

Chapter 800. Subchapter B.
§800.62 School-to-Careers Allocations.

40 TAC §800.62

The Texas Workforce Commission (Commission) adopts new §800.62, concerning School-to-Careers, without changes to the proposed text as published in the May 15, 1998, issue of the *Texas Register* (23 TexReg 4891). Section 800.62 will not be republished.

The purpose of the new §800.62, School-to-Careers, is to set out the method of allocating funds to local partnerships for the state's School-to-Careers activities, which are funded by the School-to-Work Opportunities Act as codified at 20 U.S.C.A. §6141 *et seq.*

The adopted rule is based on a five-year period for implementation of the state's School-to-Careers activities, which began March 1, 1997, in accordance with the federal grant awarded to the state by the U.S. Department of Education. The rule is adopted based on the presumption of continued federal funding in accordance with the state's application for an implementation grant as approved by the U.S. Department of Education, U.S. Department of Labor and the National School-to-Work Office. For the need-based method of allocation, the Commission anticipates using student population information from the following sources: the Texas Education Agency for grades kindergarten - 12, the Texas Higher Education Coordinating Board for community and technical college enrollment of students ages 15-25, and the Texas Workforce Commission JTPA Title II-C Youth Training Program for youths ages 16-21. From the total amount of funds awarded to the state, the state's share for conducting School-to-Careers activities shall be no more than thirty percent in the first year of the grant; twenty percent in the second year; and ten percent in the third, fourth, and fifth years. State administrative costs shall be limited to an amount not to exceed ten percent of each year's total grant award. Competitive subgrants were awarded to local partnerships for the first year of the implementation grant in accordance with the state's application to the U.S. Department of Education. For the continuation of the implementation grant, a need-based formula will be used to allocate funds among local workforce development areas throughout the state in accordance with Texas Labor Code, §302.062.

Some commenters were for the rule, and others had concerns and questions about the rule as proposed, and suggested changes. The Commission received comments on the rule from the following.

a Texas State Senator;

the Houston Galveston Area Council;

the Gulf Coast Workforce Development Board;

the West Central Texas Workforce Development Board, School-to-Work Committee; and

the West Central Texas Workforce Development Board.

Following each comment or group of related comments is the Commission's response.

Comment: Two commenters support the proposed rule and assert the formula will provide more equitable services for students in Texas.

Response: The Commission appreciates the commenters' expressions of support.

Comment: One commenter compares the allocation for two areas based on the rule and states one area has almost twice the number of school districts with which to work, three times the number of counties, twice as many square miles to cover, almost twice as many students, and six times the percent of poverty, yet the other area is allocated almost twenty percent more funding. The commenter requests the rationale for allocation of funds.

Response: In the first year of the School-to-Careers grant, funding for local partnerships was based on a Request for Proposals, which emphasized developing the structure for School-to-Careers activities. Funds were awarded primarily on the basis of the quality of the proposals. The rule proposes allocation of funds based on student population in the second year of the grant in order to implement most effectively the service structure developed in the first year. However, in order not to penalize any area in the transition from structure emphasis to service emphasis, a portion of the state's share of the second year grant is provided to ensure that no area receives less in the second year than their allocation in the first year. It is this additional funding from the state's share of the grant that results in the greater amount of funding for the smaller area addressed in the comment. The allocation formula does not address size of an area because there is not a direct correlation on a statewide basis between size of an area and service provision. Also, activities provided under this grant are available to any interested student, with parental consent, and do not target low-income students or areas.

Comment: One commenter agrees that population should be one factor in the allocation of funds but asserts that this single factor does not adequately address the diversity of Texas or the quality of local systems. The commenter believes the intent of School-to-Careers funding is to build a statewide system of local partnerships dedicated to ensuring lifelong learning opportunities for interested youth in high-skill, high-wage careers. The commenter also believes that implementation funds are not intended for direct individual student benefits but to develop local

partnerships and systems. The commenter suggests factors in the funding allocation should include: 1) the number of school districts and postsecondary institutions; 2) the number of local partnerships proportionate to population density; and 3) challenges resulting from: limited availability of mentoring, internship, and apprenticeship opportunities; lack of transportation and other services; and limited availability of community and employer resources, both financial and human. The commenter further asserts that implementation of a statewide system requires the participation and involvement of all interested communities, not just the large metropolitan areas, and that the time and effort to engage all partners (students, parents, employer, labor and educators), whether in small communities or large cities, is equal. The commenter states that adequate funds are needed to build sustainable quality systems in every community that will continue to thrive when federal funds are no longer available.

Response: The Commission concurs with the goal of a statewide system of local partnerships including any interested community and any interested partner. Although the Commission understands that time and effort are involved in working with each entity, there are notable differences in the number of school districts and postsecondary institutions in various areas of the state in relation to factors relevant to School-to-Careers issues. The time and effort required to establish appropriate activities in one large and complex educational institution may be as much or more than required for a multitude of institutions in another area. The funds provided in the first year of the grant were for the purpose of establishing linkages among the entities involved in School-to-Careers activities. The number of entities contributing to the partnership was, therefore, a more significant factor in the first year. Funding for the second year of the grant is expected to result in an increase in voluntary, parental-approved, participation of students; therefore, the student population will have a greater impact in the second year. The challenges listed in the comment are factors to be considered in the local partnership's implementation plan, but they cannot be equitably enumerated on a statewide basis.

Comments regarding §800.62(d) are as follows.

Comment: One commenter does not agree that the number of students in an area corresponds to need and asserts that the formula does not account for the demographics of the students, income level of the area, dropout rates, or other factors. The commenter recommends that TWC develop an alternate formula that addresses student need, if that is the true intent and allocation basis.

Response: The Commission understands that students have diverse needs based on demographics, income levels, etc. However, the Commission disagrees with including these factors because the School-to-Careers activities are available to all students who are interested in participating (with parental consent). The state's implementation plan does not target specific sub-populations such as economically disadvantaged or educationally disadvantaged.

Separate funds have been set aside in the federal School-to-Work Opportunities Act of 1994 that target economically depressed areas, and the local partnerships may apply directly to the federal government for those funds.

Comment: One commenter does not agree with the general premise that funds should be allocated based on student population and references the federal legislation and the state application as indicating that School-to-Careers funds are to be used to build a system rather than serve individual students. The commenter asserts that the funding allocation methodology should be based on system components rather than students, *i.e.*, the number of school districts or chambers of commerce rather than the number of students. The commenter recommends development of an alternate formula based on system-building factors rather than service to individual students.

Response: Allocation of funds for the first year of the School-to-Careers grant emphasized the development of processes and procedures for implementation of the School-to-Careers activities. The funding increase in the second year of the grant is expected to result in expanded services for participating schools, building on the first year's development. Therefore, the Commission disagrees with changing the allocation method because it considers student population the most appropriate basis for distribution of funds to accomplish the service implementation.

Comment: One commenter notes that the rule does not identify the methodology or percentage of funds reduced as a result of not demonstrating or maintaining satisfactory progress and suggests this should be more clearly defined.

The commenter further notes there is no indication of how funds withheld from areas would be used and recommends establishing a limit and/or range of funds that could be withheld for nonperformance. The commenter recommends a provision that up to twenty percent of an area's funds could be withheld for nonperformance and that these funds be used to provide incentives to local areas with exemplary performance. The commenter recommends that the Commission not take action on the proposed rule until a methodology and percentage of funds is identified for nonperforming programs.

Response: The Commission appreciates the commenter's recommendations for amount of reduction and use of withheld funds; however, the Commission disagrees with setting aside up to 20% of an area's funds because there are considerable differences in plans and setting a fixed amount may not adequately address the various situations that may arise. For that reason, the Commission declines to specify the amount of potential reductions. "Satisfactory

progress" refers to progress related to the previous year's grant. A satisfactory level of progress may be delayed but later attained, in which case the allocated funds would then be released to the respective partnership.

Comment: One commenter references the terms "satisfactory progress" and "overall quality" and notes that these terms are not defined in the rule. The commenter asserts that if these are factors in allocating funds, there must be clear definitions and that the Commission needs to define both terms clearly and provide an opportunity for review and comment by local boards on the proposed definitions. The commenter notes that TWC has issued no policy and/or guidance on performance or progress indicators and recommends that the Commission not take action on the proposed rule until further definition is provided of the terms "satisfactory progress" and "overall quality".

Response: These are not factors in determining the specific amount of funds to allocate; rather, they relate to requirements for a partnership to receive the full amount of funds allocated. The overall quality refers to the plan submitted in the previous year, which was evaluated based on criteria in the planning guidelines. Satisfactory progress must necessarily be determined on an individual partnership basis because the activities planned in the various local areas are different and the contract implementation dates are different. The Texas Council on Workforce and Economic Competitiveness is in the process of developing an evaluation instrument for the state's School-to-Careers activities. As such, the Commission disagrees with adding definitions as requested.

The new sections are adopted under Texas Labor Code, Title 4, particularly, §§301.061 and 302.001 which provide the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the programs administered by the Commission.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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