

## **Chapter 809. CHILD CARE AND DEVELOPMENT**

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

#### **40 TAC §§809.302, 809.303, 809.331, 809.332**

The Texas Workforce Commission (Commission) proposes amendments to §§809.302, 809.303, 809.331, and 809.332 relating to the Child Care Train Our Teacher Awards.

The purposes of the proposed amendments to the Train Our Teachers (TOT) scholarship awards are to incorporate into those rules the provisions of House Bill (HB) 1309 enacted by the 77th Legislature, Regular Session and to address additional changes to enhance the delivery of the award.

Definitions of "economically disadvantaged community," "low-performing school" and "Child Care and Development Fund (CCDF) Subsidies" are added to clarify terms required by HB 1309. The criteria selected for defining economically disadvantaged community are based in part on a county's per capita income that falls below the state average and in part on the counties of residence of 1,000 or more children under 13 years of age at or below 150% of poverty. Both criteria serve as indicators of communities that are economically disadvantaged and are tied to low income levels of families. Using the criteria of 1,000 or more children under 13 years of age that are at or below 150% of poverty reflects communities in which there is a greater demand and need for child care services for more economically disadvantaged families than other communities. The definition of low-performing school is derived from the statutory and regulatory requirements set by the Texas Education Code and Texas Education Agency as established in HB 1309. The definition of Child Care and Development Fund Subsidies is a new term added by HB 1309 and is limited to those funds derived from CCDF.

Section 809.303(4) is changed to accomplish two objectives. The first change adds the requirement of HB 1309 that the facility in which the 18-month work requirement is performed: (1) accept CCDF subsidies; and (2) be located in an economically disadvantaged community or within the attendance zone of a low-performing public school campus. The second change allows the 18-month work requirement to begin at the time of the award. The reason for the second change simplifies administration in tracking compliance with the requirements of the award.

Section 809.303(3) is changed to require that an award recipient must be employed in a child care facility that meets the HB 1309 requirements in order to be eligible to receive a TOT award. The reason for this change is to alleviate turnover among award recipients that, at the time the award is granted, may be employed in facilities that do not meet the HB 1309 stipulations for the 18-month work requirement. The Commission's intent is to strengthen quality child care by reducing staff turnover and promoting continuity in the employment of TOT recipients, while at the same time enabling both child care teachers and their current employers to receive the benefits of the TOT awards. Section 809.331(c) was deleted to conform with the changes reflected in §809.303(4) because the work requirement beginning at the time of the award would be verified at the time of the award rather than after the completion of the educational activities.

Section 809.332(a) adds language to conform to changes reflected in §809.303.

Randy Townsend, Director of Finance, has determined that for each year of the first five years the rule 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 rule;

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

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

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

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

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

James Barnes, 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 rule.

Donna Garrett, Director of Child Care and Development, has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to provide information and increase the number of child care teachers and improve the quality of child care in Texas.

Comments on the proposal may be submitted to John Moore, Texas Workforce Commission Building, 101 East 15th Street, Room 608, Austin, Texas 78778, (512) 463-3041. Comments may also be submitted via fax to (512) 463-

1426 or e-mailed to: John.Moore@twc.state.tx.us.. Comments must be received by the Agency within thirty days from the date of the publication in the *Texas Register*.

The amendments are proposed under Texas Labor Code §301.061 and §302.002, which provide the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The amendments affect Texas Labor Code, Chapter 302, and Texas Human Resources Code, Chapters 31 and 44. §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 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 and Development Fund (CCDF) Subsidies--Funds allocated to local workforce development areas by the Texas Workforce Commission for the purpose of providing subsidized child care services to eligible families.

(5) [ (4) ] Child care facility--A 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.

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

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

(8) Economically disadvantaged community--A county that has a per capita income that is below the state average or that has 1,000 or more children under 13 years of age that are at or below 150% of poverty.

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

(10) Low-performing school--A Texas public school that, at the time the Train Our Teachers award is granted, has been designated and is considered by the Texas Education Agency as a low-performing school.

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

(12) [ (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.

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

(14) [ (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) is currently employed in a child care facility that accepts CCDF subsidies and that at the time of the award is located in an economically disadvantaged community or within the attendance zone of a low-performing school [ ~~agrees to work in a childcare facility for at least 18 consecutive months immediately following successful completion of the eligible educational activities~~ ]; and

(4) agrees to work for at least 18 consecutive months following receipt of the award in the same or in another child care facility that accepts CCDF subsidies and that at the time of the award is located in an economically disadvantaged community or within the attendance zone of a low-performing school. [ ~~is currently employed in a child care facility.~~ ]

#### §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.]~~

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

(d) ~~[(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 that at the time of the award accepts CCDF subsidies and is located in an economically disadvantaged community or within the attendance of a low-performing school for at least 18 consecutive months ~~[ immediately-]~~ following receipt of the award ~~[ the satisfactory completion of the eligible educational activity-]~~ shall repay the award as follows:

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

(2) if employed in such a child care facility for more than six ~~[ months-]~~ but less than 18 consecutive months following the receipt of the award, ~~[ 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 November 27, 2001.

TRD-200107257

John Moore

Assistant General Counsel

Texas Workforce Commission

Earliest possible date of adoption: January 13, 2002

For further information, please call: (512) 463-2573