

1 **CHAPTER 809. CHILD CARE AND DEVELOPMENT**

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

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

- 9  
10 Subchapter B. General Management, §809.14 and §809.15  
11 Subchapter C. Requirements to Provide Child Care, §§809.41 - 809.44 and §809.48  
12 Subchapter K. Provider Reimbursement Rates, §809.221 and §809.231  
13

14 The Commission proposes the repeal of the following section of Chapter 809 relating to the  
15 Child Care and Development:

- 16 Subchapter C. Requirements to Provide Child Care, §809.49  
17

- 18  
19 PART I. PURPOSE, BACKGROUND, AND AUTHORITY  
20 PART II. EXPLANATION OF INDIVIDUAL PROVISIONS  
21 PART III. IMPACT STATEMENTS  
22 PART IV. COORDINATION ACTIVITIES  
23

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

25  
26 Purpose, Background, and Authority

27  
28 Subchapter C. Requirements to Provide Child Care

29  
30 The Commission proposes to repeal 40 TAC §809.49 relating to parent advisory groups. Among  
31 other changes, HB 2961 repealed Texas Human Resources Code §44.002(c), which required  
32 licensed child care centers to have a parent advisory committee if more than 30 percent of a  
33 center's licensed capacity was purchased through the child care subsidy system. The repeal  
34 became effective immediately upon signature of the Governor on May 27, 2005. As a result of  
35 the repeal, Commission rule §809.49, which requires licensed child care centers to have a Parent  
36 Advisory Group, is no longer necessary.  
37

38 Subchapter B. General Management and Subchapter K. Provider Reimbursement Rates

39  
40 The Commission proposes to amend 40 TAC §809.14 and §809.15, relating to promoting  
41 consumer education and other quality improvement activities, respectively, in order to describe  
42 the allowable consumer education and other quality improvement activities that Local Workforce  
43 Development Boards (Boards) may fund with Commission child care funds. The Commission  
44 also proposes to amend 40 TAC §809.231, relating to provider reimbursement rates, in order to  
45 include providers participating in certain school readiness models as eligible to receive a higher

1 graduated reimbursement rate for the provision of direct child care services consistent with  
2 recent actions by the 79th Texas Legislature (2005).

3  
4 The federal Child Care and Development Fund (CCDF) statute (42 U.S.C. §9858(e)) requires  
5 that at least four percent of the funds each state receives be expended on allowable quality  
6 activities as set forth in the CCDF regulations (45 C.F.R. §98.51(a)). These quality activities  
7 include:

- 8  
9 --providing comprehensive consumer education to parents and the public;  
10 --increasing parental choice; and  
11 --improving the quality and availability of child care.

12  
13 Until September 1, 2001, the Commission passed down the federal requirement for quality  
14 expenditures to each Local Workforce Development Board (Board). At that time, Commission  
15 rule §800.58 required that each Board use at least four percent of its total annual child care  
16 expenditures on quality activities. The intent of the rule was to ensure that the state would meet  
17 the federal four percent quality set-aside.

18  
19 In 2001, the Legislature determined that much of the state's four percent quality expenditure  
20 requirement could be met through the child care licensing and monitoring activities conducted by  
21 the Texas Department of Family and Protective Services (DFPS), and appropriated CCDF  
22 dollars to DFPS for licensing and monitoring activities. This action signaled a strategic shift in  
23 responsibility for fulfilling the federal quality requirements from the Commission--whose  
24 subsidized child care activities typically are limited to about 12 percent of the total regulated  
25 child care market--to DFPS--whose licensing and monitoring activities affect the entire range of  
26 the regulated child care market. Since State Fiscal Year 2002 (SFY'02), the Legislature has  
27 continued to appropriate CCDF dollars to DFPS, and the state has relied primarily on those  
28 expenditures to meet the federal four percent quality requirement.

29  
30 As a result of the Legislature's decision to rely primarily on DFPS licensing and monitoring  
31 activities to meet the federal quality requirement, the Commission's quality performance  
32 measures relating to professional development training and Texas Rising Star Provider (TRS)  
33 certification were reduced and eventually eliminated by the Legislature.

34  
35 Based on the funding appropriated by the Legislature for each year beginning with SFY'02, and  
36 the corresponding annual targets for average number of children served per day assigned by the  
37 Legislative Budget Board, the Commission and the Boards have had to use the preponderance of  
38 CCDF funds appropriated to the Agency, including the quality earmarked funds, for direct child  
39 care subsidies. The Boards have also continued to fund direct quality child care through higher  
40 reimbursement rates for TRS providers. The Legislature clearly intended that the Commission  
41 focus on providing direct subsidized child care as a support service for parents who are  
42 transitioning from welfare or who are at risk of becoming dependent on welfare, consistent with  
43 the federal direction at CCDF's creation in 1996. Only minimal amounts of child care funds  
44 have been available each year at the state and local levels for nondirect quality child care  
45 services.

1 To the extent that funds are available in excess of those required to meet legislative performance  
2 targets for direct child care services, the Legislature enacted several laws in 2003 and 2005 that  
3 focus those quality expenditures on certain activities that prepare children for school. Senate Bill  
4 (SB) 280, enacted by the 78th Texas Legislature, Regular Session (2003), amended Chapter 2308  
5 of the Texas Government Code by adding §2308.319, which encourages Boards to use local  
6 funds for collaborative reading initiatives.  
7

8 Also in 2003, the Legislature enacted SB 76, amending Chapter 29 of the Texas Education Code  
9 to encourage the coordination and integration of early childhood development and child care  
10 programs and the creation of a school readiness rating system. The law charges the State Center  
11 for Early Childhood Development (State Center) with establishing pilot sites where child care,  
12 prekindergarten, and Head Start entities may coordinate and share information, facilities, and  
13 resources. It also charged the State Center with designing a school readiness rating system that  
14 determines whether an early childhood program is preparing children for kindergarten. As a  
15 result of SB 76, the State Center established 11 Texas Early Education Model (TEEM) pilot sites  
16 across the state. In 2005, the Legislature increased funding for the State Center and expanded  
17 the TEEM pilots.  
18

19 Article IX, Rider 14.36 of the General Appropriations Act, 79<sup>th</sup> Legislature (2005), states:  
20

21 Out of funds appropriated to the Texas Workforce Commission in Strategies A.3.1, TANF  
22 Choices Child Care; A.3.2, Transitional Child Care; and A.3.3, At-risk Child Care, up to \$50  
23 million for the biennium shall be made available to child care providers participating in  
24 integrated school readiness models developed by the State Center for Early Childhood  
25 Development at the University of Texas Health Science Center. This initiative shall be  
26 implemented in a way to avoid any decline in the number of children receiving child care  
27 during the 2006-07 biennium.  
28

29 These legislative actions provide a framework for the legislative emphasis on preparing children  
30 for school.  
31

32 Texas Government Code §531.0312 designates the Texas Information and Referral Network/2-1-  
33 1 Texas (2-1-1 Texas) operated by the Texas Health and Human Services Commission (HHSC)  
34 as the single point of coordination for statewide information and referral services. Because 2-1-1  
35 Texas is the state's designated entity for information and referral services, the Commission  
36 contracts with HHSC to provide comprehensive child care information and referral services to  
37 parents and the general public through 2-1-1 Texas.  
38

39 Additionally, the 79th Texas Legislature, Regular Session (2005), enacted HB 2048, which  
40 requires HHSC to expand its 2-1-1 Texas Web site to include information on all available public  
41 and private child care and early education services in order to provide the public with an  
42 accessible online statewide database. HB 2048 amends §531.0312 of the Texas Government  
43 Code to require Boards, independent school districts, and the Texas Head Start Collaboration  
44 Office to provide 2-1-1 Texas with eligibility and availability information on their respective  
45 services.  
46

1 Therefore, based on the actions of the Legislature, the Commission proposes to amend §809.15,  
2 relating to quality improvement activities, to provide that, to the extent that funds are available  
3 for quality improvement activities, the Boards may fund quality improvement activities designed  
4 to promote collaborative reading initiatives; school readiness, early learning and literacy; and  
5 support for child care consumer education through 2-1-1 Texas. The Commission also proposes  
6 to amend §809.14, relating to consumer education, to include provisions relating to recent  
7 actions of the 79th Texas Legislature regarding the Texas Information and Referral System and  
8 the 2-1-1 Texas system, as well as to provide consumer education relating to school readiness  
9 and early learning. Further, the Commission proposes to amend §809.231 in order to include  
10 child care providers participating in the State Center's school readiness models in the  
11 Commission's tiered reimbursement rates.

## 12 13 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

14  
15 **(Note: Minor editorial changes are made throughout Chapter 809, Subchapters B, C, and**  
16 **K, that do not change the meaning of the rules and, therefore, are not discussed in the**  
17 **Explanation of Individual Provisions.)**

### 18 19 **SUBCHAPTER C. REQUIREMENTS TO PROVIDE CHILD CARE**

#### 20 21 **§809.49. Provider Advisory Groups**

22  
23 The Commission proposes to repeal §809.49 requiring licensed child care centers to establish a  
24 Parent Advisory Group, as previously provided in §44.002(c) of the Texas Human Resources  
25 Code. HB 2961 repealed §44.002 of the Texas Human Resources Code, thereby removing the  
26 statutory requirement for parent advisory committees.

### 27 28 **SUBCHAPTER B. GENERAL MANAGEMENT**

#### 29 30 **§809.14. Promoting Consumer Education**

31  
32 As provided by 42 U.S.C §9858(e) and further delineated in 45 C.F.R. §98.33(a), the  
33 Commission is required to certify that it collects and disseminates to parents and the general  
34 public consumer education information that promotes informed child care choices by parents. At  
35 a minimum, this information shall include information about the full range of child care  
36 providers available and health and safety requirements. Since December 2003, the Commission  
37 has contracted with HHSC to provide comprehensive child care information and referral services  
38 to parents and the general public through the statewide 2-1-1 Texas system. The proposed  
39 amendments to §809.14 are designed to enhance the 2-1-1 Texas system relating to child care by  
40 requiring Boards to refer parents--including those who are not eligible or are no longer eligible  
41 for subsidized child care--to the 2-1-1 Texas system for child care information. The proposed  
42 rules also require Boards to include information concerning child care programs designed to  
43 improve school readiness, early learning, and literacy as part of the Boards' consumer education  
44 information.

45  
46 The Commission proposes to amend §809.14(a) to require Boards to provide consumer  
47 education information to parents who are eligible for Commission-funded child care services;

1 parents who are placed on a Board's waiting list; parents who are no longer eligible for  
2 Commission-funded child care services; and applicants who are not eligible for Commission-  
3 funded child care services. The Commission proposes this provision in order to ensure that the  
4 Boards' child care consumer education is provided to as broad a population as possible.  
5 Additionally, the Commission believes that the requirement to provide consumer education  
6 information to parents no longer eligible for Commission-funded child care services further  
7 reinforces the requirements of §302.0046(b) of the Texas Labor Code and §809.72(6)(A) of this  
8 chapter, which require Boards to provide information regarding other child care services to  
9 parents whose children have been removed from care in order to serve a child in a priority group.

10  
11 The Commission proposes to amend §809.14(b) to describe what the consumer education  
12 information shall contain. Proposed §809.14(b)(1) states that the consumer information shall  
13 include information about the Texas Information and Referral Network/2-1-1 Texas information  
14 and referral system. This requirement is consistent with recent legislative direction that child  
15 care information and referral be provided by 2-1-1 Texas.

16  
17 Proposed §809.14(b)(2) states that the consumer education information shall also contain the  
18 Web site and telephone number of the Texas Department of Family and Protective Services  
19 (DFPS), so parents may obtain health and safety requirements, including information on the  
20 prevention and control of infectious diseases (including immunizations), building and physical  
21 premises safety, minimum health and safety training appropriate to the provider setting, and the  
22 regulatory compliance history of child care providers. Because DFPS is the designated entity for  
23 the State of Texas to regulate child care providers, the Commission proposes that the consumer  
24 information shall direct parents to the DFPS Web site and phone number to obtain this  
25 information. The Agency has reviewed the DFPS Web site and has determined that it contains  
26 the information required by federal child care regulations regarding health and safety. Although  
27 not required by the proposed rules, the Commission encourages Boards to review periodically  
28 the information provided on the DFPS Web site and provide printed material from the Web site  
29 to parents.

30  
31 Proposed §809.14(b)(3) requires that the consumer education information provide a description  
32 of the full range of eligible child care providers set forth in §809.41 of this chapter, including the  
33 option for parents to choose self-arranged care. The Commission includes this in order to  
34 implement the federal child care requirement in 45 C.F.R. 98.33(a), which states that parents be  
35 provided information on the full range of providers available to them.

36  
37 Proposed §809.14(b)(4) requires that the consumer education information also include a  
38 description of programs available in the local workforce development area (workforce area)  
39 relating to school readiness and quality rating systems, including the school readiness models  
40 developed by the State Center, and the TRS criteria. The Commission includes this provision in  
41 order to emphasize the direction of the Legislature, particularly Article IX, Rider 14.36 of the  
42 2005 General Appropriations Act, relating to school readiness, early learning, and literacy. The  
43 Commission proposes to include a description of the TRS criteria because the TRS system is  
44 provided for in state law pursuant to Texas Government Code §2308.315.

1 Finally, the Commission proposes §809.14(c) requiring Boards to cooperate with the Texas  
2 Health and Human Services Commission to provide 2-1-1 Texas with information, as determined  
3 by HHSC, for inclusion in the 2-1-1 Texas statewide information and referral network. The  
4 Commission proposes this in order to implement the provisions of HB 2048 enacted by the 79th  
5 Texas Legislature (2005), which amends §531.0312 of the Texas Government Code to require  
6 Boards to provide 2-1-1 Texas with eligibility and availability information on their respective  
7 services.

8  
9 **§809.15. Quality Improvement Activities**

10  
11 The Commission proposes to amend §809.15, relating to quality improvement activities, in order  
12 to align the allowable quality child care activities with the legislative direction relating to  
13 collaborative reading initiatives; school readiness, early learning, and literacy; and support for 2-  
14 1-1 Texas. Proposed §809.15(a) states that local public transferred funds and local private  
15 donated funds, as well as child care funds allocated to the Boards under Chapter 800, Subchapter  
16 B of this title (including the CCDF quality earmarked funds), to the extent used for nondirect  
17 care quality activities, may only be used for:

- 18  
19 --collaborative reading initiatives;  
20 --school readiness, early learning, and literacy; and  
21 --local-level support to promote child care consumer education provided by 2-1-1 Texas.  
22

23 During the rule development process, several Boards requested clarification from the  
24 Commission concerning the types of activities that may be funded to support collaborative  
25 reading, school readiness, early learning, and literacy. The Boards noted that professional  
26 development and training, as well as the purchase of resource materials and curriculum for  
27 professional development, are key components in providing early learning and literacy activities  
28 for children. Therefore, the Commission proposes §809.15(b) to allow professional development  
29 and training for child care providers as well as the purchase of curriculum and curriculum-related  
30 resources, provided that the professional development and training and curriculum and related  
31 resources are designed to support collaborative reading initiatives, school readiness, early  
32 learning, and literacy.  
33

34 In order to provide additional guidance to the Boards, the Commission offers the following  
35 guidelines and examples of the types of activities that may be funded to support the allowable  
36 quality initiatives. It is the Commission's intention that Boards be allowed to expend quality  
37 dollars for professional development and training using research-based curriculum as well as the  
38 purchase of resource materials that support a print-rich environment designed to aid in the early  
39 learning and literacy development of children. Activities to support collaborative reading  
40 initiatives, school readiness, early learning, and literacy may also include:

- 41  
42 --professional development relating to early learning workshops;  
43 --CIRCLE Train the Trainer training;  
44 --literacy kits for child care providers;  
45 --school readiness, early learning, and literacy awareness campaigns;  
46 --scholarships for college courses relating to early reading, literacy, and school readiness; and

1 --training using research-based curriculum approved by the State Board of Education, Texas  
2 Education Agency, or recognized by the State Center.  
3

4 It is not the intention of the Commission that Boards use quality dollars to purchase classroom  
5 consumable materials such as pencils, crayons, or art supplies. While the Commission  
6 recognizes that these materials are a supporting element that aid in a child's progress toward  
7 school readiness, the Commission believes that quality dollars should be targeted toward  
8 building the infrastructure necessary to provide early education professionals with the training,  
9 curriculum, and resources needed to promote school readiness, early learning, and literacy.  
10

11 During the rule development process, several Boards expressed concern that the focus on school  
12 readiness, early learning, and literacy would lead Boards to direct quality dollars toward  
13 preschool children and away from infants and toddlers. The Commission emphasizes that  
14 Boards are not limited to funding quality activities only for preschool. The Commission believes  
15 that the proposed rules provide Boards with the flexibility to fund early learning and literacy  
16 activities for all age groups, including infants and toddlers.  
17

18 The proposed §809.15(c) allows Boards to give priority in funding allowable nondirect child care  
19 quality activities to providers participating in or voluntarily pursuing participation in the  
20 integrated school readiness models developed by the State Center, and TRS Provider  
21 certification. The Commission includes proposed §809.15(c), relating to providers participating  
22 in, or wishing to participate in, the TEEM school readiness models and TRS Provider  
23 certification, in order to address concerns by the Boards that they will not be able to continue to  
24 provide appropriate professional development activities designed to promote the TEEM models  
25 or TRS certification. The Commission includes proposed §809.15(c) to encourage Boards to  
26 provide professional development training--as the training relates to school readiness, early  
27 learning, and literacy--to TRS providers and providers participating in the TEEM school  
28 readiness models.  
29

30 Proposed §809.15(d) states that expenditures certified by a public entity may include  
31 expenditures for any quality improvement activity described in 45 C.F.R. §98.51. The  
32 Commission proposes this subsection to allow public entities and the Boards the flexibility to use  
33 the maximum amount of public expenditures allowed under federal regulations.  
34

35 The Commission proposes to remove current §809.15(a) requiring Boards to ensure that  
36 providers receive orientation, technical assistance, and ongoing training to improve the quality of  
37 child care. The Legislative Budget Board has eliminated the Commission's quality performance  
38 measure relating to professional development training; therefore, the Commission finds this  
39 requirement is no longer necessary in Commission rules.  
40

41 The Commission also proposes to remove current §809.15(b) requiring that Boards recognize  
42 TRS providers. However, the Commission clarifies that Boards are not prohibited from  
43 providing professional development and training to TRS providers. As mentioned previously,  
44 the Commission includes provisions in §809.15(b) and §809.15(c)(2) in order to include  
45 professional development training to TRS providers.  
46

1 The Commission further proposes to remove current §809.15(c) requiring Boards to provide  
2 quality activities described in 45 C.F.R. §98.51 (with the exception of providing loans). This  
3 provision is removed in order to emphasize that child care funds, to the extent used for quality  
4 child care activities, shall be directed at activities described in proposed §809.15(a).

5  
6 Finally, the Commission proposes to remove current §809.15(d), which allows Boards to  
7 establish other voluntary criteria for improving quality. The Commission removes this provision  
8 to emphasize that child care funds, to the extent used for quality child care activities, shall be  
9 directed at activities described in proposed §809.15(a).

## 10 11 12 **SUBCHAPTER K. PROVIDER REIMBURSEMENT RATES**

### 13 14 **§809.231. Provider Reimbursement Rates**

15  
16 The Commission proposes to amend §809.231(d) to require Boards to establish graduated  
17 reimbursement rates for child care providers participating in integrated school readiness models  
18 developed by the State Center. The Commission proposes this amendment to implement the  
19 direction of the Legislature as provided by Article IX, Rider 14.36 of the General Appropriations  
20 Act, 79<sup>th</sup> Legislature (2005), which requires the Commission to make available up to \$50 million  
21 in the 2006-07 biennium to child care providers participating in State Center school readiness  
22 models. By making more funds available, through higher reimbursement rates, to providers  
23 participating in the school readiness models, the Commission will be in a position to demonstrate  
24 its intention to implement the intent of Article IX, Rider 14.36, as required by the Legislature.  
25 The Commission also emphasizes that graduated reimbursement rates for TRS providers shall  
26 remain a direct care quality expenditure, as directed by Texas Government Code §2308.315.

27  
28 The Commission proposes to amend §809.231(e) to provide that the minimum reimbursement  
29 rates established under §809.231(d) shall be at least five percent greater than the maximum rate  
30 established for providers not meeting the requirements of §809.231(d) for the same category of  
31 care up to, but not to exceed, the provider's published rate.

32  
33 Finally, the Commission proposes to remove current §809.231(g), which allows Boards to  
34 provide incentives to providers to recognize other quality criteria in addition to those in  
35 §809.231(d). The Commission removes this provision to limit the use of graduated  
36 reimbursement rates to those programs recognized by state statute, such as programs  
37 participating in the integrated school readiness models (as provided in Article IX, Rider 14.36 of  
38 the General Appropriations Act, 79<sup>th</sup> Legislature); and the TRS providers (as provided in Texas  
39 Government Code §2308.315). The Commission emphasizes that it is not removing the ability  
40 of Boards to provide incentives to providers that voluntarily meet or attempt to meet quality  
41 criteria. The Commission believes that proposed §809.15(b), which allows Boards to provide  
42 professional development and to purchase curriculum resources--as well as proposed §809.15(c),  
43 which allows Boards to prioritize nondirect quality funds for providers participating in or  
44 pursuing participation in school readiness models and TRS certification pursuant to Texas  
45 Government Code §2308.316--provide the Boards the opportunity to focus incentives on quality  
46 programs recognized by the Texas Legislature.



1  
2  
3 **PART III. IMPACT STATEMENTS**  
4

5 Randy Townsend, Chief Financial Officer, has determined that for each year of the first five  
6 years the rules will be in effect, the following statements will apply:  
7

8 There are no additional estimated costs to the state and to local governments expected as a result  
9 of enforcing or administering the rules. There are no estimated reductions in costs to the state  
10 and to local governments as a result of enforcing or administering the rules. There are no  
11 estimated increases or reductions in revenue to the state and to local governments as a result of  
12 enforcing or administering the rules.  
13

14 Mr. Townsend has determined that enforcing or administering the rules does not have  
15 foreseeable implications relating to the cost or revenue of the state or local governments.  
16

17 Mr. Townsend has determined that there are no anticipated economic costs to persons required to  
18 comply with the rules.  
19

20 Mr. Townsend made these determinations based on the following:  
21

22 --Promoting consumer education has long been required in federal regulations, state statute, and  
23 Commission rules. The proposed rule amendments to require Boards to refer parents to 2-  
24 1-1 Texas for child care information; provide consumer education materials and  
25 information regarding programs in the workforce area relating to school readiness and  
26 quality rating systems; and cooperate with the Texas Health and Human Services  
27 Commission to provide appropriate information to the 2-1-1 Texas system do not indicate  
28 any increase in costs from current requirements.  
29

30 --Aligning allowable quality child care activities with legislative direction relating to  
31 collaborative reading initiatives; school readiness, early learning and literacy; and support  
32 for Texas 2-1-1 does not indicate any increase in costs from current requirements.  
33

34 --Requiring Boards to establish graduated reimbursement rates for child care providers  
35 participating in integrated school readiness models developed by the State Center does not  
36 indicate any increase in costs from current requirements.  
37

38 Mr. Townsend also has determined that there is no anticipated adverse economic impact on small  
39 or microbusinesses as a result of enforcing or administering these rules because they are not  
40 regulated by this rule.  
41

42 Mark Hughes, Director, Labor Market Information, has determined that there is no significant  
43 negative impact upon employment conditions in this state as a result of the proposed rules. Mr.  
44 Hughes does not expect any significant impact upon overall employment conditions in the state  
45 as a result of the proposed rules.  
46

1 Luis M. Macias, Director, Workforce Development Division, has determined that the public  
2 benefit anticipated as a result of enforcing the proposed rules will be to ensure that child care  
3 funds are used primarily for direct child care services and, to the extent funds are available, to  
4 ensure that quality improvement activities are focused on school readiness, consumer education  
5 using 2-1-1 Texas, and graduated reimbursement rates for providers participating in school  
6 readiness models and TRS providers.  
7

#### 8 **PART IV. COORDINATION ACTIVITIES**

9

10 In the development of these rules for publication and public comment, the Commission sought  
11 the involvement of Texas' 28 Boards. The Commission provided the concept paper regarding  
12 these rule amendments to the Boards for consideration and review. The Commission also  
13 conducted conference calls with Board executive directors and Board staff on September 30,  
14 2005, and October 14, 2005, to discuss the concept paper. During the rulemaking process, the  
15 Commission considered all information gathered in order to develop rules that provide clear and  
16 concise direction to all parties involved.  
17

18 Comments on the proposed rules may be submitted to TWC Policy Comments, Policy and  
19 Development, 101 East 15<sup>th</sup> Street, Room 440T, Austin, Texas 78778; faxed to 512-475-3577; or  
20 e-mailed to TWCPolicyComments@twc.state.tx.us. The Commission must receive comments  
21 postmarked no later than 30 days from the date this proposal is published in the *Texas Register*.  
22

23 The rules are proposed under Texas Labor Code §301.0015 and §302.002(d), which provide the  
24 Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for  
25 the effective administration of Agency services and activities, and the Texas Human Resources  
26 Code §44.002, regarding Administrative Rules.  
27

28 The proposed rules will affect Texas Labor Code, Title 4, particularly Chapters 301 and 302, as  
29 well as Texas Government Code, Chapter 2308.  
30



1 Board shall also submit any modifications, amendments, or new policies to the  
2 Commission no later than two weeks after adoption of the policy by the Board.  
3

- 4 (c) Coordinating Planning and Policies. A Board shall coordinate with federal, state and  
5 local child care and early development programs and representatives of local  
6 governments in developing its integrated plan and policies for the design and  
7 management of the delivery of child care services, and shall maintain written  
8 documentation of coordination efforts.  
9

10 **§809.13. Ensuring Parent Choice.**  
11

12 A Board shall ensure parental choice by recruiting, training, and maintaining a sufficient  
13 number of providers to offer parents a full range of categories of care and types of  
14 providers of child care.  
15

16 **§809.14. Promoting Consumer Education.**  
17

18 (a) A Board shall promote informed child care choices by providing consumer education  
19 information to:  
20

21 (1) parents who are eligible for Commission-funded child care services;  
22

23 (2) parents who are placed on a Board's waiting list;  
24

25 (3) parents who are no longer eligible for Commission-funded child care services;  
26 and  
27

28 (4) applicants who are not eligible for Commission-funded child care services.  
29

30 (b) The consumer education information shall contain, at a minimum;  
31

32 (1) information about the Texas Information and Referral Network/2-1-1 Texas  
33 information and referral system;  
34

35 (2) the Web site and telephone number of the Texas Department of Family and  
36 Protective Services (DFPS), so parents may obtain health and safety  
37 requirements including information on:  
38

39 (A) the prevention and control of infectious diseases (including  
40 immunizations);  
41

42 (B) building and physical premises safety;  
43

44 (C) minimum health and safety training appropriate to the provider setting;  
45 and  
46

1 (D) the regulatory compliance history of child care providers;

2  
3 (3) a description of the full range of eligible child care providers set forth in  
4 §809.41 of this chapter; and

5  
6 (4) a description of programs available in the local workforce development area  
7 relating to school readiness and quality rating systems, including the:

8  
9 (A) school readiness models developed by the State Center for Early  
10 Childhood Development at the University of Texas Health Science Center;  
11 and

12  
13 (B) the Texas Rising Star Provider criteria.

14  
15 (c) A Board shall cooperate with the Texas Health and Human Services Commission  
16 (HHSC) to provide the Texas Information and Referral Network/2-1-1 Texas with  
17 information, as determined by HHSC, for inclusion in the statewide information and  
18 referral network.

19  
20 ~~(a) A Board shall make available to parents a consumer guide to child care providers who have~~  
21 ~~Provider Agreements to provide Commission funded child care in the local workforce~~  
22 ~~development area and shall represent the name, address, and phone number of each provider~~  
23 ~~and shall represent whether each provider:~~

24  
25 ~~(1) is licensed by or registered with the Texas Department of Protective and Regulatory~~  
26 ~~Services;~~

27 ~~(2) has met the Texas Rising Star criteria (formerly known as the Designated Vendor~~  
28 ~~criteria) as established by the Commission;~~

29 ~~(3) has submitted proof of general liability insurance; and~~

30 ~~(4) has submitted proof of appropriate commercial transportation insurance.~~

31  
32 ~~(b) The consumer guide shall set forth the requirements to be licensed and registered with the~~  
33 ~~Texas Department of Protective and Regulatory Services as set forth in Texas Human~~  
34 ~~Resources Code, Chapter 42 and applicable administrative rules and a description of the~~  
35 ~~types of facilities or homes, which may be licensed or registered including, but not limited to,~~  
36 ~~the following: day care centers, group day care homes, and family homes.~~

37  
38 ~~(c) A Board shall ensure that the consumer guide also includes the telephone number of the~~  
39 ~~Texas Department of Protective and Regulatory Services or applicable regulating agency, so~~  
40 ~~parents may obtain or verify the information regarding the providers and check compliance~~  
41 ~~history.~~

42  
43 ~~(d) The consumer guide may include additional information including, but not limited to, the~~  
44 ~~following:~~

45  
46 ~~(1) information the Board determines would assist parents in choosing a provider; and~~

1 ~~(2) information as established by the Commission.~~

2  
3 **§809.15. Quality Improvement Activities.**

4  
5 (a) Local public transferred funds and local private donated funds, as provided in  
6 §809.20 of this subchapter, as well as child care funds allocated to the Boards in  
7 Chapter 800, Subchapter B of this title, to the extent used for nondirect care quality  
8 improvement activities, shall only be used for the following:

9  
10 (1) Collaborative reading initiatives

11  
12 (2) School readiness, early learning, and literacy

13  
14 (3) Local-level support to promote child care consumer education provided by  
15 2-1-1 Texas

16 ~~(a) A Board shall ensure that providers receive orientation, technical assistance, and ongoing~~  
17 ~~training to improve the quality of child care.~~

18  
19 (b) Allowable activities may include the following to support the quality improvement  
20 activities described in subsection (a) of this section:

21  
22 (1) Professional development and training for child care providers

23  
24 (2) Purchase of curriculum and curriculum-related support resources for child care  
25 providers

26  
27 ~~(b) A Board shall ensure that the quality of child care is improved by recognizing providers who~~  
28 ~~voluntarily exceed the minimum regulatory standards set by the Texas Department of~~  
29 ~~Protective and Regulatory Services by using the Texas Rising Star Provider criteria (formerly~~  
30 ~~known as the Designated Vendor criteria) as established by the Commission.~~

31  
32 (c) In funding quality activities allowable under this section, a Board may give priority  
33 to providers participating in or voluntarily pursuing participation in:

34  
35 (1) the integrated school readiness models developed by the State Center for Early  
36 Childhood Development at the University of Texas Health Science Center; and

37  
38 (2) Texas Rising Star Provider certification, pursuant to Texas Government Code  
39 §2308.316.

40  
41 ~~(c) A Board shall ensure that the quality of child care is improved by using quality~~  
42 ~~improvement activities including, but not limited to, the activities described in 45~~  
43 ~~Code of Federal Regulations §98.51, except the Boards may not provide loans.~~

1 (d) Expenditures certified by a public entity, as provided in §809.20 of this subchapter,  
2 may include expenditures for any quality improvement activity described in 45  
3 C.F.R. §98.51.

4  
5 ~~(d) In addition to the Texas Rising Star Provider criteria, a Board may establish other voluntary~~  
6 ~~criteria for improving quality and recognize providers that meet or exceed the voluntary~~  
7 ~~standards for quality.~~

8  
9 ~~(1) The quality improvement criteria may include, but are not limited to one or more of the~~  
10 ~~following activities:~~

11  
12 ~~(A) reducing group sizes;~~

13 ~~(B) improving health and safety conditions;~~

14 ~~(C) improving linkage to parents and community services; or~~

15 ~~(D) improving teacher training.~~

16  
17 ~~(2) Boards may also choose to recognize professional accreditation as a means to improve~~  
18 ~~quality.~~

19  
20 **§809.16. Procurement.**

21  
22 A Board shall comply with federal and state statutes, regulations, and policies for  
23 competitive procurement and contract management.

24  
25 **§809.17. Management of Finances.**

26  
27 A Board shall ensure that fiscal and statistical tracking is performed as required by  
28 federal and state statutes, regulations, and policies applicable to the funding sources for  
29 child care including, but not limited to, forms required by the Office of Management and  
30 Budget Circulars, the United States Department of Health and Human Services, the  
31 Commission, and the Uniform Grant Contract Management Standards of the Office of the  
32 Governor.

33  
34 **§809.18. Information Management and Reporting Requirements.**

35  
36 (a) A Board shall ensure that federal and state-required data is collected, updated,  
37 maintained, and provided to the Commission in accordance with federal and state  
38 reporting requirements.

39  
40 (b) A Board shall provide additional data upon the request of the Commission.

41  
42 **§809.19. Performance Standards.**

43  
44 A Board shall ensure that all performance standards as developed by the Commission are  
45 met.

1       **§809.20. Leveraging Local Resources.**  
2

3       (a) Leveraging Local Funds. The Commission encourages Boards to secure local public  
4       and private funds for match to the extent possible to leverage all available resources  
5       for child care needs in the community.  
6

7           (1) A Board may secure local funds for match in the form of one or more of the  
8           methods in order to leverage (match) against federal funds available through  
9           the Commission:

10                   (A) donations of funds from a private entity;

11                   (B) certification of expenditures by a private entity that represent expenditures  
12                   eligible for federal match and that were not restricted in their use for a  
13                   specific individual, organization, facility or institution;

14                   (C) transfers of funds from a public entity; or

15                   (D) certifications of expenditures by a public entity that represent expenditures  
16                   eligible for federal match.  
17

18           (2) A Board's performance in securing and leveraging local funds for match may  
19           make the Board eligible for incentive awards.  
20

21       (b) Securing Local Funds to Access Federal Matching Funds from the Commission.  
22

23           (1) A Board shall manage the securing of funds, including the selection of pledged  
24           and completed donations, transfers, and certifications that are used by the  
25           Board to receive federal matching funds through the Commission.  
26

27           (2) A Board shall ensure that federal matching funds are maximized by securing  
28           local funds for match in an amount that may exceed the amount required to  
29           match available federal funds.  
30

31       (c) Documenting Pledged Donations, Transfers and Certifications. A Board shall  
32       maintain written documentation of pledged donations, transfers and certifications  
33       that contain, at a minimum, the following:  
34

35           (1) the signature of the representative of the Board;

36           (2) the signature of the potential contributor;

37           (3) the potential contributor's commitment to fulfill the pledge of the donation,  
38           transfer or certification by paying or certifying the funds to the Commission  
39           for use in a specific workforce area on a set payment or certification schedule;  
40  
41  
42  
43  
44  
45  
46



1 (4) the Board's commitment to use the donated or transferred funds as requested  
2 by the contributor, as long as it is consistent with federal regulations at 45 CFR  
3 §98.53; and

4  
5 (5) sufficient information to determine that the funds will be used in a manner  
6 consistent with 45 CFR §98.53.  
7

8 (d) Submitting Pledged Donations, Transfers and Certifications for Acceptance by the  
9 Commission. A Board shall submit pledged donations, transfers, and certifications to  
10 the Commission for acceptance.  
11

12 (e) Completing Donations, Transfers and Certifications.  
13

14 (1) A Board shall ensure that donations of cash and transfers of funds are paid to  
15 the Agency and that certifications are also submitted to the Agency.  
16

17 (2) Donations and transfers are considered complete to the extent that the funds  
18 have been paid to the Agency.  
19

20 (3) Certifications are considered complete to the extent that a signed written  
21 instrument is delivered to the Agency that reflects that the public entity has  
22 expended a specific amount of funds on eligible child care services.  
23

24 (f) Reporting. A Board shall report information relating to pledged and completed  
25 donations, transfers and certifications as referenced in subsections (d) and (e) of this  
26 section and §800.72. Reporting Requirements.  
27

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

## 34 **SUBCHAPTER C. REQUIREMENTS TO PROVIDE CHILD CARE**

### 35 **§809.41. General Requirements.**

36  
37  
38 (a) A Board shall ensure that child care is provided only by persons or entities chosen by  
39 the parents and who:

40  
41 (1) meet provider requirements set forth in this chapter, or

42  
43 (2) are eligible to provide self-arranged care.  
44

- 1 (b) A Board shall ensure that providers of child care comply with all appropriate health  
2 and safety provisions as required by federal regulations including, but not limited to,  
3 45 Code of Federal Regulations Part 98 as may be amended.  
4

5 **§809.42. Minimum Requirements for Providers.**  
6

- 7 (a) A Board shall ensure that providers are at a minimum:  
8

9 (1) licensed by the Texas Department of ~~Protective and Regulatory~~  
10 ~~Services~~ Family and Protective Services;

11  
12 (2) registered with the Texas Department of ~~Protective and Regulatory~~  
13 ~~Services~~ Family and Protective Services;

14  
15 (3) licensed by the Texas Department of State Health Services as a youth day  
16 camp; or  
17

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

- 20 (b) A Board shall ensure that the providers:  
21

22 (1) provide child care in compliance with a Provider Agreement as specified in  
23 this subchapter; and  
24

25 (2) are not the subject of corrective or adverse action with the Texas Department  
26 of ~~Protective and Regulatory Services~~ Family and Protective Services, the  
27 Texas Department of State Health Services, the United States military services,  
28 or any other state or federal agency.  
29

- 30 (c) When a Board or the Board's contractor, in the course of fulfilling its responsibilities,  
31 gains knowledge of any possible violation regarding regulatory standards, the Board  
32 or its contractor shall report the information to the appropriate regulatory agency.  
33

34 **§809.43. Provider Agreements.**  
35

- 36 (a) Provider Agreements are agreements between the Board or the Board's designee and  
37 the providers of child care, which:  
38

39 (1) are in writing and signed by the provider and the Board or the Board's designee  
40 before child care services are rendered, and  
41

42 (2) specify the roles and responsibilities of the parties.  
43

- 44 (b) A Board shall ensure that the Provider Agreements include notices, statements, and  
45 terms that detail provider obligations for complying with federal and state statutes  
46 and regulations relating to child care including, but not limited to, statements to

1 ensure that discrimination is prohibited as referenced in 45 Code of Federal  
2 Regulations §§98.20, 98.46, and 98.47, as may be amended.

- 3  
4 (c) Failure to maintain a Provider Agreement may result in disallowed costs by the  
5 Commission.  
6

7 **§809.44. Provider General Liability Insurance Requirements.**

- 8  
9 (a) Any liability insurance requirements placed on licensed child care centers by the  
10 Boards shall not exceed the state licensing requirements stipulated in Chapter 42 of  
11 the Texas Human Resources Code.  
12  
13 (b) A licensed child care center provider must notify the Texas Department of Family  
14 and Protective Services (TDFPS), the parent, and the Board if the provider is unable  
15 to secure the required insurance due to financial reasons or for lack of availability of  
16 an underwriter willing to issue a policy, or if the provider's policy limits have been  
17 exhausted. The provider shall remain eligible to receive Commission-funded child  
18 care subsidies as long as the provider is licensed by the TDFPS.  
19  
20 (c) Boards shall not require liability insurance for providers who are not required by  
21 state law to have liability insurance.  
22

23 **§809.46. Assessing and Collecting Parent's Share of Cost.**

- 24  
25 (a) For child care funds allocated by the Commission pursuant to its allocation rules  
26 (Chapter 800. General Administration, Subchapter B. Allocation and Funding  
27 §800.58), the following shall apply.  
28  
29 (1) A Board shall set a parent's share of cost policy in accordance with the  
30 requirements set forth in §809.12 of this chapter (relating to Board Policies and  
31 Plans for Child Care Services) that shall assess parent's share of cost in a  
32 manner that results in parent's share of cost:  
33  
34 (A) being assessed to all parents or caretakers, except in instances when an  
35 exemption under paragraph (2) of this subsection applies;  
36  
37 (B) being based on the family's size and gross monthly income, and may also  
38 be based on the number of children in care; and  
39  
40 (C) not exceeding the cost of care.  
41  
42 (2) Parents that are one or more of the following are exempt from paying parent's  
43 share of cost:  
44  
45 (A) parents who are participating in Choices;  
46

1 (B) parents who participate in the Food Stamp Employment and Training; or

2  
3 (C) parents who have children that are receiving protective services unless the  
4 Texas Department of Family and Protective Services assesses parent's  
5 share of cost.

6  
7 (3) Teen parents who live with their parents and who are not covered under  
8 exceptions outlined under paragraph (2) of this subsection shall be assessed  
9 parent's share of cost. The parent's share of cost is based solely on the teen  
10 parent's income.

11  
12 (b) For child care services funded from sources other than those sources for funds  
13 allocated by the Commission for Child Care Services pursuant to its allocation rules,  
14 a Board shall set a parent's share of cost policy based on a sliding fee scale that may  
15 be the same as or different from the provisions contained in subsection (a) of this  
16 section.

17  
18 (c) Providers shall collect assessed parent's share of cost and subsidies before child care  
19 is delivered.

20  
21 (d) It is the sole responsibility of the provider to collect assessed parent's share of cost  
22 and subsidies.

23  
24 (e) A Board shall establish a policy regarding reimbursement of providers to address  
25 consequences for providers in situations when parents fail to pay parent's share of  
26 cost and subsidies.

27  
28 **§809.47. Reduction of Assessed Parent's Share of Cost.**

29  
30 (a) The Board or its contractor shall review the assessed parent's share of cost for  
31 possible reduction if there are extenuating circumstances that jeopardize a family's  
32 self-sufficiency. The Board or its contractor may reduce the assessed parent's share  
33 of cost if warranted by these circumstances.

34  
35 (b) The Board or its contractor shall not waive parent's share of cost under any  
36 circumstances.

37  
38 **§809.48. Attendance.**

39  
40 (a) A Board shall set the attendance standards for eligible children in the local workforce  
41 development area, including provisions consistent with §809.224 of this Chapter  
42 (relating to Custody and Visitation Arrangements). Providers and self-arranged  
43 providers shall document and maintain a record of each child's attendance and  
44 submit such documents to the Board's designated contractor upon request.

- 1 (b) When an enrolled child is absent, providers shall inform the Board's designated  
2 contractor and shall follow attendance reporting and tracking procedures required by  
3 the Commission, Board, or, if applicable, the Board's contractor.  
4  
5 (c) Failure by the provider to keep required attendance records may result in  
6 withholding payment or in termination of the Provider Agreement.  
7

8 ~~§809.49. Provider Advisory Groups~~

9  
10 ~~Providers, that are licensed centers, are required to establish a Parent Advisory Group~~  
11 ~~consistent with Chapter 44 of the Texas Human Resources Code.~~  
12  
13

14 **§SUBCHAPTER K. PROVIDER REIMBURSEMENT RATES**

15  
16 **§809.221. General Funds Management.**

17  
18 Boards shall ensure that resources are proportionately allocated among the following  
19 priority groups so that child care services are assured for the first priority group, and then  
20 subject to the availability of funds, the remaining priorities in descending order are  
21 served.  
22

- 23 (1) The first priority group includes children of parents eligible for the following:

24 (A) Choices Child Care as referenced in 809.102; and

25 (B) Transitional Child Care as referenced in 809.101.  
26  
27

- 28  
29 (2) The second priority group includes:

30 (A) children of parents eligible for Workforce Orientation Applicant Child  
31 Care; and  
32

33 (B) children who need to receive protective services related child care as  
34 referenced in §809.105(b)(1) of this Chapter.  
35  
36

- 37 (3) The third priority group includes any other priority adopted by the Board,  
38 which may include but is not limited to:

39 (A) teen parents;

40 (B) children with disabilities; or  
41

42 (C) other persons at risk of becoming dependent on public assistance that meet  
43 the income eligibility level as determined by the Board.  
44  
45  
46

1       **§809.222. Effective Utilization of Funds.**

2  
3       A Board shall ensure that a list of parents waiting for child care due to lack of funding or  
4       lack of providers and self-arranged providers, is maintained and available to the  
5       Commission upon request. The list should indicate whether the reason for waiting is due  
6       to lack of funding or lack of providers and self-arranged providers.  
7

8       **§809.223. Eligibility Verification.**

9  
10       (a) A Board shall ensure that its contractor confirms eligibility before the contractor  
11       authorizes child care.

12  
13       (b) Eligibility for child care shall be redetermined:

14  
15               (1) any time there is a change in family income or other information that could  
16               affect eligibility to receive child care; and

17  
18               (2) on an established frequency, at the Board's discretion.  
19

20       **§809.224. Custody and Visitation Arrangements.**

21  
22       (a) A Board shall ensure that a child who is required by a court-ordered custody or  
23       visitation arrangement to leave a provider's care is permitted to continue receiving  
24       child care by the same provider, or another provider if agreed to by the parent in  
25       advance of the leave, upon return from the court-ordered custody or visitation  
26       arrangement.  
27

28       (b) A Board may encourage parents of other children to temporarily utilize the space the  
29       child under court-ordered custody or visitation arrangement has vacated until the  
30       child returns so that he or she can return to the same provider.  
31

32       (c) A Board shall ensure that parents who choose to accept temporary child care to fill a  
33       position opened due to court-ordered custody or visitation shall not lose their place  
34       on the waiting list.  
35

36       (d) A Board shall ensure that parents who choose not to accept temporary child care to  
37       fill a position opened due to court-ordered custody or visitation shall not lose their  
38       place on the waiting list.  
39

40       **§809.225. Continuity of Care.**

41  
42       (a) General Principle. Enrolled children, including children whose eligibility for  
43       transitional child care has expired, shall receive child care as long as the family  
44       remains eligible for any available source of Commission-funded child care except as  
45       otherwise provided under subsection (b) of this section.  
46

1 (b) Exceptions. Nothing in this chapter shall be interpreted in a manner as to result in a  
2 child being removed from care, except when removal from care is required for child  
3 care to be provided to a child of parents eligible for one or more of the following  
4 types of priority child care:

5  
6 (1) Choices Child Care under §809.102 of this Chapter,

7  
8 (2) Transitional Child Care under §809.101 of this Chapter, or

9  
10 (3) Workforce Orientation Applicant Child Care under §809.103 of this Chapter.

11  
12 (c) Former Texas Department of Family and Protective Services (TDFPS) children as  
13 referenced in §809.105(b)(1) of this Chapter shall also continue receiving child care  
14 funded through the Commission for the period chosen by TDFPS, which shall not  
15 exceed six months, so long as it does not result in another child being removed from  
16 care.

17  
18 (d) Former TDFPS children as referenced in §809.105(b)(2) of this Chapter may  
19 continue receiving child care funded through the Commission if it does not result in  
20 removing another child from care.

21  
22 **§809.226. Provider Payments.**

23  
24 A Board shall ensure that providers are reimbursed for child care according to the  
25 procedures and time frames specified in the Agency-Board Agreement, the Provider  
26 Agreements, and as may be specified in the Commission's Grants and Contracts Manual.

27  
28 **§809.228. Units of Service of Child Care.**

29  
30 Unless otherwise determined by the Board and approved by the Commission for  
31 automated reporting purposes, the funding of child care is based on the unit of service  
32 delivered, as follows:

33  
34 (1) a full day unit of service is six to 12 hours of care provided within a 24 -hour  
35 period; and

36  
37 (2) a part-day unit of service is less than six hours of care provided within a 24 -  
38 hour period.

39  
40 **§809.229. Provider Payment Based on Child Care Enrollment.**

41  
42 (a) Enrollment in child care begins the first day the child is scheduled to attend child  
43 care as authorized by the contractor.

44  
45 (b) A Board or its contractor shall ensure that providers are not paid for holding spaces  
46 open except as consistent with attendance policies as established by the Boards.

1  
2 (c) If the child does not attend the first three days of scheduled care, the provider has  
3 until the close of the third day of scheduled attendance to contact the Board or the  
4 Board's contractor regarding the child's absence.

5  
6 (d) A Board or the Board's contractor shall not pay providers:

7  
8 (1) less when a child enrolled full time attends occasionally for a part day; or

9  
10 (2) more when a child enrolled part time attends occasionally for a full day.

11  
12 **§809.231. Provider Reimbursement Rates.**

13  
14 (a) Based on local factors, including a market rate survey provided by the Agency, a  
15 Board shall establish the reimbursement rates for purchased child care to ensure that  
16 the rates provide equal access to child care services in the local market and in a  
17 manner consistent with state and federal statutes and regulations governing child  
18 care.

19  
20 (b) A Board shall reimburse providers at the Board's maximum rate or the provider's  
21 published rate, whichever is lower.

22  
23 (c) A Board shall establish the same maximum reimbursement rate for all regulated  
24 providers, with or without signed agreements, for each category of care.

25  
26 (d) A Board shall establish ~~a~~ graduated reimbursement rates s for:

27  
28 (1) child care providers participating in integrated school readiness models  
29 developed by the State Center for Early Childhood Development at the  
30 University of Texas Health Science Center; and

31  
32 (2) Texas Rising Star Providers ~~(formerly known as Designated Vendors)~~,  
33 pursuant to Texas Government Code §2308.315.

34  
35 (e) The minimum reimbursement rate established under subsection (d) of this section  
36 ~~for Texas Rising Star Providers~~ shall be at least five percent greater than the  
37 maximum rate established for providers not meeting the requirements of subsection  
38 (d) non-Texas Rising Star Providers for the same category of care up to, but not to  
39 exceed, the provider's published rate. ~~The Texas Rising Star Provider rate differential~~  
40 ~~established in this section shall be funded with federal Child Care and Development~~  
41 ~~funds dedicated to quality improvement activities.~~

42  
43 (f) The Board or its contractor shall not reimburse a provider retroactively for new  
44 reimbursement rates.  
45



1 (g) A Board or its contractor shall ensure that providers who are reimbursed for  
2 additional staff needed to assist in the care of a child with disabilities are paid a rate  
3 up to 190% of the provider's reimbursement rate for a child of that same age.  
4

5 (1) The higher rate, which may be called an inclusion assistance rate, is an  
6 increased provider reimbursement rate to provide for additional staff to assist  
7 in the care of a child with disabilities, which shall take into consideration the  
8 estimated cost of the additional staff needed by a child with disabilities.  
9

10 (2) The Board shall ensure that a professional, who is familiar with assessing the  
11 needs of children with disabilities, certifies the need for the inclusion  
12 assistance rate.  
13

14 ~~(g) A Board may provide incentives to providers and self-arranged child care providers to~~  
15 ~~recognize quality in addition to the provisions set forth in subsection (d) of this section.~~  
16

17 **§809.232. Provider Reimbursement for Transportation.**

18 (a) The Board shall determine whether to reimburse providers who offer transportation.  
19

20 (b) The combined total of the provider's published rate, plus the transportation rate, is  
21 subject to the limitations set forth in §809.231 of this chapter (relating to Provider  
22 Reimbursement Rates).  
23

24 **§809.233. Reduction of Parent's Share of Costs and Child Care Subsidies.**

25 The reimbursement to the provider is reduced by an amount equal to:  
26

27 (1) the parent's share of costs assessed and adjusted when the parent's share of  
28 costs are reduced; and  
29

30 (2) any child care subsidy received by the parent from other state or federal  
31 programs. The provider reports the amount of the subsidies collected to the  
32 Board's contractor.  
33  
34  
35

36 **§809.235. Billing.**

37 A Board is responsible for ensuring that bills are processed and submitted to the  
38 Commission in a timely and efficient manner.  
39