

PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. [~~Square brackets and strikethrough~~] indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 22. EXAMINING BOARDS

PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

CHAPTER 131. ORGANIZATION AND ADMINISTRATION

SUBCHAPTER A. SCOPE AND DEFINITIONS

22 TAC §131.2

The Texas Board of Professional Engineers and Land Surveyors (Board) proposes an amendment to 22 Texas Administrative Code, Chapter 131, Subchapter A, regarding scope and definitions, specifically §131.2 Definitions.

BACKGROUND AND SUMMARY

The proposed rule amendment is to update and clarify certain definitions as follows:

-Senate Bill 1259 (89th Regular Session 2025) amended Texas Occupations Code 1001 to add surveying to the Advisory Opinion Process. Prior to this change, advisory opinions could only be issued on engineering topics. The board rules contained a definition for "Engineering Advisory Opinion Request" (EAOR). The board is proposing to change this definition to the generic term "Advisory Opinion Request" (AOR) to allow for both professions to be included.

-Remove the definition of NAFTA as this is no longer the name of the free trade agreement as of 2020, and TBPELS no longer has any licensure agreements based on NAFTA.

-Updates to formal names of educational accrediting bodies.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Mr. Lance Kinney, Ph.D., P.E., Executive Director for the Board, has determined that for each year of the first five years the proposed rule is in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rule.

Mr. Kinney has determined that for each year of the first five years the proposed rule is in effect, there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed rule.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Kinney has determined that the proposed rule will not affect the local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

PUBLIC BENEFITS

Mr. Kinney has determined that for each year of the first five-year period the proposed rule is in effect, the public benefit will be clarification and accuracy of board rule.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Kinney has determined that for each year of the first five-year period the proposed rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule because no new requirements are part of the proposed rule.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSI- NESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed rule. Since the agency has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rule does not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rule. For each year of the first five years the proposed rule is in effect, the agency has determined the following:

1. The proposed rule does not create or eliminate a government program.
2. Implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rule does not require an increase or decrease in fees paid to the agency.
5. The proposed rule does not create a new regulation.

6. The proposed rule does not increase the number of individuals subject to the rule's applicability.

7. The proposed rule does not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Board has determined that no private real property interests are affected by the proposed rule and the proposed rule does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS

The Board has determined that the proposed rule is not brought with the specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Board asserts the proposed rule is not a "major environmental rule," as defined by Government Code §2001.0225. As a result, the Board asserts preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

PUBLIC COMMENTS

Any comments or request for a public hearing may be submitted, no later than 30 days after the publication of this notice, to Lance Kinney, Ph.D., P.E., Executive Director, by email to or sent by postal mail to the Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741.

STATUTORY AUTHORITY

The proposed rule is proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state.

CROSS REFERENCE TO STATUTE

The proposed amended rule implements Chapter 1071 of the Texas Occupations Code. No other statute, code, or article is affected by the proposed rule.

§131.2. Definitions.

In applying the Texas Engineering Practice Act, the Professional Land Surveying Practices Act, and the board rules, the following definitions shall prevail unless the word or phrase is defined in the text for a particular usage. Singular and masculine terms shall be construed to include plural and feminine terms and vice versa.

(1) **ABET**--ABET, Inc., formerly the Accreditation Board for Engineering and Technology.

(2) **Acts**--The Texas Engineering Practice Act, Texas Occupations Code Chapter 1001, and the Professional Land Surveying Practices Act, Texas Occupations Code Chapter 1071.

(3) **Advisory Opinion**--A statement of policy issued by the board that provides guidance to the public and regulated community regarding the board's interpretation and application of Chapters [Chapter] 1001 or 1071, Texas Occupations Code, and/or board rules related to the practice of engineering or surveying.

(4) **Agency or Board**--Texas Board of Professional Engineers and Land Surveyors.

(5) **ANSAC/ABET**--Applied and Natural Science Accreditation Commission of ABET. Previously the Applied Science Accreditation Commission (ASAC) of ABET.

(6) **AOR number**--An advisory opinion request file number assigned to a pending advisory opinion in accordance with this chapter.

(7) ~~[(6)]~~ **Applicant**--A person applying for a license or registration to practice professional engineering or land surveying or a firm applying for a certificate of registration to offer or provide professional engineering or land surveying services.

(8) ~~[(7)]~~ **Application**--The forms, information, and fees necessary to obtain a license, registration, or certification issued by the Board.

(9) ~~[(8)]~~ **Complainant**--Any party who has filed a complaint with the board against a person or entity subject to the jurisdiction of the board.

(10) ~~[(9)]~~ **Construction estimate**--As used in §1071.004, a depiction of a possible easement route for planning purposes.

(11) ~~[(10)]~~ **Contested case**--A proceeding, including but not restricted to rate making and licensing, in which the legal rights, duties, or privileges of a party are to be determined by an agency after an opportunity for adjudicative hearing pursuant to the Administrative Procedure Act, Chapter 2001, Texas Government Code.

(12) ~~[(11)]~~ **Direct supervision**--The control over and detailed professional knowledge of the work prepared under the engineer or land surveyor's supervision. Direct Supervision entails that the engineer or land surveyor personally makes decisions or personally reviews and approves proposed decisions prior to their implementation and has control over the decisions either through physical presence or the use of communications devices. Direct Supervision entails that a land surveyor be able to give instructions for research of adequate thoroughness to support collection of relevant data, the placement of all monuments, and the preparation and delivery of all surveying documents.

(13) ~~[(12)]~~ **EAC/ABET**--Engineering Accreditation Commission of ABET.

~~[(13)] EAOR number--An engineering advisory opinion request file number assigned by the executive director to a pending advisory opinion in accordance with this chapter.]~~

(14) **Electronic Seal**--For the purposes of this Chapter, an electronic seal is a digital representation of a licensee or registrant's seal including, but not limited to, a digital scan of a physical seal.

(15) **Electronic Signature**--For the purposes of this Chapter, an electronic signature is a digital representation of a licensee or registrant's signature including, but not limited to, a digital scan of a physical signature.

(16) **Engineering**--The profession in which a knowledge of the mathematical, physical, engineering, and natural sciences gained by education, experience, and practice is applied with judgment to develop ways to utilize, economically, the materials and forces of nature for the benefit of mankind.

(17) **Engineering Act**--The Texas Engineering Practice Act, Texas Occupations Code Chapter 1001.

(18) **ETAC/ABET**--Engineering Technology Accreditation Commission of ABET.

(19) **Firm**--Any business entity that engages or offers to engage in the practice of professional engineering or land surveying in this state. The term includes but is not limited to companies, corpora-

tions, partnerships, or joint stock associations, and for engineering also includes sole practitioners and sole proprietorships.

(20) Good Standing--(License or Registration)--A license or registration that is current, eligible for renewal, and has no outstanding fees or payments.

(21) Gross negligence--Any deliberate conduct, or pattern of conduct, whether by act or omission that demonstrates a disregard or indifference to the rights, health, safety, welfare, and property of the public or clients. Gross negligence may result in financial loss, injury or damage to life or property, but such results need not occur for the establishment of such conduct.

(22) International NCEES Record--An official complication of professional credentials issued by NCEES as part of an international application process. The record includes academic credentials, exam or assessment information, employment information, professional references, and other information pertinent to licensure.

(23) License--The legal authority permitting the holder to actively practice engineering or land surveying. Also, a certificate issued by the board showing such authority.

(24) License Holder--Any person whose license or registration to practice engineering or land surveying is current.

(25) Misconduct--The violation of any provision of the Texas Engineering Practice Act, the Professional Land Surveying Act, or board rules.

(26) Mobility Agreement / Mutual Recognition Agreement--an agreement signed and adopted by the Board and another licensing jurisdiction or recognized licensing organization that sets out requirements and procedures for licensure between the two bodies.

(27) Model Law Engineer (MLE)--a designation on an NCEES Record indicating that an engineer has met the NCEES standard for licensure, including an EAC/ABET accredited engineering degree, a minimum of four years of creditable and acceptable engineering experience, passage of both the FE and PE examinations, and no disciplinary action.

{(28) NAFTA--North American Free Trade Agreement. NAFTA is related to the practice and licensure of engineering through mutual recognition of registered/licensed engineers by jurisdictions of Canada, Texas, and the United Mexican States.}

(28) [(29)] NCEES--National Council of Examiners for Engineering and Surveying.

(29) [(30)] NCEES Record--An official verified compilation of professional credentials issued by NCEES, designed to simplify the licensure process for engineers and surveyors who want to practice in multiple states or territories. The record includes academic transcripts, exam results, employment history, professional references, and other information pertinent to licensure.

(30) [(31)] Person--Any individual, firm, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than a governmental agency.

(31) [(32)] Professional engineering--Professional service which may include consultation, investigation, evaluation, planning, designing, or direct supervision of construction, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects wherein the public welfare, or the safeguarding of life, health, and property is concerned or involved, when such professional service requires the application of engineering principles and the interpretation of engineering data.

(32) [(33)] Professional Engineering Services--Services which meet the definition of the practice of engineering as defined in the Act, §1001.003, and which are required by statute or rule to be performed by or under the direct supervision of a licensed engineer. A service shall be conclusively considered a professional engineering service if it is delineated in that section; other services requiring a professional engineer by contract, or services where the adequate performance of that service requires an engineering education, training, or experience in the application of special knowledge or judgment of the mathematical, physical or engineering sciences to that service are also considered a professional engineering service.

(33) [(34)] Professional Surveying--The practice of land, boundary, or property surveying or other similar professional practices.

(34) [(35)] Recognized institution of higher education--An institution of higher education as defined in §61.003, Education Code; or in the United States, an institution recognized by one of the six regional accrediting associations, specifically, the New England Commission of Higher Education [Association of Schools and Colleges], the Higher Learning Commission [North Central Association Commission on Accreditation and School Improvement], the Northwest Commission on Colleges and Universities [Association of Schools and Colleges], the Southern Association of Colleges and Schools, the Western Association of Schools and Colleges, or the Middle States Association of Colleges & Schools; or, outside the United States, an institution recognized by the Ministry of Education or the officially recognized government education agency of that country; or a program accredited by ABET.

(35) [(36)] Registration--The legal authority permitting the holder to actively practice engineering or land surveying. Also, a certificate issued by the board showing such authority.

(36) [(37)] Respondent--The person or party that is the subject of a complaint filed with the board.

(37) [(38)] Responsible charge--Synonymous with the term "direct supervision"; used interchangeably with "direct supervision".

(38) [(39)] Responsible supervision--An earlier term synonymous with the term "direct supervision;" the term is still valid and may be used interchangeably with "direct supervision" when necessary.

(39) [(40)] Seal--An embossed, stamped, or electronic design authorized by the Board that authenticates, confirms, or attests that a person is authorized to offer and practice engineering or land surveying services to the public in the State of Texas and has legal consequence when applied.

(40) [(41)] Sole Practitioner--A firm that consists of an individual license holder with no other employees.

(41) [(42)] Supervision of Engineering Construction--As used in §1001.407 of the Act, includes the periodic observation of materials and completed work to determine general compliance with plans, specifications and design and planning concepts. Supervision of engineering construction does not include the construction means and methods; responsibility for the superintendence of construction processes, site conditions, operations, equipment, personnel; or the maintenance of a safe place to work or any safety in, on or about the site.

(42) [(43)] Surveying Act--the Professional Land Surveying Practices Act, Texas Occupations Code Chapter 1071.

(43) [(44)] Surveying Report--Survey drawing, written description, and/or separate narrative depicting the results of a land survey performed and conducted pursuant to this Act.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 22, 2026.

TRD-202602146

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Earliest possible date of adoption: July 5, 2026

For further information, please call: (512) 440-3080



CHAPTER 133. LICENSING FOR ENGINEERS SUBCHAPTER C. PROFESSIONAL ENGINEER LICENSE APPLICATION REQUIREMENTS

22 TAC §133.30

The Texas Board of Professional Engineers and Land Surveyors (Board) proposes a new rule in 22 Texas Administrative Code, Chapter 133, Subchapter C, regarding professional engineer license requirements, specifically §133.30 Application Language.

BACKGROUND AND SUMMARY

The proposed new rule is part of a rule clarification package intended to align rules with current agency practices, specifically related to application language requirements and international licensure issues.

SECTION-BY-SECTION SUMMARY

The proposal relocates current rule §133.37 to new rule §133.30 and makes clarifying amendments. Current rule §133.37 is located in the Subchapter D related to Education. The new §133.30 is located in Subchapter C related to Application Requirements. Therefore, the rule will require all application documentation to be in English or have an English translation.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Mr. Lance Kinney, Ph.D., P.E., Executive Director for the Board, has determined that for each year of the first five years the proposed new rule is in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules.

Mr. Kinney has determined that for each year of the first five years the proposed new rule is in effect, there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Kinney has determined that the proposed new rule will not affect the local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

PUBLIC BENEFITS

Mr. Kinney has determined that for each year of the first five-year period the proposed new rule is in effect, the public benefit will be clarification and accuracy of board rules.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Kinney has determined that for each year of the first five-year period the proposed new rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because no new requirements are part of the proposed rules.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed rules. Since the agency has determined that the proposed new rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed new rule is in effect, the agency has determined the following:

1. The proposed new rule does not create or eliminate a government program.
2. Implementation of the proposed new rule does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed new rule does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed new rule does not require an increase or decrease in fees paid to the agency.
5. The proposed new rule does not create a new regulation.
6. The proposed new rule does not increase the number of individuals subject to the rule's applicability.
7. The proposed new rule does not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Board has determined that no private real property interests are affected by the proposed new rule and the proposed new rule does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed new rule does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS

The Board has determined that the proposed new rule is not brought with the specific intent to protect the environment or re-

duce risks to human health from environmental exposure; thus, the Board asserts the proposed new rule is not a "major environmental rule," as defined by Government Code §2001.0225. As a result, the Board asserts preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

PUBLIC COMMENTS

Any comments or request for a public hearing may be submitted, no later than 30 days after the publication of this notice, to Lance Kinney, Ph.D., P.E., Executive Director, by email to rules@pels.texas.gov or sent by postal mail to the Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741.

STATUTORY AUTHORITY

The proposed new rule is proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state.

CROSS REFERENCE TO STATUTE

The proposed new rule implements Chapter 1001 of the Texas Occupations Code. No other statute, code, or article is affected by the proposed rules.

§133.30. Application Language.

All application forms and supporting documents shall be written in the English language. Any official documents issued by a third party, such as educational transcripts, written in language other than English shall be accompanied by a certified English translation.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 22, 2026.

TRD-202602147

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Earliest possible date of adoption: July 5, 2026

For further information, please call: (512) 440-3080



SUBCHAPTER D. EDUCATION

22 TAC §133.31

The Texas Board of Professional Engineers and Land Surveyors (Board) proposes an amendment to 22 Texas Administrative Code, Chapter 133, Subchapter D, regarding education, specifically §133.31 Educational Requirements for Applicants.

BACKGROUND AND SUMMARY

The proposed rule amendments are part of a rule clarification package intended to align rules with current agency practices, specifically related to application language requirements and international licensure issues.

SECTION-BY-SECTION SUMMARY

The proposed rule amends §133.31 to remove degrees from Mexico from the list of degrees approved as equivalent to ABET

accredited degrees. Mexico originally was included as part of the North American Free Trade Agreement (NAFTA). However, the agency no longer has an agreement with Mexico regarding licensure in practice. Applicants from Mexico can continue to use the current standard application process.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Mr. Lance Kinney, Ph.D., P.E., Executive Director for the Board, has determined that for each year of the first five years the proposed rule is in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rule.

Mr. Kinney has determined that for each year of the first five years the proposed rule is in effect, there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed rule.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Kinney has determined that the proposed rule does not affect the local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

PUBLIC BENEFITS

Mr. Kinney has determined that for each year of the first five-year period the proposed rule is in effect, the public benefit will be clarification and accuracy of board rule.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Kinney has determined that for each year of the first five-year period the proposed rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule because no new requirements are part of the proposed rule.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed rule. Since the agency has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rule does not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rule. For each year of the first five years the proposed rule is in effect, the agency has determined the following:

1. The proposed rule does not create or eliminate a government program.

2. Implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rule does not require an increase or decrease in fees paid to the agency.
5. The proposed rule does not create a new regulation.
6. The proposed rule does not increase the number of individuals subject to the rule's applicability.
7. The proposed rule does not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Board has determined that no private real property interests are affected by the proposed rule and the proposed rule does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS

The Board has determined that the proposed rule is not brought with the specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Board asserts the proposed rule is not a "major environmental rule," as defined by Government Code §2001.0225. As a result, the Board asserts preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

PUBLIC COMMENTS

Any comments or request for a public hearing may be submitted, no later than 30 days after the publication of this notice, to Lance Kinney, Ph.D., P.E., Executive Director, by email to rules@pels.texas.gov or sent by postal mail to the Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741.

STATUTORY AUTHORITY

The proposed rule is proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state.

CROSS REFERENCE TO STATUTE

The proposed amended rule implement Chapter 1071 of the Texas Occupations Code. No other statute, code, or article is affected by the proposed rule.

§133.31. Educational Requirements for Applicants.

(a) Applicants for a license shall have graduated from at least one of the following degree programs or degree program combinations listed in this section:

(1) Approved engineering curriculums under §1001.302(a)(1)(A) of the Act. The following degrees are acceptable to the board for meeting the educational requirements of §1001.302(a)(1)(A) of the Act:

(A) a degree from an engineering program accredited or otherwise approved by:

(i) EAC/ABET; or

~~(ii) Consejo de Acreditacion de la Enseñanza de la Ingeniería, Mexico (Council of Accreditation for Engineering Education, C.A.); or~~

~~(ii) [(iii)] The Washington Accord.~~

(B) A graduate degree in engineering, provided that:

(i) the graduate degree is obtained from a college having an engineering program approved by one of the organizations listed in subparagraph (A) of this paragraph where either the graduate or undergraduate degree in the same discipline is accredited; and

(ii) the combination of the degrees is acceptable to the board as equivalent in EAC/ABET approved curricula content, and the combination of degrees contain sufficient design curricula to provide minimal competency in the use of engineering algorithms and procedures.

(C) a completed degree that has not been accredited or approved by either of the organizations identified in subparagraph (A) of this paragraph but has been evaluated in accordance with §133.33 of this chapter, (relating to Proof of Educational Qualifications-Non-Accredited/Non-Approved Programs), and determined to meet the ABET general and program criteria requirements for an EAC/ABET-accredited or -approved program or to meet the NCEES Engineering Education Standard.

(2) Other programs under §1001.302(a)(1)(B) of the Act. The following degrees are acceptable to the board for meeting the educational requirements of §1001.302(a)(1)(B) of the Act:

(A) a bachelor degree from an engineering technology program that is accredited by the ETAC/ABET;

(B) A bachelors or graduate degree in engineering, engineering technology, mathematical, physical, or related science that has not been accredited or approved by any of the organizations identified in paragraphs (1)(A) or (2)(A) of this subsection but has been obtained from a recognized institution of higher education as defined in Chapter 131 of this title. Such degree programs must include, as a minimum, the courses listed in clauses (i) and (ii) of this subparagraph or these courses must be taken in addition to the bachelor or graduate degree program:

(i) eight semester hours (12 quarter hours) of mathematics beyond trigonometry, including differential and integral calculus; and

(ii) 20 semester hours (30 quarter hours) of related engineering sciences including subjects such as mechanics, thermodynamics, electrical and electronic circuits, and others selected from material sciences, transport phenomena, computer science and comparable subjects depending on the discipline or branch of engineering. Course work should incorporate hands-on laboratory work as described in the EAC/ABET criteria, and shall contain a sufficient design program to provide minimal competency in the use of engineering algorithms and procedures.

(3) Degree programs submitted to the board by the conferring institutions and determined by the board as meeting or exceeding the criteria of either of the accrediting organizations referred to in this section.

(A) The following programs have been reviewed by the board and determined to be eligible for licensure under §1001.302(a)(1)(A) of the Act:

(i) The engineering programs at the University of Texas at Tyler for those who graduated in 1999.

(ii) Biosystems engineering program at the University of Texas A&M at College Station for those who graduated between 1999 and 2003.

(B) The following programs have been reviewed by the board and determined to be eligible for licensure under §1001.302(a)(1)(B) of the Act and eligible for taking the examination on the fundamentals of engineering, effective the date listed:

(i) Tarleton State University, Accepted Programs: Hydrology (1992) and Engineering Physics (2001);

(ii) West Texas State A&M, Accepted Program: Mechanical Engineering (2003).

(b) Degree programs that have not been accredited or approved by any of the organizations identified in subsection (a)(1)(A) or (2)(A) of this section are not acceptable for fulfilling the educational requirements of the Act if they do not meet the definition of a recognized institution of higher education [~~learning~~] as defined in Chapter 131 of this title and:

(1) give credit for life experience outside of internships or other programs related to the degree program as determined by the board; or

(2) consist primarily of engineering, mathematical, physical, or engineering sciences courses that [are correspondence courses that] are self-taught outside a formal online or classroom setting as determined by the board.

(c) An applicant holding a verified Canadian P.Eng. or ing. License shall be considered to have academic qualifications substantially equivalent to an ABET-EAC accredited engineering program.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 22, 2026.

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Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Earliest possible date of adoption: July 5, 2026

For further information, please call: (512) 440-3080



22 TAC §133.37

The Texas Board of Professional Engineers and Land Surveyors (Board) proposes to repeal 22 Texas Administrative Code, Chapter 133, Subchapter D, regarding education for professional engineers, specifically §133.37 English Translation.

BACKGROUND AND SUMMARY

The proposed rule repeal is part of a rule clarification package intended to align rules with current agency practices, specifically related to application language requirements and international licensure issues.

SECTION-BY-SECTION SUMMARY

The proposal repeals current rule §133.37. The rule language will be moved to new rule §133.30 with clarifying amendments. Moving the rule language from the subchapter on education to the subchapter on application requirements expands the scope of the language requirement from transcripts to the whole application package, thereby requiring all application documentation to be in English or have an English translation.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Mr. Lance Kinney, Ph.D., P.E., Executive Director for the Board, has determined that for each year of the first five years the rule repeal is in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules.

Mr. Kinney has determined that for each year of the first five years the proposed rule repeal is in effect, there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Kinney has determined that the proposed rule repeal will not affect the local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

PUBLIC BENEFITS

Mr. Kinney has determined that for each year of the first five-year period the proposed rule repeal is in effect, the public benefit will be clarification and accuracy of board rules.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Kinney has determined that for each year of the first five-year period the proposed rule repeal is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because no new requirements are part of the proposed rules.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed rule repeal. Since the agency has determined that the proposed rule repeal will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rule repeal does not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rule repeal. For each year of the first five years the proposed rule repeal is in effect, the agency has determined the following:

1. The proposed rule repeal does not create or eliminate a government program.
2. Implementation of the proposed rule repeal does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rule repeal does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rule repeal does not require an increase or decrease in fees paid to the agency.
5. The proposed rule repeal does not create a new regulation.
6. The proposed rule repeal does not increase the number of individuals subject to the rule's applicability.
7. The proposed rule repeal does not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Board has determined that no private real property interests are affected by the proposed rule repeal and the proposed rule repeal does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule repeal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS

The Board has determined that the proposed rule repeal is not brought with the specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Board asserts the proposed new rule is not a "major environmental rule," as defined by Government Code §2001.0225. As a result, the Board asserts preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

PUBLIC COMMENTS

Any comments or request for a public hearing may be submitted, no later than 30 days after the publication of this notice, to Lance Kinney, Ph.D., P.E., Executive Director, by email to rules@pels.texas.gov or sent by postal mail to the Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741.

STATUTORY AUTHORITY

The rule repeal is proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state.

CROSS REFERENCE TO STATUTE

The proposed rule repeal implements Chapter 1001 of the Texas Occupations Code. No other statute, code, or article is affected by the proposed rule repeal.

§133.37. *English Translation.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 22, 2026.

TRD-202602149

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Earliest possible date of adoption: July 5, 2026

For further information, please call: (512) 440-3080



CHAPTER 134. LICENSING, REGISTRATION, AND CERTIFICATION FOR SURVEYORS SUBCHAPTER C. LAND SURVEYOR APPLICATION REQUIREMENTS

22 TAC §134.21, §134.25

The Texas Board of Professional Engineers and Land Surveyors (Board) proposes amendments to 22 Texas Administrative Code, Chapter 134, Subchapter C, regarding professional land surveyor application requirements, specifically §134.21 Application for Standard Registration and §134.25 Application from Out-of-State Registration Holders.

BACKGROUND AND SUMMARY

The proposed rule amendments are part of a rule clarification package intended to align rules with current agency practices, specifically related to application language requirements.

SECTION-BY-SECTION SUMMARY

The proposed rules amend §134.21 to remove a requirement for applicants to demonstrate proficiency in the English language via the Test of English as a Foreign Language (TOEFL). Applicants do not generally use the TOEFL. Instead, all application documents are required to be submitted in English per §134.37 (which is being moved to rule §134.30).

The proposed rules amend §134.25 to remove a requirement for applicants to demonstrate proficiency in the English language via the Test of English as a Foreign Language (TOEFL). Applicants do not generally use the TOEFL. Instead, all application documents are required to be submitted in English per §134.37 (which is being moved to rule §134.30).

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Mr. Lance Kinney, Ph.D., P.E., Executive Director for the Board, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules.

Mr. Kinney has determined that for each year of the first five years the proposed rules are in effect, there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Kinney has determined that the proposed rules will not affect the local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

PUBLIC BENEFITS

Mr. Kinney has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be clarification and accuracy of board rules.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Kinney has determined that for each year of the first five-year period the proposed rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because no new requirements are part of the proposed rules.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed rules. Since the agency has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed rules are in effect, the agency has determined the following:

1. The proposed rules do not create or eliminate a government program.
2. Implementation of the proposed rules do not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rules do not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rules do not require an increase or decrease in fees paid to the agency.
5. The proposed rules do not create a new regulation.
6. The proposed rules do not increase the number of individuals subject to the rule's applicability.
7. The proposed rules do not positively or adversely affect this state's economy.
8. The proposed rule does not expand, limit, or repeal an existing regulation.

TAKINGS IMPACT ASSESSMENT

The Board has determined that no private real property interests are affected by the proposed rules and the proposed rules do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rules do not constitute a taking or require a takings impact assessment under Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS

The Board has determined that the proposed rules are not brought with the specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Board asserts the proposed rules are not a "major environmental rule," as defined by Government Code §2001.0225. As a result, the Board asserts preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

PUBLIC COMMENTS

Any comments or request for a public hearing may be submitted, no later than 30 days after the publication of this notice, to Lance Kinney, Ph.D., P.E., Executive Director, by email to rules@pels.texas.gov or sent by postal mail to the Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741.

STATUTORY AUTHORITY

The proposed rules are proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state.

CROSS REFERENCE TO STATUTE

The proposed amended rules implement Chapter 1071 of the Texas Occupations Code. No other statute, code, or article is affected by the proposed rules.

§134.21. Application for Standard Registration.

(a) To be eligible for registration as a registered professional land surveyor (RPLS), an individual must submit a completed application.

(b) All applicants must hold a current Texas Surveyor-In-Training (SIT) certification and pass the examination on the fundamentals of surveying before submitting an application for registration as an RPLS.

~~[(c) Applicants must speak and write the English language. Proficiency in English may be evidenced by an accredited degree taught exclusively in English, or passage of the Test of English as a Foreign Language (TOEFL) with a written score of at least 550, a computer based score of at least 200, or an internet-based score of at least 95, or other evidence such as significant academic or work experience in English, that is acceptable to the executive director.]~~

(c) ~~[(d)]~~ Applicants for a registration shall submit:

(1) an application in a format prescribed by the board including:

(A) his or her full, legal name without abbreviations, nicknames, or other variations of the full legal name. If applicable, the applicant shall submit proof of a legal name change including but not limited to a marriage certificate, passport, current Driver's License issued by the State of Texas, court documents, or nationalization documents to substantiate other documentation submitted in the application; and

(B) his or her social security number, as required under the Texas Family Code, §231.302;

(2) current application fee as established by the board. Application fees shall be waived for qualifying military service members, military veterans, and military spouses in accordance with Texas Occupations Code Chapter 55;

(3) proof of educational credentials pursuant to Subchapter D of this chapter (relating to Education);

(4) a supplementary experience record that includes at least two years of surveying experience as required under §134.41 of this chapter (relating to Supplementary Experience Record);

(5) a minimum of three reference statements conforming to Subchapter F of this chapter (relating to Reference Documentation);

(6) documentation of a passing score on examination(s), which may include official verifications from the National Council of Examiners for Engineering and Surveying (NCEES) or other jurisdictions as required under §134.61(g) of this chapter (relating to Surveying Examinations), if applicable;

(7) verification of a current license from another jurisdiction, if applicable;

~~[(8) TOEFL scores, if applicable;]~~

~~(8) [(9)]~~ information regarding any judgments of convictions, deferred judgments or pre-trial diversions for a misdemeanor or felony provided in a form prescribed by the board together with copies of any court orders or other legal documentation concerning the criminal charges and the resolution of those charges; and

~~(9) [(10)]~~ for applications submitted on or after September 1, 2020, documentation of submittal of fingerprints for criminal history record check as required by Texas Occupations Code §1001.272.

~~(d) [(e)]~~ At the time the application is filed, an applicant may request in writing that any transcripts, reference statements, evaluations, experience records or other similar documentation previously submitted to the board be included in a current application; however, new or updated information may be required.

~~(e) [(f)]~~ The NCEES record may be accepted as verification of an original transcript, licenses held, examinations taken, experience record and reference documentation to meet the conditions of subsection ~~(d)(3) - (7)~~ of this section.

~~(f) [(g)]~~ Once an application is accepted for review, the fee shall not be returned, and the application and all submissions shall become a permanent part of the board records.

~~(g) [(h)]~~ An applicant who is a citizen of another country shall show sufficient documentation to the board to verify the immigration status for the determination of his or her eligibility for a professional license in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

~~(h) [(i)]~~ Once an application under this section is accepted for review, the board will follow the procedures in §134.83 of this chapter (relating to Processing, Review, and Evaluation of Applications) to review and approve or deny the application. The board may request additional information or require additional documentation to ensure eligibility as needed. Pursuant to Texas Occupations Code §1001.453, the board may review the license holder's status and take action if the license was obtained by fraud or error or if the license holder may pose a threat to the public's health, safety, or welfare.

§134.25. *Application from Out-of-State Registration Holders.*

(a) An applicant who holds a license or registration as a professional land surveyor from another state or U.S. jurisdiction having registration or licensing requirements substantially equivalent to the requirements of Texas may apply for a standard license.

(b) The Board shall determine whether the licensing or registration standards of the governmental authority under which the recip-

rocal applicant is licensed or registered are substantially equivalent to those standards required in the State of Texas.

(c) The Board shall require the reciprocal applicant to take and pass an examination not to exceed four (4) hours as required for applicants under §1071.259 of the Surveying Act.

(d) To be eligible for registration as a registered professional land surveyor (RPLS), one must submit a completed application.

~~[(e) Applicants must speak and write the English language. Proficiency in English may be evidenced by possession of an accredited degree taught exclusively in English, or passage of the Test of English as a Foreign Language (TOEFL) with a written score of at least 550, a computer based score of at least 200 or an internet based score of at least 95 or other evidence such as significant academic or work experience in English acceptable to the executive director.]~~

~~(e) [(f)]~~ Applicants for a registration shall submit:

(1) an application in a format prescribed by the board and shall:

~~(A)~~ list his or her full, legal and complete name without abbreviations, nicknames, or other variations of the full legal name. If applicable, the applicant shall submit proof of a legal name change including but not limited to a marriage certificate, passport, current Driver's License issued by the State of Texas, court documents, or nationalization documents to substantiate other documentation submitted in the application; and

~~(B)~~ list social security number, as required under the Texas Family Code, §231.302;

(2) current application fee as established by the board. Application fees shall be waived for qualifying military service members, military veterans, and military spouses in accordance with Texas Occupations Code Chapter 55;

(3) proof of educational credentials pursuant to Subchapter D of this chapter (relating to Education);

(4) supplementary experience record as required under §134.41 of this chapter (relating to Supplementary Experience Record);

(5) reference statements as required under Subchapter F of this chapter (relating to Reference Documentation); and

(6) documentation of passing scores on examination(s), which may include official verifications from the National Council of Examiners for Engineering and Surveying (NCEES) or other jurisdictions as required under §134.61(g) of this chapter (relating to Surveying Examinations);

(7) verification of a current license from another jurisdiction;

~~[(8) TOEFL scores, if applicable;]~~

~~(8) [(9)]~~ information regarding any criminal history including any judgments, deferred judgments or pre-trial diversions for a misdemeanor or felony provided in a form prescribed by the board together with copies of any court orders or other legal documentation concerning the criminal charges and the resolution of those charges; and

~~(9) [(10)]~~ for applications submitted on or after September 1, 2020, documentation of submittal of fingerprints for criminal history record check as required by Texas Occupations Code §1001.272.

~~(f) [(g)]~~ The NCEES record may be accepted as verification of an original transcript, licenses held, examinations taken, experience

record and reference documentation to meet the conditions of subsection (d)(3) - (7) of this section.

(g) [(h)] Once an application is accepted for review, the fee shall not be returned, and the application and all submissions shall become a permanent part of the board records.

(h) [(i)] An applicant who is a citizen of another country shall show sufficient documentation to the board to verify the immigration status for the determination of his or her eligibility for a professional license in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(i) [(j)] Once an application under this section is accepted for review, the board will follow the procedures in §134.83 of this chapter (relating to Processing, Review, and Evaluation of Applications) to review and approve or deny the application. The board may request additional information or require additional documentation to ensure eligibility as needed. Pursuant to Texas Occupations Code §1001.453 the board may review the license holder's status and take action if the license was obtained by fraud or error or if the license holder may pose a threat to the public's health, safety, or welfare.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 22, 2026.

TRD-202602153

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Earliest possible date of adoption: July 5, 2026

For further information, please call: (512) 440-3080



22 TAC §134.30

The Texas Board of Professional Engineers and Land Surveyors (Board) proposes a new rule in 22 Texas Administrative Code, Chapter 134, Subchapter C, regarding land surveyor application requirements, specifically §134.30 Application Language.

BACKGROUND AND SUMMARY

The proposed new rule is part of a rule clarification package intended to align rules with current agency practices, specifically related to application language requirements and international licensure issues.

SECTION-BY-SECTION SUMMARY

The proposal relocates current rule §134.37 to new rule §134.30 and makes clarifying amendments. Current rule §134.37 is located in the Subchapter D related to Education. The new §134.30 is located in Subchapter C related to Application Requirements. Therefore, the rule will require all application documentation to be in English or have an English translation.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Mr. Lance Kinney, Ph.D., P.E., Executive Director for the Board, has determined that for each year of the first five years the proposed new rule is in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules.

Mr. Kinney has determined that for each year of the first five years the proposed new rule is in effect, there is no estimated

increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Kinney has determined that the proposed new rule will not affect the local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

PUBLIC BENEFITS

Mr. Kinney has determined that for each year of the first five-year period the proposed new rule is in effect, the public benefit will be clarification and accuracy of board rules.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Kinney has determined that for each year of the first five-year period the proposed new rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because no new requirements are part of the proposed rules.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed rules. Since the agency has determined that the proposed new rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed new rule is in effect, the agency has determined the following:

1. The proposed new rule does not create or eliminate a government program.
2. Implementation of the proposed new rule does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed new rule do not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed new rule does not require an increase or decrease in fees paid to the agency.
5. The proposed new rule does not create a new regulation.
6. The proposed new rule does not increase the number of individuals subject to the rule's applicability.
7. The proposed new rule does not positively or adversely affect this state's economy.

8. The proposed rule does not expand, limit, or repeal an existing regulation.

TAKINGS IMPACT ASSESSMENT

The Board has determined that no private real property interests are affected by the proposed new rule and the proposed new rule does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed new rule does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS

The Board has determined that the proposed new rule is not brought with the specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Board asserts the proposed new rule is not a "major environmental rule," as defined by Government Code §2001.0225. As a result, the Board asserts preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

PUBLIC COMMENTS

Any comments or request for a public hearing may be submitted, no later than 30 days after the publication of this notice, to Lance Kinney, Ph.D., P.E., Executive Director, by email to rules@pels.texas.gov or sent by postal mail to the Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741.

STATUTORY AUTHORITY

The proposed new rule is proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state.

CROSS REFERENCE TO STATUTE

The proposed new rules implement Chapter 1071 of the Texas Occupations Code. No other statute, code, or article is affected by the proposed rules.

§134.30. Application Language.

All application forms and supporting documents shall be written in the English language. Any official documents issued by a third party, such as educational transcripts, written in language other than English shall be accompanied by a certified English translation.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 22, 2026.

TRD-202602148

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Earliest possible date of adoption: July 5, 2026

For further information, please call: (512) 440-3080



SUBCHAPTER D. EDUCATION

22 TAC §134.37

The Texas Board of Professional Engineers and Land Surveyors (Board) proposes to repeal 22 Texas Administrative Code, Chapter 134, Subchapter D, regarding education for land surveyors, specifically §134.37 English Translation.

BACKGROUND AND SUMMARY

The proposed rule repeal is part of a rule clarification package intended to align rules with current agency practices, specifically related to application language requirements and international licensure issues.

SECTION-BY-SECTION SUMMARY

The proposal repeals current rule §134.37. The rule language will be moved to new rule §134.30 with clarifying amendments. Moving the rule language from the subchapter on education to the subchapter on application requirements expands the scope of the language requirement from transcripts to the whole application package, thereby requiring all application documentation to be in English or have an English translation.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Mr. Lance Kinney, Ph.D., P.E., Executive Director for the Board, has determined that for each year of the first five years the rule repeal is in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules.

Mr. Kinney has determined that for each year of the first five years the proposed rule repeal is in effect, there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Kinney has determined that the proposed rule repeal will not affect the local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

PUBLIC BENEFITS

Mr. Kinney has determined that for each year of the first five-year period the proposed rule repeal is in effect, the public benefit will be clarification and accuracy of board rules.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Kinney has determined that for each year of the first five-year period the proposed rule repeal is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because no new requirements are part of the proposed rules.

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed rule repeal. Since the agency has determined that the proposed rule repeal will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rule repeal does not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rule repeal. For each year of the first five years the proposed rule repeal is in effect, the agency has determined the following:

1. The proposed rule repeal does not create or eliminate a government program.
2. Implementation of the proposed rule repeal does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rule repeal does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rule repeal does not require an increase or decrease in fees paid to the agency.
5. The proposed rule repeal does not create a new regulation.
6. The proposed rule repeal does not increase the number of individuals subject to the rule's applicability.
7. The proposed rule repeal does not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

The Board has determined that no private real property interests are affected by the proposed rule repeal and the proposed rule repeal does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rule repeal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

ENVIRONMENTAL RULE ANALYSIS

The Board has determined that the proposed rule repeal is not brought with the specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Board asserts the proposed new rule is not a "major environmental rule," as defined by Government Code §2001.0225. As a result, the Board asserts preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

PUBLIC COMMENTS

Any comments or request for a public hearing may be submitted, no later than 30 days after the publication of this notice, to Lance Kinney, Ph.D., P.E., Executive Director, by email to rules@pels.texas.gov or sent by postal mail to the Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741.

STATUTORY AUTHORITY

The rule repeal is proposed pursuant to Texas Occupations Code §§1001.201 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its

own proceedings, and the regulation of the practices of engineering and land surveying in this state.

CROSS REFERENCE TO STATUTE

The proposed rule repeal implements Chapter 1071 of the Texas Occupations Code. No other statute, code, or article is affected by the proposed rules.

§134.37. English Translation.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 22, 2026.

TRD-202602150

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Earliest possible date of adoption: July 5, 2026

For further information, please call: (512) 440-3080



PART 14. TEXAS OPTOMETRY BOARD

CHAPTER 271. EXAMINATIONS

22 TAC §271.8

The Texas Optometry Board proposes to repeal 22 TAC Part 14 Chapter 271 Examinations - §271.8 - Converting Optometric License to Therapeutic Optometric License.

In 2025, the Texas Legislature created the Texas Regulatory Efficiency Office (TREO) to review state agency rules and procedures to reduce regulatory burdens; eliminate waste, fraud, and unnecessary rules; and increase transparency for Texas taxpayers. In conjunction with the TREO review, the Board is proposing the repeal of §271.8.

Section 271.8 currently provides a mechanism for optometrists to transition their optometrist license to a therapeutic optometrist license. This mechanism was established in 1992 after statute was changed during the 1991 legislative session to provide for a therapeutic license in Texas. In 2026, there are approximately 100 licensees who have the optometrist designation - they are older optometrists and most will be retiring in the next decade.

If any of the 100 optometrists decided to upgrade the license to therapeutic, the Board would work with them to ensure competency is met. Given the number of licensees and the ability of the Board to verify competency, the rule is unnecessary and should be repealed.

Government Growth Impact Statement. For the first five-year period the repeal is in effect, the Board estimates that the repeal will have no effect on government growth. The repeal does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year

period following the repeal, there will be no adverse effect on small businesses, micro-businesses, or rural communities and the repeal does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the repeal will have no adverse economic effect on small businesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the repeal. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the repeal will have no impact on local employment or a local economy. Thus, the Board is not required to prepare a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the repeal is in effect there is no impact on the public.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the repeal, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed repeal does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed repeal rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register*.

Statutory Authority. The Board proposes this repeal pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code.

No other sections are affected by the repeal.

§271.8. *Converting Optometric License to Therapeutic Optometric License.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 19, 2026.

TRD-202602104

Janice McCoy

Executive Director

Texas Optometry Board

Earliest possible date of adoption: July 5, 2026

For further information, please call: (512) 305-8502



22 TAC §271.12

The Texas Optometry Board proposes amendments to 22 TAC Part 14 Chapter 271 Examinations - §271.12 - License Designation.

In 2025, the Texas Legislature created the Texas Regulatory Efficiency Office (TREO) to review state agency rules and procedures to reduce regulatory burdens; eliminate waste, fraud, and unnecessary rules; and increase transparency for Texas taxpayers. In conjunction with the TREO review, the Board proposes to amend §271.12 - License Designation to remove sections of the rule that only restate statute.

Subsection (c) restates Texas Occupations Code §351.261 - Display of License or Certificate. Subsection (d) restates Texas Occupations Code §351.263 - Lost or Destroyed License. By eliminating the sections of the rules that restate statute, the agency is reducing the regulatory burden and increasing transparency for licensees.

Government Growth Impact Statement. For the first five-year period the amendment is in effect, the Board estimates that the amendment will have no effect on government growth. The amendment does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year period following the amendment, there will be no adverse effect on small businesses, micro-businesses, or rural communities and the amendment does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the amendment will have no adverse economic effect on small businesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the amendment. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the amendment will have no impact on local employment or a local economy. Thus, the Board is not required

to prepare a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the amendment is in effect there is no impact on the public.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the amendment, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed amendment does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed amendment to the rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register*.

Statutory Authority. The Board proposes this rule pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code.

No other sections are affected by the amendments.

§271.12. *License Designation.*

(a) - (b) (No change.)

~~{(c) The license to practice must be displayed in a conspicuous place in the principal office where the optometrist practices such that the patient can view the license.}~~

~~{(d) In the event the original certificate is lost or destroyed, the Board may issue a duplicate certificate; the person entitled thereto must make written application to the Board for a duplicate, under affidavit setting forth that such certificate was lost or destroyed, and the circumstances under which loss or destruction occurred. Should the original subsequently be found, it must be forwarded immediately to the Board and not used by the person to whom issued originally or by any other person. A fee as set forth in §273.4 of this title (relating to Fees (not Refundable)) must be submitted to the Board along with the affidavit for the duplicate issue.}~~

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 19, 2026.

TRD-202602105

Janice McCoy

Executive Director

Texas Optometry Board

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For further information, please call: (512) 305-8502



CHAPTER 272. ADMINISTRATION

22 TAC §272.4

The Texas Optometry Board proposes to repeal 22 TAC Part 14 Chapter 272 Administration - §272.4 - Public Participation in Meetings.

In 2025, the Texas Legislature created the Texas Regulatory Efficiency Office (TREGO) to review state agency rules and procedures to reduce regulatory burdens; eliminate waste, fraud, and unnecessary rules; and increase transparency for Texas taxpayers. In conjunction with the TREGO review, the Board is proposing the repeal of §272.4.

This rule is derived from Texas Occupations Code 351.202 which requires the Board to "develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the board's jurisdiction."

In conjunction with the repeal of this rule, the Board will adopt a policy regarding public participation at meetings. The policy will be available on the Board's public facing website for public review.

Government Growth Impact Statement. For the first five-year period the repeal is in effect, the Board estimates that the repeal will have no effect on government growth. The repeal does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year period following the repeal, there will be no adverse effect on small businesses, micro-businesses, or rural communities and the repeal does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the repeal will have no adverse economic effect on small businesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the repeal. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the repeal will have no impact on local employment or a local economy. Thus, the Board is not required to prepare

a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the repeal is in effect there is no impact on the public.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the repeal, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed repeal does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed repeal rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register*.

Statutory Authority. The Board proposes this repeal pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code.

No other sections are affected by the repeal.

§272.4. Public Participation in Meetings.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 19, 2026.

TRD-202602106

Janice McCoy

Executive Director

Texas Optometry Board

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For further information, please call: (512) 305-8502



CHAPTER 273. GENERAL RULES

22 TAC §273.1

The Texas Optometry Board proposes to repeal 22 TAC Part 14 Chapter 273 General Rules - §273.1 - Surrender of License.

In 2025, the Texas Legislature created the Texas Regulatory Efficiency Office (TREO) to review state agency rules and procedures to reduce regulatory burdens; eliminate waste, fraud, and unnecessary rules; and increase transparency for Texas taxpayers. In conjunction with the TREO review, the Board is proposing the repeal of §273.1.

Section 273.1 was adopted in 1984 - the Board's purpose was to ensure that optometrists who do not renew a license would not be in possession of a valid license and therefore could not practice optometry. By requiring the return of the license and/or an affidavit stating the optometrist would not practice, the Board was protecting the health and welfare of the general public.

However, online searches of the Board's licensees now provide a way for member of the public to verify that a person has a valid therapeutic license. As such, this rule is an unnecessary step for licensees and an unnecessary burden for staff to maintain the affidavits. The Board has other disciplinary tools for those licensees who practice without a license.

Government Growth Impact Statement. For the first five-year period the repeal is in effect, the Board estimates that the repeal will have no effect on government growth. The repeal does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year period following the repeal, there will be no adverse effect on small businesses, micro-businesses, or rural communities and the repeal does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the repeal will have no adverse economic effect on small businesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the repeal. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the repeal will have no impact on local employment or a local economy. Thus, the Board is not required to prepare a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the repeal is in effect there is no impact on the public.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the repeal, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed repeal does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another rule is

required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed repeal rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register*.

Statutory Authority. The Board proposes this repeal pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code.

No other sections are affected by the repeal.

§273.1. Surrender of License.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 19, 2026.

TRD-202602107

Janice McCoy

Executive Director

Texas Optometry Board

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For further information, please call: (512) 305-8502



22 TAC §273.10

The Texas Optometry Board proposes to repeal 22 TAC Part 14 Chapter 273 General Rules - §273.10 - Nonrenewal for Failure to Pay Child Support.

In 2025, the Texas Legislature created the Texas Regulatory Efficiency Office (TREO) to review state agency rules and procedures to reduce regulatory burdens; eliminate waste, fraud, and unnecessary rules; and increase transparency for Texas taxpayers. In conjunction with the TREO review, the Board is proposing the repeal of §273.10.

This rule is derived from the Family Code §232.0135 which directs the Board to hold license renewals for non-payment of child support. This rule is unnecessary as it simply restates the statute related to child support payments. The Board has full authority to withhold a license renewal based on the statute.

Government Growth Impact Statement. For the first five-year period the repeal is in effect, the Board estimates that the repeal will have no effect on government growth. The repeal does not create or eliminate a government program; does not require the creation or elimination of employee positions; does not require the increase or decrease in future legislative appropriations to this agency; does not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand an existing regulation; does not increase or decrease the number of individuals subject to the rule's applicability; and does not positively or adversely affect the state's economy.

Small Business, Micro-Business, and Rural Community Impact Statement. Ms. McCoy has determined for the first five-year

period following the repeal, there will be no adverse effect on small businesses, micro-businesses, or rural communities and the repeal does not positively or adversely impact the state's economy.

Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities. Ms. McCoy has determined that the repeal will have no adverse economic effect on small businesses, micro-businesses, or rural communities and does not positively or adversely impact the state's economy. Thus, the Board is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Government Code.

Takings Impact Assessment. Ms. McCoy has determined that there are no private real property interests affected by the repeal. Thus, the Board is not required to prepare a takings impact assessment pursuant to §2007.043 of the Government Code.

Local Employment Impact Statement. Ms. McCoy has determined that the repeal will have no impact on local employment or a local economy. Thus, the Board is not required to prepare a local employment impact statement pursuant to §2001.024 of the Government Code.

Public Benefit. Ms. McCoy has determined for the first five-year period the repeal is in effect there is no impact on the public.

Fiscal Note. Janice McCoy, Executive Director of the Board, has determined that for the first five-year period following the repeal, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to local governments.

Additionally, Ms. McCoy has determined that enforcing or administering the rules do not have foreseeable implications relating to the costs or revenues of state or local government.

Requirement for Rules Increasing Costs to Regulated Persons. The proposed repeal does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Government Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rules are necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Board on licensees is not expected to increase.

PUBLIC COMMENTS: Comments on the proposed repeal rules may be submitted electronically to: janice.mccoy@tob.texas.gov or in writing to Janice McCoy, Executive Director, Texas Optometry Board, 1801 N. Congress, Suite 9.300, Austin, Texas 78701. The deadline for furnishing comments is thirty days after publication in the *Texas Register*.

Statutory Authority. The Board proposes this repeal pursuant to the authority found in §351.151 of the Occupations Code which vests the Board with the authority to adopt rules necessary to perform its duties and implement Chapter 351 of the Occupations Code.

No other sections are affected by the repeal.

§273.10. Nonrenewal for Failure to Pay Child Support.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 19, 2026.

TRD-202602108



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 227. MINIMUM GUIDELINES FOR HUMAN DONOR MILK BANKS

25 TAC §227.1

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), proposes an amendment to §227.1, concerning Minimum Guidelines for Human Donor Milk Banks.

BACKGROUND AND PURPOSE

The proposal is necessary to comply with Texas Health and Safety Code (HSC) §161.071, which requires DSHS to establish minimum guidelines for the procurement, processing, distribution, or use of human milk by donor milk banks. DSHS uses Human Milk Banking Association of North America (HMBANA) standards to determine minimum Texas donor human milk bank guidelines. The proposed rule amendment updates outdated HMBANA guidelines.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §227.1 updates the publication used to establish standards for milk banking, updates how guidelines are publicly accessed, and adds language that human donor milk banks must ensure donated milk is safe and properly labeled in accordance with HMBANA guidelines.

FISCAL NOTE

Christy Havel Burton, Chief Financial Officer, determined for each year of the first five years the rule will be in effect, enforcing or administering the rule does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

DSHS determined during the first five years the rule will be in effect:

- (1) the proposed rule will not create or eliminate a government program;
- (2) implementation of the proposed rule will not affect the number of DSHS employee positions;
- (3) implementation of the proposed rule will result in no assumed change in future legislative appropriations;
- (4) the proposed rule will not affect fees paid to DSHS;
- (5) the proposed rule will not create a new regulation;
- (6) the proposed rule will not expand, limit, or repeal existing regulation;

(7) the proposed rule will not change the number of individuals subject to the rule; and

(8) the proposed rule will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Christy Havel Burton also determined there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The rule does not impose any additional costs on small businesses, micro-businesses, or rural communities required to comply with the rule.

LOCAL EMPLOYMENT IMPACT

The proposed rule will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to this rule because the rule does not impose a cost on regulated persons and the rule is necessary to implement legislation that does not specifically state §2001.0045 applies to the rule.

PUBLIC BENEFIT AND COSTS

Manda Hall, M.D., Deputy Commissioner, Community Health Improvement Division, determined for each year of the first five years the rule is in effect, the public benefits by having access to up-to-date information and resources establishing the minimum guidelines for human donor milk banks.

Christy Havel Burton also determined for the first five years the rule is in effect, there are no anticipated economic costs to persons required to comply with the proposed rule because the rule amendment does not establish a cost to meet the guidelines.

TAKINGS IMPACT ASSESSMENT

DSHS determined the proposal does not restrict or limit an owner's right to the owner's property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to HHSRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 26R027" in the subject line.

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151 and Texas Health and Safety Code (HSC) §1001.075, which authorize the executive commissioner of HHSC to adopt rules and policies for the operation and provision

of health and human services by DSHS and for the administration of HSC Chapter 1001.

The amendment implements Texas Government Code §524.0151, and HSC §161.071 and Chapter 1001.

§227.1. Minimum Guidelines.

The Texas Department of State Health Services (DSHS) has reviewed and [(department)] adopts by reference the standards found in the publication, "HMBANA Standards for Donor Human Milk Banking: An Overview, January 2024," [entitled "Guidelines for the Establishment and Operation of a Donor Human Milk Bank", Ninth Edition, 2000, as amended,] written by the Human Milk Banking Association of North America (HMBANA), Inc., as minimum guidelines.

(1) Guidelines [A copy of the guidelines] are available for download on the HMBANA.org website [file at the Texas Department of Health, Bureau of Food and Drug Safety, 1100 West 49th Street, Austin, Texas 78756, and may be viewed during normal working hours].

(2) DSHS does not license human donor milk banks in Texas. Human donor milk banks are responsible and must ensure donated milk is safe and properly labeled in accordance with HMBANA guidelines [The guidelines may be viewed on the Texas Department of Health's Bureau of Food and Drug Safety website at www.tdh.state.tx.us/bfds].

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 19, 2026.

TRD-202602124

Cynthia Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: July 5, 2026

For further information, please call: (512) 239-8263



PART 11. CANCER PREVENTION AND RESEARCH INSTITUTE OF TEXAS

CHAPTER 703. GRANTS FOR CANCER PREVENTION AND RESEARCH

25 TAC §703.23

The Cancer Prevention & Research Institute of Texas ("CPRIT" or the "Institute") proposes amendments to Title 25, Part 11, Chapter 703, §703.23, concerning Disbursement of Grant Award Funds.

BACKGROUND INFORMATION AND JUSTIFICATION

CPRIT may withhold the last ten percent (10%) of the total Grant Award funds from a Grant Recipient that receives Grant Award funds via advance payment. Pursuant to §703.23(a), the Grant Recipient must successfully complete all close out reports required by the Institute to receive the withheld funds. This functions to ensure the Grant Recipient's required compliance with all Grant Award close out documents.

Grant Recipients under the Product Development Research Program have sought and received advance Grant Award funds. As a result, CPRIT does not disburse the last ten percent (10%)

of Grant Award funds for most Product Development Research Grant Recipients until the Grant Recipients have submitted close out documents.

Some Product Development Research Grant Recipients that initially received Grant Award funds paid in advance voluntarily elected to receive Grant Award funds via reimbursement-based disbursement during their Grant Contract term. Rule §703.23 does not provide clear guidance regarding the Institute's ability to withhold the final ten percent (10%) of Grant Award funds when the Grant Recipient has received advanced payment of Grant Award funds in the past but has later shifted to receiving payment of Grant Award funds on a reimbursement basis. The proposed rule change to §703.23 clarifies that all Product Development Research Grant Recipients are subject to the ten percent (10%) holdback regardless of whether they receive Grant Award funds in advance or on a reimbursement basis. All other Grant Recipients may be subject to the ten percent (10%) holdback if the Institute determines it is necessary and provides notice no later than the first day of the final Financial Status Report period for the Grant Award.

The proposed rule change permits the Grant Recipient subject to the ten percent (10%) holdback to submit a written request to CPRIT's Chief Executive Officer to reduce or eliminate the amount of Grant Award funds otherwise withheld by the Institute. A Grant Recipient's request must include a reasonable justification of the circumstances supporting a reduced holdback. Because this rule revision codifies the most common practice and applies it to all circumstances easily, it will avoid ambiguity and complexity in the application of the rule with little to no change to current practices.

SECTION-BY-SECTION SUMMARY

Proposed §703.23(a) ensures the consistent use of defined terms and removes text related to the withholding of final Grant Award funds. The Institute proposes moving the requirement to §703.23(c) and providing more explanation of how and when the Institute will withhold final Grant Award fund payment.

Proposed §703.23(c) explains when the Institute will withhold the final ten percent (10%) of Grant Funds from a Grant Recipient, when the Institute will release final Grant Award funds to a Grant Recipient, how a Grant Recipient may request the Institute withhold less than ten percent (10%), and that the Chief Executive Officer makes the final determination and notifies the Oversight Committee.

FISCAL NOTE

Mr. John Ellis, General Counsel for CPRIT, has determined that for each year of the first five years that the proposed amendments will be in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering the proposed rules. In addition, CPRIT does not anticipate that enforcing or administering the proposed rules will result in any reductions in costs or in any additional costs to the Institute, the state, or local governments. CPRIT also does not anticipate that there will be any loss or increase in revenue to the Institute, the state, or local governments as a result of enforcing or administering the proposed rules.

PUBLIC BENEFIT

Mr. Ellis has determined that for each year of the first five years that the proposed amendments will be in effect, the public benefit expected as a result of adopting the proposed rule amendments will be timelier payment to Grant Recipients and more

transparency when there is a delay in CPRIT's review and payment of an FSR.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL ECONOMY

There are no anticipated economic costs to persons required to comply with the proposed amendments. There is no effect on local economy for the first five years that the proposed amendments will be in effect; therefore, no local employment impact statement is required under Texas Government Code §§2001.022 and 2001.024(a)(6).

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

The proposed rule amendments will have no direct adverse economic impact on small businesses, micro-businesses, or rural communities. Accordingly, the preparation of an economic impact statement and a regulatory flexibility analysis, as specified in Texas Government Code §2006.002, is not required.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Texas Government Code §2001.0221, CPRIT provides the following government growth impact statement for the proposed rules. For each year of the first five years that the proposed amendments will be in effect, CPRIT has determined the following:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not require the creation of new employee positions or the elimination of existing employee positions;
- (3) implementation of the proposed rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the proposed rules will not require an increase or decrease in fees paid to the agency;
- (5) the proposed rules do not create new regulations;
- (6) the proposed rules will not expand, limit, or repeal an existing regulation;
- (7) the proposed rules will not increase or decrease the number of individuals subject to the rules' applicability; and
- (8) the proposed rules will not positively or adversely affect the state's economy.

REQUEST FOR PUBLIC COMMENTS

Comments or questions on the proposed amendments may be submitted in writing and directed to Mr. John Ellis, General Counsel, Cancer Prevention and Research Institute of Texas, P.O. Box 12097, Austin, Texas 78711, or by e-mail to jellis@cpr.it.texas.gov. Comments will be accepted no later than July 6, 2026. Comments should be organized in a manner consistent with the organization of the proposed amendments.

STATUTORY AUTHORITY

The proposed rule amendments are authorized by Texas Health & Safety Code § 102.108, which provides the Institute with broad rule-making authority to administer the Chapter.

CROSS REFERENCE TO STATUTE

The proposed rule amendments implement Chapter 102 of the Texas Health & Safety Code. No other statute, code, or article is affected by the proposed rules.

§703.23. Disbursement of Grant Award Funds.

(a) The Institute disburses Grant Award funds by reimbursing the Grant Recipient for allowable costs already expended; however, the nature and circumstances of the Grant Mechanism or a particular Grant Award may justify advance payment of funds by the Institute pursuant to the Grant Contract.

(1) The Chief Executive Officer shall seek authorization from the Oversight Committee to disburse Grant Award funds by advance payment.

(A) A simple majority of Oversight Committee Members present and voting must approve the Chief Executive Officer's advance payment recommendation for the Grant Award.

(B) Unless specifically stated at the time of the Oversight Committee's vote, the Oversight Committee's approval to disburse Grant Award funds by advance payment is effective for the term of the Grant Award.

(2) Unless otherwise specified in the Grant Contract, the amount of Grant Award funds advanced in any particular Tranche may not exceed the budget amount for the corresponding Project Year.

(3) The Grant Recipient receiving advance payment of Grant Award funds must maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the Grant Award funds and disbursement by the Grant Recipient.

(4) The Grant Recipient must comply with all financial reporting requirements regarding use of Grant Award funds, including timely submission of quarterly Financial Status Reports.

(5) The Grant Recipient must expend at least 90% of the Grant Award funds in a Tranche before Institute will advance additional Grant Award [grant] funds or reimburse additional costs. To the extent possible, the Institute will work with the Grant Recipient to coordinate the advancement of Grant Award fund Tranches in such a way as to avoid affecting work in progress or project planning.

(6) Nothing herein creates an entitlement to advance payment of Grant Award funds; the Institute may determine in its sole discretion that circumstances justify limiting the amount of Grant Award funds eligible for advance payment, may restrict the period for the advance payment of Grant Award funds, or may revert to payment on a reimbursement-basis. [Unless specifically stated in the Grant Contract, the Institute will disburse the last ten percent (10%) of the total Grant Award funds using the reimbursement method of funding, and will withhold payment until the Grant Recipient has closed its Grant Contract and the Institute has approved the Grant Recipient's final reports pursuant to §703.14 of this chapter relating to Termination, Extension, Close Out of Grant Contracts, and De-Obligation of Grant Award funds.]

[(A) A Grant Recipient receiving advance payment may request in writing that the Institute withhold less than ten percent (10%) of the total Grant Award funds. The Grant Recipient must submit the request and reasonable justification to the Institute no sooner than the start of the final year and no later than the start of the final financial status reporting period of the grant project.]

[(B) The Chief Executive Officer may approve or deny the request. If approved, the Chief Executive Officer will provide written notification to the Oversight Committee. The Chief Executive Officer's decision to approve or deny a request is final.]

(b) The Institute will disburse Grant Award funds for actual cash expenditures reported on the Grant Recipient's quarterly Financial Status Report.

(1) Only expenses that are allowable and supported by adequate documentation are eligible to be paid with Grant Award funds.

(2) A Grant Recipient must pay their vendors and subcontractors prior to requesting reimbursement from CPRIT.

(c) The Institute may withhold disbursing Grant Award funds if the Grant Recipient has not submitted required reports, including quarterly Financial Status Reports, Grant Progress Reports, Matching Fund Reports, audits and other financial reports. Unless otherwise specified for the particular Grant Award, Institute approval of the required report(s) is necessary for disbursement of Grant Award funds.

(1) For all Grant Recipients under the Product Development Research Grant Program, the Institute will withhold ten percent (10%) of the total Grant Award funds until the Grant Recipient has closed its Grant Contract and the Institute has approved the Grant Recipient's close out documents pursuant to Chapter 703, §703.14 of this title (relating to Termination, Extension, Close Out of Grant Contracts, and De-Obligation of Grant Award funds).

(A) A Grant Recipient described in this paragraph may request in writing that the Institute withhold less than ten percent (10%) of the total Grant Award funds. The Grant Recipient must submit the request and reasonable justification in writing to the Institute no sooner than one year prior to the termination date of the Grant Contract and no later than the first day of the final Financial Status Report period of the Grant Contract.

(B) The Chief Executive Officer has sole discretion to approve or deny the request. If approved, the Chief Executive Officer will provide written notification to the Oversight Committee. The Chief Executive Officer's decision to approve or deny a request is final.

(2) For all other Grant Recipients, the Institute may, in the exercise of its sole discretion, withhold ten percent (10%) of the total Grant Award funds until the Grant Recipient has closed its Grant Contract and the Institute has approved the Grant Recipient's final close out documents pursuant to Chapter 703, §703.14 of this title. Unless the Institute's intention to exercise its authority under this paragraph is specifically mentioned in the Grant Contract, the Institute shall notify the Grant Recipient, in writing, of its intention to do so no later than the start of the final Financial Status Report period of the Grant Award.

(A) A Grant Recipient described in this paragraph may request in writing that the Institute withhold less than ten percent (10%) of the total Grant Award funds. The Grant Recipient must submit the request and reasonable justification to the Institute no sooner than one year prior to the termination date of the Grant Contract and no later than the first day of the final Financial Status Report period of the Grant Contract.

(B) The Chief Executive Officer has sole discretion to approve or deny the request. If approved, the Chief Executive Officer will provide written notification to the Oversight Committee. The Chief Executive Officer's decision to approve or deny a request is final.

(d) All Grant Award funds are disbursed pursuant to a fully executed Grant Contract. Grant Award funds shall not be disbursed prior to the effective date of the Grant Contract.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 22, 2026.

TRD-202602157

Heidi McConnell

Deputy Executive Officer / Chief Operating Officer

Cancer Prevention and Research Institute of Texas

Earliest possible date of adoption: July 5, 2026

For further information, please call: (512) 463-3190



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 20. TEXAS WORKFORCE COMMISSION

CHAPTER 809. CHILD CARE SERVICES

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

Subchapter A. General Provisions, §809.2

Subchapter B. General Management, §§809.18, 809.19, and 809.21

Subchapter C. Eligibility for Child Care Services, §§809.41 - 809.43, 809.45, 809.47, 809.49, 809.51, 809.52, 809.54, and 809.56

Subchapter D. Parent Rights and Responsibilities, §§809.72, 809.73, and 809.78

Subchapter E. Requirements to Provide Child Care, §809.92, §809.95, and §809.96

Subchapter G. Texas Rising Star Program, §§809.130 - 809.134 and §809.136

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

Subchapter A. General Provisions, §809.4 and §809.5

Subchapter G. Texas Rising Star Program, §809.137

TWC proposes the repeal of the following section of Chapter 809, relating to Child Care Services:

Subchapter B. General Management, §809.22

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the proposed Chapter 809 rule change is to comply with recent legislative statutory changes, improve operational efficiency, strengthen confidentiality of data policy, and align rules with operational practices with the implementation of Texas Child Care Connection (TX3C) case management system.

House Bill 2294 Paying the Maximum Payment Rate Regardless of Provider's Published Rate

House Bill (HB) 2294, 89th Texas Legislature, Regular Session, 2025, amended Texas Government Code, §2308.3151, to allow, but not require, a Local Workforce Development Board (Board) to pay Texas Rising Star providers at the Board's maximum payment rate regardless of the provider's published rate. HB 2294 requires, however, that a Board may do this only if paying the higher rate does not reduce the target performance measure for the average number of children serviced in the Board's workforce area.

To align Chapter 809 with the language in statute, the proposed amendments allow a Board to pay the Board's maximum rate for Texas Rising Star providers only if paying the higher rate does not prevent the Board from meeting the Commission's performance target for the average number of children served in the Board's local workforce development area (workforce area).

Calculating the Blended-Day Payment Rates

The proposed rules clarify the rates used to calculate the blended-day enrollment. Pursuant to §809.93(f)(3), the blended-day unit of service is for a child enrolled in a school program, prekindergarten, Head Start, or Early Head Start in which child care is primarily part-day, with full-time child care provided occasionally, such as when schools are on spring break.

Consistent with §809.21(a), requiring that Boards pay the lower of the Board's maximum rate or the provider's published rate, §809.21(c) is added to state that the payment for a blended-day enrollment is calculated as a weighted blend across the school year of the lower of the provider's published full-day rate or the maximum Board full-day rate, and the lower of the provider's part-day rate or the maximum Board part-day rate.

The Commission notes that this is not a change to the methodology for calculating the blended-day rate. The blended rate was developed to improve operational efficiency for creating one blended child authorization rather than requiring child care case workers to modify each child's authorization when the school calendar changes and children require full-time child care. The blended rate's operational efficiency reduces the child care case-worker workload for the approximately 50,000 school-age CCS children, whose schedules would need to be modified throughout the school year. If the blended rate was not in use, payments for CCS children would be based on the lower of the provider's published rate for full-day care and for part-day care. These are the same factors that TWC uses in calculating the blended rate. The methodology for calculating the blended-day rate described in the proposed rules has been in place since 2010. The intent of adding the methodology in the rule language is to provide transparency regarding the methodology.

Child Care Services Eligibility and Authorization Periods

Pursuant to 45 Code of Federal Regulations (CFR) §98.21(a), states must establish a minimum 12-month authorization period for eligible families receiving child care assistance. Texas currently implements this requirement through §809.42(b) of the Child Care Services rules, which requires Boards to ensure that eligibility for child care services is not redetermined sooner than 12 months following the initial determination or the most recent redetermination.

The US Department of Health and Human Services, Administration for Children and Families (ACF), has clarified that the intent of 45 CFR §98.21(a) is to ensure that children receive a full 12 months of child care services once the child begins receiving child care (which often occurs after the initial eligibility determination date).

Child Care & Early Learning (CC&EL) recently issued Workforce Development (WD) Letter 05-26, "12-Month Eligibility and Authorization of Child Care Services" to help Boards implement a process that ensures each eligible child is guaranteed a minimum of 12 months of child care services to align with ACF's clarifying instructions. The proposed amendments add the definition of "eligibility period," which includes a 12-month authorization to

receive child care services to clarify that the required 12-month authorization for child care services begins from the time a child begins receiving child care after being determined eligible.

The proposed rules further ensure that Boards meet the intent of 45 CFR §98.21 by clarifying eligibility and service periods throughout Chapter 809, and to include, as necessary, the guidance outlined in WD Letter 05-26, including adding definitions for the eligibility determination and redetermination periods.

Exceptions for Providers Recording Attendance

Section 809.95 prohibits providers, including provider staff, from recoding attendance on behalf of the parents through the TX3C attendance tracking system. With the implementation of TX3C, in limited instances, when the parent is not available to record attendance at drop-off or pick-up of the child (such as when the provider is transporting the child to or from school), the provider may record the appropriate check-in or check-out. The parent must still record at least one daily check-in or check-out for the child. However, in these limited circumstances, the parent is not required to perform both a check-in and a check-out. Additionally, parents may backdate attendance records by up to six days.

TWC has provided guidance to the Boards through WD Letter 08-23 describing these limited instances in which the provider may record attendance on behalf of the parents.

The proposed rules include language that mirrors the guidance in WD Letter 08-23 regarding exceptions to allow providers to record attendance.

Clarify 90-day Period for Temporary Cessation of Activities, Job Search, and Homelessness Eligibility

Section 809.51 requires that child care continue for at least three months if a parent experiences a temporary cessation of work or attendance in a training or education program.

Depending upon the months involved (such as if the months include 31 days), the three months rule language has led to an inconsistent number of days the parent may experience temporary cessation of activities and continued care following a non-temporary cessation of activities.

The proposed rules provide for a consistent "90 calendar day" period for a temporary cessation of activities, and continuation of care for a non-temporary cessation of activities. Similarly, the proposed rules clarify the 90 calendar day period for initial enrollment of a child experiencing homelessness in §809.52, and for child care during job search in §809.56.

Services to Children Experiencing Homelessness

Child Care Development Fund (CCDF) regulations at 45 CFR §98.46(a)(3) requires states to prioritize child care services for children experiencing homelessness. However, the regulations do not specify how states implement this prioritization of services. The CCDF State Plan allows states to choose how states prioritize child care services for children experiencing homelessness through one or all of these options:

- prioritize for enrollment in child care services;
- serve without placing on a waiting list;
- waive parent share of cost;
- pay higher rates for access to higher quality care; and
- use grants or contracts to reserve child care spots.

Additionally, 45 CFR §98.51 requires states to establish procedures to permit enrollment (after an initial eligibility determination) of children experiencing homelessness while required documentation is obtained. Section 809.52 requires a three-month initial eligibility period for children experiencing homelessness while parents are obtaining required documentation regarding age and citizenship status.

CCDF regulations at 45 CFR §98.2 and 40 TAC §809.2 define "Child experiencing homelessness" as child who is homeless as defined in McKinney-Vento Act (42 USC 11434a).

The McKinney-Vento Act defines "homeless children and youths" as individuals who lack a fixed, regular, and adequate nighttime residence; and includes:

--children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;

--children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

--children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

--migratory children who qualify as homeless for the purposes of the McKinney Vento Act because the children are living in circumstances described previously.

Current Chapter 809 prioritizes enrollment for children experiencing homelessness through presumptive eligibility as described in §809.41(a)(3), which states that a child is eligible at the time of eligibility determination or redetermination if the child resides with a family within the Board's workforce area:

--whose income does not exceed 85 percent of the state median income (SMI) for a family of the same size; and

--whose assets do not exceed \$1,000,000 as certified by a family member; or

--that meets the definition of experiencing homelessness.

Additionally, current Child Care Services rules prioritize enrollment from a Board's waiting list (§809.43(a)(2)(D)) and waives the parent share of cost (§809.19(a)(3)(C)) for children experiencing homelessness. The Child Care Services rules also do not establish a comparable work requirement for homeless families.

The McKinney-Vento definition "sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason" is broad and could include families who reside with relatives, as is the case with many low-income families.

The proposed amendments remove the presumptive eligibility in §809.41 for children experiencing homelessness. The proposed amendments also establish parameters for establishing the parent share of cost following a 90-day initial enrollment period.

The proposed rules continue to implement the priority of services for children experiencing homelessness as required under CCDF regulations as follows:

--Continue to allow up to 90 days of initial eligibility while parents obtain necessary documentation to demonstrate eligibility under

§809.41 regarding age, citizenship, activity, and income requirements.

--Require homeless families to meet work, education, or job training activity requirements (§809.41(b)) on or before the end of the 90-day initial enrollment.

Streamline Language Regarding Children Receiving Services from a Recognized Prekindergarten Partnership

Section 809.22 contains the requirements for "Direct Referrals to Recognized Partnerships" and includes the definition of a recognized partnership to be a formal agreement partnership that exists between a child care provider and one of the following:

--a public school prekindergarten provider;

--a local education agency; or

--a Head Start/Early Head Start program.

This definition was developed prior to the creation of the Prekindergarten Partnership Program in statute at §302.0051 of the Texas Labor Code, which defines an eligible prekindergarten partnership program as a private provider under §29.171 of the Texas Education Code. To be eligible under §29.171, the provider must:

--be accredited by a research-based, nationally recognized, and universally accessible accreditation system approved by the Texas Education Agency;

--be a Texas Rising Star Program provider with a three-star certification or higher;

--be a Texas School Ready! participant;

--have an existing partnership with a school district to provide a prekindergarten program not provided under this subchapter; or

--be accredited by an organization that is recognized by the Texas Private School Accreditation Commission.

The proposed amendments add the definition of a prekindergarten partnership program to §809.2 and reference providers meeting the requirements in Texas Education Code, §29.171. The proposed amendments also add children served through a recognized prekindergarten partnership to the priority list for the waiting list and repeals §809.22.

Additionally, under the new priority for prekindergarten partnerships, the proposed amendments also prioritize services for prekindergarten-age children receiving a Texas Educational Freedom Account to attend a private prekindergarten provider as described in Texas Education Code §16.404(h) when the provider is also a CCS provider offering wrap-around child care for eligible children. This change aligns priorities so that children qualifying for state-funded prekindergarten receive priority treatment regardless of whether their educational services are provided by a school district, charter school, or provided by a qualified private provider.

Clarifications Regarding Priority for Child Care Services for Children Receiving Protective Services

The proposed rules clarify the provisions relating to authorizing and funding child care services for children needing or receiving Texas Department of Family and Protective Services (DFPS) protective services. The proposed amendments remove the priority for child care services authorized and funded by DFPS in §809.43(a)(2)(A), because §809.43(a) refers to the second pri-

ority group for CCS services, which are TWC-funded and administered by Boards.

The proposed amendments add §809.43(b), regarding provisions on how to prioritize protective services child care, as further explained in §809.49.

As described in §809.49 regarding Protective Services Child Care, child care for children receiving or needing protective services is funded and authorized by DFPS and is not subject to the Board's waiting list. Additionally, §809.49(c) notes that Boards are required to provide child care (often referred to as Former-DFPS child care) under §809.54, Continuity of Care, for any DFPS child care paid for with CCDF funds that is terminated by DFPS prior to the end of the child's required eligibility period.

Confidentiality of Child Care Information

Under 45 CFR §98.15(b)(13), CCDF Lead Agencies must have policies in effect to govern the use and disclosure of confidential and personally identifiable information (PII) about children and families receiving CCDF assistance and child care providers receiving CCDF funds.

Section 809.71(8) specifies that parents have the right to "have the Board and the Board's child care contractor treat information used to determine eligibility for child care services as confidential." Currently, TWC's contracts with Boards as well as guidance directives include requirements to protect sensitive and personally identifiable information. However, Chapter 809 does not include language to specifically meet the requirements of 45 CFR §98.15(b)(13).

The proposed rules add provisions related to confidentiality of information. The proposed rules ensure consistent application of data privacy standards regarding the TWC's use of PII, and sensitive personal information (SPI). The proposed rules specifically state that any disclosure of child care information must be in strict compliance with federal regulations, state law, and TWC policies. This includes, but is not limited to:

--child and family information, including names, addresses, contact information, dates of birth, family composition, income levels, and any information related to eligibility for CCS; and

--provider information, such as child records and background check information related to licensed or registered child care providers and their business practices.

Child Abuse and Neglect Reporting for Staff Conducting Provider On-site Visits

Board, Board contractor, and Agency grantees and contractor staff are required to conduct on-site visits at a provider's facility for a variety of reasons. The Commission proposes to amend Chapter 809 to clarify that any staff conducting such site visits are required to comply with state statutory abuse and neglect reporting pursuant to Texas Family Code, §261.101. This requirement is in §809.136 relating to Texas Rising Star staff and will be relocated to a new §809.5 in Subchapter A.

Texas Rising Star Program Facility Changes

Chapter 809, Subchapter G, establishes the requirements for participating in Texas Rising Star. Current rule language regarding child care providers that undergo a facility change does not specify the requirements for a provider to retain a current or previous Texas Rising Star status or be granted a new status after the change. The Texas Rising Star Guidelines (Guidelines) include the parameters for facility changes for certified providers.

However, the Guidelines lack a clear process for determining whether an Entry Level-designated (ELD) provider or a provider in poor standing should retain the status of the predecessor program.

The proposed rules state that Texas Rising Star providers, including ELD providers, shall, with limited exceptions, retain the provider's star level, Entry Level designation, probationary, or suspension status if the facility has a change of ownership, change of facility type, a move, or expansion of locations.

The proposed rules also state that if a provider is terminated from the Texas Rising Star program due to the failure to achieve at least a Two-Star certification by the end of the 18-month suspension period, or whose Entry Level designation expires without achieving at least a Two-Star certification, and the provider subsequently applies for the Texas Rising Star program under a new ownership, the provider is eligible to participate in the Texas Rising Star program based on the status of the provider at the time of termination from the program.

Impacts of Child Care Regulation Licensing Compliance on Texas Rising Star Certification

Section 809.132 establishes the impacts that are placed on a child care provider based on the provider's licensing compliance. These impacts include suspension, star-level drops, and probationary status dependent on the licensing issue that has occurred or continues to occur. These impacts can result in a provider's loss of certification and ultimately, termination from Texas Rising Star participation when reviewed against the Certified Screening Form.

The intent of the proposed amendments to §809.132 is to focus on high-weighted deficiencies (eliminating the current parameter which also looks at medium-high weighted deficiencies) when considering the points incurred for Entry Level and certification compliance and providing a probationary period, rather than an immediate star-level drop for providers that incur one of four specified CCR licensing deficiencies related to background checks and abuse and neglect. CCR requires providers to immediately address these deficiencies; providing a probationary period allows the provider to demonstrate continued compliance with the standards. This change would eliminate one of the two current probationary statuses. TWC will retain a singular probationary status that is based on one of two factors, the first being a list of specific high-weighted CCR licensing standards (that used to result in a star level drop) and the other related to total points incurred based on high-weighted deficiencies. Child care providers will continue to be monitored for the number of high-weighted licensing deficiencies occurred within the most recent six months. The Certified Screening Form would be revised as drafted.

The Commission also proposes amendments to §809.132, regarding the process for reinstating child care providers that are in suspension status due to licensing deficiencies. Currently, providers are eligible to be reinstated after the six-month period; however, they must submit a request for assessment and achieve certification that may extend their suspension status. The proposed amendments state that providers in suspension status for licensing deficiencies be automatically reviewed at the end of the six months and reinstated to their previously assessed star level as long as the provider can pass the initial screening form. Additionally, the timeline for suspension is revised from 15 to 18 months. This change is made to accommodate legislative changes in House Bill 2789, 89th Texas Legislature, Regular

Session, 2025, that extended initial permits from six months to 12 months.

Removing the 20-Day Texas Rising Star Assessment Schedule Deadline

Section 809.133 establishes the protocols the Agency's Centralized Assessment Entity (CAE) follows when reviewing and conducting Texas Rising Star assessments. The assessment entity is required to notify a child care provider within 20 days of application of the provider's timeline for assessment. CAE requires more than 20 days to develop this timeline.

The proposed amendments to §809.133 remove the requirement for CAE to provide an estimated time frame for scheduling the initial assessment within 20 days of receiving the provider's application. TWC will establish an expectation that CAE will notify child care providers when their initial assessment will be scheduled, within 30 days of application. This information will be published in the Guidelines, rather than in Chapter 809.

Texas Rising Star Mentor Qualifications

Section 809.134(c) establishes the minimum qualifications for Texas Rising Star mentors. Current minimum education qualifications include having an associate degree or higher with a prescribed number of credit hours earned in early childhood education or related fields. The current rule includes a separate and unclear credit hour requirement for bachelor's degrees in family consumer science.

The proposed amendments to §809.134(c)(2) streamline and clarify the language. The amended language allows for degrees in a variety of areas as long as the individual has at least 18 credit hours relevant to early childhood education, child development, special education, child psychology, educational psychology, elementary education, or family consumer science.

Additionally, proposed amendments to §809.134 allow an individual without a bachelor's or an associate degree to be a mentor if the individual has a Child Development Associate (CDA) credential and commitment to achieve the mentor microcredential within two years of employment. Additionally, proposed amendments add a requirement that all mentors must attain mentor microcredentialing within two years of employment.

Rule Review

Texas Government Code §2001.039 requires a state agency to review and consider for re-adoption each of its rules every four years. In accordance with the statute, TWC proposes the review of Chapter 809, Child Care Services, and re-adoption of the rules as amended.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

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

SUBCHAPTER A. GENERAL PROVISIONS

TWC proposes the following amendments to Subchapter A:

§809.2. Definitions

Section 809.2 is amended to add new definitions related to eligibility determination, redetermination, and eligibility periods. The definitions clarify when eligibility determinations and redeterminations start, the length of the eligibility period, and when the 12-month authorization period begins.

New §809.2(12) defines that the "eligibility determination or re-determination" is the date the family is notified of the initial determination or redetermination of eligibility for child care services. The definition clarifies that the redetermination date must not be prior to the last day of the eligibility period.

New §809.2(13) defines that the "eligibility period" consists of the eligibility determination or redetermination date, plus a 12-month authorization for child care services, which is 12 consecutive months an eligible child is authorized to receive child care services. The 12 months begin when the first eligible child in the family begins receiving care with the authorized provider.

The addition of new §809.2(13) also results in amending language throughout the rules from "12-month eligibility period" to align with the new "eligibility period" definition.

New §809.2(23) defines "recognized prekindergarten partnership" as a formal partnership that exists between a school district that offers a prekindergarten program under Texas Education Code, §29.153 and an eligible provider described in Texas Education Code, §29.171.

Texas Education Code, §29.171, defines an "eligible provider" as a private provider licensed by and in good standing with Child Care Regulation (CCR), and a provider in which CCR has not taken an action against under Texas Human Resources Code, §§42.071, 42.072, or 42.078 during the 24-month period preceding the date of a contract with a school district. The private provider must also:

- be accredited by a research-based, nationally recognized, and universally accessible accreditation system approved by the Texas Education Agency;
- be a Texas Rising Star Program provider with a three-star certification or higher;
- be a Texas School Ready! participant;
- have an existing partnership with a school district to provide a prekindergarten program; or
- be accredited by an organization that is recognized by the Texas Private School Accreditation Commission.

The definition in new §809.2(23) also states that the formal partnership requires both parties to have entered into an agreement, such as a memorandum of understanding, and serves some number of children under age six who are dually enrolled in both programs.

Section 809.2 is also amended to remove the definition of "excessive unexplained absences" as the provisions stipulated in this definition are duplicated in the rules related to absences in §809.78.

§809.4. Confidentiality of Information

New §809.4 states that TWC, TWC contractors, Boards, Board contractors, and child care providers participating in the child care services program must ensure the confidentiality of child care information and prevent the disclosure of PII about children and families applying for or receiving child care services.

The rules state that any disclosure of child care information must be in strict compliance with federal regulations, state law, and TWC policies. This includes, but is not limited to, non-disclosure of:

- child and family information, including names, addresses, contact information, dates of birth, family composition, income lev-

els, and any information related to eligibility for child care services; and

–provider information, such as child records and background-check information related to licensed or registered child care providers and their business practices.

§809.5. Reporting Potential Abuse and Neglect at Child Care Provider Sites

New §809.5 requires Boards, Board contractors, and TWC's grantees and contractors to have procedures that ensure staff conducting onsite visits to providers report potential child abuse and neglect at the provider site as required by Texas Family Code, §261.101.

SUBCHAPTER B. GENERAL MANAGEMENT

TWC proposes the following amendments to Subchapter B:

§809.18. Maintenance of a Waiting List

Section 809.18 is amended to remove the exemption from the waiting list for children who are directly referred from a recognized prekindergarten or Head Start/Early Head Start partnership to receive services in the contracted partnership program described in repealed §809.22.

§809.19. Assessing the Parent Share of Cost

Section 809.19 is amended to clarify that the parent share of cost is assessed at the eligibility determination or redetermination and aligns with the new definition of eligibility determination or redetermination, which states that this period starts when the parent is notified or at eligibility determination or redetermination. The amendments also change the three-month period to 90 calendar days related to reassessment of the parent share of cost upon resumption of work, job training, or education activities.

§809.21. Determining the Amount of the Provider Payment

New §809.21(c) is added to clarify the rates used to calculate the blended-day enrollment. Consistent with §809.21(a) requiring that Boards pay the lower of the Board's maximum rate or the provider's published rate, §809.21(c) is added to state that the payment for a blended-day enrollment is calculated as a weighted blend across the school year of the lower of the provider's published full-day rate or the maximum Board full-day rate, and the lower of the provider's part-day rate or the maximum Board part-day rate.

New §809.21(d) adds the provision pursuant to Texas Government Code, §2308.3151, that a Board may establish a policy to pay Texas Rising Star Program providers, including Entry Level designated providers, at the Board's maximum payment rate for the providers' Texas Rising Star Program rating level regardless of the providers' published rate only if paying the higher rate does not prevent the Board from meeting the Commission's performance target for the average number of children served in the workforce area served by the Board.

The Commission notes that Boards choosing to exercise this option must apply it to all providers in the workforce area and cannot be applied to individual providers or group of providers. The Commission also notes that pursuant to 40 TAC §802.1(f), Boards choosing this option must do so in an open public meeting.

Additionally, the proposed amendment necessitates changes to the TX3C case management system, and the Agency anticipates

that the changes will be implemented by the effective date of the rules.

§809.22. Direct Referrals to Recognized Partnerships

Section 809.22 is repealed to remove provisions related to direct referrals to recognized partnerships.

SUBCHAPTER C. ELIGIBILITY FOR CHILD CARE SERVICES

TWC proposes the following amendments to Subchapter C:

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

Section 809.41 is amended to remove the language that a child experiencing homelessness is presumptively eligible for child care services. This change clarifies that parents of children experiencing homelessness are required to participate in work, job training, or education activities within the 90-day period described in §809.52.

§809.42. Eligibility Verification, Determination, and Redetermination

Section 809.42 is amended to clarify the eligibility period for child care services in accordance with federal guidelines. The amended language clarifies that the Board's child care contractor must verify eligibility prior to eligibility determination or redetermination for child care services to align with the new definition related to eligibility determination or redetermination.

Amended §809.42 also requires Boards to ensure that eligible children receive a minimum 12-month authorization of child care services. The amended rule also specifies that for a family with one eligible child at the time of eligibility determination, if the child does not require care immediately, the parent may request a voluntary suspension until care is needed, and the 12-month authorization will begin on the first day care begins.

Section 809.42 is amended to also state that for a family with multiple eligible children at the time of eligibility determination, if all the children do not require care immediately, the parent may request a voluntary suspension until care is needed, and the 12-month authorization will begin on the date the first child begins care.

Amended §809.42 further clarifies that a family's eligibility period is the date of eligibility determination or redetermination plus the 12-month authorization period, and that a family's redetermination date is the day after the last day of the eligibility period.

§809.43. Priority for Child Care Services

Section 809.43(a)(2) is amended to add children enrolled in a prekindergarten partnership and children receiving a Texas Educational Freedom Account to attend a private prekindergarten provider as described in Texas Education Code §16.404(h) when the provider is also a CCS provider offering wrap-around child care for eligible children. These children are added to the second waiting list priority group, subject to the availability of funds.

Section 809.43(a)(2) is amended to remove the priority for child care services authorized and funded by DFPS. Section 809.43(a) describes the priorities for TWC-funded child care services. The priority of care for children needing and receiving protective services is described in §809.49, which requires Boards to enroll children authorized by DFPS and are not subject to the Board's waiting list. However, §809.43 is further amended to add §809.43(b), stating that a Board shall enroll children needing protective services as authorized by DFPS, and as further described in §809.49.

§809.45. Choices Child Care

Section 809.45 is amended to update language related to the "12-month eligibility period" to "eligibility period" to align with the new "eligibility period" definition in §809.2.

§809.47. Supplemental Nutrition Assistance Program Employment and Training Child Care

Section 809.47 is amended to updated language related to the "12-month eligibility period" to align with the new "eligibility period" definition in §809.2.

§809.49. Protective Services Child Care

Section 809.49 is amended to clarify that Boards must enroll children authorized by DFPS. Rule amendments also clarify that DFPS child care services funded through CCDF but discontinued by DFPS prior to the end of the required eligibility period must be continued by the Board (often referred to as Former-DFPS child care) using TWC-allocated funds as required by the Continuity of Care provisions of §809.54.

§809.51. Child Care during Temporary Interruptions in Work, Education, or Job Training

Section 809.51 is amended to update language related to the "12-month eligibility period" to align with the new "eligibility period" definition in §809.2. The amendments also change the three-month continued care period to "90 calendar days."

§809.52. Child Care for Children Experiencing Homelessness

Section 809.52 is amended to change the three-month initial enrollment period pending documentation and activity requirements to "90 calendar days."

Amended §809.52 is amended to clarify that parents of children experiencing homelessness meet the minimum participation requirements for At-Risk Child Care in order for child care to continue through the remainder of the eligibility period.

Section 809.52 is also amended to add that, for child care during the initial 90-day enrollment period, the Board will initially assess the parent share of cost at the highest amount based on the family size and number of children in care. The initially assessed amount will immediately be temporarily reduced to zero, including for dual-parent families in which one parent is employed but the family does not meet the minimum participation requirements for At-Risk Child Care as described in §809.50.

Amended §809.52 adds that if the parent begins to meet participation requirements, within or by the end of the 90-day enrollment period, the parent share of cost shall be reinstated at the initially assessed amount or the amount based on the actual family income, whichever is lower.

§809.54. Continuity of Care

Section 809.54 is amended to update language related to the "12-month eligibility period" to align with the new "eligibility period" definition in §809.2.

Section 809.54 is also amended to clarify that closed DFPS cases are the "Former-DFPS" protective services cases previously funded using CCDF through DFPS. Proposed rule language also clarifies that the "Former-DFPS" child care continues through the end of the eligibility period using funds provided to the Board by TWC.

§809.56. Child Care during Initial Job Search

Section 809.56 is amended to update language related to the "12-month eligibility period" to align with the new "eligibility period" definition in §809.2 and changes the initial job search period from three months to "90 calendar days."

SUBCHAPTER D. PARENT RIGHTS AND RESPONSIBILITIES

TWC proposes the following amendments to Subchapter D:

§809.72. Parent Eligibility Documentation Requirements

Section 809.72 is amended to update language related to the "12-month eligibility period" to align with the new "eligibility period" definition in §809.2.

§809.73. Parent Reporting Requirements

Section 809.73 is amended to update language related to the "12-month eligibility period" to align with the new "eligibility period" definition in §809.2.

§809.78. Attendance Standards and Notice and Reporting Requirements

Section 809.78 is amended to update language related to the "12-month eligibility period" to align with the new "eligibility period" definition and the new definition of "eligibility determination or redetermination" as they relate to when the parent signs a written acknowledgment indicating their understanding of the attendance standards and reporting requirements.

Section 809.78 is also amended to clarify that "missed attendance" includes when only a check-in or a check-out is recorded for a child. Both a check-in and a check-out must exist for a child to be counted as present.

SUBCHAPTER E. REQUIREMENTS TO PROVIDE CHILD CARE

TWC proposes the following amendments to Subchapter E:

§809.92. Provider Responsibilities and Reporting Requirements

Section 809.92(f) is amended to make a technical change to replace "copayment" with "parent share of cost" to align with language regarding parent share of cost throughout Chapter 809.

§809.95. Provider Automated Attendance Agreement

Section 809.95 is amended to reiterate the current requirement that providers are required to use the TWC-approved automated attendance system.

Section 809.95 is also amended to add language relating to instances in which a provider may perform the attendance or absence reporting function on behalf of the parent. The new language specifies that in instances when the parent is not available to record the drop-off or pick-up of the child (such as when the provider is transporting the child to or from school), the provider may record the appropriate check-in or check-out. The new language also requires that the parent must record at least one daily check-in or check-out for the child. However, in these limited circumstances, the parent does not have to perform both check-in and check-out.

§809.96. Contracted Slots Agreements

Section 809.96 is amended to clarify that a provider is eligible for a contracted slots agreement if the provider has a recognized prekindergarten partnership as defined in the amended §809.2.

Section 809.96 is also amended to remove the waiting list exception for children directly referred from a recognized partnership in the proposed repeal of §809.22.

SUBCHAPTER G. TEXAS RISING STAR PROGRAM

TWC proposes the following amendments to Subchapter G:

§809.130. Short Title and Purpose

Section 809.130 is amended to remove the reference to medium-high CCR deficiencies points threshold to achieve Texas Rising Star certification, with the focus to be on high-weighted CCR deficiencies as they relate to the impact on Texas Rising Star certification.

§809.131. Requirements for the Texas Rising Star Program

Section 809.131(a) is amended to remove references to medium-high CCR deficiencies points threshold related to eligibility for Entry Level designation.

Section 809.131(b) is also amended to clarify that to be eligible for the Entry Level designation, a provider is not under a "Notice of Freeze" with the Commission pursuant to Texas Labor Code, Chapter 213 (Enforcement of the Texas Unemployment Compensation Act), or Texas Labor Code, Chapter 61 (Payment of Wages). This change aligns Entry Level designation with the basic requirement related to freeze notices for Texas Rising Star eligibility in §809.131(a).

§809.132. Impacts on Texas Rising Star Certification

Section 809.132 is renamed "Impacts of Child Care Regulation Licensing Compliance on Texas Rising Star Certification" to specify that the impacts on the Texas Rising Star certification detailed in this section are related to CCR licensing compliance.

Section 809.132 is amended to remove the "star level drop" status based on a list of specific CCR licensing deficiencies. The intent of this change is to focus on high-weighted deficiencies when considering the points incurred for Entry Level and certification compliance and providing a probationary period, rather than an immediate star-level drop for providers that incur one of four specified CCR licensing deficiencies related to background checks and abuse and neglect. CCR requires providers to immediately address these deficiencies; providing a probationary period allows the provider to demonstrate continued compliance with the standards. This change eliminates one of the two current probationary statuses. TWC will retain a singular probationary status that is based on one of two factors, the first being a list of specific high-weighted Child Care Regulation licensing standards and the other related to total points incurred based on high-weighted deficiencies. Child care providers will continue to be monitored for the number of high-weighted licensing deficiencies occurred within the most recent six months.

Other amendments to §809.132 also involve the process for reinstating child care providers who are in suspension status due to licensing deficiencies. Currently, providers are eligible to be reinstated after the six-month period; however, they must submit a request for assessment and achieve certification that may extend their suspension status. The rule amendments state that providers in suspension status for licensing deficiencies be reviewed at the end of the six months and reinstated to their previously assessed star level as long as the provider can pass the initial screening form.

Additional amendments to §809.132 revise the timeline for suspension from 15 months to 18 months. This change is to align the rule with Human Resources Code, §42.051(b), as amended by House Bill 2789, 89th Texas Legislature, Regular Session, 2025, which extended initial licenses from six months to 12 months.

§809.133. Application and Assessments for Texas Rising Star Certification

Section 809.133 is amended to remove the requirement that the Centralized Assessor Entity give an estimated time frame for scheduling an initial assessment to providers within 20 days of receipt of the application.

§809.134. Minimum Qualifications for Texas Rising Star Staff

Section 809.134 is amended to add a CDA credential and commitment to achieve the Texas Rising Star mentor microcredential within two years of employment as an option for meeting the mentor education requirements. The amendments also remove the 12 credit hours in child development from the bachelor's degree option for meeting the education requirements for a mentor.

Section 809.134 is also amended to require that all mentors attain the Texas Rising Star microcredential within two years of employment.

§809.136. Roles and Responsibilities of Texas Rising Star Staff

Section 809.136 is amended to remove language requiring Texas Rising Star staff members to be mandated reporters when observing serious abuse and neglect incidents at child care providers. This requirement has been moved to the proposed new §809.5 related to all Board, contractor, and Agency grantee or contractor staff to report potential abuse and neglect.

§809.137. Texas Rising Star Facility Changes

New §809.137 describes the impact on a Texas Rising Star provider's status if the facility has a change of ownership, change of facility type, move, or expansion.

New §809.137(a) defines terms used in this section as they relate to facility changes. One of the terms defined, "business structure," refers to the legal and organizational form a business adopts. A change in business structure triggers legal and tax consequences that include liability, taxation, management, and registration requirements, as further outlined in the Texas Business Organizations Code. The Office of the Secretary of State publishes information about business structure on its Selecting a Business Structure web page at <https://www.sos.state.tx.us/corp/businessstructure.shtml>.

New §809.137(b) acknowledges that facility changes may impact how the child care provider participates in Texas Rising Star.

New §809.137(c) refers to new Figure: 40 TAC §809.137(c), which outlines the different types of facility changes and the impact of those changes on a provider's Texas Rising Star status. The five types of facility changes are: ownership, move, split, facility type, and expansion.

PART III. IMPACT STATEMENTS

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

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

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

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

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

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

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

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

Takings Impact Assessment

Under Texas Government Code, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Assessment for the proposed rulemaking under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking, as discussed elsewhere in this preamble, is to comply with recent legislative statutory changes, improve operational efficiency, strengthen confidentiality of data policy, and align rules with operational practices with the implementation of the TX3C case management system.

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

Government Growth Impact Statement

TWC has determined that during the first five years the proposed rules will be in effect, they:

- will not create or eliminate a government program;
- will not require the creation or elimination of employee positions;
- will not require an increase or decrease in future legislative appropriations to TWC;
- will not require an increase or decrease in fees paid to TWC;
- will not create a new regulation;
- will not expand, limit, or eliminate an existing regulation;

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

--will not positively or adversely affect the state's economy. TWC

Economic Impact Statement and Regulatory Flexibility Analysis

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

Mariana Vega, Director, Labor Market Information, has determined that there is not a significant negative impact upon employment conditions in the state as a result of the proposed rules.

Reagan Miller, Director, Child Care & Early Learning, has determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to comply with recent legislative statutory changes, improve operational efficiency, strengthen confidentiality of data policy, and align rules with operational practices with the implementation of the TX3C case management system.

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

PART IV. COORDINATION ACTIVITIES

On December 12, 2025, CC&EL solicited input from Board staff on the changes being considered for the proposed rules. TWC also met with a group of stakeholders, including child care providers, on March 2, 2026, to discuss the proposed rule changes and solicit their input. Additionally, TWC discussed and solicited input on the proposed rules during the March 24, 2026, meeting of the Quad Agency Child Care Initiative Commission.

PART V. REQUEST FOR IMPACT INFORMATION

TWC requests, from any person required to comply with the proposed rules or any other interested person, information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. Please submit the requested information to TWCPolicyComments@twc.texas.gov no later than July 6, 2026.

PART VI. PUBLIC COMMENTS

Comments on the proposed rules may be submitted to TWCPolicyComments@twc.texas.gov and must be received no later than July 6, 2026.

SUBCHAPTER A. GENERAL PROVISIONS

40 TAC §§809.2, 809.4, 809.5

PART VII. STATUTORY AUTHORITY

The rules are proposed under Texas Government Code, §2308.3155(b), Texas Labor Code §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the Texas Rising Star Program and TWC services and activities.

The proposed rules implement HB 2294, 89th Texas Legislature, Regular Session, 2025, and relate to Texas Labor Code, Title 4, particularly Chapters 301 and 302, as well as Texas Government Code, Chapter 2308.

§809.2. *Definitions.*

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

(1) Attending a job training or educational program--An individual is attending a job training or educational program if the individual:

(A) is considered by the program to be officially enrolled;

(B) meets all attendance requirements established by the program; and

(C) is making progress toward successful completion of the program as demonstrated through continued enrollment in the program upon eligibility redetermination as described in §809.42 of this chapter.

(2) Child--An individual who meets the general eligibility requirements contained in this chapter for receiving child care services.

(3) Child care contractor--The entity or entities under contract with the Board to manage child care services. This includes contractors involved in determining eligibility for child care services, contractors involved in the billing and provider payment process related to child care, as well as contractors involved in the funding of quality improvement activities as described in §809.16 of this chapter.

(4) Child care desert--An area described in Texas Labor Code, §302.0461, in which the number of children under age six with working parents is at least three times greater than the capacity of licensed child care providers in the area, based on data published annually by the Commission.

(5) Child Care Regulation (CCR)--Division in the Texas Health and Human Services Commission responsible for protecting the health, safety, and well-being of children who attend or reside in regulated child care facilities and homes.

(6) Child care services--Child care subsidies and quality improvement activities funded by the Commission.

(7) Child care subsidies--Commission-funded child care payments to an eligible child care provider for the direct care of an eligible child.

(8) Child care worker--for purposes of the waiting list priority described in §809.43 of this chapter, and pursuant to Texas Labor Code, §302.0064, a child care worker is an individual employed by and working in a child care facility licensed under Texas Human Resources Code, Chapter 42 for a minimum of 25 hours per week. The term does not include the owner or director of a child care facility unless the owner's or director's child is served in a program other than a program directly supervised by the owner or director. [~~The child care worker definition is effective January 5, 2026.~~]

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

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

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

(A) a high school diploma;

(B) a Certificate of High School Equivalency; or

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

(12) Eligibility determination or redetermination--The date the family is notified of the initial determination or redetermination of eligibility for child care services. The redetermination date shall not be prior to the last day of the eligibility period.

(13) Eligibility period--The eligibility period begins on the eligibility determination or redetermination date and includes a minimum of 12 consecutive months an eligible child is authorized to receive child care services, which starts when the first eligible child in the family begins receiving care with the authorized provider.

~~[(12) Excessive unexplained absences--More than 40 unexplained absences within a 12-month eligibility period as described in §809.78 of this chapter.]~~

(14) ~~[(13) Family~~--Two or more individuals related by blood, marriage, or decree of court, who are living in a single residence and are included in one or more of the following categories:

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

(B) A parent and household dependents.

(15) ~~[(14) Household dependent~~--An individual living in the household who is:

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

(B) a child of a teen parent; or

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

(16) ~~[(15) Improper payments~~--Any payment of Child Care Development Fund (CCDF) funds that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements governing the administration of CCDF grant funds and includes payments:

(A) to an ineligible recipient;

(B) for an ineligible service;

(C) for any duplicate payment; and

(D) for services not received.

(17) ~~[(16) Job training program~~--A program that provides training or instruction leading to:

(A) basic literacy;

(B) English proficiency;

(C) an occupational or professional certification or license; or

(D) the acquisition of technical skills, knowledge, and abilities specific to an occupation.

(18) ~~[(17) Listed family home~~--A family home, other than the eligible child's own residence, that is listed, but not licensed or registered with, CCR pursuant to Texas Human Resources Code, §42.052(c).

(19) ~~[(18) Military deployment~~--The temporary duty assignment away from the permanent military installation or place of residence for reserve components of the single military parent or the dual

military parents. This includes deployed parents in the regular military, military reserves, or National Guard.

(20) [(19)] Parent--An individual who is responsible for the care and supervision of a child and is identified as the child's natural parent, adoptive parent, stepparent, legal guardian, or person standing in loco parentis (as determined in accordance with Commission policies and procedures). Unless otherwise indicated, the term applies to a single parent or both parents.

(21) [(20)] Protective services--Services provided when a child:

(A) is at risk of abuse or neglect in the immediate or short-term future and the child's family cannot or will not protect the child without Texas Department of Family and Protective Services (DFPS) Child Protective Services (CPS) intervention;

(B) is in the managing conservatorship of DFPS and residing with a relative or a foster parent; or

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

(22) [(21)] Provider--A provider is defined as a:

(A) regulated child care provider;

(B) relative child care provider; or

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

(23) Recognized prekindergarten partnership--A formal partnership that exists between a school district that offers a prekindergarten program under Texas Education Code, §29.153, and an eligible provider described in Texas Education Code, §29.171. A formal partnership requires both parties to have entered into an agreement, such as a memorandum of understanding, and serves some number of children under age six who are dually enrolled in both programs.

(24) [(22)] Regulated child care provider--A provider caring for an eligible child in a location other than the eligible child's own residence that is:

(A) licensed by CCR;

(B) registered with CCR; or

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

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

(A) grandparent;

(B) great-grandparent;

(C) aunt;

(D) uncle; or

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

(26) [(24)] Residing with--Unless otherwise stipulated in this chapter, a child is considered to be residing with the parent when the child is living with, and physically present with, the parent during the time period for which child care services are being requested or received.

(27) [(25)] Teen parent--A teen parent (teen) is an individual 18 years of age or younger, or 19 years of age and attending high school or the equivalent, who has a child.

(28) [(26)] Texas Rising Star program--A quality-based rating system of child care providers participating in Commission-subsidized child care.

(29) [(27)] Texas Rising Star provider--A regulated child care provider meeting the Texas Rising Star program standards. Texas Rising Star providers are:

(A) designated as an Entry Level Provider;

(B) certified as a Two-Star Provider;

(C) certified as a Three-Star Provider; or

(D) certified as a Four-Star Provider.

(30) [(28)] Working--Working is defined as:

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

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

(C) engaging in job search at the time of eligibility determination or redetermination as described in §809.56 of this chapter.

§809.4. Confidentiality of Information.

(a) The Agency, Agency contractors, Boards, Board contractors, and child care providers participating in the child care services program shall ensure the confidentiality of child care information and prevent the disclosure of personally identifiable information about children and families applying for or receiving child care services.

(b) Any disclosure of child care information must be in strict compliance with federal regulations, state law, and Agency policies. This includes, but is not limited to, non-disclosure of:

(1) child and family information, including names, addresses, contact information, dates of birth, family composition, income levels, and any information related to eligibility for child care services; and

(2) provider information, such as child records and background-check information related to licensed or registered child care providers and their business practices.

§809.5. Reporting Potential Abuse and Neglect at Child Care Provider Sites.

Boards, Board contractors, and Agency grantee and contractor staff must have procedures to ensure that staff conducting onsite visits to provider sites report potential child abuse and neglect at the provider site as required by Texas Family Code, §261.101.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 19, 2026.

TRD-202602115

Les Trobman

General Counsel

Texas Workforce Commission

Earliest possible date of adoption: July 5, 2026

For further information, please call: (737) 301-9662



SUBCHAPTER B. GENERAL MANAGEMENT

40 TAC §§809.18, 809.19, 809.21

The rules are proposed under Texas Government Code, §2308.3155(b), Texas Labor Code §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the Texas Rising Star Program and TWC services and activities.

The proposed rules implement HB 2294, 89th Texas Legislature, Regular Session, 2025, and relate to Texas Labor Code, Title 4, particularly Chapters 301 and 302, as well as Texas Government Code, Chapter 2308.

§809.18. Maintenance of a Waiting List.

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

(b) A Board shall ensure that the child is potentially eligible for child care services prior to placing the child on the waiting list.

~~[(c) A Board shall exempt children from the waiting list who are directly referred from a recognized pre-K or HS/EHS partnership, as described in §809.22 of this subchapter, to a child care provider to receive services in the contracted partnership program subject to the availability of funding and the availability of subsidized slots at the partnership site.]~~

~~(c) [(d)] A Board shall contact the parent every three months and shall remove the child from the waiting list if the parent indicates that child care services are no longer required or does not respond to the Board regarding the continued need for child care services.~~

§809.19. Assessing the Parent Share of Cost.

(a) For child care funds allocated by the Commission pursuant to its allocation rules (generally, Chapter 800, Subchapter B of this title, and specifically §800.58 of this title), including local public transferred funds and local private donated funds, as provided in §809.17 of this subchapter, the following shall apply:

(1) The parent share of cost shall:

(A) be assessed to all parents, except in instances when an exemption under paragraph (3) of this subsection applies; and

(B) be established by the Commission and determined by a sliding fee scale based on the family's size and gross monthly income determined in §809.44 of this chapter and as represented by a percentage of the state median income (SMI) up to 85 percent SMI; and

(C) not exceed 7 percent of the family income, regardless of the number of children receiving child care services.

(2) A Board shall assess the parent share of cost in accordance with paragraph (1)(B) ~~[subsection (a)(1)(B)]~~ of this subsection ~~[section]~~ and in a manner that results in the parent share of cost:

(A) being assessed only at the following times:

~~(i) [initial] eligibility determination or redetermination;~~

~~[(ii) 12-month eligibility redetermination;]~~

~~(ii) [(iii)] upon the addition of a child in care;~~

~~(iii) [(iv)] upon a parent's report of a change in income, family size, or number of children in care that would result in a reduced parent share of cost assessment; and~~

~~(iv) [(v)] upon resumption of work, job training, or education activities following temporary changes described in §809.51(a) of this chapter, and upon resumption of work, job training, or education activities during the 90-day [three-month] continuation of care period described in §809.51(c) of this chapter; and~~

~~(B) not increasing above the amount assessed at [initial] eligibility determination or [at the 12-month eligibility] redeetermination, except upon the addition of a child in care as described in subparagraph (A)(ii) ~~[clause (A)(iii)]~~ of this paragraph.~~

(3) Parents who are one or more of the following are exempt from paying the parent share of cost:

(A) Parents who are participating in Choices or who are in Choices child care described in §809.45 of this chapter;

(B) Parents who are participating in SNAP E&T services or who are in SNAP E&T child care described in §809.47 of this chapter;

(C) Parents of a child receiving Child Care for Children Experiencing Homelessness as described in §809.52 of this chapter; or

(D) Parents who have children who are receiving protective services child care pursuant to §809.49 and §809.54(c) of this chapter, unless DFPS assesses the parent share of cost.

(4) Teen parents who are not covered under exemptions listed in paragraph (3) of this section shall be assessed a parent share of cost. The teen parent's share of cost is based solely on the teen parent's income and size of the teen's family as defined in §809.2 of this chapter.

(b) A Board shall establish a policy stating whether or not the Board will pay providers when parents fail to pay the parent share of cost. If the Board does not pay 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.

(c) A Board shall establish a policy regarding termination of child care services within the [a 12-month] eligibility period when a parent fails to pay the parent share of cost. The Board's policy must include:

(1) 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 paragraph (2) of this subsection, and a possible temporary reduction pursuant to subsection (d) of this section ~~[of this subsection]~~ before the Board or its child care contractor may terminate care under this section;

(2) a process to identify and assess the circumstances that may jeopardize a family's self-sufficiency under subsection (d) of this section; and

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

(d) 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.

(e) If the parent is not covered by an exemption as specified in subsection (a)(3) of this section, then the Board or its child care

contractor shall not waive the assessed parent share of cost under any circumstances.

(f) 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.

(g) A Board may establish a policy to reduce the parent share of cost amount assessed pursuant to subsection (a)(1) upon the child's referral for part-time or blended care as described in §809.21 of this chapter. Such Board policy shall ensure that the parent no longer receives the reduction if the referral is changed to full-time care.

§809.21. *Determining the Amount of the Provider Payment.*

(a) Notwithstanding subsection (c) of this section, the [The] actual payment that the Board or the Board's child care contractor pays to the provider shall be the Board's maximum daily rate or the provider's published daily rate, whichever is lower, less the following amounts:

(1) The parent share of cost assessed and adjusted when the parent share of cost is reduced; and

(2) Any child care funds received by the parent from other public or private entities.

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

(c) The payment for a blended-day enrollment as described in §809.93(f) of this chapter is calculated as a weighted blend using the part-day rate for the estimated number of school days, and the full-day rate for the estimated number of non-school days across the school year. The full-day and part-day rates are based on the provider's published rate, or the Board's maximum rate, whichever is lower.

(d) Pursuant to Texas Government Code, §2308.3151, a Board may establish a policy to pay Texas Rising Star Program providers, including Entry Level designated providers, at the Board's maximum payment rate, less the amounts specified in subsection (a) of this section, for the providers' Texas Rising Star Program rating level regardless of the providers' published rate only if paying the higher rate does not prevent the Board from meeting the Commission's performance target for the average number of children served in the workforce development area served by the Board.

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40 TAC §809.22

The rule is repealed under Texas Government Code, §2308.3155(b), Texas Labor Code §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the Texas Rising Star Program and TWC services and activities.

The proposed repeal implements HB 2294, 89th Texas Legislature, Regular Session, 2025, and relate to Texas Labor Code, Title 4, particularly Chapters 301 and 302, as well as Texas Government Code, Chapter 2308.

§809.22. *Direct Referrals to Recognized Partnerships.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER C. ELIGIBILITY FOR CHILD CARE SERVICES

40 TAC §§809.41 - 809.43, 809.45, 809.47, 809.49, 809.51, 809.52, 809.54, 809.56

The rules are proposed under Texas Government Code, §2308.3155(b), Texas Labor Code §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the Texas Rising Star Program and TWC services and activities.

The proposed rules implement HB 2294, 89th Texas Legislature, Regular Session, 2025, and relate to Texas Labor Code, Title 4, particularly Chapters 301 and 302, as well as Texas Government Code, Chapter 2308.

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

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

(1) meets one of the following age requirements:

(A) be under 13 years of age; or

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

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

(3) resides with:

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

(i) whose income does not exceed 85 percent of the state median income (SMI) for a family of the same size; and

(ii) whose assets do not exceed \$1,000,000 as certified by a family member.[; ør]

[(iii) that meets the definition of experiencing homelessness as defined in §809.2 of this chapter.]

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

(C) a person standing in loco parentis for the child while the child's parent is on military deployment and the deployed military

parent's income does not exceed the limits set forth in subparagraph (A) of this paragraph.

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

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

§809.42. Eligibility Verification, Determination, and Redetermination.

(a) A Board shall ensure that its child care contractor verifies all eligibility requirements for child care services prior to eligibility determination or redetermination for [authorizing] child care services.

(b) A Board shall ensure eligible children receive a minimum 12-month authorization of child care services as follows:

(1) For a family of one eligible child at the time of eligibility determination or redetermination, if the child does not require care immediately, the parent may request a voluntary suspension until care is needed, and the 12-month authorization will begin on the first day care begins; or

(2) For a family with multiple eligible children at the time of eligibility determination or redetermination, if all the children do not require care immediately, the parent may request a voluntary suspension until care is needed, and the 12-month authorization will begin on the date the first child begins care.

~~[(b) A Board shall ensure that eligibility for child care services shall be redetermined no sooner than 12 months following the initial determination or most recent redetermination.]~~

§809.43. Priority for Child Care Services.

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

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

(A) Choices child care as referenced in §809.45 of this subchapter;

(B) Temporary Assistance for Needy Families (TANF) Applicant child care as referenced in §809.46 of this subchapter;

(C) SNAP E&T child care as referenced in §809.47 of this subchapter; and

(D) Transitional child care as referenced in §809.48 of this subchapter.

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

~~[(A) children who need to receive protective services child care as referenced in §809.49 of this subchapter;]~~

(A) ~~[(B)]~~ children of a qualified veteran or qualified spouse as defined in §801.23 of this title;

(B) ~~[(C)]~~ children of a foster youth as defined in §801.23 of this title;

(C) ~~[(D)]~~ children experiencing homelessness as defined in §809.2 of this chapter and described in §809.52 of this subchapter;

~~(D) [(E)]~~ children of parents on military deployment as defined in §809.2 of this chapter whose parents are unable to enroll in military-funded child care assistance programs;

~~(E) [(F)]~~ children of teen parents as defined in §809.2 of this chapter; ~~[and]~~

~~(F) [(G)]~~ children with disabilities as defined in §809.2 of this chapter; ~~[-]~~

~~(G) [(H)]~~ children of a child care worker ~~[workers]~~ as defined in §809.2 of this chapter; ~~and[-]~~

~~(H) children enrolled in a prekindergarten partnership program, as defined in §809.2 of this chapter, or enrolled at a private prekindergarten provider and receiving a Texas Educational Freedom Account for prekindergarten, as described in 34 TAC §16.404(h).~~

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

(b) A Board shall enroll children needing DFPS protective services, as described in §809.49 of this subchapter.

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

§809.45. Choices Child Care.

(a) A parent is eligible for Choices child care if the parent is participating in the Choices program as stipulated in Chapter 811 of this title.

(b) For a parent receiving Choices child care who ceases participation in the Choices program during the ~~[12-month]~~ eligibility period, Boards must ensure that Choices child care continues:

(1) for the 90-day [three-month] period pursuant to §809.51(b) of this subchapter; and

(2) for the remainder of the eligibility period, if the parent resumes participation in Choices or begins participation in work or attendance in a job training or education program during the 90-day [three-month] period described in §809.51(c) of this subchapter.

§809.47. Supplemental Nutrition Assistance Program Employment and Training Child Care.

(a) A parent is eligible to receive SNAP E&T child care services if the parent is participating in SNAP E&T services, in accordance with the provisions of 7 CFR Part 273.

(b) For a parent receiving SNAP E&T child care services who ceases participation in the E&T program during the ~~[12-month]~~ eligibility period, Boards must ensure that SNAP E&T child care continues:

(1) for the 90-day [three-month] period pursuant to §809.51(b) of this subchapter; and

(2) for the remainder of the eligibility period, if the parent resumes participation in the SNAP E&T program or begins participation in work or attendance in a job training or education program during the 90-day [three-month] period described in §809.51(c) of this subchapter.

§809.49. [Child Care for Children Receiving or Needing] Protective Services Child Care.

(a) Protective Services child care includes child care funded by DFPS for children receiving or needing protective services, as further described in subsection (b) of this section; it also includes former-DFPS child care funded by the Commission, as further described in subsection (c) of this section.

(b) ~~[(a)]~~ A Board shall ensure that determinations of eligibility for children needing protective services are performed by DFPS;[-]

(1) A Board shall enroll children authorized by DFPS and ~~[Child care will]~~ continue services as long as authorized and funded by DFPS.

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

~~(c) [(3)]~~ Child care services funded by DFPS through CCDF and discontinued by DFPS prior to the end of the ~~[12-month]~~ eligibility period shall be subject to the Continuity of Care provisions in §809.54 of this subchapter.

~~(d) [(b)]~~ A Board shall ensure that requests made by DFPS for specific eligible providers are enforced for children in protective services, including children of foster parents, when the foster parent is the owner, director, assistant director, or other individual with an ownership interest in the provider.

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

(a) A child meeting all of the applicable eligibility requirements for child care services in this subchapter on the date of the most recent eligibility determination or redetermination, ~~the child~~ shall be considered to be eligible and will receive services during the ~~[12-month]~~ eligibility period ~~[described in §809.42 of this subchapter,]~~ regardless of any:

(1) change in family income, if that family income does not exceed 85 percent of SMI for a family of the same size; or

(2) temporary change in the ongoing status of the child's parent as working or attending a job training or education program. A temporary change shall include, at a minimum, any:

(A) time-limited absence from work for an employed parent for periods of family leave (including parental leave) or sick leave;

(B) interruption in work for a seasonal worker who is not working between regular industry work seasons;

(C) student holiday or breaks within a semester, between the fall and spring semesters, or between the spring and fall semesters, for a parent participating in training or education;

(D) reduction in work, training, or education hours, as long as the parent is still working or attending a training or education program;

(E) other cessation of work or attendance in a training or education program that does not exceed 90 calendar days ~~[three months]~~;

(F) change in age, including turning 13 years old or a child with disabilities turning 19 years old during the eligibility period; and

(G) change in residency within the state.

(b) During the period of time between eligibility redeterminations, a Board shall discontinue child care services due to a parent's loss of work or cessation of attendance at a job training or educational program that does not constitute a temporary change in accordance with subsection (a)(2) of this section. However, Boards must ensure that care continues at the same level for a period of not less than 90 calendar days ~~[three months]~~ after such loss of work or cessation of attendance at a job training or educational program.

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

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

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

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

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

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

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

§809.52. Child Care for Children Experiencing Homelessness.

(a) For a child experiencing homelessness, as defined in §809.2 of this chapter, a Board shall ensure that the child is initially enrolled for a period of 90 calendar days ~~[three months]~~.

(b) If, during the 90-day ~~[three-month]~~ initial enrollment period, the parent of a child experiencing homelessness:

(1) is unable to provide documentation verifying that the child is eligible under §809.41(a)(1) - (2) of this subchapter (regarding age and citizenship status), then care shall be discontinued following the 90-day ~~[three-month]~~ enrollment period; or

(2) provides documentation verifying eligibility under §809.41(a) of this subchapter and meeting minimum participation requirements for At-Risk Child Care as described in §809.50 of this subchapter, then care shall continue through the end of the ~~[12-month]~~ initial eligibility period (inclusive of the 90-day ~~[three-month]~~ initial enrollment period).

(c) For child care during the initial 90-day enrollment period, the following applies regarding the parent share of cost:

(1) A Board shall initially assess the parent share of cost at the highest amount based on the family size and number of children in care.

(2) The initially assessed amount will immediately be temporarily reduced to zero. This provision also applies to dual-parent families in which one parent is employed but the family does not meet the minimum participation requirements for At-Risk Child Care as described in §809.50 of this subchapter.

(3) If the parent begins to meet participation requirements under subsection (b)(2) of this section, within or by the end of the 90-day enrollment period, the parent share of cost shall be reinstated at the initially assessed amount or the amount based on the actual family income, whichever is lower.

§809.54. Continuity of Care.

(a) Enrolled children, including children whose eligibility for Transitional child care has expired, shall receive child care through the end of the applicable eligibility periods described in §809.42 of this subchapter.

(b) Except as provided by §809.75 of this chapter relating to child care during appeal, nothing in this chapter shall be interpreted in a manner as to result in a child being removed from care.

(c) In closed DFPS protective services [CPS] cases funded by CCDF (DFPS cases) where child care is no longer funded by DFPS, former-DFPS child care shall continue through the end of the applicable eligibility periods described in §809.42 of this subchapter using funds provided [allocated] to the Board by the Commission.

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

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

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

(a) A parent, including a parent in a dual-parent family, is eligible for child care services under this section if at initial eligibility determination the family does not meet the minimum participation requirements for At-Risk Child Care as described in §809.50 of this subchapter.

(b) A Board shall allow parents to self-attest that the:

(1) family meets the requirements of subsection (a) of this section; and

(2) family income does not exceed 85 percent of the state median income.

(c) The [12-month] eligibility period for child care under this section consists of an initial 90-day [three-month] job search period. If total activity participation of at least 25 hours for a single-parent family or a total combined 50 hours per week for dual-parent families, which must include a minimum of 12 hours in employment for a single-parent family and a total combined 25 hours in employment for a dual-parent family, are met within the initial 90 calendar days [three months], child care services [eligibility] will continue for the remainder of the [12-month] eligibility period, provided that the family income does not exceed 85 percent of the state median income. If the family does not meet minimum activity requirements under this subsection within 90 calendar days [three months], care must be terminated.

(d) For child care during the initial 90-day [three-month] job search period, the following [follow] applies regarding the parent share of cost:

(1) A Board shall initially assess the parent share of cost at the highest amount based on the family size and number of children in care.

(2) The initially assessed amount will immediately be temporarily reduced to zero. This provision also applies to dual-parent families in which one parent is employed but the family meets the requirements in subsection (a) of this section for child care during initial job search.

(3) If the parent begins to meet participation requirements of subsection (c) of this section within or by the end of the 90-day [three-month] job search period, the parent share of cost shall be reinstated at the initially assessed amount or the amount based on the actual family income, whichever is lower.

(e) Eligibility for child care under this section is limited to one initial 90-day [three-month] job search period per family within an eligibility period [a 12-month period].

(f) A Board shall ensure that the parent in child care for job search is registered with the state's labor exchange system and has access to appropriate services available through the one-stop delivery network described in §801.28 of this title.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER D. PARENT RIGHTS AND RESPONSIBILITIES

40 TAC §§809.72, 809.73, 809.78

The rules are proposed under Texas Government Code, §2308.3155(b), Texas Labor Code §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the Texas Rising Star Program and TWC services and activities.

The proposed rules implement HB 2294, 89th Texas Legislature, Regular Session, 2025, and relate to Texas Labor Code, Title 4, particularly Chapters 301 and 302, as well as Texas Government Code, Chapter 2308.

§809.72. *Parent Eligibility Documentation Requirements.*

(a) Parents shall provide the Board's child care contractor with all information necessary to determine initial eligibility according to the Board's administrative policies and procedures before a child can be initially determined or redetermined eligible for child care services and care authorized, unless the child is experiencing homelessness pursuant to §809.52 of this chapter or receiving child care during initial job search pursuant to §809.56 of this chapter.

(b) A parent's failure to submit eligibility documentation shall result in initial denial of child care services or termination of services at the [12-month] eligibility determination or redetermination period.

§809.73. *Parent Reporting Requirements.*

(a) Boards shall ensure that during the [12-month] eligibility period [described in §809.41 of this chapter] parents are only required to report items that impact a family's eligibility or that enable the Board or Board contractor to contact the family or pay the provider.

(b) Pursuant to subsection (a) of this section, parents shall report to the child care contractor, within 14 calendar days of the occurrence, the following:

(1) Changes in family income or family size that would cause the family to exceed 85 percent of SMI for a family of the same size;

(2) Changes in work or attendance at a job training or educational program not considered to be temporary changes, as described in §809.51 of this chapter; and

(3) Any change in family residence, primary phone number, or e-mail (if available).

(c) Failure to report changes described in subsection (a) of this section may result in fact-finding for suspected fraud as described in Subchapter F of this chapter.

(d) A Board shall allow parents to report, and the child care contractor shall take appropriate action, regarding changes in:

(1) income and family size, which may result in a reduction in the parent share of cost pursuant to §809.19 of this chapter; and

(2) work, job training, or education program participation that may result in an increase in the level of child care services.

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

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

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

(2) Parents shall ensure that their children are checked in and out each day, in accordance with TWC parameters, including §809.95 of this chapter.

(3) ~~[(2)]~~ Meeting attendance standards for child care services consists of no more than 40 total unexplained absences in a ~~[12-month]~~ eligibility period.

(4) ~~[(3)]~~ Unexplained absences may include:

(A) any ~~[Any]~~ absence that is not due to a child's documented chronic illness or disability, or to a court-ordered custody or visitation agreement; or

(B) any ~~[Any]~~ missed attendance recording that cannot be explained, except if the attendance reporting system is not available through no fault of the parent or provider.

(5) ~~[(4)]~~ Notwithstanding paragraph (2) of this subsection, child care providers may end a child's enrollment with the provider if the child does not meet the provider's established policy regarding attendance.

(6) ~~[(5)]~~ Parents shall report attendance and absences and adhere to Agency procedures for reporting attendance and absences, including the use of the Agency's attendance reporting system.

(b) Boards shall ensure that parents sign a written acknowledgment indicating their understanding of the attendance standards and reporting requirements at eligibility determination or redetermination. ~~[each of the following stages:]~~

~~[(1) initial eligibility determination; and]~~

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

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

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

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

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

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

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SUBCHAPTER E. REQUIREMENTS TO PROVIDE CHILD CARE

40 TAC §§809.92, 809.95, 809.96

The rules are proposed under Texas Government Code, §2308.3155(b), Texas Labor Code §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the Texas Rising Star Program and TWC services and activities.

The proposed rules implement HB 2294, 89th Texas Legislature, Regular Session, 2025, and relate to Texas Labor Code, Title 4, particularly Chapters 301 and 302, as well as Texas Government Code, Chapter 2308.

§809.92. *Provider Responsibilities and Reporting Requirements.*

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

(b) Providers shall:

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

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

(3) report to the Board or the Board's child care contractor instances in which the parent fails to pay the parent share of cost; and

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

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

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

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

(3) [parents] in Child Care during Initial Job Search under §809.56 of this chapter during the initial 90-day [three-month] period.

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

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

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

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

(3) the amount of each additional charge.

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

(1) provide the rationale for the Board's policy to allow providers to charge families additional amounts above the required parent share of cost [eopayment], including a demonstration of how the policy promotes affordability and access for families; and

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

(g) Providers shall not deny a child care referral based on the parent's income status, receipt of public assistance, or the child's protective service status.

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

§809.95. *Provider Automated Attendance Agreement.*

Boards shall notify providers of the following:

(1) Providers shall use the Agency-approved automated attendance system;

(2) [(4)] 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 except as provided in paragraph (3) of this section;

(3) In instances when the parent is not available to record the drop-off or pick-up of the child (such as when the provider is transporting the child to or from school), the provider may record the appropriate check-in or check-out. The parent must record at least one daily check-in or check-out for the child. However, the parent does not have to perform both check-in and check-out;

(4) [(2)] Providers shall report misuse of the Agency's automated attendance system to the Board or the Board's child care contractor;

(5) [(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

(6) [(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.

§809.96. *Contracted Slots Agreements.*

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

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

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

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

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

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

(e) To be eligible for a contract, a child care provider must be a Texas Rising Star Three-Star or Four-Star provider and meet one of the following priorities:

(1) Be located in:

(A) a child care desert; or

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

(2) Have a recognized prekindergarten partnership as defined in §809.2 of this chapter [~~with local school districts to provide pre-K services~~];

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

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

(5) Increase the number of places reserved for children with disabilities; or

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

(f) A Board that enters into a contracted slots agreement may continue payment for reserved slots during times of transition between the time that one child leaves the program and another child is placed in the slot. The period of continued payment shall adhere to the Board's policy for contracted slots agreements and may not exceed one month following the month of the vacancy.

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

(1) that requested care in the zip [ZIP] code where the provider with the open reserved slot is located; and

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

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

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

(2) availability of high-quality child care options available to participants in the Agency's [Commission's] subsidy program;

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

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

(5) additional information as requested by the Agency [Commission].

(i) A Board shall resubmit the report every 12 months from the due date of the Board's initial report to the Commission.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER G. TEXAS RISING STAR PROGRAM

40 TAC §§809.130 - 809.134, 809.136, 809.137

The rules are proposed under Texas Government Code, §2308.3155(b), Texas Labor Code §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the Texas Rising Star Program and TWC services and activities.

The proposed rules implement HB 2294, 89th Texas Legislature, Regular Session, 2025, and relate to Texas Labor Code, Title 4, particularly Chapters 301 and 302, as well as Texas Government Code, Chapter 2308.

§809.130. Short Title and Purpose.

(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;

(4) describe the high [and medium-high] CCR deficiencies points threshold pursuant to §809.131 and §809.132 of this subchapter [chapter]; and

(5) 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:

(A) consider input from stakeholders; and

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

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

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

§809.131. Requirements for the Texas Rising Star Program.

(a) A regulated child care provider is eligible for initial certification under the Texas Rising Star program if the provider has a current agreement to serve Commission-subsidized children and:

(1) has a permanent (nonexpiring) license or registration from CCR;

(2) has at least 12 months of licensing history with CCR and does not exceed the points threshold for high [and medium-high] CCR deficiencies within the most recent six-month [6-month] period as established in the Texas Rising Star guidelines pursuant to §809.130(d)(4) of this subchapter, and is not on:

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

(B) a "Notice of Freeze" with the Commission pursuant to Texas Labor Code, Chapter 213 (Enforcement of the Texas Unemployment Compensation Act) or Chapter 61 (Payment of Wages); or

(C) corrective or adverse action with CCR;

(3) meets the criteria for star-level certification in the Texas Rising Star guidelines pursuant to §809.130(d) of this subchapter; and

(4) has at minimum, a center director account registered in the Texas Early Childhood Professional Development System Workforce Registry; or

(5) is regulated by and in good standing with the United States Military.

(b) Regulated child care providers not meeting the Texas Rising Star certification requirements described in this subchapter and established in the Texas Rising Star guidelines shall be initially designated as Entry Level if the child care provider:

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

(2) is not under a "Notice of Freeze" with the Commission pursuant to Texas Labor Code, Chapter 213 (Enforcement of the Texas Unemployment Compensation Act), or Texas Labor Code, Chapter 61 (Payment of Wages); and

(3) ~~[(2)]~~ does not exceed the points threshold for high and medium-high CCR deficiencies within the most recent six-month [6-month] period as established in the Texas Rising Star guidelines pursuant to §809.130(d)(4) of this subchapter.

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

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

(e) An Entry Level provider will be reviewed for Texas Rising Star certification no later than the end of the 12th month of the 24-month period. Beginning on the 18th month, an Entry Level provider will be reviewed monthly for Texas Rising Star certification, and if it is determined that they will not be eligible by the end of their 24-month time frame ~~[timeframe]~~ based on the six-month [6-month] licensing review time period (as described in subsection (a)(2) of this section), the provider shall not receive referrals for new families as an Entry Level provider, unless the provider is located in a child care desert or serves an underserved population and is approved by the Agency to accept new family referrals.

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

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

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

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

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

§809.132. Impacts of Child Care Regulation Licensing Compliance on Texas Rising Star Certification.

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

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

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

(3) is placed on corrective or adverse action by CCR;

~~[(4) exceeds the probationary status points threshold as described in the Texas Rising Star guidelines pursuant to §809.130(d)(4);]~~

~~[(5)]~~ had more than four probationary impacts during its three-year certification period;

~~[(6)]~~ had a consecutive third probationary impact;

~~[(7)]~~ is cited for specified CCR minimum standards regarding weapons and ammunition; or

~~[(8)]~~ is not meeting at least the Two-Star level due to noncompliance with Texas Rising Star guidelines at the most recent assessment of certification.

(b) Texas Rising Star-certified providers shall be placed on a six-month Texas Rising Star probationary period if one of the following factors occurs when reviewing the most recent six-month CCR licensing history:

(1) any of the specified probationary licensing deficiencies listed in the Texas Rising Star guidelines have been cited by CCR; or

(2) whose total points for high weighted deficiencies received during the most recent six-month CCR licensing history exceed the prescribed points threshold as described in the Texas Rising Star guidelines pursuant to §809.130(d)(4) of this subchapter.

~~[(b) Texas Rising Star-certified providers with any of the specified "star level drop" licensing deficiencies listed in the Texas Rising Star guidelines during the most recent 6-month CCR licensing history shall be placed on a six-month Texas Rising Star probationary period. Furthermore:]~~

~~[(1) reduction of one star level for each deficiency cited, so a Four-Star certified provider is reduced to a Three-Star provider, a Three-Star provider is reduced to a Two-Star provider, and a Two-Star provider is placed on suspension status; and/or]~~

~~[(2) if CCR does not cite any additional specified star-level drop deficiencies during the 6-month probationary period the provider shall be reinstated at the former star level.]~~

(c) Texas Rising Star-certified providers on a six-month probationary period based on either of the factors of this section will incur a consecutive six-month probationary period (ending the first one) if additional deficiencies occur. Furthermore:

(1) if any specified probationary deficiencies or additional high weighted deficiencies resulting in the provider to exceed the prescribed points threshold as described in the Texas Rising Star guidelines pursuant to §809.130(d)(4) of this subchapter within the probationary period shall be placed on a second, consecutive probation and lose a star level, with a Two-Star certified provider being placed on suspension status;

(2) if no additional specified probationary deficiencies are cited by CCR during the probationary period or the provider falls below the prescribed points threshold as described in the Texas Rising Star

guidelines pursuant to §809.130(d)(4) of this subchapter by the end of the probationary period, the provider can be removed from probation status and shall be reinstated at the former star level, if applicable; and

(3) if any additional specified probationary deficiencies are cited by CCR during the second six-month probationary period or the provider continues to exceed the prescribed points threshold, as described in the Texas Rising Star guidelines pursuant to §809.130(d)(4) of this subchapter by the end of the second six-month probationary period, the provider shall be placed on suspension status.

~~[(e) Texas Rising Star-certified providers with any of the specified "probationary" licensing deficiencies listed in the Texas Rising Star guidelines during the most recent 6-month CCR licensing history shall be placed on a six-month Texas Rising Star 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 specified probationary deficiencies within the probationary period shall be placed on a second, consecutive probation and lose a star level, with a Two-Star certified provider being placed on suspension status:]~~

~~[(2) if CCR does not cite any additional specified probationary deficiencies during the probationary period, the provider can be removed from probation status and shall be reinstated at the former star level, if applicable; and]~~

~~[(3) if any additional specified probationary deficiencies are cited by CCR during the second six-month probationary period, the provider shall be placed on suspension status:]~~

(d) Certified providers in suspension status due to actions described in:

(1) subsection (a)(1) - (3) of this section shall be eligible for reinstatement to the provider's previous assessed star level once the provider meets the initial certification eligibility;

(2) subsection (a)(4) - (6) and (c)(3) of this section shall be eligible for reinstatement to the provider's previous assessed star level after six months following the suspension date, as long as the provider meets the initial certification eligibility; or

(3) subsection (a)(7) of this section shall be eligible for assessment as long as the provider meets the initial certification eligibility.

~~[(d) Texas Rising Star-certified providers whose total points for high or medium-high deficiencies received during the most recent 6-month CCR licensing history fall within the prescribed points threshold range as described in the Texas Rising Star guidelines pursuant to §809.130(d)(4), 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 within the probationary period shall be placed on a second, consecutive probation and lose a star level, with a Two-Star certified provider being placed on suspension status:]~~

~~[(2) if CCR does not cite any additional high or medium-high weighted deficiencies during the probationary period, the provider can be removed from probation status and shall be reinstated at the former star level, if applicable; and]~~

~~[(3) if any additional high or medium-high weighted deficiencies are cited by CCR during the second six-month probationary period, the provider shall be placed on suspension status:]~~

~~[(e) 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) - (e) of this section are cited during the previous six months:]~~

~~(c) [(f)] Certified providers in suspension status shall achieve at least a Two-Star certification no later than 18 [15] months following the suspension date. Failure to achieve at least a Two-Star certification within the 18-month [15-month] period will result in the provider's ineligibility to provide child care services under this chapter.~~

~~(f) [(g)] 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 subchapter [chapter];~~

~~(2) shall not be eligible for the enhanced payment rate and shall be paid at the Board's Entry Level rate; and~~

~~(3) shall not be able to receive referrals from a new family during the last six months of the 18-month [15-month] period, unless the provider is located in a child care desert or serves an underserved population and is approved by the Agency to accept new family referrals.~~

~~(g) [(h)] Certified providers in suspension status that fail to achieve at least a Two-Star certification by the end the 18-month [15-month] suspension period or that are terminated due to exceeding the points threshold as described in §809.131(b) of this subchapter:~~

~~(1) are not eligible to provide child care services under this chapter;~~

~~(2) are not eligible for the Entry Level designation time frame described in §809.131(e) of this subchapter [chapter];~~

~~(3) are not eligible for the extension waiver described in §809.131(f) of this subchapter [chapter]; and~~

~~(4) must subsequently meet at least a Two-Star certification eligibility and screening requirements to provide child care services under this subchapter.~~

§809.133. Application and Assessments for Texas Rising Star Certification.

(a) Texas Rising Star certification applicants must complete:

(1) an orientation on the Texas Rising Star guidelines, including an overview of the:

- (A) Texas Rising Star program application process;
- (B) Texas Rising Star program measures; and
- (C) Texas Rising Star program assessment process;

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

(3) a Texas Rising Star program self-assessment tool.

(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 that 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 subchapter [~~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 Star guidelines for implementing and supporting a continuous quality improvement framework.

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

(a) Boards and the Agency's designated Texas Rising Star assessment entity shall:

(1) conduct a background check on each Texas Rising Star staff member prior to hiring and again every five years; and

(2) ensure that each Texas Rising Star staff member completes the Texas Rising Star standards training, as described in the Texas Rising Star guidelines.

(b) Boards shall ensure that Texas Rising Star mentor staff members meet [~~meets~~] the minimum requirements in subsections (c) - (f) of this section.

(c) Texas Rising Star mentor staff shall meet the minimum education requirements as follows:

(1) Bachelor's degree from an accredited four-year college or university in early childhood education, child development, special education, child psychology, educational psychology, elementary education, or family consumer science;

(2) Bachelor's degree from an accredited four-year college or university with at least 18 credit hours in early childhood education, child development, special education, child psychology, educational psychology, elementary education, or family consumer science [with at least 12 credit hours in child development]; [~~or~~]

(3) Associate's degree in early childhood education, child development, special education, child psychology, educational psychology, elementary education, or family consumer science, and two

years of suitable experience in early childhood education as determined by the Board; or

(4) a Child Development Associate credential and commitment to achieve the mentor microcredential, as described in the Texas Rising Star guidelines, within two years of employment.

(d) The Agency may grant a waiver of no more than two years to obtain the minimum education requirements in subsection (c) of this section if a Board can demonstrate that no applicants in its workforce area meet the minimum education requirements.

(e) Texas Rising Star mentor staff shall meet the minimum work experience requirements of one year of full-time early childhood classroom experience in a child care, EHS, HS, or a pre-K through third-grade school program.

(f) All mentors must attain mentor microcredentialing, as described in the Texas Rising Star guidelines within two years of employment [Guidelines].

(g) The Agency's designated Texas Rising Star assessment entity shall ensure that Texas Rising Star assessor staff shall attain and maintain the Texas Rising Star Assessor Certification, as described in the Texas Rising Star guidelines [Guidelines].

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

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

(1) A mentor is defined as a Board or Board contract staff member who helps providers obtain, maintain, or achieve higher star levels of certification.

(2) An assessor is defined as a staff member or contractor of the Agency's designated Texas Rising Star assessment entity who assesses and monitors providers that obtain, maintain, and achieve higher levels of quality.

(3) Texas Rising Star staff members are required to complete annual professional development and continuing education consistent with the Texas Rising Star annual minimum training hours requirement for a Texas Rising Star-certified child care center director.

~~[(4) Pursuant to Texas Family Code §261.101, Texas Rising Star staff members are mandated reporters when observing serious incidents as described in the Texas Rising Star guidelines.]~~

§809.137. *Texas Rising Star Facility Changes.*

(a) For the purposes of this section, the following definitions apply:

(1) Affiliated person--A relative, as defined in paragraph (9) of this subsection, or a person with substantial interest in both the facility being changed and the receiving facility.

(2) Business Structure--The legal form of a business entity that includes in part its liability, taxation, management, and registration requirements.

(3) External Change in Ownership--A change in ownership to a person who is not an affiliated person, and the new owner has no existing facilities in operation.

(4) Facility Expansion--The existing provider opens a new facility, or purchases an existing facility, while continuing to operate at their current location.

(5) Facility Move--The facility relocates to a new location regardless of previous location.

(6) Facility Split--The existing provider opens a new facility that is not or was not currently in operation, to serve a subset of the ages currently served. This change results in the composition of the ages served by the current Child Care Services facility changing.

(7) Facility Type--The facility is regulated under a different set of CCR minimum standards.

(8) Internal Change in Ownership--A change in ownership to an affiliated person.

(9) Relative--Any person related by marriage, blood relationship, or court decree. This may include parents, grandparents, spouses, siblings, or children.

(10) Substantial Interest--A person has a substantial interest in a facility if he or she owns 10 percent or more of the facility or receives funds from the facility unrelated to a facility change.

(b) Specific types of facility changes for child care operations may impact how the operation participates in Texas Rising Star.

(c) The Child Care Facility Change Rubric in the figure in this subsection describes the impacts that specific types of facility changes have on a facility's Texas Rising Star certification or designation status. Figure: 40 TAC §809.137(c)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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