

1 [§809.49. Child Care for Children Receiving or Needing Protective Services](#)

2 [§809.50. At-Risk Child Care](#)

3 [§809.51. Child Care during Interruptions in Work, Education, or Job Training](#)

4 [§809.52. Child Care for Children Experiencing Homelessness](#)

5 [§809.53. Child Care for Children Served by Special Projects](#)

6 [§809.54. Continuity of Care](#)

7 [§809.55. Waiting Period for Reapplication](#)

8 [§809.56. Child Care during Initial Job Search](#)

9 **SUBCHAPTER D. PARENT RIGHTS AND RESPONSIBILITIES**

10 [§809.71. Parent Rights](#)

11 [§809.72. Parent Eligibility Documentation Requirements](#)

12 [§809.73. Parent Reporting Requirements](#)

13 [§809.74. Parent Appeal Rights](#)

14 [§809.75. Child Care during Appeal](#)

15 [§809.78. Attendance Standards and Notice and Reporting Requirements](#)

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

17 [§809.91. Minimum Requirements for Providers](#)

18 [§809.92. Provider Responsibilities and Reporting Requirements](#)

19 [§809.93. Provider Reimbursement](#)

20 [§809.94. Providers Placed on Corrective or Adverse Action by Child Care Regulation](#)

21 [§809.95. Provider Automated Attendance Agreement](#)

22 [§809.96. Contracted Slots Agreements](#)

23
24 **SUBCHAPTER F. FRAUD FACT-FINDING AND IMPROPER PAYMENTS**

25 [§809.111. General Fraud Fact-Finding Procedures](#)

26 [§809.112. Suspected Fraud](#)

27 [§809.113. Action to Prevent or Correct Suspected Fraud](#)

28 [§809.114. Failure to Comply with Commission Rules and Board Policies](#)

29

- 1 [§809.115. Corrective Adverse Actions](#)
- 2 [§809.117. Recovery of Improper Payments to a Provider or Parent](#)
- 3 **SUBCHAPTER G. TEXAS RISING STAR PROGRAM**
- 4 [§809.130. Short Title and Purpose](#)
- 5 [§809.131. Requirements for the Texas Rising Star Program](#)
- 6 [§809.132. Impacts on Texas Rising Star Certification](#)
- 7 [§809.133. Application and Assessments for Texas Rising Star Certification](#)
- 8 [§809.134. Minimum Qualifications for Texas Rising Star Staff](#)
- 9 [§809.135. Texas Rising Star Process for Reconsideration](#)
- 10 [§809.136. Roles and Responsibilities of Texas Rising Star Staff](#)

1
2 *The provisions of this §809.1 adopted to be effective January 29, 2007, 32 TexReg 336;*
3 *amended to be effective October 3, 2022, 47 TexReg 6437*

4
5 [Return to Table of Contents](#)

6
7 **§809.2. Definitions.**

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

- 11
- 12 (1) Attending a job training or educational program--An individual is attending a
13 job training or educational program if the individual:
- 14 (A) is considered by the program to be officially enrolled;
- 15 (B) meets all attendance requirements established by the program; and
- 16 (C) is making progress toward successful completion of the program as
17 demonstrated through continued enrollment in the program upon
18 eligibility redetermination as described in §809.42 of this chapter.
- 19
- 20 (2) Child--An individual who meets the general eligibility requirements contained
21 in this chapter for receiving child care services.
- 22
- 23 (3) Child care contractor--The entity or entities under contract with the Board to
24 manage child care services. This includes contractors involved in determining
25 eligibility for child care services, contractors involved in the billing and
26 reimbursement process related to child care, as well as contractors involved in
27 the funding of quality improvement activities as described in §809.16 of this
28 chapter.
- 29
- 30 (4) Child Care Desert--An area described in Texas Labor Code, §302.0461 in
31 which the number of children under age six with working parents is at least
32 three times greater than the capacity of licensed child care providers in the
33 area, based on data published annually by the Commission.
- 34
- 35 (5) Child Care Regulation (CCR)--Division in the Texas Health and Human
36 Services Commission responsible for protecting the health, safety, and well-
37 being of children who attend or reside in regulated child care facilities and
38 homes.
- 39
- 40 (6) Child care services--Child care subsidies and quality improvement activities
41 funded by the Commission.
- 42
- 43 (7) Child care subsidies--Commission-funded child care reimbursements to an
44
45
46

1 eligible child care provider for the direct care of an eligible child.

2
3 (8) Child experiencing homelessness--A child who is homeless, as defined in the
4 McKinney-Vento Act (42 USC 11434(a)), Subtitle VII-B, §725.

5
6 (9) Child with disabilities--A child who has a physical or mental impairment that
7 substantially limits one or more major life activities, has a record of such an
8 impairment, or is regarded as having such an impairment. Major life activities
9 include, but are not limited to, caring for oneself; performing manual tasks;
10 walking; hearing; seeing, speaking, or breathing; learning; and working.

11
12 (10) Educational program--A program that leads to:

13
14 (A) a high school diploma;

15
16 (B) a Certificate of High School Equivalency; or

17
18 (C) an undergraduate degree from an institution of higher education.

19
20 (11) Excessive unexplained absences--More than 40 unexplained absences within a
21 12-month eligibility period as described in §809.78 of this chapter.

22
23 (12) Family--Two or more individuals related by blood, marriage, or decree of
24 court, who are living in a single residence and are included in one or more of
25 the following categories:

26
27 (A) Two individuals, married--including by common-law, and household
28 dependents; or

29
30 (B) A parent and household dependents.

31
32 (13) Household dependent--An individual living in the household who is:

33
34 (A) an adult considered a dependent of the parent for income tax purposes;

35
36 (B) a child of a teen parent; or

37
38 (C) a child or other minor living in the household who is the responsibility of
39 the parent.

40
41 (14) Improper payments--Any payment of Child Care Development Fund (CCDF)
42 grant funds that should not have been made or that was made in an incorrect
43 amount (including overpayments and underpayments) under statutory,
44 contractual, administrative, or other legally applicable requirements governing
45 the administration of CCDF grant funds and includes payments:
46

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

1 months and requires services to ensure the stability of the family.

2
3 (20) Provider--A provider is defined as a:

4
5 (A) regulated child care provider;

6
7 (B) relative child care provider; or

8
9 (C) listed family home subject to the requirements in §809.91(e) of this
10 chapter.

11
12 (21) Regulated child care provider--A provider caring for an eligible child in a
13 location other than the eligible child's own residence that is:

14
15 (A) licensed by CCR;

16
17 (B) registered with CCR; or

18
19 (C) operated and monitored by the United States military services.

20
21 (22) Relative child care provider--An individual who is at least 18 years of age, and
22 is, by marriage, blood relationship, or court decree, the child's:

23
24 (A) grandparent;

25
26 (B) great-grandparent;

27
28 (C) aunt;

29
30 (D) uncle; or

31
32 (E) sibling (if the sibling does not reside in the same household as the
33 eligible child).

34
35 (23) Residing with--Unless otherwise stipulated in this chapter, a child is
36 considered to be residing with the parent when the child is living with, and
37 physically present with, the parent during the time period for which child care
38 services are being requested or received.

39
40 (24) Teen parent--A teen parent (teen) is an individual 18 years of age or younger,
41 or 19 years of age and attending high school or the equivalent, who has a child.

42
43 (25) Texas Rising Star program--A quality-based rating system of child care
44 providers participating in Commission-subsidized child care.

45
46 (26) Texas Rising Star provider--A regulated child care provider meeting the Texas

1 Rising Star program standards. Texas Rising Star providers are:

- 2 (A) designated as an Entry Level Provider;
- 3 (B) certified as a Two-Star Provider;
- 4 (C) certified as a Three-Star Provider; or
- 5 (D) certified as a Four-Star Provider.

6
7
8
9
10 (27) Working--Working is defined as:

- 11 (A) activities for which one receives monetary compensation such as a
- 12 salary, wages, tips, and commissions;
- 13 (B) participation in Choices or Supplemental Nutrition Assistance Program
- 14 Employment and Training (SNAP E&T) activities; or
- 15 (C) engaging in job search at the time of eligibility determination or
- 16 redetermination as described in §809.56 of this chapter.

17
18
19
20
21
22 *The provisions of this §809.2 adopted to be effective January 29, 2007, 32 TexReg 336;*
23 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective February*
24 *16, 2015, 40 TexReg 708; amended to be effective October 1, 2016, 41 TexReg 7529;*
25 *amended to be effective August 1, 2018, 43 TexReg 4474; amended to be effective January 8,*
26 *2019, 44 TexReg 114; amended to be effective January 25, 2021, 46 TexReg 593; amended to*
27 *be effective October 3, 2022, 47 TexReg 6437*

28
29 [Return to Table of Contents](#)

30
31 **§809.3. Waiver Request.**

- 32 (a) The Commission may waive child care rules upon request from a person directly
- 33 affected by the rules, if it determines that the waiver benefits a parent, child care
- 34 contractor, or provider, and the Commission determines that the waiver does not
- 35 harm child care or violate state or federal statutes or regulations.
- 36 (b) Prior to submitting a waiver request to the Commission, the child must have been
- 37 determined by the Board's child care contractor to meet the minimum qualifications
- 38 set forth in §809.41(a).

39
40
41
42 *The provisions of this §809.3 adopted to be effective January 29, 2007, 32 TexReg 336*

43
44 [Return to Table of Contents](#)

1 **SUBCHAPTER B. GENERAL MANAGEMENT**

2
3 **§809.11. Board Responsibilities.**

- 4
5 (a) A Board shall be responsible for the administration of child care in a manner
6 consistent with Texas Government Code, Chapter 2308, as amended, and related
7 provisions under Chapter 801 of this title (relating to Local Workforce Development
8 Boards).
- 9
10 (b) A Board shall ensure that access to child care services shall be available through all
11 Texas Workforce Centers within a workforce area.
- 12
13 (c) Child care services are support services for workforce employment, job training, and
14 services under Texas Government Code, Chapter 2308 and Chapter 801 of this title.
- 15
16 (d) Upon request, a Board shall provide the Commission with access to child care
17 administration records and submit related information for review and monitoring,
18 pursuant to Commission rules and policies.

19
20 *The provisions of this §809.11 adopted to be effective January 29, 2007, 32 TexReg 336*

21
22 [Return to Table of Contents](#)

23
24 **§809.12. Board Plan for Child Care Services.**

- 25
26 (a) A Board shall, as part of its Texas Workforce Development Board Plan (Board plan),
27 develop, amend, and modify the Board plan to incorporate and coordinate the design
28 and management of the delivery of child care services with the delivery of other
29 workforce employment, job training, and educational services identified in Texas
30 Government Code, §2308.304, et seq., as well as other workforce training and
31 services included in the One-Stop Service Delivery Network.
- 32
33 (b) The goal of the Board plan is to coordinate workforce training and services, to
34 leverage private and public funds at the local level, and to fully integrate child care
35 services for low-income families with the network of workforce training and services
36 under the administration of the Boards.
- 37
38 (c) Boards shall design and manage the Board plan to maximize the delivery and
39 availability of safe and stable child care services that assist families seeking to
40 become independent from, or who are at risk of becoming dependent on, public
41 assistance while parents are either working or attending a job training or an
42 educational program.
- 43
44 (d) A Board shall include in the Board plan any strategies to use contracted slots
45 agreements, as described in §809.96 of this chapter, including any local priorities and

1 how contracted slots agreements will help increase access to high-quality care for
2 targeted communities and population.
3

4 *The provisions of this §809.12 adopted to be effective January 29, 2007, 32 TexReg 336;*
5 *amended to be effective January 25, 2021, 46 TexReg 593*
6

7 [Return to Table of Contents](#)
8

9 **§809.13. Board Policies for Child Care Services.**
10

- 11 (a) A Board shall develop, adopt, and modify its policies for the design and management
12 of the delivery of child care services in a public process in accordance with Chapter
13 802 of this title.
14
- 15 (b) A Board shall maintain written copies of the policies that are required by federal and
16 state law, or as required under this chapter, and make such policies available to the
17 Commission and the public upon request.
18

19 *The provisions of this §809.13 adopted to be effective January 29, 2007, 32 TexReg 336;*
20 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*
21 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529;*
22 *amended to be effective August 1, 2018, 43 TexReg 4474; amended to be effective January*
23 *25, 2021, 46 TexReg 593; amended to be effective October 3, 2022, 47 TexReg 6437*
24

25 [Return to Table of Contents](#)
26

27 **§809.14. Coordination of Child Care Services.**
28

- 29 (a) A Board shall coordinate with federal, state, and local child care and early
30 development programs and representatives of local governments in developing its
31 Board plan and policies for the design and management of the delivery of child care
32 services, and shall maintain written documentation of its coordination efforts.
33
- 34 (b) Pursuant to Texas Education Code, §29.158, and in a manner consistent with federal
35 law and regulations, a Board shall coordinate with school districts, Head Start, and
36 Early Head Start program providers to ensure, to the greatest extent practicable, that
37 full-day, full-year child care is available to meet the needs of low-income parents
38 who are working or attending a job training or educational program.
39
- 40 (c) Pursuant to Texas Labor Code, §302.00436, a Board shall inform the local school
41 districts and open-enrollment charter schools in the Board's workforce area regarding
42 opportunities to partner with child care providers in the Board's area to expand
43 access to and provide facilities for prekindergarten (pre-K) programs.

1
2 *The provisions of this §809.14 adopted to be effective January 29, 2007, 32 TexReg 336;*
3 *amended to be effective October 3, 2022, 47 TexReg 6437*
4

5 [Return to Table of Contents](#)
6

7 **§809.15. Promoting Consumer Education.**
8

- 9 (a) A Board shall promote informed child care choices by providing consumer education
10 information to:
11
12 (1) parents who are eligible for child care services;
13
14 (2) parents who are placed on a Board's waiting list;
15
16 (3) parents who are no longer eligible for child care services; and
17
18 (4) applicants who are not eligible for child care services.
19
20 (b) The consumer education information, including consumer education information
21 provided through a Board's website, shall contain, at a minimum:
22
23 (1) information about the Texas Information and Referral Network/2-1-1 Texas
24 (2-1-1 Texas) information and referral system;
25
26 (2) the website and telephone number of CCR so parents may obtain health and
27 safety requirements including information on:
28
29 (A) the prevention and control of infectious diseases (including
30 immunizations);
31
32 (B) building and physical premises safety;
33
34 (C) minimum health and safety training appropriate to the provider setting;
35 and
36
37 (D) the regulatory compliance history of child care providers;
38
39 (3) a description of the full range of eligible child care providers set forth in
40 §809.91 of this chapter; and
41
42 (4) a description of programs available in the workforce area relating to school
43 readiness and quality rating systems, including:
44
45 (A) Texas Rising Star (TRS) Provider criteria, pursuant to Texas
46 Government Code, §2308.315; and

- 1
2 (B) integrated school readiness models, pursuant to Texas Education Code,
3 §29.160;
4
5 (5) a list of child care providers that meet quality indicators, pursuant to Texas
6 Government Code, §2308.3171;
7
8 (6) information on existing resources and services available in the workforce area
9 for conducting developmental screenings and providing referrals to services
10 when appropriate for children eligible for child care services, including the use
11 of:
12
13 (A) the Early and Periodic Screening, Diagnosis, and Treatment program
14 under 42 USC 1396 et seq.; and
15
16 (B) developmental screening services available under Part B and Part C of
17 the Individuals with Disabilities Education Act (20 USC 1419, 1431 et
18 seq.); and
19
20 (7) a link to the Agency's designated child care consumer education website.
21
22 (c) A Board shall cooperate with HHSC to provide 2-1-1 Texas with information, as
23 determined by HHSC, for inclusion in the statewide information and referral
24 network.
25

26 *The provisions of this §809.15 adopted to be effective January 29, 2007, 32 TexReg 336;*
27 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*
28 *2016, 41 TexReg 7529; amended to be effective July 6, 2020, 45 TexReg 4528; amended to*
29 *be effective October 3, 2022, 47 TexReg 6437*
30

31 [Return to Table of Contents](#)

32
33 **§809.16. Quality Improvement Activities.**

- 34
35 (a) Child care funds allocated by the Commission pursuant to its allocation rules
36 (generally, Chapter 800, Subchapter B of this title (relating to Allocations), and
37 specifically §800.58 of this title (relating to Child Care)), including local public
38 transferred funds and local private donated funds, as provided in §809.17 of this
39 subchapter, to the extent they are used for nondirect care quality improvement
40 activities, shall be expended in accordance with the CCDF State Plan.
41
42 (b) Boards must ensure compliance with 45 CFR Part 98 regarding construction
43 expenditures, as follows:
44
45 (1) State and local agencies and nonsectarian agencies or organizations.
46

1 (A) Funds shall not be expended for the purchase or improvement of land, or
2 for the purchase, construction, or permanent improvement of any
3 building or facility.

4
5 (B) Funds may be expended for minor remodeling, and for upgrading child
6 care facilities to ensure that providers meet state and local child care
7 standards, including applicable health and safety requirements.

8
9 (2) Sectarian agencies or organizations.

10
11 (A) The prohibitions in paragraph (1) of this subsection apply.

12
13 (B) Funds may be expended for minor remodeling only if necessary to bring
14 the facility into compliance with the health and safety requirements
15 established pursuant to 45 CFR Part 98.

16
17 (c) Expenditures certified by a public entity, as provided in §809.17 of this subchapter,
18 may include expenditures for any quality improvement activity described in 45 CFR
19 Part 98.

20
21 *The provisions of this §809.16 adopted to be effective January 29, 2007, 32 TexReg 336;*
22 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective February*
23 *16, 2015, 40 TexReg 708; amended to be effective October 1, 2016, 41 TexReg 7529;*
24 *amended to be effective January 25, 2021, 46 TexReg 593; amended to be effective October*
25 *3, 2022, 47 TexReg 6437*

26
27 [Return to Table of Contents](#)

28
29 **§809.17. Leveraging Local Resources.**

30
31 (a) Leveraging Local Funds.

32
33 (1) The Commission encourages Boards to secure local public and private funds
34 for the purpose of matching federal funds in order to maximize resources for
35 child care needs in the community.

36
37 (2) A Board is encouraged to secure additional local funds in excess of the amount
38 required to match federal funds allocated to the Board in order to maximize its
39 potential to receive additional federal funds should they become available.

40
41 (3) A Board's performance in securing and leveraging local funds for match may
42 make the Board eligible for incentive awards.

43
44 (b) The Commission accepts the following as local match:

45
46 (1) Funds from a private entity that:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

- (A) are donated without restrictions that require their use for:
 - (i) a specific individual, organization, facility, or institution; or
 - (ii) an activity not included in the CCDF State Plan or allowed under this chapter;
- (B) do not revert back to the donor's facility or use;
- (C) are not used to match other federal funds; and
- (D) are certified by both the donor and the Commission as meeting the requirements of subparagraphs (A) - (C) of this paragraph.

(2) Funds from a public entity that:

- (A) are transferred without restrictions that would require their use for an activity not included in the CCDF State Plan or allowed under this chapter;
- (B) are not used to match other federal funds; and
- (C) are not federal funds, unless authorized by federal law to be used to match other federal funds.

(3) Expenditures by a public entity certifying that the expenditures:

- (A) are for an activity included in the CCDF State Plan or allowed under this chapter;
- (B) are not used to match other federal funds; and
- (C) are not federal funds, unless authorized by federal law to be used to match other federal funds.

(c) A Board shall ensure that a public entity certifying expenditures for direct child care as described in §809.17(b)(3), determines and verifies that the expenditures are for child care provided to an eligible child. At a minimum, the public entity shall verify that the child:

- (1) is under 13 years of age, or at the option of the Board, is a child with disabilities under 19 years of age; and
- (2) resides with:

1 (A) a family whose income does not exceed 85 percent of the state median
2 income for a family of the same size; and
3

4 (B) a parent who requires child care in order to work or attend a job training
5 or educational program.
6

7 (d) A Board shall submit private donations, public transfers, and public certifications to
8 the Commission for acceptance, with sufficient information to determine that the
9 funds meet the requirements of subsection (b) of this section.
10

11 (e) Completing Private Donations, Public Transfers, and Public Certifications.
12

13 (1) A Board shall ensure that:
14

15 (A) private donations of cash and public transfers of funds are paid to the
16 Commission; and
17

18 (B) public certifications are submitted to the Commission.
19

20 (2) Private donations and public transfers are considered complete when the funds
21 have been received by the Commission.
22

23 (3) Public certifications are considered complete to the extent that a signed written
24 instrument is delivered to the Commission that reflects that the public entity
25 has expended a specific amount of funds on eligible activities described in
26 subsection (b)(3) of this section.
27

28 (f) A Board shall monitor the funds secured for match and the expenditure of any
29 resulting funds to ensure that expenditures of federal matching funds available
30 through the Commission do not exceed an amount that corresponds to the private
31 donations, public transfers, and public certifications that are completed by the end of
32 the program year.
33

34 *The provisions of this §809.17 adopted to be effective January 29, 2007, 32 TexReg 336;*
35 *amended to be effective October 1, 2016, 41 TexReg 7529*
36

37 [Return to Table of Contents](#)
38

39 **§809.18. Maintenance of a Waiting List.**
40

41 (a) The following provisions are effective prior to December 1, 2023:
42

43 (1) A Board shall ensure that a list of parents and children waiting for child care
44 services, because of the lack of funding or lack of providers, is maintained and
45 available to the Commission upon request.
46

- 1 (2) A Board shall establish a policy for the maintenance of a waiting list that
2 includes, at a minimum:
3
4 (A) the process for determining that the parent is potentially eligible for
5 child care services before placing the parent on the waiting list; and
6
7 (B) the frequency in which the parent information is updated and maintained
8 on the waiting list.
9
10 (3) A Board shall exempt children from the waiting list who are directly referred
11 from a recognized pre-K or Head Start/Early Head Start (HS/EHS) partnership
12 as described in §809.22 of this chapter to a child care provider to receive
13 services in the contracted partnership program subject to the availability of
14 funding and the availability of subsidized slots at the partnership site.
15

16 (b) The following provisions are effective December 1, 2023:

- 17
18 (1) A Board shall ensure that a list of parents and children waiting for child care
19 services, because of the lack of funding or lack of providers, is maintained and
20 available to the Commission upon request.
21
22 (2) A Board shall ensure that the child is potentially eligible for child care services
23 prior to placing the child on the waiting list.
24
25 (3) A Board shall exempt children from the waiting list who are directly referred
26 from a recognized pre-K or HS/EHS partnership, as described in §809.22 of this
27 chapter, to a child care provider to receive services in the contracted partnership
28 program subject to the availability of funding and the availability of subsidized
29 slots at the partnership site.
30
31 (4) A Board shall contact the parent every three months and shall remove the child
32 from the waiting list if the parent indicates that child care services are no longer
33 required or does not respond to the Board regarding the continued need for child
34 care services.
35

36 *The provisions of this §809.18 adopted to be effective January 29, 2007, 32 TexReg 336;*
37 *amended to be effective January 25, 2021, 46 TexReg 593; amended to be effective October*
38 *3, 2022, 47 TexReg 6437*
39

40 [Return to Table of Contents](#)

41
42 **§809.19. Assessing the Parent Share of Cost.**
43

44 (a) The following provisions are effective prior to December 1, 2023:

- 45
46 (1) For child care funds allocated by the Commission pursuant to its allocation

1 rules (generally, Chapter 800, Subchapter B of this title (relating to
2 Allocations), and specifically, §800.58 of this title (relating to Child Care)),
3 including local public transferred funds and local private donated funds, as
4 provided in §809.17 of this subchapter, the following shall apply:
5

- 6 (A) A Board shall set a parent share of cost policy that assesses the parent
7 share of cost in a manner that results in the parent share of cost:
8
- 9 (i) being assessed to all parents, except in instances when an
10 exemption under subparagraph (B) of this paragraph applies;
11
 - 12 (ii) being an amount determined by a sliding fee scale based on the
13 family's size and gross monthly income, including a possible
14 reexamination of the sliding fee scale if there are frequent
15 terminations for lack of payment pursuant to paragraph (4) of this
16 subsection, which also may consider the number of children in
17 care;
18
 - 19 (iii) being an amount that is affordable and does not result in a barrier
20 to families receiving assistance;
21
 - 22 (iv) being assessed only at the following times:
23
24 (I) initial eligibility determination;
25
26 (II) 12-month eligibility redetermination;
27
28 (III) upon the addition of a child in care;
29
30 (IV) upon a parent's report of a change in income, family size, or
31 number of children in care that would result in a reduced
32 parent share of cost assessment; and
33
34 (V) upon resumption of work, job training, or education activities
35 following temporary changes described in §809.51(a)(2) of
36 this chapter, and upon resumption of work, job training, or
37 education activities during the three-month continuation of
38 care period described in §809.51(c) of this chapter; and
39
 - 40 (v) not increasing above the amount assessed at initial eligibility
41 determination or at the 12-month eligibility redetermination based
42 on the factor in clause (ii) of this subparagraph, except upon the
43 addition of a child in care as described in clause (iv)(III) of this
44 subparagraph.
45
- 46 (B) Parents who are one or more of the following are exempt from paying the

1 parent share of cost:

- 2
- 3 (i) Parents who are participating in Choices or who are in Choices
- 4 child care described in §809.45 of this chapter;
- 5
- 6 (ii) Parents who are participating in SNAP E&T services or who are in
- 7 SNAP E&T child care described in §809.47 of this chapter;
- 8
- 9 (iii) Parents of a child receiving Child Care for Children Experiencing
- 10 Homelessness as described in §809.52 of this chapter; or
- 11
- 12 (iv) Parents who have children who are receiving protective services
- 13 child care pursuant to §809.49 and §809.54(c) of this chapter,
- 14 unless DFPS assesses the parent share of cost.
- 15

16 (C) Teen parents who are not covered under exemptions listed in

17 subparagraph (B) of this paragraph shall be assessed a parent share of

18 cost. The teen parent's share of cost is based solely on the teen parent's

19 income and size of the teen's family as defined in §809.2 of this chapter.

20

21 (2) A Board shall establish a policy stating whether or not the Board will reimburse

22 providers when parents fail to pay the parent share of cost. If the Board does not

23 reimburse providers under the adopted policy, the Board may establish a policy

24 requiring the parent pay the provider before the family can be redetermined

25 eligible for future child care services.

26

27 (3) A Board shall establish a policy regarding termination of child care services

28 within a 12-month eligibility period when a parent fails to pay the parent share

29 of cost. The Board's policy must include:

30

31 (A) a requirement to evaluate and document each family's financial situation

32 for extenuating circumstances that may affect affordability of the

33 assessed parent share of cost pursuant to subparagraph (B) of this

34 paragraph, and a possible temporary reduction pursuant to paragraph (5)

35 of this subsection before the Board or its child care contractor may

36 terminate care under this section;

37

38 (B) general criteria for determining affordability of a Board's parent share of

39 cost, and a process to identify and assess the circumstances that may

40 jeopardize a family's self-sufficiency under paragraph (5) of this

41 subsection;

42

43 (C) maintenance of a list of all terminations due to failure to pay the parent

44 share of cost, for use when conducting evaluations of affordability, as

45 required under subparagraph (D) of this paragraph; and

46

1 (D) the Board's definition of what constitutes frequent terminations and its
2 process for assessing the general affordability of the Board's parent share
3 of cost schedule, pursuant to paragraph (4) of this subsection.
4

5 (4) A Board with frequent terminations of care for lack of payment of the parent
6 share of cost must reexamine its sliding fee scale and adjust it to ensure that fees
7 are not a barrier to assistance for families at certain income levels.
8

9 (5) The Board or its child care contractor may review the assessed parent share of
10 cost for a possible temporary reduction if there are extenuating circumstances
11 that jeopardize a family's self-sufficiency. The Board or its child care contractor
12 may temporarily reduce the assessed parent share of cost if warranted by these
13 circumstances. Following the temporary reduction, the parent share of cost
14 amount immediately prior to the reduction shall be reinstated.
15

16 (6) If the parent is not covered by an exemption as specified in paragraph (1)(B) of
17 this subsection, then the Board or its child care contractor shall not waive the
18 assessed parent share of cost under any circumstances.
19

20 (7) If the parent share of cost, based on family income and family size, is calculated
21 to be zero, then the Board or its child care contractor shall not charge the parent
22 a minimum share of cost amount.
23

24 (8) A Board may establish a policy to reduce the parent share of cost amount
25 assessed pursuant to paragraph (1)(A)(ii) of this subsection upon the parent's
26 selection of a Texas Rising Star-certified provider. Such Board policy shall
27 ensure:
28

29 (A) that the parent continues to receive the reduction if:

30 (i) the Texas Rising Star provider loses Texas Rising Star
31 certification; or
32

33 (ii) the parent moves or changes employment within the workforce
34 area and no Texas Rising Star-certified providers are available to
35 meet the needs of the parent's changed circumstances; and
36

37 (B) the parent no longer receives the reduction if the parent voluntarily
38 transfers the child from a Texas Rising Star-certified provider to a
39 non-Texas Rising Star-certified provider.
40

41 (9) A Board may establish a policy to reduce the parent share of cost amount
42 assessed pursuant to paragraph (1)(A)(ii) of this subsection upon the child's
43 referral for part-time or blended care. Such Board policy shall ensure that:
44

45 (A) the parent no longer receives the reduction if the referral is changed to
46

1 full-time care; and

2
3 (B) a parent who qualifies for a reduction in parent share of cost for both
4 selecting a Texas Rising Star-certified provider (as defined in paragraph
5 (8) of this subsection) and a child's part-time or blended care referral will
6 receive the greater of the two discounts.
7

8 (b) The following provisions are effective on December 1, 2023:

9
10 (1) For child care funds allocated by the Commission pursuant to its allocation
11 rules (generally, Chapter 800, Subchapter B of this title (relating to
12 Allocations), and specifically, §800.58 of this title (relating to Child Care)),
13 including local public transferred funds and local private donated funds, as
14 provided in §809.17 of this subchapter, the following shall apply:
15

16 (A) The parent share of cost shall be:

17
18 (i) assessed to all parents, except in instances when an exemption
19 under subparagraph (C) of this paragraph applies; and

20
21 (ii) established by the Commission and determined by a sliding fee
22 scale based on the family's size and gross monthly income
23 determined in §809.44 of this chapter and as represented by a
24 percentage of the state median income (SMI) up to 85 percent SMI.
25

26 (B) A Board shall assess the parent share of cost in accordance with
27 subparagraph (A)(ii) of this paragraph and in a manner that results in the
28 parent share of cost:
29

30 (i) being assessed only at the following times:

31
32 (I) initial eligibility determination;

33
34 (II) 12-month eligibility redetermination;

35
36 (III) upon the addition of a child in care;

37
38 (IV) upon a parent's report of a change in income, family size, or
39 number of children in care that would result in a reduced
40 parent share of cost assessment; and

41
42 (V) upon resumption of work, job training, or education activities
43 following temporary changes described in §809.51(a) of this
44 chapter, and upon resumption of work, job training, or
45 education activities during the three-month continuation of
46 care period described in §809.51(c) of this chapter; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

- (ii) not increasing above the amount assessed at initial eligibility determination or at the 12-month eligibility redetermination, except upon the addition of a child in care as described in subclause (i)(III) of this subparagraph.
 - (C) Parents who are one or more of the following are exempt from paying the parent share of cost:
 - (i) Parents who are participating in Choices or who are in Choices child care described in §809.45 of this chapter;
 - (ii) 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;
 - (iii) Parents of a child receiving Child Care for Children Experiencing Homelessness as described in §809.52 of this chapter; or
 - (iv) 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.
 - (D) Teen parents who are not covered under exemptions listed in subparagraph (C) of this paragraph 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.
- (2) A Board shall establish a policy stating whether or not the Board will reimburse providers when parents fail to pay the parent share of cost. If the Board does not reimburse providers under the adopted policy, the Board may establish a policy requiring the parent pay the provider before the family can be redetermined eligible for future child care services.
- (3) 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:
- (A) a requirement to evaluate and document each family's financial situation for extenuating circumstances that may affect affordability of the assessed parent share of cost pursuant to subparagraph (B) of this paragraph, and a possible temporary reduction pursuant to paragraph (4) of this subsection before the Board or its child care contractor may terminate care under this section;
 - (B) a process to identify and assess the circumstances that may jeopardize a family's self-sufficiency under paragraph (4) of this subsection; and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

(C) maintenance of a list of all terminations due to failure to pay the parent share of cost.

(4) The Board or its child care contractor may review the assessed parent share of cost for a possible temporary reduction if there are extenuating circumstances that jeopardize a family's self-sufficiency. The Board or its child care contractor may temporarily reduce the assessed parent share of cost if warranted by these circumstances. Following the temporary reduction, the parent share of cost amount immediately prior to the reduction shall be reinstated.

(5) If the parent is not covered by an exemption as specified in paragraph (1)(C) of this subsection, then the Board or its child care contractor shall not waive the assessed parent share of cost under any circumstances.

(6) If the parent share of cost, based on family income and family size, is calculated to be zero, then the Board or its child care contractor shall not charge the parent a minimum share of cost amount.

(7) A Board may establish a policy to reduce the parent share of cost amount assessed pursuant to paragraph (1)(A) of this subsection upon the parent's selection of a Texas Rising Star-certified provider. Such Board policy shall ensure:

(A) that the parent continues to receive the reduction if:

(i) the Texas Rising Star provider loses Texas Rising Star certification; or

(ii) the parent moves or changes employment within the workforce area and no Texas Rising Star-certified providers are available to meet the needs of the parent's changed circumstances; and

(B) the parent no longer receives the reduction if the parent voluntarily transfers the child from a Texas Rising Star-certified provider to a non-Texas Rising Star-certified provider.

(8) A Board may establish a policy to reduce the parent share of cost amount assessed pursuant to paragraph (1)(A) of this subsection upon the child's referral for part-time or blended care. Such Board policy shall ensure that:

(A) the parent no longer receives the reduction if the referral is changed to full-time care; and

(B) a parent who qualifies for a reduction in parent share of cost for both

1 selecting a Texas Rising Star-certified provider (as defined in paragraph
2 (7) of this subsection) and a child's part-time or blended care referral will
3 receive the greater of the two discounts.
4

5 *The provisions of this §809.19 adopted to be effective January 29, 2007, 32 TexReg 336;*
6 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*
7 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529;*
8 *amended to be effective August 1, 2018, 43 TexReg 4474; amended to be effective January*
9 *25, 2021, 46 TexReg 593; amended to be effective October 3, 2022, 47 TexReg 6437*
10

11 [Return to Table of Contents](#)
12

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

- 15 (a) Based on local factors, including a market rate survey provided by the Commission,
16 a Board shall establish maximum reimbursement rates for child care subsidies at or
17 above a level established by the Commission to ensure that the rates provide equal
18 access to child care in the local market and in a manner consistent with state and
19 federal statutes and regulations governing child care. At a minimum, Boards shall
20 establish reimbursement rates for full-day and part-day units of service, as described
21 in §809.93(f) of this chapter, for the following:
22

23 (1) Provider types:
24

- 25 (A) Licensed child care centers, including before- or after-school programs
26 and school-age programs, as defined by CCR;
27
28 (B) Licensed child care homes as defined by CCR;
29
30 (C) Registered child care homes as defined by CCR; and
31
32 (D) Relative child care providers as defined in §809.2 of this chapter.
33

34 (2) Age groups in each provider type effective prior to December 1, 2023:
35

- 36 (A) Infants age 0 to 17 months;
37
38 (B) Toddlers age 18 to 35 months;
39
40 (C) Preschool age children from 36 to 71 months; and
41
42 (D) School-age children 72 months and older.
43

44 (3) Age groups in each provider type effective December 1, 2023:
45

- 46 (A) Infants ages 0 through 11 months;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

- (B) Infants ages 12 through 17 months;
- (C) Toddlers ages 18 through 23 months;
- (D) Toddlers age 2 years;
- (E) Preschool age 3 years;
- (F) Preschool age 4 years;
- (G) Preschool age 5 years; and
- (H) School-age 6 years and older.

(b) A Board shall establish enhanced reimbursement rates:

- (1) for all age groups at certified Texas Rising Star provider facilities; and
- (2) only for infant, toddler, and preschool-age children at child care providers that participate in integrated school readiness models for those age groups pursuant to Texas Education Code, §29.160.

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

- (1) 5 percent greater for a:
 - (A) certified Two-Star Provider; or
 - (B) child care provider meeting the requirements of subsection (b)(2) of this section;
- (2) 7 percent greater for a certified Three-Star Provider; and
- (3) 9 percent greater for a certified Four-Star Provider.

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

(e) A Board or its child care contractor shall ensure that providers that are reimbursed for additional staff or equipment needed to assist in the care of a child with disabilities are paid a rate up to 190 percent of the provider's reimbursement rate for

1 a child of that same age. The higher rate shall take into consideration the estimated
2 cost of the additional staff or equipment needed by a child with disabilities. The
3 Board shall ensure that a professional, who is familiar with assessing the needs of
4 children with disabilities, certifies the need for the higher reimbursement rate
5 described in this subsection.
6

7 (f) The Board shall determine whether to reimburse providers that offer transportation as
8 long as the combined total of the provider's published rate, plus the transportation
9 rate, is subject to the maximum reimbursement rate established in subsection (a) of
10 this section.
11

12 (g) A Board may establish a higher enhanced reimbursement rate for nontraditional
13 hours, as defined by the Board.
14

15 *The provisions of this §809.20 adopted to be effective January 29, 2007, 32 TexReg 336;*
16 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective January*
17 *8, 2013, 38 TexReg 155; amended to be effective February 16, 2015, 40 TexReg 708; amended*
18 *to be effective October 1, 2016, 41 TexReg 7529; amended to be effective July 6, 2020, 45*
19 *TexReg 4528; amended to be effective October 3, 2022, 47 TexReg 6437*
20

21 [Return to Table of Contents](#)

22 **§809.21. Determining the Amount of the Provider Reimbursement.**

23 (a) The actual reimbursement that the Board or the Board's child care contractor pays to
24 the provider shall be the Board's maximum daily rate or the provider's published
25 daily rate, whichever is lower, less the following amounts:
26

- 27
- 28 (1) The parent share of cost assessed and adjusted when the parent share of
29 cost is reduced; and
 - 30 (2) Any child care funds received by the parent from other public or private
31 entities.
32

33 (b) A Board or its child care contractor shall ensure that the provider's published daily
34 rates are calculated according to Commission guidance and include the provider's
35 enrollment fees, supply fees, and activity fees.
36

37
38
39 *The provisions of this §809.21 adopted to be effective January 29, 2007, 32 TexReg 336;*
40 *amended to be effective January 8, 2013, 38 TexReg 155*
41

42 [Return to Table of Contents](#)

43 **§809.22. Direct Referrals to Recognized Partnerships.**

44 (a) A recognized partnership is a partnership that:
45
46

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

3
4 (A) a public school prekindergarten provider;

5
6 (B) a local education agency; or

7
8 (C) a Head Start/Early Head Start program; and

9
10 (2) requires both parties to have entered into an agreement, such as a
11 memorandum of understanding, and serves some number of children
12 under age six who are dually enrolled in both programs.

13
14 (b) A Board shall establish policies and procedures to enroll eligible children who are
15 directly referred by a recognized partnership.

16
17 (c) A Board's policy shall exempt children directly referred from a recognized
18 partnership from the Board's waiting list, subject to the availability of funding and
19 the availability of subsidized slots at the partnership site.

20
21 *The provisions of this §809.22 adopted to be effective January 25, 2021, 46 TexReg 593*

22
23 [Return to Table of Contents](#)

24
25 **SUBCHAPTER C. ELIGIBILITY FOR CHILD CARE SERVICES**

26
27 **§809.41. A Child's General Eligibility for Child Care Services.**

28
29 (a) Except for a child receiving or needing protective services as described in §809.49 of
30 this chapter, for a child to be eligible to receive child care services, at the time of
31 eligibility determination or redetermination, a Board shall ensure that the child:

32
33 (1) meets one of the following age requirements:

34
35 (A) be under 13 years of age; or

36
37 (B) be a child with disabilities under 19 years of age;

38
39 (2) is a United States citizen or legal immigrant as determined under applicable
40 federal laws, regulations, and guidelines; and

41
42 (3) resides with:

43
44 (A) a family within the Board's workforce area:

45
46 (i) whose income does not exceed 85 percent of the state median

1 income (SMI) for a family of the same size; and

2
3 (ii) whose assets do not exceed \$1,000,000 as certified by a family
4 member; or

5
6 (iii) that meets the definition of experiencing homelessness as defined in
7 §809.2 of this chapter.

8
9 (B) parents who require child care in order to work, including job search, or
10 attend a job training or educational program; or

11
12 (C) a person standing in loco parentis for the child while the child's parent is
13 on military deployment and the deployed military parent's income does
14 not exceed the limits set forth in subparagraph (A) of this paragraph.

15
16 (b) A Board shall ensure that child care services while the parent is enrolled full-time in
17 a postsecondary undergraduate educational program is provided for, but does not
18 exceed, a cumulative total of 60 months.

19
20 (c) A Board may establish a policy to allow parents attending a program that leads to an
21 undergraduate degree from an institution of higher education to be exempt from
22 residing with the child as defined in §809.2 of this chapter.

23
24 *The provisions of this §809.41 adopted to be effective January 29, 2007, 32 TexReg 336;*
25 *amended to be effective June 22, 2009, 34 TexReg 4197; amended to be effective January 8,*
26 *2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529; amended to*
27 *be effective October 3, 2022, 47 TexReg 6437*

28
29 [Return to Table of Contents](#)

30
31 **§809.42. Eligibility Verification, Determination, and Redetermination.**

32
33 (a) A Board shall ensure that its child care contractor verifies all eligibility requirements
34 for child care services prior to authorizing child care.

35
36 (b) A Board shall ensure that eligibility for child care services shall be redetermined no
37 sooner than 12 months following the initial determination or most recent
38 redetermination, except for Child Care during Job Search as described in §809.56 of
39 this chapter.

1
2 *The provisions of this §809.42 adopted to be effective January 29, 2007, 32 TexReg 336;*
3 *amended to be effective October 1, 2016, 41 TexReg 7529; amended to be effective October*
4 *3, 2022, 47 TexReg 6437*
5

6 [Return to Table of Contents](#)
7

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

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

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

16 (A) Choices child care as referenced in §809.45;
17

18 (B) Temporary Assistance for Needy Families (TANF) Applicant child care
19 as referenced in §809.46;
20

21 (C) SNAP E&T child care as referenced in §809.47; and
22

23 (D) Transitional child care as referenced in §809.48.
24

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

28 (A) children who need to receive protective services child care as referenced
29 in §809.49;
30

31 (B) children of a qualified veteran or qualified spouse as defined in §801.23
32 of this title;
33

34 (C) children of a foster youth as defined in §801.23 of this title;
35

36 (D) children experiencing homelessness as defined in §809.2 and described
37 in §809.52;
38

39 (E) children of parents on military deployment as defined in §809.2 whose
40 parents are unable to enroll in military-funded child care assistance
41 programs;
42

43 (F) children of teen parents as defined in §809.2; and
44

45 (G) children with disabilities as defined in §809.2.
46

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

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

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

10 [Return to Table of Contents](#)
11

12 **§809.44. Calculating Family Income.**
13

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

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

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

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

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

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

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

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

40 (5) Tax refunds and tax credits;
41

42 (6) VISTA and AmeriCorps living allowances and stipends;
43

44 (7) Noncash or in-kind benefits such as employer-paid fringe benefits, food, or
45 housing received in lieu of wages;
46

- 1 (8) Foster care payments and adoption assistance;
- 2
- 3 (9) Special military pay or allowances, including subsistence allowances, housing
- 4 allowances, family separation allowances, or special allowances for duty
- 5 subject to hostile fire or imminent danger;
- 6
- 7 (10) Income from a child in the household between 14 and 19 years of age who is
- 8 attending school;
- 9
- 10 (11) Early withdrawals from qualified retirement accounts specified as hardship
- 11 withdrawals as classified by the Internal Revenue Service (IRS);
- 12
- 13 (12) Unemployment compensation;
- 14
- 15 (13) Child support payments;
- 16
- 17 (14) Cash assistance payments, including Temporary Assistance for Needy
- 18 Families (TANF), Supplemental Security Income (SSI), Refugee Cash
- 19 Assistance, general assistance, emergency assistance, and general relief;
- 20
- 21 (15) Onetime income received in lieu of TANF cash assistance;
- 22
- 23 (16) Income earned by a veteran while on active military duty and certain other
- 24 veterans' benefits, such as compensation for service-connected death,
- 25 vocational rehabilitation, and education assistance;
- 26
- 27 (17) Regular payments from Social Security, such as Old-Age, and Survivors
- 28 Insurance Trust Fund;
- 29
- 30 (18) Lump sum payments received as assets in the sale of a house, in which the
- 31 assets are to be reinvested in the purchases of a new home (consistent with IRS
- 32 guidance);
- 33
- 34 (19) Payments received as the result of an automobile accident insurance settlement
- 35 that are being applied to the repair or replacement of an automobile;
- 36
- 37 (20) One-time cash payments, including insurance payments, gifts, and lump sum
- 38 inheritances; and
- 39
- 40 (21) Any income sources specifically excluded by federal law or regulation.
- 41
- 42 (c) Income that is not listed in subsection (b) of this section as excluded from income is
- 43 included as income.
- 44

45 *The provisions of this §809.44 adopted to be effective January 29, 2007, 32 TexReg 336;*
46 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*

1 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529;*
2 *amended to be effective October 3, 2022, 47 TexReg 6437*

3
4 [Return to Table of Contents](#)

5
6 **§809.45. Choices Child Care.**

- 7
8 (a) A parent is eligible for Choices child care if the parent is participating in the Choices
9 program as stipulated in Chapter 811 of this title.
10
11 (b) For a parent receiving Choices child care who ceases participation in the Choices
12 program during the 12-month eligibility period, Boards must ensure that Choices
13 child care continues:
14
15 (1) for the three-month period pursuant to §809.51(b); and
16
17 (2) for the remainder of the eligibility period, if the parent resumes participation in
18 Choices or begins participation in work or attendance in a job training or
19 education program during the three-month period described in §809.51(c).
20

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

23
24 [Return to Table of Contents](#)

25
26 **§809.46. Temporary Assistance for Needy Families Applicant Child Care.**

- 27
28 (a) A parent is eligible for TANF Applicant child care if the parent:
29
30 (1) receives a referral from the Health and Human Services Commission (HHSC)
31 to attend a Workforce Orientation for Applicants (WOA);
32
33 (2) locates employment or has increased earnings prior to TANF certification; and
34
35 (3) needs child care to accept or retain employment.
36
37 (b) To receive TANF Applicant child care, the parent shall be working and not have
38 voluntarily terminated paid employment of at least 25 hours a week within 30 days

1 prior to receiving the referral from HHSC to attend a WOA, unless the voluntary
2 termination was for good cause connected with the parent's work.
3

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

8 [Return to Table of Contents](#)
9

10 **§809.47. Supplemental Nutrition Assistance Program Employment and Training Child**
11 **Care.**
12

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

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

32 [Return to Table of Contents](#)
33

34 **§809.48. Transitional Child Care.**
35

- 36 (a) A parent is eligible for Transitional child care services if the parent:
37
38 (1) has been denied TANF and was employed at the time of TANF denial; or
39
40 (2) has been denied TANF within 30 days because of expiration of TANF time
41 limits; and
42
43 (3) requires child care to work or attend a job training or educational program for a
44 combination of at least an average of 25 hours per week for a single-parent
45 family or a total combined 50 hours per week for a dual-parent family.
46

1 (b) For former TANF recipients who are employed when TANF is denied, Transitional
2 child care shall be available for:

3
4 (1) a period of up to 12 months from the effective date of the TANF denial; or

5
6 (2) a period of up to 18 months from the effective date of the TANF denial in the
7 case of a former TANF recipient who was eligible for child caretaker
8 exemptions pursuant to Texas Human Resources Code, §31.012(c) and
9 voluntarily participates in the Choices program.

10
11 (c) A Board may allow a reduction to the requirement in subsection (a)(3) of this section
12 if a parent's documented medical disability or need to care for a physically or
13 mentally disabled family member prevents the parent from participating in work,
14 education, or job training activities for the required hours per week.

15
16 (d) For purposes of meeting the education requirements stipulated in subsection (a)(3) of
17 this section, the following shall apply:

18
19 (1) each credit hour of undergraduate education counts as three hours of education
20 activity per week; and

21
22 (2) each credit hour of a condensed undergraduate education course counts as six
23 education activity hours per week.

24
25 *The provisions of this §809.48 adopted to be effective January 29, 2007, 32 TexReg 336;*
26 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*
27 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529;*
28 *amended to be effective October 3, 2022, 47 TexReg 6437*

29
30 [Return to Table of Contents](#)

31
32 **§809.49. Child Care for Children Receiving or Needing Protective Services.**

33
34 (a) A Board shall ensure that determinations of eligibility for children needing
35 protective services are performed by DFPS.

36
37 (1) Child care will continue as long as authorized and funded by DFPS.

38
39 (2) DFPS may authorize child care for a child under court supervision under the
40 age of 19.

41
42 (3) Child care discontinued by DFPS prior to the end of the 12-month eligibility
43 period shall be subject to the Continuity of Care provisions in §809.54.

44
45 (b) A Board shall ensure that requests made by DFPS for specific eligible providers are
46 enforced for children in protective services, including children of foster parents when

1 the foster parent is the owner, director, assistant director or other individual with an
2 ownership interest in the provider.

3
4 *The provisions of this §809.49 adopted to be effective January 29, 2007, 32 TexReg 336;*
5 *amended to be effective October 1, 2016, 41 TexReg 7529*

6
7 [Return to Table of Contents](#)

8
9 **§809.50. At-Risk Child Care.**

- 10
11 (a) A parent is eligible for child care services under this section if at initial eligibility
12 determination and at eligibility redetermination as described in §809.42 of this
13 chapter:
- 14
15 (1) the family income does not exceed the income limit pursuant to §809.41 of this
16 chapter; and
- 17
18 (2) child care is required for the parent to work or attend a job training or
19 educational program for a combination of at least an average of 25 hours per
20 week for a single-parent family or a total combined 50 hours per week for a
21 dual-parent family.
- 22
23 (b) A Board may allow a reduction to the work, education, or job training activity
24 requirements in subsection (a)(2) of this section if a parent's documented medical
25 disability or need to care for a physically or mentally disabled family member
26 prevents the parent from participating in these activities for the required hours per
27 week.
- 28
29 (c) For purposes of meeting the education requirements stipulated in subsection (a)(2) of
30 this section, the following shall apply:
- 31
32 (1) each credit hour of undergraduate education counts as three hours of education
33 activity per week;
- 34
35 (2) each credit hour of a condensed undergraduate education course counts as six
36 education activity hours per week; and
- 37
38 (3) teen parents attending high school or the equivalent shall be considered as
39 meeting the education requirements in subsection (a)(2) of this section.
- 40
41 (d) When calculating income eligibility for a child with disabilities, a Board shall deduct
42 the cost of the child's ongoing medical expenses from the family income.
- 43
44 (e) A teen parent's family income is based solely on the teen parent's income and size of
45 the teen's family as defined in §809.2 of this chapter.
- 46

1 *The provisions of this §809.50 adopted to be effective September 8, 2008, 33 TexReg 7568;*
2 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*
3 *2016, 41 TexReg 7529; amended to be effective October 3, 2022, 47 TexReg 6437*

4
5 [Return to Table of Contents](#)

6
7 **§809.51. Child Care during Interruptions in Work, Education, or Job Training.**

8
9 (a) Except for a child experiencing homelessness, as described in §809.52 of this
10 chapter, and for child care during job search, as described in §809.56 of this chapter,
11 if the child met all of the applicable eligibility requirements for child care services in
12 this subchapter on the date of the most recent eligibility determination or
13 redetermination, the child shall be considered to be eligible and will receive services
14 during the 12-month eligibility period described in §809.42 of this chapter,
15 regardless of any:

- 16
17 (1) change in family income, if that family income does not exceed 85 percent of
18 SMI for a family of the same size; or
19
20 (2) temporary change in the ongoing status of the child's parent as working or
21 attending a job training or education program. A temporary change shall
22 include, at a minimum, any:
23
24 (A) time-limited absence from work for an employed parent for periods of
25 family leave (including parental leave) or sick leave;
26
27 (B) interruption in work for a seasonal worker who is not working between
28 regular industry work seasons;
29
30 (C) student holiday or breaks within a semester, between the fall and spring
31 semesters, or between the spring and fall semesters, for a parent
32 participating in training or education;
33
34 (D) reduction in work, training, or education hours, as long as the parent is
35 still working or attending a training or education program;
36
37 (E) other cessation of work or attendance in a training or education program
38 that does not exceed three months;
39
40 (F) change in age, including turning 13 years old or a child with disabilities
41 turning 19 years old during the eligibility period; and
42
43 (G) change in residency within the state.

44
45 (b) During the period of time between eligibility redeterminations, a Board shall
46 discontinue child care services due to a parent's loss of work or cessation of

1 attendance at a job training or educational program that does not constitute a
2 temporary change in accordance with subsection (a)(2) of this section. However,
3 Boards must ensure that care continues at the same level for a period of not less than
4 three months after such loss of work or cessation of attendance at a job training or
5 educational program.
6

7 (c) If a parent resumes work or attendance at a job training or education program at any
8 level and at any time during the period described in subsection (b) of this section,
9 then the Board shall ensure that:

10 (1) care will continue to the end of the 12-month eligibility period at the same or
11 greater level, depending upon any increase in the activity hours of the parent;
12

13 (2) the parent share of cost will not be increased during the remainder of the 12-
14 month eligibility period, including for parents who are exempt from the parent
15 share of cost pursuant to §809.19 of this chapter; and
16

17 (3) the Board's child care contractor verifies only:

18 (A) that the family income does not exceed 85 percent of SMI; and
19

20 (B) the resumption of work or attendance at a job training or education
21 program.
22

23 (d) The Board may suspend child care services during interruptions in the parent's work,
24 job training, or education status only at the concurrence of the parent.
25

26 *The provisions of this §809.51 adopted to be effective October 1, 2016, 41 TexReg 7529;*
27 *amended to be effective October 3, 2022, 47 TexReg 6437*
28

29 [Return to Table of Contents](#)
30

31 **§809.52. Child Care for Children Experiencing Homelessness.**
32

33 (a) For a child experiencing homelessness, as defined in §809.2, a Board shall ensure
34 that the child is initially enrolled for a period of three months.
35

36 (b) If, during the three-month initial enrollment period, the parent of a child
37 experiencing homelessness:
38

39 (1) is unable to provide documentation verifying that the child is eligible under
40 §809.41(a)(1) - (2) (regarding age and citizenship status), then care shall be
41 discontinued following the three-month enrollment period; or
42
43

- 1
2 (2) provides documentation verifying eligibility under §809.41(a), then care shall
3 continue through the end of the 12-month initial eligibility period (inclusive of
4 the three-month initial enrollment period).
5

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

9 [Return to Table of Contents](#)

10
11 **§809.53. Child Care for Children Served by Special Projects.**

- 12
13 (a) Special projects developed in federal and state statutes or regulations and funded
14 using non-CCDF sources may add groups of children eligible to receive child care.
15
16 (b) The eligibility criteria as stated in the statutes, regulations, or funding sources shall
17 control for the special project, unless otherwise indicated by the Commission.
18
19 (c) The time limit for receiving child care for children served by special projects may be:
20
21 (1) specifically prescribed by federal or state statutes or regulations according to
22 the particular project;
23
24 (2) otherwise set by the Commission depending on the purpose and goals of the
25 special project; and
26
27 (3) limited to the availability of funds.
28

29 *The provisions of this §809.53 adopted to be effective January 29, 2007, 32 TexReg 336;*
30 *amended to be effective October 1, 2016, 41 TexReg 7529*
31

32 [Return to Table of Contents](#)

33
34 **§809.54. Continuity of Care.**

- 35
36 (a) Enrolled children, including children whose eligibility for Transitional child care has
37 expired, shall receive child care through the end of the applicable eligibility periods
38 described in §809.42.
39
40 (b) Except as provided by §809.75 relating to child care during appeal, nothing in this
41 chapter shall be interpreted in a manner as to result in a child being removed from
42 care.
43
44 (c) In closed DFPS CPS cases (DFPS cases) where child care is no longer funded by
45 DFPS, child care shall continue through the end of the applicable eligibility periods
46 described in §809.42 using funds allocated to the Board by the Commission.

1
2 (d) A Board shall ensure that no enrolled children of military parents in military
3 deployment have a disruption of child care services or eligibility during military
4 deployment, including parents in military deployment at the end of the 12-month
5 eligibility redetermination period.
6

7 (e) A Board shall ensure that a child who is required by a court-ordered custody or
8 visitation arrangement to leave a provider's care is permitted to continue receiving
9 child care by the same provider, or another provider if agreed to by the parent in
10 advance of the leave, upon return from the court-ordered custody or visitation
11 arrangement.
12

13 *The provisions of this §809.54 adopted to be effective January 29, 2007, 32 TexReg 336;*
14 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*
15 *2016, 41 TexReg 7529*
16

17 [Return to Table of Contents](#)
18

19 **§809.55. Waiting Period for Reapplication.**
20

21 (a) A parent is ineligible to reapply for child care services or to be placed on the waiting
22 list for services for 60 calendar days if the parent's eligibility or the child's
23 enrollment is terminated due to:

24 (1) excessive unexplained absences under §809.78 of this chapter; or
25

26 (2) nonpayment of parent share of cost pursuant to a Board's established policy
27 under §809.19 of this chapter.
28

29 (b) To ensure full alignment between Child Care Services rules and the Choices program
30 requirements, the provisions of subsection (a) of this section will not apply to
31 individuals who, during the 60-calendar day waiting period:
32

33 (1) become Choices participants who require child care to participate in Choices;
34 or
35

36 (2) are on Choices sanction status and require child care to demonstrate
37 participation in Choices.
38
39

40 *The provisions of this §809.55 adopted to be effective August 1, 2018, 43 TexReg 4744;*
41 *amended to be effective October 3, 2022, 47 TexReg 6437*
42

43 [Return to Table of Contents](#)
44

45 **§809.56. Child Care during Initial Job Search.**
46

- 1 (a) A parent, including a parent in a dual-parent family, is eligible for child care services
2 under this section if at initial eligibility determination the family does not meet the
3 minimum participation requirements for At-Risk Child Care as described in §809.50
4 of this chapter.
5
- 6 (b) A Board shall allow parents to self-attest that the:
7
8 (1) family meets the requirements of subsection (a) of this section; and
9
10 (2) family income does not exceed 85 percent of the state median income.
11
- 12 (c) Child care under this section is limited to an initial three-month job search period. If
13 total activity participation of at least 25 hours for a single-parent family or a total
14 combined 50 hours per week for dual-parent families, which must include a
15 minimum of 12 hours in employment for a single-parent family and a total combined
16 25 hours in employment for a dual-parent family, are met within the initial three
17 months, eligibility will continue for a total of 12 months, inclusive of the care
18 provided during the initial job search period, provided that the family income does
19 not exceed 85 percent of the state median income. If the family does not meet
20 minimum activity requirements under this subsection within three months, care must
21 be terminated.
22
- 23 (d) For child care during the initial three-month job search period, the follow applies
24 regarding the parent share of cost:
25
26 (1) A Board shall initially assess the parent share of cost at the highest amount
27 based on the family size and number of children in care.
28
29 (2) The initially assessed amount will immediately be temporarily reduced to zero.
30 This provision also applies to dual-parent families in which one parent is
31 employed but the family meets the requirements in subsection (a) of this
32 section for child care during initial job search.
33
34 (3) If the parent begins to meet participation requirements of subsection (c) of this
35 section within or by the end of the three-month job search period, the parent
36 share of cost shall be reinstated at the initially assessed amount or the amount
37 based on the actual family income, whichever is lower.
38
- 39 (e) Eligibility for child care under this section is limited to one initial three-month job
40 search period per family within a 12-month period.
41
- 42 (f) A Board shall ensure that the parent in child care for job search is registered with the
43 state's labor exchange system and has access to appropriate services available
44 through the one-stop delivery network described in §801.28 of this title.

1
2 *The provisions of this §809.56 adopted to be effective October 3, 2022, 47 TexReg 6437*
3

4 [Return to Table of Contents](#)
5

6 **SUBCHAPTER D. PARENT RIGHTS AND RESPONSIBILITIES**
7

8 **§809.71. Parent Rights.**
9

10 A Board shall ensure that the Board's child care contractor informs the parent in writing
11 that the parent has the right to:

- 12
- 13 (1) choose the type of child care provider that best suits their needs and to be
14 informed of all child care options available to them as included in the
15 consumer education information described in §809.15 of this chapter;
16
 - 17 (2) visit available child care providers before making their choice of a child care
18 option;
19
 - 20 (3) receive assistance in choosing initial or additional child care referrals including
21 information about the Board's policies regarding transferring children from one
22 provider to another, which shall include a waiting period of two weeks before
23 the effective date of a transfer, except in cases in which the provider is subject
24 to a CCR action, as described in §809.94 of this chapter; when the transfer is
25 authorized by CPS for a child in protective services; or on a case-by-case basis
26 determined by the Board;
27
 - 28 (4) be informed of the Commission rules and Board policies related to providers
29 charging parents amounts above the assessed parent share of cost" as described
30 in §809.92 of this chapter;
31
 - 32 (5) be represented when applying for child care services;
33
 - 34 (6) be notified of their eligibility to receive child care services within 20 calendar
35 days from the day the Board's child care contractor receives all necessary
36 documentation required to initially determine eligibility for child care;
37
 - 38 (7) receive child care services regardless of race, color, national origin, age, sex,
39 disability, political beliefs, or religion;
40
 - 41 (8) have the Board and the Board's child care contractor treat information used to
42 determine eligibility for child care services as confidential;
43
 - 44 (9) receive written notification at least 15 calendar days before termination of
45 child care services;
46

- 1 (10) reject an offer of child care services or voluntarily withdraw their child from
2 child care, unless the child is in protective services;
3
4 (11) be informed of the possible consequences of rejecting or ending the child care
5 that is offered;
6
7 (12) be informed of the eligibility documentation and reporting requirements
8 described in §809.72 and §809.73 of this chapter;
9
10 (13) be informed of the parent appeal rights described in §809.74 of this chapter;
11
12 (14) be informed of required background and criminal history checks for relative
13 child care providers through the listing process with CCR as described in
14 §809.91 of this chapter before the parent or guardian selects the relative child
15 care provider;
16
17 (15) receive written notification pursuant to §809.78 of this chapter of the possible
18 termination of child care services for excessive absences, as described in
19 §809.78 of this chapter; and
20
21 (16) receive written notification of possible termination of child care services for
22 failure to pay the parent share of cost, pursuant to §809.19 of this chapter.
23

24 *The provisions of this §809.71 adopted to be effective January 29, 2007, 32 TexReg 336;*
25 *amended to be effective November 14, 2011, 36 TexReg 7675; amended to be effective*
26 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529;*
27 *amended to be effective August 1, 2018, 43 TexReg 4744; amended to be effective July 6,*
28 *2020, 45 TexReg 4528; amended to be effective October 3, 2022, 47 TexReg 6437*
29

30 [Return to Table of Contents](#)
31

32 **§809.72. Parent Eligibility Documentation Requirements.**
33

- 34 (a) Parents shall provide the Board's child care contractor with all information necessary
35 to determine initial eligibility according to the Board's administrative policies and
36 procedures before a child can be initially determined or redetermined eligible for
37 child care services and care authorized, unless the child is experiencing
38 homelessness pursuant to §809.52 of this chapter or receiving child care during
39 initial job search pursuant to §809.56 of this chapter.
40
41 (b) A parent's failure to submit eligibility documentation shall result in initial denial of
42 child care services or termination of services at the 12-month eligibility
43 redetermination period.

1
2 *The provisions of this §809.72 adopted to be effective January 29, 2007, 32 TexReg 336;*
3 *amended to be effective October 1, 2016, 41 TexReg 7529; amended to be effective October 3,*
4 *2022, 47 TexReg 6437*
5

6 [Return to Table of Contents](#)
7

8 **§809.73. Parent Reporting Requirements.**
9

- 10 (a) Boards shall ensure that during the 12-month eligibility period described in §809.41
11 of this chapter, or during the three-month initial job search period and the subsequent
12 eligibility period described in §809.56 of this chapter, parents are only required to
13 report items that impact a family's eligibility or that enable the Board or Board
14 contractor to contact the family or pay the provider.
15
- 16 (b) Pursuant to subsection (a) of this section, parents shall report to the child care
17 contractor, within 14 calendar days of the occurrence, the following:
18
- 19 (1) Changes in family income or family size that would cause the family to exceed
20 85 percent of SMI for a family of the same size;
21
- 22 (2) Changes in work or attendance at a job training or educational program not
23 considered to be temporary changes, as described in §809.51 of this chapter;
24 and
25
- 26 (3) Any change in family residence, primary phone number, or e-mail (if
27 available).
28
- 29 (c) Failure to report changes described in subsection (a) of this section may result in
30 fact-finding for suspected fraud as described in Subchapter F of this chapter.
31
- 32 (d) A Board shall allow parents to report, and the child care contractor shall take
33 appropriate action, regarding changes in:
34
- 35 (1) income and family size, which may result in a reduction in the parent share of
36 cost pursuant to §809.19 of this chapter; and
37
- 38 (2) work, job training, or education program participation that may result in an
39 increase in the level of child care services.

1
2 *The provisions of this §809.73 adopted to be effective January 29, 2007, 32 TexReg 336;*
3 *amended to be effective October 1, 2016, 41 TexReg 7529; amended to be effective October*
4 *3, 2022, 47 TexReg 6437*

5
6 [Return to Table of Contents](#)

7
8 **§809.74. Parent Appeal Rights.**

- 9
10 (a) Unless otherwise stated in this section, a parent may request a hearing pursuant to
11 Chapter 823 of this title:
12
13 (1) if the parent's eligibility or child's enrollment is denied, delayed, reduced,
14 suspended, or terminated by the Board's child care contractor, Choices
15 caseworker, or SNAP E&T caseworker; or
16
17 (2) regarding the amount of recoupment determined pursuant to Subchapter F of
18 this chapter.
19
20 (b) A parent may have an individual represent him or her during this process.
21
22 (c) A parent of a child in protective services may not appeal pursuant to Chapter 823 of
23 this title, but shall follow the procedures established by DFPS.
24

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

29
30 [Return to Table of Contents](#)

31
32 **§809.75. Child Care during Appeal.**

- 33
34 (a) For a child currently enrolled in child care, a Board shall ensure that child care
35 services continue during the appeal process until a decision is reached, if the parent
36 requests a hearing.
37
38 (b) A Board shall ensure that child care does not continue during the appeal process if
39 the child's enrollment is terminated due to excessive unexplained absences, pursuant
40 to §809.78(a) of this chapter, or nonpayment of parent share of cost, pursuant to
41 §809.19 of this chapter.
42
43 (c) The cost of providing services during the appeal process is subject to recovery from
44 the parent by the Board if the appeal decision is rendered against the parent.

1
2 *The provisions of this §809.75 adopted to be effective January 29, 2007, 32 TexReg 336;*
3 *amended to be effective September 8, 2008, 33 TexReg 7568; amended to be effective*
4 *January 8, 2013, 38 TexReg 155; amended to be effective October 1, 2016, 41 TexReg 7529;*
5 *amended to be effective August 1, 2018, 43 TexReg 4744; amended to be effective October 3,*
6 *2022, 47 TexReg 6437*

7
8 [Return to Table of Contents](#)

9
10 **§809.78. Attendance Standards and Notice and Reporting Requirements.**

11
12 (a) A Board shall ensure that parents are notified of the following:

13
14 (1) Parents shall ensure that the eligible child attends on a regular basis consistent
15 with the child's authorization for enrollment and attendance standards
16 described in paragraph (2) of this subsection. Failure to meet attendance
17 standards described in paragraph (2) of this subsection may result in
18 termination for the child due to excessive unexplained absences pursuant to
19 subsection (d) of this section.

20
21 (2) Meeting attendance standards for child care services consists of no more than
22 40 total unexplained absences in a 12-month eligibility period.

23
24 (3) Unexplained absences may include:

25
26 (A) Any absence that is not due to a child's documented chronic illness or
27 disability, or to a court-ordered custody or visitation agreement; or

28
29 (B) Any missed attendance recording that cannot be explained, except if the
30 attendance reporting system is not available through no fault of the
31 parent or provider.

32
33 (4) Notwithstanding paragraph (2) of this subsection, child care providers may end
34 a child's enrollment with the provider if the child does not meet the provider's
35 established policy regarding attendance.

36
37 (5) Parents shall report attendance and absences and adhere to Agency procedures
38 for reporting attendance and absences, including the use of the Agency's
39 attendance reporting system.

40
41 (b) Boards shall ensure that parents sign a written acknowledgment indicating their
42 understanding of the attendance standards and reporting requirements at each of the
43 following stages:

44
45 (1) initial eligibility determination; and
46

1 (2) each eligibility redetermination, as required in §809.42 of this chapter.
2

3 (c) Boards shall ensure that absences due to a child's documented chronic illness or
4 disability or court-ordered visitation are not counted in the number of unexplained
5 absences in subsection (a)(2) and (3) of this section.
6

7 (d) Boards shall ensure that before terminating care pursuant to subsection (a)(1) of this
8 section, the child care contractor:
9

10 (1) provides written notice to the parent and the child care provider at reasonable
11 times through established communication channels of the child's absences and
12 the potential termination of services, at a minimum as soon as practicable after
13 child reaches 15, and 30 general absences cumulatively within a 12-month
14 eligibility period; and
15

16 (2) documents that multiple attempts were made, as described in paragraph (1) of
17 this subsection, to determine why the child is absent and to explain the
18 importance of regular attendance.
19

20 (e) Where a child's enrollment has been ended by a provider in subsection (a)(4) of this
21 section, Boards shall work with the parent to place the otherwise eligible child with
22 another eligible provider.
23

24 *The provisions of this §809.78 adopted to be effective January 8, 2013, 38 TexReg 155;*
25 *amended to be effective October 1, 2016, 41 TexReg 7529; amended to be effective August 1,*
26 *2018, 43 TexReg 4744; amended to be effective October 3, 2022, 47 TexReg 6437*
27

28 [Return to Table of Contents](#)
29

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

31 **§809.91. Minimum Requirements for Providers.**

32 (a) A Board shall ensure that child care subsidies are paid only to:
33

34 (1) regulated child care providers as described in §809.2 of this chapter meeting
35 the Texas Rising Star requirements as a certified provider, or designated as an
36 Entry Level provider for the prescribed time periods as described in §809.131
37 of this chapter;
38

39 (2) relative child care providers, as described in §809.2 of this chapter, subject to
40 the requirements in subsection (e) of this section; or
41

42 (3) at the Board's option, child care providers licensed in a neighboring state,
43 subject to the following requirements:
44
45
46

- 1 (A) Boards shall ensure that the Board's child care contractor reviews the
2 licensing status of the out-of-state provider every month, at a minimum,
3 to confirm the provider is meeting the minimum licensing standards of
4 the state.
5
- 6 (B) Boards shall ensure that the out-of-state provider meets the requirements
7 of the neighboring state to serve CCDF-subsidized children.
8
- 9 (C) The provider shall agree to comply with the requirements of this chapter
10 and all Board policies and Board child care contractor procedures.
11
- 12 (b) A Board shall not prohibit a relative child care provider that is listed with CCR and
13 meets the minimum requirements of this section from being an eligible relative child
14 care provider.
15
- 16 (c) Except as provided by the criteria for Texas Rising Star Provider certification or
17 designation, a Board or the Board's child care contractor shall not place requirements
18 on regulated providers that:
19
- 20 (1) exceed Entry Level designation requirements or the state licensing
21 requirements stipulated in Texas Human Resources Code, Chapter 42; or
22
- 23 (2) have the effect of monitoring the provider for compliance with state licensing
24 requirements stipulated in Texas Human Resources Code, Chapter 42.
25
- 26 (d) When a Board or the Board's child care contractor, in the course of fulfilling its
27 responsibilities, gains knowledge of any possible violation regarding regulatory
28 standards, the Board or its child care contractor shall report the information to the
29 appropriate regulatory agency.
30
- 31 (e) For relative child care providers to be eligible for reimbursement for Commission-
32 funded child care services, the following applies:
33
- 34 (1) Relative child care providers shall list with CCR; however, pursuant to 45 CFR
35 §98.41(e), relative child care providers listed with CCR shall be exempt from
36 the health and safety requirements of 45 CFR §98.41(a).
37
- 38 (2) A Board shall allow relative child care providers to care for a child in the
39 child's home (in-home child care) only for the following:
40
- 41 (A) A child with disabilities as defined in §809.2 of this chapter, and his or
42 her siblings;
43
- 44 (B) A child under 18 months of age and his or her siblings;
45
- 46 (C) A child of a teen parent; and

1
2 (D) When the parent's work schedule requires evening, overnight, or
3 weekend child care in which taking the child outside of the child's home
4 would be disruptive to the child.
5

6 (3) A Board may allow relative in-home child care for circumstances in which the
7 Board's child care contractor determines and documents that other child care
8 provider arrangements are not available in the community.
9

10 (f) Boards shall ensure that subsidies are not paid for a child at the following child care
11 providers:
12

13 (1) Except for foster parents authorized by DFPS pursuant to §809.49 of this
14 chapter, licensed child care centers, including before- or after-school programs
15 and school-age programs, in which the parent or his or her spouse, including
16 the child's parent or stepparent, is the director or assistant director, or has an
17 ownership interest; or
18

19 (2) Licensed, registered, or listed child care homes where the parent also works
20 during the hours his or her child is in care.
21

22 *The provisions of this §809.91 adopted to be effective January 29, 2007, 32 TexReg 336;*
23 *amended to be effective June 24, 2007, 32 TexReg 3698; amended to be effective October 18,*
24 *2010, 35 TexReg 9359; amended to be effective November 14, 2011, 36 TexReg 7675;*
25 *amended to be effective January 8, 2013, 39 TexReg 155; amended to be effective October 1,*
26 *2016, 41 TexReg 7529; amended to be effective July 6, 2020, 45 TexReg 4528; amended to*
27 *be effective January 25, 2021, 46 TexReg 593; amended to be effective October 3, 2022, 47*
28 *TexReg 6437*
29

30 [Return to Table of Contents](#)
31

32 **§809.92. Provider Responsibilities and Reporting Requirements.** 33

34 (a) A Board shall ensure that providers are given written notice of and agree to their
35 responsibilities, reporting requirements, and requirements for reimbursement under
36 this subchapter prior to enrolling a child.
37

38 (b) Providers shall:
39

40 (1) be responsible for collecting the parent share of cost as assessed under §809.19
41 of this chapter before child care services are delivered;
42

43 (2) be responsible for collecting other child care funds received by the parent as
44 described in §809.21 of this chapter;
45

46 (3) report to the Board or the Board's child care contractor instances in which the

1 parent fails to pay the parent share of cost; and

2
3 (4) follow attendance reporting and tracking procedures required by the
4 Commission under §809.95 of this chapter, the Board, or, if applicable, the
5 Board's child care contractor.

6
7 (c) Providers shall not charge more than the Board's reimbursement rate as determined
8 under §809.21 of this chapter to parents:

9
10 (1) who are exempt from the parent share of cost assessment under §809.19 of this
11 chapter;

12
13 (2) whose parent share of cost is calculated to be zero pursuant to §809.19 of this
14 chapter; or.

15
16 (3) parents in Child Care during Initial Job Search under §809.56 of this chapter
17 during the initial three-month period.

18
19 (d) A Board may develop a policy that allows providers to charge parents more than the
20 assessed parent share of cost in instances where the provider's published rate
21 exceeds the Board's reimbursement rate (including the assessed parent share of cost)
22 to all parents not included in subsection (c) of this section.

23
24 (e) For Boards that allow providers to charge additional amounts pursuant to subsection
25 (d) of this section, the Board must ensure the provider reports to the Board each
26 month:

27
28 (1) the specific families that were charged an additional amount above the assessed
29 amount;

30
31 (2) the frequency with which each family was charged; and

32
33 (3) the amount of each additional charge.

34
35 (f) Boards that develop a policy under subsection (d) of this section must:

36
37 (1) provide the rationale for the Board's policy to allow providers to charge
38 families additional amounts above the required copayment, including a
39 demonstration of how the policy promotes affordability and access for
40 families; and

41
42 (2) describe the Board's analysis of the interaction between the additional amounts
43 charged to families with the required parent share of cost and the ability of
44 current reimbursement rates to provide access to care without additional fees.

45
46 (g) Providers shall not deny a child care referral based on the parent's income status,

1 receipt of public assistance, or the child's protective service status.

- 2
3 (h) Providers shall not charge fees to a parent receiving child care subsidies that are not
4 charged to a parent who is not receiving subsidies.
5

6 *The provisions of this §809.92 adopted to be effective January 29, 2007, 32 TexReg 336;*
7 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*
8 *2016, 41 TexReg 7529; amended to be effective October 3, 2022, 47 TexReg 6437*
9

10 [Return to Table of Contents](#)

11
12 **§809.93. Provider Reimbursement.**

- 13
14 (a) A Board shall ensure that reimbursement for child care is paid only to the provider.
15
16 (b) A Board or its child care contractor shall reimburse a regulated provider based on a
17 child's monthly enrollment authorization, excluding periods of suspension at the
18 concurrence of the parent, as described in §809.51(d) of this chapter.
19
20 (c) A Board shall ensure that a relative child care provider is not reimbursed for days on
21 which the child is absent.
22
23 (d) A relative child care provider shall not be reimbursed for more children than
24 permitted by the CCR minimum regulatory standards for Registered Child Care
25 Homes. A Board may permit more children to be cared for by a relative child care
26 provider on a case-by-case basis as determined by the Board.
27
28 (e) A Board shall not reimburse providers that are debarred from other state or federal
29 programs unless and until the debarment is removed.
30
31 (f) Unless otherwise determined by the Board and approved by the Commission for
32 automated reporting purposes, the monthly enrollment authorization described in
33 subsection (b) of this section is based on the unit of service authorized, as follows:
34
35 (1) A full-day unit of service is 6 to 12 hours of care provided within a 24-hour
36 period;
37
38 (2) A part-day unit of service is fewer than 6 hours of care provided within a 24-
39 hour period; and
40
41 (3) A blended-day unit of service is for a child enrolled in a school program, pre-
42 K, HS, or EHS in which child care is part-day with care provided occasionally
43 on a full-day basis.
44
45 (g) A Board or its child care contractor shall ensure that providers are not paid for
46 holding spaces open without a valid contracted slots agreement, as described in

1 §809.96 of this chapter.
2

- 3 (h) 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 (i) 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 the enrollment authorized under subsection (f) of this
9 section.
10
11 (j) Effective December 1, 2023, a Board shall pay regulated child care providers
12 prospectively every two weeks based on the enrollment authorization described in
13 subsection (b) of this section.
14
15

16 *The provisions of this §809.93 adopted to be effective January 29, 2007, 32 TexReg 336;*
17 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*
18 *2016, 41 TexReg 7529; amended to be effective August 1, 2018, 43 TexReg 4774; amended to*
19 *be effective July 6, 2020, 45 TexReg 4528; amended to be effective January 25, 2021, 46*
20 *TexReg 593; amended to be effective October 3, 2022, 47 TexReg 6437*
21

22 [Return to Table of Contents](#)
23

24 **§809.94. Providers Placed on Corrective or Adverse Action by Child Care Regulation.**
25

- 26 (a) For a provider placed on probation corrective action (probationary status) by CCR,
27 Boards shall ensure that:
28
29 (1) parents with children in Commission-funded child care are notified in writing
30 of the provider's probationary status no later than five business days after
31 receiving notification from the Agency of CCR's decision to place the provider
32 on probationary status; and
33
34 (2) no new referrals are made to the provider while on probationary status.
35
36 (b) A parent receiving notification of a provider's probationary status with CCR
37 pursuant to subsection (a) of this section may transfer the child to another eligible
38 provider without being subject to the Board transfer policies described in §809.71 of
39 this chapter if the parent requests the transfer within 14 calendar days of receiving
40 such notification.
41
42 (c) For a provider placed on probationary status by CCR, Boards shall ensure that the
43 provider is not reimbursed at the Boards' enhanced reimbursement rates described in
44 §809.20 while on probationary status.
45
46 (d) For a provider against whom CCR is taking adverse action, Boards shall ensure that:

- 1
2
3
4
5
6
7
8
9
10
11
12
13
- (1) parents with children enrolled in Commission-funded child care are notified no later than two business days after receiving notification from the Agency that CCR intends to take adverse action against the provider;
 - (2) children enrolled in Commission-funded child care with the provider are transferred to another eligible provider no later than five business days after receiving notification from the Agency that CCR intends to take adverse action against the provider; and
 - (3) no new referrals for Commission-funded child care are made to the provider while CCR is taking adverse action.

14 *The provisions of this §809.94 adopted to be effective June 22, 2009, 34 TexReg 4201;*
15 *amended to be effective October 1, 2016, 41 TexReg 7529; amended to be effective July 6,*
16 *2020, 45 TexReg 4528; amended to be effective October 3, 2022, 47 TexReg 6437*

17
18 [Return to Table of Contents](#)

19
20 **§809.95. Provider Automated Attendance Agreement.**

21
22 Boards shall notify providers of the following:

- 23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
- (1) The owner, director, assistant director, or other employees of child care providers shall not:
 - (A) possess, have on the premises, or otherwise have access to a parent's information to access the Agency's attendance system; or
 - (B) perform the attendance or absence reporting function on behalf of the parent;
 - (2) Providers shall report misuse of the Agency's automated attendance system to the Board or the Board's child care contractor;
 - (3) Providers shall report to the child care contractor authorized days that do not match the referral in the Agency's automated attendance system within five days of receiving the authorization. Failure to report the discrepancy may result in withholding payment to the provider; and
 - (4) Misuse of attendance reporting and violation of the requirements in this section are grounds for a potential fraud determination pursuant to Subchapter F of this chapter.

1
2 *The provisions of this §809.95 adopted to be effective January 8, 2013, 38 TexReg 155;*
3 *amended to be effective October 1, 2016, 41 TexReg 7529; amended to be effective October 3,*
4 *2022, 47 TexReg 6437*

5
6 [Return to Table of Contents](#)
7

8 **§809.96. Contracted Slots Agreements.**
9

- 10 (a) In this section, the term "contracted slots agreement" is defined as a Board entering
11 into a contract with a child care provider to reserve a specific number of places, or
12 slots, for children participating in the child care subsidy program. This contract shall:
13
14 (1) define the number of slots to be reserved by age group (infant, toddler,
15 preschool, or school-age); and
16
17 (2) meet the eligibility requirements as described in subsection (e) of this section.
18
19 (b) Boards may enter into a contracted slots agreement with providers that agree to
20 provide subsidized child care services to eligible children residing in the Board's
21 workforce area.
22
23 (c) A Board that enters into a contracted slots agreement shall include this strategy in
24 the Board Plan, as described in §809.12 of this chapter.
25
26 (d) Each contract between a Board and a provider must identify the number of places
27 (slots) to be reserved for children participating in the child care subsidy program.
28
29 (e) To be eligible for a contract, a child care provider must be a Texas Rising Star
30 Three-Star or Four-Star provider and meet one of the following priorities:
31
32 (1) Be located in:
33
34 (A) a child care desert; or
35
36 (B) an underserved area that has been identified by a Board as having an
37 inadequate supply of child care in accordance with the parameters
38 described in the CCDF State Plan.
39
40 (2) Have a recognized partnership with local school districts to provide pre-K
41 services;
42
43 (3) Have a recognized partnership with EHS or HS;
44
45 (4) Increase the number of places reserved for infants and toddlers by high-quality
46 child care providers; or

- 1
2 (5) Satisfy a priority identified in the Board's plan, as described in §809.12 of this
3 chapter.
4
- 5 (f) A Board that enters into a contracted slots agreement may continue payment for
6 reserved slots during times of transition between the time that one child leaves the
7 program and another child is placed in the slot. The period of continued payment
8 shall adhere to the Board's policy for contracted slots agreements and may not
9 exceed one month following the month of the vacancy.
10
- 11 (g) Except for children directly referred from recognized partnerships, as described in
12 §809.22 of this chapter, to fill open reserved slots, Boards shall contact families in
13 order of the Board's waiting list:
14
- 15 (1) that requested care in the ZIP code where the provider with the open reserved
16 slot is located; and
17
- 18 (2) whose child is in the age group for which a slot is available.
19
- 20 (h) In accordance with Commission guidelines, Boards that enter into contracted slots
21 agreements shall submit a report to the Commission within six months of entering
22 into a contract, determining the contract's effect on the:
23
- 24 (1) financial stability of providers participating in the contract;
25
- 26 (2) availability of high-quality child care options available to participants in the
27 Commission's subsidy program;
28
- 29 (3) number of high-quality providers in any part of the workforce area with a high
30 concentration of families that need child care;
31
- 32 (4) percentage of children participating in the Commission's subsidized child care
33 program at each Texas Rising Star provider in the workforce area; and
34
- 35 (5) additional information as requested by the Commission.
36
- 37 (i) A Board shall resubmit the report every 12 months from the due date of the Board's
38 initial report to the Commission.

1
2 *The provisions of this §809.96 adopted to be effective January 25, 2021, 46 TexReg 593;*
3 *amended to be effective October 3, 2022, 47 TexReg 6437*

4
5 [Return to Table of Contents](#)

6
7 **SUBCHAPTER F. FRAUD FACT-FINDING AND IMPROPER PAYMENTS**

8
9 **§809.111. General Fraud Fact-Finding Procedures.**

- 10
11 (a) This subchapter establishes authority for a Board to develop procedures for the
12 prevention of fraud by a parent, provider, or any other person in a position to commit
13 fraud consistent with fraud prevention provisions in the Agency -Board Agreement.
14
15 (b) In this subchapter, a person commits fraud if, to obtain or increase a benefit or other
16 payment, either for the person or another person, the person:
17
18 (1) makes a false statement or representation, knowing it to be false; or
19
20 (2) knowingly fails to disclose a material fact.
21
22 (c) A Board shall ensure that procedures for researching and fact-finding for possible
23 fraud are developed and implemented to deter and detect suspected fraud for child
24 care services in the workforce area.
25
26 (d) These procedures shall include provisions that suspected fraud is reported to the
27 Commission in accordance with Commission policies and procedures.
28
29 (e) Upon review of suspected fraud reports, the Commission may either accept the case
30 for investigation and action at the state level, or return the case to the Board or its
31 child care contractor for action including, but not limited to, the following:
32
33 (1) further fact-finding; or
34
35 (2) other corrective action as provided in this chapter or as may be appropriate.

- 1
2 (f) The Board shall ensure that a final fact-finding report is submitted to the
3 Commission after a case is returned to the Board or its child care contractor and all
4 feasible avenues of fact-finding and corrective actions have been exhausted.
5

6 *The provisions of this §809.111 adopted to be effective January 29, 2007, 32 TexReg 336;*
7 *amended to be effective October 1, 2016, 41 TexReg 7529*
8

9 [Return to Table of Contents](#)

10
11 **§809.112. Suspected Fraud.**
12

- 13 (a) A parent, provider, or any other person in a position to commit fraud may be
14 suspected of fraud if the person presents or causes to be presented to the Board or its
15 child care contractor one or more of the following items:
16
17 (1) A request for reimbursement in excess of the amount charged by the provider
18 for the child care; or
19
20 (2) A claim for child care services if evidence indicates that the person may have:
21
22 (A) known, or should have known, that child care services were not provided
23 as claimed;
24
25 (B) known, or should have known, that information provided is false or
26 fraudulent;
27
28 (C) received child care services during a period in which the parent or child
29 was not eligible for services;
30
31 (D) known, or should have known, that child care subsidies were provided to
32 a person not eligible to be a provider; or
33
34 (E) otherwise indicated that the person knew or should have known that the
35 actions were in violation of this chapter or state or federal statute or
36 regulations relating to child care services.
37
38 (b) The following parental actions may be grounds for suspected fraud and cause for
39 Boards to conduct fraud fact-finding or the Commission to initiate a fraud
40 investigation:
41
42 (1) Not reporting or falsely reporting at initial eligibility or at eligibility
43 redetermination:
44
45 (A) household composition, or income sources or amounts that would have
46 resulted in ineligibility or a higher parent share of cost; or

- 1
2 (B) work, training, or education hours that would have resulted in
3 ineligibility; or
4
5 (2) Not reporting during the 12-month eligibility period inclusive of the three-
6 month initial job search period, if applicable:
7
8 (A) changes in income or household composition that would cause the family
9 income to exceed 85 percent of SMI (taking into consideration
10 fluctuations of income); or
11
12 (B) a permanent loss of job or cessation of training or education that exceeds
13 three months; or
14
15 (C) improper or inaccurate reporting of attendance.
16

17 *The provisions of this §809.112 adopted to be effective January 29, 2007, 32 TexReg 336;*
18 *amended to be effective October 1, 2016, 41 TexReg 7529; amended to be effective October 3,*
19 *2022, 47 TexReg 6437*
20

21 [Return to Table of Contents](#)
22

23 **§809.113. Action to Prevent or Correct Suspected Fraud.**
24

- 25 (a) The Commission or Board may take the following actions pursuant to Commission
26 policy if the Commission or Board finds that a provider has committed fraud:
27
28 (1) Temporary withholding of payments to the provider for child care services
29 delivered;
30
31 (2) Nonpayment of child care services delivered;
32
33 (3) Recoupment of funds from the provider;
34
35 (4) Stop authorizing care at the provider's facility or location;
36
37 (5) Prohibiting future eligibility to provide Commission-funded child care
38 services; or
39
40 (6) Any other action consistent with the intent of the governing statutes or
41 regulations to investigate, prevent, or stop suspected fraud.
42
43 (b) The Commission or Board may take the following actions pursuant to Commission
44 policy if the Commission or Board finds that a parent has committed fraud:
45
46 (1) recouping funds from the parent;

- 1
2 (2) prohibiting future child care eligibility, provided that the prohibition does not
3 result in a Choices or SNAP E&T participant becoming ineligible for child
4 care;
5
6 (3) limiting the enrollment of the parent's child to a regulated child care provider;
7
8 (4) terminating care during the 12-month eligibility period if eligibility was
9 determined using fraudulent information provided by the parent; or
10
11 (5) any other action consistent with the intent of the governing statutes or
12 regulations to investigate, prevent, or stop suspected fraud.
13

14 *The provisions of this §809.113 adopted to be effective January 29, 2007, 32 TexReg 336;*
15 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*
16 *2016, 41 TexReg 7529*
17

18 [Return to Table of Contents](#)
19

20 **§809.114. Failure to Comply with Commission Rules and Board Policies.**
21

- 22 (a) The Board shall ensure that parents and providers comply with Commission rules.
23
24 (b) The Commission, Board or Board's child care contractor may consider failure by a
25 provider or parent to comply with this chapter as an act that may warrant corrective
26 and adverse action as detailed in §809.115 (relating to Corrective Adverse Actions).
27
28 (c) Failure by a provider or parent to comply with this chapter shall also be considered a
29 breach of contract, which may also result in corrective action as detailed in this
30 subchapter.
31

32 *The provisions of this §809.114 adopted to be effective January 29, 2007, 32 TexReg 336*
33

34 [Return to Table of Contents](#)
35

36 **§809.115. Corrective Adverse Actions.**
37

- 38 (a) When determining appropriate corrective actions, the Board or Board's child care
39 contractor shall consider:
40
41 (1) the scope of the violation;
42
43 (2) the severity of the violation; and
44
45 (3) the compliance history of the person or entity.
46

1 (b) Corrective actions for providers may include, but are not limited to, the following:
2

3 (1) Closing intake;
4

5 (2) Moving children to another provider selected by the parent;
6

7 (3) Withholding provider payments or reimbursement of costs incurred; and
8

9 (4) Recoupment of funds.
10

11 (c) When a provider violates a provision of Subchapter E of this chapter, a written
12 Service Improvement Agreement may be negotiated between the provider and the
13 Board or the Board's child care contractor. At the least, the Service Improvement
14 Agreement shall include the following:
15

16 (1) The basis for the Service Improvement Agreement;
17

18 (2) The steps required to reach compliance including, if applicable, technical
19 assistance;
20

21 (3) The time limits for implementing the improvements; and
22

23 (4) The consequences of noncompliance with the Service Improvement
24 Agreement.
25

26 (d) The Board shall develop policies and procedures to ensure that the Board or the
27 Board's child care contractor take corrective action consistent with subsections
28 (a) - (c) of this section against a provider when a provider performs the
29 attendance reporting function on behalf of a parent.
30

31 (e) The Board shall develop policies and procedures to require the Board's child care
32 contractor to take corrective action consistent with subsections (a) - (c) of this
33 section against a parent when a parent violates the Commission rules and
34 procedures related to attendance reporting.
35

36 *The provisions of this §809.115 adopted to be effective January 29, 2007, 32 TexReg 336;*
37 *amended to be effective January 8, 2013, 38 TexReg 155; amended to be effective October 1,*
38 *2016, 41 TexReg 7529; amended to be effective October 3, 2022, 47 TexReg 6437*
39

40 [Return to Table of Contents](#)
41

42 **§809.117. Recovery of Improper Payments to a Provider or Parent.**
43

44 (a) A Board shall attempt recovery of all improper payments as defined in §809.2.
45

- 1 (b) Recovery of improper payments shall be managed in accordance with Commission
2 policies and procedures.
3
- 4 (c) The provider shall repay improper payments for child care services received in the
5 following circumstances:
6
- 7 (1) Instances involving fraud;
 - 8
 - 9 (2) Instances in which the provider did not meet the provider eligibility
10 requirements in this chapter;
 - 11
 - 12 (3) Instances in which the provider was paid for the child care services from
13 another source;
 - 14
 - 15 (4) Instances in which the provider did not deliver the child care services;
 - 16
 - 17 (5) Instances in which referred children have been moved from one facility to
18 another without authorization from the child care contractor; and
19
 - 20 (6) Other instances when repayment is deemed an appropriate action.
 - 21
- 22 (d) A parent shall repay improper payments for child care only in the following
23 circumstances:
24
- 25 (1) Instances involving fraud as defined in this subchapter;
 - 26
 - 27 (2) Instances in which the parent has received child care services while awaiting
28 an appeal and the determination is affirmed by the hearing officer; or
29
 - 30 (3) Instances in which the parent fails to pay the parent share of cost and the
31 Board's policy is to pay the provider for the parent's failure to pay the parent
32 share of cost.
33
- 34 (e) A Board shall ensure that a parent subject to the repayment provisions in subsection
35 (d) of this section shall prohibit future child care eligibility until the repayment
36 amount is recovered, provided that the prohibition does not result in a Choices or
37 SNAP E&T participant becoming ineligible for child care.
38

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

41 [Return to Table of Contents](#)

42
43
44 **SUBCHAPTER G. TEXAS RISING STAR PROGRAM**

45
46 **§809.130. Short Title and Purpose.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

- (a) The rules contained in this subchapter may be cited as the Texas Rising Star Program rules.
- (b) The purpose of the Texas Rising Star Program rules is to interpret and implement Texas Government Code, §2308.3155, which requires the Commission to establish rules to administer the Texas Rising Star program, including guidelines for rating a child care provider for Texas Rising Star certification and designation of an Entry Level child care provider.
- (c) The Texas Rising Star Program rules identify the organizational structure and categories of, and the scoring factors that shall be included in, the Texas Rising Star guidelines.
- (d) The Texas Rising Star guidelines shall:
 - (1) describe measures for Texas Rising Star certification that contain, at a minimum, measures for child care providers regarding:
 - (A) director and staff qualifications and training;
 - (B) teacher-child interactions;
 - (C) program administration; and
 - (D) indoor/outdoor environments;
 - (2) specify measures that:
 - (A) must be met in order for a provider to be certified at each star level; and
 - (B) are observed and have points awarded through on-site assessments;
 - (3) specify the scoring methodology and scoring thresholds for each certified star level; and
 - (4) describe the high and medium-high CCR deficiencies points threshold pursuant to §809.131 of this chapter and the process for designating providers at the Entry Level.
- (e) The Texas Rising Star guidelines:
 - (1) shall be reviewed and updated by the Commission at a minimum of every four years in conjunction with the rule review of this chapter, conducted pursuant to Texas Government Code, §2001.039, and the Texas Rising Star guidelines review shall:

- 1
2 (A) consider input from stakeholders; and
3
4 (B) include at least one public hearing held prior to submitting the
5 stakeholder input to the Commission;
6
7 (2) shall be adopted by the Commission subject to the requirements of the Texas
8 Open Meetings Act; and
9
10 (3) may be reviewed and amended as determined necessary by the Commission in
11 accordance with the requirements of the Texas Open Meetings Act.
12

13 *The provisions of this §809.130 adopted to be effective February 16, 2015, 40 TexReg 708;*
14 *amended to be effective March 14, 2016, 41 TexReg 1975; amended to be effective January*
15 *25, 2021, 46 TexReg 593; amended to be effective October 3, 2022, 47 TexReg 6437*
16

17 [Return to Table of Contents](#)
18

19 **§809.131. Requirements for the Texas Rising Star Program.**
20

- 21 (a) A regulated child care provider is eligible for certification under the Texas Rising
22 Star program if the provider has a current agreement to serve Commission-
23 subsidized children and:
24
25 (1) has a permanent (nonexpiring) license or registration from CCR;
26
27 (2) has at least 12 months of licensing history with CCR, and is not on:
28
29 (A) corrective action with a Board pursuant to Subchapter F of this chapter;
30
31 (B) a "Notice of Freeze" with the Commission pursuant to Texas Labor
32 Code, Chapter 213 (Enforcement of the Texas Unemployment
33 Compensation Act) or Chapter 61 (Payment of Wages); or
34
35 (C) corrective or adverse action with CCR; and
36
37 (3) meets the criteria for star-level certification in the Texas Rising Star guidelines
38 pursuant to §809.130(d) of this subchapter.
39
40 (4) has at minimum, a center director account registered in the Texas Early
41 Childhood Professional Development System Workforce Registry; or
42
43 (5) is regulated by and in good standing with the United States Military.
44
45 (b) Regulated child care providers not meeting the Texas Rising Star certification
46 requirements described in this subchapter and established in the Texas Rising Star

1 guidelines shall be initially designated as Entry Level if the child care provider:

2
3 (1) is not on corrective or adverse action with CCR; and

4
5 (2) does not exceed the points threshold for high and medium-high CCR
6 deficiencies within the most recent 12-month period as established in the
7 guidelines.

8
9 (c) A provider initially meeting the requirements in subsection (b) of this section is
10 eligible for mentoring services through the Texas Rising Star program during the time
11 periods described in subsections (d) - (f) of this section.

12
13 (d) A provider shall be initially designated as Entry Level for no more than 24 months
14 unless approved for a waiver under subsection (f) of this section.

15
16 (e) An Entry Level provider will be reviewed for Texas Rising Star certification no later
17 than the end of the 12th month of the 24-month period. If an Entry Level provider is
18 not eligible for certification as Texas Rising Star by the end of the 18th month, the
19 provider shall not receive referrals for new families as an Entry Level provider, unless
20 the provider is located in a child care desert or serves an underserved population, and
21 is approved by the Agency to accept new family referrals.

22
23 (f) The Agency may approve a waiver to extend the time limit under subsection (d) of
24 this section if the provider is:

25
26 (1) located in a child care desert or serves an underserved population as
27 determined by the Agency;

28
29 (2) unable to meet the certification requirements due to a federal or state declared
30 emergency/disaster; or

31
32 (3) unable to meet the certification requirements due to conditions that the Agency
33 determines are outside the provider's control.

34
35 (g) Waivers approved under subsection (f) of this section shall not exceed a total of 36
36 months.

37
38 *The provisions of this §809.131 adopted to be effective February 16, 2015, 40 TexReg 708;*
39 *amended to be effective January 8, 2019, 44 TexReg 114; amended to be effective January*
40 *25, 2021, 46 TexReg 593; amended to be effective October 3, 2022, 47 TexReg 6437*

41
42 [Return to Table of Contents](#)

43
44 **§809.132. Impacts on Texas Rising Star Certification.**

45
46 (a) A Texas Rising Star-certified provider shall be placed on suspension status if the

1 provider:

- 2
- 3 (1) is placed on corrective action with a Board pursuant to Subchapter F of this
- 4 chapter;
- 5
- 6 (2) is under a "Notice of Freeze" with the Commission pursuant to Texas Labor
- 7 Code, Chapter 213 (Enforcement of the Texas Unemployment Compensation
- 8 Act) or Chapter 61 (Payment of Wages);
- 9
- 10 (3) is placed on corrective or adverse action by CCR
- 11
- 12 (4) had 15 or more total high or medium-high weighted licensing deficiencies
- 13 during the most recent 12-month licensing history;
- 14
- 15 (5) had more than four probationary impacts during its three-year certification
- 16 period;
- 17
- 18 (6) had a consecutive third probationary impact;
- 19
- 20 (7) is cited for specified CCR minimum standards regarding weapons and
- 21 ammunition; or
- 22
- 23 (8) is not meeting at least the Two-Star level due to noncompliance with Texas
- 24 Rising Star guidelines at the most recent assessment of certification.
- 25

26 (b) Texas Rising Star-certified providers with any of the specified "star level drop"

27 licensing deficiencies listed in the Texas Rising Star guidelines during the most

28 recent 12-month CCR licensing history shall be placed on a six-month Texas Rising

29 Star probationary period. Furthermore:

30

- 31 (1) reduction of one star level for each deficiency cited, so a Four-Star certified
- 32 provider is reduced to a Three-Star provider, a Three-Star provider is reduced
- 33 to a Two-Star provider; or
- 34
- 35 (2) a Two-Star provider is placed on suspension status.
- 36

37 (c) Texas Rising Star certified providers with any of the specified "probationary"

38 licensing deficiencies listed in the Texas Rising Star guidelines during the most

39 recent 12-month CCR licensing history shall be placed on a six-month Texas Rising

40 Star probationary period. Furthermore:

41

- 42 (1) Texas Rising Star providers on a six-month Texas Rising Star probationary
- 43 period that are cited by CCR for any additional specified probationary
- 44 deficiencies within the probationary period shall be placed on a second,
- 45 consecutive probation and lose a star level, with a Two-Star certified provider
- 46 being placed on suspension status;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

- (2) if CCR does not cite any additional specified probationary deficiencies during the probationary period, the provider can be removed from probation status; and
 - (3) if any additional specified probationary deficiencies are cited by CCR during the second probationary period, the Texas Rising Star provider shall be placed on suspension status.
- (d) Texas Rising Star-certified providers with 10 to 14 total high or medium-high weighted licensing deficiencies during the most recent 12-month CCR licensing history shall be placed on a six-month Texas Rising Star program probationary period. Furthermore:
- (1) Texas Rising Star-certified providers on a six-month probationary period that are cited by CCR within the probationary period for any additional high or medium-high weighted deficiencies shall be placed on a second, consecutive probation and lose a star level, with a Two-Star provider being placed on suspension status;
 - (2) if no additional high or medium-high weighted deficiencies are cited by CCR during the probationary period, the provider can be removed from probation status; and
 - (3) if any new high or medium-high weighted deficiencies--not to exceed 14 total deficiencies--are cited by CCR during the second six-month probationary period, a provider shall be placed on suspension status.
- (e) Certified providers not on suspension status losing a star level due to licensing deficiencies shall be reinstated at the former star level if no citations described in subsections (b) - (d) of this section occur within the six-month reduction time frame.
- (f) Certified providers in suspension status shall be eligible for a reassessment after six months following the suspension date, as long as no deficiencies described in subsections (b) - (d) of this section are cited during the previous six months.
- (g) Certified providers in suspension status shall achieve at least a Two-Star certification no later than 15 months following the suspension date. Failure to achieve at least a Two-Star certification within the 15-month period will result in the provider's ineligibility to provide child care services under this chapter.
- (h) Certified providers on suspension status:
- (1) shall be eligible to provide child care services under this chapter as long as the provider meets at least the Entry Level criteria described in §809.131(b) of this chapter;

- 1
- 2 (2) shall not be eligible for the enhanced reimbursement rate and shall be
- 3 reimbursed at the Board's Entry Level reimbursement rate; and
- 4
- 5 (3) the provider shall not be able to receive referrals from a new family during the
- 6 last six months of the 15-month period, unless the provider is located in a child
- 7 care desert or serves an underserved population, and is approved by the
- 8 Agency to accept new family referrals.
- 9
- 10 (i) Certified providers in suspension status that fail to achieve at least a Two-Star
- 11 certification by the end the 15-month suspension period:
- 12
- 13 (1) are not eligible to provide child care services under this chapter;
- 14
- 15 (2) are not eligible for the Entry Level designation time frame described in
- 16 §809.131(e) of this chapter;
- 17
- 18 (3) are not eligible for the extension waiver described in §809.131(f) of this
- 19 chapter; and
- 20
- 21 (4) must subsequently meet at least a Two-Star certification eligibility and
- 22 screening requirements to provide child care services under this subchapter.
- 23

24 *The provisions of this §809.132 adopted to be effective February 16, 2015, 40 TexReg 708;*
 25 *amended to be effective January 8, 2019, 44 TexReg 114; amended to be effective July 6,*
 26 *2020, 45 TexReg 4528; amended to be effective January 25, 2021, 46 TexReg 593; amended*
 27 *to be effective October 3, 2022, 47 TexReg 6437*

28
 29 [Return to Table of Contents](#)

30
 31 **§809.133. Application and Assessments for Texas Rising Star Certification.**

- 32
- 33 (a) Texas Rising Star certification applicants must complete:
- 34
- 35 (1) an orientation on the Texas Rising Star guidelines, including an overview of
- 36 the:
- 37
- 38 (A) Texas Rising Star program application process;
- 39
- 40 (B) Texas Rising Star program measures; and
- 41
- 42 (C) Texas Rising Star program assessment process;
- 43
- 44 (2) the creation of a continuous quality improvement plan; and
- 45
- 46 (3) a Texas Rising Star program self-assessment tool.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

- (b) The Agency's designated Texas Rising Star assessment entity shall ensure that:
 - (1) written acknowledgment of receipt of the application and self-assessment is sent to the provider;
 - (2) within 20 days of receipt of the application, the provider is sent an estimated time frame for scheduling the initial assessment;
 - (3) an assessment is conducted for any provider that meets the eligibility requirements in §809.131 of this subchapter and requests certification under the Texas Rising Star program; and
 - (4) Texas Rising Star certification is granted for any provider that is assessed and verified as meeting the Texas Rising Star provider certification criteria set forth in the Texas Rising Star guidelines.
- (c) The Agency's designated Texas Rising Star assessment entity shall ensure that Texas Rising Star certification assessments are conducted as follows:
 - (1) On-site assessment of 100 percent of the provider classrooms at the initial assessment for Texas Rising Star certification and at each scheduled recertification; and
 - (2) Recertification of all certified Texas Rising Star providers every three years.
- (d) The Agency's designated Texas Rising Star assessment entity shall ensure that certified Texas Rising Star providers are monitored on an annual basis and the monitoring includes:
 - (1) at least one unannounced on-site visit; and
 - (2) a review of the provider's licensing compliance as described in §809.132 of this chapter.
- (e) The Agency's designated Texas Rising Star assessment entity shall ensure compliance with the process and procedures in the Texas Rising Star guidelines for conducting assessments of nationally accredited child care facilities and child care facilities regulated by the United States Military.
- (f) The Agency's designated Texas Rising Star assessment entity shall ensure compliance with the process and procedures in the Texas Rising Star guidelines for conducting assessments of certified Texas Rising Star providers that have a change of ownership, move, or expand locations.
- (g) Boards shall ensure compliance with the process and procedures in the Texas Rising

1 Star guidelines for implementing and supporting a continuous quality improvement
2 framework.

- 3
4 (h) Boards shall be responsible for the tasks assigned to the Texas Rising Star assessor
5 entity in this subchapter, within their respective workforce areas, until the assessor
6 entity is procured and designated by the Agency.
7

8 *The provisions of this §809.133 adopted to be effective February 16, 2015, 40 TexReg 708;*
9 *amended to be effective January 25, 2021, 46 TexReg 593; amended to be effective October*
10 *3, 2022, 47 TexReg 6437*

11
12 [Return to Table of Contents](#)

13
14 **§809.134. Minimum Qualifications for Texas Rising Star Staff.**

- 15
16 (a) Boards and the Agency's designated Texas Rising Star assessment entity shall ensure
17 that Texas Rising Star staff:
18
19 (1) meets the background check requirement consistent with Chapter 745 of this
20 title; and
21
22 (2) completes the Texas Rising Star standards training, as described in the Texas
23 Rising Star guidelines.
24
25 (b) Boards shall ensure that Texas Rising Star mentor staff meets the minimum
26 requirements in subsections (c) - (f) of this section.
27
28 (c) Texas Rising Star mentor staff shall meet the minimum education requirements as
29 follows:
30
31 (1) Bachelor's degree from an accredited four-year college or university in early
32 childhood education, child development, special education, child psychology,
33 educational psychology, elementary education, or family consumer science;
34
35 (2) Bachelor's degree from an accredited four-year college or university with at
36 least 18 credit hours in early childhood education, child development, special
37 education, child psychology, educational psychology, elementary education, or
38 family consumer science with at least 12 credit hours in child development; or
39
40 (3) Associate's degree in early childhood education, child development, special
41 education, child psychology, educational psychology, elementary education, or
42 family consumer science, and two years of suitable experience in early
43 childhood education as determined by the Board.
44
45 (d) The Commission may grant a waiver of no more than two years to obtain the
46 minimum education requirements in subsection (c) of this section if a Board can

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

- 3
- 4 (e) Texas Rising Star mentor staff shall meet the minimum work experience
5 requirements of one year of full-time early childhood classroom experience in a child
6 care, EHS, HS, or pre-K through third-grade school program.
7
- 8 (f) All mentors must attain mentor microcredentialing, as described in the Texas Rising
9 Star Guidelines.
- 10
- 11 (g) The Agency's designated Texas Rising Star assessment entity shall ensure that Texas
12 Rising Star assessor staff shall attain and maintain the Texas Rising Star Assessor
13 Certification, as described in the Texas Rising Star Guidelines.
14

15 *The provisions of this §809.134 adopted to be effective February 16, 2015, 40 TexReg 708;*
16 *amended to be effective January 8, 2019, 44 TexReg 114; amended to be effective January*
17 *25, 2021, 46 TexReg 593; amended to be effective October 3, 2022, 47 TexReg 6437*
18

19 [Return to Table of Contents](#)

20

21 **§809.135. Texas Rising Star Process for Reconsideration.**

22

23 The Agency's designated Texas Rising Star assessment entity shall ensure a process for
24 reconsideration of facility assessment for Texas Rising Star certification. Texas Rising
25 Star assessments are not subject to Chapter 823 of this title (relating to Integrated
26 Complaints, Hearings, and Appeals).
27

28 *The provisions of this §809.135 adopted to be effective February 16, 2015, 40 TexReg 708;*
29 *amended to be effective October 3, 2022, 47 TexReg 6437*
30

31 [Return to Table of Contents](#)

32

33 **§809.136. Roles and Responsibilities of Texas Rising Star Staff.**

34

35 Boards and the Agency's designated Texas Rising Star assessment entity shall ensure that
36 Texas Rising Star staff members comply with their assigned responsibilities, as
37 applicable.
38

- 39 (1) A mentor is defined as a Board or Board contract staff member who helps
40 providers obtain, maintain, or achieve higher star levels of certification.
41
- 42 (2) An assessor is defined as a staff member or contractor of the Agency's
43 designated Texas Rising Star assessment entity who assesses and monitors
44 providers that obtain, maintain, and achieve higher levels of quality.
45
- 46 (3) Dual-role staff is defined as an individual meeting the definitions of a mentor

1 and assessor under this section.
2

- 3 (4) For dual-role staff, the Board and the Agency's designated Texas Rising Star
4 assessment entity shall ensure that the individual providing Texas Rising Star
5 mentoring services to a provider does not act as the assessor of that same
6 provider when determining Texas Rising Star certification.
7
- 8 (5) Texas Rising Star staff members are required to complete annual professional
9 development and continuing education consistent with the Texas Rising Star
10 annual minimum training hours requirement for a Texas Rising Star-certified
11 child care center director.
12
- 13 (6) Pursuant to Texas Family Code, §261.101, Texas Rising Star staff members
14 are mandated reporters when observing serious incidents as described in the
15 Texas Rising Star guidelines.
16

17 *The provisions of this §809.136 adopted to be effective January 25, 2021, 46 TexReg 593;*
18 *amended to be effective October 3, 2022, 47 TexReg 6437*
19

20 [Return to Table of Contents](#)
21