

SUPPLEMENTAL MATERIALS

AGENDA ITEM VIII-D (18)

Consideration and possible action to adopt new Board Rules, Chapter 22, Subchapter M, Section 22.265, and amendments to Board Rules, Chapter 22, Subchapter M, Sections 22.254, 22.256-22.259, 22.261, 22.262, and 22.264, concerning the Texas Educational Opportunity Grant Program

RECOMMENDATION: Approval

Background Information:

The adopted amendments are necessary to implement the substantive changes upon which the Negotiated Rulemaking Committee on Texas Educational Opportunity Grant reached consensus (August 2, 2023).

Rule 22.254 is amended to add the definition of "certificate program." The negotiated rulemaking committee defined "certificate program" to acknowledge the role that certificate programs play in achieving the state's goals as outlined in Building a Talent Strong Texas. The definition provides institutions with greater flexibility to acknowledge the broadening range of credentials that support the success of Texans. The definition of "certificate program" is revised from what was published in the *Texas Register* and a definition for "technical and career education" is added. These changes are made to provide even greater clarity that certificate programs eligible for TEOG consideration may be offered through either academic courses or career and technical education courses.

Rule 22.254 is also amended to alter the definition of "entering undergraduate." The negotiated rulemaking committee increased the number of credit hours under which a student will be considered an entering undergraduate. The change provides eligible institutions with greater flexibility to acknowledge the variety of pathways that students may take to starting an associate degree or certificate program.

Rule 22.261 is amended to alter the calculation of the maximum grant program. The amended calculation recognizes both in-district and out-of-district resident students. The negotiated rulemaking committee views this change as a better representation of the grant calculation outlined in Texas Education Code, Section 56.407(a). The amendment will require an alteration to the manner in which institutions calculate a data element submitted through the Coordinating Board's Integrated Fiscal Reporting system which is used for this purpose. The rule is also amended to reflect the statutory change enacted by House Bill 8, 88th Texas

Legislature, Regular Session. The amendment provides eligible institutions clarity regarding the statutory change and its effective date.

Rule 22.265 is added regarding the placement of text within subchapter M. The text captured in this section, related to Disbursement of Funds to Institutions, is being removed from §22.262 and §22.264 and added in §22.265 verbatim to maintain consistency in the rule structure used in the subchapters of chapter 22.

Rules 22.257 and 22.259 are amended to include language acknowledging semester credit hour equivalency and certificate programs. These acknowledgments exist throughout subchapter M but had been inadvertently left out of these two rules.

Rules 22.256, 22.258, 22.262, and 22.264 are amended to make non-substantive changes that correct grammar, improve consistency, and remove outdated references.

The rules will be republished to capture changes to the proposed text regarding the correction of references to the phrase “Coordinating Board” to align with amendments being adopted in Rule 22.1 in conjunction with this negotiated rulemaking effort.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, will present this item and be available to answer questions.

Dates Published in the *Texas Register*: October 13 and November 3, 2023.

The 30-day comment periods with the *Texas Register* ended on: November 12 and December 3, 2023.

Two comments were received regarding the amendments to these rules.

Comment: A comment was received recommending that the Coordinating Board further define a “half-time” contact hour equivalency specifically for continuing education students pursuing certificates or short-term credentials.

Response: Amendments being adopted in Rule 22.1 in conjunction with this negotiated rulemaking effort provide the definition for the “equivalent of a semester credit hour.” The Coordinating Board has determined that this new definition, in combination with the existing definition of “half-time” in Rule 22.1, adequately accomplishes the intended goal of the comment. As such, no change is being made in response to this comment.

Comment: A comment was received recommending the Coordinating Board change all references to “expected family contribution” with references to “student aid index,” in response to changes in terminology occurring at the federal level.

Response: In May 2023, Rule 22.1 was amended to update the definition of “expected family contribution” for the entirety of Title 19, Part 1, Chapter 22. The definition now reads as follows, “A measure utilized to calculate a student's financial need as regulated and defined by

the methodology used for federal student financial aid.” The Coordinating Board has determined that this updated definition accomplished the goal of reflecting the changes in the new terminology in the federal methodology. As such, no change is being made in response to this comment.

CHAPTER 22 STUDENT FINANCIAL AID PROGRAMS

SUBCHAPTER M TEXAS EDUCATIONAL OPPORTUNITY GRANT PROGRAM

§22.254. Definitions.

In addition to the words and terms defined in §22.1 of this chapter (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) Career and Technical Education Course--A workforce or continuing education college course offered by an institution of higher education for which a student may earn credit toward satisfaction of a requirement necessary to obtain an industry-recognized credential, certificate, or associate degree.

(A) A career and technical education course is listed in the Workforce Education Course Manual (WECM).

(B) For the purpose of this subchapter, this definition excludes:

(i) an avocational course;

(ii) a continuing education course that is ineligible for conversion as articulated college credit; and

(iii) a continuing education course that does not meet the institution's program or instructor accreditation standards.

(2) Certificate Program--For purposes of the Texas Educational Opportunity Grant Program, Level 1 and Level 2 certificates, Occupational Skills Awards, and other credentials of value as defined in §13.472 of this chapter (relating to Definitions). These include programs offered through academic courses or career and technical education courses, as defined in paragraph (1).

(3) [(4)] Continuation Award--A grant awarded to a person who has previously received an initial year award.

(4) Entering undergraduate--A student enrolled in the first 45 semester credit hours or their equivalent, excluding hours taken during dual enrollment in high school and courses for which the student received credit through examination.

(5) [(2)] Forecast--The FORECAST function in Microsoft Excel.

(6) [(3)] Grant--Funds awarded to a student through the Texas Educational Opportunity Grant Program.

(7) [(4)] Initial year award--The grant award made in the student's first year in the Program.

(8) [(5)] Program--The Texas Educational Opportunity Grant Program.

§22.256. Eligible Students.

(a) To receive an initial year award through the Program, a student must:

- (1) be a resident of Texas;
- (2) show financial need;
- (3) have applied for any available financial aid assistance;
- (4) be enrolled at a participating institution on at least a half-time basis as an entering student [~~which is a student enrolled in the first 30 semester credit hours or their equivalent, excluding hours taken during dual enrollment in high school and courses for which the student received credit through examination~~]; and
- (5) be enrolled in an associate degree or certificate program at a participating institution.

(b) To receive a continuation award through the Program, a student must:

- (1) have previously received an initial year award through this program;
- (2) show financial need;
- (3) be enrolled on at least a half-time basis;
- (4) be enrolled in an associate degree or certificate program at an eligible institution; and
- (5) make satisfactory academic progress towards an associate degree or certificate, as defined in §22.257 of this subchapter (relating to Satisfactory Academic Progress).

§22.257. Satisfactory Academic Progress.

(a) Eligibility at End of Initial Year Award. Students who complete their first year receiving a grant in compliance with their institutions' financial aid academic progress requirements are eligible to receive continuation awards in the following year if they meet the other requirements listed in §22.256 of this subchapter (relating to Eligible Students).

(b) Eligibility at End of a Continuation Award. Students shall, unless granted a hardship provision in accordance with §22.259 of this subchapter (relating to Hardship Provisions), as of the end of an academic year in which the student receives a continuation award:

(1) complete at least 75% of the semester credit hours or their equivalent attempted in the student's most recent academic year; and

(2) maintain an overall cumulative grade point average of at least 2.5 on a four-point scale or its equivalent.

(c) The calculation of a student's GPA is to be completed in accordance with Subchapter A of this chapter (relating to General Provisions).

(d) The completion rate calculations may be made in keeping with institutional policies.

§22.258. Discontinuation of Eligibility or Non-Eligibility.

(a) A student may not receive a grant while concurrently receiving a TEXAS Grant.

(b) A student may not receive a grant after having been granted an associate or baccalaureate degree.

(c) A student's eligibility for the program ends once a student has attempted 75 semester credit hours or the equivalent, unless the student is granted a hardship extension in accordance with §22.259 of this subchapter (relating to Hardship Provisions).

(d) A student's eligibility for the program ends four years from the start of the semester in which the student received an initial year award, unless the student is granted a hardship extension in accordance with §22.259 of this subchapter.

(e) A person is not eligible to receive a grant if the person has been convicted of a felony or an offense under Chapter 481, Health and Safety Code (Texas Controlled Substances Act), or under the law of any other jurisdiction involving a controlled substance as defined by Chapter 481, Health and Safety Code, unless the person has met the other applicable eligibility requirements under this subchapter and has:

(1) received a certificate of discharge by the Texas Department of Criminal Justice or a correctional facility or completed a period of probation ordered by a court, and at least two years have elapsed from the date of the receipt or completion; or

(2) been pardoned, had the record of the offense expunged from the person's record, or otherwise been released from the resulting ineligibility to receive a grant.

(f) Other than as described in §22.259 of this subchapter, if a person fails to meet any of the requirements for receiving a continuation award as outlined in §22.256 of this subchapter (relating to Eligible Students) after completion of any year, the person may not receive a grant until after completing a semester of at least half-time coursework while not receiving a grant and meeting [~~meets~~] all the requirements of §22.256 of this subchapter as of the end of that semester.

§22.259. Hardship Provisions.

(a) In the event of a hardship or for other good cause, the Program Officer at a participating institution may allow an otherwise eligible student to receive a grant;

(1) while maintaining a grade point average below the required level, as defined in §22.257 of this subchapter (relating to Satisfactory Academic Progress);

(2) while maintaining a completion rate below the required level, as defined in §22.257 of this subchapter;

(3) while enrolled less than half time;

(4) while enrolled in semester credit hours in excess of the attempted hour limit, as defined in §22.258(c) of this subchapter (relating to Discontinuation of Eligibility and Non-Eligibility), though the total number of semester credit hours paid for, at least in part, with program funding may not exceed 75 or its equivalent; or

(5) while enrolled beyond the time limit restrictions, as defined in §22.258(d) of this subchapter.

(b) Hardship conditions may include, but are not limited to:

(1) a showing of a severe illness or other debilitating condition that may affect the student's academic performance;

(2) an indication that the student is responsible for the care of a sick, injured, or needy person and that the student's provision of care may affect his or her academic performance; or

(3) the requirement of fewer than six semester credit hours or their equivalent to complete one's degree or certificate plan.

(c) Documentation of the hardship circumstances approved for a student to receive a grant must be kept in the student's files, and the institution must identify students approved for a grant based on a hardship to the Coordinating Board, so that it may appropriately monitor each student's period of eligibility.

(d) Each institution shall adopt a hardship policy under this section and have the policy available in writing in the financial aid office for public review upon request.

§22.261. Grant Amounts ~~[and Adjustments]~~.

(a) Funding. Funds awarded through this program may not exceed the amount of appropriations, grants, and other funds that are available for this use.

(b) Grant Amounts.

(1) The amount of a grant may not be reduced by any gift aid for which the person receiving the grant is eligible, unless the total amount of a person's grant plus any gift aid received exceeds the student's cost of attendance. However, no student's grant shall be greater than the amount of the student's financial need.

(2) The Coordinating Board shall determine and announce the maximum grant amount in a given state fiscal year by January 31 of the prior fiscal year. The calculation of the maximum grant amount for a semester will be based on the average statewide amount of tuition and required fees at eligible institutions that a ~~[an in-district]~~ resident student enrolled full-time in an associate degree or certificate program measured in semester credit hours would be charged for that semester (Texas Education Code, §56.407).

(3) In determining the maximum grant amount, the average amount of tuition and required fees is determined by institution type (public junior colleges, public state colleges, and public technical institutes) [for an in-district resident student enrolled full-time in an associate degree or certificate program], utilizing the most recent Integrated Fiscal Reporting System reports to project the value.

(c) An approved institution may not charge a person receiving a grant through that institution an amount of tuition and required fees in excess of the grant received by the person. Nor may it deny admission to or enrollment in the institution based on a person's eligibility to receive or actual receipt of a grant. If an institution's tuition and fee charges exceed the grant, it may address the shortfall in one of two ways:

(1) it may use other available sources of financial aid ~~[, other than a loan or Pell grant]~~ to cover any difference in the amount of the grant and the student's actual amount of tuition and required fees at the institution, provided that:

(A) for grants offered for semesters prior to the 2024 fall semester, the other available sources of financial aid do not include a loan or Pell Grant; and

(B) for grants offered beginning with the 2024 fall semester, the other available sources of financial aid do not include a loan; or

(2) it may waive the excess charges for the student. However, if a waiver is used, the institution may not report the recipient's tuition and fees in a way that would increase the general revenue appropriations to the institution.

(d) Grant calculations [~~Adjustments to grants and late disbursements~~] are to be completed in accordance with Subchapter A of this chapter (relating to General Provisions).

§22.262. Allocation [~~and Disbursement~~] of Funds - Public Junior Colleges.

(a) [~~Allocations for public junior colleges for Fiscal Year 2016 and Later.~~] Allocations are to be determined on an annual basis as follows:

(1) The allocation base for each eligible institution will be the number of students it reported in the most recent certified Financial Aid Database submission who met the following criteria:

(A) were classified as Texas residents,

(B) were enrolled as undergraduates in an associate degree or certificate program half-time, three-quarter time or full-time, and

(C) have a 9-month Expected Family Contribution, calculated using federal methodology, less than or equal to the Federal Pell Grant eligibility Expected Family Contribution cap for the year reported in the Financial Aid Database submission.

(2) Each institution's percent of the available funds will equal its percent of the state-wide need as determined by multiplying each institution's enrollments by the respective award maximums of students who meet the criteria in subsection (a)(1) of this section.

(3) Allocations [~~Beginning with allocations for Fiscal Year 2020, allocations~~] for both years of the state appropriations' biennium will be completed at the same time. The three most recent certified Financial Aid Database submissions will be utilized to forecast the data utilized in the calculation of the allocation for the second year of the biennium. Institutions will receive notification of their allocations for both years of the biennium at the same time.

(4) Allocation calculations will be shared with all participating institutions for comment and verification prior to final posting and the institutions will be given 10 working days, beginning the day of the notice's distribution and excluding State holidays, to confirm that the allocation report accurately reflects the data they submitted or to advise the Coordinating Board [staff] of any inaccuracies.

~~[(b) Disbursement of Funds to Institutions. As requested by institutions throughout the academic year, the Board shall forward to each participating institution a portion of its allocation of funds for timely disbursement to students. Institutions will have until the close of business on August 1, or the first working day thereafter if it falls on a weekend or holiday, to encumber program funds from their allocation. After that date, institutions lose claim to any funds in the current fiscal year not yet drawn down from the Board for timely disbursement to students. Funds released in this manner in the first year of the biennium become available to the institution for use in the second year of the biennium. Funds released in this manner in the second year of the biennium become available to the Board for utilization in grant processing. Should these unspent funds result in additional funding available for the next biennium's program, revised allocations, calculated according to the allocation methodology outlined in this rule, will be issued to participating institutions during the fall semester.]~~

(b) ~~[(e)]~~ Reductions in Funding.

(1) If annual funding for the program is reduced after the start of a fiscal year, the Coordinating Board may take steps to help distribute the impact of reduced funding across all participating institutions by an across-the-board percentage decrease in all institutions' allocations.

(2) If annual funding is reduced prior to the start of a fiscal year, the Coordinating Board may recalculate the allocations according to the allocation methodology outlined in this rule for the affected fiscal year based on available dollars.

§22.264. Allocation ~~[and Disbursement]~~ of Funds - Public Technical and State Colleges.

~~(a) [Allocations for public technical colleges and public state colleges for Fiscal Year 2016 and Later.]~~ Allocations are to be determined on an annual basis as follows:

(1) The allocation base for each eligible institution will be the number of students it reported in the most recent certified Financial Aid Database submission who met the following criteria:

(A) were classified as Texas residents;

(B) were enrolled as undergraduates in an associate degree or certificate program half-time, three-quarter time, or full-time; and

(C) have a 9-month Expected Family Contribution, calculated using federal methodology, less than or equal to the Federal Pell Grant eligibility Expected Family Contribution cap for the year reported in the Financial Aid Database submission.

(2) Each institution's percent of the available funds will equal its percent of the state-wide need as determined by multiplying each institution's enrollments by the respective award maximums of students who meet the criteria in subsection paragraph (1) of this subsection.

(3) Allocations [~~Beginning with allocations for Fiscal Year 2020, allocations~~] for both years of the state appropriations' biennium will be completed at the same time. The three most recent certified Financial Aid Database submissions will be utilized to forecast the data utilized in the calculation of the allocation for the second year of the biennium. Institutions will receive notification of their allocations for both years of the biennium at the same time.

(4) Verification of Data. Allocation calculations will be shared with all participating institutions for comment and verification prior to final posting, and the institutions will be given 10 working days, beginning the day of the notice's distribution and excluding State holidays, to confirm that the allocation report accurately reflects the data they submitted or to advise the Coordinating Board [~~staff~~] of any inaccuracies.

~~[(b) Disbursement of Funds to Institutions. As requested by institutions throughout the academic year, the Board shall forward to each participating institution a portion of its allocation of funds for timely disbursement to students. Institutions will have until the close of business on August 1, or the first working day thereafter if it falls on a weekend or holiday, to encumber program funds from their allocation. After that date, institutions lose claim to any funds in the current fiscal year not yet drawn down from the Board for timely disbursement to students. Funds released in this manner in the first year of the biennium become available to the institution for use in the second year of the biennium. Funds released in this manner in the second year of the biennium become available to the Board for utilization in grant processing. Should these unspent funds result in additional funding available for the next biennium's program, revised allocations, calculated according to the allocation methodology outlined in this rule, will be issued to participating institutions during the fall semester.]~~

(b) [~~(e)~~] Reductions in Funding.

(1) If annual funding for the program is reduced after the start of a fiscal year, the Coordinating Board may take steps to help distribute the impact of reduced

funding across all participating institutions by an across-the-board percentage decrease in all institutions' allocations.

(2) If annual funding is reduced prior to the start of a fiscal year, the Coordinating Board may recalculate the allocations according to the allocation methodology outlined in this rule for the affected fiscal year based on available dollars.

§22.265. Disbursement of Funds to Institutions.

As requested by institutions throughout the academic year, the Coordinating Board shall forward to each participating institution a portion of its allocation of funds for timely disbursement to students. Institutions will have until the close of business on August 1, or the first working day thereafter if it falls on a weekend or holiday, to encumber program funds from their allocation. After that date, institutions lose claim to any funds in the current fiscal year not yet drawn down from the Coordinating Board for timely disbursement to students. Funds released in this manner in the first year of the biennium become available to the institution for use in the second year of the biennium. Funds released in this manner in the second year of the biennium become available to the Coordinating Board for utilization in grant processing. Should these unspent funds result in additional funding available for the next biennium's program, revised allocations, calculated according to the allocation methodology outlined in this rule, will be issued to participating institutions during the fall semester.