

TEXAS WORKFORCE COMMISSION LETTER

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Effective:	Immediately

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



From: Courtney Arbour, Director, Workforce Development Division

Subject: **Recovery, Use, and Remittance of Child Care Recoupments from Parents**

PURPOSE:

To provide Local Workforce Development Boards (Boards) with procedures for the use and remittance of child care recoupments from parents.

RESCISSION:

WD Letter 05-04, Change 1

BACKGROUND:

The Texas Workforce Commission (TWC) released WD Letter 05-04, issued April 14, 2004, and entitled "Overpayment Recovery of Child Care Related Funds," and its replacement, WD Letter 05-04, Change 1, issued May 26, 2004, to provide Boards with information about the use and remittance of child care recoupments from parents. This WD Letter replaces, updates, expands, and reorganizes that guidance by:

- describing the relationship of the content to other requirements;
- clarifying that recouped amounts are not program income;
- identifying recoupment information that Boards must collect;
- clarifying when and how to remit recouped amounts to TWC;
- clarifying what constitutes a fraudulent violation of federal eligibility requirements;
- making a procedural change that enables Boards to remit fraud recoupments without adjusting previously submitted expenditure reports and financial closeout packages;
- consolidating repetitive information within the letter; and
- updating references.

This WD Letter supplements information in the child care statutes, regulations, rules, and guidance described in the following paragraphs.

On November 19, 2014, the Child Care and Development Block Grant (CCDBG) Act of 2014 (Pub. L. 113-186) was signed into law. The US Department of Health and Human Services issued its Final Rule for the Child Care and Development Fund (CCDF) program on September 30, 2016. On October 1, 2016, the CCDBG Act of 2014 took effect.

TWC issued WD Letter 21-16 on October 13, 2016, entitled “Requirements for Reporting and Fact-Finding for Suspected Fraud, Waste, Theft, Program Abuse Cases, and Recovery of Improper Payments,” to provide Boards with related changes resulting from the CCDBG Act of 2014. WD Letter 21-16 includes procedures that address a parent’s ineligibility for services until recovery of improper payments is complete for fraud, child care services received while waiting on an appeal, and Board payment of the parent’s share of cost (PSOC) when the parent failed to pay. It also includes procedures for establishing a debt and the recovery of improper payments. On January 29, 2018, TWC issued WD Letter 21-16, Change 1, to add instructions for sending debt to TWC’s Collections and Civil Actions Department, Regulatory Integrity Division (Collections), and to make technical changes.

On March 29, 2017, TWC issued WD Letter 14-17, entitled “Operational Guidance for Receivables Established for Child Care Services Improperly Paid before October 1, 2016,” to provide guidance for recoupment of child care receivables established before the CCDBG Act of 2014 went into effect.

The CCDF rules at 45 CFR §98.60(i) and TWC Child Care Services rule §809.117(d) require Boards to attempt to recover amounts for the following improper payments from parents:

- Fraud
- Child care that the parent received while awaiting an appeal that was affirmed
- Child care paid by the Board when the parent failed to pay PSOC

TWC rules at §§809.19(c), 809.75, and 809.111 define fraud and further address the payments above.

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.”

Payments Subject to Recoupment

NLF: Boards must attempt to recover amounts involving the following improper payments from parents:

- Fraud (including fraud that involves violations of federal requirements and fraud that involves violations of state or local requirements) (see Note)
- Child care that the parent received while awaiting an appeal that was affirmed (see Note)
- Child care paid by the Board when the parent failed to pay PSOC

Note: If a parent appeals a fraud determination and the appeal is affirmed, child care that the parent received while awaiting the appeal increases the amount of the fraud determination and is treated the same as fraud for the collection purposes described in this WD Letter.

NLF: Boards must establish a debt for the amounts above—fraud, child care that the parent received while awaiting an appeal that was affirmed, and child care paid by the Board when the parent failed to pay PSOC—in accordance with the procedures in WD Letter 21-16, Change 1, and any subsequent issuances, and attempt to collect debts for those amounts in accordance with the procedures in WD Letters 14-17 and 21-16, Change 1, and any subsequent issuances.

Recoveries Resulting from TWC Warrant Holds

NLF: Boards must be aware that when a Board sends a final debt to TWC Collections so that TWC Collections staff can place a warrant hold on the debtor’s account in accordance with WD Letter 21-16, Change 1, and any subsequent issuances, and the warrant hold results in TWC’s recovery of funds from a parent’s debt, TWC will not remit the recovery to the Board. TWC will process the recovery as follows:

- If the recovery is for fraud that involved violation of a federal requirement, TWC will remit the recovery to the federal government.
- If the recovery is for fraud that involved violation of a state or local requirement, or non-fraud activities, TWC will process the payment according to TWC’s established internal procedures for the deposit and use of funds previously paid out under a grant award.

NLF: Boards must be aware that for purposes of recoveries that result from TWC warrant holds, TWC will confirm the Board’s determination and overpayment reason for the debt based on information that Boards provide in the Program Integrity Reporting Tracking System (PIRTS) or other information that TWC obtains from the Boards.

Requirements for Paying Parent Share of Cost

NLF: Boards must use operational funds (nondirect child care funds) to reimburse child care providers if it is the Board’s policy to pay PSOC to a child care provider when the parent fails to pay.

Establishing Receivables for Amounts Due

NLF: Boards must establish a local receivable or other mechanism for tracking amounts due from parents and amounts collected from parents.

NLF: When the amounts to recover are for fraud that involves a violation of federal requirements, Boards must ensure that the local receivable or mechanism for tracking

amounts due and collected from parents must include or be supported by the following details for each parent from whom amounts are due:

- The amounts to be recouped
- The dates that the payments being recouped were made to or on behalf of the parent
- The amounts recouped and the dates of recovery
- The balance due

NLF: When a Board sends a debt to TWC in accordance with WD Letter 21-16, Change 1, and any subsequent issuances, the Board must keep the local receivable open. TWC will notify the Board if a warrant hold results in recovery of the debt.

NLF: Boards must be aware that amounts recovered from parents are not program income. Rather, recoupments are recoveries or reimbursements of amounts owed to the program.

Retention and Use of Certain Recoupments

NLF: Boards must use amounts that Boards recoup from parents for the following reasons for allowable child care activities, disbursing such funds before drawing additional grant funds from TWC:

- Fraud that did not involve violation of a federal requirement
- Child care that the parent received while awaiting an appeal that was affirmed
- Child care paid by the Board when the parent failed to pay PSOC

Boards do not remit or report these amounts to TWC, but they must retain documentation to show that they disbursed the recouped funds for allowable child care activities.

Note: The requirement to disburse such funds before drawing additional grant funds from TWC is based on payment requirements in 2 CFR §200.305 of Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), and Part III, §__.21 of Uniform Grant Management Standards (UGMS).

Remittance of Certain Fraud Recoupments to TWC

NLF: Boards must remit amounts recovered from parents for fraud that involved violation of a federal requirement to TWC Revenue and Trust Management along with a completed TWC Cash Remittance Report within 90 calendar days from the Board's receipt of such funds. More frequent remittances are encouraged when it is cost effective to do so.

Note: The 90-day remittance considers that individual recoupments are generally small in value, and the amount of time generally allowed for collections of amounts due under 2 CFR §200.345 of Uniform Guidance, and Part III, §__.52 of UGMS.

NLF: Boards must be aware that the TWC [Cash Remittance Report](#) is available on the [Financial & Grant Information](#) page of the TWC website.

NLF: Boards must remit fraud recoupments relating to ineligibility to TWC only when the ineligibility involves a fraudulent violation of a federal requirement. A fraudulent violation of a federal eligibility requirement occurs when the fraud results in ineligibility

under 45 CFR §98.20 of the CCDF regulations. Under 45 CFR §98.20, a child is not eligible if the child:

- is 13 years of age or older (19 years of age or older for a child with disabilities or a child receiving protective services);
- resides in a family with an income that exceeds 85 percent of the state median income;
- resides with a single parent or dual parents who are not working, who are not in a job training, or who are not in an education activity; or
- is not a US citizen or legal immigrant.

TWC Cash Remittance Report Instructions for Certain Fraud Recoupments

NLF: When completing the TWC Cash Remittance Report to remit a child care fraud recoupment as described above to TWC, Boards must:

- complete the contact information at the top of the report;
- complete the Amount and Reason Coding columns of the payment detail table;
- use reason code 6. *Other (Explain)* and provide a brief explanation such as “fraud” or “fraud recoupment” in the space provided;
- specify the check amount and check number in the spaces provided; and
- provide the name of the individual who prepared the report, the preparer’s phone number, and the date in the spaces provided.

LF: When completing the TWC Cash Remittance Report for the reason above, Boards may leave the Contract Number column of the payment detail table blank.

No Effect on Expenditure Reports and Financial Closeout Packages

NLF: Effective immediately, Boards must be aware that submitting a fraud recoupment to TWC does not require a corresponding reduction to the expenditure reports or financial closeout package of the affected grant award. TWC must remit the recoupment to the federal government, but it is not required to reduce the expenditure from its financial records.

Disallowed Costs

NLF: Boards must remit to TWC all disallowed costs identified through TWC audit resolution or TWC state single audit. Costs that are disallowed by a Board but not by TWC must remain with the Board and be used for allowable child care activities.

INQUIRIES:

Send inquiries regarding this WD Letter to fiscal.ta@twc.state.tx.us.

REFERENCES:

Child Care and Development Fund Final Rule, 45 CFR §§98.50–98.57 and 98.60(i)
Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR §200.305 Payment and §200.345 Collection of Amounts Due
Uniform Grant Management Standards, Part III, §__.21 Payment and §__.52 Collection of Amounts Due

Texas Workforce Commission Child Care Services Rules: 40 TAC §§809.19(c), 809.75, 809.111, and 809.117(d)

WD Letter 14-17, issued March 29, 2017, and entitled “Operational Guidance for Receivables Established for Child Care Services Improperly Paid before October 1, 2016,” and any subsequent issuances

WD Letter 21-16, Change 1, issued January 29, 2018, and entitled “Requirements for Reporting and Fact-Finding for Suspected Fraud, Waste, Theft, Program Abuse Cases, and Recovery of Improper Payments—*Update*,” and any subsequent issuances