

Sections 809.301-809.304, 809.311-809.314 809.331 and 809.332 Child Care Train Our Teachers Awards

The following rule amendments will be effective January 10, 1999.

The Texas Workforce Commission (Commission) adopts new §§809.301, 809.303, 809.304, 809.311-809.314, 809.331 and 809.332, concerning Train Our Teachers (TOT) awards, without changes and §809.302 with changes to the proposed text as published in the November 12, 1999, issue of the *Texas Register* (24 TexReg 9982).

The purpose of the new rules is to implement the provisions of House Bill 2609, (76th Legislature, Regular Session, 1999), relating to the TOT awards 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.

Comments were received from the Coastal Bend Local Workforce Development Board (LWDB), the Upper Rio Grande LWDB, and the North Central LWDB. Two of the commenters supported the rules and requested clarification of some aspects of the rules. One commenter opposed the rules.

Comment: One commenter supported the purpose and goal of the TOT program and the Commission's effort to raise the professional level of child care providers and teachers. The commenter also supported the criteria for eligibility and the allowable expenditures stipulated in the proposed rules, the proposed methodology for administering the program, and the Commission's approach to holding recipients accountable to their work obligation through a signed contract.

Response: The Commission agrees that raising the knowledge base and professional skills of child care teachers and providers is critical to the State's commitment to improve the quality of child care services. The Commission appreciates the commenter's support of the proposed eligibility criteria, allowable expenditures, method of administration, and provisions for promoting personal responsibility on the part of award recipients.

Comment: One commenter stated that tracking applicants would be a difficult task. Experience with current grant monies for other programs has shown problems in keeping applicants committed to their agreements.

Response: The Commission agrees with the commenter that tracking recipients will be a formidable task and has established reporting and tracking procedures specifically for the TOT program. The Commission supports personal responsibility

and intends for the award recipients to fulfill the work obligation stipulated in their individual TOT contracts. Procedures are established to recoup funds from recipients who fail to do so.

Comment: One commenter objected to the Commission's decision to administer the program centrally from the State Office. The commenter stated the LWDBs could better administer the program because they already have in place the mechanisms to administer the funds expeditiously. The commenter cited the Workforce and Economic Competitiveness Act which gives the LWDBs responsibility for planning and oversight of workforce training programs. In order to fulfill that mission, the commenter stated that it is essential for the LWDBs to have control over local workforce services and for the TOT funds to be allocated to and administered by the LWDBs.

Response: The Commission disagrees with the commenter regarding the most expeditious way to administer the TOT program. Given the unknown cost of administering a new program and the uncertain commitment of the Legislature with regard to funding this initiative beyond the current biennium, the Commission believes it is best to administer this program centrally.

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 retaining trained workers 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. The opportunity to obtain professional credentials or degrees is also expected to attract new workers to the child care profession.

The intent of the Legislature and the Commission is also to help raise the professional level of child care workers in a maximum number of facilities across the state. The new law and the rules help to increase the availability of qualified professional child care workers and ensure that certain child care facilities, as defined under Section 42.002 of the Texas Human Resources Code, will have continued access to the services of these qualified professional child care workers.

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. Stakeholders included representatives of the following: the Legislature, the LWDBs, child care contractors, early childhood development programs, the national child care information clearinghouse, community colleges that award child care professional credentials, interested state agencies, child care providers and others.

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 LWDBs at a meeting held on September 16, 1999, and through a conference call on October 8, 1999.

With funds available for the Train Our Teachers Award for the FY 2000 - 2001 biennium limited to \$2 million, the Commission has determined that the funds shall be used primarily for expenditures associated with obtaining professional child care training and credentials. The Commission further believes that because of the funding limitation, central administration will promote economies of scale in implementation of the TOT program. As a result, more funds will be available to train child care professionals, enhancing the quality of child care services as well as increasing the number of child care teachers and workers available to meet a critical demand in the labor market.

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 TOT 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, as well as the parents themselves.

The new rules are adopted 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 Commission's programs, and adopted under House Bill 2609 (76th Legislature, Regular Session, 1999), which amends Chapter 302 of the Texas Labor Code by adding § 302.006.

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

§ 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, up to a maximum of \$1,000 per award recipient, 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 Section 42.002, Human Resource Code excluding those facilities listed in Section 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.