

Chapter 809. CHILD CARE AND DEVELOPMENT

Subchapter O. CHILD CARE TRAIN OUR TEACHERS (TOT) AWARD

40 TAC §§809.301-809.304, 809.311-809.314, 809.331, 809.332

The Texas Workforce Commission (Commission) proposes new §§809.301-809.304, 809.311-809.314, 809.331 and 809.332, concerning Train Our Teachers (TOT) awards.

The purpose of the new rules is to implement the provisions of House Bill 2609, (76th Legislature, Regular Session, 1999), relating to the Train Our Teachers (TOT) award by providing guidelines and procedures for the application, distribution and administration of the awards, and repayment of funds upon failure to meet the law's post-education requirements.

Background:

The intent of the Legislature in promulgating House Bill 2609, and the Commission in implementing the new law, is to address both the quality and availability of child care by providing an incentive for trained workers to remain in the child care profession, thus allowing child care providers to retain qualified staff and reduce turnover. The awards will help defray tuition and other related costs for child care teachers and workers pursuing credentials or degrees in child development.

House Bill 2609 references the statutory definition of "child care facility." A "child care facility" is a facility licensed, registered, certified or alternatively accredited by the Texas Department of Protective and Regulatory Services (TDPRS) to care for a child who is not related by blood, marriage or adoption to the owner or operator of the facility. This definition includes day care centers and group day homes licensed by TDPRS, as well as family homes registered by TDPRS.

In order to increase the quality of child care by raising the professional level of child care workers in the maximum number of facilities across the state, certain facilities have been determined ineligible for child care workers to fulfill the work obligation imposed by the statute. These facilities are juvenile detention facilities, youth camps licensed by the Texas Department of Health, educational facilities accredited by the Texas Education Agency, and other facilities listed in §42.041(b), Human Resources Code. These excluded facilities are currently able to maintain a high level of professional child care staff.

The Commission researched methods of implementing the new law and on September 9, 1999, received input from a number of stakeholders while developing these rules. Some of the stakeholders included representatives of the following: the Legislature, the local workforce development boards (Boards), child care contractors, early childhood development programs, national child care information clearinghouses, community colleges, interested state agencies, entities that award child care professional credentials, child care workers, child care providers and others. The issues discussed by the stakeholders included: administration, scope, eligibility criteria, payment methods, eligible expenses, credential costs, methods of repayment and recoupment of awards. The Commission requested additional input from the Boards at a meeting held on September 16, 1999, and through a conference call on October 8, 1999.

Because funds available for the Train Our Teachers award for the FY 2000 - 2001 biennium are limited to \$2 million, the Commission has determined that the funds should be used primarily for expenditures associated with obtaining professional child care training and credentials. The Commission further believes that because of the funding limitation, the awards should be centrally administered. The goal of central administration is to ensure that the limited amount of available funds is expended as efficiently as possible.

The rules are designed to implement legislation that brings to the forefront the importance of the quality of care for Texas' youngest residents and future workforce. The Commission anticipates that the Train Our Teachers awards will directly benefit not only child care workers and their employers, but also the children of parents who are working or attending education or training.

The purposes of the specific sections are stated as follows. New §809.301 sets forth the short title and purpose for this subchapter. New §809.302 sets forth the definitions that apply to this subchapter. New §809.303 sets forth the eligibility requirements that apply to this subchapter. New §809.304 sets forth the acceptable uses that apply to this subchapter.

New §809.311 sets forth the procedure for distribution of awards pursuant to this subchapter. New §809.312 sets forth a description of the methods of payment pursuant to this subchapter. New §809.313 sets forth procedures for requesting an award pursuant to this subchapter. New §809.314 sets forth the procedure for application evaluation pursuant to this subchapter.

New §809.331 sets forth the responsibilities of recipients pursuant to this subchapter.

New §809.332 sets forth the procedures for sanctions for non-compliance with work requirements pursuant to this subchapter.

Randy Townsend, Director of Finance, has determined that for each year of the first five years the rules will be in effect, the following statements will apply:

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

There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules;

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

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

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

Mr. Townsend has also determined that there is no anticipated adverse impact on small businesses as a result of enforcing or administering the rules, because small businesses are not regulated by or required to do anything by these rules.

Mark Hughes, Director of Labor Market Information, has determined that there is no significant negative impact upon employment conditions in this state as a result of the proposed rules.

Jean Mitchell, Director of Workforce Development, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of implementing and administering the rules will be the increased opportunities offered to child care workers to advance in their careers, which in turn will improve the availability of quality child care statewide. It is also anticipated that the rules will improve the quality and productivity of the current and future workforce by furthering the education of individuals employed in the child care industry.

Comments on the proposal may be submitted to Gary Frederick, Texas Workforce Commission Building, 101 East 15th Street, Room 434T, Austin, Texas 78778, (512) 305-9672. Comments may also be submitted via fax to (512) 463-7379 or e-mailed to: Gary.Frederick@twc.state.tx.us. Comments must be received by the Commission within 30 days from the date of the publication in the *Texas Register*.

The new rules are proposed under Texas Labor Code, §301.061, which provides the Commission with the authority to adopt, amend or repeal such rules as it deems necessary for the effective administration of the Texas Workforce Commission's programs, and proposed under House Bill 2609 (76th Legislature, Regular Session, 1999), which amends Texas Labor Code §302.006.

The proposed rules affect the Texas Labor Code, Title 4.

§809.301. Scope and Purpose.

(a) Purpose. The purpose of the Child Care Train Our Teachers (TOT) award is to improve the availability of quality child care by increasing the opportunity of child care workers to obtain credentials or degrees in early childhood development and increase the opportunity to retain employment.

(b) Goal. The goal of TOT is to increase the professional level of child care workers in the Texas workforce and to encourage employment retention in the child care industry across the state.

§809.302. Definitions.

In addition to the definitions contained in §809.2 of this title (relating to Definitions), the following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

(1) Applicant -- A person applying for a Child Care Train Our Teachers award.

(2) Award -- Child Care Train Our Teachers award funds provided pursuant to Texas Labor Code §302.006 and this chapter.

(3) Certified Child Care Professional (CCP) -- A nationally recognized child care credential that is awarded by the National Child Care Association, Inc.

(4) Child care facility -- licensed, registered, or accredited child care facility as defined by §42.002, Human Resource Code excluding those facilities listed in §42.041(b), Texas Human Resources Code.

(5) Child Development Associate (CDA) -- A nationally recognized child care credential that is awarded by The Council for Early Childhood Professional Recognition.

(6) Director -- The executive director of the Texas Workforce Commission or the executive director's designee.

(7) Level one certificate -- A level one certificate in the area of child development or early childhood education from a public or private institution of higher education.

(8) Public or private institution of higher education -- An entity as defined in Texas Education Code §61.003(15).

(9) Recipient -- A person determined to be eligible who has been granted a Child Care Train Our Teachers award and has executed a contract with the Commission for purposes of receiving an award.

(10) Satisfactory completion -- Completion of the educational activity with at least a "C" average for which a recipient received an award.

(11) Satisfactory progress -- Maintenance of an average grade of at least a "C" in an educational activity by a recipient as referenced in §809.331(a) of this chapter (relating to Recipient Responsibilities).

§809.303. Eligibility.

A person is eligible for an award if the person:

(1) has obtained a high school diploma or its equivalent;

(2) intends to obtain one of the credentials, degrees, or certificates listed in §809.304 of this chapter (relating to Uses of the Award);

(3) agrees to work in a child care facility for at least 18 consecutive months immediately following successful completion of the eligible educational activities; and

(4) is currently employed in a child care facility.

§809.304. Uses of the Award.

(a) A recipient shall use an award to obtain one of the following credentials or degrees:

(1) a Child Development Associate (CDA) credential;

(2) a Certified Child Care Professional (CCP) credential;

(3) a level one certificate in the area of child development or early childhood education from a public or private institution of higher education; or

(4) an associate degree in the area of child development or early childhood education from a public or private institution of higher education.

(b) A recipient shall use an award only for the following expenses related to obtaining child care credentials or degrees:

(1) tuition, fees, and books;

(2) certification fees for the CDA or CCP credentials;

(3) transportation expenses;

(4) living expenses; and

(5) other expenses if approved in writing in the award contract.

§809.311. Award Administration.

(a) The director is responsible for the distribution of awards. The director may designate an employee or employees of the Commission who are knowledgeable in the administration of grants to administer the Train Our Teachers award.

(b) The director is not required to fund all applications for awards that are submitted.

(c) The director may distribute awards throughout the biennium in a manner that furthers the purpose and goals of the award.

(d) The director shall distribute awards to ensure that awards are available to child care workers statewide. The director may take into consideration the following factors when distributing awards:

(1) the relative proportion of the total number of children under age 5 years old residing within each local workforce development area to the statewide total of children under the age of 5 years old;

(2) the availability of degree granting public or private institutions of higher education; and

(3) the proportion of the total number of accredited, credentialed, and degreed child care teachers in each local workforce development area to the statewide total of accredited, credentialed and degreed child care teachers.

§809.312. Award Payments.

(a) The terms for distribution of funds under each award shall be set forth in individual award contracts.

(b) The director may distribute funds directly to:

(1) an educational or credentialing organization for the payment of tuition and fees; and

(2) the recipient for books, transportation, living expenses, or other related expenses.

§809.313. Procedure for Requesting Awards.

An applicant shall provide a complete award application and proof of current employment at a child care facility for the TOT award, as provided by the director.

§809.314. Procedure for Application Evaluation.

(a) Each application shall be reviewed by the director.

(b) Upon determination by the director that an award application has been selected for award, the director shall enter into a contract with the recipient, provided there are funds available for the distribution of the award.

§809.331. Recipient Responsibilities.

(a) A recipient shall maintain satisfactory progress in an educational activity and provide evidence of satisfactory progress in the educational activity in which the recipient is enrolled. Upon completion of the educational activity, the recipient shall provide evidence of satisfactory completion.

(b) Award contract amendments shall be requested in writing and approved by the director in advance of any changes being made to the contract.

(c) A recipient shall provide proof of employment at a child care facility not less than 30 consecutive days after completion of the educational activities including employer name, address, telephone number and immediate supervisor.

(d) A recipient shall notify the director of any change in employment status or employer information.

(e) A recipient shall provide the director a narrative report summarizing expenditures made with funds from the award, including evidence that the objectives specified in the award contract have been achieved.

§809.332. Sanctions for Non-Compliance.

(a) A recipient who fails to maintain employment in a child care facility for at least 18 consecutive months immediately following the satisfactory completion of the eligible educational activity shall repay the award as follows:

(1) if employed in a child care facility for less than six months following the completion of the activities under the award contract, the entire amount of the award is immediately payable; or

(2) if employed in a child care facility for more than six months but less than 18 months following the completion of the activity under the award contract, the award may be repaid on a prorated basis over the course of 12 months, as determined by the director.

(b) The director may impose one or all of the following sanctions for any breach of an award contract:

(1) immediate and full repayment by the recipient of the award amount;

(2) referral of the recipient's failure to pay to a credit bureau until such time as the full award amount is repaid;

(3) referral of the recipient's failure to repay to a local prosecutor for collection of the funds;

(4) notification of the recipient's failure to pay to the Office of the State Comptroller, which may affect the future receipt of state benefits or payments; and

(5) any other remedy available under state or federal law to collect a debt owed to the State of Texas.

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

Filed with the Office of the Secretary of State, on October 29, 1999.

TRD-9907311

J. Randel (Jerry) Hill

General Counsel

Texas Workforce Commission

Earliest possible date of adoption: December 12, 1999

For further information, please call: (512) 463-8812