

**AN ORDER OF THE TEXAS WORKFORCE COMMISSION REGARDING A WAIVER OF CHILD CARE SERVICES RULE 40 TAC §809.133(c)(1) and 809.133(d)**

**WHEREAS**, 40 Texas Administrative Code (TAC) §809.3(a) authorizes the Commission to grant a waiver of one or more of the requirements of 40 TAC Chapter 809 if it determines that the waiver benefits a parent, child care contractor, or provider, and the Commission determines that the waiver does not harm child care or violate state or federal statutes or regulations; and

**WHEREAS**, the 87<sup>th</sup> Texas Legislature passed legislation requiring the agency procure a new Centralized Assessment Entity (CAE) to conduct all Texas Rising Star assessments, separately required all child care programs in the agency's Child Care Services (CCS) program participate in Texas Rising Star, and that such new programs (entry level providers) reach at least a Two-Star Texas Rising Star certification within the time provided for in rule; and

**WHEREAS**, CC&EL staff have identified that the on-site inspection of providers called for in 40 TAC §809.133(c)(1) is creating an unintended barrier for the timely completion of entry level provider assessments and that offering structural measure assessments conducted through desk reviews of these providers in lieu of on-site visits would expedite the process; and

**WHEREAS**, a waiver of the on-site inspection of entry level providers required in 40 TAC §809.133(c)(1) and directing the CAE to conduct structural measure assessments during the waiver would assist in alleviating the barrier for timely completion; and

**WHEREAS**, 40 TAC §809.133(d) requires the CAE to conduct annual monitoring inspections of existing Texas Rising Star providers and with the increased number of inspections required by the anticipated influx of new Two-Star Texas Rising Star providers it will again overload the CAE; and

**WHEREAS**, the temporary waiver of the annual monitoring visit for new Two-Star Texas Rising Star Providers and directing monitoring visits be completed before the 18 month mark would further assist the CAE in moving past the artificial influx of additional reviews; and

**WHEREAS**, on November 7<sup>th</sup>, 2023, the Commission approved a waiver of the annual monitoring assessments for then existing Texas Rising Star providers under 40 TAC 809.133(d) through September 30, 2024, and whereas CC&EL staff have determined there is a need to continue that waiver through September 30, 2025, to further manage the CAE workload; and

**WHEREAS**, a continuation of the previously approved waiver of the annual monitoring assessments under 40 TAC 809.133(d) through September 30, 2025, will further assist in managing the CAE workload; and

**WHEREAS**, the Commission has determined that granting these waivers, will benefit a parent, child care contractor, or provider, and does not harm child care or violate state or federal statutes or regulations.

**NOW THEREFORE**, the Commission finds good cause exists to grant the waivers, and specifically finds as follows:

Waiving the on-site inspection of entry level providers required in 40 TAC §809.133(c)(1) and directing the CAE to conduct structural measure assessments of those providers who agree to them during the waiver will assist in alleviating the barrier for timely completion of new provider assessments; and

Waiving the annual monitoring visit required under 40 TAC §809.133(d) for the new Two-Star Texas Rising Star Providers temporarily and directing monitoring visits be completed before the 18 month mark would further assist the CAE in moving past the artificial influx of additional reviews; and

Continuing the previously approved waiver of the annual monitoring assessments of existing Texas Rising Star Providers under 40 TAC 809.133(d) through September 30, 2025, will further assist in managing the CAE workload; and

Granting these waivers will benefit a parent, child care contractor, or provider, and does not harm child care or violate state or federal statutes or regulations.

**IT IS ORDERED THAT THE WAIVER** of 40 TAC §809.133(c)(1) **IS GRANTED** for the entry level providers seeking certification as Two-Star Texas Rising Star providers who agree to a desk review in lieu of an on-site visit; and

**ORDERED THAT THE WAIVER** of 40 TAC §809.133(d) **IS GRANTED** for new providers being certified as Two-Star Texas Rising Star providers, with the specific condition that the CAE complete the annual inspection called for in 40 TAC §809.133(d) within 18 months of a provider obtaining their certification; and

**ORDERED THAT THE WAIVER** of 40 TAC §809.133(d) previously approved by the Commission on November 7<sup>th</sup>, 2023, **IS CONTINUED** through September 30, 2025, for the child care providers covered by that waiver.

Signed this 30<sup>th</sup> day of July 2024, upon the affirmative vote of a majority of the Commission present and voting.

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Bryan Daniel, Chairman and Commissioner Representing the Public

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Alberto Treviño, III, Commissioner Representing Labor

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Joe Esparza, Commissioner Representing Employers