not well-correlated to the  
35 category being measured. TWC proposes reorganizing measures under the following four  
36 categories: (1) Director and Staff Qualifications and Training, (2) Teacher-Child Interactions, (3)  
37 Program Administration, and (4) Indoor/Outdoor Environments.

38  
39 TWC also proposes changing the relative weight of each category in recognition of the  
40 categories that are most closely correlated with child outcomes. The workgroup specifically  
41 recognized the importance of teacher-child interactions in child development, also noting that the  
42 TWC-funded "Strengthening Texas Rising Star Implementation Study" established validity and  
43 reliability for measures within this category. TWC proposes that the teacher-child interactions  
44 category be assigned a weight of 40 percent, with the remaining three categories weighted at 20  
45 percent each.



1 Impact of Certain Deficiencies on Texas Rising Star Certification

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

7  
8 Stakeholders, including early learning program directors, have observed that financial instability  
9 is a barrier to maintaining and increasing quality. The workgroup recommended providing Texas  
10 Rising Star programs that receive certain licensing deficiencies with an opportunity to remedy  
11 those deficiencies within a six-month probationary period. The workgroup also recommended  
12 increasing technical assistance for programs at risk of losing or dropping their Texas Rising Star  
13 certification level. Stakeholders that commented on the revisions strongly supported these  
14 recommendations.

15  
16 A review of Texas Rising Star data from 2017 to 2019 showed that almost half of the 300  
17 programs that lost a star level or dropped out of Texas Rising Star did so due to licensing  
18 deficiencies. Eighty percent of star-level drops were due to licensing deficiencies, and of those  
19 programs that lost their Texas Rising Star certification completely, 54 percent became  
20 disqualified for certification due to licensing deficiencies.

21  
22 TWC proposes a revised structure for considering licensing deficiencies for both new Texas  
23 Rising Star applicants and existing certified programs. The revised structure will continue to  
24 provide a high level of accountability for the most critical licensing issues, but will also provide  
25 opportunities for providers to correct issues that are less correlated with the quality of care  
26 children receive.

27  
28 **Minimum Eligibility Requirements for Providers Serving CCDF Subsidized Children**

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

38  
39 The Pre-Star designation reviews a provider's licensing findings, as is currently done through the  
40 Texas Rising Star Screening Form that is included in the Texas Rising Star guidelines. The new  
41 Screening Criteria for Subsidized Child Care criteria have been adapted and included in a  
42 proposed amendment of the CCDF State Plan, which is available for public comment in  
43 conjunction with these proposed rules (see meeting materials for October 6, 2020 Commission  
44 Meeting). Additionally, based on feedback from the four-year review, the total number of  
45 licensing deficiencies allowed has increased from 10 to 15.

1 TWC will establish a five-year timeline for all subsidy providers to achieve at least a Pre-Star  
2 designation. TWC will develop a plan to roll out this requirement across the state and will codify  
3 the details of this plan in the CCDF State Plan. TWC's rollout plan will consider potential supply  
4 challenges, such as those in rural areas of the state which face a potential shortage of child care  
5 providers.  
6

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

## 20 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

21 (Note: Minor editorial changes are made that do not change the meaning of the rules and,  
22 therefore, are not discussed in the Explanation of Individual Provisions.)  
23

### 24 **SUBCHAPTER A. GENERAL PROVISIONS**

25 **TWC proposes the following amendments to Subchapter A:**  
26

#### 27 **§809.2. Definitions**

28 Section 809.2 is amended to add a definition for "Pre-Star provider."  
29

### 30 **SUBCHAPTER B. GENERAL MANAGEMENT**

31 **TWC proposes the following amendments to Subchapter B:**  
32

#### 33 **§809.12. Board Plan for Child Care Services (Includes New Regulations)**

34 Section 809.12 is amended to require Boards to include their strategies to use contracted slots  
35 agreements, if applicable, in their plans.  
36

#### 37 **§809.13. Board Policies for Child Care Services (Includes New Regulations)**

38 Section 809.13 is amended to require Boards to develop:

- 39 --a two-week waiting period policy for a child to transfer to a new provider;
- 40 --policies and procedures for contracted slots agreements, if applicable; and
- 41 --policies supporting direct referrals from recognized pre-K or HS/EHS partnerships.  
42

#### 43 **§809.16. Quality Improvement Activities**

44 Section 809.16 is amended to allow Boards to expend child care funds on any quality  
45 improvement activity described in applicable state laws and the CCDF State Plan.  
46

1 **§809.18. Maintenance of a Waiting List**

2 Section 809.18 is amended to add an allowable exemption from the waiting list for children who  
3 are referred directly from a recognized pre-K or HS/EHS partnership to a child care provider to  
4 receive services in the contracted partnership program.  
5

6 **§809.19. Assessing the Parent Share of Cost**

7 Section 809.19 is amended to allow Boards to implement a policy to reduce the parent share of  
8 cost amount assessed pursuant to §809.19(a)(1)(B) upon the child's referral for part-time care.  
9

10 **§809.22. Partnership Direct Referrals (New Regulation)**

11 New §809.22 adds a requirement for Boards to establish policies and procedures to enroll  
12 eligible children who are directly referred by recognized pre-K or HS/EHS partnerships and  
13 exempting these children from the waiting list.  
14

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

16 **TWC proposes the following amendments to Subchapter E:**  
17

18 **§809.91. Minimum Requirements for Providers (Includes New Regulations)**

19 Section 809.91(a)(1) is amended to reference new subsection (g), which requires that all CCL-  
20 regulated child care providers be designated as Pre-Star based upon meeting TWC's Screening  
21 Criteria for Subsidized Child Care. The Screening Criteria for Subsidized Child Care is proposed  
22 for removal in §809.131(a) and (b) as a Texas Rising Star eligibility requirement.  
23

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

35 **§809.93. Provider Reimbursement**

36 Section 809.93 is amended to add the option for Boards to pay child care providers for holding  
37 spaces open if they have a valid contracted slots agreement.  
38

39 **§809.96. Contracted Slots Agreements (New Regulation)**

40 New §809.96 adds detailed requirements for Boards that use contracted slots agreements.  
41

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

43 **TWC proposes the following amendments to Subchapter G:**  
44

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

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

- 3 --Director and Staff Qualifications and Training
- 4 --Teacher-Child Interactions
- 5 --Program Administration
- 6 --Indoor/Outdoor Environments

7  
8 **§809.131. Eligibility for the Texas Rising Star Program (Includes New Regulations)**

9 Section 809.131 is amended to remove §809.131(b), as all CCL-regulated subsidy providers will  
10 now be required to be designated as Pre-Star under proposed §809.91(a)(1). Additionally,  
11 §809.131 is amended to require Texas Rising Star applicants to agree to participate in the WFR  
12 and to encourage staff to create accounts within the WFR.

13  
14 **§809.132. Impact of Certain Deficiencies on Texas Rising Star Certification (Includes New**  
15 **Regulations)**

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

19  
20 **§809.133. Application and Assessments for the Texas Rising Star Program (Includes New**  
21 **Regulations)**

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

26  
27 **§809.134. Minimum Qualifications for Texas Rising Star Staff (Includes New Regulations)**

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

33  
34 Section 809.134 is also amended to move §809.134(d) and (e) to new §809.136.

35  
36 **§809.136. Roles and Responsibilities of Texas Rising Star Staff**

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

40  
41 New §809.136(4) and (5) clarify the separation of roles and professional development of Texas  
42 Rising Star staff.

43  
44 **PART III. IMPACT STATEMENTS**

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

1  
2 There are no additional estimated costs to the state and to local governments expected as a result  
3 of enforcing or administering the rules.

4  
5 There are no estimated cost reductions to the state and to local governments as a result of  
6 enforcing or administering the rules.

7  
8 There are no estimated losses or increases in revenue to the state or to local governments as a  
9 result of enforcing or administering the rules.

10  
11 There are no foreseeable implications relating to costs or revenue of the state or local  
12 governments as a result of enforcing or administering the rules.

13  
14 There are no anticipated economic costs to individuals required to comply with the rules.

15  
16 There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural  
17 communities as a result of enforcing or administering the rules.

18  
19 Based on the analyses required by Texas Government Code, §2001.024, TWC has determined  
20 that the requirement to repeal or amend a rule, as required by Texas Government Code,  
21 §2001.0045, does not apply to this rulemaking.

22  
23 Takings Impact Assessment

24 Under Texas Government Code, §2007.002(5), "taking" means a governmental action that  
25 affects private real property, in whole or in part or temporarily or permanently, in a manner that  
26 requires the governmental entity to compensate the private real property owner as provided by  
27 the Fifth and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or  
28 §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in  
29 the absence of the governmental action, and is the producing cause of a reduction of at least 25  
30 percent in the market value of the affected private real property, determined by comparing the  
31 market value of the property as if the governmental action is not in effect and the market value of  
32 the property determined as if the governmental action is in effect. The Commission completed a  
33 Takings Impact Analysis for the proposed rulemaking action under Texas Government Code,  
34 §2007.043. The primary purpose of this proposed rulemaking action, as discussed elsewhere in  
35 this preamble, is to implement a contracted slots option for child care services, update the  
36 allowable uses of CCQ funds, update how the parent co-payment is calculated, update the child  
37 transfer policy, and implement changes to Texas Rising Star policy as recommended by the  
38 Texas Rising Star four-year review.

39  
40 The proposed rulemaking action will not create any additional burden on private real property.  
41 The proposed rulemaking action will not affect private real property in a manner that would  
42 require compensation to private real property owners under the US Constitution or the Texas  
43 Constitution. The proposal also will not affect private real property in a manner that restricts or  
44 limits an owner's right to the property that would otherwise exist in the absence of the  
45 governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas  
46 Government Code, Chapter 2007.

1  
2 Government Growth Impact Statement

3 TWC has determined that during the first five years the amendments will be in effect:

4 --the amendments will not create or eliminate a government program;

5 --implementation of the amendments will not require the creation or elimination of employee  
6 positions;

7 --implementation of the amendments will not require an increase or decrease in future legislative  
8 appropriations to TWC;

9 --the amendments will not require an increase or decrease in fees paid to TWC;

10 --the amendments will create new regulations;

11 --the amendments will expand existing regulations;

12 --the amendments will not limit or eliminate an existing regulation;

13 --the amendments will not change the number of individuals subject to the rules; and

14 --the amendments will not positively or adversely affect the state's economy.  
15

16 Economic Impact Statement and Regulatory Flexibility Analysis

17 TWC has determined that the proposed rules will not have an adverse economic impact on small  
18 businesses or rural communities, as the proposed rules place no requirements on small businesses  
19 or rural communities.  
20

21 Mariana Vega, Director, Labor Market and Career Information, has determined that there is no  
22 significant negative impact upon employment conditions in the state as a result of the rules.  
23

24 Reagan Miller, Director, Child Care & Early Learning, has determined that for each year of the  
25 first five years the rules are in effect, the public benefit anticipated as a result of enforcing the  
26 rules will be to increase access to high quality child care for Texans.  
27

28 TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be  
29 within TWC's legal authority to adopt.  
30

31 **PART IV. COORDINATION ACTIVITIES**

32 In the development of these rules for publication and public comment, TWC sought the  
33 involvement of Texas' 28 Boards. TWC provided the policy concept regarding these rule  
34 amendments to the Boards for consideration and review on June 23, 2020, for the policy concept  
35 relating to contracted slots; July 14, 2020, for the policy concept relating to Texas Rising Star;  
36 and July 21, 2020, for the policy concept relating to child transfers. TWC also conducted  
37 conference calls to discuss the policy concepts with Board executive directors and Board staff:  
38 on June 19, 2020, for the policy concept relating to contracted slots; and July 17, 2020, for the  
39 policy concepts relating to Texas Rising Star and child transfers. During the rulemaking process,  
40 TWC considered all information gathered in order to develop rules that provide clear and concise  
41 direction to all parties involved.  
42

43 Comments on the proposed rules may be submitted to [TWCPolicyComments@twc.state.tx.us](mailto:TWCPolicyComments@twc.state.tx.us).  
44 Comments must be received no later than 30 days from the date this proposal is published in the  
45 *Texas Register*.  
46

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

4  
5 The proposed rules implement changes made to Texas Labor Code Chapter 302 and Texas  
6 Government Code, Chapter 2308, in a manner that comports with the existing requirements of 45  
7 CFR Part 98.

8

1 **CHAPTER 809. CHILD CARE SERVICES**

2  
3 **SUBCHAPTER A. GENERAL PROVISIONS**

4  
5 **§809.2. Definitions.**

6  
7 The following words and terms, when used in this chapter, shall have the following  
8 meanings, unless the context clearly indicates otherwise.

- 9  
10 (1) Attending a job training or educational program--An individual is attending a  
11 job training or educational program if the individual:  
12  
13 (A) is considered by the program to be officially enrolled;  
14  
15 (B) meets all attendance requirements established by the program; and  
16  
17 (C) is making progress toward successful completion of the program as  
18 determined by the Board upon eligibility redetermination as described in  
19 §809.42(b) [of this chapter](#).  
20  
21 (2) Child--An individual who meets the general eligibility requirements contained  
22 in this chapter for receiving child care services.  
23  
24 (3) Child care contractor--The entity or entities under contract with the Board to  
25 manage child care services. This includes contractors involved in determining  
26 eligibility for child care services, contractors involved in the billing and  
27 reimbursement process related to child care subsidies, as well as contractors  
28 involved in the funding of quality improvement activities as described in  
29 §809.16 [of this chapter](#).  
30  
31 (4) Child Care Licensing (CCL)--Division responsible for protecting the health,  
32 safety, and well-being of children who attend or reside in regulated child care  
33 facilities and homes. Previously a division of the Texas Department of Family  
34 and Protective Services (DFPS), CCL is now part of the Texas Health and  
35 Human Services Commission (HHSC).  
36  
37 (5) Child care services--Child care subsidies and quality improvement activities  
38 funded by the Commission.  
39  
40 (6) Child care subsidies--Commission-funded child care reimbursements to an  
41 eligible child care provider for the direct care of an eligible child.  
42  
43 (7) Child experiencing homelessness--A child who is homeless, as defined in the  
44 McKinney-Vento Act (42 USC 11434(a)), Subtitle VII-B, §725.  
45



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

- 1  
2 (C) for any duplicate payment; and  
3  
4 (D) for services not received.  
5  
6 (14) Job training program--A program that provides training or instruction leading  
7 to:  
8  
9 (A) basic literacy;  
10  
11 (B) English proficiency;  
12  
13 (C) an occupational or professional certification or license; or  
14  
15 (D) the acquisition of technical skills, knowledge, and abilities specific to an  
16 occupation.  
17  
18 (15) Listed family home--A family home, other than the eligible child's own  
19 residence, that is listed, but not licensed or registered with, CCL pursuant to  
20 Texas Human Resources Code, §42.052(c).  
21  
22 (16) Military deployment--The temporary duty assignment away from the  
23 permanent military installation or place of residence for reserve components of  
24 the single military parent or the dual military parents. This includes deployed  
25 parents in the regular military, military reserves, or National Guard.  
26  
27 (17) Parent--An individual who is responsible for the care and supervision of a  
28 child and is identified as the child's natural parent, adoptive parent, stepparent,  
29 legal guardian, or person standing in loco parentis (as determined in  
30 accordance with Commission policies and procedures). Unless otherwise  
31 indicated, the term applies to a single parent or both parents.  
32  
33 (18) Pre-Star provider--A designation for subsidy providers licensed or registered  
34 by CCL, based on meeting the Screening Criteria for Subsidized Child Care,  
35 which is further defined in the CCDF State Plan.  
36  
37 (19)~~(18)~~ Protective services--Services provided when:  
38  
39 (A) a child is at risk of abuse or neglect in the immediate or short-term future  
40 and the child's family cannot or will not protect the child without DFPS  
41 Child Protective Services (CPS) intervention;  
42  
43 (B) a child is in the managing conservatorship of DFPS and residing with a  
44 relative or a foster parent; or  
45

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

4  
5 ~~(20)~~(19) Provider--A provider is defined as:

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

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

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

15  
16  
17 ~~(21)~~(20) Regulated child care provider--A provider caring for an eligible child in a  
18 location other than the eligible child's own residence that is:

19  
20 (A) licensed by CCL;

21  
22 (B) registered with CCL; or

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

25  
26 ~~(22)~~(21) Relative child care provider--An individual who is at least 18 years of age,  
27 and is, by marriage, blood relationship, or court decree, [the child's](#), ~~one of the~~  
28 [following](#):

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

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

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

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

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

40  
41 ~~(23)~~(22) Residing with--Unless otherwise stipulated in this chapter, a child is  
42 considered to be residing with the parent when the child is living with, and  
43 physically present with, the parent during the time period for which child care  
44 services are being requested or received.

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

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

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

11 (A) 2-Star Program Provider;

12 (B) 3-Star Program Provider; or

13 (C) 4-Star Program Provider.

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

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

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

## 23 SUBCHAPTER B. GENERAL MANAGEMENT

### 24 §809.12. Board Plan for Child Care Services.

- 25  
26  
27  
28  
29  
30 (a) A Board shall, as part of its Texas Workforce Development Board Plan (Board plan),  
31 develop, amend, and modify the Board plan to incorporate and coordinate the design  
32 and management of the delivery of child care services with the delivery of other  
33 workforce employment, job training, and educational services identified in Texas  
34 Government Code, §2308.251304, et seq., as well as other workforce training and  
35 services included in the One-Stop Service Delivery Network.
- 36  
37 (b) The goal of the Board plan is to coordinate workforce training and services, to  
38 leverage private and public funds at the local level, and to fully integrate child care  
39 services for low-income families with the network of workforce training and services  
40 under the administration of the Boards.

1  
2 (c) Boards shall design and manage the Board plan to maximize the delivery and  
3 availability of safe and stable child care services that assist families seeking to  
4 become independent from, or who are at risk of becoming dependent on, public  
5 assistance while parents are either working or attending a job training or [an](#)  
6 educational program.

7  
8 [\(d\) A Board shall include in the Board plan any strategies to use contracted slots](#)  
9 [agreements, as described in §809.96 of this chapter, including any local priorities and](#)  
10 [how contracted slots agreements will help increase access to high-quality care for](#)  
11 [targeted communities and population.](#)

12  
13 **§809.13. Board Policies for Child Care Services.**

14  
15 (a) A Board shall develop, adopt, and modify its policies for the design and management  
16 of the delivery of child care services in a public process in accordance with Chapter  
17 802 of this title.

18  
19 (b) A Board shall maintain written copies of the policies that are required by federal and  
20 state law, or as requested by the Commission, and make such policies available to  
21 the Commission and the public upon request.

22  
23 (c) At a minimum, a Board shall develop policies related to:

24  
25 (1) how the Board determines that the parent is making progress toward successful  
26 completion of a job training or educational program, as described in §809.2(1)  
27 [of this chapter](#);

28  
29 (2) maintenance of a waiting list, as described in §809.18(b) [of this subchapter](#);

30  
31 (3) assessment of a parent share of cost, as described in §809.19(a)(1) [of this](#)  
32 [subchapter](#), including:

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

38  
39 (B) criteria for determining the affordability of the parent share of cost, as  
40 described in §809.19(d) [and](#)- (e) [of this subchapter](#);

41  
42 (4) maximum reimbursement rates, as provided in §809.20 [of this subchapter](#),  
43 including policies related to reimbursement of providers that offer  
44 transportation;

- (5) family income limits, as described in Subchapter C of this chapter (relating to Eligibility for Child Care Services);
- (6) provision of child care services to a child with disabilities under the age of 19, as described in §809.41(a)(1)(B) of this chapter;
- (7) minimum activity requirements for parents, as described in §809.48 and §809.50 of this chapter;
- (8) time limits for the provision of child care while the parent is attending an educational program, as described in §809.41(b) of this chapter;
- (9) Board priority groups, as described in §809.43(a) of this chapter;
- (10) transfer of a child from one provider to another, as described in §809.71(3), of this chapter, including a waiting period of two weeks before the effective date of a transfer, except in cases in which the provider is subject to a CCL action, as described in §809.94 of this chapter, or on a case-by-case basis by the Board;
- (11) providers charging the difference between their published rate and the Board's reimbursement rate as provided in §809.92(d) of this chapter;
- (12) procedures for fraud fact-finding as provided in §809.111 of this chapter; ~~and~~
- (13) policies and procedures to ensure that appropriate corrective actions are taken against a provider or parent for violations of the automated attendance requirements specified in §809.115(d) ~~and~~ (e) of this chapter;
- (14) policies and procedures for contracted slots agreements as described in §809.96 of this chapter, if the Board opts to enter into such agreements; and
- (15) supporting direct referrals from recognized pre-K or HS/EHS partnerships, as described in §809.22 of this subchapter.

#### §809.16. Quality Improvement Activities.

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

- 1 (b) Boards must ensure compliance with 45 CFR Part 98 regarding construction  
2 expenditures, as follows:  
3  
4 (1) State and local agencies and nonsectarian agencies or organizations.  
5  
6 (A) Funds shall not be expended for the purchase or improvement of land, or  
7 for the purchase, construction, or permanent improvement of any  
8 building or facility.  
9  
10 (B) Funds may be expended for minor remodeling, and for upgrading child  
11 care facilities to ensure that providers meet state and local child care  
12 standards, including applicable health and safety requirements.  
13  
14 (2) Sectarian agencies or organizations.  
15  
16 (A) The prohibitions in paragraph (1) of this subsection apply.  
17  
18 (B) Funds may be expended for minor remodeling only if necessary to bring  
19 the facility into compliance with the health and safety requirements  
20 established pursuant to 45 CFR Part 98.  
21  
22 (c) Expenditures certified by a public entity, as provided in §809.17(b)(3) [of this](#)  
23 [subchapter](#), may include expenditures for any quality improvement activity described  
24 in 45 CFR Part 98.  
25

26 **§809.18. Maintenance of a Waiting List.**  
27

- 28 (a) A Board shall ensure that a list of parents waiting for child care services, because of  
29 the lack of funding or lack of providers, is maintained and available to the  
30 Commission upon request.  
31  
32 (b) A Board shall establish a policy for the maintenance of a waiting list that includes, at  
33 a minimum:  
34  
35 (1) the process for determining that the parent is potentially eligible for child care  
36 services before placing the parent on the waiting list; and

1  
2 (2) the frequency in which the parent information is updated and maintained on  
3 the waiting list.

4  
5 (c) A Board may exempt children from the waiting list who are directly referred from a  
6 recognized pre-K or HS/EHS partnership as described in §809.22 of this subchapter  
7 to a child care provider to receive services in the contracted partnership program,  
8 which is subject to the availability of funding and the availability of subsidized slots  
9 at the partnership site.

10  
11 **§809.19. Assessing the Parent Share of Cost.**

12  
13 (a) For child care funds allocated by the Commission pursuant to its allocation rules  
14 (generally, Chapter 800, ~~General Administration~~, Subchapter B, of this title (relating  
15 to Allocations) Allocation and Funding, and specifically, §800.58, of this title  
16 (relating to Child Care)), including local public transferred funds and local private  
17 donated funds, as provided in §809.17 of this subchapter, the following shall apply.

18  
19 (1) A Board shall set a parent share of cost policy that assesses the parent share of  
20 cost in a manner that results in the parent share of cost:

21  
22 (A) being assessed to all parents, except in instances when an exemption  
23 under paragraph (2) of this subsection applies;

24  
25 (B) being an amount determined by a sliding fee scale based on the family's  
26 size and gross monthly income, including a possible reexamination of  
27 the sliding fee scale if there are frequent terminations for lack of  
28 payment pursuant to subsection (e) of this section, which also may  
29 consider the number of children in care;

30  
31 (C) being an amount that is affordable and does not result in a barrier to  
32 families receiving assistance;

33  
34 (D) being assessed only at the following times:

35  
36 (i) initial eligibility determination;

37  
38 (ii) 12-month eligibility redetermination;

39  
40 (iii) upon the addition of a child in care;

41  
42 (iv) upon a parent's report of a change in income, family size, or number  
43 of children in care that would result in a reduced parent share of cost  
44 assessment; and  
45



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- (v) upon resumption of work, job training, or education activities following temporary changes described in §809.51(a)(2) [of this chapter](#), and upon resumption of work, job training, or education activities during the three-month continuation of care period described in §809.51(c) [of this chapter](#); and
  
  - (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 [subparagraph \(D\)\(iii\) subsection \(a\)\(1\)\(C\)\(iii\) of this paragraph 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 [of this chapter](#);
  - (B) Parents who are participating in SNAP E&T services or who are in SNAP E&T child care described in §809.47 [of this chapter](#);
  - (C) Parents of a child receiving Child Care for Children Experiencing Homelessness as described in §809.52 [of this chapter](#); ~~or~~
  - (D) Parents who have children who are receiving protective services child care pursuant to §809.49 and §809.54(c) [of this chapter](#), unless DFPS assesses the parent share of cost.
- (3) Teen parents who are not covered under exemptions listed in paragraph (2) of this subsection shall be assessed a parent share of cost. The teen parent's share of cost is based solely on the teen parent's income and size of the teen's family as defined in §809.2 [of this chapter](#).
- (b) For child care services funded from sources other than those specified in subsection (a) of this section, a Board shall set a parent share of cost policy based on a sliding fee scale. The sliding fee scale may be the same as or different from the provisions contained in subsection (a) of this section.
  - (c) A Board shall establish a policy regarding reimbursement of providers when parents fail to pay the parent share of cost.
  - (d) A Board shall establish a policy regarding termination of child care services within a 12-month eligibility period when a parent fails to pay the parent share of cost. The Board's policy must include:

- 1 (1) a requirement to evaluate and document each family's financial situation for  
2 extenuating circumstances that may affect affordability of the assessed parent  
3 share of cost pursuant to paragraph (2) of this subsection, and a possible  
4 temporary reduction pursuant to subsection (g) of this section before the Board  
5 or its child care contractor may terminate care under this section;  
6
  - 7 (2) general criteria for determining affordability of a Board's parent share of cost,  
8 and a process to identify and assess the circumstances that may jeopardize a  
9 family's self-sufficiency under subsection (g) of this section;  
10
  - 11 (3) maintenance of a list of all terminations due to failure to pay the parent share  
12 of cost, including family size, income, family circumstances, and the reason for  
13 termination, for use when conducting evaluations of affordability, as required  
14 under paragraph (4) of this subsection; and  
15
  - 16 (4) the Board's definition of what constitutes frequent terminations and its process  
17 for assessing the general affordability of the Board's parent share of cost  
18 schedule, pursuant to subsection (e) of this section.  
19
- 20 (e) A Board with frequent terminations of care for lack of payment of the parent share of  
21 cost must reexamine its sliding fee scale and adjust it to ensure that fees are not a  
22 barrier to assistance for families at certain income levels.  
23
  - 24 (f) A Board that does not have a policy to reimburse providers when parents fail to pay  
25 the parent share of cost may establish a policy to require the parent to pay the  
26 provider before the family can be redetermined eligible for future child care services.  
27
  - 28 (g) The Board or its child care contractor may review the assessed parent share of cost  
29 for a possible temporary reduction if there are extenuating circumstances that  
30 jeopardize a family's self-sufficiency. The Board or its child care contractor may  
31 temporarily reduce the assessed parent share of cost if warranted by these  
32 circumstances. Following the temporary reduction, the parent share of cost amount  
33 immediately prior to the reduction shall be reinstated.  
34
  - 35 (h) If the parent is not covered by an exemption as specified in subsection (a)(2) of this  
36 section, then the Board or its child care contractor shall not waive the assessed parent  
37 share of cost under any circumstances.  
38
  - 39 (i) If the parent share of cost, based on family income and family size, is calculated to  
40 be zero, then the Board or its child care contractor shall not charge the parent a  
41 minimum share of cost amount.  
42
  - 43 (j) A Board may establish a policy to reduce the parent share of cost amount assessed  
44 pursuant to subsection (a)(1)(B) of this section upon the parent's selection of a [Texas](#)  
45 [Rising Star](#) ~~TRS~~ --certified provider. Such Board policy shall ensure:  
46

- 1 (1) that the parent continue to receive the reduction if:  
2  
3 (A) the Texas Rising Star~~TRS~~ provider loses Texas Rising Star~~TRS~~  
4 certification; or  
5  
6 (B) the parent moves or changes employment within the workforce area and  
7 no Texas Rising Star~~TRS~~--certified providers are available to meet the  
8 needs of the parent's changed circumstances; and  
9  
10 (2) that the parent no longer receives the reduction if the parent voluntarily  
11 transfers the child from a Texas Rising Star~~TRS~~--certified provider to a non-  
12 Texas Rising Star~~TRS~~--certified provider.

13  
14 (k) A Board may establish a policy to reduce the parent share of cost amount assessed  
15 pursuant to subsection (a)(1)(B) of this section upon the child's referral for part-time  
16 care. Such Board policy shall ensure that:

- 17  
18 (1) the parent no longer receives the reduction if the referral is changed to full-time  
19 care; and  
20  
21 (2) a parent qualifies for a reduction in parent share of cost for both selecting a  
22 Texas Rising Star--certified provider (as defined in subsection (j) of this  
23 section) and a child's part-time care referral will receive the greater of the two  
24 discounts.

25  
26 **§809.22. Direct Referrals to Recognized Partnerships.**

27  
28 (a) A recognized partnership is a partnership that:

29  
30 (1) exists between a child care provider and one of the following:

31  
32 (A) a public school prekindergarten provider;

33  
34 (B) a local education agency; or

35  
36 (C) a Head Start/Early Head Start program; and

37  
38 (2) requires both parties to have entered into an agreement, such as a  
39 memorandum of understanding, and serves some number of children  
40 under age six who are dually enrolled in both programs.

41  
42 (b) A Board shall establish policies and procedures to enroll eligible children who are  
43 directly referred by a recognized partnership.  
44

1 [\(c\) A Board's policy shall exempt children directly referred from a recognized](#)  
2 [partnership from the Board's waiting list, subject to the availability of funding and](#)  
3 [the availability of subsidized slots at the partnership site.](#)

4  
5 **SUBCHAPTER E. REQUIREMENTS TO PROVIDE CHILD CARE**

6  
7 **§809.91. Minimum Requirements for Providers.**

8  
9 (a) A Board shall ensure that child care subsidies are paid only to:

- 10  
11 (1) regulated child care providers as described in §809.2 [of this chapter, subject to](#)  
12 [the requirements in subsection \(g\) of this section](#);
- 13  
14 (2) relative child care providers, as described in §809.2 [of this chapter](#), subject to  
15 the requirements in subsection (e) of this section; or
- 16  
17 (3) at the Board's option, child care providers licensed in a neighboring state,  
18 subject to the following requirements:
- 19  
20 (A) Boards shall ensure that the Board's child care contractor reviews the  
21 licensing status of the out-of-state provider every month, at a minimum,  
22 to confirm the provider is meeting the minimum licensing standards of  
23 the state.;
- 24  
25 (B) Boards shall ensure that the out-of-state provider meets the requirements  
26 of the neighboring state to serve CCDF-subsidized children.;
- 27  
28 (C) The provider shall agree to comply with the requirements of this chapter  
29 and all Board policies and Board child care contractor procedures.

30  
31 (b) A Board shall not prohibit a relative child care provider ~~that~~[who](#) is listed with CCL  
32 and ~~who~~ meets the minimum requirements of this section from being an eligible  
33 relative child care provider.

34  
35 (c) Except as provided by the criteria for [Texas Rising Star](#)~~TRS~~ Provider certification, a  
36 Board or the Board's child care contractor shall not place requirements on regulated  
37 providers that:

- 38  
39 (1) exceed [Pre-Star designation requirements](#) or the state licensing requirements  
40 stipulated in Texas Human Resources Code, Chapter 42; or
- 41  
42 (2) have the effect of monitoring the provider for compliance with state licensing  
43 requirements stipulated in Texas Human Resources Code, Chapter 42.

44  
45 (d) When a Board or the Board's child care contractor, in the course of fulfilling its  
46 responsibilities, gains knowledge of any possible violation regarding regulatory

1 standards, the Board or its child care contractor shall report the information to the  
2 appropriate regulatory agency.

3  
4 (e) For relative child care providers to be eligible for reimbursement for Commission-  
5 funded child care services, the following applies:

6  
7 (1) Relative child care providers shall list with CCL; however, pursuant to 45 CFR  
8 §98.41(e), relative child care providers listed with CCL shall be exempt from  
9 the health and safety requirements of 45 CFR §98.41(a).

10  
11 (2) A Board shall allow relative child care providers to care for a child in the  
12 child's home (in-home child care) only for the following:

13  
14 (A) A child with disabilities as defined in §809.2, of this chapter, and his or  
15 her siblings;

16  
17 (B) A child under 18 months of age; and his or her siblings;

18  
19 (C) A child of a teen parent; ~~and~~

20  
21 (D) When the parent's work schedule requires evening, overnight, or  
22 weekend child care in which taking the child outside of the child's home  
23 would be disruptive to the child.

24  
25 (3) A Board may allow relative in-home child care for circumstances in which the  
26 Board's child care contractor determines and documents that other child care  
27 provider arrangements are not available in the community.

28  
29 (f) Boards shall ensure that subsidies are not paid for a child at the following child care  
30 providers:

31  
32 (1) Except for foster parents authorized by DFPS pursuant to §809.49 of this  
33 chapter, licensed child care centers, including before- or after-school programs  
34 and school-age programs, in which the parent or his or her spouse, including  
35 the child's parent or stepparent, is the director or assistant director, or has an  
36 ownership interest; or

37  
38 (2) Licensed, registered, or listed child care homes where the parent also works  
39 during the hours his or her child is in care.

40  
41 (g) Regulated child care providers, except those operated and monitored by the U.S.  
42 military, must meet Pre-Star provider designation unless exempted under  
43 requirements of subsection (h)(3) of this section.

44  
45 (h) Pre-Star provider designations and exemptions are defined in the Commission-  
46 approved CCDF State Plan and include:

- (1) [minimum Pre-Star criteria required for each provider type;](#)
- (2) [a progressive statewide roll out plan to require Pre-Star designation for receipt of subsidies; and](#)
- (3) [limited provider exemption criteria to ensure parent choice is not negatively impacted by the Pre-Star requirements.](#)

**§809.93. Provider Reimbursement.**

- (a) A Board shall ensure that reimbursement for child care is paid only to the provider.
- (b) A Board or its child care contractor shall reimburse a regulated provider based on a child's monthly enrollment authorization, excluding periods of suspension at the concurrence of the parent, as described in §809.51(d) [of this chapter](#).
- (c) A Board shall ensure that a relative child care provider is not reimbursed for days on which the child is absent.
- (d) A relative child care provider shall not be reimbursed for more children than permitted by the CCL minimum regulatory standards for Registered Child Care Homes. A Board may permit more children to be cared for by a relative child care provider on a case-by-case basis as determined by the Board.
- (e) A Board shall not reimburse providers that are debarred from other state or federal programs unless and until the debarment is removed.
- (f) Unless otherwise determined by the Board and approved by the Commission for automated reporting purposes, the monthly enrollment authorization described in subsection (b) of this section is based on the unit of service authorized, as follows:
  - (1) A full-day unit of service is 6 to 12 hours of care provided within a 24-hour period; and
  - (2) A part-day unit of service is fewer than 6 hours of care provided within a 24-hour period.
- (g) A Board or its child care contractor shall ensure that providers are not paid for holding spaces open [without a valid contracted slots agreement, as described in §809.96 of this subchapter](#).
- (h) A Board or the Board's child care contractor shall not pay providers:
  - (1) less, when a child enrolled full time occasionally attends for a part day; or

1 (2) more, when a child enrolled part time occasionally attends for a full day.  
2

3 (i) The Board or its child care contractor shall not reimburse a provider retroactively for  
4 new Board maximum reimbursement rates or new provider published rates.  
5

6 (j) A Board or its child care contractor shall ensure that the parent's travel time to and  
7 from the child care facility and the parent's work, school, or job training site is  
8 included in determining whether to authorize reimbursement for full-day or part-day  
9 care under subsection (f) of this section.  
10

11 **§809.96. Contracted Slots Agreements.**  
12

13 (a) In this section, the term "contracted slots agreement" is defined as a Board entering  
14 into a contract with a child care provider to reserve a specific number of places, or  
15 slots, for children participating in the child care subsidy program. This contract shall:  
16

17 (1) define the number of slots to be reserved by age group (infant, toddler,  
18 preschool, or school-age); and  
19

20 (2) meet the eligibility requirements as described in subsection (e) of this section.  
21

22 (b) Boards may enter into a contracted slots agreement with providers that agree to  
23 provide subsidized child care services to eligible children residing in the Board's  
24 workforce area.  
25

26 (c) A Board that enters into a contracted slots agreement shall include this strategy in  
27 the Board Plan, as described in §809.12 of this chapter.  
28

29 (d) Each contract between a Board and a provider must identify the number of places  
30 (slots) to be reserved for children participating in the child care subsidy program.  
31

32 (e) To be eligible for a contract, a child care provider must be a Texas Rising Star 3-star  
33 or 4-star provider and meet one of the following priorities:  
34

35 (1) Be located:  
36

37 (A) where the number of children under age six with working parents is at  
38 least three times greater than the capacity of licensed child care providers  
39 in the area, based on data published annually by the Commission; or  
40

41 (B) in an underserved area that has been identified by a Board as having an  
42 inadequate supply of child care in accordance with the parameters  
43 described in the CCDF State Plan.  
44

45 (2) Have a partnership with local school districts to provide pre-K services  
46

1           (3) Have a partnership with EHS or HS;

2  
3           (4) Increase the number of places reserved for infants and toddlers by high-quality  
4           child care providers;

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

8  
9           (f) A Board that enters into a contracted slots agreement may continue payment for  
10           reserved slots during times of transition between the time that one child leaves the  
11           program and another child is placed in the slot. The period of continued payment  
12           shall adhere to the Board's policy for contracted slots agreements, as described in  
13           §809.13(c)(14) of this chapter, and may not exceed one month following the month  
14           of the vacancy.

15  
16           (g) Except for children directly referred from recognized partnerships, as described in  
17           §809.22 of this chapter, to fill open reserved slots, Boards shall contact families in  
18           order of the Board's waiting list:

19  
20           (1) that requested care in the ZIP code where the provider with the open reserved  
21           slot is located; and

22  
23           (2) whose child is in the age group for which a slot is available.

24  
25           (h) In accordance with Commission guidelines, Boards that enter into contracted slots  
26           agreements shall submit a report to the Commission within six months of entering  
27           into a contract, determining the contract's effect on the:

28  
29           (1) financial stability of providers participating in the contract;

30  
31           (2) availability of high-quality child care options available to participants in the  
32           Commission's subsidy program;

33  
34           (3) number of high-quality providers in any part of the workforce area with a high  
35           concentration of families that need child care;

36  
37           (4) percentage of children participating in the Commission's subsidized child care  
38           program at each Texas Rising Star provider in the workforce area; and

39  
40           (5) additional information as requested by the Commission.

41  
42           (i) A Board shall resubmit the report every six months from the due date of the Board's  
43           initial report to the Commission.



1  
2 **SUBCHAPTER G. TEXAS RISING STAR PROGRAM**  
3

4 **§809.130. Short Title and Purpose.**  
5

- 6 (a) The rules contained in this subchapter may be cited as the Texas Rising Star~~TRS~~  
7 Program rules.  
8
- 9 (b) The purpose of the Texas Rising Star~~TRS~~ Program rules is to interpret and  
10 implement Texas Government Code, §2308.3155(b), ~~which requiring requires~~ the  
11 Commission to establish rules to administer the Texas Rising Star~~TRS~~ program,  
12 including guidelines for rating a child care provider for Texas Rising Star~~TRS~~  
13 certification.  
14
- 15 (c) The Texas Rising Star~~TRS~~ Program rules identify the organizational structure and  
16 categories of, and the scoring factors that shall be included in, the Texas Rising  
17 Star~~TRS~~ guidelines.  
18
- 19 (d) The Texas Rising Star~~TRS~~ guidelines for rating a child care provider shall:  
20
- 21 (1) describe measures for the Texas Rising Star~~TRS~~ program that contain, at a  
22 minimum, measures for child care providers regarding:  
23
- 24 (A) director and staff qualifications and training;  
25
- 26 (B) teacher~~caregiver~~-child interactions;  
27
- 28 (C) program administration; and~~curriculum;~~  
29
- 30 (D) indoor/outdoor environments;~~nutrition and indoor and outdoor activities;~~  
31 and  
32 —  
33 (E) ~~parent involvement and education;~~  
34
- 35 (2) specify measures that:  
36
- 37 (A) must be met in order for a provider to be certified at each star level; and  
38
- 39 (B) are observed and have points awarded through on-site assessments; and  
40
- 41 (3) specify the scoring methodology and scoring thresholds for each star level.  
42
- 43 (e) The Texas Rising Star~~TRS~~ guidelines:  
44
- 45 (1) shall be reviewed and updated by the Commission at a minimum of every four  
46 years in conjunction with the rule review of Chapter 809, conducted pursuant

1 to Texas Government Code, §2001.039, and the [Texas Rising Star](#) TRS  
2 guidelines review shall:

3  
4 (A) consider input from stakeholders; and

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

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

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

15  
16 **§809.131. Eligibility for the [Texas Rising Star](#) TRS Program.**

17  
18 ~~(a)~~ A child care provider is eligible to apply for the [Texas Rising Star](#) TRS program if  
19 the provider has a current agreement to serve Commission-subsidized children and:

20  
21 (1) has a permanent (nonexpiring) license or registration from CCL;

22  
23 (2) has at least 12 months of licensing history with CCL, and is not on:

24  
25 (A) corrective action with a Board pursuant to Subchapter F of this chapter;

26  
27 (B) a "Notice of Freeze" with the Commission pursuant to [Texas Labor](#)  
28 [Code](#), Chapter 213 ~~of the Texas Labor Code~~ (Enforcement of the Texas  
29 Unemployment Compensation Act) or Chapter 61 ~~of the Texas Labor~~  
30 ~~Code~~ (Payment of Wages); or

31  
32 (C) corrective or adverse action with CCL; ~~or~~ [and](#)

33  
34 [\(3\) meets the requirements to be designated as a Pre-Star provider as specified in](#)  
35 [§802.2\(18\) of this chapter.](#)

36  
37 [\(4\) has director and teaching staff registered in the Texas Early Childhood](#)  
38 [Professional Development System Workforce Registry; or](#)

39  
40 ~~(5)~~ [\(3\)](#) is regulated by and in good standing with the US Military.

41  
42 ~~(b) A child care facility is not eligible to apply for the TRS program if, during the most~~  
43 ~~recent 12-month CCL licensing history, the provider had:~~

44  
45 ~~(1) any of the critical licensing deficiencies listed in the TRS guidelines;~~

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

3  
4 ~~(3) 10 or more total licensing deficiencies of any type.~~

5  
6 **§809.132. Impact of Certain Deficiencies on Texas Rising StarTR~~S~~ Certification.**

7  
8 (a) A Texas Rising StarTR~~S~~ provider shall lose Texas Rising StarTR~~S~~ certification if  
9 the provider:

10  
11 (1) is placed on corrective action with a Board pursuant to Subchapter F of this  
12 chapter;

13  
14 (2) is under a "Notice of Freeze" with the Commission pursuant to Chapter 213 of  
15 the Texas Labor Code (Enforcement of the Texas Unemployment  
16 Compensation Act) or Chapter 61 of the Texas Labor Code (Payment of  
17 Wages);

18  
19 (3) is placed on corrective or adverse action by CCL;~~or~~

20  
21 (4) had 15 or more total high or medium-high weighted licensing deficiencies ~~of~~  
22 ~~any type~~ during the most recent 12-month licensing history;

23  
24 (5) had more than four probationary impacts during its three-year certification  
25 period;

26  
27 (6) had a consecutive third probationary impact; or

28  
29 (7) is cited for specified CCL minimum standards regarding weapons and  
30 ammunition.

31  
32 (b) Texas Rising StarTR~~S~~ providers with any of the specified "star level drop" critical  
33 licensing deficiencies listed in the Texas Rising StarTR~~S~~ guidelines during the most  
34 recent 12-month CCL licensing history shall have the following consequences shall  
35 be placed on a six-month Texas Rising Star program probationary period.  
36 Furthermore:

37  
38 (1) reduction of one star level for each deficiency cited, so a 4-star certified  
39 provider ~~Star Program Provider~~ is reduced to a 3-star provider ~~Star Program~~  
40 ~~Provider~~, a 3-star provider ~~Star Program Provider~~ is reduced to a 2-star  
41 provider~~Star Provider~~; or

42  
43 (2) a 2-star provider ~~Star Provider~~ loses certification.

44  
45 (c) Texas Rising StarTR~~S~~ providers with any of the specified "probationary" licensing  
46 ~~five or more of the high or medium-high~~ deficiencies listed in the Texas Rising

1 StarTRRS guidelines during the most recent 12-month CCL licensing history shall be  
2 placed on a six-month Texas Rising Star probationary period. Furthermore:~~shall lose~~  
3 ~~a star level with a 2-Star Program Provider losing certification.~~

4  
5 (1) Texas Rising Star providers on a six-month Texas Rising Star probationary  
6 period that are cited by CCL for any additional specified probationary  
7 deficiencies within the probationary period shall be placed on a second,  
8 consecutive probation and lose a star level, with a 2-star certified provider  
9 losing certification;

10  
11 (2) if CCL does not cite any additional specified probationary deficiencies during  
12 the probationary period, the provider can be removed from probation status;  
13 and.

14  
15 (3) if any additional specified probationary deficiencies are cited by CCL during  
16 the second probationary period, the Texas Rising Star provider shall lose  
17 certification.

18  
19 (d) Texas Rising Star~~TRRS~~ providers with 10 to 14 total high or medium-high weighted  
20 licensing deficiencies ~~of any type~~ during the most recent 12-month CCL licensing  
21 history shall be placed on a six-month Texas Rising Star~~TRRS~~ program probationary  
22 period. Furthermore:

23  
24 (1) Texas Rising Star~~TRRS~~ providers on a six-month probationary period that are  
25 ~~re-~~cited by CCL within the probationary period for any ~~of the same~~additional  
26 high or medium-high weighted deficiencies shall be placed on a second,  
27 consecutive probation and lose a star level, with a 2-star provider ~~Star Program~~  
28 ~~Provider~~ losing certification;

29  
30 (2) if no additional high or medium-high weighted deficiencies are cited by CCL  
31 during the probationary period, the provider can be removed from probation  
32 status ~~if any new deficiencies--not to exceed 14 total deficiencies--are cited by~~  
33 ~~CCL during the first probationary period, a second six-month probationary~~  
34 ~~period shall be established effective upon the date of final CCL determination~~  
35 ~~of the deficiencies;~~ and

36  
37 (3) if any new high or medium-high weighted deficiencies--not to exceed 14 total  
38 deficiencies--are cited by CCL during the second six-month probationary  
39 period, a provider shall lose Texas Rising Star~~TRRS~~ certification.

40  
41 (e) Providers losing a star level due to licensing deficiencies shall be reinstated at the  
42 former star level if no citations described in ~~§809.132~~subsections (b) - (d) of this  
43 section occur within the six-month reduction time frame.

44  
45 (f) Providers losing Texas Rising Star~~TRRS~~ certification shall be eligible to reapply for  
46 certification after six months following the loss of the certification, as long as no

1 ~~current~~ deficiencies described in subsections (b) - (d) of this section ~~are re-cited and~~  
2 ~~no additional licensing deficiencies~~ are cited during the disqualification period.

3  
4 **§809.133. Application and Assessments for the Texas Rising Star~~TRS~~ Program.**

5  
6 (a) Texas Rising Star~~TRS~~ certification ~~program~~ applicants must complete:

7  
8 (1) an orientation on the Texas Rising Star~~TRS~~ guidelines, including an overview  
9 of the:

10  
11 (A) Texas Rising Star~~TRS~~ program application process;

12  
13 (B) Texas Rising Star~~TRS~~ program measures; and

14  
15 (C) Texas Rising Star~~TRS~~ program assessment process;

16  
17 (2) the creation of a continuous quality improvement plan; and

18  
19 (3)(2) a Texas Rising Star~~TRS~~ program self-assessment tool.

20  
21 (b) Boards shall ensure that:

22  
23 (1) written acknowledgment of receipt of the application and self-assessment is  
24 sent to the provider;

25  
26 (2) within 20 days of receipt of the application, the provider is sent an estimated  
27 time frame for scheduling the initial assessment;

28  
29 (3) an assessment is conducted for any provider that meets the eligibility  
30 requirements in §809.131 of this subchapter and requests to participate in the  
31 Texas Rising Star~~TRS~~ program; and

32  
33 (4) Texas Rising Star~~TRS~~ certification is granted for any provider that is assessed  
34 and verified as meeting the Texas Rising Star~~TRS~~ provider certification  
35 criteria set forth in the Texas Rising Star~~TRS~~ guidelines.

36  
37 (c) Boards shall ensure that Texas Rising Star~~TRS~~ assessments are conducted as  
38 follows:

39  
40 (1) On-site assessment of 100 percent of the provider classrooms at the initial  
41 assessment for Texas Rising Star~~TRS~~ certification and at each scheduled  
42 recertification; and

43  
44 (2) Recertification of all certified Texas Rising Star~~TRS~~ providers every three  
45 years.  
46

- 1 (d) Boards shall ensure that certified [Texas Rising Star](#)~~TRS~~ providers are monitored on  
2 an annual basis and the monitoring includes:  
3  
4 (1) at least one unannounced on-site visit; and  
5  
6 (2) a review of the provider's licensing compliance as described in ~~new~~ §809.132  
7 [of this subchapter](#).  
8  
9 (e) Boards shall ensure compliance with the process and procedures in the [Texas Rising](#)  
10 [Star](#)~~TRS~~ guidelines for conducting assessments of nationally accredited child care  
11 facilities and child care facilities regulated by the US Military.  
12  
13 (f) Boards shall ensure compliance with the process and procedures in the [Texas Rising](#)  
14 [Star](#)~~TRS~~ guidelines for conducting assessments of certified [Texas Rising Star](#)~~TRS~~  
15 providers that have a change of ownership, move, or expand locations.  
16  
17 (g) [Boards shall ensure compliance with the process and procedures in the Texas Rising](#)  
18 [Star guidelines for implementing and supporting a continuous quality improvement](#)  
19 [framework](#).  
20

21 **§809.134. Minimum Qualifications for [Texas Rising Star](#)~~TRS~~ Assessors and**  
22 **~~Mentors~~[Staff](#).**  
23

- 24 (a) [Boards shall ensure that Texas Rising Star](#)~~TRS~~ ~~staffmentors~~ [meet the minimum](#)  
25 [requirements in subsections \(b\) - \(g\) of this section](#).  
26  
27 (b)(a) ~~Boards shall ensure that Texas Rising Star~~~~TRS~~ ~~staff~~~~assessors and mentors~~ [shall](#)  
28 meet the minimum education requirements as follows:  
29  
30 (1) Bachelor's degree from an accredited four-year college or university in early  
31 childhood education, child development, special education, child psychology,  
32 educational psychology, elementary education, or family consumer science;  
33  
34 (2) Bachelor's degree from an accredited four-year college or university with at  
35 least 18 credit hours in early childhood education, child development, special  
36 education, child psychology, educational psychology, elementary education, or  
37 family consumer science with at least 12 credit hours in child development;~~or~~  
38  
39 (3) Associate's degree in early childhood education, child development, special  
40 education, child psychology, educational psychology, elementary education, or  
41 family consumer science with two years of experience as a director in an early  
42 childhood program, with preference given to experience with a provider that is  
43 accredited or [Texas Rising Star](#)~~TRS~~ certified.  
44  
45 (c)(b) The Commission may grant a waiver of no more than two years [to obtain](#) ~~of~~ the  
46 minimum education requirements in subsection [\(b\)](#) ~~(a)~~ of this section if a Board can

1 demonstrate that no applicants in its ~~local~~ workforce ~~development~~ area meet the  
2 minimum education requirements.

3  
4 ~~(d)(e)~~ Boards shall ensure that Texas Rising Star TRS staff assessors and mentors shall  
5 meet the minimum work experience requirements of one year of full-time early  
6 childhood classroom experience in a child care, ~~EHS~~ Early Head Start, ~~HS~~ Head Start,  
7 or ~~pre-K~~ prekindergarten through third-grade school program.

8  
9 ~~(d)~~ Boards shall ensure that if an individual performs the duties of both an assessor and  
10 a mentor, the individual providing TRS mentoring services to a provider does not act  
11 as the assessor of that same provider when determining TRS certification.

12  
13 ~~(e)~~ Boards shall ensure that TRS assessors and mentors are required to complete annual  
14 professional development and continuing education consistent with the TRS annual  
15 minimum training hours requirement for a TRS-certified child care center director.

16  
17 ~~(e)~~ ~~(f)~~ Boards shall ensure that Texas Rising Star TRS staff assessors and mentors shall  
18 meet the background check requirement consistent with Chapter 745 of this title.

19  
20 ~~(f)~~ ~~(g)~~ Boards shall ensure that Texas Rising Star TRS staff assessors and mentors shall  
21 demonstrate:

- 22  
23 (1) knowledge of best practices in early childhood education; and  
24  
25 (2) understanding of early childhood evaluations, observations, and assessment  
26 tools for both teachers and children.

27  
28 (g) Texas Rising Star staff shall meet the following training and certification criteria:

- 29  
30 (1) All staff must complete the Texas Rising Star standards training, as described  
31 in the Texas Rising Star guidelines.  
32  
33 (2) Any Board-appointed assessors must attain and maintain the Texas Rising Star  
34 Assessor Certification, as described in the Texas Rising Star guidelines  
35  
36 (3) All mentors must attain mentor micro-credentialing, as described in the Texas  
37 Rising Star guidelines.

38  
39 **§809.136. Roles and Responsibilities of Texas Rising Star Staff**

40  
41 Boards shall ensure that Texas Rising Star staff members comply with their assigned  
42 responsibilities, as applicable.

- 43  
44 (1) A mentor is defined as a designated staff member who helps providers obtain,  
45 maintain, or achieve higher star levels of certification.  
46

- 1                   (2) An assessor is defined as a designated staff member who assesses and monitors  
2                   providers that obtain, maintain, and achieve higher levels of quality.  
3  
4                   (3) Dual-role staff is defined as designated staff members who assume the role of  
5                   the assessor and mentor.  
6  
7                   (4) If an individual performs the duties of both an assessor and a mentor, the  
8                   individual providing Texas Rising Star mentoring services to a provider does  
9                   not act as the assessor of that same provider when determining Texas Rising  
10                   Star certification.  
11  
12                   (5) Texas Rising Star staff members are required to complete annual professional  
13                   development and continuing education consistent with the Texas Rising Star  
14                   annual minimum training hours requirement for a Texas Rising Star--certified  
15                   child care center director.  
16  
17                   (6) Per the Texas Family Code, §261.101, Texas Rising Star staff members are  
18                   mandated reporters when observing serious incidents as described in the Texas  
19                   Rising Star guidelines.