ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 1. ADMINISTRATION

PART 8. TEXAS JUDICIAL COUNCIL

CHAPTER 171. REPORTING REQUIREMENTS

1 TAC §171.12

The Texas Judicial Council (Council) adopts new rule §171.12 regarding new reporting requirements for prosecuting attorneys imposed by Texas Government Code Sec. 71.0354 with changes to the text as published in the July 10, 2026 issue of the *Texas Register* (51 TexReg 28). The rule will be republished.

Background and Justification for Rule Adoption. The new rule implements Texas Government Code Sec. 71.0354, which requires county attorneys, district attorneys, and criminal district attorneys who represent the state in criminal matters before the district or other courts in the county (prosecuting attorneys) to report to the Office of Court Administration (OCA), in the form and manner prescribed by the Council, information on: (1) the categories of criminal offenses prosecuted by the prosecuting attorney and the number of criminal cases in each category; (2) the number of personnel employed by the prosecuting attorney and whether that number is sufficient to support the prosecutor's caseload; (3) the number of times a defendant was released as provided by Article 17.151, Code of Criminal Procedure; and (4) the number of electronic notices submitted by the prosecuting attorney to a court as required by Article 17.027(a)(2), Code of Criminal Procedure. Based on the comments received, the proposed rule was modified at adoption.

Comments. Pursuant to Texas Government Code Sec. 2001.029, the Council gave all interested persons a reasonable opportunity to provide written comments concerning the adoption of these rules.

The Council received 15 comments during the public comment period from district attorneys, assistant district attorneys, and/or county attorneys in the following counties: Kerr; Gillespie; Rusk; Hunt; Young; Stephens; Hill; Kleberg; Kenedy; Williamson; Lamb, Wood, Dallas, San Augustine, Travis, Comal, and Atascosa. The following is a summary and discussion by topic of the issues raised by the commenters, the Council's response, and the modifications made to the proposed rule.

Administrative Burden and Cost to Comply with the Rule and General Concerns with the Reporting Requirements

Comments: Several commenters were concerned about the administrative burden imposed on prosecutors' offices (especially in smaller counties) to comply with the new reporting requirements due to understaffing and inadequate funding for new case management systems or case management system changes needed to track and report the information required by the new rule because existing case management systems cannot generate the required reports or capture relevant information. Other concerns expressed by several prosecutors are: 1) the requested information is not needed by the Council; 2) complying with the rule would expend resources that are already in short supply; 3) collection of data and reporting would have to be done manually as they do not have a system to collect the required information; 4) the rule violates the separation of powers doctrine; 5) the information sought is already reported to OCA; 6) the information should be reported by courts and court clerks not prosectors; and 7) the information to be reported is often subjective which will result in inconsistent reporting.

Response: The Council is mindful that the additional reporting required by the rule may result in additional work and possible increased costs as a result of changes to case management systems that may be required and resources needed to compile and submit the information. However, the reporting is mandated by Tex. Government Code Sec. 71.0354 and the rules are necessary to implement these statutory requirements.

Objections to Reporting Case Information for Each Offense Prosecuted (Proposed §171.12(b)(1))

Comments: One commenter suggested that the requirement that data be reported on the number of "criminal offenses" in various "criminal cases" prosecuted was confusing because it is not a metric required in Sec. 71.0354. The commenter suggested that the information be reported by the number of cases filed in each category and not information regarding each offense prosecuted in each case. One commenter suggested that reporting at the offense level would be difficult to collect while another commenter suggested that it is data that can be easily collected and reported. Another commenter suggested that the number of offense counts be collected for each category of criminal offense.

Response: Tex. Government Code Sec. 71.0354 requires data be reported on "the categories of criminal offenses prosecuted by the prosecuting attorney and the number of criminal cases in each category." The term "criminal case" is not defined and the method of filing a criminal case is not consistent throughout the state. Some prosecutors file "cases" for each offense while others file one case with several offenses and still others file one case for each count. In order to fully capture the workload of a prosecutor's office, the Council maintains that reporting by offense will result in the most accurate data and is consistent with the requirement and intent of Tex. Government Code Sec. 71.0354.

Objection to Reporting Information Regarding Prosecution of Class C Misdemeanors (Proposed §171.12(b)(1)(H)

Comments: A commenter questioned whether the reporting requirements should include tracking class C misdemeanors, which his office does not file but may prosecute. Another commenter noted that thousands of class C misdemeanors are filed with Justices of the Peace annually, but they do not prosecute the majority of them. And another commenter indicated that they do not have access to information regarding the majority of class C misdemeanors which are prosecuted by the city attorney, a prosecutor type that is not subject to the rule.

Response: The Council has considered the comments noting that, unlike the other category of offenses, district and county prosecutors do not file most class C misdemeanors and that the majority of these offenses, approximately 68% in FY25, are prosecuted by a city attorney. Because of the additional cost and staff time required to collect this information and its limited value in capturing a district or county prosecutor's workload, the Council believes the benefit to be gained from collecting this information does not outweigh the cost and effort required to comply with this reporting requirement. Therefore, the Council has deleted §171.12(b)(1)(H) from the rule. The Council has also deleted the term "complaint" from the definition of "criminal case" as complaints are generally used for class C misdemeanors.

Objection to Reporting Information Regarding the Number of Persons Released under Tex. Code of Criminal Procedure Art. 17.151 and the Number of Art. 17.151 Writs Received by Prosecutors (Proposed §171.12(b)(3) and (4))

Comments: Several prosecutors questioned the need and validity of reporting information regarding the number of persons released under Art. 17.151 and the number of Art. 17.151 writs received by prosecutors. One prosecutor stated that reporting requirements regarding the number of times a defendant was released pursuant to Art. 17.151 would be burdensome to determine because it would require manual tracking, as it is not currently captured by his county's case management systems. He further stated that, in the majority of cases, an individual is released under Art. 17.151 prior to the case being filed in his office. As it concerns writs, the prosecutor stated that the information required in §171.12(b)(4) cannot be tracked by his county's case management system and would require the manual entry of data. Another commenter noted that collecting data of the number of persons released under Art. 17.151 does not provide particularly useful information regarding the workload of the office of prosecuting attorneys because, in the majority of situations, a person will be released under Art. 17.151 before their case has been sent to the prosecutor's office for consideration. The commenter continued that, in their jurisdiction, prosecutors do not have much control over who is released under Art. 17.151 because the office has not received sufficient details on the case in order to present it to a grand jury. One commenter questioned whether the information would be useful to the Council because, in the majority of cases, a writ or motion under Art. 17.151 is not filed with the court until an individual has been released from detention. Another prosecutor expressed concern about the requirement to report cases over 90 days because of the difficulty in determining when a district attorney's office receives a complete case. He also stated that reporting a case filed after 60 days, which may not have been presented to a grand jury, is problematic. Several prosecutors stated that tracking the number of Art. 17.151 habeas applications would be better reported by district courts, law enforcement custodial agencies, and clerks. Another prosecutor noted that in counties that do not directly file a case at the time of arrest, the prosecuting attorney's office does not control when a criminal case is submitted by the arresting law enforcement agency.

Response: The Council is mindful of the issues raised regarding the data required by §171.12(b)(3) (the number of times a person was released under Art. 17.151), but Tex. Government Code Sec. 71.0354(b)(3) specifically requires this information be collected from prosecutors. However, because the proposed rule will be amended to delete the requirement that class C misdemeanor information be collected, the Council has also removed the requirement that data be submitted regarding the number of times a person charged with a misdemeanor punishable by a fine only was released under Art. 17.151. Additionally, as the information to be collected under proposed §171.12(b)(4) (number of Art. 17.151 writs received by the prosecutor) is not specifically required by statute and the benefit to be gained from collecting this information does not outweigh the cost and effort required to comply with this reporting requirement, this provision also has been deleted from the rule.

Clarification Regarding Certain Reporting Requirements

Comments: One commenter requested a clearer definition of "offenses" in §171.12(b)(1) and "personnel employed" used in §171.12(b)(2). The commenter also requested implementation guidance. Other commenters raised questions regarding the method of reporting and clarification on procedures. One commenter also requested that the rule permit corrections to submitted reports.

Response: The Council has instructed the Office of Court Administration to provide reporting instructions for the submission of the information required by the new rule. Additionally, prosecutors will have the ability to submit corrected reports.

Ability to Uniformly Report Whether Staffing Levels are Appropriate

Comments: Several commenters expressed concerns regarding the requirement to report whether the number of staff is sufficient to support the prosecutor's caseload. The position of several commenters is that determining whether an office is adequately staffed is a subjective measure that will result in inconsistent reporting. One commenter noted that it is not possible to objectively determine whether their staffing levels are adequate as there is no validated workload standard for prosecutors' offices. Another prosecutor indicated that for those offices with civil duties in addition to prosecutor duties, it would not be possible to gauge whether staffing levels are sufficient for prosecuting purposes when other duties are taken into consideration.

Response: The Council understands that some of the information provided by the prosecutors regarding whether the number of staff is sufficient to support the prosecutor's caseload is subjective and may result in inconsistent reporting. The Council is aware that there is no tool that can be used by all prosecutors to determine if their offices are adequately staffed and that the information provided by prosecutors may not be consistent. However, this information is specifically required to be reported by Tex. Government Code Sec. 71.0354. The Office of Court Administration in its reporting instructions will provide guidelines so that certain staffing information will be reported consistently across the board.

Request to Delay Implementation

Comments: One commenter requested that the Council consider delaying implementation so that the prosecutor could have additional time to acquire software that would be necessary for tracking the information that must be reported. Another prosecutor noted that the law does not require reporting to commence on September 1, 2026, it only requires that the Council prescribe the information, and form and manner of submission of information required by Tex. Government Code Sec. 71.0354.

Response: Because prosecutors have not been required to report this information in the past and several prosecutors have expressed concern regarding the increased work and processes that will need to be deployed to start collecting the required information, the Council will delay implementation of the rule to December 1, 2026, with the first reports due to the Council in March of 2027.

Including Complaints in the Definition of a Criminal Case

Comment: One prosecutor commented that the definition of "criminal case" would provide inconsistent reporting between jurisdictions that use direct file and those that do not. The commenter suggested amending the definition of "criminal case."

Response: The Council is removing the term "complaint" from the definition of "criminal case." This will result in consistent reporting of information and indictments irrespective of whether the county employs the practice of direct file.

Statutory Authority and Sections Affected. The proposed rules are adopted pursuant to Texas Government Code Sec. 71.019, the Council's general rulemaking authority. The adopted rules implement the reporting requirements imposed by Texas Government Code Sec. 71.0354.

Cross Reference to Statute. The new rule implements Texas Government Code Sec. 71.0354.

§171.12. Prosecuting Attorney Information.

(a) In this rule:

(1) "criminal case" means a case in which a criminal indictment or information has been filed in a district or other court in the county;

(2) "OCA" means the Office of Court Administration; and

(3) "prosecuting attorney" has the meaning assigned in §71.0354(a) of the Government Code.

(b) Pursuant to §71.0354 (b) of the Government Code, each prosecuting attorney shall report the following information to OCA:

(1) the number of offenses in each criminal case filed in each county served by the prosecuting attorney in each of the following categories:

(A) capital felony;

(B) 1st degree felony;

(C) 2nd degree felony;

(D) 3rd degree felony;

(E) state jail felony;

(F) class A misdemeanor; and

(G) class B misdemeanor.

(2) on an annual basis, the number of personnel employed by the prosecuting attorney and whether that number is sufficient to support the prosecutor's caseload; and

(3) the number of times a defendant was released pursuant to Code of Criminal Procedure Article 17.151 §1 (1 - 3), regardless of whether an application for a writ of habeas corpus was filed, in each county served by the prosecuting attorney.

(c) Unless otherwise stated, prosecuting attorneys must submit the information required to be reported under this rule on a quarterly basis in the manner required by OCA. Reports are due to OCA no later than the last day of the month following the end of the reporting period.

(d) Comments:

(1) The first quarterly reporting period under this rule is from December 1, 2026 through February 28, 2027. The first quarterly report (under §171.12(b) (1) and (3)) and annual report (under §171.12(b)(2)) are due on March 31, 2027.

(2) Prosecuting attorneys are not required to submit electronic notices to a court under Article 17.027(a)(2) of the Code of Criminal Procedure; therefore, no information will be collected from prosecuting attorneys regarding the activity described by §71.0354(b)(4) of the Government Code.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 1, 2026.

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Maria Roman
General Counsel
Texas Judicial Council
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Proposal publication date: July 10, 2026
For further information, please call: (512) 463-1682

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TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 6. COMMUNITY AFFAIRS PROGRAMS

SUBCHAPTER A. GENERAL PROVISIONS

10 TAC §6.2

The Texas Department of Housing and Community Affairs (the Department) adopts, with changes to the proposed text previously published in the June 19, 2026 issue of the *Texas Register* (51 TexReg 3965) to correct a clerical error, amendments to 10 TAC Chapter 6, Community Affairs Programs, §6.2, Definitions. The rule will be republished. The purpose of the amendment is to remove unnecessary language, improve clarity and provide greater regulatory efficiency.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the amended rule would be in effect:

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

2. The amended rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce workload to a degree that eliminates any existing employee positions.

3. The amended rule does not require additional future legislative appropriations.

4. The amended rule will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The amended rule is not creating a new regulation.

6. The amended rule will not expand, limit, or repeal existing regulation.

7. The amended rule will not increase or decrease the number of individuals subject to the rule's applicability.

8. The amended rule will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department has evaluated the amendment and determined that the action will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The amended rule does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the amended rule as to its possible effects on local economies and has determined that for the first five years the amended rule will be in effect the rule has no economic effect on local employment because the rule relates only to programs and processes which have already been in effect for existing Subrecipients; therefore, no local employment impact statement is required to be prepared for the amended rules.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Bobby Wilkinson, Executive Director, has determined that, for each year of the first five years the amended rule is in effect, the public benefit anticipated as a result of the new rule will be improved regulatory efficiency and greater clarity. There will not be any economic costs to any individuals required to comply with the amended rule because the rule has already been in place.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the amended rule is in effect, enforcing or administering the new rule does not have any foreseeable implications related to costs or revenues of the state or local governments because the amended rule relates only to programs and processes which have already been in effect for existing subrecipients.

SUMMARY OF PUBLIC COMMENT. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the amendment, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period was held from June 19, 2026 to July 20, 2026. No comment was received.

STATUTORY AUTHORITY. The rule action is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the amended section affects no other code, article, or statute.

§6.2. Definitions.

(a) To ensure a clear understanding of the terminology used in the context of the CSBG, LIHEAP, and DOE-WAP programs of the Community Affairs Division, a list of terms and definitions has been compiled as a reference. Any capitalized terms not specifically defined in this section or any section referenced in this chapter shall have the meaning as defined in Chapter 2306 of the Tex. Gov't Code, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), or applicable federal regulations.

(b) The words and terms in this chapter shall have the meanings described in this subsection unless the context clearly indicates otherwise. Refer to Subchapters B, C, and D of this chapter for program specific definitions.

(1) Affiliate--An entity related to an Applicant that controls by contract or by operation of law the Applicant or has the power to control the Applicant or a third entity that controls, or has the power to control both the Applicant and the entity. Examples include but are not limited to entities submitting under a common application, or instrumentalities of a unit of government. This term also includes any entity that is required to be reported as a component entity under Generally Accepted Accounting Standards, is required to be part of the same Single Audit as the Applicant, is reported on the same IRS Form 990, or is using the same federally approved indirect cost rate.

(2) Awarded Funds--The amount of funds or proportional share of funds committed by the Department's Board to a Subrecipient or Service Area.

(3) Categorical Eligible/Eligibility--A method where a Subrecipient must deem a Household to be eligible for LIHEAP or DOE benefits if that Household includes at least one member that receives assistance under specific federal programs as identified in this chapter or by Contract.

(4) Child--Household member not exceeding 18 years of age.

(5) Community Action Agencies (CAAs)--Private Nonprofit Organizations and Public Organizations that carry out the Community Action Program.

(6) Community Services Block Grant (CSBG)--An HHS-funded program.

(7) Comprehensive Energy Assistance Program (CEAP)--A LIHEAP-funded program.

(8) Concern--A policy, practice or procedure that has not yet resulted in a Finding or Deficiency, but if not changed will or may result in a Finding or Deficiency.

(9) Contract--The executed written agreement between the Department and a Subrecipient performing an activity related to a program that describes performance requirements and responsibilities assigned by the document, for which the first day of the Contract Term is the point at which program funds may be considered by a Subrecipient for Expenditure, unless otherwise directed in writing by the Department.

(10) Contract Term--The period of Expenditure under a Contract.

(11) Cost Reimbursement--A Contract sanction whereby reimbursement of costs incurred by the Subrecipient is made only after the Department has conducted such review as it deems appropriate as more fully described in §2.201 of this Title (relating to Cost Reimbursement).

(12) Declaration of Income Statement (DIS)--A Department-approved form used only when it is not possible for an applicant to obtain third party or firsthand verification of income.

(13) Deficiency--Consistent with the CSBG Act, a Deficiency exists when an Eligible Entity has failed to comply with the terms of an agreement or a State plan, or to meet a State requirement. The Department's determination of a Deficiency may be based on the Eligible Entity's failure to provide CSBG services, or to meet appropriate standards, goals, and other requirements established by the State, including performance objectives, or as provided for in §2.203(b) of this title (relating to Termination and Reduction of Funding for CSBG Eligible Entities). A Finding, Observation, or Concern that is not corrected, or is repeated, may become a Deficiency.

(14) Deobligate/Deobligation--The partial or full removal of Contracted Funds from a Subrecipient.

(15) Department of Energy (DOE)--Federal department that provides funding for a weatherization assistance program.

(16) Department of Health and Human Services (HHS)--Federal department that provides funding for CSBG and LIHEAP.

(17) Discretionary Funds--CSBG funds, excluding the 90% of the state's annual allocation that is designated for statewide allocation to CSBG Eligible Entities under §6.203 of this subchapter (relating to Formula for Distribution of CSBG Funds) and state administrative funds, maintained by the Department, at its discretion, for CSBG allowable uses as authorized by the CSBG Act.

(18) Dwelling Unit--A house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

(19) Elderly Person--

(A) For CSBG, a person who is 55 years of age or older; and

(B) For CEAP and WAP, a person who is 60 years of age or older.

(20) Eligible Entity--Those local organizations in existence and designated by the federal and state government to administer programs created under the Federal Economic Opportunity Act of 1964. This includes CAAs, limited-purpose agencies, and units of local government.

(21) Emergency--defined as:

(A) A Natural Disaster;

(B) A significant home energy supply shortage or disruption;

(C) Significant increase in the cost of home energy, as determined by the Secretary of HHS;

(D) A significant increase in home energy disconnections reported by a utility, a state regulatory agency, or another agency with necessary data;

(E) A significant increase in participation in a public benefit program such as the food stamp program carried out under the Supplemental Nutrition Assistance Program (SNAP) Food and Nutrition Act of 2008, SSI (42 U.S.C. §§1381, et seq.) or the state temporary assistance for needy families program carried out under Part A of Title IV of the Social Security Act (42 U.S.C. §§601, et seq.), as determined by the head of the appropriate federal agency;

(F) A significant increase in unemployment, layoffs, or the number of Households with an individual applying for unemployment benefits, as determined by the Secretary of Labor; or

(G) An event meeting such criteria as the Secretary of HHS, at the discretion of the Secretary of HHS, may determine to be appropriate.

(22) Expenditure--Funds that have been accrued or remitted for purposes of the award.

(23) Extended Foster Care--The Texas Department of Family Services program as identified in 40 TAC §700.346 or successor regulation.

(24) Families with Young Children--A Household that includes a Child age five or younger. For LIHEAP-WAP only, a Family with Young Children also includes a Household that has a pregnant woman.

(25) Federal Poverty Income Guidelines--The official poverty income guidelines as issued by HHS annually.

(26) Finding--A Subrecipient's material failure to comply with rules, regulations, the terms of the Contract or to provide services under each program to meet appropriate standards, goals, and other requirements established by the Department or funding source (including performance objectives). Findings include the identification of an action or failure to act that results or may result in disallowed costs.

(27) Gross Annual Income--Defined as the total amount of non-excluded income earned annually before taxes or any deductions for all Household members 18 years of age and older.

(28) High Energy Burden--A Household whose energy burden exceeds 11% of their Gross Annual Income, determined by dividing a Household's annual home energy costs by the Household's Gross Annual Income.

(29) High Energy Consumption--A Household that is billed more than $1000 annually for related fuel costs for heating and cooling their Dwelling Unit.

(30) Household--An individual or group of individuals, excluding unborn Children, who are living together as one economic unit. For DOE WAP this includes all persons living in the Dwelling Unit. For CSBG/LIHEAP it includes these persons customarily purchasing residential energy in common or making undesignated payments for energy. In CSBG/LIHEAP a live-in aide, or a Renter with a separate lease that includes a separate bill for utilities is not considered a Household member.

(31) Inverse Ratio of Population Density Factor--The number of square miles of a county divided by the number of poverty Households of that county.

(32) Low Income Household--Defined as:

(A) For DOE WAP, a Household whose total combined annual income is at or below 200% of the Federal Poverty Income guidelines, or a Household who is Categorically Eligible;

(B) For CEAP and LIHEAP-WAP, a Household whose total combined annual income is at or below 150% of the Federal

Poverty Income guidelines, or a Household who is Categorically Eligible; and

(C) For CSBG, a Household whose total combined annual income is at or below 125% of the Federal Poverty Income guidelines.

(33) Low Income Home Energy Assistance Program (LIHEAP)--An HHS funded program.

(34) Means Tested Veterans Program--A program whereby applicants who meet certain Veterans Affairs requirements receive payments from the U.S. Department of Veterans Affairs.

(35) Mixed Status Household--A Household that contains one or more members that are U.S. Citizens, U.S. Nationals, or Qualified Aliens, and one or more members that are Unqualified Aliens.

(36) Monthly Performance and Expenditure Report--Two separate but linked reports indicating a Subrecipient's or Eligible Entity's performance and financial information, due to the Department on or before the fifteenth day of each month of the Contract Term following the reporting month. If the fifteenth falls on a weekend or holiday, the reports must still be entered on or before the fifteenth. The data the Department collects is subject to change based on changes required by DOE or HHS.

(37) Obligation--Funds become obligated upon approval of an award to Subrecipient by the Department's Governing Board, unless the Department does not receive sufficient funding from the cognizant federal entity.

(38) Observation--A notable policy, practice or procedure observed through the course of monitoring.

(39) Office of Management and Budget (OMB) Circulars--Instructions and information issued by OMB to Federal agencies that set forth principles and standards for determining costs for federal awards and establish consistency in the management of grants for federal funds, as more fully set forth in 2 CFR Part 200, unless different provisions are required by statute or approved by OMB.

(40) Person with a Disability--Any individual who is:

(A) An individual described in 29 U.S.C. §701 or has a disability under 42 U.S.C. §§12131 - 12134;

(B) Disabled as defined in 42 U.S.C. §1382(a)(3)(A), 42 U.S.C. §423, or in 42 U.S.C. §15001;

(C) Receiving benefits under 38 U.S.C. Chapter 11 or 15; or

(D) An individual with a disability as defined in §1.202(4).

(41) Population Density--The number of persons residing within a given geographic area of the state.

(42) Private Nonprofit Organization--An organization described in §501(c) of the Internal Revenue Code (the Code) of 1986 and which is exempt from taxation under subtitle A of the Code and that is not a Public Organization.

(43) Production Schedule--The estimated monthly and quarterly performance targets and Expenditures for a Contract Term. The Production Schedule must be signed by the applicable approved signatory and approved by the Department in writing.

(44) Program Year--January 1 through December 31 of each calendar year for CSBG and LIHEAP; July 1 through June 30 of each calendar year for DOE WAP.

(45) Public Organization--A unit of government, as established by the Legislature of the State of Texas. Includes, but may not be limited to, cities, counties, and councils of governments.

(46) Qualified Alien--A person that is not a U.S. Citizen or a U.S. National and is described at 8 U.S.C. §1641(b) and (c).

(47) Referral--The documented process of providing information to a customer Household about an agency, program, or professional person that can provide the service(s) needed by the customer.

(48) Reobligate/Reobligation--The reallocation of Deobligated funds to other Subrecipients or back to the Department for allowable uses.

(49) Service Area--The geographical area where a Subrecipient must provide services under a Contract.

(50) Single Audit--The audit required by OMB, 2 CFR Part 200, Subpart F, or Tex. Gov't Code, Chapter 783, Uniform Grant and Contract Management, as reflected in an audit report.

(51) State--The State of Texas or the Department, as indicated by context.

(52) Subcontractor--A person or an organization with whom the Subrecipient contracts with to provide services.

(53) Subrecipient--An organization that receives federal funds passed through the Department to operate the CSBG, CEAP, DOE WAP, and/or LIHEAP program(s).

(54) System for Award Management (SAM)--Combined federal database that includes the Excluded Parties List System (EPLS).

(55) Systematic Alien Verification for Entitlements (SAVE)--Automated intergovernmental database that allows authorized users to verify the immigration status of applicants.

(56) Texas Grant Management Standards (TxGMS) and Uniform Assurances--The standardized set of financial management procedures and Assurances established by Tex. Gov't Code Chapter 783 for Contracts executed on or after January 1, 2022, and as further described in Chapter 1 Subchapter D of this title (relating to Uniform Guidance for Recipients of Federal and State Funds). In addition, Tex. Gov't Code Chapter 2105, subjects Subrecipients of federal block grants (as defined therein) to the Texas Grant Management Standards and Uniform Assurances.

(57) Uniform Grant Management Standards (UGMS)--The standardized set of financial management procedures and definitions established by Tex. Gov't Code Chapter 783 for Contracts executed before January 1, 2022, to promote the efficient use of public funds by requiring consistency among grantor agencies in their dealings with grantees, and by ensuring accountability for the expenditure of public funds. State agencies are required to adhere to these standards when administering grants and other financial assistance agreements with cities, counties and other political subdivisions of the state. This includes all Public Organizations. In addition, Tex. Gov't Code Chapter 2105, subjects Subrecipients of federal block grants (as defined therein) to the Uniform Grant and Contract Management Standards.

(58) Unqualified Alien--A person that is not a U.S. Citizen, U.S. National, or a Qualified Alien.

(59) Vendor Agreement--An agreement between the Subrecipient and energy vendors that contains assurances regarding fair billing practices, delivery procedures, and pricing for business transactions involving LIHEAP beneficiaries.

(60) Vulnerable Populations--Elderly persons, Persons with a Disability, and Households with a Child at or below the age of five.

(61) Weatherization Assistance Program (WAP)--DOE and LIHEAP funded program.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 4, 2026.

TRD-202603859
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: September 24, 2026
Proposal publication date: June 19, 2026
For further information, please call: (512) 475-3959

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CHAPTER 8. PROJECT RENTAL ASSISTANCE PROGRAM RULE

10 TAC §§8.1 - 8.6

The Texas Department of Housing and Community Affairs (the Department) adopts, without changes to the text previously published in the June 19, 2026 issue of the *Texas Register* (51 TexReg 3969), the repeal of 10 TAC Chapter 8, Project Rental Assistance (PRA) Program Rule. The rule will not be republished. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because there are no costs associated with the repeal.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Robert Wilkinson, Executive Director, has determined that, for the first five years the repeal will be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous adoption making changes to the rule governing the Section 811 PRA Program.

2. The repeal does not require a change in work that will require the creation of new employee positions, nor will the repeal reduce workload to a degree that any existing employee positions are eliminated.

3. The repeal does not require additional future legislative appropriations.

4. The repeal does not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to the existing procedures for the 811 PRA Program.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal will be in effect there will be no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated rule that better reflects current policies. There will be no economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The Department requested comment on the repeal from June 19, 2026, to July 20, 2026. No comment was received and the rule is being adopted without changes.

STATUTORY AUTHORITY. The repeal is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the repealed sections affect no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 4, 2026.

TRD-202603857
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: September 24, 2026
Proposal publication date: June 19, 2026
For further information, please call: (512) 475-3959

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10 TAC §§8.1 - 8.6

The Texas Department of Housing and Community Affairs (the Department) adopts, with changes to the text previously published in the June 19, 2026 issue of the *Texas Register* (51 TexReg 3969), new 10 TAC Chapter 8, 811 PRA Program Rule. Section 8.6 will be republished and §§8.1 - 8.5 will not be republished. The purpose of the new rule is to make changes that will update the policies of the 811 Project Rental Assistance (PRA) Program. Some of the sections of this chapter had not been updated in four years and this action refreshes the policies to bring them up to date with current practices. Changes being made include removing reference to outdated materials or regulations; removing reference to Historically Underutilized Businesses; updating requirements for Existing Developments primarily to update time periods (for instance, as it relates to the age of a prior award this was updated from 2002 to 2012); removing redundancies; and adding clarifications to improve readability.

Tex. Gov't Code §2001.0045(b) does apply to the rule being adopted and no exceptions apply. However, no costs are associated with this action that would have prompted a need to be offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Robert Wilkinson, Executive Director, has determined that, for the first five years the new rule will be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to the policies that govern the 811 PRA Program.

2. The new rule does not require a change in work that would require the creation of new employee positions, nor will it reduce workload to a degree that eliminates any existing employee positions.

3. The new rule does not require additional future legislative appropriations.

4. The new rule will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The rule will not limit, expand or repeal an existing regulation but merely revises a rule.

7. The new rule does not increase or decrease the number of individuals to whom this rule applies; and

8. The new rule will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. This rule relates to the general program guidelines for the 811 PRA Program. The beneficiaries of this program are individual households residing at multifamily properties in major metropolitan areas, therefore no small or micro-businesses are subject to the rule.

3. The Department has determined that because this rule relates only to a revision to a rule that applies to a program for which individual households are the beneficiaries, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rule does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the new rule has no economic effect on local employment because this rule relates to rental assistance provided to specific properties housing individual households in specific metropolitan areas. Therefore, no local employment impact statement is required to be prepared for the rule.

Texas Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule…" Considering that the rule relates only to the continuation of the rules in place there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new rule is in effect, the public benefit anticipated as a result of the adopted new rule will be a more updated rule reflecting transparent policies. There will be no economic cost to any individuals required to comply with the adopted new rule because the activities described by the rule have already been in existence.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new rule is in effect, enforcing or administering the new rule does not have any foreseeable implications related to costs or revenues of the state or local governments as this rule relates only to a process that already exists and is not being significantly revised.

SUMMARY OF PUBLIC COMMENT. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the rule or any other interested person. The public comment period was held from June 19, 2026, to July 20, 2026. No comment was received and the rule is adopted without changes.

STATUTORY AUTHORITY. The rule is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the new rule affects no other code, article, or statute.

§8.6. Program Regulations and Requirements.

(a) Participation in the 811 PRA Program may be incentivized through the Department's Rules and NOFAs. Once committed to participate in the 811 PRA Program in a submitted Multifamily Application, a Development must not accept a fund source that would prevent it from participating in the 811 PRA Program.

(b) An Existing Development that is already participating in the 811 PRA Program is eligible to have an additional commitment of 811 PRA Units as long as the integrated housing requirements as noted in §8.3(c) of this chapter (relating to Participation as a Proposed Development) are not violated.

(c) The types (e.g., accessible, one bedroom, first floor, etc.) and the specific number of Assisted Units (e.g., units 101, 201, etc.) will be "floating" (flexible) and dependent on the needs of the Department and the availability of the Assisted Units on the Eligible Multifamily Property.

(d) Occupancy Requirements. Owner is required to follow all applicable Program Requirements including but not limited to the following occupancy requirements found in HUD Handbook 4350.3 REV-1 and all applicable HUD Housing Notices as amended or superseded from time to time.

(e) Use Agreements. The Owner must execute the Use Agreement at the execution of the RAC and comply with the following:

(1) Use Agreement must be properly recorded according to local laws in the official public records on the Eligible Multifamily Property. The Owner shall provide to the Department within 30 days of its receipt of the recorded Use Agreement, a copy of the executed, recorded Use Agreement.

(2) From the date the Property Agreement is entered into, the Owner shall not enter into any future use agreements or other subsidy programs that would diminish the number of Assisted Units that can be placed on the Eligible Multifamily Property.

(3) The Department will enforce the provisions of the Use Agreement and RAC consistent with HUD's internal control and fraud monitoring requirements.

(f) TRACS & EIV, Reporting, Tenant Certifications and Compliance.

(1) TRACS & EIV Systems. The Owner shall have appropriate methods to access the Tenant Rental Assistance Certification System (TRACS) and the EIV System. The Owner shall be responsible for ensuring Program information is entered into these systems. TRACS is the only system by which an Eligible Multifamily Property can request Project Rental Assistance payments.

(2) Tenant Certification. The Owner shall transmit Eligible Tenant's certification and recertification data, transmit voucher data, and communicate errors electronically in a form consistent with HUD reporting requirements for HUD Secure Systems.

(3) Compliance Reviews. The Department's Compliance Division will conduct a monitoring review in conjunction with the review of any other Department administered housing program layered with the Development. If the Development is layered with Housing Tax Credits and has exceeded the 15-year Federal Compliance Period, monitoring reviews of the Program will still be conducted at least every three years.

(4) The Department will review the Property's Tenant Selection Plan and Criteria, as defined by and in accordance with §10.802 of this chapter (relating to Written Policies and Procedures).

(g) Tenant Selection and Screening.

(1) Target Population. The Department will screen Eligible Applicants for compliance with the Department's Target Population criteria and do an initial screening for Program Requirements. The Inter-Agency Partnership Agreement describes the specific Target Populations eligible for the Department's Program. The Target Populations may be revised, with HUD approval.

(2) Tenant Eligibility and Selection. The Owner is responsible for the ultimate eligibility determination and selection of an Eligible Tenant and will comply with the following:

(A) The Owner must accept referrals of an Eligible Tenant from the Department and retain copies of all applications received. The Owner is responsible for notifying the prospective Eligible Tenant and the Department in writing regarding any denial of a prospective Eligible Tenant's application to an Eligible Multifamily Property and the reason for said denial. In the notice of denial, the Owner is responsible for notifying the Eligible Tenant of the right to dispute a denial, as outlined in HUD Handbook 4350.3. The results of the dispute must be sent to the Eligible Tenant and the Department in writing.

(B) The Owner is responsible for determining the age of the qualifying member of the Eligible Families. The Eligible Family member must be at least 18 years of age and under the age of 62 at the time of referral.

(C) The Owner is responsible for criminal background screening as required by HUD Handbook 4350.3.

(D) Verification of Income, Assets, and Deductions. The Owner is responsible for determining income of Eligible Families. The Owner shall verify income through the Enterprise Income Verification (EIV) System per HUD Handbook 4350.3 and HUD Notices. The Owner must certify an Eligible Tenant and Eligible Families at least annually and verify their income. Use of the EIV system as third party verification is not acceptable for the Housing Tax Credit or Multifamily Direct Loan Program.

(h) Rental Assistance Contracts.

(1) Applicability. If requested by the Department, the Owner shall enter into a RAC. Not all properties with an Owner Participation Agreement will have a RAC, but when notified by the Department, the Eligible Multifamily Property must enter into a RAC(s) and begin serving referred Eligible Applicants.

(2) Notice. The Department will provide written notice to the Owner if and when it intends to enter into a RAC with the Owner.

(3) Assisted Units. The Department will determine the number of Units (up to the maximum listed in the Property Agreement) to place in the RAC(s) which may be fewer than the number of Units identified in the Property Agreement.

(4) The Department will designate the bedroom composition of the Assisted Units, as required by the RAC. However, based on an actual Eligible Tenant, bedroom composition may fluctuate.

(5) If no additional applicants are referred to the Development, the Department may begin a RAC amendment to reduce the number of Assisted Units. An Owner who has an amended, executed RAC must continue to notify the Department of units that become vacant that are committed under the Agreement.

(6) Amendments. The Owner agrees to amend the RAC(s) upon request of the Department. Some examples of such requests are amendments that may either increase or decrease the total number of Assisted Units or increase or decrease the associated bedroom sizes. Multiple amendments to the RAC may occur over time. The total number of Assisted Units in the RAC will not exceed the number of Assisted Units committed in the Participation Agreement, unless by request of the Owner.

(7) Contract Term. The Department will specify the effective date of the RAC. During the first year of the RAC and with approval from HUD, the Owner may request to align the anniversary date of the RAC with existing federal or state housing programs layered on the Eligible Multifamily Property.

(8) Rent Increase. Owners must submit a written request to the Department 30 days prior to the anniversary date of the RAC to request an annual increase.

(9) Utility Allowance. The RAC will identify the Department approved Utility Allowance used for the Assisted Units for the Eligible Multifamily Property. The Owner must notify the Department if there are changes to the Utility Allowance calculation methodology being used.

(10) Termination. Although the Department has discretion to terminate a RAC due to good cause, an Owner cannot opt-out of a RAC.

(11) Transfer of Eligible Multifamily Property. The RAC survives a foreclosure, assignment, sale in lieu of foreclosure, or sale of the Eligible Multifamily Property, to the extent allowed by law. Additionally:

(A) The RAC shall be assigned to new owner by contractual agreement or by the new owner's consent to comply with the RAC, or both as applicable;

(B) Rental Assistance Payments will continue uninterrupted in accordance with the terms of the RAC; and

(C) Voluntary and involuntary transfers or conveyances of property must adhere to the ownership transfer process in §10.406 of this title (relating to Ownership Transfers (§2306.6713)).

(i) Advertising and Affirmative Marketing.

(1) Affirmative Marketing. The Department and its service partners are responsible for affirmatively marketing the Program to Eligible Applicants in accordance with HUD's requirements.

(2) At any time, the Department may choose to advertise the Eligible Multifamily Property, even if the Eligible Multifamily Property has not yet entered into a RAC.

(j) Leasing Activities.

(1) Segregation of Assisted Units. The Owner must take actions or adopt procedures to ensure that the Assisted Units are not segregated to one area of a building (such as on a particular floor or part of a floor in a building) or in certain sections within the Eligible Multifamily Property.

(2) Form of Lease. The Owner will use the HUD Section 811 PRA Model Lease (HUD-92236-PRA), Exhibit 11 of the Cooperative Agreement and any Department approved Addendums, for all Eligible Families once a RAC is signed. The initial lease will be for not less than one year.

(3) Communication. Owners are required to document in writing all communication between the Eligible Tenant and the Owner, or Owner-designated agent regarding applications, notifications, evictions, complaints, non-renewals and move outs.

(4) Lease Renewals and Changes. The Owner must notify the Department of renewals of leases with Eligible Families and any changes to the terms of the lease.

(5) Development Policies. Upon the execution of the RAC, the Owner is required to submit to the Section 811 Program Administrator for review the following Development Policies: Tenant Selection Plan (which also must be in compliance with 10 TAC §10.802 relating to Written Policies and Procedures), House Rules, EIV Policies and Termination Notices. Owner must provide updates to the Department whenever they are revised, and must self-certify against a provided checklist that they remain compliant. Review by the Department may be based on sampling or risk-based. Notification of review and any noncompliance will be submitted to the Compliance Division for issuance through the Compliance Monitoring and Tracking System (CMTS). The Owner will have 90 days to correct any noncompliance, unless a shorter period is required federally or for health and safety reasons.

(k) Rent.

(1) Tenant Rent Payment. The Owner will determine the Tenant Rent payment of the Eligible Tenant, based on HUD Handbook 4350.3 and HUD Notices, and is responsible for collecting the Tenant Rent payment.

(2) Utility Reimbursement. The Owner is responsible for remitting any Tenant Rent payment due to the Eligible Tenant if the Utility Allowance exceeds the Total Tenant Payment no later than the 5th day of each month, beginning 30 days after initial move in.

(3) Rent Increase. Owner must provide the Eligible Tenant with at least 30 days notice before increasing rent, in accordance with HUD Handbook 4350.3.

(4) Rent Restrictions. Owner will comply with the following rent restrictions:

(A) If a Unit at the Development has a Department enforced rent restriction that is equal to or lower than Fair Market Rent (FMR), the initial rent is the maximum Department enforced rent restriction for that Unit, not to exceed the 60% Area Median Family Income limit.

(B) If there is no existing Department enforced rent restriction on the Unit, or the existing Department enforced rent restriction is higher than FMR, the Department will work with the Owner to conduct a market analysis of the Eligible Multifamily Property to support that a rent higher than FMR is attainable.

(C) After the signing of the original RAC, upon request from the Owner to the Department, Rents may be adjusted on the anniversary date of the RAC.

(D) Adjustments may not result in higher rents charged for an Assisted Unit as compared to a non-assisted unit. The calculation or methodology used for the annual increase amount will be identified in the Eligible Multifamily Property's RAC.

(E) Owner can submit a request for a rent increase or to change the contract anniversary date using HUD Form 92458.

(l) Vacancy; Household Changes; Transfers; Eviction.

(1) Holding Assisted Units. Once an Owner signs a RAC, the Eligible Multifamily Property must hold an available Assisted Unit for 60 days from when the Owner notifies the Department of the available Unit while a qualified Eligible Applicant is referred by the Department and the applicant applies for and moves into the Assisted Unit.

(2) Notification. Owner will notify the Department of determination of ineligibility or the termination of any participating Eligible Families or any member of a participating Eligible Family.

(3) Initial Lease-up. Owners of a newly constructed, acquired and/or rehabilitated Eligible Multifamily Property must notify the Department no later than 180 days before the Eligible Multifamily Property will be available for initial move-in. Failure to reserve

the agreed upon number of Assisted Units for Eligible Families will be cited as noncompliance, be referred for administrative penalties, and be considered possible grounds for Debarment.

(4) Vacancy. Upon execution of the RAC, the Owner must notify the Department of any vacancy of an Assisted Unit at the Eligible Multifamily Property as soon as possible, not to exceed seven calendar days from when the Owner becomes aware of the eligible Unit availability. Once the Department acknowledges receipt of the notice, the Department will notify the Owner within three business days if the Unit is acceptable and submit a referral. If the qualifying Eligible Tenant vacates the Assisted Unit, the Department will determine if the remaining family member(s) is eligible for continued assistance from the Program.

(5) Vacancy Payment. The Department may provide vacancy payments that cannot exceed 80% of the Contract Rent for up to 60 days from the effective date of the RAC. After the 60 days, the Owner may lease the Assisted Unit to a non-Eligible Tenant. Developments without an executed RAC are not eligible for vacancy payments.

(6) Household Changes. Owner will notify the Department of any changes in family composition in an Assisted Unit within three business days. If the change results in the Assisted Unit being smaller or larger than is appropriate for the Eligible Family size, the Owner must refer to the Department's written policies regarding family size, unit transfers and waitlist management. If the Department discovers the Eligible Family is ineligible for the size of the Assisted Unit, the Owner will be notified but Rental Assistance Payments will not be reduced or terminated until the Eligible Family can be transferred to an appropriate sized Assisted Unit.

(7) Transfers. Owner must notify the Department if the Eligible Family requests a transfer to another Assisted Unit within the Development. The Department will determine if the Eligible Family qualifies for the unit transfer, if the new Unit is eligible as an Assisted Unit and then notify the Owner. If the Department determines the Eligible Family is ineligible for the size of the Assisted Unit, the Department will notify the Owner and Rental Assistance Payments will not be reduced or terminated until the Eligible Family can be transferred to an appropriate sized Assisted Unit.

(8) Notice to Vacate and Nonrenewal. Owners are required to notify the Department at least three calendar days prior to issuing a Notice to Vacate or a Notice of Non-Renewal to the Eligible Family. Notices must be in compliance with HUD Handbook 4350.3 8-13(B)(2) and HUD Notices. A copy of the applicable Notice must be submitted via email to 811info@tdhca.texas.gov.

(A) Owner is required to notify the Department within seven calendar days of when the Development is notified that the Eligible Family will vacate or in the event that the Eligible Family vacates without notice, upon discovery that the Assisted Unit is vacant. Notification of vacancy must be submitted to 811info@tdhca.texas.gov.

(B) Upon move out, Owner must submit a move out disposition to the Department to ensure proper processing of the security deposit per HUD Handbook 4350.3 6-18.

(m) Construction Standards, Inspections, Repair and Maintenance, and Accessibility.

(1) Construction Standards. Upon execution of a RAC, the Eligible Multifamily Property shall be required to conform to National Standards for the Physical Standards of Real Estate (NSPIRE) which are uniform national standards established by HUD for housing that is decent, safe, sanitary, and in good repair. The site, building exterior, building systems, dwelling units and common areas of the Eligible Multifamily Property, as more specifically described in 24 CFR §5.703, must be inspected in any physical inspection of the property.

(2) Inspection. Prior to occupancy, the Eligible Tenant must be given the opportunity to be present for the move-in unit inspection.

(3) Repair and Maintenance. Owner will perform all repair and maintenance functions, including ordinary and extraordinary maintenance; will replace capital items; and will maintain the premises and equipment, appurtenant thereto, in good repair, safe and sanitary condition consistent with HUD and Department requirements.

(4) Accessibility. Owner must ensure that the Eligible Multifamily Property meets or exceeds the accessibility requirements under 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973; the Fair Housing Act Design Manual; Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§12131 - 12189), as implemented by the U.S. Department of Justice regulations at 28 CFR Parts 35 and 36; and the Federal Fair Housing Act as implemented by HUD at 24 CFR Part 100. However, Assisted Units can consist of a mix of accessible units for those persons with physical disabilities and non-accessible units for those persons without physical disabilities.

(n) Owner Training. The Owner is required to train all property management staff engaging with Eligible Families on the requirements of the Program. Owner training must include, but is not limited to, the HUD Handbook 4350.3 and the information provided on the Department's 811 Program webpage..

(o) Reporting Requirements. Owner shall submit to the Department such reports on the operation and performance of the Program as required by the Participation Agreement and as may be required by the Department. Owner shall provide the Department with all reports necessary for the Department's compliance with 24 CFR Part 5, or any other federal or state law or regulation.

(p) Environmental Laws and Regulations.

(1) Compliance with Laws and Regulations. Owner must comply with, as applicable, any federal, state, or local law, statute, ordinance, or regulation, whether now or hereafter in effect, pertaining to health, industrial hygiene, or the environmental conditions on, under, or about the Land or the Improvements.

(2) Environmental Review. The environmental effects of each activity carried out with funds provided under this Agreement must be assessed in accordance with the provisions of the Program Requirements, National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. §432 et seq.). Each such activity must have an environmental review completed and support documentation prepared in accordance with §11.305 of this title (relating to complying with the NEPA, including screening for vapor encroachment following American Society for Testing and Materials (ASTM) 2600-10.

(q) Labor Standards.

(1) Every contract for the construction (rehabilitation, adaptive reuse, or new construction) of housing that includes 12 or more units assisted with Program funds must contain provisions in accordance with Davis-Bacon Regulations.

(2) Every contract involving the employment of mechanics and laborers of said construction shall be subject to the provisions, as applicable, of the Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. §§3701 to 3708), Copeland (Anti-Kickback) Act (40 U.S.C. §3145), the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §201, et seq.) and Davis-Bacon and Related Acts (40 U.S.C. §§3141 - 3148).

(3) If more housing units are constructed than the anticipated 11 or fewer housing units, it is the Owner's responsibility to ensure that all the housing units will comply with these federal labor standards and requirements under the Davis-Bacon Act as supplemented by the U.S. Department of Labor regulations ("Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction" at 29 CFR Part 5).

(4) Structuring the proposed assistance for the rehabilitation or construction of housing under this Agreement to avoid the applicability of the Davis-Bacon Act is prohibited.

(5) Construction contractors and subcontractors must comply with regulations issued under federal laws, regulations pertaining to labor standards, including but not limited to "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction" at 29 CFR Part 5, HUD Federal Labor Provisions (HUD form 4010).

(r) Lead-Based Paint. Housing assisted with Program funds is subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4821 - 4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§4851 - 4856), and implementing regulations Title X of the 1992 Housing and Community Development Act at 24 CFR Part 35, (including subparts A, B, J, K, M and R). Owner shall also comply with the Lead: Renovation, Repair, and Painting Program Final Rule, 40 CFR Part 745 and Response to Children with Environmental Intervention Blood Lead Levels. Failure to comply with the lead-based paint requirements may be subject to sanctions and penalties pursuant to 24 CFR §35.170.

(s) Limited English Proficiency. The Owner must take reasonable steps to ensure that persons with Limited English Proficiency have meaningful access to the program and activities. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary.

(t) Procurement of Recovered Materials. Owner, its subrecipients, and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired by the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(u) Drug-Free Workplace. Owner will follow the Drug-Free Workplace Act of 1988 (41 U.S.C §701, et seq.) and HUD's implementing regulations at 2 CFR Part 2429. Owner affirms by executing the Certification Regarding Drug-Free Workplace Requirements attached hereto as Addendum B, that it is implementing the Drug-Free Workplace Act of 1988.

(v) Fair Housing, Nondiscrimination, and Equal Access.

(1) Fair Housing Poster. The Owner is required to place a fair housing poster (HUD-928.1 and HUD-9281.A) provided by the Department in the leasing office, online, or anywhere else rental activities occur pursuant to 24 CFR §200.620(e). A copy of the poster in Spanish and in English can be found at http://www.tdhca.state.tx.us/section-811-pra/participating-agents.htm.

(2) Nondiscrimination Laws. Owner shall ensure that no person shall, on the grounds of race, color, religion, sex, disability, familial status, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any Program or activity funded in whole or in part with funds provided under this Agreement. Owner shall follow Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d et seq.), the Age Discrimination Act of 1975 (42 U.S.C. §6101 et seq.) and its implementing regulations at 24 CFR Part 146, Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§12131 - 12189; 47 U.S.C. §§155, 201, 218 and 255) as implemented by U.S. Department of Justice at 28 CFR Parts 35 and 36, Section 527 of the National Housing Act (12 U.S.C. §1701z-22), the Equal Credit Opportunity Act (15 U.S.C. §1691 et seq.), the Equal Opportunity in Housing (Executive Order 11063 as amended by Executive Order 12259) and its implementing regulations at 24 CFR Part 107 and The Fair Housing Act (42 U.S.C. §3601 et seq.), as implemented by HUD at 24 CFR Part 100-115.

(3) Affirmatively Furthering Fair Housing. By Owner's execution of the Agreement and pursuant to Section 808(e)(5) of the Fair Housing Act, Owner agrees to use funds in a manner that follows the State of Texas' "Analysis of Impediments" or "Assessment of Fair Housing", as applicable and as amended, and will maintain records in this regard.

(4) Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking. Subpart L of 24 CFR part 5 shall apply to the Assisted Units in Eligible Multifamily Properties.

(w) Security of Confidential Information.

(1) Systems Confidentiality Protocols. Owner must undertake customary and industry standard efforts to ensure that the systems developed and utilized under this Agreement protect the confidentiality of every Eligible Applicant's and Eligible Tenant's personal and financial information, both electronic and paper, including credit reports, whether the information is received from the Eligible Applicants, Tenants or from another source. Owner must undertake customary and industry standard efforts so that neither they nor their systems vendors disclose any Eligible Applicant's or Tenant's personal or financial information to any third party, except for authorized personnel in accordance with this Agreement.

(2) Protected Health Information. If Owner collects or receives documentation for disability, medical records or any other medical information in the course of administering the Program, Owner shall comply with the Protected Health Information state and federal laws and regulations, as applicable, under §1.24 of this title (relating to Information Security and Privacy Requirements), Chapter 181 of the Texas Health and Safety Code, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub. L. 104-191, 110 Stat. 1936, enacted August 21, 1996), and the HIPAA Privacy Rules (45 CFR Part 160 and Subparts A and E of 45 CFR Part 164).

(x) Real Property Acquisition and Relocation. Except as otherwise provided by federal statute, HUD-assisted programs or projects are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA) (42 U.S.C. §4601), and the government wide implementing regulations issued by the U.S. Department of Transportation at 49 CFR Part 24. The Uniform Act's protections and assistance apply to acquisitions of real property and displacements resulting from the acquisition, rehabilitation, or demolition of real property for federal or federally assisted programs or projects. With certain limited exceptions, real property acquisitions for a HUD-assisted program or project must comply with 49 CFR Part 24, Subpart B. To be exempt from the URA's acquisition policies, real property acquisitions conducted without the threat or use of eminent domain, commonly referred to as voluntary acquisitions, the Owner must satisfy the applicable requirements of 49 CFR

§24.101(b)(1) - (5). Evidence of compliance with these requirements must be maintained by the Owner. The URA's relocation requirements remain applicable to any tenant who is displaced by an acquisition that meets the requirements of 49 CFR §24.101(b)(1) - (5). The relocation requirements of the Uniform Act, and its implementing regulations at 49 CFR Part 24, cover any person who moves permanently from real property or moves personal property from real property as a direct result of acquisition, rehabilitation, or demolition for a program or project receiving HUD assistance. While there are no statutory provisions for temporary relocation under the URA, the URA regulations recognize that there are circumstances where a person will not be permanently displaced but may need to be moved from a project for a short period of time. Appendix A of the URA regulation (49 CFR §24.2(a)(9)(ii)(D)) explains that any tenant who has been temporarily relocated for a period beyond one year must be contacted by the displacing agency and offered URA relocation assistance.

(y) Dispute Resolution; Conflict Management.

(1) Eligible Tenant Disputes. The Owner or Owner's representative is required to participate in a Dispute Resolution process, as required by HUD, to resolve an appeal of an Eligible Tenant dispute with the Owner.

(2) Agreement Disputes. In accordance with Tex. Gov't Code 2306.082, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures (ADR) under the Governmental Dispute Resolution Act and the Negotiated Rulemaking Act (Chapters 2009 and 2006 respectively, Tex. Gov't Code), to assist in the fair and expeditious resolution of internal and external disputes involving the Department and the use of negotiated rulemaking procedures for the adoption of Department rules. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and the Owner, to exchange information and informally resolve disputes. If at any time the Owner would like to engage the Department in an ADR procedure, the Owner may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR policy, see the Department's Alternative Dispute Resolution and Negotiated Rulemaking at §1.17 of this title (relating to Alternative Dispute Resolution). The Department also has administrative appeals processes to fairly and expeditiously resolve the types of disputes discussed in §1.7 (relating to Appeals Process).

(3) Conflict Management. The purpose of the Conflict Management process is to address any concerns that Owner or Owner's agent or representative may have with an Eligible Family. At any time, an Eligible Family may choose to give consent to their Section 811 service coordinator to work directly with the property manager of the Eligible Multifamily Property. However, such consent cannot be made a condition of tenancy.

(z) Deadlines.
Figure: 10 TAC §8.6(z)

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 4, 2026.

TRD-202603858

Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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Proposal publication date: June 19, 2026
For further information, please call: (512) 475-3959

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CHAPTER 10. UNIFORM MULTIFAMILY RULES
SUBCHAPTER G. AFFIRMATIVE MARKETING REQUIREMENTS AND WRITTEN POLICIES AND PROCEDURE

10 TAC §10.801

The Texas Department of Housing and Community Affairs (the Department) adopts, without changes to the proposed text as published in the June 19, 2026 issue of the *Texas Register* (51 TexReg 3977), the repeal of 10 TAC Chapter 10, Subchapter G, §10.801 Affirmative Marketing Requirements. The rule will not be republished. The purpose of the repeal is to eliminate an outdated rule and replace it simultaneously with a new rule that clarifies when Affirmative Marketing Plans are required and reduces administrative burden on the Department and some development owners.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the repeal would be in effect:

The repeal does not create or eliminate a government program but relates to changes to an existing activity: the affirmative marketing requirements associated with developments in the Department's portfolio.

The repeal does not require a change in work that creates new employee positions, nor does it create savings that would allow for a reduction in employee positions.

The repeal does not require additional future legislative appropriations.

The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

The repeal is not considered to expand an existing regulation.

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

The repeal will not negatively or positively affect the state's economy.

ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the changed sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The Department requested public comment on the repeal from June 19, 2026, to July 20, 2026. No public comment on the repeal was received.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the repeal affects no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 4, 2026.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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For further information, please call: (512) 475-3959

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10 TAC §10.801

The Texas Department of Housing and Community Affairs (the Department) adopts, with changes to the proposed text as published in the June 19, 2026 issue of the *Texas Register* (51 TexReg 3978), new 10 TAC Chapter 10, Subchapter G, §10.801 Affirmative Marketing Requirements. The rule will be republished. The purpose of the new section is to clarify when Affirmative Marketing Plans are required and to reduce administrative burden on the Department and some development owners.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because there are no additional costs associated with this action. No additional funds will be needed to implement this rule.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the new sections would be in effect:

1. The rule does not create or eliminate a government program but relates to changes to an existing activity: the affirmative marketing requirements associated with Developments in the Department's portfolio.

2. The rule does not require a change in work that creates new employee positions, nor does it create savings that would allow for a reduction in employee positions.

3. The rule will not require additional future legislative appropriations.

4. The rule will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The rule is not creating a new regulation.

6. The rule does expand on an existing regulation.

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

8. The rule will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the new section and determined that it will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the new section as to its possible effects on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be a rule compliant with the federal regulations for the HOME Program. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the sections will have no economic costs.

SUMMARY OF PUBLIC COMMENT. The Department requested public comment on the rule from June 19, 2026, to July 20, 2026. Public comment was received from one commenter as summarized, and responded to, below.

General Comment: Commenter is focused on the following key areas: legality, implementation, feasibility, intent of the rule change, and limitations of the Census Bureau data utilized in the Department's Fair Housing Tool.

Commenter indicates that two major items call into question the legality of affirmative marketing practices and that affirmative marketing leaves properties open to possible litigation for discrimination. Specifically, Commenter mentions that in their opinion "United States Supreme Court's opinion [sic]" and the Texas Attorney General opinion KP-0505 would render the affirmative marketing rule potentially illegal as drafted.

Staff Response: The Department is not aware of any U.S. Supreme Court cases or opinions that mention or discuss affirmative marketing. Without additional detail as to the specific cases the Commenter is citing, staff cannot review those Supreme Court rulings. However, it should be noted that the only recent Supreme Court cases that are similar are related to race conscious admissions into institutions of higher education. TDHCA's affirmative marketing rule does not affect admissions (or, in the case of housing, applications or approvals), nor does TDHCA's rule impact institutions of higher education. The opinion from the Attorney General does not mention affirmative marketing, despite its quite extensive discussion of the programs it stated were potentially discriminatory. None of the cited sources expressly or indirectly mention affirmative marketing requirements. No changes are recommended based on these comments.

Commenter notes that TDHCA's programs are restricted to, in nearly all instances, low-income households. Commenter suggests that by requiring the use of U.S. Census Bureau "raw" data, or data that does not stratify based on income, TDHCA would be codifying potentially inaccurate least likely to apply populations. Commenter also provides an example of a census tract where 3% of the population was of a specific race and that "almost all of those households were over income due to working in the Physics Department of the local university."

Staff Response: Without specifics, staff is unable to verify that such a census tract exists, and that even if it did, the property correctly denied the applications of households that did not income qualify, per TDHCA's income and rent limits. However, Staff agrees that using demographics stratified by income levels matching program limits would be an excellent methodology for a property to determine least likely to apply populations. TDHCA's rule does not forbid the use of this methodology. In fact, TDHCA's proposed rule states "To determine the "least likely to apply" populations, a Development Owner is encouraged to use the TDHCA provided tool and simplified form, but at a minimum the Owner must document the method or methods used to determine which populations are least likely to apply." This language is not prescriptive and allows property owners to adopt methodologies that suit the property owner's capabilities and preferences for how to implement this portion of the rule. Neither the current rule language nor the proposed language specifies that data must come from the U.S. Census Bureau. And while TDHCA does provide a tool and does recommend its use for the sake of simplicity and reducing administrative burden on properties, TDHCA does not require the use of the tool, nor does it require any specific racial or ethnic groups be identified as a least likely to apply populations. Use of the tool and its results is not a requirement. Staff is always willing to accept feedback to make forward-facing tools more helpful, and Staff will investigate ways to incorporate income stratification into the results of the tool if at all feasible. No changes to the rule are recommended based on these comments.

Commenter states that "The rule anticipates using the data that the Department has obtained from the Census Bureau in which to measure compliance with meeting the quota of soliciting the racial or ethnic group least likely to apply."

Staff Response: The rule does not require use of the tool, nor is there any quota contemplated in the rule. Additionally, the rule does not require compliance with solicitation of any specific racial or ethnic group. A property, under the proposed rule, does not have to utilize TDHCA's tool. The rule only requires that a property describe the methods they used to determine the least likely to apply populations that they identified in their affirmative marketing plan. No changes to the rule are recommended based on these comments.

Commenter notes a technical limitation of Census Bureau data regarding the use of data that includes undocumented immigrants living in the state/county/tract.

Staff Response: Staff agrees that this differentiation is important, but as with the income stratification issue, this is not germane to the proposed rule, as the proposed rule does not require the use of any specific data source. No changes are recommended based on these comments.

Commenter touches on the intent of the TREO review of rules. The Commenter indicates that the intent of the review was to reduce unnecessary regulations, and that requiring properties with federal funding sources to conduct affirmative marketing negates the legislature's directive. The commenter further states that "many federal programs do not require affirmative marketing."

Staff Response: Staff agrees with this statement and recommends that the rule make a slight change to §10.801(a)(3) that specifies that affirmative marketing is required when the federal funds require it. "To the extent that federal funds requiring affirmative marketing are in a Development's financing sources or provide operating assistance."

Commenter also contends that the proposed language in §10.801(a)(1) is unclear as to whether the exception that developments that are required to conduct affirmative marketing "to the extent required under the LURA" only applies to properties' LURAs that specifically mention affirmative marketing.

Staff Response: Staff believe that the language is very clear, and this is evidenced by the fact that Commenter's assumption about which properties the exception applies to was correct. A property that has a Land Use Restriction Agreement that requires affirmative marketing in the agreement must conduct that affirmative marketing. No changes are recommended based on these comments.

STATUTORY AUTHORITY. The rule action is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the new section affects no other code, article, or statute.

§10.801. Affirmative Marketing Requirements.

(a) Applicability. Compliance with this section is required for all federally or state- funded Developments with five or more total units to further the objectives of Title VIII of the Civil Rights Act of 1968. This section does not apply to the Tax Exempt Bond Program or Low Income Housing Tax Credit Program, with the following exceptions:

(1) To the extent required under the LURA;

(2) For affirmatively marketing to Persons with Disabilities; and

(3) To the extent that federal funds requiring affirmative marketing are in a Development's financing sources or provide operating assistance.

(b) General. A Development with five or more total Units must affirmatively market the Units to promote equal housing choice for prospective tenants, regardless of race, color, religion, sex, national origin, familial status, or disability and must develop and carry out an Affirmative Fair Housing Marketing Plan (or Affirmative Marketing Plan) to provide for marketing strategies and documentation of outreach efforts to prospective applicants identified as "least likely to apply." To determine the "least likely to apply" populations, a Development Owner is encouraged to use the TDHCA provided tool and simplified form, but at a minimum the Owner must document the method or methods used to determine which populations are least likely to apply. All Affirmative Marketing Plans must provide for affirmative marketing to Persons with Disabilities. Although not related to Affirmative Marketing requirements in this section, some Developments may be required by their LURAs to market units specifically to veterans or other populations as part of their regular marketing activities. If a Development has included veterans in the Development's Affirmative Marketing Plan it will not be cited as noncompliance the first time the Development's Affirmative Marketing Plan is reviewed, but the Development will be directed to revise the Affirmative Marketing Plan to not include this subpopulation in the plan.

(c) Plan format. A Development Owner must prepare, have in its onsite records, and submit to the Department upon request, a written Affirmative Marketing Plan. Owners are encouraged to use the simplified form provided by TDHCA on its website.

(d) Marketing and Outreach.

(1) The plan must identify the outreach efforts to the "least likely to apply" populations through specific media, organizations, or community contacts that work with least likely to apply populations or work in areas where least likely to apply populations live. The outreach efforts identified in the Affirmative Marketing Plan must be performed by the Development at least once per calendar year.

(2) To the extent that advertisements and/or marketing materials are utilized for the Development, those materials must contain:

(A) The Fair Housing logo;

(B) The contact information for the individual who can assist if reasonable accommodations are needed in order to complete the application process; and

(C) Property contact information must be provided in both English and Spanish.

(e) Timeframes.

(1) An Owner must begin its affirmative marketing efforts for each of the identified populations least likely to apply at least six months prior to the anticipated date the first building is to be available for occupancy.

(2) Once every five years, Owners must determine if there have been any changes to the "least likely to apply" populations by utilizing the TDHCA provided tool or a written process with equivalent information. In addition, owners must determine if current advertising sources still exist, and if the outreach that has been performed is still the most applicable. If the Owner determines that the plan does not need to be updated, the backup used to make this determination must be dated and maintained and may be reviewed by Department staff during reviews of the Affirmative Marketing Plan. If there have been changes to the least likely to apply populations or if the community contacts and advertising outlets no longer exist, the plan must be updated.

(f) Recordkeeping. Owners must maintain records of each Affirmative Marketing Plan and specific outreach efforts completed for the greater of three years or the recordkeeping requirement identified in the LURA.

(g) Exception to Affirmative Marketing. If the Development has closed its waitlist, Affirmative Marketing is not required. Affirmative Marketing is required as long as the Owner is accepting applications, has an open waitlist, or is marketing prior to the building being ready for occupancy as required under subsection (e)(1) of this section.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Bobby Wilkinson
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Texas Department of Housing and Community Affairs
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For further information, please call: (512) 475-3959

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CHAPTER 20. SINGLE FAMILY PROGRAMS UMBRELLA RULE

10 TAC §20.3

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 20 Single Family Programs Umbrella Rule, §20.3, Definitions without changes to the text as previously published in the July 24, 2026 issue of the *Texas Register* (51 TexReg 4772). The rule will not be republished. The purpose of the repeal is to eliminate the outdated rule and replace it with a more germane rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to the repeal, and simultaneous readoption of

a section of Definitions that are now needed with the addition of an energy efficiency subsection for single family construction activities taking place under a separate action.

2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce workload to a degree that eliminates any existing employee positions.

3. The repeal does not require additional future legislative appropriations.

4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The repeal will repeal an existing regulation, however that regulation is being simultaneously proposed under another action.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect, there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repeal would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The Department requested comments on the proposed repeal and also requested information related to the cost, benefit, or effect of the repeal, including any applicable data, research, or analysis from any person required to comply with the repeal or any other interested person. The public comment period was held July 24, 2026 to August 24, 2026, and no comment was received on the repeal.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the repeal affects no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: September 24, 2026
Proposal publication date: July 24, 2026
For further information, please call: (512) 475-3959

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10 TAC §20.3, §20.16

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 20 Single Family Programs Umbrella Rule, §20.3, Definitions without changes to the text as previously published in the July 24, 2026 issue of the *Texas Register* (51 TexReg 4773) and §20.16, Minimum Energy Efficiency Standards with changes to the text as previously published to correct a clerical error. Section 20.3 will not be republished. Section 20.16 will be republished. The purpose of the new §20.3, Definitions is to update defined terms; the purpose of new §20.16, Minimum Energy Efficiency Standards is to add a subsection that incorporates baseline energy efficiency standards for single family construction activities outlined that are currently being repealed from another chapter under separate action.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the new rule would be in effect:

1. The new rules does not create or eliminate a government program but relates to the repeal, and simultaneous readoption of the rule to now include an energy efficiency section and updated definitions for single family construction activities.

2. The new rules do not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.

3. The new rules do not require additional future legislative appropriations.

4. The new rules will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new rules are not creating a new regulation, except that they are replacing two sections being repealed simultaneously under other action to provide for revisions.

6. The new rules will not expand, limit, or repeal an existing regulation.

7. The new rules will not increase or decrease the number of individuals subject to the rule's applicability.

8. The new rules will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the new rules and determined that they will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rules do not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the new rules as to their possible effects on local economies and has determined that for the first five years the new rules would be in effect, there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rules.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new rules are in effect, the public benefit anticipated as a result of the new rules would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the new sections.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new rules are in effect, enforcing or administering the sections does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The Department requested comments on the proposed rules and also requested information related to the cost, benefit, or effect of the rules, including any applicable data, research, or analysis from any person required to comply with the rules or any other interested person. The public comment period was held July 24, 2026 to August 24, 2026, and no comment was received on the rules.

STATUTORY AUTHORITY. The new sections are adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the new sections affect no other code, article, or statute.

§20.16. Minimum Energy Efficiency Standards.

(a) All applicable construction activities shall comply with:

(1) the energy conservation requirements adopted by the State of Texas;

(2) applicable provisions of the International Energy Conservation Code (IECC), as adopted or amended by the State of Texas or local jurisdiction;

(3) applicable federal energy-efficiency requirements; and

(4) any additional standards established by the Department through program guidance, underwriting requirements, construction manuals, or administrative directives.

(b) Where multiple standards apply, the more restrictive requirement shall govern unless otherwise prohibited by law.

(c) The Department may adopt updated editions of energy-efficiency standards or technical requirements through administrative guidance, provided such standards are consistent with applicable law and funding requirements.

(d) New Construction and Reconstruction Activities. Single family residential dwellings, as defined in Chapter 388.002 of the Texas Health and Safety Code, that are newly constructed or reconstructed shall comply with the more stringent of §388 of the Health and Safety Code (Texas Building Energy Performance Standards), or the standards adopted by the local jurisdiction.

(1) Effective September 1, 2016, the Texas State Energy Conservation Office adopted the 2015 International Residential Code (Chapter 11) as the state-mandated energy code for all residential construction, which includes one- and two-family residences of three stories or less above grade.

(2) Federally-funded single family residential dwellings for which funds are committed on or after October 1, 2025 (excluding CDBG), must comply with the 2021 International Energy Conservation Code (IECC); or must comply with a federally approved alternative compliance pathway.

(e) Manufactured Housing Unit Activities.

(1) All Manufactured Housing Units installed as replacement for sub-standard housing shall be ENERGY STAR certified; or

(2) In cases where the type of product is not ENERGY STAR, or if ENERGY STAR products are not reasonably available due to supply shortages or cost limitations, Administrators may select the highest rated product available, so long as the product delivers at least 10% energy savings in comparison to products meeting the minimum code.

(f) Rehabilitation Activities. All Rehabilitation activities shall comply with this chapter.

(1) Certifications of compliance with this chapter shall be conducted by the Administrator or a code or other qualified inspector for release of final payment from the Department as outlined in the Program Rule. Inspectors selected by the Administrator to verify compliance with this chapter must be certified by the Administrator to have sufficient professional certifications, relevant education, or experience in a field directly related to home inspection, which may include, but is not limited to, installing, servicing, repairing or maintaining the structural, mechanical, plumbing, and electrical systems found in Single Family Housing Units.

(2) If the proposed scope of work or the awarded construction contract for the Rehabilitation of an existing single family residential unit includes an item described in subparagraphs (A) - (J) of this paragraph, the specific requirement so noted in subparagraphs (A) - (J) of this paragraph shall apply:

(A) Replacement or installation of central heating and cooling equipment and appliances shall be installed in accordance with the manufacturer's instructions and the requirements of Chapter 14 of the 2015 International Residential Code;

(B) Replacement or installation of duct systems serving heating, cooling, and ventilation equipment shall be installed in accordance with the provisions of Chapter 16 of the 2015 International Residential Code;

(C) If central heating and cooling equipment is replaced or installed, attic insulation shall be installed or increased according to Chapter 11, Figure N1102.1.2 of the 2015 International Residential Code, including insulation covering the top plates of exterior walls. Eave baffles and access hatches shall be installed as specified in Chapter 11, Sections N1102.2.3 - N1102.2.4 of the 2015 International Residential Code;

(D) If ductless heating and cooling systems (also known as mini-split, multi-split, or variable refrigerant flow (VRF) heat pump systems) are replaced or installed, they shall be ENERGY STAR certified;

(E) If exhaust fans are replaced or installed in bathrooms or kitchens, they shall be ENERGY STAR certified and installed in accordance with Chapter 15 of the 2015 International Residential Code;

(F) If windows are installed, they shall be ENERGY STAR certified windows, meeting the U-factor and Solar Heat Gain Coefficient for the climate zone of the dwelling as identified in Chapter 11, Table N1102.1.2 of the 2015 International Residential Code;

(G) If doors are installed, they shall be ENERGY STAR certified doors;

(H) Electrical fixtures, equipment, and appliances that are replaced or installed, where applicable, shall be ENERGY STAR certified products;

(I) Plumbing fixtures that are replaced or installed, where applicable, shall be WaterSense labeled products; and

(J) Domestic water heaters, storage and tankless, when replaced or installed, shall meet the Federal Energy Conservation Standards required by 10 CFR §430.32, as they may be revised from time to time.

(g) Verification of Compliance. The Department may require documentation demonstrating compliance with applicable energy-efficiency requirements.

(1) Acceptable forms of documentation may include:

(A) inspection reports;

(B) builder certifications;

(C) third-party verification reports;

(D) Home Energy Rating System (HERS) ratings;

(E) REScheck documentation;

(F) local code compliance certifications; or

(G) other documentation acceptable to the Department.

(2) Documentation required under this section shall be maintained in the project file in accordance with applicable record retention requirements established by state or federal law and Department program requirements.

(3) The Department may conduct reviews, inspections, audits, or monitoring activities to verify compliance with this subchapter.

(4) Compliance with this minimum energy efficiency standards does not relieve any person or entity from compliance with applicable building codes, local ordinances, accessibility requirements, environmental requirements, or other applicable state or federal laws and regulations.

(5) Nothing in this subchapter limits the authority of the Department to impose additional construction or underwriting requirements through program rules, notices of funding availability, contracts, or other binding program documents.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 4, 2026.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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For further information, please call: (512) 475-3959

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CHAPTER 21. MINIMUM ENERGY EFFICIENCY REQUIREMENTS FOR SINGLE FAMILY CONSTRUCTION ACTIVITIES

10 TAC §§21.1 - 21.6

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities without changes to the text as previously published in the July 24, 2026 issue of the *Texas Register* (51 TexReg 4777). The rule will not be republished.. The purpose of the repeal is to eliminate the rule, and consolidate the Energy Efficiency Requirements into another rule that is more germane to the topic through a separate rule action.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to updates to improve the Department's regulatory efficiency.

2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce workload to a degree that eliminates any existing employee positions.

3. The repeal does not require additional future legislative appropriations.

4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The repeal will repeal an existing regulation in an effort to improve the efficiency of the Department's rules.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect, there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the changed sections would be a clearer rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The Department requested comments on the proposed repeal and also requested information related to the cost, benefit, or effect of the repeal, including any applicable data, research, or analysis from any person required to comply with the repeal or any other interested person. The public comment period was held July 24, 2026 to August 24, 2026, and no comment was received on the repeal.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the repeal affects no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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For further information, please call: (512) 475-3959

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CHAPTER 23. SINGLE FAMILY HOME PROGRAM

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 23, Single Family HOME Program, Subchapter B, Availability of Funds, Application Requirements, Review and Award Procedures, General Administrative Requirements, and Resale and Recapture of Funds (consisting of 10 TAC §§23.20 - 23.29), and Subchapter F, Single Family Development Program (consisting of 10 TAC §23.60 and §23.61) without changes to the proposed text as published in the June 19, 2026 issue of the *Texas Register* (51 TexReg 3980). The rules will not be republished. The purpose of the repeal is to eliminate the current rule while replacing it with a more current version of the rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program, but relates to how the Department will administers its HOME Program.

2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce workload to a degree that eliminates any existing employee positions.

3. The repeal does not require additional future legislative appropriations.

4. The repeal does not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The repeal will not expand or contract the applicability of an existing regulation.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The Department accepted public comment between June 19, 2026 and July 20, 2026, and no comment was received on the repeal.

The Board adopted the final order adopting the repeal on September 3, 2026.

SUBCHAPTER B. AVAILABILITY OF FUNDS, APPLICATION REQUIREMENTS, REVIEW AND AWARD PROCEDURES, GENERAL ADMINISTRATIVE REQUIREMENTS, AND RESALE AND RECAPTURE OF FUNDS

10 TAC §§23.20 - 23.29

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the proposed repealed sections affect no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Bobby Wilkinson
Executive Director
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SUBCHAPTER F. SINGLE FAMILY DEVELOPMENT PROGRAM

10 TAC §23.60, §23.61

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the proposed repealed sections affect no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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For further information, please call: (512) 475-3959

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CHAPTER 23. SINGLE FAMILY HOME PROGRAM

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 23, Subchapter B, General Policies and Procedures, consisting of §§23.20 - 23.29, and Subchapter F, Single Family Development Program, consisting of §23.60 and §23.61, without changes to the proposed text as published in the June 19, 2026 issue of the *Texas Register* (51 TexReg 3981). The rules will not be republished. The purpose of the new rules is to make clarifying updates, to update threshold requirements for necessary cash reserves to operate HOME Program activities, and to update the requirements for the Single Family Development Program to reduce administrative burden and align with existing loan closing procedures.

Tex. Gov't Code §2001.0045(b) does not apply to the new rules because it was determined that no costs are associated with this action, and therefore no costs warrant being offset. While the requirements for cash reserves for applicants are increased, these reserves are utilized to pay costs temporarily prior to reimbursement by the Department.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the new sections would be in effect:

1. The new sections do not create or eliminate a government program but relates to how the Department will administer its HOME Program.

2. The new sections do not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce workload to a degree that eliminates any existing employee positions.

3. The new sections do not require additional future legislative appropriations.

4. The new sections will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new sections does not create a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.

6. The new sections will not expand or contract an existing regulation.

7. The new sections will not increase or decrease the number of individuals subject to the rule's applicability.

8. The new sections will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department has evaluated the new sections and determined that the action will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new sections do not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6). The Department has evaluated the new sections as to their possible effect on local economies and has determined that for the first five years the new sections would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rules.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new sections would be updated and clearer rules. There will not be economic costs to individuals required to comply with the new sections.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new rules are in effect, enforcing or administering the rules does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment, to receive input on the proposed action, between June 19, 2026 and July 20, 2026. Comment was received from one commenter: 1) Amy Ledbetter Parham, Chief Executive Officer, Habitat for Humanity Texas.

The comment and the Department's reasoned response are provided below.

§23.23(a)(6):

Commenter requests that alternative methods of providing evidence of financial capacity other than the required cash reserve be permitted for Applicants that are unable to demonstrate adequate cash reserves. Suggestions included committed lines of credit, guarantees, capital facilities, and revolving loan funds. Commenter requests that the rule allow that financial capacity be demonstrated through the capacity of a partnership with another entity.

Reasoned Response:

Staff agrees that some Applicants may not be able to demonstrate availability of unrestricted cash reserves, and the rule as written specifically allows for Applicants to provide evidence of cash equivalents, including lines of credit or an equivalent tool in an amount that meets or exceed the cash reserve requirement. Staff does not agree that capital facilities should be included in the determination as liquidation of facilities is not a reasonable method to obtain funds in advance of reimbursement from the Department; however, the value of revolving loan funds may be a mitigating factor, and this is already allowed for in the rule.

Staff does not agree that financial capacity may be demonstrated through partnership with an organization that is not party to the Contract. An assessment of capacity of the specific organization that is subcontracted to receive federal funds is required by 2 CFR §200.208. No changes are recommended in response to this comment.

§23.60(c)

Commenter requests that the rule provide adequate flexibility to allow for development financing structures that may include multiple sources of capital, including private lending, Community Reinvestment Act-related investments, and other mission-aligned financing. Commenter further states that this would assist with leveraging limited HOME Program resources. Commenter states that TDHCA should avoid inadvertently favoring one financing structure over another.

Reasoned Response:

The rule, as written, does not preclude any specific financing structure, not does it provide a preference for any specific structure. The rule does allow prioritization for Applications that include non-TDHCA lenders as sources of permanent mortgage financing, but does not provide a priority for any specific financing structed for the interim construction loan. No changes are recommended in response to this comment.

§23.60(k)(2)

Commenter states that downpayment and closing cost assistance should be offered even when the permanent mortgage financing is provided by a third party, a nonprofit developer, or any other lending entity, and that the rule should be clarified to ensure that downpayment and closing cost assistance is not limited to transactions where the permanent loan is a traditional mortgage product.

Reasoned Response:

The rule does not require that downpayment and closing cost assistance be provided only if the lender provides a traditional mortgage product. In the context of the rule, the use of the term "third-party lender" refers to any lender that is not the Department, including the developer. No change is recommended in response to this comment.

General Comments

The commenter also noted suggestions for training, operational changes, and general program suggestions that were not tied to any particular provision in the proposed rule. Staff appreciates the feedback; no rule revisions were made in response to those comments.

The Board adopted the final order adopting the repeal on September 3, 2026.

SUBCHAPTER B. AVAILABILITY OF FUNDS, APPLICATION REQUIREMENTS, REVIEW AND AWARD PROCEDURES, GENERAL ADMINISTRATIVE REQUIREMENTS, AND RESALE AND RECAPTURE OF FUNDS

10 TAC §§23.20 - 23.29

STATUTORY AUTHORITY. The new rules are adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the proposed new rules affect no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Bobby Wilkinson
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SUBCHAPTER F. SINGLE FAMILY DEVELOPMENT PROGRAM

10 TAC §23.60, §23.61

STATUTORY AUTHORITY. The new rules are adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the proposed new rules affect no other code, article, or statute.

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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CHAPTER 27. TEXAS FIRST TIME HOMEBUYER PROGRAM RULE

10 TAC §§27.1 - 27.9

The Texas Department of Housing and Community Affairs (the Department) adopts, without changes to the proposed text as published in the June 19, 2026 issue of the *Texas Register* (51 TexReg 3991), the repeal of 10 TAC Chapter 27, Texas First Time Homebuyer Program Rule. The rule will not be republished. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action. The new updated rule retitles the chapter and now incorporates the Taxable Mortgage Program (TMP) into the rule, previously found in Chapter 28. Under separate action Chapter 28 was proposed for repeal as its rules will now be covered by Chapter 27.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because there are no costs associated with the repeal.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Robert Wilkinson, Executive Director, has determined that, for the first five years the repeal will be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous new rule making changes to the rule governing the Texas First Time Homebuyer Program Rule.

2. The repeal does not require a change in work that will require the creation of new employee positions, nor will the repeal reduce workload to a degree that any existing employee positions are eliminated.

3. The repeal does not require additional future legislative appropriations.

4. The repeal does not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to the existing procedures for the Texas First time Homebuyer Program.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal will be in effect there will be no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be a more efficient rule that governs both the FTHB Program and TMP. There will be no economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The Department requested comments on the repeal from June 19, 2026, to July 20, 2026, to receive input on the proposed actions. No comment was received and the rule is being adopted without changes.

STATUTORY AUTHORITY. The repeal is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the repealed sections affect no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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10 TAC §§27.1 - 27.9

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 27, Texas First Time Homebuyer Program and Taxable Mortgage Program Rules, §§27.1 - 27.9, without changes to the proposed text as published in the June 19, 2026 issue of the *Texas Register* (51 TexReg 3992). The rule will not be republished. The purpose of the new rule is to retitle the chapter and now incorporate the Taxable Mortgage Program (TMP) into the rule, previously found in Chapter 28. Under separate action Chapter 28 is being repealed as its rules will now be covered in this Chapter.

Tex. Gov't Code §2001.0045(b) does not apply to the rule being adopted, because it meets the exceptions described under items (c)(4) and (9) of that section. The rules relate to a program through which the Department accesses federal bond authority to provide affordable housing opportunities to low income Texans under Treasury Regulations §143. The rule also ensures compliance with Tex. Gov't Code, Subchapter MM, Texas First-Time Homebuyer Program. Even though excepted, it should be noted that no costs are associated with this action that would have prompted a need to be offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Robert Wilkinson, Executive Director, has determined that, for the first five years the new rule will be in effect:

1. The new rule does not create or eliminate a government program, but relates to adding the TMP rules into this chapter.

2. The new rule does not require a change in work that would require the creation of new employee positions, nor will it reduce workload to a degree that eliminates any existing employee positions.

3. The new rule changes do not require additional future legislative appropriations.

4. The new rule will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The rule does expand the existing regulation, but simultaneously is repealing a regulation in Chapter 28.

7. The new rule does not increase or decrease the number of individuals to whom this rule applies; and

8. The new rule will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. This rule relates to the general program guidelines for the First Time Homebuyer Program and Taxable Mortgage Program. The beneficiaries of this program are individual households, therefore no small or micro-businesses are subject to the rule.

3. The Department has determined that because this rule relates only to a revision to a rule that applies to programs for which in-

dividual households are the beneficiaries, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rule does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the new rule has no economic effect on local employment because this rule relates to homebuyer assistance to individual households, not limited to any given community or area within the state; therefore no local employment impact statement is required to be prepared for the rule.

Texas Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule…" Considering that the rule relates only to the continuation of the rules in place there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new rule is in effect, the public benefit anticipated as a result of the new rule will be a rule with greater clarity and in which redundancy among several chapters is now removed. There will be no economic cost to any individuals required to comply with the new rule because the activities described by the rule has already been in existence.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to costs or revenues of the state or local governments as this rule relates only to a process that already exists and is not being significantly revised.

SUMMARY OF PUBLIC COMMENT. The Department requested comments on the rule and also requested information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period was held June 19, 2026, to July 20, 2026 and no comment was received.

STATUTORY AUTHORITY. The new rule is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the new sections affect no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 4, 2026.

TRD-202603861

Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Effective date: September 24, 2026
Proposal publication date: June 19, 2026
For further information, please call: (512) 475-3959

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CHAPTER 28. TAXABLE MORTGAGE PROGRAM

10 TAC §§28.1 - 28.9

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 28, Taxable Mortgage Program, without changes to the proposed text as published in the June 19, 2026 issue of the *Texas Register* (51 TexReg 3995). The rules will not be republished. The purpose of the repeal is to eliminate an unnecessary rule while ensuring the administration of the Taxable Mortgage Program is still addressed in rule, which will be in Chapter 27, as being adopted under separate action.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because there are no costs associated with the repeal.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Robert Wilkinson, Executive Director, has determined that, for the first five years the repeal will be in effect, the repeal does not create or eliminate a government program, but relates to the repeal of a duplicative regulation that can be covered sufficiently by another chapter, Chapter 27, which is being adopted with revisions under a separate action.

2. The repeal does not require a change in work that will require the creation of new employee positions, nor will the repeal reduce workload to a degree that any existing employee positions are eliminated.

3. The repeal does not require additional future legislative appropriations.

4. The repeal does not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation.

6. The action will repeal an existing regulation, but the program covered by the rule is not being eliminated; it is merely now being addressed under another section of Texas Administrative Code.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal will be in effect there will be no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be a more efficient rule that governs both the FTHB Program and TMP under Chapter 27 (taking place under separate action). There will be no economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The Department requested comments on the repeal from June 19, 2026, to July 20, 2026. No comment was received and the repeal is adopted without changes.

STATUTORY AUTHORITY. The repeals are adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the repealed sections affect no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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For further information, please call: (512) 475-3959

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CHAPTER 29. TEXAS SINGLE FAMILY NEIGHBORHOOD STABILIZATION PROGRAM RULE

10 TAC §§29.1 - 29.4

The Texas Department of Housing and Community Affairs (the Department) adopts, without changes to the proposed text as published in the June 19, 2026 issue of the *Texas Register* (51 TexReg 3996), the repeal of 10 TAC Chapter 29, Texas Single Family Neighborhood Stabilization Program Rule. The rule will not be republished. The purpose of the repeal is to remove an obsolete rule that related to a program activity no longer performed by the Department.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program, but removes a regulation for a program activity that is no longer in operation.

2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce workload to a degree that eliminates any existing employee positions.

3. The repeal does not require additional future legislative appropriations.

4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation.

6. The action will improve regulatory efficiency by repealing an obsolete regulation.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the changed section would be improved regulatory efficiency by removing an unnecessary rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held from June 19, 2026 to July 20, 2026 to receive input on the proposed action. No comment was received and the repeal is being adopted without changes.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the repeal affects no other code, article, or statute.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-3959

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 74. CURRICULUM REQUIREMENTS

SUBCHAPTER EE. COMPUTATION OF HIGH SCHOOL GRADE POINT AVERAGE

19 TAC §74.3001

The Texas Education Agency (TEA) adopts new §74.3001, concerning computation of high school grade point average (GPA). The new rule is adopted with changes to the proposed text as published in the March 20, 2026 issue of the *Texas Register* (51 TexReg 1787) and will be republished. The adopted new rule reflects requirements made by Senate Bill (SB) 1191, 89th Texas Legislature, Regular Session, 2025, and identifies minimum requirements for school districts when computing a student's high school GPA.

REASONED JUSTIFICATION: Texas Education Code (TEC), §28.0252, as amended by SB 1191, 89th Texas Legislature, Regular Session, 2025, requires the commissioner of education to develop a standard method of computing a student's high school GPA. The standard computation method must grant equal weight to non-career and technical education (CTE) advanced placement (AP) courses, international baccalaureate (IB) courses, OnRamps dual enrollment courses, and dual credit courses completed by a student. The standard method must grant a different amount of weight to dual credit CTE courses. School districts must use the standard method developed by the commissioner to compute students' high school GPAs.

Prior to the adoption of SB 1191, TEC, §28.0252, was permissive, allowing the commissioner to develop a standard method of computing a student's high school GPA that provided for additional weight to be given to each honors, AP, IB, or dual credit course completed by a student. However, a standard method for computing high school GPAs was not established at any time; therefore, school districts were permitted to implement local high school GPA computation methods.

The adopted new rule establishes minimum requirements for calculating high school GPA to identify the types of courses that are required to be weighted; ensures that non-CTE AP courses, IB courses, OnRamps dual enrollment courses, and dual credit courses are weighted equally; and weighs dual credit CTE courses and non-CTE courses differently.

The following change was made to the rule since published as proposed.

In response to public comment, new §74.3001(b) was added to clarify that a student who does not graduate with their original cohort should have their GPA calculated using the same grade point average policy and computation method that apply to students in the graduating class with which the student graduates.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began March 20, 2026, and ended April 20, 2026. Following is a summary of the public comments received and agency responses.

Comment: A counselor and the Texas Association of School Boards recommended adding language to address calculation of GPA for students who graduate early.

Response: The agency agrees that the rule should include clarification regarding students who graduate early and has added new §74.3001(b) at adoption to specify that if a student graduates in a school year other than the student's original cohort, the student's grade point average will be calculated using the same grade point average policy and computation method as the graduating class with which the student graduates.

Comment: Three teachers, five administrators, a parent, two counselors, and a community member expressed concerns regarding the proposed rule's negative impact on CTE programs and students who take CTE courses.

Response: The agency disagrees that the rule will have a negative impact on CTE programs. The rule as proposed implements the statutory requirement that CTE dual credit courses receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the Workforce Education Course Manual (WECM) or its successor adopted by the Texas Higher Education Coordinating Board (THECB) to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: Two counselors suggested reconsidering assigning lower GPA weight to WECM CTE dual credit courses under the proposed rule because these courses are rigorous, transcripted, college-level classes that support student engagement, mental health, and workforce readiness. The commenters stated that lower weighting would force students to choose between GPA competitiveness and pathways aligned to their strengths and career goals.

Response: The agency disagrees that lowering the GPA weight is necessary. The rule as proposed implements the statutory requirement that CTE dual credit courses receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: An administrator expressed concern that not allowing students who are taking dual credit CTE courses full weight on their GPA could be dismissing the importance of students earning career certifications through college courses.

Response: The agency offers the following clarification. The rule as proposed implements the statutory requirement that CTE dual credit courses receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: Three teachers, two administrators, a parent, and a community member stated that the proposal unfairly disadvantages CTE students.

Response: The agency disagrees that the rule unfairly disadvantages CTE students. The rule as proposed implements the statutory requirement that CTE dual credit courses receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: Four administrators, a counselor, and a parent stated that the proposed GPA weighting may undervalue dual credit CTE courses despite comparable rigor to other advanced coursework, potentially disadvantaging students pursuing CTE pathways.

Response: The agency offers the following clarification. The rule as proposed implements the statutory requirement that CTE dual credit courses receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: Three teachers, four administrators, a counselor, and four parents expressed concern regarding the weight assigned to dual credit CTE courses and cautioned that assigning lower GPA weight may discourage students from participating in high demand pathways.

Response: The agency disagrees that the rule may discourage students from participating in high demand pathways. The rule as proposed implements the statutory requirement that CTE dual credit courses receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: An administrator raised concern about the lower weighting of dual credit CTE and the inclusion of non-core courses, warning that these approaches could disadvantage students and undermine statewide consistency.

Response: The agency offers the following clarification. The rule as proposed implements the statutory requirement that all AP, IB, OnRamps, and dual credit courses receive an additional weight. The statute also requires CTE dual credit courses to receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: An administrator stated that the proposed language excludes CTE AP courses from equal AP weighting despite their rigor and stated that these AP CTE courses should be weighted the same as all other AP courses to accurately reflect their academic demands.

Response: The agency disagrees that AP CTE courses are excluded from weighted funding. Section 74.3001(b)(1) requires all AP courses for all subjects, including AP CTE courses, to receive the additional weight.

Comment: A parent stated that devaluing CTE courses would unfairly decrease class rank for students pursuing career-focused pathways and could lead to increased segregation in high school.

Response: The agency offers the following clarification. The rule as proposed implements the statutory requirement that CTE dual credit courses receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: A counselor requested that advanced, non-dual credit CTE coursework--particularly Level 3 and 4 courses--be recognized with GPA weighting comparable to honors courses due to their rigor and industry alignment.

Response: The agency disagrees that Level 3 and Level 4 CTE courses should be included in the administrative rule related to additional weights because identification of honors courses occurs at the local school district level rather than at the state level.

Comment: A counselor expressed concerns about weighting dual credit CTE courses, noting that only a small number of pathways at their school offer dual credit opportunities and students could be incentivized to select programs based on GPA outcomes rather than genuine career interests.

Response: The agency offers the following clarification. The rule as proposed implements the statutory requirement that CTE dual credit courses receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: Two administrators stated that assigning unequal weight undermines both the rigor of CTE courses and the students who choose these pathways.

Response: The agency offers the following clarification. The rule as proposed implements the statutory requirement that CTE dual credit courses receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: A counselor expressed concern that the proposal unfairly assigns lower value to CTE dual credit courses compared to AP, IB, OnRamps, and non-CTE dual credit courses and creates a two-tiered system that could overlook the rigor, real-world application, and workforce alignment of CTE pathways. The commenter noted the rule could negatively affect GPA, class rank, scholarships, and postsecondary opportunities for students choosing CTE.

Response: The agency offers the following clarification. The rule as proposed implements the statutory requirement that CTE dual credit courses receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: Two teachers, a counselor, and an administrator expressed concern that the proposal creates inequity by assigning less GPA weight to dual credit CTE courses, citing varied course availability among districts and the risk of inconsistent implementation across the state.

Response: The agency offers the following clarification. The rule as proposed implements the statutory requirement that CTE dual credit courses receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: An administrator asked where CTE courses that are not dual credit fall into the new hierarchy and if local education agencies (LEAs) still have discretion over courses that are not explicitly named in the proposed rule.

Response: The agency offers the following clarification. CTE courses that are not dual credit courses should be treated the same as other courses that are not identified as AP, IB, OnRamps, dual credit, or honors courses.

Comment: An administrator expressed support for a standardized GPA system for fairness. The commenter stated that CTE should be valued equally with advanced academic courses.

Response: The agency agrees that standardizing calculation of GPA is valuable but disagrees that the rule should weight CTE courses equally with advanced academic courses. The rule as proposed implements the statutory requirement that all AP, IB, OnRamps, and dual credit courses receive an additional weight. The statute also requires CTE dual credit courses to receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: An administrator stated that the proposed rule could unfairly restrict local flexibility by requiring WECM dual credit courses to be weighted lower despite wide variation in rigor.

Response: The agency offers the following clarification. The rule as proposed implements the statutory requirement that CTE dual credit courses receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: A counselor stated that all college courses, whether degree- or certificate-focused, should be weighted equally and that lowering weights for trade certifications could unfairly penalize students and result in shortages of specially trained trade workers.

Response: The agency offers the following clarification. The rule as proposed implements the statutory requirement that all AP, IB, OnRamps, and dual credit courses receive an additional weight. The statute also requires CTE dual credit courses to receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: An administrator, two parents, and a community member expressed concern with the use of the term CTE rather than WECM status and stated that many courses within CTE programs are offered as Academic Course Guide Manual academic/transfer dual credit and should receive equal GPA weight to AP, IB, OnRamps, and other non-WECM courses. The commenters further stated the current language could lead to misapplication and inconsistent and inequitable GPA weighting across districts.

Response: The agency offers the following clarification. The proposed rule addresses dual credit courses that are included in the WECM and does not use the term CTE.

Comment: Two commenters expressed concern that the rule may create inequities due to inconsistent access to weighted courses across districts and suggested that revisions be made to ensure equitable GPA weighting across all programs, preserve GPA as a fair measure of student achievement, and promote equitable academic opportunities statewide.

Response: The agency disagrees that revisions should be made to the rule. The rule as proposed implements the statutory requirement that all AP, IB, OnRamps, and dual credit courses receive an additional weight. The statute also requires CTE dual credit courses to receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: A counselor expressed concern that calculating high school GPA beginning in seventh grade undermines the purpose of a high school GPA and may disproportionately benefit already high-achieving families. The commenter stated that this approach could pressure students to make transcript-driven decisions before they are developmentally ready and potentially disadvantage students who are not prepared for the long-term impact of GPA calculations at such an early age.

Response: The agency offers the following clarification. The reference in the proposed rule to applicability beginning with students who enter Grade 7 in the 2027-2028 school year or later is intended to identify the cohort of students for whom the new high school GPA requirements will apply. The rule is not intended to communicate that GPA requirements should apply to courses that students take in Grade 7. The rule is intended to apply to a future group of high school students to give school districts adequate time to adjust local policies, as needed.

Comment: An administrator asked how the proposed rule would affect students who take courses for high school credit in Grade 8. The commenter asked if the honors classes mentioned in the rule were limited to core courses (math, English, science, and social studies) or apply to elective classes as well.

Response: The agency offers the following clarification. The proposed rule would only affect a course taken by a student in Grade 8 if the course taken for high school credit is an AP, IB, dual credit, or honors course. Any such course would be required to generate the additional weight. Honors courses are established locally and not at the state level.

Comment: An administrator noted that students earning associate degrees through different pathways can receive the same CCMR outcome but different GPA, resulting in a mixed message between the new accountability system and GPA requirements.

Response: The agency disagrees that the state accountability system and GP requirements result in mixed messages. Both implement distinct statutory requirements and each serves a different purpose.

Comment: One parent requested that a clear determination be made by the state about how the Grade 8 Algebra I course is treated with respect to calculation of GPA because that decision directly impacts fairness, GPA, and class rank.

Response: The agency disagrees that the rule should address Algebra I taken by Grade 8 students because this is not a course that is statutorily required to be weighted.

Comment: One parent expressed concerns that while the proposed rule would standardize course weighting across programs like AP and dual credit, it would not standardize GPA calculations across districts. The commenter expressed concern that differences in weighting and course inclusion could disadvantage students in competitive college admissions, even though the proposal is a step in the right direction.

Response: The agency offers the following clarification. The rule as proposed implements the statutory requirement that different weights be assigned to different types of courses and that all AP, IB, OnRamps, and dual credit courses receive an additional weight. The statute also requires CTE dual credit courses to receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: An administrator stated that equal weighting may unintentionally incentivize students to choose dual credit over AP due to the absence of a standardized exam. The commenter emphasized that course selection should align with postsecondary goals and cautioned against GPA or class rank becoming the primary driver of these decisions.

Response: The agency agrees that course selection should align with a student's postsecondary goals. The agency offers the following clarification. The rule as proposed implements the statutory requirement that different weights be assigned to different types of courses. The rule as proposed implements the statutory requirement that all AP, IB, OnRamps, and dual credit courses receive an additional weight. The statute also requires CTE dual credit courses to receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: While expressing support for a statewide standardized GPA system, an administrator stated that the proposed changes may unintentionally discourage student participation in CTE and other elective programs as students prioritize GPA over genuine interests. The commenter cited local policy changes that increased CTE and fine arts participation and expressed concern that the proposed rule could reverse those positive outcomes, urging further reconsideration of its statewide impact.

Response: The agency agrees with the support for a more standardized GPA system. The agency disagrees that the rule will discourage student participation in CTE and other elective programs. The rule as proposed implements the statutory requirement that CTE dual credit courses receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: A commenter stated that while supportive of the goal of statewide GPA standardization, the commenter opposes equal weighting of IB, AP, and dual credit courses and stated that more rigorous coursework should be weighted more heavily to better prepare students for college and to incentivize academic challenge rather than discourage students from pushing themselves.

Response: The agency agrees with the support for a more standardized GPA system but disagrees with the opposition to equal weighting of IB, AP, and dual credit courses. The rule as proposed implements the statutory requirement that different weights be assigned to different types of courses. The rule as proposed implements the statutory requirement that all AP, IB, OnRamps, and dual credit courses receive an additional weight. The statute also requires CTE dual credit courses to receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: A parent stated that while the goal of statewide GPA consistency is understandable, the proposed policy raises concerns about fairness, rigor, and student opportunity. The parent argued that equal weighting across AP, IB, OnRamps, and dual credit courses fails to account for meaningful differences in academic demands and could disadvantage students who pursue more rigorous pathways. The commenter urged reconsideration to allow districts greater flexibility to ensure GPA calculations accurately reflect course rigor and student achievement.

Response: The agency disagrees that the rule should be reconsidered. The rule as proposed implements the statutory requirement that all AP, IB, OnRamps, and dual credit courses that are not included in the WECM receive an additional equal weight. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: A commenter stated that dual credit courses are not the same rigor as AP courses and suggested they should not count as the same weight.

Response: The agency offers the following clarification. The rule as proposed implements the statutory requirement that different weights be assigned to different types of courses and that all AP, IB, OnRamps, and dual credit courses not included in the WECM receive the same additional weight.

Comment: A commenter stated that dual credit and AP/IB courses should be weighted equally to allow students to choose courses based on learning needs rather than class rank considerations. The commenter noted that equal weighting would reduce GPA-driven course selection and create a more level playing field for students competing for top rankings.

Response: The agency agrees that dual credit and AP/IB courses should be weighted equally and maintained the language regarding weighting of these courses as proposed. The rule as proposed implements the statutory requirement that all AP, IB, OnRamps, and dual credit courses that are not included in the WECM receive an additional equal weight. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: A commenter stated that the proposed rule reduces local control by limiting LEAs' ability to determine GPA weighting based on local honors courses and dual credit partnerships.

Response: The agency offers the following clarification. The rule as proposed implements the statutory requirement that different weights be assigned to different types of courses and that all AP, IB, OnRamps, and dual credit courses receive an additional weight. The statute also requires CTE dual credit courses to receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: An administrator stated that the proposed rule should consider including a weighted GPA for the third and fourth year fine arts and athletic courses because students who participate in fine arts courses work hard to improve their skills to be able to compete at the top level, and thus this change would encourage students to continue to participate in these challenging activities with dedication and hard work without worrying about GPA penalties.

Response: The agency disagrees that the rule should consider including a weighted GPA for third and fourth year fine arts and athletic courses, as this is outside the scope of this rulemaking. The rule as proposed implements the statutory requirement that all AP, IB, OnRamps, dual credit, and honors courses receive an additional weight.

Comment: An administrator expressed concern that the proposed GPA weighting changes and scheduling requirements could unintentionally disadvantage fine arts programs statewide. The commenter further expressed concern that expanding required courses at the middle school level without schedule flexibility could force campuses to cut electives like fine arts. The commenter suggested reassessing GPA weighting, providing scheduling relief, and including fine arts stakeholders in policy discussions to ensure equitable education.

Response: The agency disagrees that the proposed rule should be reassessed. The agency further disagrees that the proposed rule would expand required courses at the middle school level, as the rule does not create any new requirements for middle school.

Comment: One counselor and two administrators expressed concerns regarding the weighting of courses. The commenters suggested that equal weighting among all courses would better reflect the rigor and importance of these programs and support state education and workforce priorities.

Response: The agency disagrees that all courses should be weighted equally. The rule as proposed implements the statutory requirement that different weights be assigned to different types of courses. The rule as proposed implements the statutory requirement that all AP, IB, OnRamps, and dual credit courses receive an additional weight. The statute also requires CTE dual credit courses to receive different weight than non-CTE dual credit courses. TEC, §28.0252, requires the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor.

Comment: A community member stated that the proposal ensures equity in funding rates across dual credit, AP/IB/OnRamps, and CTE dual credit pathways. The commenter expressed that the goal should be a funding framework that reflects both rigor and workforce relevance while maintaining fairness across all pathways.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: One counselor expressed concern over equal weighting, expressing that the proposed rule could lead to GPA inflation. The commenter stated that GPA weighting should maintain a clear distinction between AP/IB/OnRamps and dual credit due to differences in standardization, assessment structure, and rigor.

Response: The agency disagrees that GPA weighting should maintain a clear distinction among AP/IB/OnRamps and dual credit courses. The rule as proposed implements the statutory requirement that all AP, IB, OnRamps, and dual credit courses that are not included in the WECM receive an additional equal weight.

Comment: One administrator stated that the proposed rule is unnecessary and would be best handled locally. The commenter stated that Texas school districts already have established GPA policies tailored to their communities and student needs and that statewide minimum requirements reduce needed flexibility. The commenter expressed concerns about standardizing practices that may not serve all students equitably and suggested limiting rulemaking and preserving local control.

Response: The agency disagrees that the rule is unnecessary. The rule as proposed implements the statutory requirement that different weights be assigned to different types of courses.

Comment: An administrator stated that it was unclear whether the additional weight for honors courses can be equal to the weight given to an AP/IB/OnRamps course or if that weight must be less.

Response: The agency provides the following clarification. Honors courses are established locally and not at the state level. Consequently, the determination regarding the amount of weight to award to honors courses, if adopted locally, has been left to local district discretion.

Comment: A counselor expressed support for the state's issuance of a standardized GPA policy but expressed concern over inequities related to student transfers between districts with differing course offerings. The counselor stated that transfer students may appear more competitive due to access to a greater number of weighted courses at prior schools, which disadvantages students in smaller or less-resourced districts, and that limiting weighted course opportunities for transfer students could be unfair because transfers are typically driven by family circumstances. The commenter suggested that removing GPA weight for courses not offered by the receiving district could be a fairer approach to leveling academic comparisons.

Response: The agency disagrees that the rule should require districts to remove GPA weight for courses not offered by the receiving district. Determinations regarding how to address GPA for transfer students are made by school districts based on local circumstances.

Comment: A teacher suggested adding a requirement for districts to honor the original weights of transfer courses.

Response: The agency disagrees that the rule should require receiving districts to honor GPA weights earned by transfer students. Determinations regarding how to address GPA for transfer students are made by school districts based on local circumstances.

Comment: Two counselors, eight administrators, and two parents expressed their support for the proposed rule. The commenters stated they supported a statewide, standardized GPA calculation to ensure consistency and equity for students across districts.

Response: The agency agrees that standardizing policies for the calculation of GPA will support better consistency across school districts.

Comment: A teacher, a counselor, three administrators, one parent, and two community members stated the proposed rule was too vague and suggested clarifying the language. The commenters expressed the need for clearer guidance, stating that districts may inconsistently assign honors weight across a wide range of courses, which would undermine statewide standardization and potentially inflate GPA calculations.

Response: The agency disagrees that clearer guidance is necessary. The rule as proposed implements the statutory requirement that all AP, IB, OnRamps, and dual credit courses receive an additional equal weight; the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor; and an additional unspecified weight be required for honors courses.

Comment: An administrator, a counselor, and a parent stated that the proposed rule deviates from legislative intent by not establishing a single, statewide GPA calculation method and instead preserving district-level variability, which does not achieve the goal of a completely uniform statewide policy.

Response: The agency disagrees that the proposed rule deviates from the statutory requirement. The rule as proposed implements the statutory requirement that all AP, IB, OnRamps, and dual credit courses receive an additional equal weight; the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor; and an additional unspecified weight be required for honors courses.

Comment: An administrator and a teacher expressed concern that the proposed language related to honors courses is too broad and lacks clarity. The commenters expressed concern that, without clearer guidance, districts may inconsistently assign honors weight across a wide range of courses, undermining statewide standardization and potentially inflating GPA calculations.

Response: The agency disagrees that the proposed language related to honors courses is too broad. Honors courses are established locally and not at the state level. Consequently, the determination regarding the amount of weight to award to honors courses, if adopted locally, has been left to local district discretion.

Comment: One counselor asked whether online or virtual courses should be considered in GPA weighting and raised concerns about equity for schools that do not offer honors, AP, or dual credit courses, asking whether LEAs would have discretion to assign weight.

Response: The agency offers the following clarification. Online or virtual courses that are also AP, IB, OnRamps, dual credit, or honors courses should receive the appropriate additional equal weight as specified in the rule.

Comment: An administrator sought clarification regarding whether school districts are permitted to limit which courses are included in GPA calculations and/or cap the number of courses that receive weighted credit each year. The commenter stated that currently, they exclude high school credit courses taken in middle school from GPA calculations and cap the number of high school courses that can be weighted, even when a student completes more advanced courses than the allowable maximum in a given year.

Response: The agency offers the following clarification. While school districts retain the ability to make determinations about inclusion in GPA calculations of courses not explicitly identified in the rule, school districts are not permitted to limit the number of course that receive weighted credit each year.

Comment: A commenter asked what impact the proposed rule would have on districts of innovation and on students in special education programs such as Alternative Learning Environment or Life Skills, whose GPAs tend to fall in the top 10%. The commenter also asked if there would be any guidance on how much weight to place on each level of advanced academics and how the rule would differ from what LEAs were previously doing.

Response: The comment regarding districts of innovation is outside the scope of the proposed rulemaking. The agency offers the following clarification. The rule has no impact on courses that are not AP, IB, dual credit, OnRamps, or honors. The extent to which the rule might differ from existing policies will vary and will depend on each school district's existing policy.

Comment: An administrator asked if SB 1191 established a statutory maximum for honors course weights relative to the weights assigned to AP, IB, and dual credit courses or whether the specific point-value of the additional weight would be left to the discretion of the local board of trustees. The administrator also asked if an honors course must be explicitly titled "Honors" in the Texas Data Standards or if the weight would apply to any course locally designated as Advanced or Accelerated by the school district.

Response: The agency offers the following clarification. SB 1191 does not establish a statutory maximum for weighting of honors courses relative to weights assigned to AP, IB, and dual credit courses. Consequently, the amount of weight for honors courses will be left to local discretion. The honors weight should be assigned to any course identified by a school district as honors. There are no courses explicitly titled "Honors" in the Texas Data Standards.

Comment: An administrator expressed concerns regarding lack of equity in GPA-related practices and stated that factors that should be considered include timing of grade calculations and determining graduation honors, discrepancies between courses that earn college credit but not high school credit, and courses that align to National Collegiate Athletic Association GPA requirements.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: An administrator asked whether adding extra weight for a passing AP score would be permissible under the proposed new rule, given that AP and dual credit courses began with the same base weight.

Response: The agency offers the following clarification. TEC, §28.0252, requires that all AP, IB, OnRamps, and dual credit courses receive an additional equal weight. Consequently, it would not be permissible to assign an additional weight for a passing AP score.

Comment: An administrator suggested clarifying the proposed weighting language to include pre-‘AP courses that do not have an AP equivalent.

Response: The agency disagrees that the rule should address pre-AP courses because they are not courses that are statutorily required to be weighted.

Comment: A counselor proposed a three-‘tiered weighted GPA system that differentiates course rigor using a linear point-for-point scale to more accurately reflect student achievement and discourage course selection driven solely by GPA protection. The commenter also recommended excluding non-required electives from GPA calculations to promote participation in CTE, fine arts, and extracurricular programs while maintaining academic rigor and equity.

Response: The agency disagrees that introduction of a three-tiered weighted GPA system should be included in the rule. The rule addresses the weighting structure that is required by state statute. The agency offers the following clarification concerning whether non-required electives should be excluded from GPA calculations. School districts retain the ability to make determinations about inclusion in GPA calculations of courses not explicitly identified in the rule.

Comment: A teacher recommended expanding GPA weighting to include varsity and advanced fine arts courses that demonstrate rigor comparable to advanced academic coursework because excluding these courses creates inequities for students pursuing rigorous fine arts pathways.

Response: The agency disagrees that the rule should include additional weights for varsity and advanced fine arts courses because they are not courses that are statutorily required to be weighted.

Comment: An administrator expressed a preference for only weighting dual credit courses in core subject areas (math, science, social studies, and English).

Response: The agency disagrees that the additional weight for dual credit courses should only apply to core subjects. The rule as proposed implements the statutory requirement that all AP, IB, OnRamps, dual credit, and honors courses receive an additional weight regardless of the subject.

Comment: An administrator stated that if the rule does not specify weighting for pre-AP coursework, these courses could fall in the unweighted category or cause inconsistencies in the way districts weight pre-AP courses.

Response: The agency disagrees that the rule should address pre-AP courses because they are not courses that are statutorily required to be weighted.

Comment: A parent stated that the rule should take effect and apply to all students immediately beginning with the class of 2027. The commenter stated that limiting calculation of GPA to only core classes disadvantages students compared to students in other school districts and other states. The parent suggested either calculating an unweighted GPA including all high school courses or weighting only courses required for graduation using the best grade from each category.

Response: The agency disagrees that the rule should apply with the class of 2027 because school districts will need adequate time to prepare for changes to existing policies. The agency also disagrees that the rule should require calculation of an unweighted GPA including all high school courses or weight only course required for graduation using the best grade from each category. The rule as proposed implements the statutory requirement that all AP, IB, OnRamps, and dual credit courses receive an additional equal weight; the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor; and an additional unspecified weight be required for honors courses.

Comment: An administrator suggested a tiered GPA weighting system aligned to core courses required for state graduation, with the highest weight given to AP/IB, followed by OnRamps, dual credit, and dual enrollment. The commenter raised concerns about OnRamps being weighted more, regardless of graduation requirements, and noted that similar university models are not being recognized. The commenter also recommended clear GPA rules, including counting courses only the first time taken, setting a minimum grade threshold, and avoiding limits on dual credit that could restrict science, technology, engineering, and mathematics pathways.

Response: The agency disagrees that the rule should include a tiered weighting system that assigns a lesser weight to OnRamps courses and with the commenter's recommendations concerning clear GPA rules around first-time courses, minimum grade thresholds, and limits on dual credit. The rule as proposed implements the statutory requirement that all AP, IB, OnRamps, and dual credit courses receive an additional equal weight; the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor; and an additional unspecified weight be required for honors courses.

Comment: A parent questioned whether the proposed rule meets statutory requirements and whether it truly establishes a standard GPA calculation method. The commenter proposed an alternative 100-point GPA system, stating its greater granularity and fairness under Texas automatic admission policies.

Response: The agency disagrees that the proposed rule deviates from the statutory requirement or that the rule should establish an alternative 100-point GPA system. The rule as proposed implements the statutory requirement that all AP, IB, OnRamps, and dual credit courses receive an additional equal weight; the amount of additional weight to be given to dual credit courses included in the WECM or its successor adopted by the THECB to be different from the amount of additional weight to be given to a dual credit course that is not included in the WECM or its successor; and an additional unspecified weight be required for honors courses.

STATUTORY AUTHORITY. The new section is adopted under TEC, §28.0252, as amended by SB 1191, 89th Texas Legislature, Regular Session, 2025, which requires the commissioner of education to develop a standard method of computing a student's high school grade point average that school districts must use.

CROSS REFERENCE TO STATUTE. The new section implements TEC, §28.0252, as amended by SB 1191, 89th Texas Legislature, Regular Session, 2025.

§74.3001. Computation of High School Grade Point Average.

(a) Effective beginning with students who enter Grade 7 in the 2027-2028 school year or later, in accordance with Texas Education Code (TEC), §28.0252, the board of trustees of each school district shall adopt a grade point average policy in accordance with subsection (c) of this section.

(b) If a student graduates in a school year other than the student's original cohort, the student's grade point average shall be calculated using the same grade point average policy and computation method that apply to students in the graduating class with which the student graduates.

(c) A school district grade point average policy shall provide for additional weight to be given certain courses as follows:

(1) an additional equal weight for each dual credit course not included in the Workforce Education Course Manual (WECM) or its successor adopted by the Texas Higher Education Coordinating Board (THECB), advanced placement course, international baccalaureate course, and OnRamps dual enrollment course completed by a student;

(2) an additional weight that is less than the weight given to a course listed in paragraph (1) of this subsection for each dual credit course included in the WECM or its successor adopted by the THECB completed by a student; and

(3) an additional weight for each honors course completed by a student if a school district offers honors courses.

(d) A school district shall use the standard method of computing a student's high school grade point average adopted by the district to compute each applicable student's high school grade point average.

(e) An adopted grade point average policy that applies to a cohort of students shall remain unchanged for that cohort through high school graduation.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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CHAPTER 103. HEALTH AND SAFETY
SUBCHAPTER CC. COMMISSIONERS RULES CONCERNING SAFE SCHOOLS

19 TAC §103.1217

The Texas Education Agency (TEA) adopts new §103.1217, concerning safety during extracurricular activities. The new section is adopted with changes to the proposed text as published in the April 17, 2026 issue of the *Texas Register* (51 TexReg 2474) and will be republished. The adopted new section establishes safety protocols for extracurricular activities to implement Texas Education Code (TEC), §37.108(f)(8), as amended by House Bill (HB) 121, 89th Texas Legislature, Regular Session, 2025.

REASONED JUSTIFICATION: Adopted new §103.1217 details provisions to ensure the safety of students, staff, and spectators during extracurricular activities, in accordance with TEC, §37.108(f)(8), as amended by HB 121, 89th Texas Legislature, Regular Session, 2025.

Adopted new §103.1217(a) outlines definitions and terminology applicable to this section.

Adopted new §103.1217(b) explains that school systems must adopt and implement multihazard emergency operations plans and must certify that written plans are reviewed, amended, and retained that ensure the safety of students, staff, and spectators during extracurricular activities occurring on property owned, leased, or otherwise under the control of a school system. The subsection also requires that written plans be submitted by a school system to TEA upon request. At adoption, the word "locally" was added to clarify that school systems must retain multihazard emergency operations plans at the local level.

Adopted new §103.1217(c) outlines what must be included in a school system's written plan for extracurricular activities. In response to public comment, subsection (c)(7)(A) was modified at adoption to require uniformed peace officers for events with more than 1,000 attendees. Subsection (c)(7)(A) was further modified at adoption to provide guidance related to the use of armed personnel at events that exceed 250 attendees.

Adopted new §103.1217(d) requires school systems to submit information related to events requiring an emergency response, including the discovery of a firearm on a campus or at a school-sponsored event in accordance with TEC, §37.1083(h)(1), to TEA in a manner determined by the agency.

The fiscal impact anticipated during the first five years the proposal is in effect has been updated at adoption. At proposal, the fiscal impact for local government was based on the requirement for an armed peace officer at an extracurricular event with more than 500 attendees. The number of attendees requiring the presence of a peace officer was increased to 1,000 at adoption. Therefore, the adopted rule may present some cost savings as compared to the proposed rule. However, since hosting an extracurricular activity is voluntary and since decisions about extracurricular activities are made at the local district level, it is difficult to estimate the fiscal impact on any given district. To help offset district costs associated with safety and security initiatives, approximately $500 million was added to school safety allotment funding during the 89th legislative session.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began April 17, 2026, and ended May 18, 2026. To solicit additional feedback, the agency held a public hearing on May 5, 2026. Following is a summary of public comments received and agency responses.

Comment: Twenty-nine Texas administrators, the Texas Association of School Boards (TASB), the Texas Public Charter Schools Association (TPCSA), the Center for Equity & Adequacy in Public School Finance (CEAPSF), two school system police chiefs, and a school system general counsel commented that school systems across Texas operate with limited budgets and resources to include available law enforcement personnel. The commenters stated that the proposed rulemaking would result in operational challenges. The commenters indicated that additional funding would be needed to meet the requirements in the proposed rulemaking.

Response: This comment is beyond the scope of the proposed rulemaking.

Comment: State Representative James Frank commented that he would like state agencies to avoid creating more requirements.

Response: This comment is beyond the scope of the proposed rulemaking.

Comment: A Texas administrator and TPCSA commented that subsection (c)(11) addresses the development of written security and medical plans; however, the plans seem to apply to school event locations and not off-site locations. The commenters expressed that the proposed rule language is unclear.

Response: The agency disagrees. Subsection (c)(7)(D) outlines requirements when participating in extracurricular activities at facilities not under the control of a school system, while subsection (c) details overarching requirements for required written security and medical plans.

Comment: Twenty-seven Texas administrators, TPCSA, TASB, and a school system general counsel commented that the proposed language should align with existing statute. Specifically, the commenters noted that the rule's limitation to "uniformed peace officers" creates ambiguity about whether school marshals, guardians, and other security personnel are permissible for extracurricular events. The commenters suggested the agency consider an alternative such as TEC, §37.0814, permitting a board to claim a "good cause exception" and develop an alternative standard for compliance and/or revise the proposed rule to provide districts with greater flexibility.

Response: The agency disagrees that the rulemaking creates ambiguity regarding permissible security personnel at extracurricular activities. In response to public comments about operational flexibility, subsection (c)(7)(A) was modified at adoption to require uniformed peace officers for events with more than 1,000 attendees. Subsection (c)(7)(A) was further modified at adoption to provide guidance related to the use of armed personnel at events with more than 250 attendees.

Comment: TPCSA recommended removing subsection (c)(8) regarding injury protocol planning.

Response: The agency disagrees. The provision is intended to promote effective emergency preparedness and coordinated response planning for extracurricular activities where students may be exposed to increased risk of injury.

Comment: Thirteen Texas administrators and TPCSA requested that the agency reconsider the attendee-count requirements established in subsection (c)(7). The commenters suggested the officer ratio should be adjusted closer to one peace officer per 1,000, or potentially higher, depending on the nature and risk level of the event.

Response: The agency agrees. In response to public comments about operational flexibility, subsection (c)(7)(A) was modified at adoption to require uniformed peace officers for events with more than 1,000 attendees. Subsection (c)(7)(A) was further modified at adoption to provide guidance related to the use of armed personnel at events with more than 250 attendees.

Comment: TASB requested that the agency provide clear guidance on what constitutes a rivalry event, as defined in the proposed rulemaking.

Response: The agency disagrees. Rivalry events are clearly defined in subsection (a)(2). Additionally, the Office of School Safety and Security generally provides additional resources and/or guidance after a rule adoption.

Comment: Six Texas administrators commented that the proposed rulemaking places the burden of security on host school systems, stating there is a potential legal conflict related to jurisdiction and a venue's private security requirements while also expressing concern related to the potential financial impact on hosting districts.

Response: This comment is beyond the scope of the proposed rulemaking.

Comment: A community member inquired about campus/event specific plans and/or the requirement for districts to incorporate required plans into the larger district-level emergency operations plan. Further, the commenter requested clarity on the definition of "control of," as referenced in the proposed rulemaking.

Response: The agency provides the following clarification. Required plans should be location specific. A plan is not required for each separate event hosted at a location. Additionally, in statute, the term "control of" generally means the ability to exercise power over something and may include those areas leased and/or wherein a rental agreement exists.

Comment: Six Texas administrators and a school system police chief commented that requirements surrounding attendance do not account for other risk factors for events and requested flexibility in staffing models for events. The commenters requested that the agency consider incorporating a clear risk-based framework that allows districts to evaluate event security needs, recognizing the effectiveness of layered security models in place at many districts.

Response: The agency disagrees. Risk assessments for events are addressed in subsection (c)(10). Additionally, in response to public comments about operational flexibility, subsection (c)(7)(A) was modified at adoption to require uniformed peace officers for events with more than 1,000 attendees. Subsection (c)(7)(A) was further modified at adoption to provide guidance related to the use of armed security at events with more than 250 attendees.

Comment: Two Texas administrators commented that the identification of extracurricular events as "voluntary" is not consistent with the reality of today's educational environment, emphasizing that eliminating extracurricular activities is not a viable option.

Response: This comment is beyond the scope of the proposed rulemaking.

Comment: A school system police chief commented that Texas law already addresses safety at extracurricular events. The commenter added that under House Bill 2484, districts are required to ensure the safety of officials by providing a peace officer, school resource officer, administrator, or other security personnel when risks are present or reasonably anticipated.

Response: This comment is beyond the scope of the proposed rulemaking.

Comment: A school system general counsel commented in support of the intent of this proposed rule and the agency's continued emphasis on improving safety for students, staff, and spectators at school-sponsored events. The commenter noted that the requirement for written planning, risk assessments, emergency coordination, and clearly defined operational protocols represents an important and necessary step forward.

Response: The agency agrees. The requirement for written planning, risk assessments, emergency coordination, and clearly defined operational protocols are important components for safety during extracurricular activities.

Comment: A school system police chief commented in support of the presence of trained armed law enforcement officers at school events, relaying that, in today's environment, visible security measures and rapid response capabilities are critical components of a comprehensive school safety strategy. The commenter added that expanding officer presence at large gatherings is a logical step in strengthening safety posture.

Response: The agency agrees. Expanding officer presence at large events is a logical step in strengthening safety posture.

Comment: Four Texas administrators commented that the proposal represents an unnecessary expansion of state control and a duplication of existing requirements, citing that requirements are already addressed within each district's multihazard emergency operations plan (EOP) and expressing concern regarding the level of detail embedded in the rule. The commenters indicated that the state "keeps piling" plans on districts and that this proposed rulemaking may have additional data reporting implications.

Response: This comment is beyond the scope of the proposed rulemaking. However, the agency notes that the rule action implements TEC, §37.108(f)(8), as amended by HB 121, 89th Texas Legislature, Regular Session, 2025.

Comment: A Texas administrator commented that the increased level of required documentation and formalized procedures may inadvertently increase district liability while requesting guidance that will support districts.

Response: This comment is beyond the scope of the proposed rulemaking.

Comment: A community member commented that safety is not optional, safety planning for students with disabilities must be clearly documented, and staffing ratios should never be a barrier for the safety of students.

Response: The agency agrees. Student safety, including proper planning for students with disabilities, is of critical importance and must be appropriately addressed. In separate rulemaking, the agency adopted an amendment to 19 TAC §103.1209, Mandatory School Drills, effective July 26, 2026.

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §37.108(f)(8), as amended by House Bill (HB) 121, 89th Texas Legislature, Regular Session, 2025, which grants Texas Education Agency (TEA) the authority to determine provisions ensuring the safety of students, staff, and spectators during extracurricular activities sponsored or sanctioned by a school system; and TEC, §37.1083(h)(1), as added by HB 3, 88th Texas Legislature, Regular Session, 2023, which allows TEA to require a school district to submit notices of events requiring a district's emergency response, including the discovery of a firearm on a campus.

CROSS REFERENCE TO STATUTE. The new section implements TEC, §37.108(f)(8), as amended by HB 121, 89th Texas Legislature, Regular Session, 2025, and §37.1083(h)(1), as added by HB 3, 88th Texas Legislature, Regular Session, 2023.

§103.1217. Safety During Extracurricular Activities.

(a) Definitions. The following words and terms, when used in this section, have the following meanings.

(1) Extracurricular activity--A term that has the meaning assigned by §76.1001 of this title (relating to Extracurricular Activities). For the purpose of this section, large events including, but not limited to, graduation and prom are considered extracurricular activities.

(2) Rivalry event--A school-sponsored athletic contest or extracurricular competition between entities with a recognized competitive relationship, often marked by heightened student, alumni, and community engagement due to shared history, tradition, or geographic proximity.

(3) School system--A term that has the meaning assigned by §103.1215 of this chapter (relating to School Safety Requirements).

(b) Multihazard emergency operations plans. In accordance with Texas Education Code (TEC), §37.108, school systems must adopt and implement multihazard emergency operations plans and must certify that written plans are reviewed, amended, and retained locally to ensure the safety of students, staff, and spectators during extracurricular activities occurring on property owned, leased, or otherwise under the control of a school system. Written plans must be submitted to the Texas Education Agency (TEA) upon request.

(c) Written plan for extracurricular activities. Each school system must include the following in their written plan when addressing extracurricular activities.

(1) Adverse Weather Planning. Protocols for extreme weather conditions such as lightning, heavy rain, or extreme heat shall be developed. Plans must include the location of temporary emergency shelter sites or emergency evacuation measures for event participants and spectators.

(2) Communication.

(A) School systems must establish clear communication channels between school administration, coaches, emergency services, and law enforcement.

(B) School systems should be able to relay emergency communications to participants and spectators including, but not limited to, public address announcements.

(C) A telephone or other communication device is required to be on site during extracurricular activities to contact medical services and law enforcement immediately.

(D) In accordance with TEC, §37.1131, participating school systems must adopt a policy for parental notification regarding violent incidents occurring or being investigated at an extracurricular activity. Participating school systems/teams are responsible for notification to the parents of students in their own districts.

(3) Crowd control measures. School systems must prevent overcrowding to maintain order and mitigate safety hazards and potential conflicts.

(4) Designated incident commanders. School systems shall ensure there is an on-site designated incident commander to handle emergencies.

(5) Emergency equipment location and maintenance. School systems shall develop a policy to perform and document on-site readiness checks of equipment and maintenance.

(A) In accordance with Texas Health and Safety Code, Chapter 779, an automated external defibrillator (AED) must be available and accessible at all practices and events and inspected monthly.

(B) In accordance with TEC, §22.902, athletic coaches or sponsors, physical education instructors, marching band directors, cheerleading coaches, and students who serve as athletic trainers must be certified in cardiopulmonary resuscitation and the use of an AED.

(C) In accordance with §76.1003 of this title (relating to Extracurricular Athletic Activity Safety Training Requirements), coaches or sponsors for an extracurricular athletic activity, trainers, marching band directors, and physicians employed by or volunteering for a school system to assist with extracurricular athletic events must complete a TEA-adopted extracurricular athletic activity safety training program.

(6) Evacuation plans. School systems must designate evacuation routes and assembly points in case of an evacuation. Plans must be able to be communicated to event participants and staff. School systems should consider conducting drills to familiarize individuals with evacuation procedures.

(7) Event security.

(A) Host school systems must provide at least one uniformed peace officer per 1,000 attendees for events exceeding 1,000 attendees. School systems should consider providing armed security (e.g., peace officers; school marshals; school system employees who have completed school safety training provided by a qualified handgun instructor certified in school safety under Texas Government Code, §411.1901; security personnel commissioned under Texas Occupations Code, Chapter 1702) for any event that exceeds 250 attendees. If a school system hosts an event, whether or not they are participating in the event, the hosting school system is responsible for security.

(B) For rivalry events or events where there is a propensity for violence or confrontation based on available intelligence from hosting and visiting districts or publicly available information, school systems must provide an appropriate number of uniformed peace officers.

(C) Considerations for the number of armed officers needed for an event should include:

(i) the number of spectators and participants projected to attend an event;

(ii) the size of the event venue; and

(iii) an increased risk of confrontation or violence at the event.

(D) When participating in extracurricular activities at facilities not under the control of a school system, school system staff should:

(i) familiarize themselves with security and medical plans implemented by the facility, which may include:

(I) in-person safety briefings provided by the host facility; and

(II) distributed safety plans including evacuation routes, locations of emergency equipment, and emergency contact numbers; and

(ii) obtain contact information for the host facility to ensure communication in the event of an emergency.

(8) Injury protocol planning. School systems shall coordinate with local first responders to create structured plans to manage injuries, inclusive of immediate first aid.

(9) Patrons.

(A) In accordance with TEC, §37.105, school administrators, school resource officers, or school district peace officers may refuse to allow a person to enter property under the school system's control or they may eject a person if the person refuses to leave peaceably.

(B) A referee, judge, or other official may eject an individual, including spectators, staff, volunteers, or participants, without the need to first issue a verbal warning, and even if the behavior that subjects the individual(s) to ejection is not persistent, inappropriate behavior. A single incident of inappropriate, threatening, or dangerous behavior is sufficient cause for ejection, subject to the discretion of the appropriate official.

(10) Risk assessment. Before any event, a thorough risk assessment of potential risks, such as venue, weather conditions must be conducted. For extracurricular activities hosted by another school system or an outside organization, school systems should be familiar with security and medical plans for that entity, as described in paragraph (7)(D) of this subsection.

(11) Written plan for event locations. To ensure a safe and secure environment for events, school systems must develop and implement written security and medical plans for each specific event location exceeding 250 attendees. School systems must ensure coaches, band directors, event and school administrators, and cheer coaches are familiar with the written plan.

(d) Emergency response incidents. In accordance with §103.1213 of this chapter (relating to Required Reporting through Sentinel), all school systems shall submit information related to an incident requiring an emergency response, including the discovery of a firearm or other weapon at a school-sponsored activity, in accordance with TEC, §37.1083(h)(1), to TEA in Sentinel. Submission of information to TEA does not substitute for the requirement for law enforcement notification of certain activities outlined in TEC, §37.015.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 3, 2026.

TRD-202603849
Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Effective date: September 23, 2026
Proposal publication date: April 17, 2026
For further information, please call: (512) 475-1497

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TITLE 25. HEALTH SERVICES

PART 11. CANCER PREVENTION AND RESEARCH INSTITUTE OF TEXAS

CHAPTER 703. GRANTS FOR CANCER PREVENTION AND RESEARCH

25 TAC §703.23

The Cancer Prevention and Research Institute of Texas ("CPRIT" or "the Institute") adopts amendments to 25 Texas Administrative Code §703.23 without changes to the proposed amendments as published in the June 5, 2026, issue of the *Texas Register* (51 TexReg 3775); therefore, the rule will not be republished.

Reasoned 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. Section 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.

Summary of Public Comments and Staff Recommendation

CPRIT received public comments from one individual regarding the proposed amendments to §703.23. Below is a summary of CPRIT's response to the comments. CPRIT staff recommends moving forward with adoption of the amendments.

In response to the Proposed Rule Changes and Request for Public Comment, CPRIT received a comment from one commenter, representing the University of Texas at Austin's Office of Sponsored Projects (OSP) requesting the following three changes or clarifications:

1. Advocating the rule limit the 10% withholding requirement for non-Product Development Research grantees to institutions with documented audit findings, poor annual audit results, or a demonstrated history of closeout compliance issues.

CPRIT disagrees with this comment. Although CPRIT appreciates the concern that the rule change could burden Grant Recipients without a documented history of compliance deficiencies, CPRIT believes the rule imposes no additional burdens. The rule creates no additional closeout obligations, and CPRIT presently does not intend to add new closeout obligations through the grant contracting process. In addition, CPRIT presently reserves the right to withhold any reimbursement for failure to meet contractual obligations.

CPRIT notes that many compliance deficiencies may not appear in audit findings and that Grant Recipients may have no prior history of CPRIT Grant Awards to form the basis of a demonstrated history of closeout compliance issues.

CPRIT Grant Recipient organizations vary greatly in their business structure, financial resources, number of CPRIT grants awarded, and familiarity with CPRIT grant reporting requirements. An inflexible, mechanical limitation of this type simply will not meet CPRIT's need to ensure compliance.

CPRIT also notes that the proposed rule as amended under TAC §703.23(c)(2)(A) provides a Grant Recipient that has a demonstrated history of grant reporting compliance with the ability to request a reduction or suspension of withholding. This remedial procedure is not currently available to a Grant Recipient under CPRIT's existing rules.

2. Requesting clarification of how the withholding would operate if a grantee reached the 90% expenditure threshold prior to the end of the award period.

CPRIT disagrees with this comment to the extent it implies the proposed rule creates a textual ambiguity. As the text of the rule states, CPRIT may withhold the final 10% of the total Grant Award to ensure compliance with closeout requirements. CPRIT will withhold the full payment or partial payment of grant expenses against any Financial Status Report (FSR) as soon as the expenses reach an amount in excess of 90% of the Grant Award.

CPRIT notes for the record that it is already possible for CPRIT to withhold 10% of the Grant Award if the final FSR amount were the equivalent of 10% of the Grant Award and, therefore, the final payment to the Grant Recipient pursuant to TAC §703.14 of this title (relating to Termination, Extension, Close Out of Grant Contracts, and De-Obligation of Grant Award funds). If this situation were to occur without the proposed rule, there is no remedial procedure under CPRIT's existing administrative rules that allows a Grant Recipient to request that CPRIT withhold less than 10% of the Grant Award. As indicated above in CPRIT's response to Comment 1, the proposed rule provides a Grant Recipient that has a demonstrated history of grant reporting compliance with the ability to request the reduction or suspension of the withholding.

3. Arguing the rule should reduce withholding to 10% of the final invoice submitted under the award. The comment argues this amount would align with CPRIT's existing closeout procedures and would achieve CPRIT's oversight objectives while reducing administrative burden for both Grant Recipients and CPRIT.

CPRIT disagrees with this comment. CPRIT Grant Awards vary greatly in size and financial structure. Furthermore, as indicated above in CPRIT's response to Comment 1, CPRIT Grant Recipient organizations vary greatly in their business structure, financial resources, number of CPRIT grants awarded, and familiarity with CPRIT grant requirements. Although withholding payment of 10% of the final FSR may be sufficient for many Grant Recipients to ensure compliance with CPRIT's reporting requirements, the amount may be de minimis for others such that it may not ensure compliance with CPRIT grant reporting requirements.

The rule changes are adopted under the authority of the Texas Health and Safety Code Annotated, § 102.108, which provides the Institute with broad rule-making authority to administer the chapter, including rules for awarding grants.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 2, 2026.

TRD-202603797
John Ellis
General Counsel
Cancer Prevention and Research Institute of Texas
Effective date: September 22, 2026
Proposal publication date: June 5, 2026
For further information, please call: (512) 463-3190

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TITLE 34. PUBLIC FINANCE

PART 4. EMPLOYEES RETIREMENT SYSTEM OF TEXAS

CHAPTER 63. BOARD OF TRUSTEES

34 TAC §63.9, §63.13

The Employees Retirement System of Texas (ERS) adopted amendments to 34 Texas Administrative Code Chapter 63 (Board of Trustees), including amendments to §63.9 (Officers) and §63.13 (Committees), without changes to the proposed text as published in the July 24, 2026 issue of the *Texas Register* (51 TexReg 4810). The amendments were approved by the ERS Board of Trustees at its August 26, 2026 meeting. These sections will not be republished.

Amendments have been adopted for §63.9 and §63.13 in order to reduce the number of officer positions for the ERS Board of Trustees. Currently, three of the Board's six members serve as officers, and one of the officers (the Vice Chair) rarely performs any duties. Pursuant to the newly adopted rules, the Chair of the Board and the Chair of the Internal Audit Committee will be the only officer positions, with the Chair of the Internal Audit Committee acting as the presiding member in the Board Chair's absence.

No comments were received regarding the proposed amendments.

The amendments are adopted under Tex. Gov't Code §815.102, which provides authorization for the ERS Board of Trustees to adopt rules necessary for the administration of the funds of the retirement system and regarding the transaction of any other business of the Board.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 1, 2026.

TRD-202603793
Cynthia C. Hamilton
General Counsel and Chief Compliance Officer
Employees Retirement System of Texas
Effective date: September 21, 2026
Proposal publication date: July 24, 2026
For further information, please call: (877) 275-4377

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 20. TEXAS WORKFORCE COMMISSION

CHAPTER 809. CHILD CARE SERVICES

The Texas Workforce Commission (TWC) adopts 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 adopts 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 adopts the repeal of the following section of Chapter 809, relating to Child Care Services:

Subchapter B. General Management, §809.22

Amended §§809.2, 809.18, 809.19, 809.21, 809.41 - 809.43, 809.45, 809.47, 809.49, 809.51, 809.52, 809.54, 809.56, 809.72, 809.73, 809.78, 809.92, 809.95, 809.96, 809.130 - 809.134, and §809.136; new §§809.4, 809.5, and 809.137; and repealed §809.22 are adopted without changes to the proposal, as published in the June 5, 2026, issue of the *Texas Register* (51 TexReg 3777), and, therefore, the adopted rule text will not be published.

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

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

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

The 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 rules add provisions related to confidentiality of information. The rules ensure consistent application of data privacy standards regarding the TWC's use of PII, and sensitive personal information (SPI). The 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 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 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 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-weighed 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 makes 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 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 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 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, 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, the amendments add a requirement that all mentors must attain mentor microcredentialing within two years of employment.

Coordination Activities

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

Rule Review

Texas Government Code, §2001.039, requires a state agency to review and consider for readoption each of its rules every four years. In accordance with the statute, TWC has reviewed Chapter 809, Child Care Services, and readopts 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 adopts 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 redetermination" 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 levels, 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 adopts 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 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 adopts 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. Child Care for Children Receiving or Needing Protective Services

Section 809.49 renamed "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 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. 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 adopts 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 adopts 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 repeal of §809.22.

SUBCHAPTER G. TEXAS RISING STAR PROGRAM

TWC adopts 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-weighed 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 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.

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

PART III. PUBLIC COMMENTS

The comment period ended on July 6, 2026.

TWC received comments from the following:

--Ivy Kids Tomball

--Texas Department of Family and Protective Services (DFPS)

--Workforce Solutions Capital Area

§809.43. Priority for Child Care Services

COMMENT: DFPS suggested revisions to §809.43 to align with DFPS rules by using "day care" instead of "child care" and moving the priority for children of foster youth.

RESPONSE: TWC declines to change "child care" to "day care" in §809.43, as these are TWC rules, and the term must align with TWC terminology and the chapter title.

TWC also declines to move §809.43(a)(2)(B), relating to children of a foster youth. This priority group is defined in TWC's statute and cannot be changed by rule. Additionally, the current definition of children needing protective services does not preclude children of foster youth if they have an open DFPS case.

No changes were made in response to this comment.

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

COMMENT: DFPS suggested revisions to §809.49 to align with DFPS rules by using "day care" instead of "child care" and moving TWC's priority for children of a foster youth under the category for children needing protective services. DFPS also suggested technical edits to §809.49(b)(2), which addresses children under court supervision.

RESPONSE: TWC declines to change "child care" to "day care" in §809.49, because the term must align with TWC terminology and this chapter's title.

TWC also declines to revise the title of §809.49. "Protective Services Child Care" is a term that TWC is required to define per CCDF regulations and is included in the CCDF State Plan; therefore, the Texas Administrative Code must align with the plan.

TWC has revised the language in §809.49(b)(2) for improved readability.

§809.132. Impacts on Texas Rising Star Certification

COMMENT: Workforce Solutions Capital Area sought clarification on whether TWC will update the Texas Rising Star Guidelines to align with the revised 18-month suspension timeline under §809.132.

RESPONSE: The Texas Rising Star Guidelines will be updated to align with any revisions made to the Child Care Services rules regarding the suspension timeline. No changes were made in response to this comment.

New §809.137. Texas Rising Star Facility Changes.

COMMENT: Workforce Solutions Capital Area sought clarification regarding whether programs that expand locations and have varied participation status would be given an Entry Level designation.

RESPONSE: Yes, programs in this situation would be designated as Entry Level upon the initial change but could request an assessment sooner, bypassing specified certification eligibility requirements. No changes were made in response to this comment.

COMMENT: Ivy Kids Tomball suggested that when a new owner has no affiliation with the prior owner and no role in the decisions that led to the program's Texas Rising Star history, the new owner should have the option to either retain the prior child care program's status, including any star level, probation, or suspension and its associated conditions, or begin as an Entry Level participant and be assessed independently.

RESPONSE: New §809.137(c) is revised to allow a new external owner to either retain the certified status of a program or request an Entry Level designation upon ownership change. TWC also revised the chart on the Child Care Facility Change Rubric to reflect this allowance, and clarify that for the purpose of reassessment, the requirements outlined in §809.131(a)(1) and (2) of the subchapter (permanent license (full permit) issued by Child Care Regulation and 12-month history) will be deemed to have been met in any facility change type, regardless of the current provider's status prior to change.

PART IV. EFFECTIVE DATES

TWC adopts staggered effective dates for the rule amendments in Chapter 809 as follows:

--October 1, 2026: Subchapters A, B, C, D, and E will become effective. This date aligns the rule changes with the start of the Boards' new contract year.

--November 1, 2026: Subchapter G will become effective. This later date provides the necessary time to implement corresponding automation changes to the Texas Rising Star program systems.

Pursuant to its authority under Texas Government Code, §2001.036, TWC finds that adopting these specific effective dates, rather than the 20th day after filing with the Office of the Secretary of State, is necessary to ensure the orderly implementation of these rules.

SUBCHAPTER A. GENERAL PROVISIONS

40 TAC §§809.2, 809.4, 809.5

PART V. STATUTORY AUTHORITY

The rules are adopted 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 adopted 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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 1, 2026.

TRD-202603783
Les Trobman
General Counsel
Texas Workforce Commission
Effective date: October 1, 2026
Proposal publication date: June 5, 2026
For further information, please call: (737) 301-9662

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SUBCHAPTER B. GENERAL MANAGEMENT

40 TAC §§809.18, 809.19, 809.21

The rules are adopted 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 adopted 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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Les Trobman
General Counsel
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For further information, please call: (737) 301-9662

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40 TAC §809.22

The repeal is adopted 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 adopted 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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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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 adopted 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 adopted 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.

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SUBCHAPTER D. PARENT RIGHTS AND RESPONSIBILITIES

40 TAC §§809.72, 809.73, 809.78

The rules are adopted 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 adopted 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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Texas Workforce Commission
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Proposal publication date: June 5, 2026
For further information, please call: (737) 301-9662

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SUBCHAPTER E. REQUIREMENTS TO PROVIDE CHILD CARE

40 TAC §§809.92, 809.95, 809.96

The rules are adopted 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 adopted 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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 1, 2026.

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Les Trobman
General Counsel
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SUBCHAPTER G. TEXAS RISING STAR PROGRAM

40 TAC §§809.130 - 809.134, 809.136, 809.137

The rules are adopted 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.

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