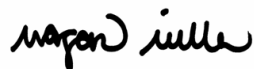


**TEXAS WORKFORCE COMMISSION**  
**Workforce Development Letter**

<b>ID/No:</b>	WD 07-20
<b>Date:</b>	March 26, 2020
<b>Keyword:</b>	Child Care
<b>Effective:</b>	Immediately

**To:** Local Workforce Development Board Executive Directors  
Commission Executive Offices  
Integrated Service Area Managers



**From:** Reagan Miller, Director, Child Care & Early Learning Division

**Subject:** COVID-19 Child Care Services Guidance

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**PURPOSE:**

The purpose of this WD Letter is to provide Local Workforce Development Boards (Boards) with special guidance on the implementation of child care services during the ongoing global pandemic of coronavirus disease 2019 (COVID-19).

**RESCISSIONS:**

None

**BACKGROUND:**

On March 17, 2020, Texas Workforce Commission's (TWC) three-member Commission approved a policy pertaining to Board administration of the Child Care Services program in response to the COVID-19 pandemic.

COVID-19 may impact families and child care programs that participate in TWC's subsidized Child Care Services program. Parents might experience interruptions in their participation in work or education and training, and child care programs that serve subsidized children might be required to close because of contagion and public health risk-mitigation measures.

TWC's Child Care & Early Learning Division (CC&EL) is working closely with the Texas Health and Human Services Commission (HHSC) Child Care Licensing (CCL) division to determine the effect of the pandemic on programs that receive subsidies. Child care programs may be affected by COVID-19-related causes, including the following:

- A confirmed or suspected case of COVID-19 among staff, children, or their immediate family members
- Insufficient staffing to maintain required teacher-child ratios because of illness or risk-mitigation
- Directives from local, state, or federal authorities to close, reduce, or change child care services

## **PROCEDURES:**

**No Local Flexibility (NLF):** This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

**Local Flexibility (LF):** This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”

### **Child Absences Related to COVID-19**

**NLF:** Boards must be aware that children may be absent from child care due to COVID-19 for various reasons, including, but not limited to, the following:

- The child is ill.
- The parent or other family member is ill.
- The parent is unable to work because of work closure.
- The child care program has closed or has limited services because of COVID-19.

**NLF:** TWC’s Chapter 809 Child Care Services rule §809.78(a) requires parents to ensure that children meet attendance standards for child care services. To provide relief to families that may have accumulated absences due to COVID-19, Boards must consider all absences beginning March 1, 2020, to be COVID-19–related until further notice from TWC.

**NLF:** Boards must be aware that §809.78(d)(1), requiring Boards to send written notices to parents and programs when a child reaches 15 and 30 general absences cumulatively within a 12-month eligibility period, is temporarily waived for all absences occurring on or after March 1, 2020, until further notice from TWC.

**NLF:** Effective March 1, 2020, Boards must allow children to accrue COVID-19–related absences without affecting ongoing eligibility. “Non-swipes” or “Z days” are included in this exemption. TWC will continue to monitor the COVID-19 situation and will provide guidance on when this absence policy will conclude.

**NLF:** Boards must also continue to pay programs based on active referrals, including referrals for children who have accrued absences that exceed attendance standards. (See the Continued Payment to Child Care Programs section below.)

### **Child Care Attendance Tracking**

**NLF:** Boards must be aware that CCL has issued guidance, and plans to issue this guidance through emergency rules, requiring that children be dropped off and picked up outside of child care facilities. Therefore, parents will be unable to enter a child care program facility unless a legitimate and compelling need exists. This emergency rule is expected to temporarily limit parents’ ability to record attendance with their attendance swipe cards.

**NLF:** Boards must be aware that while “non-swipes” will not count as absences as described above, Boards must ensure that child care programs continue to report child attendance during this period.

**LF:** TWC’s Child Care Automated Attendance system (CCAA) will continue to operate, and child care programs may make point-of-service (POS) devices available to parents to the extent practicable, including the following measures:

- Move POS devices to outside locations where parents are dropping off children so parents may continue to record attendance.
- Ensure that POS devices placed outside are protected from potential inclement weather.
- Reconnect devices at least daily to upload attendance to CCAA.

**NLF:** Boards must be aware that until further guidance from TWC, child care programs may submit attendance through alternate methods such as a weekly electronic list of children in attendance or scanned copies of sign-in sheets. Boards must retain these attendance reports.

**NLF:** Boards must also submit weekly reports to TWC summarizing the percentage of children who are actually in attendance. Reports are due by close of business each Wednesday for the preceding week, beginning April 1, 2020, and must include all of the following:

1. The number of referrals that were active at any point during the preceding week
2. The number of children recorded as present at any point during the preceding week
3. The calculated percentage of children in attendance based on requirements 1 and 2

**NLF:** Boards must also be aware that child care programs and parents should follow recommendations from public health officials, such as ensuring social distancing while recording attendance and providing parents and staff with hand sanitizer, gloves, and/or disinfectants for use between each parent who records attendance.

**LF:** TWC has developed health and safety suggestions that child care programs may wish to follow. Boards may make this information available to child care programs (Attachment 1).

## **Parent Share of Cost**

### **COVID-19 and Parent Share of Cost Affordability**

**NLF:** TWC rule §809.19(a)(1)(C) requires Boards to set the parent share of cost (PSOC) at an amount that is affordable and does not result in a barrier to families receiving assistance. Boards must be aware that families affected by COVID-19 might be unable to pay the PSOC due to loss of income, unforeseen health care expenses, inability to leave home because of self-isolation or quarantine, child care program closure, or other COVID-19–related reasons. Boards must consider COVID-19 as an extenuating circumstance for families during which the PSOC is unaffordable.

**LF:** Boards may modify the PSOC, as required by §809.19(a)(1)(C), in one of two ways:

- For the period of March 1–March 31, 2020, Boards may reimburse programs for unpaid PSOC regardless of local policy, as authorized in §809.3, in order to cover lost costs associated with parents who did not pay the PSOC. Boards should have a local procedure in place for these payments, including a process for documentation.
- Alternatively, for the period of March 1–March 31, 2020, Boards may issue supplemental payments (as described below in Suspension of the PSOC and Supplemental Payments to Providers) to child care programs to offset lost PSOC resulting from COVID-19. Boards electing to use this alternate process should have a local procedure in place for these payments, including a process for documentation.

Suspension of the PSOC and Supplemental Payments to Providers

**NLF:** Boards must be aware that TWC is pursuing a federal waiver from the Office of Child Care to temporarily suspend the PSOC beginning in April 2020.

**NLF:** Upon approval of the federal waiver, Boards must make supplemental payments to child care programs to cover PSOC payments for April 2020, in accordance with TWC guidance. TWC will continue to assess the need and issue guidance regarding future supplemental payments.

**NLF:** Boards must be aware that TWC will issue further guidance on calculating and reporting these supplemental child care program payments. A supplemental cost category will be added to the Cash Draw and Expenditure Reporting system (CDER). Boards must report these payments in CDER.

**Interruptions in Parents’ Ongoing Participation in Work, Education, or Training**

COVID-19–Related Temporary Changes in Activity

**NLF:** Boards must be aware that COVID-19–related events might lead to a temporary change in a parent’s work, education, or training status and do not affect a child’s ongoing eligibility for child care services. Such events may include, but are not limited to, the following:

- A parent or household member is diagnosed with or is suspected of having COVID-19.
- A health official or medical professional directs a parent or family to self-quarantine.
- The parent’s employer or education and training provider closes or reduces employee hours because of illness or public health risk-mitigation.
- Closure of a child care program results in a parent being unable to work or participate in work, education, or training.
- Closure of a school results in a parent having to miss work, education, or training in order to care for a school-age child under age 13 or a child with a disability under age 21.

Continued Care for Currently Enrolled Children

**NLF:** Boards must be aware that if a parent is displaced from work, training, or education activities due to COVID-19, the displacement is considered a temporary status change,

and care for enrolled children continues, pursuant to §809.51(a)(1), without being subject to termination.

#### Temporary Changes Exceeding Three Months

As described in §809.51, a temporary change in a parent's ongoing status in work, education, or training does not affect a child's ongoing eligibility for child care services.

**NLF:** When a Board becomes aware of a break in activity related to COVID-19, if the parent is expected to return to work, education, and/or training, Boards must treat that break as temporary, even if the break extends beyond three months.

**NLF:** Boards must not create *Activity Interruption* records in TWIST for temporary interruptions.

#### Parent Reporting of Changes Related to COVID-19

**NLF:** Boards must be aware that as required by §809.73, parents are not required to report temporary changes in ongoing participation in work, education, or training. Boards might not discover the reason for a parent's break in activity until excessive absences have accrued or a family reaches the end of its eligibility period.

#### Permanent Loss of Work, Education, or Training

**NLF:** Boards must continue to record the permanent loss of work, education, or training for parents receiving Child Care Services as described in Child Care Services Guide Section D-802, even if the permanent loss is due to COVID-19.

**NLF:** Boards must be aware that continued care must be provided for a minimum of three months as required by §809.51(b). TWC is monitoring the COVID-19 situation and may issue future guidance to provide care beyond three months if labor market conditions warrant.

**NLF:** Boards must be aware that, as required by §809.71, the parent must receive written notification at least 15 calendar days prior to any termination of child care services.

### **COVID-19 and Child Care Redeterminations**

#### Income Calculations

**NLF:** Boards must be aware that parents might increase their work hours due to COVID-19 (for example, as a result of coworkers' inability to work or because of increased demand for services in the parents' occupation). These increased work hours might result in a temporary fluctuation of, and increase in, earnings.

Section 809.44(a) requires Boards to consider irregular fluctuations in earnings and to ensure that temporary fluctuations in income do not affect eligibility. Instructions on how to consider income fluctuations are found in section D-107.a of the Child Care Services Guide.

**NLF:** Boards must ensure that this flexibility is provided to parents whose income has been affected by COVID-19.

#### Minimum Work-Hour Requirements

**NLF:** Boards must be aware that parents who experience work interruptions might face reductions in work hours and find it difficult to access eligibility documents and/or proof of minimum activity hours.

Section D-202.a of the Child Care Services Guide includes guidance on how to account for fluctuations in participation hours for situations that are outside of the parent's control.

**NLF:** Boards must ensure that this flexibility is provided to parents whose work hours have been affected by COVID-19.

#### Extension of Redetermination Period

**LF:** Boards may extend a family's redetermination date pursuant to §809.42(b) for up to three (3) months from the original redetermination date due to extenuating circumstances such as:

- a parent is experiencing a COVID-19–related temporary interruption in work, education, or training;
- a parent has become unemployed and is unable to find work due to COVID-19's effect on the local labor; or
- the Board's child care contractor is facing staffing shortages or office closures because of COVID-19 and they are unable to process recertifications timely.

TWC will continue to monitor the COVID-19 emergency and may issue future guidance regarding extensions of eligibility redeterminations.

**LF:** Boards may continue to process redeterminations as long as consideration is given to how work hours and income are calculated (as noted above in this WD Letter).

**NLF:** Boards must ensure that staff documents the reason for redetermination extensions in *TWIST Counselor Notes*.

#### **Payments to Child Care Programs**

##### Ongoing Payments to Programs

**NLF:** Boards must be aware that CCL began collecting information about COVID-19–related closures and reporting the data to TWC on March 16, 2020, and that TWC will share the closure information with Boards as it becomes available.

**NLF:** Boards must be aware that for child care programs that temporarily close or reduce operating capacity because of COVID-19, the child care authorization shall continue.

**NLF:** Boards must be aware that for children with active child care referrals at the time a child care program temporarily closes because of COVID-19, affected child care programs

must be reimbursed based on each child's authorized referral unless the parent requests that:

- child care be suspended; or
- child care be transferred to a new child care program or local workforce development area.

Child care payments due to temporary closures must be made at the reimbursement rate that was in effect at the time of closure.

#### School-Age Children Requiring Full-Time Care

**NLF:** Boards must be aware that school-age children might require full-time care during school closures. If a school-age child requires additional full-time care, Boards must temporarily close the blended or part-time referral and create a new full-time referral. Once the child returns to a regular school schedule, the Board must close the full-time referral and create a part-time or blended referral. If a child care program closes, the Board must leave the referral as it was when the closure occurred.

**NLF:** Boards must maintain documentation of referral changes for children whose referrals are changed due to COVID-19. However, Boards are not required to send individual TWIST Form 2450 or to enter TWIST *Counselor Notes*, but they must notify programs of COVID-19–related referral changes.

#### Circumstances Requiring Discontinuance of Child Care Program Payments

**NLF:** Boards must be aware that if the parent requests a transfer to a new child care program, the Board must cease payments to the previous program and authorize payments to the new program. Transfers that are requested because of program closures or other special accommodations that are made because of COVID-19 must not count toward limitations on the number of transfers the Board allows.

**NLF:** Additionally, Boards must be aware that if a child care program permanently closes, Boards must end authorizations for care at that facility and work with the families to find placement with another eligible program. If acceptable care cannot be found, then the child's care is suspended, and the child care referral is closed. The child's current eligibility period remains, and the TWIST program detail remains open.

#### **COVID-19 Child Care Program Closures Report**

**NLF:** Boards must be aware that, as described above, CCL will regularly provide TWC with data on program closures. TWC will share these reports with Boards as the reports become available, which initially will be daily. Boards must monitor closures of CCDF-funded programs and use the data to implement the provisions of this guidance as well as to communicate about the local effects of COVID-19.

**LF:** Beginning March 20, 2020, TWC will share data on all closed child care programs statewide, including programs that do not currently accept child care subsidies. Boards may use this data to inform local planning, including sharing the report with city and

county authorities, hospital districts, and other stakeholders working to ensure availability of child care for essential workers.

### **Child Care Licensing Guidance**

**NLF**: Boards must follow all applicable guidance from CCL and local health authorities, including the CCL emergency rules, with respect to program operations and public health measures.

### **Texas Rising Star Processes**

**NLF**: Due to CCL emergency rules limiting access to child care programs and the rapidly evolving state and local directives, Boards must postpone all required quarterly CCL screenings and assessments or visits for certified Texas Rising Star programs until further notice.

**LF**: Boards may extend assessments and monitoring visits with Texas Rising Star programs that were scheduled to occur on or after March 16, 2020, up to six months from the originally scheduled date. TWC will continue to evaluate the COVID-19 impact and will issue guidance as needed regarding Texas Rising Star assessments and visits.

**NLF**: For programs whose star level has decreased because of quarterly screening compliance issues, Boards must conduct quarterly screenings, as applicable to the program's star-level reduction time frame, to determine whether the program qualifies for having its star level increased to its previous level.

**NLF**: Boards must ensure that the following COVID-19–related Texas Rising Star actions are documented in *TWIST Comments/Counselor Notes* and the *Engage Event Log*:

- Extensions to certifications
- Rescheduling of assessments or monitoring visits
- Postponed quarterly CCL screenings
- Other relevant information related to COVID-19 and the program's ongoing status in Texas Rising Star

### **Public Health Guidance for Child Care Programs**

The Texas Department of State Health Services (DSHS) is working with the Centers for Disease Control and Prevention (CDC) in monitoring COVID-19. Boards can find more information about COVID-19 in Texas on the DSHS [website](#).

CDC has created COVID-19–related [guidance](#) for schools and child care programs.

**LF**: Boards should become familiar with and may share the guidance with local child care programs.

### **INQUIRIES:**

Send inquiries regarding this WD Letter to [childcare.programassistance@twc.state.tx.us](mailto:childcare.programassistance@twc.state.tx.us).



**ATTACHMENT:**

Attachment 1: Health and Safety of Child Care Facilities during COVID-19

**REFERENCES:**

“COVID-19: Guidance for School Settings,” Centers for Disease Control and Prevention, March 9, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/index.html>

“Coronavirus Disease 2019 (COVID-19),” Texas Department of State Health Services, March 14, 2020. <https://www.dshs.texas.gov/coronavirus/>

Texas Workforce Commission Chapter 809 Child Care Services Rules

Texas Workforce Commission Child Care Services Guide