

Child Care Services Rule Waivers to Implement a Temporary Texas Rising Star Two-Star Strategy Discussion Paper

1 Background

2 The 87th Texas Legislature enacted [HB 1792](#) and [HB 2607](#), were effective in September 2021.

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- 4 • [HB 1792](#) directed the Texas Workforce Commission (TWC) to procure a new
5 Centralized Assessment Entity (CAE) to conduct all Texas Rising Star program
6 assessments. TWC conducted a competitive procurement and selected the University of
7 Texas Health Science Center Houston's Children's Learning Institute (CLI) as the new
8 CAE. The CAE assumed responsibility for Texas Rising Star assessments in October
9 2023.
- 10
- 11 • [HB 2607](#) requires all child care programs in TWC's Child Care Services (CCS) program
12 to participate in Texas Rising Star and directs TWC to include an entry-level rating for
13 child care providers and establish the maximum length of time that a provider may
14 participate in CCS at the entry level.
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16 Based on [HB 2607](#) and on TWC's [rules 809.131\(b\)](#), all CCS child care providers are now
17 required to have a minimum child care quality rating of Entry Level designation (ELD) and then
18 have 24-months to reach at least a Two-Star Texas Rising Star certification.

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20 [HB 2607](#) also allows TWC to grant a waiver to extend a CCS provider's ELD timeframe. TWC's
21 [rules 809.131\(f\)](#), define when waivers may be authorized, and include circumstances in which
22 TWC determines are out of the CCS provider's control.

23
24 When the Texas Workforce Commission's (TWC) three-member Commission (Commission)
25 adopted the new rules to implement the mandatory Texas Rising Star requirement, there were
26 approximately 4,300 existing CCS providers who have an ELD September 30, 2024 deadline,
27 and they must attain at least a Two-Star Texas Rising Star certification. As of June 2024,
28 approximately 3,200 of these providers were yet to be certified.

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30 The Commission establishes [rules \(Chapter 809 Child Care Services, Subchapter G Texas Rising
31 Star\)](#) to administer the Texas Rising Star program. The Commission also approves the additional
32 Texas Rising Star program parameters included in the [Texas Rising Star Certification
33 Guidelines](#).

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35 Child Care & Early Learning (CC&EL) staff have identified some potential temporary
36 modifications (waivers) to the CCS rules and Texas Rising Star Guidelines that will help to
37 expedite the certification process for these ELD providers. As noted in TWC's CCS rules,
38 [§809.3 Waiver Request](#), the Commission may waive child care rules if it determines that the
39 waiver benefits a parent, child care contractor or providers, and if the Commission determines
40 that waiver does not harm child care or violate state or federal statutes or regulations.

1 **Issue 1 – CCS Rule 809.133(c)(1)**

2 TWC [rule 809.133\(c\)\(1\)](#) requires the CAE to conduct an onsite assessment:

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4 *The Agency's designated Texas Rising Star assessment entity shall ensure that Texas*
5 *Rising Star certification assessments are conducted as follows: (1) On-site assessment of*
6 *100 percent of the provider classrooms at the initial assessment for Texas Rising Star*
7 *certification and at each scheduled recertification;*

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9 The Guidelines further establish protocols for how an Initial Assessment is conducted, through
10 an onsite visit and a review of all Texas Rising Star measures.

11
12 *Initial Assessment*

13 *The Initial Assessment is a full assessment of all Texas Rising Star measures. The*
14 *assessor confirms that all required measures, such as written policies, are verified. The*
15 *assessor assesses the points-based measures, such as teacher-child interactions and*
16 *environments, in observation blocks of one to one-and-a-half hours per classroom.*
17 *Programs may not become certified with only structural (required) measures reviewed.*

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19 While not allowable under TWC’s rules and in the Guidelines, a Two-Star designation may be
20 determined through a desk review of the structural (required) measures. However, if an onsite
21 assessment is not conducted, the CAE will be unable to ascertain if a provider can be certified at
22 a Three- or Four-Star star level.

23
24 Staff recommends that the Commission waive TWC [rule 809.133\(c\)\(1\)](#) and direct the CAE to
25 conduct a structural measure assessment of all ELD providers for potential Two-Star
26 certification. Providers may elect not to be assessed through a structural measure assessment for
27 a Two-Star rating and may remain in ELD status until an onsite assessment can be conducted.
28 TWC will grant waivers to these ELD providers to extend their ELD timeframe, as allowed
29 under TWC’s [rules 809.131\(f\)](#), if they select this option. Providers who elect to remain in ELD
30 status do not qualify for an enhanced payment rate and must continue to comply with ELD
31 requirements.

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33 **Issue 2 – CCS Rule 809.133(d)**

34 TWC [rule 809.133\(d\)](#) requires the CAE to conduct annual monitoring inspections. If the CAE
35 conducts desk reviews for the structural measures for potential Two-Star certifications, as
36 recommended above, a larger cohort of Texas Rising Star providers will have next year’s annual
37 assessment come due at the same time. This will pose workload challenges for the CAE. In order
38 to address this, the Commission could authorize a waiver of TWC [rule 809.133\(d\)](#) for the
39 providers who received a Two-Star structural measure assessment to receive their annual
40 monitoring visit within eighteen months, rather than within twelve months.

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42 In addition, on November 7, 2023, the Commission approved the [Waiver of Chapter 809 Child](#)
43 [Care Services Texas Rising Star Rules Discussion Paper](#). Staff recommends extending the
44 waiver expiration date from September 30, 2024 to September 30, 2025. Extending their annual
45 monitoring date will provide the CAE with additional time to conduct onsite assessments of the
46 current ELD programs. It will also allow the CAE to balance their workload and spread out the
47 dates of the required assessments more evenly.

1 **Decision Point**

2 Staff recommends that the Commission temporarily waive:

- 3 • TWC [rule 809.133\(c\)\(1\)](#), and direct the CAE to conduct desk reviews of the structural
4 measures for ELD programs in order to determine if they may be Two-Star certified. This
5 waiver will remain in place until the CAE is able to address the higher workload that has
6 accompanied the initial rollout of mandatory Texas Rising Star and is able to conduct
7 timely onsite assessments of ELD providers based on their two-year ELD timeframe.
- 8 • TWC [rule 809.133\(d\)](#), and allow providers who received a desk review of the structural
9 measures for Two-Star certification to receive their annual monitoring visit within 18
10 months, rather than within 12 months.
- 11 • TWC [rule 809.133\(d\)](#), to extend the expiration of the current [Waiver of Chapter 809](#)
12 [Child Care Services Texas Rising Star Rules](#), from September 30, 2024 to September 30,
13 2025 for annual monitoring visits for existing Texas Rising Star certified programs.