

# COMMITTEE ON INNOVATION, DATA, AND EDUCATIONAL ANALYTICS

## A G E N D A

George H. W. Bush Building  
Board Room (4.300)  
1801 N. Congress Avenue  
Austin, Texas

**9:00 A.M., Wednesday, January 24, 2024**

*This meeting is conducted in person or via video conference, pursuant to Texas Government Code, Section 551.127. A quorum of the Board may be present in the Board Room, which is open to the public.*

*Chair: S. Javaid Anwar*

*Vice Chair: Welcome W. Wilson, Jr.*

*Members: Richard L. Clemmer; Fred Farias III, O.D.; Stacy Hock; Ashlie Thomas; Daniel O. Wong*

*Student Representative: Cage Sawyers (Ex-Officio)*

# COMMITTEE ON INNOVATION, DATA, AND EDUCATIONAL ANALYTICS

## A G E N D A

**Public Testimony:** *The chair shall designate whether public testimony will be taken at the beginning of the meeting, at the time the related item is taken up by the board of the Texas Higher Education Coordinating Board (Board) after staff has presented the item, or any other time as determined by the chair. For procedures on testifying, please go to [higher.ed.texas.gov/public-testimony](https://higher.ed.texas.gov/public-testimony).*

- I. Welcome and committee chair's meeting overview
- II. Consideration and possible action to approve the minutes from the October 25, 2023, meeting of the Committee on Innovation, Data, and Educational Analytics
- III. Public testimony on agenda items relating to the Committee on Innovation, Data, and Educational Analytics
- IV. Consideration and possible action to approve the consent calendar
- V. Matters relating to the Committee on Innovation, Data, and Educational Analytics
  - A. *Building a Talent Strong Texas Data Insight: Texas Talent Trajectories (T3) Dashboard*
  - B. Report on Financial Aid Advisory Committee activities
  - C. Consideration and possible action to approve the replacement of a member on the Standing Advisory Committee for Public Junior Colleges for the 2026-2027 biennium
  - D. Proposed Rules:
    - (1) Consideration and possible action to repeal and adopt Board Rules, Chapter 1, Subchapter K, Sections 1.156-1.162, concerning replacement of the Community and Technical Colleges Formula Advisory Committee with the Standing Advisory Committee for Public Junior Colleges
    - (2) Consideration and possible action to adopt proposed amendments to Board Rules, Chapter 1, Subchapter L, Sections 1.164-1.167, concerning changes to the membership of the General Academic Institutions Formula Advisory Committee

- (3) Consideration and possible action to repeal Board Rules, Chapter 9, Subchapter B, Sections 9.28 and 9.29, concerning the certification of public community colleges as eligible to receive state appropriations
- (4) Consideration and possible action to adopt proposed amendments to Board Rules, Chapter 13, Subchapter A, Section 13.1, concerning finance-related definitions
- (5) Consideration and possible action to repeal Board Rules, Chapter 13, Subchapter D, Section 13.62, concerning updates to a manual for community college annual financial reports
- (6) Consideration and possible action to adopt proposed amendments to Board Rules, Chapter 13, Subchapter D, Section 13.63, concerning requirements for community college financial reporting
- (7) Consideration and possible action to adopt proposed amendments to Board Rules, Chapter 13, Subchapter F, Sections 13.101, 13.102, and 13.104, concerning limitations on the reporting of hours to the Coordinating Board for funding purposes
- (8) Consideration and possible action to adopt new Board Rules, Chapter 13, Subchapter P, Sections 13.470-13.477, concerning the new community college finance system
- (9) Consideration and possible action to adopt new Board Rules, Chapter 13, Subchapter Q, Sections 13.500-13.506, concerning the Financial Aid for Swift Transfer (FAST) Program
- (10) Consideration and possible action to adopt new Board Rules in Chapter 13, Subchapter R, 13.520 through 13.529, relating to reporting, audit, and overallocation for community colleges
- (11) Consideration and possible action to adopt the repeal of Board Rules, Chapter 13, Subchapter G, Sections 13.120-13.127, concerning Restricted Research Expenditures)
- (12) Consideration and possible action to adopt proposed amendments to Board Rules, Chapter 13, Subchapter M, Sections 13.300-13.304, and new Section 13.305, concerning Total Research Expenditures
- (13) Consideration and possible action to adopt new Board Rules, Chapter 15, Subchapter B, Sections 15.20-15.30, concerning the Texas University Fund

- (14) Consideration and possible action to adopt the repeal of Board Rules, Chapter 15, Subchapter C, Sections 15.40-15.44, concerning the National Research University Fund
- (15) Consideration and possible action to adopt new Board Rules, Chapter 22, Subchapter K, Sections 22.200-22.210, concerning the Texas Transfer Grant Program
- (16) Consideration and possible action to adopt amendments to Board Rules, Chapter 22, Subchapter L, Section 22.226, concerning the Texas EXcellence, Access, and Success (TEXAS) Grant
- (17) Consideration and possible action to adopt amendments to Board Rules, Chapter 22, Subchapter A, Section 22.1, concerning the General Provisions for Student Financial Aid Programs
- (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
- (19) Consideration and possible action to adopt amendments to Board Rules, Chapter 23, Subchapter D, Sections 23.93-23.101, concerning Loan Repayment Program for Mental Health Professionals

## VI. Adjournment

**Executive Session:** *The Texas Higher Education Coordinating Board Committee on Innovation, Data, and Educational Analytics may convene in Executive Session at any point in this meeting, concerning any item listed in the agenda or to seek or to receive its attorney's advice on legal matters related thereto, pursuant to Texas Government Code, Section 551.071.*

**Note:** *Because the Board members who attend the committee meeting may create a quorum of the full Board, the meeting of the Committee on Innovation, Data, and Educational Analytics is also being posted as a meeting of the full Board. Only assigned committee members act upon any item before the Committee on Innovation, Data, and Educational Analytics at this meeting.*

**Weapons Prohibited:** Pursuant to Texas Penal Code, Section 46.03(a)(14), a person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, location-restricted knife, club, or prohibited weapon listed in Texas Penal Code, Section 46.05 in the room or rooms where a meeting of a governmental entity is held, if the meeting is an open meeting subject to Texas Government Code, Chapter 551, and if the entity provided notice as required by that chapter.

# **Committee on Innovation, Data, and Educational Analytics**

## **AGENDA ITEM I**

### **Welcome and committee chair's meeting overview**

Mr. S. Javaid Anwar, chair of the Committee on Innovation, Data, and Educational Analytics, will provide the committee an overview of the items on the agenda.

## **Committee on Innovation, Data, and Educational Analytics**

### **AGENDA ITEM II**

Consideration and possible action to approve the minutes from the October 25, 2023, meeting of the Committee on Innovation, Data, and Educational Analytics

RECOMMENDATION: Approval

TEXAS HIGHER EDUCATION COORDINATING BOARD

MINUTES

Committee on Innovation, Data, and Educational Analytics

Via Live Broadcast

October 25, 2023, 9:12 a.m.

DRAFT Minutes

The Texas Higher Education Coordinating Board Committee on Innovation, Data, and Educational Analytics convened at 9:12 a.m. on October 25, 2023, with the following members, present: S. Javaid Anwar, Chair; Welcome W. Wilson, Jr. Vice Chair; Fred Farias, III, O.D.; Richard L. Clemmer; Stacy A. Hock; Ashlie A. Thomas; and Daniel O. Wong

Other Board members present: Donna N. Williams and Emma Schwartz; Members absent: Cage Sawyers, Student Representative, Ex-Officio

The meeting is available at the following link: [highered.texas.gov](https://highered.texas.gov)

AGENDA ITEM	ACTION
I. Welcome and committee chair's meeting overview	Mr. S. Javaid Anwar, chair, called the meeting of the Committee on Innovation, Data, and Educational Analytics to order at 9:12 a.m. and announced the meeting was being held via live broadcast. Mr. Anwar established that a quorum was met.
II. Consideration of approval of the minutes from the July 26, 2023, meeting of the Committee on Innovation, Data, and Educational Analytics	On motion by Mr. Richard Clemmer, seconded by Ms. Ashlie Thomas, the committee approved this item with all members voting in favor.
III. Public testimony on agenda items relating to the Committee on Innovation, Data, and Educational Analytics	Mr. Anwar stated there was no public testimony.
IV. Consideration of approval of the consent calendar	<p>On motion by Dr. Fred Farias, seconded by Ms. Stacy Hock, the committee approved the non-rule agenda items V-C and V-D, with all members voting in favor.</p> <p>On motion by Mr. Wilson, seconded by Dr. Wong, the committee approved the rule agenda items V-F (1-3) with all members voting in favor.</p>

<p>V. Matters relating to the Committee on Innovation, Data, and Educational Analytics</p> <p>A. <i>Building a Talent Strong Texas</i> Data Insight: Preliminary headcount for fall 2023</p> <p>B. Update on formula funding advisory committees</p> <p>C. Consideration and possible action to approve the replacement of a member on the Health-Related Institutions Formula Advisory Committee for the 2026-2027 biennium</p> <p>D. Consideration and possible action to adopt the recommendation relating to the “Facilities Audit Report”</p> <p>E. Consideration and possible action to delegate authority to the Commissioner of Higher Education to approve and submit the data report required by Texas Education Code, Section 61.0662 (d)</p> <p>F. Proposed Rules</p> <p>(1) Consideration and possible action to adopt proposed amendments to Board Rules, Texas Administrative Code, Chapter 17, Subchapter B, Section 17.20(a)(5), concerning a name change from Tuition Revenue Bonds to Capital Construction Assistance Projects</p> <p>(2) Consideration and possible action to adopt proposed amendments to Board Rules, Texas Administrative Code, Chapter 17, Subchapter F, Section 17.112, concerning data required for use in facilities audits</p> <p>(3) Consideration and possible action to amend Board Rules, Texas Administrative Code, Chapter 22, Subchapter J, Section 22.186, concerning the Future Occupations &amp; Reskilling Workforce Advancement to Reach Demand (FORWARD) Loan Program</p>	<p>Dr. Melissa Humphries, Assistant Commissioner for Data Management and Research, presented this item and was available to answer questions. This item was for information only.</p> <p>Ms. Emily Cormier, Assistant Commissioner for Funding, presented this item and was available to answer questions. This item was for information only.</p> <p>This item was approved on consent.</p> <p>This item was approved on consent.</p> <p>On motion by Ms. Hock, seconded by Mr. Clemmer, the committee delegated authority to the Commissioner of Higher Education to approve and submit the data report required by Texas Education Code, Section 61.0662 (d). Ms. Emily Cormier, Assistant Commissioner for Funding, presented this item and was available to answer questions.</p> <p>This item was approved on consent.</p> <p>This item was approved on consent.</p> <p>This item was approved on consent.</p>
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VII Adjournment

On motion by Dr. Farias, seconded by Mr. Wilson, this item was approved. Meeting adjourned at approximately 9:45 a.m.

## **Committee on Innovation, Data, and Educational Analytics**

### **AGENDA ITEM III**

Public testimony on agenda items relating to the Committee on Innovation, Data, and Educational Analytics

RECOMMENDATION: No action required

Background Information:

The presiding chair shall designate whether public testimony will be taken at the beginning of the meeting, at the time the related item is taken up by the Board after staff has presented the item, or at any other time as determined by the presiding chair.

# **Committee on Innovation, Data, and Educational Analytics**

## **AGENDA ITEM IV**

### **Consideration and possible action to approve the consent calendar**

RECOMMENDATION: Approval

#### **Background Information:**

To save institutions time and travel costs to attend the Committee on Innovation, Data, and Educational Analytics meetings in Austin, the committee has a consent calendar for items that are noncontroversial. Any item can be removed from the consent calendar by a committee member.

## Consent Calendar

## V. Matters relating to the Committee on Innovation, Data, and Educational Analytics

C. Consideration and possible action to approve the replacement of a member on the Standing Advisory Committee for Public Junior Colleges for the 2026-2027 biennium

## D. Proposed Rules:

- (1) Consideration and possible action to repeal and adopt Board Rules, Chapter 1, Subchapter K, Sections 1.156-1.162, concerning replacement of the Community and Technical Colleges Formula Advisory Committee with the Standing Advisory Committee for Public Junior Colleges
- (2) Consideration and possible action to adopt proposed amendments to Board Rules, Chapter 1, Subchapter L, Sections 1.164-1.167, concerning changes to the membership of the General Academic Institutions Formula Advisory Committee
- (3) Consideration and possible action to repeal Board Rules, Chapter 9, Subchapter B, Sections 9.28 and 9.29, concerning the certification of public community colleges as eligible to receive state appropriations
- (4) Consideration and possible action to adopt proposed amendments to Board Rules, Chapter 13, Subchapter A, Section 13.1, concerning finance-related definitions
- (5) Consideration and possible action to repeal Board Rules, Chapter 13, Subchapter D, Section 13.62, concerning updates to a manual for community college annual financial reports
- (6) Consideration and possible action to adopt proposed amendments to Board Rules, Chapter 13, Subchapter D, Section 13.63, concerning requirements for community college financial reporting
- (7) Consideration and possible action to adopt proposed amendments to Board Rules, Chapter 13, Subchapter F, Sections 13.101, 13.102, and 13.104, concerning limitations on the reporting of hours to the Coordinating Board for funding purposes
- (11) Consideration and possible action to adopt the repeal of Board Rules, Chapter 13, Subchapter G, Sections 13.120-13.127, concerning Restricted Research Expenditures)
- (14) Consideration and possible action to adopt the repeal of Board Rules, Chapter 15, Subchapter C, Sections 15.40-15.44, concerning the National Research University Fund

- (16) Consideration and possible action to adopt amendments to Board Rules, Chapter 22, Subchapter L, Section 22.226, concerning the Texas EXcellence, Access, and Success (TEXAS) Grant
- (19) Consideration and possible action to adopt amendments to Board Rules, Chapter 23, Subchapter D, Sections 23.93-23.101, concerning Loan Repayment Program for Mental Health Professionals

# Committee on Innovation, Data, and Educational Analytics

## AGENDA ITEM V-A

### *Building a Talent Strong Texas Data Insight: Texas Talent Trajectories (T3) Dashboard*

RECOMMENDATION: No action required

#### Background Information:

Understanding the patterns of how Texas students make their way through the K-12 system and into higher education is the first step to developing targeted interventions to improve Texas talent. Texas Higher Education Coordinating Board (THECB) staff will present the most recent trends in the K-12 to higher education pipeline (formerly called the 8<sup>th</sup> Grade Cohort Analysis). Staff will also share the new Texas Talent Trajectories (T3) public dashboard that will serve as a hub for student pathway data exploration. The Data Management and Research team will continue to work with other state agencies, policy makers, and internal stakeholders to enhance the tool over the next year.

Dr. David Troutman, Deputy Commissioner, and Dr. Melissa Humphries, Assistant Commissioner for Data Management and Research, will provide a brief presentation and be available to answer questions.

# **Committee on Innovation, Data, and Educational Analytics**

## **AGENDA ITEM V-B**

### **Report on Financial Aid Advisory Committee activities**

RECOMMENDATION: No action required

#### Background Information:

Texas Higher Education Coordinating Board (THECB) rules require advisory committees to report on committee activities on an annual basis. This allows the board of the THECB to properly evaluate the committee's work, usefulness, and the costs related to the committee's existence. The current report covers the period from September 2022 through June 2023.

The Financial Aid Advisory Committee (FAAC) is authorized under Texas Education Code, Section 61.0776, and Texas Government Code, Section 2110.0012. The FAAC provides the board of the THECB with advice and recommendations regarding the development, implementation, and evaluation of state financial aid programs for college students. The FAAC also assists staff in the development of training materials for use by the Center for Financial Aid Information and others in informing students, parents, secondary education counselors, college personnel, members of appropriate community-based organizations, and others about financial aid opportunities for Texas students, including eligibility requirements and procedures for applying for financial aid.

Ms. Melet Leafgreen, chair, and Ms. Rachelè Garrett, past chair of the FAAC, will present a summary of the FAAC's recent activities and will be available to answer questions.

# 2022-2023 FINANCIAL AID ADVISORY COMMITTEE

## ANNUAL REPORT

**COMMITTEE ABOLISHMENT DATE: 10/31/2025**

**Committee Purpose:** The Financial Aid Advisory Committee was created to provide the Board advice and recommendations regarding the development, implementation, and evaluation of state financial aid programs for college students. It also assists staff in the development of training materials for use by the Center for Financial Aid Information and others in informing students, parents, secondary education counselors, college personnel, members of appropriate community-based organizations, and others about financial aid opportunities for Texas students, including eligibility requirements and procedures for applying for financial aid (Texas Education Code [Sec. 61.0776](#)). In addition, the committee shall provide insight on state financial aid program policies and procedures (e.g. eligibility, allocations, disbursement processes, etc.); review the collection, use, and reporting of data; and identify areas of research for consideration (Texas Administrative Rules governing this committee can be found by visiting [FAAC Administrative Rules](#) and [Advisory Committee Administrative Rules](#)).

**Report Period:** September 2022 – August 2023

Chair: Rachelè Garrett – Stephen F. Austin University

Vice-Chair: Melet Leafgreen, University of Texas-Southwestern

Past Chair: Denise Welch, Panola College

Committee Member Name	Position and Institution	Term Dates
DeChá Reid	THECB Representative	Sept. 2020-Sept. 2023
Rachele Garrett	Chair-Stephen F. Austin	Nov 2019-June 2024
Denise Welch	Past Chair- Panola College	Nov. 2018-June 2023
Melet Leafgreen	Vice-Chair, UT Southwestern	Nov. 2021-June 2024
Jackie Adler	Member, Texas Technical State College	Nov. 2021-June 2024
Gabriela “Gabby” Leon	Member, Alvin Community College	Sept. 2022- June 2025
Victoria Chen	Member, Texas Christian Univ	Nov. 2020- June 2023
Dede Gonzales	Member, Texas State University	Nov. 2020- June 2023
Bridgette Ingram	Member, Texas A & M Univ	Nov. 2020- June 2023
Cecelia Jones	Member, Jarvis Christian Univ	Nov. 2021- June 2023
Rachel Joseph	Student Member, UT Austin	Sept 2022-May 2023
Dede Gonzales	TASFAA Representative	Nov. 2022- Sept. 2023
Scott Lapinski	Member, Blinn UT-Permian Basin	Sept. 2022- June 2023
Holly Nolan	Member, UH-Clear Lake	Nov. 2020-June 2023
Shonna Norton	Member- Wichita Falls ISD	Nov. 2020- June 2023
Sal Ramirez	Member- El Paso ISD	Nov. 2021- June 2024
Thomas Ratliff	Member- Abilene Christina Univ.	Sept. 2022- June 2023
Joseph Ruiz	Member- Del Mar College	Nov. 2021- June 2024
Lynda McKendree	Member- University of St. Thomas	Sept. 2022- June 2025
Tevian Sides	Member- Western Texas College	Nov. 2021- June 2024
Lisa Schoenbrun	Member- El Paso ISD	Sept. 2022- June 2025
Gilbert Zavala	Member- Austin Chamber of Com	Nov. 2021- June 2024

**Committee Meeting Dates:** Meetings were held virtually and in-person at the Barbara B. Jordan Building

- 12-08-2022 (Virtually)
- 03-02-2023 (Virtually)
- 06-01-2023 (In-person)

A key item that changed was the start term for new committee members. The FAAC agreed to amend the rules for the nomination cycle to allow new members to start in September. The reporting period reflects the amended rules to better align committee members' start term with the state fiscal year (Sept. 1). Sept. 2022 was previously reported during the 2021-2022 FAAC Annual report.



Annual Costs Expended Meetings were held virtually and in-person, which led to annual expenses.

**Travel:** \$0

**Other:** N/A

Time Commitments: 437 hours

**Current Recommendations to the Board:**

1. Continue to work with the Financial Aid Advisory Committee (FAAC) in providing feedback and recommendations on new initiatives when there would be an implied or real impact on state financial aid program policies and procedures. This is critical to the strengthening of student participation by removing barriers and providing access to higher education.
2. Continue to work with FAAC in seeking feedback on how the state financial aid program rules and policies could better align with federal policies.
3. Continue the work of the Data Collection Subcommittee to review procedures that impact institutions, along with the collection and use of data through institutional reporting.
4. Continue work with TASFA Subcommittee to review and streamline the electronic and paper state application (TASFA).
5. Continue to create and utilize FAAC subcommittees with subject experts to identify areas of research for consideration of topics of interest.
6. Continue to provide information regarding proposed legislative recommendations so FAAC can provide feedback on potential impact to students in high school and postsecondary education.

**Summary of Tasks Completed:** Over the course of the 2022-23 year, the Coordinating Board staff worked with FAAC members to discuss topics and host presentations related to state financial aid and best practices within higher education. Highlights included:

Discussion Topics:

- NASFAA's Student Aid Index (SAI) Modeling
- 2024-25 FAFSA Delay
- State Priority Deadline for Texas
- Proposed Rules in Texas Administrative Code, Chapter 22 Impacting State Financial Aid Programs
- Overview of the Financial Aid for Swift Transfer (FAST) Program

Presentations:

- TXWORKS and Recruiting-Vanessa Malo, Director, THECB
- State of Student Aid and Higher Education in Texas (SOSA) Jeff Webster, Director of Research and Carla Fletcher, Senior Research Analyst, Trellis
- More FAFSA Completions, with better reporting - all for free-Charlie Maynard, General Manager, Going Merry
- Top 10 Issues Impacting Financial Aid Offices-Karen McCarthy, Vice President of Public Policy, and Federal Regulations, NASFAA
- Fall 2021 Student Financial Wellness Survey, Jeff Webster, VP, Trellis
- Diversity 101-How to address professional judgement-Danchess Ingram, Diversity Awareness Chair, Southwestern Association of Student Financial Aid Administrators

In addition, FAAC's subcommittees actively engaged with THECB staff on several key agency initiatives and policies to help support the advancement of the agency goals and missions. Below are some highlights from the subcommittees:

**TASFA Subcommittee:** The TASFA Subcommittee continued to work on the online and paper TASFA to improve the student and institutional experience in delivering information on state aid. A non-inclusive list of activities included:

- Working with financial aid and high school representatives on recommended changes for the paper and online TASFA structure
- Launching the 2023-24 Online TASFA in August 2023
- Held multiple webcast trainings to provide a preview of the online TASFA process.
- Identifying key items on the 2024-25 paper TASFA to modify, eliminate, or add to align with the 2024-25 FAFSA questions.

**Data Collection Subcommittee:** Data Collection Subcommittee continued to work with THECB staff on the agency initiative to improve the importing of institutional data through the Financial Aid Database (FAD) data modernization project, along with being beta testers to the new payment system called Grant and Aid Processing Payment. In addition, the committee provided guidance on the following topics:

- Financial Aid for Swift Transfer (FAST)
- 2023-24 State Program Guidelines
- THECB Secure Systems: MOVEit
- Grant and Aid Processing Platform
- New administrative changes to the Texas College Work-study program

The members of FAAC are appreciative of the Board's approval for the continuation of the committee and offer the following examples of why the FAAC is important:

- The opportunity to share information helps both the agency and the institutions make informative decisions related to financial aid concerns and challenges in higher education.
- Provides a platform to identify key services and ways to successfully administer programs supporting Texas residents in the pursuit of higher education.
- Allows members representing all sectors to provide a perspective on ways to advance the state's mission and goals in Building a Talent Strong Texas.
- Provides opportunities to influence research and reporting that will provide relevant data to assist THECB and legislators when considering future proposals relevant to the support of higher education.

## Committee Meeting Minutes

### December 8, 2022, FAAC Meeting Minutes

Committee Members in Attendance Via <u>Virtual</u> Meeting Connection		Committee Members Absent
Rachelè Garrett, Chair Denise Welch, Past Chair DeChá Reid, THECB Rep Jackie Adler Reginald Brazzle Dede Gonzales-TASFAA Rep Bridgette Ingram Cecelia Jones Rachel Joseph-Student Rep Melet Leafgreen Lynda McKendree	Gaby Leon Lynda McKendree Holly Nolan Shonna Norton Sal Ramirez Thomas Ratliff Joseph Ruiz Joseph Sanchez Tevian Sides Arnold Trejo	Victoria Chen Scott Lipinski Gilbert Zavala
<b>Agenda Item 1. Welcome, Introductions and Overview of Meeting</b>		<b>Rachelè Garrett, Chair</b>
<b>Handout Provided: Yes</b>		<b>Formal Decision/Action Required</b> No
<b>Summary:</b>		

**See handout for agenda item 1 for more information	
<b>Agenda Item 2. Consideration of Approval of Minutes from the meeting held on September 8, 2022</b>	<b>Rachelè Garrett, Chair</b>
<b>Handout Provided: Yes</b>	<b>Formal Decision/Action Required</b> <i>Yes – minutes approved</i>
<b>Summary:</b> <ul style="list-style-type: none"> <li>No corrections were identified.</li> </ul> **See handout for agenda item 2 for more information.	
<b>Agenda Item 3. Presentation: TXWORKS</b>	<b>Vanessa Malo, Assistant Director, Workforce Education, THECB</b>
<b>Handout Provided: Yes</b>	<b>Formal Decision/Action Required</b> No
<b>Presentation Summary:</b> **See handout for agenda item 3 for more information.	
<b>Agenda Item 4. Presentation: State of Student Aid and Higher Education in Texas (SOSA)</b>	<b>Jeff Webster, Director of Research, and Carla Fletcher, Sr. Research Analyst, Trellis</b>
<b>Handout Provided: Yes</b>	<b>Formal Decision/Action Required</b> No
<b>Presentation Summary:</b> **See handout for agenda item 4 for more information.	
<b>Agenda Item 5. Presentation: More FAFSA Completions, with better reporting – all for free</b>	<b>Charlie Maynard, General Manager, Going Merry</b>
<b>Handout Provided: Yes</b>	<b>Formal Decision/Action Required</b> No
<b>Presentation Summary:</b> **See handout for agenda item 5 for more information.	
<b>Agenda Item 6. Presentation: Top 10 Issues Impacting Financial Aid Offices</b>	<b>Karen McCarthy, Vice President of Public Policy, and Federal Regulations, NASFAA</b>
<b>Handout Provided: Yes</b>	<b>Formal Decision/Action Required</b> No
<b>Presentation Summary:</b> **See handout for agenda item 6 for more information.	
<b>Agenda Item 7. Update: Prior FAAC Business</b>	<b>DeChà Reid, Senior Director, THECB</b>
<b>Handout Provided: No</b>	<b>Formal Decision/Action Required</b> No
<i>Standing Item</i> <b>Update Summary:</b> <ul style="list-style-type: none"> <li>Provide an update on TXWORKS being counted as EPA for other federal programs given that it is using a needed component for eligibility.</li> </ul>	
<b>Agenda Item 8: Update: External Relations</b>	<b>John Wyatt, Sr. Director, External Relations, THECB</b>
<b>Handout Provided: Yes</b>	<b>Formal Decision/Action Required</b> No
<i>Standing Item</i> <b>Update Summary:</b> <ul style="list-style-type: none"> <li>88<sup>th</sup> Legislature will convene in a little over a month.</li> <li>Governor Abbott and Dan Patrick won their re-election.</li> <li>Dave Fleming to return as Speaker.</li> <li>TX Legislature will have some familiar faces because of the election.</li> <li>New Chairman of House Committee</li> <li>Will not have a Senate of Higher Education Committee, Higher Education will be a subcommittee.</li> <li>Texas is in good financial health. There is a surplus of funds; there is not an exact dollar amount until the Comptroller releases their budget. There is a constitutional limitation on the amount that can be spent from surplus and a lot of good recommendations on how best to spend it (infrastructure, retirement system, property tax...)</li> <li>THECB submitted LAR and 153 million to support grant recipients and support the innovative federally-funded grants (Transfer Grants and Texas Scholar)</li> <li>Enact the Community College Commission – need the report to send out – increase in funding for TEOG to serve 70% of eligible students to align it with TEXAS Grant population; greater flexibility of serving students; new program for dual credit students and partnerships with work-based learning.</li> </ul>	

- In the pre-filing stage on bills
- The volume of higher ed bills is low at this stage.

\*\*See handout for agenda item 8 for more information.

**Agenda Item 9. Update: THECB Financial Aid Strategic Priority**

**Charles Contero-Puls, Assistant Commissioner, THECB**

**Handout Provided: Yes**

**Formal Decision/Action Required**  
No

*Standing Item*

**Update Summary:**

\*\*See handout for agenda item 9 for more information.

**Agenda Item 10. Update: TASFA Subcommittee: House Bill 3 (FAFSA/TASFA Graduation Requirement) and House Bill 2140 (Online TASFA)**

**Bridgette Ingram, Subcommittee Chair; Claudette Jenks, Director, Strategic Advising; and Leah Smalley, Assistant Director, THECB**

**Handout Provided: No**

**Formal Decision/Action Required**  
No

*Standing Item*

**Update Summary:**

- The projected completion of the online TASFA development is currently the end of January.
  - We are in the process of setting up institutions of higher education with access to download the TASFA files and the daily report from MOVEit, which will be tested with institutions in January – March.
  - The internal team is currently testing both the application submission process and file batch process to both IHEs and the ISDs.
  - We will send an updated file layout to institutions in January to prepare for file transmission testing.
  - We are working with our Marketing and Communications team to develop outreach to all institutions regarding these updates.
  - A dedicated TASFA webpage is being built on the agency's new website.
  - As we identify the question updates for the 2024-2025 FAFSA, we will be revisiting the online TASFA to include all elements institutions will need to calculate the Student Aid Index (replacing the EFC).
  - We will convene the TASFA subcommittee in the early part of February to discuss revisions to the 2024-2025 application for both paper and the online version
- Committee address concerns with communication of a mid-semester launch, alignment with the new FAFSA Simplification

**Agenda Item 11. Update: Data Collection Subcommittee**

**Dede Gonzales, Subcommittee Chair**

**Handout Provided: Yes**

**Formal Decision/Action Required**  
No

*Standing Item*

**Update Summary:**

- The committee recommended staggering the FAD deadline dates for sector or volunteer for early submission.

**Agenda Item 12. Update: Legislative Subcommittee**

**Arnold Trejo, Subcommittee Chair**

**Handout Provided: No**

**Formal Decision/Action Required**  
No

*Standing Item*

**Update Summary:**

- Working with TASFAA Committee Chair – Dr. Murr – on recommendations
- Communication to legislators on the priorities on the association and committee
  - Bring the state SAP policy in alignment with federal.
  - Advocate TEOG policy in alignment with TEXAS grant (i.e., Pell Grant)
  - Eliminate the Selective Service Requirement to align with federal.

**Agenda Item 13. Update: Texas Association for State Financial Aid Administrators (TASFAA)**

**Dede Gonzales, TASFAA President**

**Handout Provided: No**

**Formal Decision/Action Required**  
No

*Standing Item*

**Update Summary:**

- Spring Regional Training has been sited: Houston, El Paso, Lubbock and Rio Grande
- Host joint SWASFAA with TASFAA
- Board meeting next week
- Will ask GoingMerry to present at February Board Meeting
- Requesting ways that TASFAA can best assist institutions

**Agenda Item 14. Update: High School District**

**Lisa Schoenbrun, El Paso ISD; Shonna Norton, Wichita Falls ISD**

**Handout Provided: No**

**Formal Decision/Action Required**  
No

*Standing Item***Update Summary**

- None to report

**Agenda Item 15. Update: Office of Student Financial Aid Programs****DeChà Reid, Senior Director, THECB****Handout Provided: No****Formal Decision/Action Required**  
No*Standing Item*

## Topics of Discussion:

1. THECB Redesigned Website
2. FORWARD Loan Program
3. Released and Upcoming Announcements
4. New Staff Hires

## Update:

1. THECB is in the process of performing a soft launch of a newly redesigned website. The color scheme and the navigation from page to page is very different. We are still working on a few areas before we have a full launch. Home - Texas Higher Education Coordinating Board
2. FORWARD Loan Program is a new loan program that is scheduled to launch on January 15, 2023. The Future Occupations & Reskilling Workforce Advancement to Reach Demand (FORWARD) Program provides alternative educational loans to Texas students who are unable to meet an institution's cost of attendance (COA).
  - a. Eligibility Requirements  
*The student must:*
    - Be classified by the institution as a Texas resident.
    - Be registered with Selective Service or be exempt.
    - Meet the satisfactory academic progress requirements set by the institution.
    - Receive a favorable credit evaluation or provide a cosigner who has good credit standing and meets other requirements
    - Be pursuing a High-Demand Credential
    - Eligibility for the program ends two years from the start of the semester in which the student received the first loan through the Program.
  - b. Additional enrollment requirements:
    - If enrolled in a degree program, must have completed at least 50% of the required coursework prior to receiving a loan through the Program.
    - If enrolled in a non-degree program, the program's duration must be less than two years.
    - If enrolled in master's degree coursework, the master's degree must be part of a combined baccalaureate-master's program approved by the institution of higher education.
  - c. Loan Amounts:
    - Annual: Cost of attendance less other financial aid and family resources
    - Aggregate: Cannot exceed manageable student loan debt as determined by the Texas Higher Education Coordinating Board
    - An origination fee will not be assessed for all approved FORWARD borrowers.
  - d. Interest Rate:
    - Interest begins to accrue on the outstanding principal from the date of disbursement using simple interest.
    - Loans are not eligible for interest subsidy, but the interest is not capitalized.
    - Interest is currently at a fixed annual rate of 2.00%.
  - e. Additional Information:
    - *Where can they learn more about this program?* Rules have been written for the FORWARD loan program and are in public comment period. Once Rules are finalized and approved, they will be available to schools. Also, information such as Fact Sheet, Program Comparison Chart, and Program Guidelines will be program resources for schools. More information can be found after rules are adopted: Coordinating Board Rules, Chapter 22, Subchapter C and the Texas Education Code, Chapter 52.
    - *What are the eligible high-demand credentials for the launch?* Nursing/Patient Care, Teaching, Transportation/Logistics, Energy (223 separate CIP codes under these four disciplines)
    - *Are CIP codes specific to certain schools? How will schools know if they exist at their school?* The CIP codes are not specific to certain schools.
    - *Who at the institution is responsible for confirming eligibility?* Whoever currently certifies CAL loans would more than likely be responsible for confirming eligibility. However, we don't think we would stipulate who is responsible for confirming eligibility at the school. That should be a school decision.
    - *How will they be notified when a certification is ready?* A CSV file will be uploaded to their folder in MoveIT.
    - *How do schools certify?* School certification will occur in HelmNet.
    - *When will training be provided?* TBD
    - *Will there be resources available to help navigate through the program (i.e., eligibility, loan management, returning funds, FADs, etc.) and when will those be released?* Fact Sheet and Program Comparison Chart are currently in development. It is our understanding that FAS will be creating Program Guidelines for FORWARD. In addition, information will be on the various Agency

websites. A soft launch of the program is scheduled for the Spring semester, a more robust launch later in the Spring for the Fall semester start.

- *When will additional credentials be added?* No set timeframe but assume new credentials will be added prior to the Fall 2023 semester. We would not anticipate new credentials mid-semester but it could happen.

3. Recent Memos:

- a. 12/06/22 Bilingual Education Program 2022-2023 Biennium Report Memo [PDF]
- b. 11/28/22 Texas Transfer Grant Pilot Program FY 2023 Available Spring 2023 Memo [PDF]
- c. 11/18/22: Institutional Financial Aid Calendar Spring 2023 [PDF]

4. Alert

- a. *It has been reported that the State Net Price Calculator is not working. We are looking into the issue and will report when the portal is functioning again.*

5. Upcoming Memos

- a. FY2023 FAD Manual

6. Upcoming deadlines:

- a. FY2023 TASSP Nominations from Legislators-12/31/2022
- b. FY2022 Bilingual Education Biennium report-1/1/2023

7. Past Deadlines

- a. FY 2022 State Campus Based report and TPEG Guidelines-10/28
  - i. Missing 8 reports
  - ii. Missing 31 TPEG Guidelines
- b. Certification Deadline date for FY22 FAD Cycle Three-12/5/2022
  - i. 65 schools have not certified by the deadline.

9 schools have not submitted a file at all-we are here to assist

<b>Agenda Item 16. Discussion Topic: 2022 FAAC Annual Report</b>	<b>DeChà Reid, Senior Director, THECB</b>
<b>Handout Provided: Yes</b>	<b>Formal Decision/Action Required</b> No
<b>Discussion Summary:</b>  **See handout for agenda item 16 for more information.  <i>This report will be presented at our January Committee on Innovation, Data, and Educational Analytics.</i>	
<b>Agenda Item 17. Discussion Topic: NASFAA's SAI Modeling</b>	<b>Rachelè Garrett, Chair</b>
<b>Handout Provided: No</b>	<b>Formal Decision/Action Required</b> No
<i>Discussion Topic Tabled until March 2023 meeting</i>	
<b>Agenda Item 18. Discussion Topic: 2023 FAAC Meeting Dates and Location</b>	<b>Rachelè Garrett, Chair</b>
<b>Handout Provided: No</b>	<b>Formal Decision/Action Required</b> Yes, motion approved
This meeting needs to present the 2023 meeting dates and locations. <ul style="list-style-type: none"> <li>• Motion: Denise Welch</li> <li>• Second: Dede Gonzales</li> <li>• Committee members passed the proposed dates for 2023.</li> </ul> Proposed dates. <ul style="list-style-type: none"> <li>• March 2 – Virtual</li> <li>• June 1 – In-person (committee members departing)</li> <li>• September 7 – In-person (new committee members' first meeting)</li> <li>• December 7 - Virtual</li> </ul>	
<b>Agenda Item 19. Discussion Topic: Feedback for Future Meetings</b>	<b>Rachelè Garrett, Chair</b>
<b>Handout Provided: No</b>	<b>Formal Decision/Action Required</b> No
<ul style="list-style-type: none"> <li>• Apply Texas</li> </ul>	
<b>Agenda Item 20. Adjournment</b>	<b>Rachelè Garrett, Chair</b>
<b>Handout Provided: No</b>	<b>Formal Decision/Action Required</b> No
Motion to Adjourn: Melet Leafgreen Second: Cecelia Jones Adjourned at 2:42 p.m.	
<b>Reminder. Announcement: Expense Reports</b>	<b>Rachelè Garrett, Chair</b>

**March 2, 2023, FAAC Meeting Minutes**

<b>Committee Members in Attendance Via <u>Virtual</u> Meeting Connection</b>		<b>Committee Members Absent</b>
Rachelè Garrett, Chair Denise Welch, Past Chair DeChà Reid, THECB Rep Victoria Chen Dede Gonzales (TASFAA Rep.) Bridgette Ingram Cecelia Jones Melet Leafgreen Gaby Leon Scott Lapinski	Lynda McKendree Holly Nolan Shonna Norton Sal Ramirez Joseph Ruiz Joseph Sanchez Lisa Schoenbrun Tevian Sides Gilbert Zavala	Jackie Adler Rachel Joseph (Student Rep.) Thomas Ratliff
<b>Agenda Item 1. Welcome, Introductions and Overview of Meeting</b>		<b>Rachelè Garrett, Chair</b>
<b>Handout Provided: No</b>		<b>Formal Decision/Action Required</b> No
<b>Agenda Item 2. Consideration of Approval of Minutes from the meeting held on December 8, 2022</b>		<b>Rachelè Garrett, Chair</b>
<b>Handout Provided: Yes</b>		<b>Formal Decision/Action Required</b> Yes – <i>minutes approved</i>
<b>Summary:</b> <ul style="list-style-type: none"> <li>No corrections were identified.</li> </ul> **See handout for agenda item 2 for more information.		
<b>Agenda Item 3. Presentation: Diversity 101</b>		<b>D. Ingram, Diversity Awareness Chair, Southwestern Association of Student Financial Aid Administrators</b>
<b>Handout Provided: No</b>		<b>Formal Decision/Action Required</b> No
<b>Presentation Summary:</b>		
<b>Agenda Item 4. Presentation: Fall 2021 Student Financial Wellness Survey</b>		<b>Jeff Webster, Director of Research, and Carla Fletcher, Sr. Research Analyst, Trellis</b>
<b>Handout Provided: Yes</b>		<b>Formal Decision/Action Required</b> No
<b>Presentation Summary:</b> **See handout for agenda item 4 for more information.		
<b>Agenda Item 5. Update: Prior FAAC Business</b>		<b>DeChà Reid, Senior Director, THECB</b>
<b>Handout Provided: No</b>		<b>Formal Decision/Action Required</b> No
<b>Standing Item</b> <b>Update Summary:</b> <ul style="list-style-type: none"> <li>Regarding EFA for TXWORKS Internship Program, TXWORKS does not count as EFA.</li> <li>For more information about the TXWORKS Program, you can email Vanessa Malo at <a href="mailto:vanessa.malo@highered.texas.gov">vanessa.malo@highered.texas.gov</a></li> </ul>		
<b>Agenda Item 6. Update: External Relations</b>		<b>John Wyatt, External Relations, THECB</b>
<b>Handout Provided: No</b>		<b>Formal Decision/Action Required</b> No
<b>Standing Item</b> <b>Update Summary:</b> <ul style="list-style-type: none"> <li>The Legislature has been in session for two months.</li> <li>Committees have been appointed in both chambers.</li> <li>Higher Education will function as a subcommittee in the Senate with Senator Brandon Creighton as the chair.</li> <li>Representative John Kuempel is the chair for the House Higher Education Committee</li> <li>Major funding and policy items:               <ul style="list-style-type: none"> <li>Both chambers have introduced their first draft appropriation bills; introduced bills keep financial aid programs funding levels even with previous biennium.</li> </ul> </li> </ul>		



- THECB has requested additional financial aid assistance through Texas Grant, TEOG and TEG to keep those grants at the same service level as the last biennium so the same percentage of students can be served through those programs.
  - Senate Finance Committee & House Appropriations Committee meeting to discuss the budget proposals.
- HB8- Legislation to enact the recommendations made by the Community College Finance Commission.
  - Looking at how to fund community colleges & keep them affordable.
  - Recommendation: an increase in TEOG funding so that the TEOG program could serve 70% of eligible students (currently only serves approx.. 25-28% of eligible students).
  - Funding for this was included and will only happen if legislation is passed.
- Other bills to note:
  - SB34 and SB35- Texas Promise Grant bills (Sen. Zaffirini).
  - SB902- codify in statute Texas Leadership Scholar Programs (Sen. West)
    - THECB included \$25 mil in funding for the program in its legislative appropriations request.
  - HB 1192 & SB371 – TASSP – bills intended to provide flexibility around the number of required participation years in the ROTC program (Rep. Turner & Sens. Eckhardt & Campbell)

**Agenda Item 7. Update: THECB Financial Aid Strategic Priority**

**Charles Contero-Puls, Assistant Commissioner, THECB (presented by DeChà Reid)**

**Handout Provided: No**

**Formal Decision/Action Required**  
No

*Standing Item*

**Update Summary:**

The work is in the final stages of review & more updates are to come.

**Agenda Item 8. Update: TASFA Subcommittee House Bill 3 (FAFSA/TASFA Graduation Requirement) and House Bill 2140 (Online TASFA)**

**Bridgette Ingram, Subcommittee Chair; Claudette Jenks, Director, Strategic Advising and Leah Smalley, Assistant Director, THECB**

**Handout Provided: No**

**Formal Decision/Action Required**  
No

*Standing Item*

**Update Summary:**

- TASFA Subcommittee will meet on 3/3/23.

**Agenda Item 9. Update: Data Collection Subcommittee**

**Dede Gonzales, Subcommittee Chair**

**Handout Provided: Yes**

**Formal Decision/Action Required**  
No

*Standing Item*

**Update Summary:**

**\*\*See handout for agenda item 9 for more information**

**Agenda Item 10. Update: Legislative Subcommittee**

**Subcommittee Chair**

**Handout Provided: N/A**

**Formal Decision/Action Required**  
N/A

*Standing Item*

**Update Summary:**

- No updates to provide.

**Agenda Item 11. Update: Texas Association for State Financial Aid Administrators (TASFAA)**

**Dede Gonzales, TASFAA President**

**Handout Provided: No**

**Formal Decision/Action Required**  
No

*Standing Item*

**Update Summary:**

- Board meeting to discuss strategic plan for the next three years.
- Legislative Issues Committee drafted a letter ([found on TASFAA website](#)) to outline association's legislative goals, sent to the Commissioner, the Senate Higher Education Subcommittee, the House Higher Education Committee, and several legislators who have filed financial aid-related bills.
  - Four Goals, three align state policies with federal policies.
    - Satisfactory Academic Progress
    - Selective Service
    - Drug Offenses



<ul style="list-style-type: none"> <li>TEOG Matching</li> <li>Regional Trainings are ongoing.</li> </ul>	
<b>Agenda Item 12. Update: High School District</b>	<b>Lisa Schoenbrun, El Paso ISD; Shonna Norton, Wichita Falls ISD</b>
<b>Handout Provided: No</b>	<b>Formal Decision/Action Required</b> No
<i>Standing Item</i> <b>Update Summary:</b> <ul style="list-style-type: none"> <li>Concerned about the delay of the 2024-25 FAFSA.</li> </ul>	
<b>Agenda Item 13. Update: Office of Student Financial Aid Programs</b>	<b>DeChà Reid, Senior Director, THECB</b>
<b>Handout Provided: No</b>	<b>Formal Decision/Action Required</b> No
<i>Standing Item</i> <b>Topics of Discussion:</b> <ol style="list-style-type: none"> <li>Grant Application and Payment Portal (GAPP)</li> <li>New Staff Hires</li> <li>Released and Upcoming Announcements</li> <li>Upcoming and Past Deadline Dates</li> </ol> <b>Grant Application and Payment Portal (GAPP)</b> <ul style="list-style-type: none"> <li>GAPP is a modernized platform that will integrate 14 out of 20 of the financial aid programs which consist of grants, work-study, loan repayment, exemption, and scholarships.</li> <li>The system will allow institutions to approve user access, upload documents (e.g., program participation), request payments, monitor program spending, send communication directly to THECB staff, and submit authority to transfer requests.</li> <li>The goal is to go live with a few programs in Fall 2023. The proposed programs are: Work-study programs, Educational Aide, and Bilingual Education.</li> <li>More information and training will be released introducing the improved payment platform.</li> </ul> <b>Financial Aid Personnel Activity</b> <ul style="list-style-type: none"> <li>THECB has been busy with hiring and promoting internal staff. To date, we had: <ul style="list-style-type: none"> <li>New Hires: 4 <ul style="list-style-type: none"> <li>1 Manager II for our Workforce Aid (Loan Repayment) team</li> <li>1 Program Specialist III for our Institutional Aid (Operational) team</li> <li>2 Customer Service Reps for our Student Aid (Loan Origination) team</li> </ul> </li> <li>Vacancies: 2 <ul style="list-style-type: none"> <li>1 Programs Specialist III for our Institutional Aid (Operations) team</li> <li>1 Customer Services Rep III for our Workforce (Loan Repayment) team</li> </ul> </li> </ul> </li> </ul> <b>Released Memos</b> <ul style="list-style-type: none"> <li>March 1, 2023 – <a href="#">Tuition Equalization Grant (TEG) FY2024 Award Amounts Memo [PDF]</a></li> <li>February 24, 2023 – <a href="#">2022-23 (FY 2023) FORWARD Loan Program Guidelines Memo [PDF]</a></li> <li>February 22, 2023 – <a href="#">NEW LOAN PROGRAM: FORWARD Loan Program Memo [PDF]</a></li> <li>February 21, 2023 – <a href="#">Financial Aid Database (FAD) FY 2023 Update Memo [PDF]</a></li> <li>February 16, 2023 – <a href="#">Texas State Financial Aid FY 2024 OPT-IN/OPT-OUT Form Memo [PDF]</a></li> <li>February 2, 2023 – <a href="#">Texas Transfer Grant Program Spring 2023 Reimbursement Request Memo [PDF]</a></li> <li>January 26, 2023 – <a href="#">Financial Aid Database (FAD) Manual - FY 2023 (2022-23) Memo [PDF]</a></li> <li>January 25, 2023 – <a href="#">Good Neighbor Program FY 2024 (2023-24) Memo [PDF]</a></li> <li>January 19, 2023 – <a href="#">Toward EXcellence, Access, and Success (TEXAS) Grant and Texas Educational Opportunity Grant FY 2024 Award Amounts Memo [PDF]</a></li> </ul> <b>Upcoming Memos</b> <ul style="list-style-type: none"> <li>March 6, 2023 – <a href="#">FY 2023 Authority to Transfer [PDF]</a></li> </ul> <b>Upcoming deadlines</b> <ul style="list-style-type: none"> <li>March 3, 2023 – 2023-24 Texas State Financial Aid OPT-IN/OPT-OUT Form</li> <li>March 15, 2023 – <a href="#">FY2023 Good Neighbor Program Nominations [PDF]</a></li> </ul> <b>Past Deadlines</b> <ul style="list-style-type: none"> <li>February 28, 2023 – Spring 2023 Texas Transfer Grant Reimbursement Request <ul style="list-style-type: none"> <li>As a reminder, the purpose of submitting your reimbursement data sooner is so the agency can assess the amount of spring funds available for reallocation to other schools that may need additional funding.</li> </ul> </li> </ul>	

Agenda Item 14. Discussion Topic: Proposed Rules that Impact Financial Aid Programs		DeChà Reid, Senior Director, THECB
Handout Provided:		Formal Decision/Action Required
These proposed rules will be adopted at our April Board Meeting.		
Proposed Rule(s)	Proposed Amendments	
<a href="#">19 TAC §22.1</a>	In 22.1, the definition of "expected family contribution" is amended to reflect that the phrase refers to the applicable federal methodology.	
<a href="#">19 TAC §§22.22 - 22.24, 22.28, 22.29</a>	In §22.22, two redundant definitions are repealed since the items are explained elsewhere in the subchapter. In §22.23, the timing of data submissions is clarified to ensure that allocation activities can occur in a timely manner. In §22.24(8), eligibility criteria are provided for exceptional TEG need. In §22.28, a clarifying reference to §22.4 is added. In §22.29, outdated language is removed, with appropriate clarifying language. Section 22.29(c) is also removed since the language is being proposed separately as a new §22.30.	
<a href="#">19 TAC §22.30</a>	In 22.30, this new section will establish language currently in §22.29 as a separate rule for greater clarity.	
<a href="#">19 TAC §22.49</a>	In 22.49 will implement new standards regarding the aggregate and annual loan limits.	
<p><b>Another proposed rule change that we are interested in getting feedback on would impact community colleges.</b></p> <p>Before we submit a request for a proposed rule change, we were hoping to get your input on whether you think the Coordinating Board should consider calculating two maximum TEOG amounts: an in-district amount and an out-of-district amount.</p> <p>The statute does not distinguish between in-district vs. out-district: <a href="#">TEC 56.407(a)</a> indicates, “the amount of a grant under this subchapter for a student enrolled full-time at an eligible institution is the amount determined by the coordinating board as the average statewide amount of tuition and required fees that a resident student enrolled full-time in an associate degree or certificate program would be charged for that semester or term at eligible institutions.” This can be interpreted as both in-district and out-of-district students are residents.</p> <p>However, our rule for calculating the maximum grant is based on in-district resident tuition and fees. (<a href="#">19 TAC §22.261(b)(2)</a>). We understand that this can lead to some funding challenges at some community colleges, since out-of-district resident tuition and fees are usually several thousand dollars more than in-district resident tuition and fees. TEOG requires institutions to ensure that any TEOG recipient is receiving grant funds to cover tuition and fees. Many community colleges do not have significant institutional funds to draw from to cover the difference between the maximum TEOG and a student’s out-of-district resident tuition and fees, and thus they may avoid offering TEOG to out-of-district students.</p> <p>We are proposing to re-write our rule to calculate both an in-district maximum and an out-of-district maximum to provide institutions with greater flexibility in the utilization of their funding to support the goals of the TEOG program. What are your thoughts on this proposal?</p> <p><i>If the TEOG appropriation increases that have been proposed by the Community College Finance Commission are approved, having an out-of-district maximum may be essential to ensuring institutions can execute the increased funding level.</i></p>		
Agenda Item 15. Discussion Topic: 2024-25 FAFSA Delay		Rachelè Garrett, Chair
Handout Provided: No		Formal Decision/Action Required No
Discussion Summary: <ul style="list-style-type: none"><li>Discussion on how institutions are approaching marketing &amp; high school outreach related to the delay.</li></ul>		
Agenda Item 16. Feedback for Future Meetings		Rachelè Garrett, Chair
Handout Provided: No		Formal Decision/Action Required No
Feedback Summary: <ul style="list-style-type: none"><li>Legislative recap on various Financial Aid changes that may be occurring during the legislative session.</li></ul>		

- Further 2024-25 FAFSA discussion to see if DoE has provided any guidance by June 1.

**Agenda Item 17. Adjournment****Rachelè Garrett, Chair****Handout Provided: No****Formal Decision/Action Required**  
No**Summary:**

- Motion to adjourn made by Denise Welch
- Motion to adjourn seconded

**Meeting adjourned at 12:35 p.m.****Reminder. Announcement: Expense Reports****Rachelè Garrett, Chair**

**June 1, 2023, FAAC Meeting Minutes**

<b>Committee Members in Attendance (In-Person)</b>	<b>Committee Members in Attendance (Virtual)</b>	<b>Committee Members Absent</b>
Rachelè Garrett, Chair Denise Welch, Past Chair DeChà Reid, THECB Rep Victoria Chen Dede Gonzales Bridgette Ingram Gaby Leon Scott Lapinski Lynda McKendree Joseph Ruiz Joseph Sanchez Tevian Sides	Jackie Adler Cecelia Jones Shonna Norton Thomas Ratliff Lisa Schoenbrun Gilbert Zavala	Rachel Joseph Melet Leafgreen Holly Nolan Sal Ramirez
<b>Agenda Item 1. Welcome, Introductions and Overview of Meeting</b>		<b>Rachelè Garrett, Chair</b>
<b>Handout Provided: No</b>		<b>Formal Decision/Action Required</b> No
<b>Agenda Item 2. Consideration of Approval of Minutes from the meeting held on December 8, 2022</b>		<b>Rachelè Garrett, Chair</b>
<b>Handout Provided: Yes</b>		<b>Formal Decision/Action Required</b> Yes – <i>minutes approved</i>
<b>Summary:</b> <ul style="list-style-type: none"> <li>No corrections were identified.</li> <li>**See handout for agenda item 2 for more information.</li> </ul>		
<b>Agenda Item 3. Update: Prior FAAC Business</b>		<b>DeChà Reid, Senior Director, THECB</b>
<b>Handout Provided: No</b>		<b>Formal Decision/Action Required</b> No
<b>Standing Item</b> <b>Update Summary:</b> <ul style="list-style-type: none"> <li>No prior business</li> </ul>		
<b>Agenda Item 4. Update: External Relations</b>		<b>John Wyatt, External Relations, THECB</b>
<b>Handout Provided: No</b>		<b>Formal Decision/Action Required</b> No
<b>Standing Item</b> <b>Update Summary:</b> <ul style="list-style-type: none"> <li>The Legislative Session concluded on May 29</li> <li>Most productive session based on the number of bills that were passed that supported higher education.</li> <li>Substantial investments in higher education: <ul style="list-style-type: none"> <li>Appropriated over 1.4 billion in three grant programs</li> <li>Community colleges – funded TEOG at the same service level at TEXAS Grant <ul style="list-style-type: none"> <li>HB8 enacted the Community College Finance</li> <li>Creates a new program for dual credit students called FAST; will have an emergency rules which is good for 90 days (will come out in August 2023); FAST has three components: <ul style="list-style-type: none"> <li>Eligible Institution-Must agree to the terms of the program (this is an optional program-not mandatory); institution must treat the student based on the program; the institution will receive funding if the student enrolls and receives</li> <li>Eligible Student-No cost be enrolled and educationally disadvantage (tuition, fees, and books)</li> <li>Eligible Course-Has to be applicable towards an AA or Credential of Value (field of study, Foreign Language, Core, )</li> </ul> </li> <li>Eliminates the Pell requirement from TEOG</li> </ul> </li> <li>HB8 added new programs</li> <li>HB 4434 expanded the Texas First to all public schools</li> <li>A new bill that creates a new program for competency-based programs</li> <li>HB4363 for Teachers First is a new program to help support teachers</li> <li>Authorized THECB that TEXAS Grant will fund top 10% high school graduates</li> <li>Transfer Grant and Texas Leadership will be supported in legislation; Texas Leaders is within statute and it has a research a research program for graduates</li> </ul> </li> </ul>		

- \$25 million in loan repayment programs to support healthcare workforce
- Numerous programs in financial aid programs
- Still in the Governors veto period which ends on June 29; can veto a line item on the budget
- There are still contingencies that remain to determine which specific programs that were funded
- Will produce a summary of legislation for higher education by July
- There will be special sessions on specific items: property taxes and border and there will be more based on what the Governor decides is important.
- Educationally disadvantaged means a student that can receive free lunch four years prior to receiving FAST (Financial Aid Swift Transfer)

**Agenda Item 5. Update: THECB Financial Aid Strategic Priority****Charles Contero-Puls, Assistant Commissioner, THECB****Handout Provided: Yes****Formal Decision/Action Required**  
No*Standing Item***Update Summary:**

\*\*See handout for agenda item 5 for more information.

**Agenda Item 6. Update: TASFA Subcommittee House Bill 3 (FAFSA/TASFA Graduation Requirement) and House Bill 2140 (Online TASFA)****Bridgette Ingram, Subcommittee Chair; Claudette Jenks, Director, Strategic Advising and Leah Smalley, Director, THECB****Handout Provided: No****Formal Decision/Action Required**  
No*Standing Item***Update Summary:**

- 2023-24 TASFA was delayed until summer; in regression testing for the application
- Developed an Admin portal for internal staff to help support students, parents, and schools,
- Over the past few months have done test files with the committee; confirmed that the test files can be released to all schools; will send out a notice in June; each school can do what they want to do with the test file and it is a good foundation for what 2024-25 will look like
- Looking at training and demo for June 2023 for schools and SFTP process
- Moved away from collecting a signature to an acknowledgment box similar to ApplyTX; this will change the file layout but will not change the position but will send out a new file layout
- Still a lot of work to be done for 2024-25; doing a massive comparison of what changes will impact TASFA
- The goal is to announce changes of the TASFA during the Sept FAAC meeting

**Agenda Item 7. Update: Data Collection Subcommittee****Dede Gonzales, Subcommittee Chair****Handout Provided: Yes****Formal Decision/Action Required**  
No*Standing Item***Update Summary:**

\*\*See handout for agenda item 7 for more information

**Agenda Item 8. Update: Legislative Subcommittee****Denise Welch, Past Chair****Handout Provided: No****Formal Decision/Action Required**  
No*Standing Item***Update Summary:**

- The TASFAA and FAAC Legislative combined the two groups
- Chris Murr, the chair has sent out an update about the bills that are awaiting for signatures

**Agenda Item 9. Update: Texas Association for State Financial Aid Administrators (TASFAA)****Dede Gonzales, TASFAA President****Handout Provided: No****Formal Decision/Action Required**  
No*Standing Item***Update Summary:**

- Completed the spring regional trainings which had about 85 participants; about a 40% pass rate with the NASFAA Credential
- Will have a joint SWASFAA and TASFAA conference in October; registration to open in June-Theme is Uncharted

- Denise Welch is President-Elect
- Elections are coming up this summer for new TASFAA Board members and a President

**Agenda Item 10. Update: High School District**

Lisa Schoenbrun, El Paso ISD; Shonna Norton, Wichita Falls ISD

Handout Provided: No

Formal Decision/Action Required  
No

*Standing Item*

**Agenda Item 11. Update: Office of Student Financial Aid Programs**

DeChà Reid, Senior Director, THECB

Handout Provided: No

Formal Decision/Action Required  
No

*Standing Item*

**Topics of Discussion:**

5. Grant Application and Payment Portal (GAPP)
6. New Staff Hires
7. Released and Upcoming Announcements
8. Upcoming and Past Deadline Dates

**Grant Application and Payment Portal (GAPP)**

- GAPP is a modernized platform that will integrate 14 out of 20 of the financial aid programs which consist of grants, work-study, loan repayment, exemption, and scholarships.
- The system will allow institutions to approve user access, upload documents (e.g., program participation), request payments, monitor program spending, send communication directly to THECB staff, and submit authority to transfer requests.
- The goal is to go live with a few programs in Fall 2023. The proposed programs are: Work-study programs, Educational Aide, and Bilingual Education.
- More information and training will be released introducing the improved payment platform.

**Financial Aid Personnel Activity**

- THECB has been busy with hiring and promoting internal staff. Charles mentioned our recent reorganization; we are continuing to look at how best to structure our area to fit the needs of our customers and the agency.
  - New Hires: 2
    - 1 Customer Service Representative for our Loan Repayment team
    - 1 Program Specialist III for our Institutional Aid (Operational) team

**Released Announcements**

- May 15, 2023 – Memo: 10-Day Review Data Review (Preliminary Allocations)
- May 15, 2023 – Memo: TEXAS Grant 10-Day Allocation Data Review
- May 15, 2023 – Memo: TEOG 10-Day Allocation Data Review
- May 15, 2023 – Memo: Texas College Work-Study Program 10-Day Allocation Data Review
- May 15, 2023 – Memo: EAE 10-Day Allocation Data Review
- May 15, 2023 – Memo: 2024-2025 – TEG OPT-IN/OPT-OUT Form
- May 18, 2023 – [Memo: State Net Price Calculator \(2021-22\)](#)
- May 18, 2023 – Dear Colleagues: Institutional Calendar – Summer 2023
- May 22, 2023 – [Memo: Good Neighbor Program FY 2024 \(2023-24\) – Selected Students](#)

**Upcoming Memos**

- June 7, 2023 – [Memo: 2023 FAD Cycle 2 Opens](#)
- June 16, 2023 – [Memo: 2024-25 Program Participation Agreement Announcement](#)
- June 22, 2023 – Memo: TEG 10-Day Allocation Data Review
- Launching GAPP

**Upcoming deadlines**

- All private/independent institutions eligible to participate in the Tuition Equalization Grant (TEG) Program are **required** to complete the 2024-2025 Biennium (FY 2023-24 and FY 2024-25) Opt-In/Opt-Out form. Notifications were sent to financial aid directors at each institution. The deadline to submit the form is today, **June 1, 2023**.
- All public institutions that enroll full-time entering first year students are required to submit the most recent version (2021-22) of the U.S. Department of Education's (ED) Net Price Calculator template to the THECB by **June 23, 2023**. See [memo from May 18, 2023](#).
- Institutions requesting to transfer funds between state grant and work-study programs must submit a request by **July 1, 2023** using the [Authority to Transfer form](#). Please see the [memo from Mar. 6, 2023](#).

**Past Deadlines**

<ul style="list-style-type: none"> <li>None.</li> </ul>	
<b>Agenda Item 12. Discussion Topic: Recognition of Members Stepping Down</b>	<b>Rachelè Garrett, Chair</b>
<b>Handout Provided: No</b>	<b>Formal Decision/Action Required</b> No
<b>Discussion Summary:</b> <ul style="list-style-type: none"> <li>This topic will discuss the FAAC members whose term ends on 6/30/2023.</li> </ul> <p>Denise Welch – Panola College  Victoria Chen – Texas Christian University  Bridgette Ingram – Texas A&amp;M University  Holly Nolan – University of Houston Clear Lake  Shonna Norton – Wichita Falls Independent School District  Thomas Ratliff – Abilene Christian University  Joseph Ruiz – Del Mar College  Joseph Sanchez – UNT Health Science Center</p>	
<b>Agenda Item 13. Discussion Topic: Recommendation on Proposed Nominees for 2023 FAAC</b>	<b>DeChà Reid, Senior Director, THECB</b>
<b>Handout Provided: Yes</b>	<b>Formal Decision/Action Required</b> No
<b>Discussion Summary:</b> <ul style="list-style-type: none"> <li>This topic will discuss the proposed 2023 FAAC member recommendations.</li> </ul> <p>**See handout for agenda item 13 for more information.</p>	
<b>Agenda Item 14. Discussion Topic: State Priority Deadline</b>	<b>Charles Contero-Puls, Assistant Commissioner, THECB</b>
<b>Handout Provided: No</b>	<b>Formal Decision/Action Required</b> No
<b>Discussion Summary:</b> <ul style="list-style-type: none"> <li>This topic will discuss the impact of the 2024-25 FAFSA not being available until December and to gather FAAC recommendation on whether an alternate financial aid application deadline is necessary for 2024-2025 academic year.</li> <li>The Jan. 15 State Priority Deadline is in administrative rule</li> <li>Proposed a new rule that will provide the Commissioner the flexibility to delay the rule if there is an extenuating circumstance (i.e., natural disaster); this is an annual review based on the circumstances; this will go back to 1/15 for 2025-26.</li> <li>The rule will go to the July Board meeting for approval and will not be official until August 2023; want to get the feedback early.</li> <li>Received a couple of comments back for approval of the new rule</li> <li>Input from FAAC on the delay of 2024-25:</li> <li>Agree about 3/15 is a reasonable date</li> <li>ASAP, check with your school (recommended submission date)</li> </ul>	
<b>Agenda Item 15. Transition of Leadership</b>	<b>Rachelè Garrett, Chair</b>
<b>Handout Provided: No</b>	<b>Formal Decision/Action Required</b> No
<b>Agenda Item 16. Feedback for Future Meetings</b>	<b>Melet Leafgreen, Chair</b>
<b>Handout Provided: No</b>	<b>Formal Decision/Action Required</b> No
<b>Agenda Item 17. Adjournment</b>	<b>Melet Leafgreen, Chair</b>
<b>Handout Provided: No</b>	<b>Formal Decision/Action Required</b> No
<b>Summary:</b> Meeting adjourned at 12:35 p.m.	
<b>Reminder. Announcement: Expense Reports</b>	<b>Rachelè Garrett, Chair</b>

# **Committee on Innovation, Data, and Educational Analytics**

## **AGENDA ITEM V-C**

### **Consideration and possible action to approve the replacement of a member on the Standing Advisory Committee for Public Junior Colleges for the 2026-2027 biennium**

RECOMMENDATION: Approval

#### Background Information:

Texas Education Code, Section 130.001(b-5) gives the Texas Higher Education Coordinating Board authority to "establish a standing advisory committee composed of representatives of public junior colleges to provide advice and counsel to the coordinating board with respect to the funding of public junior colleges..."

The standing advisory committee is made up of no more than 12 members, including representatives of each accountability group and of college CEOs, chief financial officers, chief academic officers (provosts), and institutional researchers or other experts. The committee provides counsel and recommendations regarding the formulas, administration, and other components of the Public Junior College Finance Program established by House Bill 8, 88th Texas Legislature, and carry out other charges as issued by the board of the Texas Higher Education Coordinating Board or the commissioner.

Members serve three-year terms unless otherwise provided by the commissioner and are appointed by the Texas Higher Education Coordinating Board on the recommendation of the commissioner.

Lone Star College has informed us that the standing advisory committee member who was approved by the Board at its July 2023 meeting will be unable to complete their term. The commissioner has submitted a nomination for their replacement. The proposed committee member is Tiska Thomas, Chief Financial Officer for Dallas College.

Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.



# Committee on Innovation, Data, and Educational Analytics

## AGENDA ITEM V-D (1)

Consideration and possible action to repeal and adopt Board Rules, Chapter 1, Subchapter K, Sections 1.156 through 1.162, concerning replacement of the Community and Technical Colleges Formula Advisory Committee with the Standing Advisory Committee for Public Junior Colleges

RECOMMENDATION: Approval

### Background Information:

The Coordinating Board proposes to repeal and replace Board Rules 1.156-1.162, concerning the Standing Advisory Committee for Public Junior Colleges. As authorized by HB 8, this rule was adopted on an emergency basis at the August Special Called Board Meeting because all rules necessary for HB 8 implementation were required to be adopted before the start of Fiscal Year 2024.

HB 8 removed public junior colleges from the Formula Advisory Committee structure established under Texas Education Code, Section 61.059(b), requiring instead a “standing advisory committee composed of representatives of public junior colleges to provide advice and counsel to the coordinating board with respect to the funding of public junior colleges.” The rules that establish the Community and Technical Colleges Formula Advisory Committee (CTCFAC) are recommended for repeal and replacement with new rules that establish the Standing Advisory Committee (SAC) for Public Junior Colleges.

The committee has no more than 12 members, including representatives of each accountability group and of college CEOs, chief financial officers, chief academic officers (provosts), and institutional researchers or other experts. Members serve three-year terms unless otherwise provided by the Commissioner of Higher Education (Commissioner) and are appointed by the Coordinating Board on the recommendation of the Commissioner.

The SAC will study and provide counsel and recommendations regarding the formulas, administration, and other components of the Public Junior College Finance Program established by HB 8 and carry out other charges issues by the board of the THECB (Board) or Commissioner. The committee provides recommendations by a date the Commissioner approves to ensure the Commissioner can make timely recommendations to the Board.

Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

Date Published in the *Texas Register*: October 13, 2023

The 30-day comment period with the *Texas Register* ended on: November 11, 2023.

Summary of comments received: No comments were received regarding this rule.

## CHAPTER 1 AGENCY ADMINISTRATION

## SUBCHAPTER K STANDING ADVISORY COMMITTEE: PUBLIC JUNIOR COLLEGES

SUBCHAPTER K. STANDING ADVISORY COMMITTEE: PUBLIC JUNIOR COLLEGES.§1.156. Authority and Specific Purposes of the Standing Advisory Committee for Public Junior Colleges.

(a) Authority. Statutory authority for this subchapter is provided in the Texas Education Code, §130.001(b).

(b) Purposes. The Standing Advisory Committee for Public Junior Colleges is created to provide the Commissioner and Board with advice and counsel with respect to the funding of public junior colleges and financial incentives to achieve the goals of the state's higher education plan and carry out the purposes of Texas Education Code, Chapter 130A, implementing the Public Junior College Finance Program. The committee also performs other duties related to funding that the Board or Commissioner assign to the committee.

§1.157. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings:

(1) Board--The governing body of the agency known as the Texas Higher Education Coordinating Board

(2) Commissioner--The Commissioner of Higher Education, the Chief Executive Officer of the Board.

(3) Coordinating Board--Unless context indicates otherwise, the agency known as the Texas Higher Education Coordinating Board and staff employed by the agency to carry out assigned duties of the agency.

§1.158. Committee Membership and Officers.

(a) Membership shall consist of senior administrators and representatives of Texas public junior colleges with knowledge of the current funding formulas and the educational goals of the state.

(b) Membership on the committee should include:

(1) Representatives of each accountability group;

(2) Presidents or Chancellors;

(3) Chief Financial or Academic Officers; and

(4) Institutional Research or other expert campus representatives.

(c) The number of committee members shall not exceed twelve (12).

(d) The Commissioner shall recommend members to the Board for appointment.

(e) The Commissioner shall select the presiding officer, who will be responsible for conducting meetings and conveying committee recommendations to the Board and the Commissioner.

(f) Each member shall serve a three-year staggered term, unless otherwise provided by the Commissioner. A member may serve more than one term.

(g) The committee may appoint subcommittees or workgroups as necessary to complete the work.

§1.159. Duration.

The committee shall continue until September 1, 2027, and may be re-established by the Board.

§1.160. Meetings.

The committee shall meet on a regular basis not less than once a quarter. Special meetings may be called as deemed appropriate by the presiding officer.

§1.161. Tasks Assigned to the Committee.

Tasks assigned to the committee include:

- (1) Provide counsel to the Board and Commissioner on the administration of the Public Junior College Finance Program;
- (2) Study and make recommendations for modification to the formulas and other components of the Public Junior College Finance Program that will increase effectiveness and efficiencies of the programs delivered;
- (3) Identify funding incentives that would support the achievement of the state's goals outlined in the long-term master plan for higher education authorized in the Texas Education Code, §61.051(a-1); and
- (4) Any other charges issued by the Board or Commissioner of Higher Education.

§1.162. Recommendations.

The committee shall provide recommendations to the Commissioner on policies and rules necessary to implement the Public Junior College Finance Program. The committee shall provide the recommendations on a schedule approved by the Commissioner necessary to ensure the Commissioner can make timely recommendations to the Board for the adoption of rules for the program.

~~[SUBCHAPTER K FORMULA ADVISORY COMMITTEE – COMMUNITY AND TECHNICAL COLLEGES]~~

~~[Section 1.156. Authority and Specific Purposes of the Community and Technical~~

~~(a) Authority. Statutory authority for this subchapter is provided in the Texas Education Code, §61.059(b) and (b-1).~~

~~(b) Purposes. The Community and Technical Colleges Formula Advisory Committee is created to provide the Board with advice and recommendation(s) regarding a set of formulas that provide appropriate funding levels and financial incentives necessary to best achieve the goals of the state's higher education plan. The committee also performs other duties related to formula funding that the Board finds to be appropriate.~~

~~Section 1.157. Definitions.~~

~~The following words and terms, when used in this subchapter, shall have the following meanings:~~

~~(1) Board—The Texas Higher Education Coordinating Board.~~

~~(2) Commissioner—The Commissioner of Higher Education, the Chief Executive Officer of the Board.~~

~~(3) Interested persons—Persons who attend committee meetings as representatives of stakeholder entities and any other persons who have made their interest in the work of the committee known to its presiding officer. Such interested persons may participate in committee discussions, as invited by the presiding officer to do so, but do not have the authority to cast votes.~~

~~Section 1.158. Committee Membership and Officers.~~

~~(a) Membership shall consist of senior administrators at Texas public community or technical colleges with knowledge of the current funding formulas and the educational goals of the state.~~

~~(b) Membership on the committee should include:~~

~~(1) Representatives of each accountability group;~~

~~(2) Faculty;~~

~~(3) Presidents and/or Chancellors; and~~

~~(4) Chief Financial and/or Academic Officers.~~

~~(c) Interested persons, such as legislative and governmental relations staff, shall be regularly advised of committee meetings.~~

~~(d) The number of committee members shall not exceed twenty four (24).~~

~~(e) The committee may appoint subcommittees or workgroups as necessary to complete the work. The subcommittees or workgroups may include members from the formula advisory committee and other institutional representatives as appropriate.~~

~~(f) Members of the committee shall select the presiding officer, who will be responsible for conducting meetings and conveying committee recommendations to the Board.~~

~~(g) Members shall serve for a term of six years.~~

~~Section 1.159. Duration.~~

~~Not later than September 1 of each odd-numbered year, the Board shall appoint an advisory committee to review the funding formulas used by the Governor and the Legislature for making appropriations to community and technical colleges.~~

~~Section 1.160. Meetings.~~

~~The committee shall meet on a monthly basis beginning in the fall of every odd-numbered year through early spring of the following year. Special meetings may be called as deemed appropriate by the presiding officer. Meetings shall be open to the public and broadcast, unless prevented by technical difficulties. Minutes shall be available to the public after they have been prepared by the Board staff and vetted by members of the committee.~~

~~Section 1.161. Tasks Assigned to the Committee.~~

~~Tasks assigned to the committee include:~~

- ~~(1) Study and make recommendations for the appropriate funding levels for each formula;~~
- ~~(2) Study and make recommendations for modification to the formulas that will increase effectiveness and efficiencies of the programs delivered;~~
- ~~(3) Identify funding incentives that would support the achievement of the state's goals outlined in the long-term master plan for higher education authorized in the Texas Education Code, §61.051(a-1); and~~
- ~~(4) Any other charges issued by the Commissioner of Higher Education.~~

~~Section 1.162. Report of Fundable Operating Expenses.~~

~~(a) The Board staff shall conduct a study of expenses at community colleges, Texas State Technical College, and Texas State University System two-year institutions each year.~~

~~(b) The study shall encompass all expenses made by these institutions for instruction and administration from all unrestricted sources of funds including appropriated general revenue, tuition and fees, contract instruction, other educational and general revenue, and local tax revenue.~~

~~(c) Each college shall report total instructional expenses and contact hours for each instructional discipline included on a list provided by the Board and total expenses for administration, including institutional support, student services, library, instructional administration, organized activities, instructional staff benefits but excluding physical plant employees.~~

~~(d) From this information, the Board staff shall calculate costs for each instructional discipline.~~

~~Section 1.163. Report to the Board; Evaluation of Committee Costs and Effectiveness.~~

~~(a) Subcommittee recommendations shall be made to the committee no later than January 15 of the year following its appointment.~~

~~(b) The committee chairperson shall recommend to the Board a funding formula for the next biennium for community and technical colleges no later than February 1 of the year following its appointment. In making a recommendation, the committee shall:~~

~~(1) consider the results of the all funds expenditure study;~~

~~(2) consider the financial needs of affected institutions;~~

~~(3) consider funding provided for equivalent courses in general academic institutions;~~

~~(4) consider funding for peer institutions in other states;~~

~~(5) consider other factors as appropriate; and~~

~~(6) recommend a general revenue appropriation for instruction and administration for community colleges and the Texas State Technical College System and two-year colleges in the Texas State University System. The Legislative Budget Board staff converts the general revenue formula for Texas State Technical College System and two-year colleges in the Texas State University System into an all funds appropriation based on their estimated educational and general income.~~

~~(c) The Commissioner may provide recommendations to the Board if they differ from the committee's recommendations.~~

~~(d) After considering all such recommendations, the Board shall adopt its own recommendations at the quarterly Board meeting in April of even-numbered years. The Commissioner shall transmit the Board's recommendations to the Governor, the Legislature, and the Legislative Budget Board no later than June 1 of each even-numbered year.~~

~~(e) The committee shall also report committee activities to the Board to allow the Board to properly evaluate the committee's work, usefulness, and the costs related to the committee's existence. The Board shall report its evaluation to the Legislative Budget Board in its biennial Legislative Appropriations Request.]~~

# Committee on Innovation, Data, and Educational Analytics

## AGENDA ITEM V-D (2)

Consideration and possible action to adopt proposed amendments to Board Rules, Chapter 1, Subchapter L, Sections 1.164-1.167, concerning changes to the membership of the General Academic Institutions Formula Advisory Committee

RECOMMENDATION: Approval

### Background Information:

Texas Higher Education Coordinating Board (Coordinating Board) staff propose the amendment of Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter L, Sections 1.164-1.167, concerning the General Academic Institutions Formula Advisory Committee (GAIFAC) and in relation to House Bill (HB) 8 that reforms community college finance. As authorized by HB 8, this rule was adopted on an emergency basis at the August Special Called Board Meeting because all rules necessary for HB 8 implementation were required to be adopted before the start of Fiscal Year 2024.

The proposed amendment would adopt on a permanent basis the provisions of the emergency rule, which added Texas State Technical Colleges (TSTC) and the Lamar State Colleges to the General Academic Institutions Formula Advisory Committee (GAIFAC). This revision was due to the creation of a standing advisory committee specific to community colleges and the removal of these community colleges from the traditional formula advisory committee process, as directed by HB 8. Due to this, the existing Community and Technical College Formula Advisory Committee, which included representation of the community colleges, state colleges, and technical colleges, was recommended for repeal. To ensure the TSTCs and state colleges will continue to be represented in funding recommendations from institutions to the Coordinating Board, they were added to the GAIFAC.

Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

Date Published in the *Texas Register*: October 13, 2023

The 30-day comment period with the *Texas Register* ended on: November 11, 2023.

Summary of comments received: No comments were received regarding this rule.



## CHAPTER 1 AGENCY ADMINISTRATION

## SUBCHAPTER L FORMULA ADVISORY COMMITTEE - GENERAL ACADEMIC INSTITUTIONS

SUBCHAPTER L. FORMULA ADVISORY COMMITTEE - GENERAL ACADEMIC INSTITUTIONS, TECHNICAL COLLEGES, AND STATE COLLEGES.

§1.164. Authority and Specific Purposes of the General Academic Institutions, Technical Colleges, and State Colleges Formula Advisory Committee.

(a) Authority. Statutory authority for this subchapter is provided in the Texas Education Code, §61.059(b) and (b-1).

(b) Purposes. The General Academic Institutions, Technical Colleges, and State Colleges Formula Advisory Committee is created to provide the Board with advice and recommendation(s) regarding a set of formulas that provide appropriate funding levels and financial incentives necessary to best achieve the goals of the state's higher education plan. The committee also performs other duties related to formula funding that the Board finds to be appropriate.

§1.165. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings:

(1) Board--The governing body of the agency known as the Texas Higher Education Coordinating Board.

(2) Commissioner--The Commissioner of Higher Education, the Chief Executive Officer of the Board.

(3) Interested persons--Persons who attend committee meetings as representatives of stakeholder entities and any other persons who have made their interest in the work of the committee known to its presiding officer. Such interested persons may participate in committee discussions, as invited by the presiding officer to do so, but do not have the authority to cast votes.

(4) Public state colleges--Lamar State College - Port Arthur, Lamar State College - Orange, and Lamar Institute of Technology.

(5) The Texas Higher Education Coordinating Board--the agency known as the Texas Higher Education Coordinating Board and its staff.

§1.166. Committee Membership and Officers.

(a) Membership shall consist of representatives of Texas public general academic institutions, public state colleges, and Texas State Technical College with knowledge of the current funding formulas and the educational goals of the state.

(b) Membership on the committee should include representatives of each accountability group and at least one individual each to represent the public state colleges and Texas State Technical Colleges.

- (c) Interested persons, such as legislative and governmental relations staff shall be regularly advised of committee meetings.
- (d) The number of committee members shall not exceed twenty-four (24).
- (e) The committee may appoint subcommittees or workgroups as necessary to complete its work. The subcommittees or workgroups may include members from the formula advisory committees and other institutional representatives as appropriate.
- (f) Members of the committee shall select the presiding officer, who will be responsible for conducting meetings and conveying committee recommendations to the Board.
- (g) Members shall serve six-year staggered terms with one-third of the membership expiring every other year. A member can be re-appointed to serve another term.

§1.167. Duration.

Not later than September 1 of each odd-numbered year, the Board shall appoint an advisory committee to review the funding formulas for the use of the Governor and the Legislative Budget Board in making appropriations recommendations to the legislature for general academic institutions, technical colleges, and state colleges.

# Committee on Innovation, Data, and Educational Analytics

## AGENDA ITEM V-D (3)

Consideration and possible action to repeal Board Rules, Chapter 9, Subchapter B, Sections 9.28 and 9.29, concerning the certification of public community colleges as eligible to receive state appropriations

RECOMMENDATION: Approval

### Background Information:

Texas Higher Education Coordinating Board (Coordinating Board) staff propose the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 9, Subchapter B, Sections 9.28 and 9.29, concerning the certification of public community colleges as eligible to receive state appropriations and in relation to House Bill (HB) 8 that reforms community college finance. As authorized by HB 8, this rule was adopted on an emergency basis at the August Special Called Board Meeting because all rules necessary for HB 8, 88th Texas Legislature, Regular Session, implementation were required to be adopted before the start of Fiscal Year 2024.

The existing permanent rules reiterate the requirements that community colleges had to meet to be eligible to receive state appropriations and govern the process by which the Coordinating Board transmits the certifications to the comptroller and state auditor. These rules are recommended for permanent repeal and replacement with a new certification process based on changes made in HB 8 and consolidated into a new subchapter of Texas Administrative Code that concerns auditing, compliance, data reporting, and data error correction related to public community colleges.

Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

Date Published in the *Texas Register*: October 13, 2023

The 30-day comment period with the *Texas Register* ended on: November 11, 2023.

Summary of comments received: No comments were received regarding this rule.

## CHAPTER 9 PROGRAM DEVELOPMENT IN TWO-YEAR COLLEGES

## SUBCHAPTER B GENERAL PROVISIONS

~~[Section 9.28. Appropriations.~~

~~To be eligible to receive its proportionate share of the biennial appropriations for support, maintenance, operation, and improvement, each public community college must:~~

- ~~-(1) be certified as a public community college as prescribed by §9.29 of this title (relating to Certification);~~
- ~~-(2) offer a minimum of 24 semester credit hours of career technical/workforce education courses;~~
- ~~-(3) have complied with all existing laws, rules, and regulations governing the establishment and maintenance of public community colleges;~~
- ~~-(4) collect, from each full-time and part-time student enrolled, appropriate matriculation and other fees as required by law;~~
- ~~-(5) grant, when properly applied for, the scholarships and tuition exemptions provided for in the Texas Education Code; and~~
- ~~-(6) levy and collect ad valorem taxes as provided by law for the operation and maintenance of the institution.]~~

~~[Section 9.29. Certification.~~

~~The Commissioner shall file with the State Auditor and the State Comptroller on or before October 1 of each year a list of the public community colleges in the state and certify the names of those colleges that have complied with the standards, rules, and regulations prescribed by the Board.]~~

# Committee on Innovation, Data, and Educational Analytics

## AGENDA ITEM V-D (4)

Consideration and possible action to adopt proposed amendments to Board Rules, Chapter 13, Subchapter A, Section 13.1, concerning finance-related definitions

RECOMMENDATION: Approval

### Background Information:

Texas Higher Education Coordinating Board (Coordinating Board) staff proposes the adoption of new rules in Texas Administrative Code (TAC), Title 19, Part 1, Chapter 13, Subchapter A, Section 13.1, concerning new and amended definitions necessary to provide the clarity and precision to implement the community college finance system established by House Bill (HB) 8. As authorized by HB 8, these rules were adopted on an emergency basis at the August Special Called Board Meeting because all rules necessary for HB 8 implementation were required to be adopted before the start of Fiscal Year 2024.

Rule 13.1(4)-(6) specifies three distinct entities: “Board,” meaning the nine-member appointed governing body of the Texas Higher Education Coordinating Board; “Coordinating Board,” meaning the state agency as a whole; and “Coordinating Board Staff or Board Staff,” meaning the staff of the agency. Separating these terms improves the readability and precision of the rules contained in Chapter 13 and allows the Coordinating Board to make a distinction between actions taken by the governing body, agency staff, and the agency as a whole.

Rule 13.1(8) defines the census date, which is the deadline for institutions to submit data relating to students in attendance for the purposes of formula funding. This definition implements provisions of HB 8, which requires the Coordinating Board to stipulate data reporting requirements in rule.

Rule 13.1(25)-(28) separates a single definition for public two-year colleges into three different component sectors: public junior colleges, public technical institutes, and public state colleges. HB 8 codifies a formula funding system for public community colleges distinct from the formula funding systems for public technical institutions and public state colleges implemented in the General Appropriations Act. The revised definitions allow for greater drafting clarity and align finance terms in Chapter 13 with Texas Education Code and with institutional categories used by state appropriators.

Ms. Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

Date Published in the *Texas Register*: October 13, 2023

The 30-day comment period with the *Texas Register* ended on: November 11, 2023.

Summary of comments received: No comments were received regarding this rule.

## CHAPTER 13 FINANCIAL PLANNING

## SUBCHAPTER A DEFINITIONS

## Section 13.1 Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise or the relevant subchapter specifies a different definition.

(1) Auxiliary Enterprise--Activities providing a service to students, faculty, or staff for a fee directly related to, although not necessarily equal to, the cost of the service.

(2) Available University Fund (AUF)--A fund established in Article 7, §18, of the Texas Constitution to receive all interest and earnings of the Permanent University Fund and used to pay the debt service on PUF-backed bonds.

(3) Base Year--The semesters comprising the year of contact hours used for applying the formula funding distribution to the colleges and universities (usually the summer and fall of even years and the spring of odd years).

(4) Board ~~[or Coordinating Board]~~--The governing body of the agency known as the [The] Texas Higher Education Coordinating Board.

(5) Census Date--The date upon which an institution may report a student in attendance for the purposes of formula funding as specified in the Coordinating Board Management (CBM) manual for the year in which the funding is reported.

(6) [(5)] Contact Hour--A time unit of instruction used by community, technical, and state colleges consisting of 60 minutes, of which 50 minutes must be direct instruction.

(7) Coordinating Board--The agency known as the Texas Higher Education Coordinating Board, including agency staff.

(8) Coordinating Board Staff or Board Staff--Agency staff acting under the direction of the Board and the Commissioner.

(9) [(6)] Current Operating Funds--Unrestricted (appropriated) funds, designated funds, restricted funds, and auxiliary enterprise funds.

(10) [(7)] Developmental Coursework--Non-degree-credit courses designed to address a student's deficiencies.

(11) [(8)] Developmental Education--Courses, tutorials, laboratories, or other efforts to bring student skills in reading, writing, and mathematics to entering college level. English as a Second Language (ESL) courses may be considered developmental education, but only when they are used to bring student skill levels in reading or writing

to entering college level. The term as used in this chapter does not include courses in study skills or thinking skills.

(12) ~~[(9)]~~ Formula Funding--The mathematical method used to allocate appropriated sources of funds among institutions of higher education.

(13) ~~[(10)]~~ Functional categories (as defined by National Association of College ~~college~~ and University Business Officers)--Instruction, research, public service, academic support, student service, institutional support, operation and maintenance of plant, scholarships and fellowships, depreciation, auxiliary enterprises, and hospital.

(14) ~~[(11)]~~ General Academic Teaching Institution--Any college, university, or institution so classified in Texas Education Code, §61.003(3), or created and so classified by law.

(15) ~~[(12)]~~ General Revenue (GR)--State tax revenue.

(16) ~~[(13)]~~ Governmental Accounting Standards Board (GASB)--An entity created by the Financial Accounting Foundation to set accounting standards for governmental entities including public institutions of higher education.

(17) ~~[(14)]~~ Higher Education Fund (HEF)--A fund established in Article 7, §17, of the Texas Constitution to fund capital improvements and capital equipment for institutions not included in the Permanent University Fund.

(18) ~~[(15)]~~ Independent institution of higher education--A private or independent college or university as defined in Texas Education Code, §61.003(15), that is:

(A) organized under the Texas Non-Profit Corporation Act;

(B) exempt from taxation under Article VIII, §2, of the Texas Constitution and §501(c)(3) of the Internal Revenue Code; and

(C) accredited by the Commission on Colleges of the Southern Association of Colleges and Schools.

(19) ~~[(16)]~~ Institution of Higher Education or Institution--Any public technical institute, public junior college, public senior college or university, medical or dental unit, public state college, or other agency of higher education as defined in Texas Education Code, §61.003.

(20) ~~[(17)]~~ Institutional Expenditures--All costs of activities separately organized and operated in connection with instructional departments primarily for the purpose of giving professional training to students as a necessary part of the educational work of the related departments.



(21) ~~[(18)]~~ Institutional Funds--Fees, gifts, grants, contracts, and patient revenue, not appropriated by the legislature.

(22) ~~[(19)]~~ Local Funds--Tuition, certain fees, and other educational and general revenue appropriated by the legislature.

(23) ~~[(20)]~~ National Association of College and University Business Officers (NACUBO)-  
-Provides guidance in business operations of higher education institutions.

(24) ~~[(21)]~~ Permanent University Fund (PUF)--A fund established in Article 7, §11, of the Texas Constitution to fund capital improvements and capital equipment at certain institutions of higher education.

~~[(22) Public Junior College, Public Technical Institute, Public State College, or Public Two-Year College--Any public junior college, public community college, public technical college, or public state college as defined in Texas Education Code, §61.003.]~~

(25) Public Junior College--A public institution of higher education as defined in Texas Education Code, §61.003(2).

(26) Public State College--Any public state college as defined in Texas Education Code, §61.003(16).

(27) Public Technical Institute--Any public technical institute as defined in Texas Education Code, §61.003(7), excluding Lamar Institute of Technology.

(28) Public Two-year College--Any public junior college, public community college, public technical institute, or public state college.

(29) ~~[(23)]~~ Semester Credit Hour (SCH)--A unit of measure of instruction consisting of 60 minutes, of which 50 minutes must be direct instruction, over a 15-week period in a semester system or a 10-week period in a quarter system.

## Committee on Innovation, Data, and Educational Analytics

### AGENDA ITEM V-D (5)

Consideration and possible action to repeal Board Rules, Chapter 13, Subchapter D, Section 13.62, concerning updates to a manual for community college financial reports

RECOMMENDATION: Approval

#### Background Information:

Texas Higher Education Coordinating Board (staff proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter D, Section 13.62, concerning updates to a manual for community college annual financial reports and in relation to House Bill (HB) 8 that reforms community college finance. As authorized by HB 8, this repeal was adopted on an emergency basis at the August Special Called Board Meeting because all rules necessary for HB 8 implementation were required to be adopted before the start of Fiscal Year 2024.

Specifically, this repeal removes a provision concerning updates to the manual for community college annual financial reports so that they may be added to a new consolidated community college data reporting rule. The permanent repeal is proposed, along with others related to HB 8, to consolidate a comprehensive financial reporting chapter.

Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

Date Published in the *Texas Register*: October 13, 2023

The 30-day comment period with the *Texas Register* ended on: November 11, 2023.

Summary of comments received: No comments were received regarding this rule.

CHAPTER 13 FINANCIAL PLANNING

SUBCHAPTER D FINANCIAL REPORTING

~~[Section 13.62. Community Colleges.]~~

~~[(a) The Coordinating Board staff shall annually review and update the financial reporting manual with advice from community college business officers and the college's independent auditors.]~~

~~[(b) The financial reporting manual shall be in compliance with the Governmental Accounting Standards Board's pronouncements.]~~

~~[(c) The community colleges shall submit their audited annual financial reports to the Coordinating Board by January 1st of each year.]~~

## Committee on Innovation, Data, and Educational Analytics

### AGENDA ITEM V-D (6)

Consideration and possible action to adopt proposed amendments to Board Rules, Chapter 13, Subchapter D, Section 13.63, concerning requirements for community college financial reporting

RECOMMENDATION: Approval

#### Background Information:

Texas Higher Education Coordinating Board staff proposes the amendment of Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter D, Section 13.63, concerning requirements for community college financial reporting and in relation to House Bill (HB) 8 that reforms community college finance. As authorized by HB 8, this amendment was adopted on an emergency basis at the August Special Called Board Meeting because all rules necessary for HB 8 implementation were required to be adopted before the start of Fiscal Year 2024.

Specifically, this amendment removes community college-related data-reporting provisions due to the addition of a new consolidated community college financial data reporting rule. The amendment is proposed, along with others related to HB 8, to consolidate a comprehensive financial reporting chapter for community colleges.

Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

Date Published in the *Texas Register*: October 13, 2023

The 30-day comment period with the *Texas Register* ended on: November 11, 2023.

Summary of comments received: No comments were received regarding this rule.

## CHAPTER 13 FINANCIAL PLANNING

## SUBCHAPTER D FINANCIAL REPORTING

## Section 13.63 Additional Financial Information Reporting

(a) Each university system, general academic institution, technical or state college, and health-related institution shall provide to the Board financial data related to the operation of each system office and institution. This information should be reported in the Board's annual report of financial activity by fund group.

~~(b) [Each community college shall continue to provide to the Board financial data related to the operation of each community/junior college reflecting restricted and non-restricted operating revenues and operating expenses as directed by the Board.~~

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~~(c)]~~ Each system office and institution of higher education, except public junior colleges, shall provide the report no later than January 1 of each year using the specific content and format prescribed by the Board.

# Committee on Innovation, Data, and Educational Analytics

## AGENDA ITEM V-D (7)

Consideration and possible action to adopt proposed amendments to Board Rules, Chapter 13, Subchapter F, Sections 13.101, 13.102, and 13.104, concerning limitations on the reporting of hours to the Coordinating Board for funding purposes

RECOMMENDATION: Approval

### Background Information:

Texas Higher Education Coordinating Board (Coordinating Board) staff proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter F, Sections 13.101, 13.102, and 13.104 in relation to House Bill (HB) 8 concerning limitations on the reporting of hours to the Coordinating Board for funding purposes.

Specifically, this amendment will update the Texas Administrative Code to accurately reflect two changes made by HB 8. Pursuant to HB 8, it establishes that hours earned in relation to a previously awarded associate degree do not count towards the limitation on the hours that may be reported for funding based on a student's current degree program (the "excess hours" rule). The amendment would also update the reference to the authority for the limitation on reporting hours related to a course taken by a student for the third time (the "three-peat" rule) to statute instead of a rider provision in the General Appropriations Act.

Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

Date Published in the *Texas Register*: October 13, 2023

The 30-day comment period with the *Texas Register* ended on: November 11, 2023.

Summary of comments received: No comments were received regarding this rule.

## CHAPTER 13 FINANCIAL PLANNING

## SUBCHAPTER F. FORMULA FUNDING AND TUITION CHARGES FOR REPEATED AND EXCESS HOURS OF UNDERGRADUATE STUDENTS

## §13.101. Authority.

Texas Education Code, §54.014, provides that each institution may charge a higher rate of tuition to students with repeated or excess hours. Texas Education Code, §61.0595, limits formula funding for excess hours. Texas Education Code, §61.059(r), establishes that contact hours or semester credit hours related to a course that a student is taking for the third time may not be reported for the purpose of formula funding. ~~[The General Appropriations Act, SB 1, Article III, §40, 85th Legislature, Regular Session, limits formula funding for a course for which a student would generate formula funding for the third time.]~~ Texas Education Code, §61.059(b), grants the Coordinating Board the authority to devise, establish, and periodically review and revise formula recommendations for institutions of higher education. Texas Education Code, §130A, establishes the Public Junior College State Finance Program. Texas Education Code, §51.340, limits the number of remedial or developmental education semester credit hours for which formula funding may be received.

## §13.102. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Degree Plan--Academic program of courses and their related hours culminating in a degree or certificate, including minors, double majors, and completion of any other special program in which the student is also enrolled, such as a program with a study abroad component.
- (2) Excess Hours--Hours attempted by a student that are in excess of the limits and therefore ineligible for formula funding as described in §13.103 of this title (relating to Limitation on Formula Funding for Excess Hours).
- (3) Hours--Semester credit hours.
- (4) International Study Abroad Student--A student who is a citizen or permanent resident of a nation other than the United States who resides in the nation of which he or she is a citizen or permanent resident and who is in the United States and enrolled at a Texas public institution of higher education for a limited time as part of an exchange program or other study abroad program and who is not seeking a certificate or degree from a Texas Public institution of higher education.
- (5) Non-Course-Based Developmental Education Interventions (also known as Non-Semester-Length Interventions and also referred to as interventions)--Interventions that use learning approaches designed to address a student's identified weaknesses and effectively and efficiently prepare the student for college-level work. These interventions must be overseen by an instructor of record, must not fit traditional course frameworks, and cannot include advising or learning support activities already connected to a traditional course; interventions may include, but are not limited to, tutoring, supplemental instruction, or labs.

(6) Remedial and Developmental Courses--Courses designed to correct academic deficiencies and bring students' skills to an appropriate level for entry into college. The term includes English for speakers of other languages (ESOL) courses in which a student is placed as a result of failing the reading or writing portion of a test required by §4.56 of this title (relating to Assessment Instruments).

(7) Repeated Hours for Attempted Course--Hours for a course that is the same or substantially similar to a course that the student previously attempted for two or more times at the same institution. Previously attempted courses from which the student withdraws before the official census date shall not count as an attempted course.

(8) Repeated Hours for Completed Course--Hours for a course in which a student enrolls for two or more times that is the same as or substantially similar to a course that the student previously completed and received a grade of A, B, C, D, F, or Pass/Fail at the same institution.

(9) Student--For the purposes of this subchapter students are defined as undergraduate students ~~[who have not yet received a baccalaureate degree or equivalent]~~.

(10) Workforce Education Courses--Courses offered by two-year institutions for the primary purpose of preparing students to enter the workforce that are included in the Workforce Education Course Manual (WECM) or a college's technical local need course inventory. The term includes both technical courses and continuing education courses.

#### §13.104. Exemptions for Excess Hours.

The following types of hours are exempt and are not subject to the limitation on formula funding set out in §13.103 of this title (relating to Limitation on Formula Funding for Excess Hours):

(1) hours earned by an undergraduate ~~[the]~~ student before the award of a prior associate or bachelor's degree ~~[before receiving a baccalaureate degree that has been previously awarded to the student];~~

(2) hours earned through examination or similar method without registering for a course;

(3) hours from remedial and developmental courses and/or interventions, workforce education courses, or other courses that would not generate credit that could be applied to an academic degree at the institution if the course work is within limitations specified in §13.107 of this title (relating to Limitation on Formula Funding for Remedial and Developmental Courses and Interventions);

(4) hours earned by the student at a private institution or an out-of-state institution;

(5) hours not eligible for formula funding;

(6) semester credit hours earned by the student before graduating from high school and used to satisfy high school graduation requirements;

(7) hours abandoned through enrollment under the Academic Fresh Start Program under Tex. Educ. Code Section 51.931; and

(8) 15 semester credit hours not otherwise exempt earned toward a degree program by a student who:

(A) has reenrolled at the institution following a break in enrollment from the institution or another institution of higher education covering at least the 24-month period



preceding the first class day of the initial semester or other academic term of the student's reenrollment; and  
(B) successfully completed at least 50 semester credit hours of course work at an institution of higher education that are not exempt in paragraphs (1) - (7) of this section before that break in enrollment.

# Committee on Innovation, Data, and Educational Analytics

## AGENDA ITEM V-D (8)

Consideration and possible action to adopt new Board Rules, Chapter 13, Subchapter P, Sections 13.470 - 13.477, concerning the new community college finance system

RECOMMENDATION: Approval

### Background Information:

Texas Higher Education Coordinating Board (THECB) staff proposes the adoption of new rules in Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter P, Sections 13.470-13.477, concerning the new community college finance system established by House Bill (HB) 8. As authorized by HB 8, these rules were adopted on an emergency basis at the August Special Called Board Meeting because all rules necessary for HB 8 implementation were required to be adopted before the start of Fiscal Year (FY) 2024.

Specifically, the proposed rules concern state funding for community colleges and cover the relevant purpose, authority, definitions, Base Tier funding, Performance Tier funding, and payment processes. These rules are necessary to implement the funding system enacted under HB 8.

Rules 13.470 and 13.471 establish the purpose and authority under which the funding system is implemented.

Rule 13.472 lists definitions pertinent to the community college finance system. Importantly, this rule defines the fundable outcomes authorized under HB 8: credentials of value, transfer to a public general academic teaching institution, and 15 semester credit hours of dual credit/dual enrollment. It defines numerous other technical terms necessary for funding implementation, including high-demand fields, economic and academic disadvantage, adult learner, full-time student equivalent, the duration of academic terms, non-formula support, and other relevant concepts from statute.

Rule 13.473, Base Tier Allotment, establishes the calculations used to determine Base Tier funding that the Legislature entitled community colleges to receive under Texas Education Code (TEC), Sections 130A.051-130A.056. To summarize, Base Tier funding is calculated as Instruction and Operations (I&O) minus Local Share. If Local Share is greater than Instruction and Operations, then Base Tier funding is zero. Instruction and Operations funding equals Contact Hour Funding plus the product of the Weighted Full Time Student Equivalents (Weighted FTSE) multiplied by Basic Allotment. The Basic Allotment and Contact Hour Funding amounts are derived based on the Fiscal Year 2024 appropriations for the Base Tier as provided by the General Appropriations Act for the 2024-25 Biennium.

Rule 13.473 establishes Local Share as the amount of maintenance and operations ad valorem tax revenue generated by \$0.05 per \$100 of taxable property value in a college's taxing district plus the amount of tuition and fee revenue that would be generated by charging the average amount of tuition and fees to each FTSE, in accordance with TEC, Section 130A.056.

Rule 13.474, Performance Tier Funding, establishes the calculations used to determine Performance Tier Funding, which the Legislature entitled community colleges to receive under TEC, Section 130A.101. The rule lists those outcomes that merit performance funding and the student characteristics that garner added funding at levels in alignment with those set for the Base Tier funding pursuant to TEC, Section 130A.001. These rates are derived from the Fiscal Year 2024 appropriations for the Performance Tier as provided by the General Appropriations Act for the 2024-25 Biennium.

Rule 13.475, Formula Transition funding, establishes that after calculating the Base Tier and Performance Tier funding for each community college, the Coordinating Board shall ensure that a community college district does not receive less in formula funding in FY 2024 than it received in FY 2023 appropriations for formula funding (contact hours, success points, core operations, and Bachelor's of Applied Technology funding) and need-based supplements.

Rule 13.476, Payment Schedule, sets out both the payment schedule for non-formula support items and the payment schedule (three times per year) at which the Coordinating Board will make formula funding payments to each institution. The Coordinating Board shall pay all non-formula support item amounts to the institution by September 25 of a fiscal year, in accordance with the requirements in the 2024-25 General Appropriations Act (Article IX, Section 18.04 Contingency for House Bill 8(a)(4)). Pursuant to the emergency adoption of this rule for FY2024, the first payment of 50% of the total formula funding entitlement was disbursed by October 15, 2023. Adoption of this rule will permanently establish the same payment scheduling, enabling disbursements of 25% of formula funds for the second payment (by February 15) and the final payment (by June 15). Institutional stakeholders suggested the Coordinating Board make the first payment 50% in recognition that a college district's expenses are weighted towards the start of the fiscal year and to smooth the transition from the prior payment schedule that historically provided 48% of funding to a community college district by October 25.

Rule 13.477, Close Out, establishes the final process the Coordinating Board shall undertake to finalize the prior fiscal year's formula funding for community colleges. The close out process makes any final adjustments to payments needed based on any data updates made since initial funding amounts were determined. Specification of this process by rule ensures that each institution has notice of the Coordinating Board's determination that funding has been fully delivered for that year.

Subsequent to the posting of the rules in the Texas Register, THECB staff recommend the addition of Section 13.478, Effective Date of Rules. Currently, subchapter P contains the rules governing the Community College Finance Program enacted through H.B. 8 (88R), first adopted by the Coordinating Board on an emergency basis in August 2023. However, the subchapter is limited in scope: the rules establish the funding methodology for FY2024 but not beyond that time horizon. The proposed section will phase out subchapter

P's effectiveness at the end of the 2024 fiscal year, removing rules which will become outdated and avoiding contradictions with a forthcoming new subchapter establishing community college finance rules for FY2025 and beyond that the Coordinating Board intends to propose. Additionally, the title of the subchapter would be renamed to clarify that the rules apply to FY2024 only.

Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

Date Published in the *Texas Register*: October 13, 2023

The 30-day comment period with the *Texas Register* ended on: November 11, 2023.

Summary of comments received:

No comments were received regarding this rule.

## CHAPTER 13 FINANCIAL PLANNING

SUBCHAPTER P COMMUNITY COLLEGE FINANCE PROGRAM FOR FISCAL YEAR 2024.§13.470. Purpose.

The purpose of this subchapter is to implement the Community College Finance Program authorized by Texas Education Code, Chapters 61, 130, and 130A.

§13.471. Authority.

The Coordinating Board adopts this subchapter pursuant to Texas Education Code, §130A.005, requiring the Coordinating Board to adopt rules to implement the Community College Finance Program created in Texas Education Code, Chapters 61, 130, and 130A.

§13.472. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings:

(1) Academically Disadvantaged--A designation that applies to postsecondary students who have not met the college-readiness standard in one or more Texas Success Initiative (TSI) assessments as provided by chapter 4, subchapter C, §4.57 of this title (relating to College Ready Standards), and who were not classified as either waived or exempt pursuant to chapter 4, subchapter C, §4.54 of this title (relating to Exemptions, Exceptions, and Waivers).

(2) Adult Learner--A student aged 25 or older on September 1 of the fiscal year for which the applicable data are reported, in accordance with Coordinating Board data reporting requirements.

(3) Advanced Technical Certificate (ATC)--A certificate that has a specific associate or baccalaureate degree or junior level standing in a baccalaureate degree program as a prerequisite for admission. An ATC consists of at least 16 semester credit hours (SCH) and no more than 45 SCH and must be focused, clearly related to the prerequisite degree, and justifiable to meet industry or external agency requirements.

(4) Associate Degree--An academic associate degree as defined under Texas Education Code, §61.003(11), or an applied associate degree as defined under Texas Education Code, §61.003(12)(B).

(5) Baccalaureate Degree--A degree program that includes any grouping of subject matter courses consisting of at least 120 SCH which, when satisfactorily completed by a student, will entitle that student to an undergraduate degree from a public junior college.

(6) Base Tier Funding--The amount of state and local funding determined by the Board for each public junior college that ensures the college has access to a defined level of funding for instruction and operations.

(7) Base Year--The time period comprising the year of contact hours used for calculating the contact hour funding to public junior colleges. A base year includes certified contact hours reported in the Summer 1, Summer 2, and Fall of the prior

calendar year and Spring of the current calendar year relative to September 1st of the current fiscal year.

(8) Basic Allotment--A dollar value per Weighted FTSE, as determined by the Legislature based on appropriations made in that biennium's General Appropriations Act.

(9) Census Date--The date upon which a college may report a student in attendance for the purposes of formula funding, as specified in the Coordinating Board Management (CBM) manual for the year in which the funding is reported.

(10) Credential of Value--A credential earned by a student that would be expected to provide a positive return on investment. A positive return on investment is met when a typical student completing the credential is expected to earn cumulative wages greater than the cumulative median earnings of an average Texas high school graduate, plus recouping the net cost of attendance within ten years after earning the credential. This calculation shall include the student's opportunity cost, calculated as the difference between median earnings for a typical Texas high school graduate and typical earnings for students while enrolled for four years for baccalaureate degree holders, two years for associate degree holders, and one year for holders of a Level 1 certificate, Level 2 certificate, or Advanced Technical Certificate. The Coordinating Board shall calculate the expected return on investment based on the data available to the agency for the funding year. The calculation shall include the most current available data for each program or a comparable program.

(11) Credentialing examination--A licensure, certification, or registration exam provided by a state or national agency or by professional organization.

(12) Dual Credit or Dual Enrollment Fundable Outcome--A student who has earned at least 15 SCH or the equivalent of state-funded dual credit or dual enrollment courses that apply toward an academic or workforce program requirement at the postsecondary level. For the purpose of this subchapter, the term "dual credit or dual enrollment fundable outcome" includes the following fundable courses taken for college credit by a high school student who has not yet received a high school diploma:

(A) Any course taken for dual credit that is within the core curriculum of the college that is providing the course;

(B) A course in a Coordinating Board-established field of study curriculum under Texas Education Code, §61.823, or program of study curriculum under Texas Education Code, §61.8235;

(C) Career and technical education courses that apply to a certificate or associate degree offered by the institution providing the credit;

(D) Foreign language courses;

(E) All courses taken by students enrolled in an approved Early College High School program, with the exception of the physical education courses taken by high school students for high school physical education credit; and

(F) A course taken for college credit only by a student who is also enrolled in high school but does not yet have a high school diploma.

(13) Economically Disadvantaged--A designation that applies to postsecondary students who received the federal Pell Grant under 20 U.S.C. §1070a.

(14) Formula Funding--The funding allocated by the Coordinating Board among all public junior colleges by applying provisions of the Texas Education Code, agency rule,

and the General Appropriations Act to a sector-wide appropriation from the General Appropriations Act.

(15) Full-Time Student Equivalent (FTSE)--A synthetic measure of enrollment based on the number of instructional hours delivered by an institution of higher education divided by the number of hours associated with full-time enrollment for the time period in question.

(16) Fundable Credential--A Fundable Credential counts toward Weighted Outcome Completions as defined in paragraph (27) of this section. For the purpose of funding delivered in fiscal year 2024, a fundable credential is defined as any of the following, except that, for credentials under subparagraph (B) or (C) of this paragraph, if more than one credential that the institution awarded to a student includes the same contact hours, the institution may only submit one credential for funding under subparagraph (B) or (C) of this paragraph.

(A) Any of the following credentials awarded by an institution that meets the criteria of a credential of value as defined in paragraph (10) of this section using the methodology established for the most current fiscal year, that is otherwise eligible for funding, and the institution reported and certified to the Coordinating Board:

(i) An associate degree;

(ii) A baccalaureate degree;

(iii) A Level 1 or Level 2 Certificate; and

(iv) An Advanced Technical Certificate.

(B) An Occupational Skills Award awarded by an institution that the institution reported and certified to the Board during fiscal year 2023; or

(C) An Institutional Credential Leading to Licensure or Certification (ICLC) not included in subparagraph (B) of this paragraph and that the institution reported and certified to the Coordinating Board during fiscal year 2023, that meets one of the following criteria:

(i) The credential includes no fewer than 144 contact hours or nine (9) semester credit hours; or

(ii) The credential is awarded in a high demand field, as defined in Board rule, and includes no fewer than 80 contact hours or five (5) semester credit hours; or

(iii) A licensure or certification earned by a student who did not receive a credential if the student:

(I) earned the licensure or certification as the result of the student's successful passage of a credentialing examination for a licensure or certification, while or after being enrolled in one of the institution's Institutional Credentials Leading to Licensure or Certification (ICLC) programs that would qualify for funding under clauses (i) or (ii) of this subparagraph; and

(II) earned the licensure or certification not later than twelve months after the student's enrollment in the ICLC program for which the student earned the licensure or certification.

(17) High-Demand Fields--An academic discipline, delineated by the federal Classification of Instructional Program (CIP) code, that the Coordinating Board has approved for inclusion on a published list of High-Demand Fields, available at <https://www.highered.texas.gov/our-work/supporting-our-institutions/community-college-finance/high-demand-fields/>, based on their satisfaction of either:

(A) Inclusion on the list of Critical Fields employed for the purpose of determining formula funding allocations under the Student Success strategy in the 2022-2023 General Appropriations Act; or

(B) Appearing on the list of CIP codes resulting from the following methodology completed in Fall 2021:

(i) Extracting the top 25 occupations for each higher education region as ranked by their ten-year projected number of new openings, after having excluded those with an average wage less than the statewide median wage and those with a typical entry credential other than "Some college, no degree", "Postsecondary non-degree award", and "Associate degree", from the texaslmi.com website maintained by the Texas Workforce Commission;

(ii) Placing occupations appearing on at least seven of the ten resulting regional lists on a statewide list;

(iii) Adding to the statewide list any occupations appearing among the top five of one or more regional list but not yet on the statewide list; and

(iv) Generating a list of CIP codes populated by each four-digit CIP code associated with an occupation on the statewide list per the crosswalk promulgated by the National Center for Education Statistics of the U.S. Department of Education, which as of the effective date of this rule is available at the following address:

<https://nces.ed.gov/ipeds/cipcode/post3.aspx?y=56>.

(18) Institutional Credentials Leading to Licensure or Certification (ICLC)--A credential awarded by an institution upon a student's completion of a course or series of courses that represent the achievement of identifiable skill proficiency and leading to licensure or certification. This definition includes a credential that meets the definition of an Occupational Skills Award in all respects except that the program did not obtain the required Workforce Development Board approval.

(19) Level 1 Certificate--A certificate designed to provide the necessary academic skills and the workforce skills, knowledge, and abilities necessary to attain entry-level employment or progression toward a Level 2 Certificate or an Applied Associate Degree, with at least 50% of course credits drawn from a single technical specialty. A Level 1 Certificate must be designed for a student to complete in one calendar year or less time and consists of at least 15 semester credit hours and no more than 42 semester credit hours.

(20) Level 2 Certificate--A certificate consisting of at least 30 semester credit hours and no more than 51 semester credit hours. Students enrolled in Level 2 Certificates must demonstrate meeting college readiness standards set forth in chapter 4, subchapter C, §4.57 of this title and other eligibility requirements determined by the institution.

(21) Local Share--The amount determined to be the institution's contribution of local funds to the Instruction and Operations (I&O) amount for each public junior college. The amount consists of estimated ad valorem maintenance and operations tax revenue and tuition and fees revenue, as determined by the Board.

(22) Non-Formula Support Item--An amount appropriated by line item in the General Appropriations Act to a single public junior college or limited group of colleges for a specific, named purpose.



(23) Occupational Skills Award--A sequence of courses that meet the minimum standard for program length specified by the Texas Workforce Commission for the federal Workforce Innovation and Opportunity Act (WIOA) program (9-14 SCH for credit courses or 144-359 contact hours for workforce continuing education courses). An OSA must possess the following characteristics:

(A) The credential is TSI-waived under chapter 4, subchapter C, §4.54 of this title;

(B) The content of the credential must be recommended by an external workforce advisory committee, or the occupation must appear on the Local Workforce Development Board's Demand Occupations list;

(C) In most cases, the credential should be composed of Workforce Education Course Manual (WECM) courses only. However, non-stratified academic courses may be used occasionally if recommended by the external committee and if appropriate for the content of the credential;

(D) The credential complies with the Single Course Delivery guidelines for WECM courses; and

(E) The credential prepares students for employment in accordance with guidelines established for WIOA.

(24) Structured Co-Enrollment Fundable Outcome--A student who earns at least 15 semester credit hours at the junior college district in a Coordinating Board-recognized program structured through a binding written agreement between a general academic teaching institution and a community college. Under such a program, students will be admitted to both institutions and recognized as having matriculated to both institutions concurrently.

(25) Transfer Fundable Outcome--A student who enrolls in a general academic teaching institution, as defined in Texas Education Code, §61.003, after earning at least 15 semester credit hours from a single public junior college district during the period including the fiscal year in which they enroll at the general academic teaching institution and the four fiscal years prior.

(26) Weighted Full-Time Student Equivalent (Weighted FTSE or WFTSE)--A synthetic measure of enrollment equal to the number of instructional hours delivered by an institution of higher education divided by the number of hours associated with full-time enrollment for the time period in question, where the hours delivered to students with certain characteristics carry a value other than one.

(27) Weighted Outcomes Completion--A synthetic count of completions of designated student success outcomes where outcomes achieved by students with certain characteristics carry a value other than one. The synthetic count may also represent a calculation, such as an average or maximizing function, other than a simple sum.

#### §13.473. Base Tier Allotment.

(a) Board staff will calculate Base Tier funding for each public junior college district (district) as the greater of the Instruction and Operations (I&O) amount minus Local Share and zero.

(b) A district's I&O amount is the sum of the number of Weighted Full-Time Student Equivalents (Weighted FTSE) enrolled at the district multiplied by the Basic Allotment amount of \$1,275 and the district's total Contact Hour Funding as determined by the Coordinating Board.

(1) Weighted FTSE for each district is the sum of the district's full-time student equivalents weighted for the student characteristics under subparagraph (B) of this paragraph and the scale adjustment as provided in Texas Education Code, §130A.054.

(A) For purposes of determining annual Weighted FTSE as a component of Fiscal Year (FY) 2024 formula funding under this section, a district's full-time student equivalents (FTSE) is equal to the sum of:

(i) the total semester credit hours in which for-credit students were enrolled at the district as of the census dates of all academic semesters or other academic terms that were reported for FY 2022, divided by 30; and

(ii) the total contact hours in which continuing education students were enrolled at the district as of the census dates of all academic semesters or other academic terms that were reported for FY 2022, divided by 900.

(B) The Coordinating Board shall additively weight the calculation of Weighted FTSE as follows:

(i) if a student is classified as economically disadvantaged during FY 2022, FTSE generated by that student shall have an additional value of 25%;

(ii) if a student is classified as academically disadvantaged during FY 2022, FTSE generated by that student shall have an additional value of 25%; and

(iii) if a student is classified as an adult learner during FY 2022, FTSE generated by that student shall have an additional value of 50%.

(C) The Coordinating Board calculates a district's scale adjustment weight as the greater of the difference between 5,000 and the number of FTSE as defined in subparagraph (A) of this paragraph multiplied by .40, and zero.

(2) For the purpose of calculating FY 2024 formula funding amounts, Coordinating Board staff will calculate Contact Hour Funding for a public junior college district by first multiplying the number of reported certified fundable contact hours generated by the district in each discipline during the 2023 Base Year, consisting of the Summer I and II 2022, Fall 2022, and Spring 2023 academic terms, by the average cost of delivery per contact hour for each discipline respectively as described in the Report of Fundable Operating Expenses for FY 2022 in accordance with subchapter R, §13.524(c) of this chapter (relating to Required Reporting) and summing across all disciplines. Contact hours attributable to students enrolled in a junior-level or senior-level course are weighed in the same manner as a lower division course in a corresponding field. That sum will then be multiplied by 21.3%, which is a rate derived from appropriations made for Base Tier Funding in the 2024-2025 General Appropriations Act, to calculate the district's Contact Hour Funding.

(c) For the purpose of calculating FY 2024 formula funding amounts, the Local Share for each public junior college district equals the sum of:

(1) the estimated amount of revenue that would have been generated by the district if it had assessed a \$0.05 maintenance and operations ad valorem tax on each \$100 of taxable property value in its taxing district, as reported under subchapter R, §13.524 of this chapter, which the Coordinating Board will calculate as the district's current tax collection for FY 2022 multiplied by the ratio of the maintenance and operations tax rate to the total tax rate, divided by the product of the maintenance and operations tax rate and 100 and multiplied by five; and

(2) the amount of tuition and fee revenue calculated as the sum of:

(A) the district's FY 2022 FTSE as defined in subsection (b)(1)(A) of this section, except for semester credit hours derived from students enrolled in dual credit or dual enrollment courses, multiplied by \$2,828, which is the FY 2021 statewide average of tuition and fees assessed to full-time students residing within the district of the public junior college they attend; and

(B) the total semester credit hours of dual credit or dual enrollment courses in which students were enrolled as of the census dates of all academic semesters or other academic terms that were reported in FY 2022, multiplied by \$55, which is the dollar amount per dual credit semester credit hour determined by the Coordinating Board pursuant to Texas Education Code, §28.0095. §13.474. Performance Tier Funding.

(a) Each public junior college district shall receive Performance Tier funding under Texas Education Code, Chapter 130A, Subchapter C. The Coordinating Board shall calculate a district's Performance Tier funding as the sum of Weighted Outcome Completions multiplied by the respective funded values of the outcomes.

(b) For the purposes of calculating formula funding amounts for Fiscal Year (FY) 2024, the Coordinating Board shall fund the Weighted Outcome Completions described below as follows:

[Figure: 19 TAC §13.474\(b\) \(.pdf\)](#)

<u>Funded Outcome</u>	<u>Funded Value</u>	<u>Funded Value for Completion in a High-Demand Field</u>
<u>(1) Dual Credit or Dual Enrollment Fundable Outcome</u>	<u>\$1,700</u>	<u>n/a</u>
<u>(2) Transfer Fundable Outcome or Structured Co-Enrollment Fundable Outcome</u>	<u>\$3,500</u>	<u>n/a</u>
<u>(3) Fundable Credentials</u>	<u>See subtypes below</u>	<u>See subtypes below</u>
<u>(A) Licensure/Certification, as defined in 13.472(16)(C)(iii)</u>	<u>\$1,000</u>	<u>\$1,250</u>
<u>(B) Institutional Credential Leading to a Licensure/Certification</u>	<u>\$1,000</u>	<u>\$1,250</u>
<u>(C) Occupational Skills Award</u>	<u>\$750</u>	<u>\$1,000</u>
<u>(D) Certificate (Advanced Technical Certificate, Level 1 or Level 2 Certificate)</u>	<u>\$1,750</u>	<u>\$3,500</u>
<u>(E) Associate Degree</u>	<u>\$3,500</u>	<u>\$4,500</u>
<u>(F) Baccalaureate Degree</u>	<u>\$3,500</u>	<u>\$4,500</u>

(c) For the purposes of calculating formula funding amounts for FY 2024, the Coordinating Board shall additively weight the calculation of outcomes in §13.473(b)(2), (3)(D), (E), and (F) of this subchapter (relating to Base Tier Allotment), as follows to calculate Weighted Outcome Completions.

(1) When an outcome is achieved by a student classified as economically disadvantaged, that outcome shall have an additional value of 25%.

(A) For purposes of calculating economically disadvantaged for transfer and credential fundable outcomes, the student must be classified as economically disadvantaged at any point during the fiscal year in which the outcome was achieved or the four fiscal years prior at the institution in which the outcome was achieved.

(B) For purposes of calculating economically disadvantaged for Structured Co-Enrollment Fundable Outcome, the student must be classified as economically disadvantaged in the initial semester of enrollment in the Structured Co-Enrollment Program at either the community college or general academic institution.

(2) When an outcome is achieved by a student classified as academically disadvantaged, that outcome shall have an additional value of 25%.

(A) For purposes of calculating academically disadvantaged for transfer and credential fundable outcomes, the student must be classified as academically disadvantaged at any point during the fiscal year in which the outcome was achieved or the four fiscal years prior at the institution in which the outcome was achieved.

(B) For purposes of calculating academically disadvantaged for Structured Co-Enrollment Fundable Outcome, the student must be classified as academically disadvantaged in the initial semester of enrollment in the Structured Co-Enrollment Program at the institution in which the outcome was achieved.

(3) When an outcome is achieved by a student classified as an Adult Learner, that outcome shall have an additional value of 50%.

(A) For purposes of calculating an Adult Learner for a transfer fundable outcome, the student must be classified as an Adult Learner in the year of last enrollment at the community college district prior to the transfer to a general academic institution.

(B) For purposes of calculating an Adult Learner for a fundable credential, the student must be classified as an Adult Learner in the fiscal year in which the fundable credential was awarded.

(C) For purposes of calculating an Adult Learner for Structured Co-Enrollment Fundable Outcome, the student must be classified as an Adult Learner in the initial semester of enrollment in the Structured Co-Enrollment Program at the institution in which the outcome was achieved.

(d) For the purposes of calculating Weighted Outcome Completions for formula funding amounts for FY 2024, the Coordinating Board shall calculate the funded number of Weighted Outcome Completions as the greater of the average of the district's Weighted Outcome Completion counts for FY 2020, FY 2021, and FY 2022 and the district's count for FY 2022.

#### §13.475. Formula Transition Funding.

In FY 2024, for purposes of transitioning to the new formula model, if the sum of a public junior college district's Base and Performance Tier funding as calculated in §13.473(a) and §13.474(a) of this subchapter (relating to Base Tier Allotment and Performance Tier Funding, respectively) would result in the district receiving less in General Revenue formula funding than the district received through the sum of appropriations made in the core operations strategy, student success strategy, contact hour funding strategy, and, if applicable, the need-based supplement and bachelor of

applied technology strategies, as provided for FY 2023 in the 2022-23 General Appropriations Act, then the Coordinating Board will add transitional funding in the amount of the difference to the district's formula funding for FY 2024.

§13.476. Payment Schedule.

(a) Non-Formula Support Items. For the purpose of distributing state appropriations to a public junior college district in Fiscal Year (FY) 2024, the Coordinating Board shall distribute the full amounts of all FY 2024 non-formula support items to the district to which they are appropriated in accordance with the provisions of the General Appropriations Act for 2024-2025 by September 25, 2023. The Coordinating Board shall recover any overallocation or adjust any installment required to comply with state law or chapter 13 of this title (relating to Financial Planning).

(b) Formula Funding Amounts: Fall. For the purpose of distributing state appropriations to a public junior college district in FY 2024, the Coordinating Board shall distribute to each district by October 15, 2023, one-half of the formula funding amount it determines the district may be entitled to receive in FY 2024 pursuant to the provisions of the General Appropriations Act for 2024-2025, Texas Education Code, and all other pertinent statutes and rules.

(c) Formula Funding Amounts: Spring. For the purpose of distributing state appropriations to a public junior college district in FY 2024, the Coordinating Board shall distribute to each district by February 15, 2024, one-quarter of the formula funding amount it determines the district may be entitled to receive in FY 2024 pursuant to the provisions of the General Appropriations Act for 2024-2025, Texas Education Code, and all other pertinent statutes and rules.

(d) Formula Funding Amounts: Summer. For the purpose of distributing state appropriations to a public junior college district in FY 2024, the Coordinating Board shall distribute to each district by June 15, 2024, one-quarter of the formula funding amount it determines the college may be entitled to receive in FY 2024 pursuant to the provisions of the General Appropriations Act for 2024-2025, Texas Education Code, and all other pertinent statutes and rules, and in odd-numbered years shall distribute the formula funding amount likewise determined as soon as is practicable after June 15 in accordance with the appropriations process.

(e) The Coordinating Board may modify any installment under this schedule as necessary to provide an institution with the amounts to which the institution is entitled under Texas Education Code, Chapters 130 and 130A, the General Appropriations Act, or chapter 13 of this title.

§13.477. Close Out.

(a) On October 1 of each year, the Coordinating Board shall close out the prior fiscal year (FY) by reviewing, reconciling, and verifying distributions of formula funding to public junior colleges in the prior fiscal year.

(1) As applicable, the Coordinating Board shall adjust a public junior college's first payment under subsection (b) of this section by an amount necessary to deliver the correct funding owed to the public junior college under Texas Education Code, Chapters 130 and 130A, or this subchapter for the prior fiscal year.

(2) The Coordinating Board will determine the correct funding for a public junior college based on the final certified data reported by the institution that serves as the basis of formula funding for that year, as provided by this chapter.

(3) This close out process may result in additional or reduced funding to the college based on the reported data and funding delivered for the fiscal year that is being closed out.

(b) If the Commissioner of Higher Education in his or her sole discretion determines that an adjustment under subsection (a) of this section will have a substantial negative impact on the operations of the institution or the education of students, the Coordinating Board may correct the institution's funding by recovering payments as an overallocation pursuant to subchapter R, §13.528(d)(1) or (2) of this chapter (relating to Recovery of Overallocated Funds). For the purpose of FY24, the Coordinating Board will not adjust formula funding for a public junior college for a fiscal year subsequent to close out except as set out in this section and subchapter R of this chapter (relating to State Public Junior College Finance Program Reporting, Audit, and Overallocation).

§13.478. Effective Date of Rules.

The rules in this subchapter apply to funding for fiscal year 2024 only and will expire on August 31, 2024.

# Committee on Innovation, Data, and Educational Analytics

## AGENDA ITEM V-D (9)

Consideration and possible action to adopt new Board Rules, Chapter 13, Subchapter Q, Sections 13.500-13.506, concerning the Financial Aid for Swift Transfer (FAST) Program

RECOMMENDATION: Approval

Background Information:

Specifically, these new sections outline the authority and purpose, definitions, institutional eligibility requirements, student eligibility requirements, tuition rate, funding formula, and the handling of overallocations, which are necessary to administer the FAST Program.

Rule 13.500 indicates the specific sections of the Texas Education Code (TEC) that provide the Coordinating Board with authority to issue these rules, as well as the purpose of the FAST Program.

Rule 13.501 provides definitions for words and terms within FAST rules. The definitions are adopted to provide clarity for words and terms that are integral to the understanding and administration of the FAST rules. The definition of "dual credit course" is revised from what was published in the *Texas Register* and a definition for "career and technical education course" is added. This provides greater clarity that the FAST program includes dual credit offered through either academic courses or career and technical education courses. The definition of "equivalent of a semester credit hour" is revised from what was published in the *Texas Register* and definitions for "credit" and "semester credit hour" are also added. This provides greater clarity to the process for converting continuing education enrollment to semester credit hours.

Rule 13.502 outlines the requirements that institutions must fulfill to participate in the FAST Program. The requirements are adopted to: (a) gather in one place both statutory requirements, such as the requirement that an institution must meet the definition of institution of higher education outlined in TEC, Section 61.003, and rule requirements implementing the FAST Program; (b) clarify aspects of the statutory requirements, such as the institution's responsibility to provide dual credit coursework at no cost to eligible students attending high school in Texas school districts or charter schools; and (c) provide rules specific to requirements the Coordinating Board is proposing to ensure effective administration of the FAST Program, such as the requirement that each participating institution enter into an agreement with the Coordinating Board.

Rule 13.503 outlines the eligibility requirements that students must meet to allow an institution to enroll the student in dual credit coursework at no cost to the student under the FAST Program. The requirements are adopted to: (a) gather in one place the statutory requirements for the FAST Program, including the requirements related to a student's enrollment and their prior status as educationally disadvantaged; (b) clarify aspects of the statutory requirements, such as the student needing to be enrolled in and eligible for Foundation School Program funding at a high school in a Texas school district or charter school; (c) provide rules to clarify eligible dual credit enrollment, which requires that participating institutions must have entered into a Dual Credit Agreement with the student's school district; (d) provide rules specific to requirements the Coordinating Board is proposing to ensure effective administration of the FAST Program, such as the requirement that school districts and charter schools will fulfill their reporting requirements for the educationally disadvantaged status through notice to the Texas Education Agency; and (e) request reporting from institutions necessary to identify students as "educationally disadvantaged" from data provided by Texas Education Agency (TEA). The rule is revised from what was published in the Texas Register to add the word "mandatory" as a clarifying descriptor regarding other course-related expenses. This is done to better delineate between the costs specifically related to taking the course and other costs a student might incur based on their own actions (e.g., fines, penalties, etc.).

Rule 13.504 sets the FAST maximum tuition rate for the 2023-2024 academic year and is based on a review of average dual credit tuition rates, to allow for the FAST Program to begin in the fall 2023 semester. The adopted rule provides how an annual inflationary adjustment to the tuition rate will be calculated, the timeline in which the annual rate will be determined and announced to institutions of higher education and when the announced rate goes into effect.

Rule 13.505 establishes the mechanisms by which the Coordinating Board will disburse funding to each participating institution to support their participation in the FAST Program, as well as the institutions' participation in the process. The adopted rule provides the frequency of disbursements to each institution; the way the disbursement amount will be calculated for each institution; the data that will be used to complete the calculation; the way institutions will have the opportunity to review the calculation for accuracy; and the true-up process, which confirms a student's attendance in high school during the dual credit course enrollment and requires reductions to future disbursements of FAST funding once an amount is calculated.

Rule 13.506 references the overallocation rules for the FAST Program. The rule acknowledges that the program is one aspect of the larger effort to provide funding to support institutions in their work to successfully educate students and is thus subject to the overallocation rules outlined in Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter R.

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



Date Published in the *Texas Register*: October 13, 2023.

The 30-day comment period with the *Texas Register* ended on: November 12, 2023.

The following comments were received regarding this rule.

Comment: An institution commented on the Coordinating Board's interpretation of "eligible students [being able] to enroll at no cost" (Texas Education Code §28.0095(b)), indicating that the legislation focuses on the "cost to enroll," which they view as clearly defined because the funding formula for the last several decades was enrollment based. The institution indicates that the cost to enroll includes the cost of placement testing, vaccinations, tuition and fees. In accordance with CBM reporting requirements, students who pay those costs are counted as being enrolled, and those who do not are not counted. The proposed rules, however, include the cost of books, supplies, and other course-related expenses that are not related to enrollment and are part of the cost of attendance or course completion. While the institution appreciates the desire to remove barriers for educationally disadvantaged students, they view the proposed rules as exceeding the scope of the legislation. The rules should be revised so that they accurately reflect the legislation and are limited to the costs that are required to enroll as specified in HB8 and the CBM Reporting Manual.

Response: The Coordinating Board appreciates this comment, but respectfully disagrees. The statute provides that a student who is educationally disadvantaged must be permitted to take a dual credit course at no cost to the student at an institution that elects to participate in the FAST program. While the Coordinating Board appreciates the institution's comment that cost to enroll should exclude books, supplies, or other costs that may be necessary for a high school student to successfully enroll in and complete a dual credit course, the Board respectfully disagrees that this interpretation exceeds the authority of the FAST program.

Education Code chapter 28 does not define "cost to enroll." Reading the statute to permit an educationally disadvantaged high school student to enroll in, but be unable to successfully complete, a dual credit course at no cost to the student would undermine the policy of the FAST program. Interpreting the statute to require an institution to permit a high student to enroll and earn credit in a course without incurring any cost as necessary to earn course credit does not conflict with the text of Education Code §28.0095 and harmonizes all provisions of the dual credit and FAST programs to ensure that each educationally disadvantaged high school student has the opportunity to attempt and earn credit in college-level course work.

An institution of higher education may elect whether to participate in the FAST program. The Coordinating Board rules, chapter 4, subchapter D, requires an institution of higher education and a school district to establish agreements governing payment for dual credit course, which includes how costs related to participation in the FAST program are apportioned. While the Coordinating Board disagrees that the rule exceeds the authority of the applicable statutes, the Board looks forward to continued partnership with institutions to ensure clarity in the rules governing participation in the FAST program.

Comment: An institution commented that the proposed rules do not cover incarcerated students in Windham ISD and recommended revising the rules to include those students.

Response: The Coordinating Board agrees with the institution that students from Windham ISD are excluded from eligibility in the program. Texas Education Code (TEC), Section 19.004, provides that no school district-specific TEC provisions outside of Chapter 19 apply to Windham unless specifically indicated in Chapter 19 or in statutes outside of the chapter. Windham ISD is not mentioned in TEC Section 28.0095, so students at Windham ISD would not be eligible for the FAST program. As such, no change is being made in response to this comment.

## CHAPTER 13 FINANCIAL PLANNING

## SUBCHAPTER Q FINANCIAL AID FOR SWIFT TRANSFER (FAST) PROGRAM

§13.500. Authority and Purpose.

(a) Unless otherwise noted in a section, the authority for these provisions is provided by Texas Education Code, §§28.0095 and 48.308.

(b) This subchapter establishes rules relating to the administration of the Financial Aid for Swift Transfer (FAST) Program. The program provides institutions with funding to support their ability to allow educationally disadvantaged students to enroll in dual credit coursework at no cost to the student.

§13.501. Definitions.

In addition to the words and terms defined in §13.1 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. In the event of conflict, the definitions in this subchapter shall control.

(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) Charter School--a public charter school authorized to operate under Texas Education Code, Chapter 12.

(3) Credit--College credit earned through the successful completion of a college career and technical education or academic course that fulfills specific requirements necessary to obtain an industry-recognized credential, certificate, associate degree, or other academic degree.

(4) Dual Credit Course--A course that meets the following requirements:

(A) The course is offered pursuant to an agreement under §4.84 of this subchapter (relating to Institutional Agreements).

(B) A course for which the student may earn one or more of the following types of credit:

(i) joint high school and junior college credit under Texas Education Code, §130.008, or

(ii) another course offered by an institution of higher education, for which a high school student may earn semester credit hours or equivalent of semester credit hours toward satisfaction of:

(I) a course defined in paragraph (1) of this section that satisfies a requirement necessary to obtain an industry-recognized credential, certificate, or an associate degree;

(II) a foreign language requirement at an institution of higher education;

(III) a requirement in the core curriculum, as that term is defined by Texas Education Code, §61.821, at an institution of higher education; or

(IV) a requirement in a field of study curriculum developed by the Coordinating Board under Texas Education Code, §61.823.

(5) Educationally disadvantaged--as defined in Texas Education Code, §5.001(4), eligible to participate in the national free or reduced-price lunch program.

(6) Equivalent of a semester credit hour--A unit of measurement for a continuing education course, determined as a ratio of one continuing education unit to 10 contact hours of instruction, which may be expressed as a decimal. 1.6 continuing education units of instruction equals one semester credit hour of instruction. In a continuing education course, not fewer than 16 contact hours are equivalent to one semester credit hour.

(7) Program--the Financial Aid for Swift Transfer (FAST) Program.

(8) School Year--the twelve month-period of high school enrollment starting in August.

(9) Semester Credit Hour--A unit of measure of instruction, represented in intended learning outcomes and verified by evidence of student achievement, that reasonably approximates one hour of classroom instruction or direct faculty instruction and a minimum of two hours out of class student work for each week over a 15-week period in a semester system or the equivalent amount of work over a different amount of time. An institution is responsible for determining the appropriate number of semester credit hours awarded for its programs in

accordance with Federal definitions, requirements of the institution's accreditor, and commonly accepted practices in higher education.

§13.502. Eligible Institution.

(a) A public institution of higher education, as the term is defined in Texas Education Code, §61.003(8), is eligible to participate in the Program.

(b) A participating institution may not charge students attending high school in a Texas school district or charter school a tuition rate for dual credit courses in excess of the tuition rate outlined in §13.504 of this subchapter (relating to FAST Tuition Rate).

(c) A participating institution must ensure that an eligible student incurs no cost for their enrollment in any dual credit course at the institution. This includes, but is not limited to, tuition, fees, books, supplies, or other mandatory course-related expenses. This subsection does not prohibit a participating institution from charging a school district for course-related expenses, other than tuition, for an eligible student.

(d) Agreement. Each eligible institution must enter into an agreement with the Coordinating Board, the terms of which shall be prescribed by the Commissioner prior to being approved to participate in the program.

§13.503. Eligible Students.

(a) A student is eligible to enroll at no cost to the student in a dual credit course under the program if the student:

(1) is enrolled in and eligible for Foundation School Program funding at a high school in a Texas school district or charter school under the rules of the Texas Education Agency;

(2) is enrolled in a dual credit course at a participating institution of higher education that has entered into a Dual Credit Agreement with the student's school district as set out in §4.84 of this title (relating to Institutional Agreements); and

(3) was educationally disadvantaged at any time during the four school years preceding the student's enrollment in the dual credit course described by paragraph (2) of this subsection, as certified to the institution by the eligible student's school district or charter school, or other means authorized by rule.

(b) A school district's or charter school's notice to the institution regarding a student's status as educationally disadvantaged shall occur through the school district's or charter school's notice to the Texas Education Agency, unless otherwise provided by rule.

(c) A participating institution shall submit to the Coordinating Board identifying information, as outlined by the Coordinating Board, for students registered for or enrolled in dual credit courses. The Coordinating Board will compare the identifying information to data provided by the Texas Education Agency and will notify the institution as to which students fulfill the requirement outlined in subsection (a)(3) of this section.

§13.504. FAST Tuition Rate.

(a) The maximum tuition rate prescribed for a dual credit course through this program is \$55 per semester credit hour or equivalent of a semester credit hour in the 2023-2024 academic year.

(b) The Commissioner shall use the Consumer Price Index for the preceding 12 months as calculated by the U.S. Bureau of Labor Statistics, to apply an annual inflationary adjustment to the FAST tuition rate.

(c) The Commissioner shall determine and announce the annual FAST tuition rate not later than the final day of January prior to the start of each fiscal year.

(d) The annual tuition rate announced per subsection (c) of this section takes effect in the fall semester following the announcement.

§13.505. FAST Funding Formula.

(a) Frequency of Disbursements. The Coordinating Board will provide each participating institution with a disbursement for each fall, spring, and summer semester upon the certification of the institution's eligible enrollments. The Coordinating Board will combine enrollment periods under this subsection when a semester includes more than one enrollment period (for example, a Summer 1 and a Summer 2 session).

(b) Disbursement Calculation. Each disbursement will equal the amount outlined in §13.504 of this subchapter (relating to FAST Tuition Rate) for the relevant semester multiplied by the number of semester credit hours or equivalent in which students who met the eligibility criteria in §13.503 of this subchapter (relating to Eligible Students) were enrolled in dual credit courses at the institution for the relevant semester.

(c) Data Sources. The source of data for the disbursement calculation will be reports collected by Board staff and certified by the institution for the relevant semester which provide an eligible student's dual credit enrollment in semester credit hours or their equivalent and the student's Texas Student Data System (TSDS) unique identification number issued by the Texas Education Agency, combined with data regarding

educationally disadvantaged students, as reported by the Texas Education Agency, unless otherwise provided by rule.

(d) Verification of Data. The Coordinating Board will share each semester's calculation with the participating institution for comment and verification prior to disbursement. The institution will be given ten business days, beginning the day of the notice's distribution, and excluding State holidays, to confirm that the calculation accurately reflects the data they submitted or to advise the Coordinating Board of any inaccuracies.

(e) True-Up. Upon receipt of attendance data for the full school year from the Texas Education Agency, the Coordinating Board will review all eligible students used in the calculation outlined in subsection (d) of this section to verify that those students were in attendance at the high school during the period of dual credit enrollment. If any student is identified as not having been in attendance in high school during the period of dual credit enrollment, then the Coordinating Board will calculate the amount of funding the institution received for that student's dual credit enrollment. The Coordinating Board shall reduce each institution's subsequent disbursement under subsection (a) of this section by the amount calculated in this subsection.

#### §13.506. Overallocation.

Funding provided to an institution under this subchapter shall be subject to subchapter R of this chapter (relating to State Public Junior College Finance Program Reporting, Audit, and Overallocation).

# **Committee on Innovation, Data, and Educational Analytics**

## **AGENDA ITEM V-D (10)**

Consideration and possible action to adopt new Board Rules in Chapter 13, Subchapter R, 13.520 through 13.529, relating to reporting, audit, and overallocation for community colleges

RECOMMENDATION: Approval

Background Information:

The Texas Higher Education Coordinating Board (THECB) staff proposes the adoption of new rules in Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter R, Sections 13.520-529, concerning the certification of compliance, required reporting, correction of errors, audit, and overallocation for the new State Public Junior College Finance Program. As authorized by HB 8, this rule was adopted on an emergency basis at the August Special Called Board Meeting because all rules necessary for HB 8 implementation were required to be adopted prior to the start of fiscal year 2024.

Specifically, proposed rules set out policies and procedures for public junior colleges to submit certifications of compliance and submit required reporting through various reporting collection mechanisms established by the Coordinating Board. The rules also describe how the Coordinating Board will conduct audits, review of required reporting for data errors, and correct those errors through either a payment of under-allocated funds or the recovery of over-allocated funds.

Rule 13.520 and 13.521 sets out the purpose and authority of the subchapter, relating to compliance, data reporting, audit, and correction of error requirements, as well as over-allocation and under-allocation procedures. Rule 13.522 contains definitions used in the subchapter.

Rule 13.523 contains the policy and procedures necessary for public junior colleges to submit certifications of compliance with statute and rules. Under state law, public junior colleges must submit attestations of compliance, including compliance with all state laws and Coordinating Board rules, as a condition of receiving state funds. Rule 13.523 establishes clear guidelines for institutions to comply with statute.

Rule 13.524 describes the required financial and academic reporting for institutions to submit the data necessary for the Coordinating Board to administer the State Public Junior College Finance Program. The Coordinating Board collects data through a variety of established mechanisms: the Community College Annual Reporting and Analysis Tool, Annual



Financial Report Reporting, the Report of Fundable Operating Expenses, Education Data Systems reporting, and through ad hoc reporting as necessary. The data from these tools provides a cornerstone of the financial modeling necessary to determine precise funding amounts for the public junior colleges.

Rule 13.525 establishes the process for the Commissioner to review required reporting for errors and formally establish when a data reporting error resulting in a material impact in formula funding was made. This section establishes parameters and expectations for the methods the Coordinating Board will use to detect data errors, as well as how the Commissioner will make a formal determination of a data reporting error requiring a funding adjustment.

Rule 13.526 provides for compliance monitoring and auditing of funds disbursed under the new finance model for public junior colleges. This section establishes parameters and expectations of internal audit offices at institutions for data collection and examination assistance by the internal audit offices as institutional resources allow, as well as expectations for ongoing or completed audits.

Rule 13.527 states that institutions must retain records for a period of no less than seven years for purposes of Coordinating Board review, which mirror the timeline of seven years in HB 8.

Rule 13.528 lays out the process for the Coordinating Board to recover overallocated funds in the event a public junior college has received more funding than was due. This section provides how the Coordinating Board will provide notice to institutions of an error finding and lays out an appeal process for institutions, in accordance with HB 8.

This rule establishes a fair procedure with due process for institutions of higher education, giving them notice and the opportunity to submit a written appeal in the case that the Commissioner may need to make an adverse funding adjustment. The procedures established for overallocation under 13.528(d) ensure that the Coordinating Board is accurately disbursing appropriated funds as intended by the Legislature, while also providing flexibility for the method used to recoup the funds. This flexibility includes providing an option to recover a sum in a lump payment under 13.528(d)(1)(B), or alternatively over a five-year timespan under 13.528(d)(2). The flexibility is intended to limit extreme adverse financial impacts to public junior colleges that might detrimentally impact institutional operations, local communities, and students served by the institution, while still carrying out the Coordinating Board's obligation to disburse appropriated funds according to law.

Rule 13.529 likewise establishes how the Coordinating Board may make a financial adjustment in light of finding that an institution was allocated less in funding than was due, as provided by law.

Subsequent to the posting of the rules in the Texas Register, THECB staff recommends amendments to 13.522, 13.524, 13.528, and 13.529. Specifically, the proposed rule amendments would accomplish two objectives: establishing a reporting requirement for the Integrated

Financial Reporting System in Coordinating Board rules; and updating cross-references throughout the subchapter to include the Coordinating Board's forthcoming community college finance subchapter, which will govern from fiscal year 2025 forward.

Sections 13.522, 13.528, and 13.529 contain amendments reflecting the Coordinating Board's future intended organization of the Community College Finance Program rules. While Chapter 13, Subchapter P contains most rules governing this system, that subchapter will cease effectiveness at the end of the 2024 fiscal year, to be replaced by new language in Chapter 13, Subchapter S.

Section 13.524 describes the required reporting mechanisms through which institutions must submit data for the Community College Finance Program, in accordance with Texas Education Code, §130A.006. The Coordinating Board proposes to amend this rule by adding the Integrated Fiscal Reporting System – an existing reporting program already in use by the Coordinating Board – to give Board staff more accurate and timely data to use for the tuition and fees calculation required to determine Base Tier allotments.

Arby Gonzales, Assistant Commissioner, Internal Audit and Compliance, and Paul Maeyaert, Director of Compliance, Internal Audit and Compliance, will present this item and be available to answer questions.

Date Published in the *Texas Register*: October 13, 2023

The 30-day comment period with the *Texas Register* ended on: November 11, 2023.

Summary of comments received:

No comments were received regarding this rule.

## CHAPTER 13. FINANCIAL PLANNING

SUBCHAPTER R. STATE PUBLIC JUNIOR COLLEGE FINANCE PROGRAM REPORTING,  
AUDIT, AND OVERALLOCATION13.520. Purpose.

The purpose of this subchapter is to establish the definitions, certification of compliance, data reporting, audit, and correction of error requirements for institutions of higher education, as well as over-allocation and under-allocation procedures, under the State Public Junior College Finance Program (the Program). The subchapter further specifies the process for recovery of overallocated funds as required by statute. These provisions additionally apply to audit and overallocation of funds under the Financial Aid for Swift Transfer (FAST) Program.

13.521. Authority.

The Coordinating Board adopts this subchapter pursuant to its authority under Texas Education Code, §§28.0095, 61.035, 61.063, 61.065, 130.003, and 130A.006-130A.009.

13.522. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings:

(1) Audit--An engagement to audit the program conducted by the Coordinating Board's Internal Auditor and internal audit or compliance monitoring staff pursuant to either Texas Education Code, §§130A.006(4) or 61.035. This term may include a site visit, desk review, or examination of the institution's use of funds allocated by the Coordinating Board and data reported to the Coordinating Board. The term includes auditing undertaken to obtain evidence to sufficiently examine or verify data submitted to the Coordinating Board to be used by the Coordinating Board for funding or policymaking decisions, including data used for formula funding allocations, to ensure the data is reported accurately.

(2) Census Date--Prior to September 1, 2024, as defined in subchapter P, §13.472, of this chapter (relating to Definitions). On or after September 1, 2024, as defined in subchapter S, §13.553, of this chapter (relating to Definitions).

(3) Chief Audit Executive--The Internal Auditor hired by the Coordinating Board to perform internal auditing and compliance monitoring on behalf of the Coordinating Board pursuant to Texas Education Code, Chapters 61, 130, and 130A.

(4) Compliance Monitoring--A risk-based audit and compliance function conducted by the Coordinating Board pursuant to either Texas Education Code, §§130A.006(4) or 61.035, for the purpose of reviewing and assessing programmatic, legal, and fiscal compliance. This function may include conducting audits, site visits, desk reviews, or other examinations, to ensure that funds allocated or distributed by the Coordinating Board are allocated, distributed, and used in accordance with applicable law and Coordinating Board rule. The function includes obtaining evidence to sufficiently examine or verify data submitted to the Coordinating Board to be used by the Coordinating Board for funding or policymaking decisions, including data used for formula funding allocations, to ensure the data is reported accurately.

(5) Data Reporting Error--An error in data or other information reported and certified by a public junior college to the Coordinating Board that the Commissioner of Higher Education in his or her discretion determines may result in a material impact in the formula funding a public junior college was entitled to or received.

(6) Desk Review--An administrative review by the Coordinating Board that is based on information reported by an institution of higher education or a private or independent institution of higher education, including supplemental information required by the Coordinating Board for purposes of compliance monitoring, except that the term does not include information or accompanying notes gathered by the Coordinating Board during a site visit.

(7) Full-Time Student Equivalent (FTSE)--Prior to September 1, 2024, as defined in subchapter P, §13.472, of this chapter. On or after September 1, 2024, as defined in subchapter S, §13.553, of this chapter.

(8) Funding Adjustment--Any increase or decrease in funding by the Coordinating Board to an institution of higher education based on an over- or under-allocation of funds.

(9) Over-allocation--The over-payment of funds to a public junior college due to a data reporting error or other error by either the institution or the Coordinating Board that results in payments beyond what the institution is due.

(10) Site Visit--An announced or unannounced in-person visit by a representative of the Coordinating Board or its agent to an institution of higher education or a private or independent institution of higher education for the purposes of conducting an audit.

(11) Under-allocation--The under-payment of funds to a public junior college due to a data reporting error or other error by either the institution or the Coordinating Board that results in payments less than what the institution was owed for the fiscal year.

#### 13.523. Certification of Compliance.

(a) A public junior college is not eligible to receive funds under this subchapter unless that public junior college submits a certification of compliance with the requirements of Texas Education Code, §130.003(b,) and as stated herein.

(b) A public junior college must submit an attestation via email to CTC@highered.texas.gov certifying to compliance with Texas Education Code, §130.003(b), to the Coordinating Board by August 1 of each year. The certification must be signed by the public junior college's president, or Chief Executive Officer, as applicable. The certification must certify the following:

(1) That the public junior college is currently in compliance with each provision of Texas Education Code, §130.003; and

(2) The public junior college has complied with all laws and Coordinating Board rules for the establishment and operation of a public junior college.

(c) If a junior college district has an unresolved or ongoing audit finding that the certifying official determines may preclude the district's certification under Texas Education Code, §130.003(b), the district shall disclose the finding(s) and provide an explanation of the finding(s) and proposed resolution.

(1) The Commissioner of Higher Education shall determine whether the junior college district can demonstrate that the district will be in compliance for the purpose of receiving a scheduled payment.

(2) Any payment that the Coordinating Board makes to an institution pursuant to this subchapter is subject to recovery or recoupment if the certifying official does not make the required certification for the fiscal year for which the certification was required.

13.524. Required Reporting.

(a) Required Reporting. A public junior college must submit data through required reporting mechanisms established by the Coordinating Board. The Coordinating Board may use information obtained through required reporting for:

(1) calculating funding disbursed under this chapter;

(2) providing timely data and analyses to inform management decisions by the governing body of each public junior college district;

(3) administering or evaluating the effectiveness of programs; or

(4) auditing the program.

(b) Financial Reporting: The Community College Annual Reporting and Analysis Tool (CARAT) and Annual Financial Report (AFR) Reporting.

(1) Standards. Each public junior college district must submit their Annual Financial Report (AFR) for the preceding fiscal year by January 1. The public junior college must submit the AFR following the requirements provided in the Coordinating Board's Budget Requirements and Annual Financial Reporting Requirements for Texas Public Community Colleges, also known as the AFR Manual, for that fiscal year, in accordance with Texas Education Code, §61.065.

(2) Format. Each public junior college must report AFR data for each completed fiscal year as prescribed in the Community College Reporting and Analysis Tool (CARAT) by January 31 of the following fiscal year.

(3) Review Process. The Commissioner of Higher Education will update the AFR Manual, as required by Texas Education Code, §61.065. The AFR Manual will conform to Governmental Accounting Standards Board (GASB) statements and guidance.

(c) Financial Reporting: Report of Fundable Operating Expenses (RFOE).

(1) Standards. Each public junior college must report all instructional expenses from each completed fiscal year for each institutional discipline and unallocated administrative expenses as defined in the RFOE by January 31 of the following fiscal year.

(2) Coordinating Board staff shall use the data provided on expenses at public junior colleges to produce a study of costs for each instructional discipline each year. This study will review all expenses made by institutions for instruction and administration from all unrestricted sources of funds, including appropriated general revenue, tuition and fees, contract instruction, other educational and general revenue, and local tax revenue.

(d) Financial Reporting: Integrated Fiscal Reporting System (IFRS).

(1) Standards. Each public junior college must report comprehensive tuition and fee financial data each fiscal year through IFRS.

(2) Coordinating Board staff may use data reported through IFRS to establish average annual tuition and fee charges as necessary to implement this chapter.

(e) Academic Reporting: Education Data System reporting.

(1) Standards. Each public junior college must use data standards established by the Commissioner of Higher Education to submit required information relating to the delivery of educational programs. The Commissioner of Higher Education shall adopt

and publish annually data standards in official Coordinating Board publications, including through the Coordinating Board Management (CBM) Reporting and Procedures Manual for Texas Community, Technical, and State Colleges. The Coordinating Board will widely disseminate this publication, which will include:

- (A) descriptions of the data collections and submission requirements;
- (B) descriptions of data elements and the codes used to report them, including data used to calculate Full-Time Student Equivalent enrollments, Texas Success Initiative eligibility of students, student transfer, dual credit or dual enrollment, the number and type of credentials conferred, and other relevant student characteristics;
- (C) detailed responsibilities of public junior colleges in connection to the data submission process, including each deadline for submission and resubmission; and
- (D) descriptions of data submission requirements, including submission record layout specifications and data edit specifications.

(2) A public junior college may report a student in attendance on the approved course census date for the purpose of funding under this subchapter, in accordance with Texas Education Code, §130A.008.

(3) Review Process. The Commissioner of Higher Education shall review the CBM Reporting and Procedures Manuals annually. The Commissioner of Higher Education may approve changes to the data and reporting standards outside of the annual review process to expedite implementation of data collections and reporting.

(4) Certification. The reporting official for each public junior college must certify the accuracy of the report by a certification statement submitted to the Coordinating Board's Educational Data Center in accordance with the template and instructions provided in the CBM Reporting and Procedures Manual.

(f)(d) Academic Reporting: Ad Hoc Reporting Requests. As necessary to implement this chapter, the Commissioner of Higher Education may determine the need for additional, limited, supplemental requests for data and information from public junior colleges. To the extent Ad Hoc Reporting Requests may determine or influence funding disbursements under this subchapter, the Coordinating Board shall require the reporting official or another Coordinating Board designated official for each public junior college to certify the accuracy of the information contained in the report.

#### 13.525. Commissioner Review of Required Reporting; Data Reporting Errors.

(a) The Commissioner of Higher Education at his or her discretion or upon recommendation of the Chief Audit Executive may direct Coordinating Board staff to review the accuracy of the data reported to the Coordinating Board by public junior colleges under this subchapter using any of the following methods or combination thereof:

- (1) The Chief Audit Executive or Coordinating Board staff may conduct periodic file reviews, desk-reviews, site visits, or audits of the accuracy of the data and information submitted for funding purposes, including regular reviews of submitted data carried out through standard data management, supporting data, audits conducted under this subchapter, or as a result of any other audit. Upon identifying a data reporting error that may impact formula funding, Coordinating Board staff shall notify the Commissioner of Higher Education as soon as practicable.

(2) Upon receiving a notification from the Chief Audit Executive or Coordinating Board staff of a potential data reporting error, the Commissioner of Higher Education may:  
(A) direct staff to continue to gather additional information;  
(B) determine that the discrepancy does not rise to the level of a data reporting error as defined in this chapter due to the materiality impact of the error; or  
(C) determine that the discrepancy rises to the level of a data reporting error that requires a funding adjustment due to the materiality impact of the error or the amount of overallocation or under-allocation.  
(b) The Coordinating Board may review and or require correction of a data reporting error that occurred not more than seven years prior to a review conducted by Coordinating Board staff.  
(c) Upon the Commissioner of Higher Education's determination that the discrepancy constitutes a data reporting error requiring a funding adjustment, staff will notify the public junior college within 30 business days.  
(d) The Commissioner of Higher Education may use any method provided in §§13.528 or 13.529 of this subchapter to make the necessary funding adjustments to correct an over- or under-allocation.

#### 13.526. Public Junior College Audits.

(a) A public junior college shall report financial and academic data to the Coordinating Board under §13.524 of this subchapter (relating to Required Reporting).  
(b) The Chief Audit Executive may conduct compliance monitoring or audits of public junior colleges' compliance with Texas Education Code, Chapter 130A, the General Appropriations Act, and other related formula funding statutes.  
(c) In conducting an audit or compliance monitoring under this section, the Coordinating Board may request the assistance of the internal audit office at an institution of higher education and private or independent institution of higher education, as institutional resources allow, to examine the institution's use of funds allocated by, and data reported to, the Coordinating Board.  
(d) To avoid duplication of effort and assist the Coordinating Board in identifying risk, an internal auditor at an institution shall notify the Coordinating Board of any audits conducted by the institution's internal or external auditor involving funds allocated or administered by the Coordinating Board or data reported to the Coordinating Board.

#### 13.527. Records Retention.

An institution of higher education shall retain records related to financial and educational data and information reported to the Coordinating Board under Chapter 13 for a period of not less than seven years.

#### 13.528. Recovery of Overallocated Funds.

(a) If the Coordinating Board determines after closing out a fiscal year pursuant to subchapter P, §13.477, of this chapter (relating to Close Out), or any close-out or settle-up provisions contained in subchapter S of this chapter, that a data reporting error or any other error resulted in an overallocation of funds to the institution, the Coordinating Board shall use any method authorized under statute or this rule to make a funding adjustment necessary to correct the over-allocation.

(b) The Coordinating Board shall notify the institution not later than 30 business days after the Commissioner of Higher Education makes a determination of a data reporting error under §13.525 of this subchapter (relating to Commissioner Review of Required Reporting; Data Reporting Errors) or otherwise identifies an error requiring a funding adjustment to recover an overallocation. This notification must contain the amount of the overallocation and the basis for the determination.

(c) The institution may submit a written appeal to the Commissioner of Higher Education within 30 business days of receiving notification of an overallocation. The institution may attach any data or other written documentation that supports its appeal. The Commissioner of Higher Education shall review the appeal and determine in his or her sole discretion whether to affirm, deny, or modify the determination of overallocation within 30 business days of receipt. The Commissioner of Higher Education or Chief Audit Executive shall make an annual report of overallocation determinations to the Board.

(d) If the institution does not appeal or the Commissioner of Higher Education affirms the determination that an overallocation requiring a funding adjustment has occurred, the Coordinating Board shall recover an amount equal to the amount overallocated to the public junior college through one of the following methods:

(1) The Coordinating Board shall:

(A) withhold an amount equivalent to the overallocation by withholding from subsequent allocations of state funds for the current fiscal year as part of the close out of the current fiscal year; or

(B) request and obtain a refund from the public junior college during the current fiscal year an amount equivalent to the amount of the overallocation; or

(C) If the Commissioner of Higher Education in his or her sole discretion determines that the recovery of an overallocation in the current or subsequent fiscal year will have a substantial negative impact on the operations of the institution or the education of students, the Commissioner of Higher Education may instead recover the overallocation pursuant to subsection (d)(2) of this section.

(2) If the Commissioner of Higher Education in his or her sole discretion determines that an overallocation pursuant to subsections (1) or (2) of this section was the result of exceptional circumstances reasonably caused by statutory changes to Texas Education Code, Chapters 130 or 130A, and related reporting requirements, the Coordinating Board may recover the overallocation over a period not to exceed the subsequent five fiscal years.

(e) In addition to the recovery of an over-allocation under this section, the Commissioner of Higher Education may establish a corrective action plan for a public junior college that has received an overallocation of funds.

(f) If the public junior college fails to comply with an agreement to submit a refund established under this section, the Coordinating Board must report to the Comptroller of Public Accounts for recovery pursuant to Texas Education Code, Section 130A.009.

#### 13.529. Payment of Under-allocated Funds.

If the Commissioner of Higher Education determines that a data reporting error or any other error resulted in an under-allocation of funds, the Coordinating Board shall provide the funds to the institution pursuant to the close-out process in subchapter P,



§13.477, of this chapter (relating to Close Out), any close-out or settle up provisions contained in subchapter S of this chapter, or as otherwise authorized by law.

# **Committee on Innovation, Data, and Educational Analytics**

## **AGENDA ITEM V-D (11)**

Consideration and possible action to adopt the repeal of Board Rules, Chapter 13, Subchapter G, Sections 13.120-13.127, concerning Restricted Research Expenditures

RECOMMENDATION: Approval

### Background Information:

Texas Higher Coordinating Education Board (Coordinating Board) staff proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter G, Sections 13.120-13.127, concerning Restricted Research Expenditures. Specifically, the Coordinating Board plans to repeal this subchapter in accordance with changes made by House Bill (HB) 1595, 88th Legislature, Regular Session. Voters approved Proposition 5, relating to research funds at general academic institutions, on November 7, 2023, which allowed the provisions of HB 1595 to take effect on January 1, 2024. The Coordinating Board convened a negotiated rulemaking committee comprised of higher education institutional representatives in accordance with Texas Education Code, Section 61.0331, on August 3, 2023, to develop the proposed rules.

Rules 13.120-13.122 establish the purpose, authority, and definitions related to restricted research. Rules 13.123-13.124 establish a restricted research committee to review restricted research awards and the applicable standards and accounting methods for restricted research. Rules 13.125-13.126 establish reporting requirements of the institutions and the Coordinating Board related to restricted research awards and expenditures. Rule 13.127 provides for audits of research records reported by institutions.

Statute previously provided for the use of restricted research expenditures in the allocation of funding under the Comprehensive Research Fund and Core Research Support Fund as an eligibility criterion for the National Research University Fund. Due to its use in state funding allocations, statute charged the Coordinating Board with setting standards and accounting methods for determining restricted research expenditures, providing for a committee process to verify reported awards, and auditing research records.

As part of the changes to be enacted under HB 1595, statute no longer includes restricted research expenditures as part of any state funding allocations. HB 1595 provides for the distribution of the Comprehensive Research Fund based on an institution's federal and private research expenditures. The bill also provides for the redesignation of the Core Research Support Fund as the National Research Support Fund and provides for funding

distributions based on an institution's federal and private research expenditures and awards of research doctorates.

Additionally, HB 1595 eliminated the National Research University Fund and recreates it as the Texas University Fund (TUF). The TUF provides for new eligibility criteria and uses federal and private research expenditures, rather than restricted research expenditures, as part of its eligibility criteria and allocation methodology.

Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

Date Published in the *Texas Register*: October 13, 2023

The 30-day comment period with the *Texas Register* ended on: November 11, 2023.

Summary of comments received: No comments were received regarding this rule.

## CHAPTER 13 FINANCIAL PLANNING

## SUBCHAPTER G RESTRICTED RESEARCH EXPENDITURES

~~[Section 13.120 Purpose and Scope]~~

~~[The purpose of this subchapter is to establish standards and accounting methods for determining restricted research expenditures, for reporting verified restricted research expenditures to the Comptroller of Public Accounts, for reporting how funds were expended during the fiscal year, for auditing the reported restricted research expenditures, and for appealing decisions relating to restricted research expenditures.]~~

~~[Section 13.121 Authority]~~

~~[Texas Education Code, §62.091, establishes the Texas Comprehensive Research Fund and Texas Education Code, §62.131, establishes the Core Research Support Fund to promote increased research capacity at eligible general academic teaching institutions. Texas Education Code, §62.096, authorizes the Coordinating Board, with the assistance of a committee, to prescribe standards and accounting methods for determining the amount of restricted research funds expended by an eligible institution in a state fiscal year and to consider appeals.]~~

~~[Section 13.122 Definitions]~~

~~[The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:~~

- ~~–(1) Coordinating Board or Board—The Texas Higher Education Coordinating Board.~~
- ~~–(2) Clinical Trial Agreement—An externally sponsored agreement for the administration of a specifically mandated patient protocol (sometimes in multiple clinical sites involving other institutions), in which some costs typically are paid from patient charges or other sources.~~
- ~~–(3) Commissioner—Commissioner of Higher Education.~~
- ~~–(4) Comptroller—The Texas Comptroller of Public Accounts.~~
- ~~–(5) Core Research Support Fund (CRSF)—A funding mechanism established to promote increased research capacity at emerging research universities under Texas Education Code, §§62.131—62.137.~~
- ~~–(6) Demonstration Projects—Projects in which the primary purpose is to apply previous Research and Development findings in new settings and to demonstrate their utility.~~
- ~~–(7) Development—The systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.~~
- ~~–(8) Indirect Costs—Costs incurred for certain overhead related to administering a particular sponsored project, an instructional activity, or any other institutional activity. Indirect costs are synonymous with "facilities and administrative (F&A) costs."~~

~~—(9) Industrial Collaboration Agreements—Agreements with universities, colleges, centers, or institutes under which funds are provided for collaborative R&D activities. The activity must be sponsored by private philanthropic organizations and foundations, for-profit businesses, or individuals.~~

~~—(10) Multiple Function Awards—Awards that have multiple goals, such as research, instruction, and public service.~~

~~—(11) Other Sponsored Activities—Programs and projects financed by Federal and non-federal agencies and organizations may be R&D for restricted research under certain conditions:~~

~~—(A) travel grants, only if in sole support of research activities;~~

~~—(B) support for conferences or seminars, only if in sole support of research activities;~~

~~—(C) support for projects pertaining to library collections, acquisitions, bibliographies or cataloging, only if their purpose is primarily for documented research activities; and~~

~~—(D) programs to enhance institutional resources, including computer enhancements, etc., only if their purpose is primarily for documented research activities.~~

~~—(12) Pass-through funds—External award funds that are passed from one entity to a sub-recipient. The sub-recipient expends the award funds on behalf of or in connection with the pass-through entity.~~

~~—(13) Research—A systematic study directed toward fuller scientific knowledge or understanding of the subject studied.~~

~~—(14) Research and Development (R&D)—All research activities, both basic and applied, and all development activities that are supported at universities, colleges, and other non-profit institutions.~~

~~—(15) Restricted Funds—Funds for which some external agency, business entity, individual, or organization has placed limitations on the uses for which the funds may be spent.~~

~~—(16) Restricted Gifts for R&D—A gift provided by an external entity (a foundation, a business, or an individual) for a specific purpose and for which:~~

~~—(A) there is documented evidence that the gift is restricted for research, such as a donor's restriction for research; or~~

~~—(B) there is separate evidence that the gift is restricted for research through:~~

~~—(i) documentation by the donor that the gift is restricted (e.g., endowed chair, fellowship); and~~

~~—(ii) more than half of the earnings are budgeted for research through the institutional accounting process.~~

~~—(17) Restricted Research Committee or Committee—The Coordinating Board's Restricted Research Committee.~~

~~—(18) Restricted Research Expenditure—An expenditure of funds which an external entity has placed limitations on (Restricted Funds) and for which the use of the funds qualifies as research and development.~~

~~—(19) Sponsored Instruction and Training—Specific instructional or training activity established by grant, contract, or cooperative agreement with federal, state, or local government agencies; private philanthropic organizations and foundations; for-profit businesses; or individuals. Sponsored Instruction and Training may be R&D for restricted research under certain conditions:~~

~~—(A) curriculum development projects if the primary purpose of the project is developing and testing an instructional or educational model through appropriate research methodologies (i.e., data collection, evaluation, dissemination, and publication); or~~

~~—(B) activities involving the training of individuals in R&D techniques, commonly called R&D training, if such activities utilize the same facilities as other R&D activities and if such activities are not included in the instruction function. Such activities include thesis and dissertation research and capstone research projects for R&D.~~

~~—(20) Sources and Uses template—An annual survey of Texas general academic and health-related institutions to detail financial information and provide specific information about revenues and expenditures.~~

~~—(21) Sponsored Research and Development (Sponsored R&D)—Activity funded by grants, gifts, and/or contracts, including sponsored research contracts, that are externally awarded funds designated by the sponsor as primarily for R&D purposes. The activity must be sponsored by federal, state, or local governmental agencies; private philanthropic organizations and foundations; for-profit businesses; or individuals. Sponsored R&D includes:~~

~~—(A) awards to university faculty to support R&D activities;~~

~~—(B) competitively awarded grants and contracts funded by state appropriations specifically identified by the legislature as for research, but not state appropriations made directly to the institution for R&D through formula or special item funding;~~

~~—(C) external faculty "career awards" to support the R&D efforts of the faculty;~~

~~—(D) external funding to maintain facilities or equipment and/or operation of a center or facility that will be used for R&D;~~

~~—(E) external support for the writing of books when the purpose of the writing is to publish R&D results;~~

~~—(F) the research portion of expenditures in the federal work-study program, in accordance with instructions for preparing the annual financial report that is submitted by an institution to the Comptroller after each fiscal year ends;~~

~~—(G) industrial collaboration agreements with universities, colleges, centers, or institutes may qualify as R&D if at least half of the funds are explicitly designated as research support;~~

~~—(H) clinical trial agreements in which data collection and analysis are the primary components of the institution's role in the trial, excluding costs of data collection and analysis performed by other institutions under subcontract and excluding costs that are covered by patient charges or similar sources; and~~

~~—(I) demonstration projects may be R&D only if they include a new R&D component that is at least one-half of the scope of the project.~~

~~—(22) Texas Comprehensive Research Fund (TCRF)—A funding mechanism established to promote increased research capacity at eligible general academic institutions that are neither research universities nor emerging research institutions under Texas Education Code, §§62.091–62.098.]~~

~~[Section 13.123 Restricted Research Committee]~~

~~{The Commissioner shall convene, on an as needed basis, a committee to review and recommend changes to standards and accounting methods for determining restricted research expenditures and to consider appeals under §13.125 of this title (relating to Report on Restricted Research Awards).~~

~~-(1) The committee shall consist of representatives from higher education institutions eligible for either TCRF or CRSF.~~

~~-(2) Presidents of institutions eligible for either TCRF or CRSF shall designate members for the Restricted Research Committee.}~~

~~{Section §13.124 Standards and Accounting Methods for Determining Restricted Research Expenditures}~~

~~{(a) Only expenditures from restricted research awards made from the following types of projects and activities and sponsored by federal, state, or local governmental agencies; private philanthropic organizations and foundations; industry associations, for-profit businesses; or individuals shall be classified as restricted research expenditures:~~

~~-(1) Sponsored R&D, as defined in §13.122 of this title (relating to Definitions).~~

~~-(2) Sponsored instruction and training, as defined in §13.122 of this title.~~

~~-(3) Restricted gifts for R&D as defined in §13.122 of this title.~~

~~-(4) Other sponsored activities as defined in §13.122 of this title.~~

~~-(5) Pass-through funds as defined in §13.122 of this title, that are to entities other than institutions eligible for either TCRF or CRSF.~~

~~-(6) Multiple Function Awards, as defined in §13.122 of this title if the scope or activities of the restricted awards include R&D, these are subject to the following limitation: if the purpose of a restricted award is primarily (more than 50 percent) research, then all expenditures, unless prohibited in §13.126 of this title (relating to Reporting of Restricted Research Expenditures), made from that award qualify as restricted research expenditures. If the purpose of the restricted award is not primarily research (less than 50 percent), then none of the expenditures may be counted as restricted research. Primary purpose will normally be demonstrated by more than half of the funds having been budgeted for research, but may be demonstrated by the sponsor's statement of purpose or other documented evidence.~~

~~(b) Institutions shall document the process for determining restricted research awards and shall maintain documentation justifying the rationale used to classify the awards as restricted research.~~

~~(c) For reporting purposes, institutions shall use the accrual accounting method as required by the Texas Comptroller for the Government-wide Financial Statements for the restricted research expenditure report.}~~

~~{Section §13.125 Report on Restricted Research Awards}~~

~~{(a) Each eligible institution shall provide to the Commissioner, at a date specified by the Commissioner, a verified report of all restricted research awards for the current state fiscal year. Only those projects or activities described in §13.124 of this title~~

~~(relating to Standards and Accounting Methods for Determining Restricted Research Expenditures) shall be included in the report.~~

~~-(1) Classified military projects or any sponsored program deemed confidential or proprietary by funding entities shall not be included in the award lists.~~

~~-(2) The report shall be in a format and with the specific content prescribed by the Commissioner.~~

~~-(3) The report shall indicate the person or persons who determined that the projects or activities were restricted research projects or activities.~~

~~-(4) The Commissioner shall provide the reports made under this section to each institution eligible for either TCRF or CRSF.~~

~~(b) The Commissioner shall convene the Restricted Research Committee under §13.123 of this title (relating to Restricted Research Committee).~~

~~-(1) The Commissioner shall provide each committee member with a copy of each institution's report on restricted research awards.~~

~~-(2) The committee shall examine the institutions' reports on restricted research awards and make a final determination of those awards from which expenditures may be classified as restricted research expenditures.~~

~~-(3) The Commissioner shall make public the committee's determinations of awards from which expenditures may be classified as restricted research expenditures.]~~

#### ~~[Section §13.126 Reporting of Restricted Research Expenditures]~~

~~[(a) Each institution eligible for either TCRF or CRSF shall provide a verified report of its restricted research expenditures to the Commissioner through the Sources and Uses template.~~

~~-(1) The report will include restricted research expenditures from the awards approved by the Commissioner under §13.125 of this title (relating to Report on Restricted Research Awards):~~

~~-(2) Certain expenditures related to any award classified as restricted research are prohibited to be recorded as restricted research expenditures: indirect costs; capital construction; and costs associated with entertainment or any direct individual benefit. Examples of costs associated with entertainment or any direct individual benefit include costs for shows, sports events, meals, lodging, rentals for personal use, gratuities, or personal, non-research related travel. Travel reimbursement and costs associated with research workshops or other events to disseminate research is permitted as allowed by award-specific award conditions or limitations.~~

~~(b) Not later than December 1, each institution that received a TCRF or CRSF appropriation in the preceding fiscal year shall provide the Commissioner and the Legislative Budget Board with a report that describes how the institution used the appropriated funds in the preceding fiscal year. The report shall include a description of expenditures of appropriated funds received during prior fiscal years.]~~

#### ~~[Section §13.127 Audits]~~

~~[The Commissioner may require an audit of the restricted research records of an institution eligible for either TCRF or CRSF to verify the submitted information.]~~



# Committee on Innovation, Data, and Educational Analytics

## AGENDA ITEM V-D (12)

Consideration and possible action to adopt proposed amendments to Board Rules, Chapter 13, Subchapter M, Sections 13.300-13.304, and new Section 13.305, concerning Total Research Expenditures

RECOMMENDATION: Approval

### Background Information:

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code (TAC), Title 19, Part 1, Chapter 13, Subchapter M, Sections 13.300-13.304 and new Section 13.305, concerning Total Research Expenditures. Specifically, this amendment and new rule will revise the reporting of total research expenditures to the Coordinating Board for use in state research funding allocations for the Comprehensive Research Fund, National Research Support Fund, and Texas University Fund, in accordance with changes made by House Bill (HB) 1595, 88th Texas Legislature, Regular Session. Voters approved Proposition 5, relating to research funds at general academic institutions, on November 7, 2023, which allowed the provisions of HB 1595 to take effect on January 1, 2024. The Coordinating Board convened a negotiated rulemaking committee comprised of higher education institutional representatives in accordance with Texas Education Code, Section 61.0331, on August 3, 2023, to develop the proposed rules.

Rules 13.300 and 13.301 note the purpose and authority of the subchapter. Proposed revisions now prescribe the requirement of total research expenditures to be submitted by fund source and lay out the use of the data in the allocation of the Texas Comprehensive Research Fund, National Research Support Fund, Texas Research University Fund, Texas University Fund (TUF), and formula funding for research. The rule also establishes the portions of TEC that authorize the Coordinating Board to adopt rules pertaining to the TUF.

Rule 13.302 lists definitions pertinent to research expenditure reporting. The revisions add paragraphs (1), (5), (8), (10), (12), and (23) to include fund sources by which institutions must report expenditures to the Coordinating Board. The fund sources align with the Higher Education Research and Development (HERD) Survey conducted by the National Center for Science and Engineering Statistics under the National Science Foundation. Paragraphs (24) and (25) provide a more granular breakout of funding sources for State and Local Government Expenditures to appropriately implement funding formulas for the health-related institutions.

Paragraph (15) establishes that private expenditures include expenditures of funds reported as Business Expenditures, Nonprofit Organization Expenditures, and All Other

Expenditures. This definition matches the definition under TAC, Chapter 15, Subchapter B, Texas University Fund for use in the allocation of certain state funding.

Paragraphs (9), (11), and (13) define certain sectors of Texas public institutions of higher education.

Paragraphs (4), (6), and (7) specify three distinct entities: "Board," meaning the nine-member appointed governing body of the Texas Higher Education Coordinating Board; "Coordinating Board," meaning the state agency as a whole; and "Coordinating Board Staff or Board Staff," meaning the staff of the agency. Separating these terms allows the Coordinating Board to make a distinction between actions taken by the governing body, agency staff, and the agency as a whole.

Revisions to paragraph (16) and the addition of paragraph (18) align definitions of research and development (R&D) with the HERD Survey. The revision of paragraph (19) clarifies what is included on the research expenditure survey, and the addition of paragraph (22) adds clarity on what is considered a sponsored project.

The revision of Section 13.303 removes a provision made unnecessary due to the addition of Section 13.305 and clarifies that pass-throughs to other agencies of higher education also do not meet the narrow definition of R&D expenditures. Other revisions include clarification that total research expenditures may only include recovered indirect costs and clarification on the treatment of counting expenditures where the dollars expended are reported on an institution's annual financial report but the actual work is conducted at a separate entity.

The revision of Section 13.304 clarifies that Coordinating Board staff will post the report of total research expenditures and the source of information for a legislatively required report.

The addition of Section 13.305 provides for the explicit direction of reporting total research expenditures to the Coordinating Board. The rule provides the breakout of fund source categories and requires a subset reporting of State of Texas Source Expenditures and State Contracts and Grants to accurately implement certain funding formulas for health-related institutions. The rule specifies that unrecovered indirect costs and pass-throughs to certain sectors of higher education do not meet the narrow definition of R&D expenditures. Pass-throughs to these sectors of higher education would result in the state including certain research expenditures in multiple funding formulas, so separating these expenditures out in reporting allows the state to only include the research expenditure in funding formulas for the institution who received the pass-through funding.

Subsequent to the posting of the rules in the Texas Register, THECB staff found the text was missing a letter "(b)" in the ordering of §13.303. Standards and Accounting Methods for Determining Total Research Expenditures. The text proposed for adoption has been corrected.

Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

Date Published in the *Texas Register*: October 27, 2023

The 30-day comment period with the *Texas Register* ended on: November 25, 2023.

Summary of comments received: No comments were received regarding this rule.

## CHAPTER 13 FINANCIAL PLANNING

## SUBCHAPTER M TOTAL RESEARCH EXPENDITURES

## §13.300. Purpose and Scope.

The purpose of this subchapter is to establish standards and accounting methods for determining total research expenditures, by fund source, based on all research conducted at Texas institutions of higher education. These amounts are for use in the allocation of the Texas Comprehensive Research Fund, National Research Support Fund, Texas Research University Fund, Texas University Fund, and formula funding for research, as authorized in an applicable biennium's General Appropriations Act.

## §13.301. Authority.

Texas Education Code, §61.0662, requires the Coordinating Board to maintain an inventory of all institutional and programmatic research activities being conducted by all institutions of higher education. Texas Education Code, §62.051, establishes the Texas Research University Fund and §62.053, authorizes the Coordinating Board to prescribe standards and accounting methods for determining the amount of total research funds expended. Texas Education Code §62.152 authorizes the Board to adopt rules as necessary to implement chapter 62, subchapter G (Texas University Fund).

## §13.302. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) All Other Expenditures--Expenditures of all other funds not reported under the expenditure categories of Business, Nonprofit Organizations, Institutional Funds, State and Local Government or Federal Expenditures, as defined in this section. All Other Expenditures includes funds from foreign universities, foreign governments, portions of gifts designated for research by the donors (including from the reporting institution's 501(c)(3)), and nonfederal and nonstate funds received from other institutions of higher education.

(2) [(4)] Annual Financial Report (AFR)--Institutional financial report for one fiscal year as required by Texas Education Code, §51.005.

(3) [(2)] Areas of Special Interest--Major research topics important to the public, or required by statute, as listed in the Research Expenditure Survey.

[(3) Coordinating Board or Board--The Texas Higher Education Coordinating Board.]

(4) Board--The governing body of the Texas Higher Education Coordinating Board.

[(4) Research Expenditures or Expenditures--In a specific fiscal year, expenditure of funds paid out by an institution to support institutional Research and Development activities.]

(5) Business Expenditures--Expenditures of funds from domestic or foreign for-profit organizations.

(6) Coordinating Board--The agency known as the Texas Higher Education Coordinating Board, including agency staff.

(7) Coordinating Board Staff or Board Staff--Agency staff acting under the direction of the Board and the Commissioner.

(8) Federal Expenditures--Expenditures of funds received by the reporting institution from any agency of the United States government for research and development. These include reimbursements, contracts, grants, and any identifiable amounts spent on research and development from Federal programs including Federal monies passed through state agencies to the reporting institution and federal funds that were passed through to the reporting institution from another institution.

(9) General Academic Teaching Institution--Any public general academic teaching institution as defined in Texas Education Code, §61.003(3).

(10) Institutional Fund Expenditures--This includes funds expended for R&D that are controlled at the institutional level, such as Available University Fund (AUF) or other funding held locally used for R&D, excluding institution research administration and support. This category includes cost sharing from unrestricted sources (cost sharing from restricted sources should be classified according to the underlying source), unrestricted funds from the reporting institution's 501(c)(3), and unrecovered indirect costs. Unrecovered indirect costs may not exceed the institution's federally negotiated Facilities and Administrative rate.

(11) Medical and Dental Unit--Any public health related institution as defined in Texas Education Code, §61.003(5).

(12) Nonprofit Organization Expenditures--Expenditures of funds from domestic or foreign non-profit foundations and organizations, except universities and colleges.

(13) Other Agency of Higher Education--Any public agency of higher education as defined in Texas Education Code, §61.003(6).

(14) ~~[(5)]~~ Pass-through to Sub-recipient--Sponsored project ~~[External award]~~ funds that are passed from one entity to a sub-recipient. The sub-recipient expends the ~~[award]~~ funds to carry out part of the sponsored project on behalf of ~~[, or in connection with,]~~ the pass-through entity.

(15) Private Expenditures--Expenditures of funds reported as Business Expenditures, Non-profit Organization Expenditures, and All Other Expenditures. Amounts exclude R&D expenditures that do not meet the narrow definition of R&D expenditures used in the Coordinating Board's Research Expenditure Survey.

(16) ~~[(6)]~~ Research and Development (R&D)--R&D activity is creative and systematic work undertaken in order to increase the stock of knowledge "including knowledge of humankind, culture, and society" and to devise new applications of available knowledge. R&D covers three activities: basic research, applied research, and experimental development. R&D does not include public service or outreach programs, curriculum development (unless included as part of an overall research project), or non-research training grants. R&D does not include capital projects (i.e., construction or renovation of research facilities). ~~[All research activities, both basic and applied, and all development activities that are supported at universities, colleges, and other non-profit institutions:]~~

~~[(A) Research--The systematic study directed toward fuller scientific knowledge or understanding of the subject studied.]~~

~~[(B) Development--The systematic use of knowledge or understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.]~~

~~[(C) R&D Training--R&D also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research~~

~~and development activities and where such activities are not included in the instruction function.]~~

(17) R&D Training--Activities involving the training of individuals in research techniques are included in R&D, where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

(18) Research Expenditures or Expenditures--In a specific fiscal year, expenditures of funds paid out by an institution to support institutional Research and Development activities. Expenditures do not include in-kind donations.

(19) [(7)] Research Expenditure Survey--The mandatory survey instrument administered by the Coordinating Board pursuant to Texas Education Code, §61.0662, that establishes total R&D expenditures for each institution by research field and areas of special interest, both accounted by funding source. The survey includes a Research Expenditure Survey, specific definition of R&D, and reporting guidelines for R&D activities. The survey separately accounts for unrecovered indirect costs and pass-through expenditures to other general academic teaching institutions, medical and dental units, or other agencies of higher education, by funding source. [Instrument that establishes total R&D expenditures for each institution by research field and areas of special interest, both accounted by funding source. The survey includes a Research Expenditure Survey, specific definition of R&D, and reporting guidelines for R&D activities.]

(20) [(8)] Research fields--Subject areas for R&D, as listed in the Research Expenditure Survey.

(21) [(9)] Sources and Uses Template--An annual survey of Texas general academic and health-related institutions to detail financial information and provide specific information about revenues and expenditures.

(22) Sponsored Projects--Sponsored projects include grants, contracts, cooperative agreements and other legally binding means of transfer under which an entity provides a return benefit to, or agrees to provide a defined deliverable or complete a specified set of activities for, an external sponsor in exchange for funds. External sponsors are those that are not part of the entity.

(23) State and Local Government Expenditures--Expenditures of funds received for R&D via appropriations from the state of Texas, including non-formula support items, and funds received from any state, county, municipality, or other local government entity in the United States, including state health agencies. Expenditures include state funds that support R&D at agricultural and other experiment stations.

(24) State Contracts and Grants--A subset of State and Local Government Expenditures that includes only expenditures of interagency contracts, contracts with Texas local governments, and other such state funding sources for R&D.

(25) State of Texas Source Expenditures--A subset of State and Local Government Expenditures that includes only expenditures of funds appropriated by the state of Texas for research, including state appropriated research non-formula support items and research formula funding.

§13.303. Standards and Accounting Methods for Determining Total Research Expenditures.

~~[(a) Each institution reports R&D expenditures annually in the Research Expenditure Survey.]~~

~~(a) [(b)]~~ R&D expenditures for Texas A&M University include consolidated expenses from Texas A&M University and its service agencies.

~~(b) [(c)]~~ Research expenses from the AFR shall be ~~[are]~~ reconciled to the total R&D expenditures of the Research Expenditure Survey by a:

(1) Decrease of the AFR total by the amount of R&D expenses that do not meet the narrow definition of R&D expenditures used in the Coordinating Board's Research Expenditure Survey. Pass-throughs to other general academic teaching institutions, medical or dental units, and other agencies of higher education ~~[public academic or health-related entities]~~ do not meet the narrow definition of R&D expenditures.

(2) Increase of the AFR total by the amount of recovered indirect costs associated with expenses for R&D as reported through the Research Expenditure Survey.

(3) Increase of the AFR total by the amount of capital outlay for research equipment, not including R&D plant expenses or construction.

(4) Increase of the AFR total by the amount of expenditures for conduct of R&D made by an institution's research foundation, or 501(c) corporation on behalf of the institution, and not reported in the institution's AFR, including indirect costs.

(5) Increase of the AFR total to include expenses related to research performed by the agency or institution but recognized on the AFR of a separate agency or institution who received and expended the funding. The agency or institution who received and expended the funding but did not perform the research must make a corresponding decrease of its AFR total for this amount. This accounting event is not a pass-through to subrecipient ~~[by the amount of pass-throughs from Texas Engineering Experiment Station, as defined for the Research Expenditure Survey].~~

#### §13.304. Reporting of Total Research Expenditures.

(a) Coordinating ~~[The]~~ Board staff shall annually post a report of total research expenditures of all public institutions of higher education on its website.

(b) Not later than January 1 of each year, the Board shall submit to the legislature information regarding human stem cell research reported by the institutions ~~to [obtained by]~~ the Coordinating Board in the Research Expenditure Survey from reports required by this subsection.

#### §13.305. Institutional Reporting of Total Research Expenditures by Funding Source.

(a) Institutions shall report all research expenditures on the Research Expenditure Survey using the following categories:

(1) Federal Expenditures;

(2) State and Local Government Expenditures;

(3) Business Expenditures;

(4) Nonprofit Organization Expenditures;

(5) Institutional Fund Expenditures; and

(6) All Other Expenditures.

(b) Institutions shall report State of Texas Source Expenditures and State Contracts and Grants as subsets of State and Local Government Expenditures.

(c) Institutions shall report the original source of expenditures, when possible. Institutions shall report each category and show adjustments by the amount of R&D expenses that do not meet the narrow definition of R&D expenditures used in the Coordinating Board's Research Expenditure Survey. Unrecovered indirect costs and pass-throughs to other general academic teaching institutions, medical and dental units, and other agencies of higher education do not meet the narrow definition of R&D expenditures.



# Committee on Innovation, Data, and Educational Analytics

## AGENDA ITEM V-D (13)

Consideration and possible action to adopt new Board Rules, Chapter 15, Subchapter B, Sections 15.20-15.30, concerning the Texas University Fund

RECOMMENDATION: Approval

### Background Information:

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code (TAC), Title 19, Part 1, Chapter 15, Subchapter B, Sections 15.20-15.30, concerning the Texas University Fund (TUF). Specifically, this will create rules to govern the eligibility, distribution methodology, and reporting for the TUF and implementation of eligibility requirements for the National Research Support Fund (NRSF) in accordance with changes made by House Bill (HB) 1595, 88th Texas Legislature, Regular Session. Voters approved Proposition 5, relating to research funds at general academic institutions, on November 7, 2023, which allowed the provisions of HB 1595 to take effect on January 1, 2024. The Coordinating Board convened a negotiated rulemaking committee comprised of higher education institutional representatives in accordance with Texas Education Code (TEC), Section 61.0331, on August 3, 2023, to develop the proposed rules.

TAC Chapter 15 is amended to revise the name from National Research Universities to Research Funds to more accurately reflect the rules in this section of administrative code.

Rule 15.20 establishes the purpose of the subchapter to govern the receipt and allocation of funds distributed from the TUF. The rule also establishes the portions of the TEC that authorize the Coordinating Board to adopt rules pertaining to the TUF and rules governing the eligibility threshold of research expenditures for the NRSF.

Rule 15.21 lists definitions pertinent to the TUF. Paragraphs (2), (3), and (5) specify three distinct entities: "Board," meaning the nine-member appointed governing body of the Texas Higher Education Coordinating Board; "Coordinating Board," meaning the state agency as a whole; and "Coordinating Board Staff or Board Staff," meaning the staff of the agency. Separating these terms allows the Coordinating Board to make a distinction between actions taken by the governing body, agency staff, and the agency as a whole.

Paragraphs (6) and (10) establish the federal and private expenditures eligible for inclusion in the TUF eligibility and distribution criteria. Institutions report federal and private expenditures to the Coordinating Board under TAC, Chapter 13, Subchapter M, Total Research Expenditures. Federal and private expenditures exclude amounts that do not meet the Coordinating Board's narrow definition of research and development expenditures, including unrecovered indirect administration and pass-through funds to other public institutions of higher education. Pass-throughs to certain sectors of higher education would result in the state including certain research expenditures in multiple funding formulas, so separating these expenditures out in reporting allows the state to only include the research expenditure in funding formulas for the institution who received the pass-through funding.

Paragraphs (7), (8), and (9) define the Texas public institutions of higher education that are subject to the exclusion pertaining to pass-through funding.

Paragraph (12) defines a TUF-eligible institution as one listed in HB 1595 or an institution that becomes eligible by reaching the statutorily required thresholds.

Rules 15.22 and 15.23 define the institutions eligible to receive distributions from the TUF in a fiscal year in accordance with TEC 62.145, as amended by HB 1595. This includes listed institutions in statute as well as the eligibility requirements for a new institution to become TUF-eligible in future years. This provision provides that the Coordinating Board shall annually calculate and publish an increased threshold of research expenditures based on the increase in the Consumer Price Index for All Urban Consumers as published by the United States Department of Labor, in accordance with statutory requirements.

Rule 15.24 describes the allocation of distributions of the TUF to the Permanent Endowment for Education and Research (PEER) and the Research Performance Funding, in accordance with TEC 62.148(c), as amended by HB 1595.

Rule 15.25 provides for the calculation of PEER base funding for TUF-eligible institutions, in accordance with TEC 62.1481, as added by HB 1595, and for the Coordinating Board to confer with the Legislative Budget Board each fiscal year to determine the allocation of funding. The rule establishes two levels of Base Funding: Level 1 and Level 2. Level 1 Base Funding recipients receive the maximum allocation of PEER base funding; Level 2 Base Funding recipients receive half the amount of Level 1 Base Funding. The rule establishes the criteria an institution must meet to receive Level 1 Base Funding. The rule provides that the Coordinating Board shall annually calculate and publish an increased threshold of research expenditures as part of the entry into Level 1 Base Funding based on the increase in the Consumer Price Index for All Urban Consumers as published by the United States Department of Labor, in accordance with statutory requirements.

Rule 15.26 provides for the calculation of the Research Performance Funding, in accordance with TEC 62.1482, as added by HB 1595, and for the Coordinating Board to confer with the Legislative Budget Board each fiscal year to determine the allocation of

## Agenda Item V-D (13)

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funding. The rule provides that 85% of research performance funds shall be allocated in each fiscal year proportional to an institution's share of the most recent three-year average of federal and private research expenditures. The rule defines private expenditures used in the calculation of funding to include business expenditures, nonprofit expenditures, and all other expenditures. Eligible expenditures shall exclude unrecovered indirect costs and pass-through funds to other general academic teaching institutions, medical and dental units, and other agencies of higher education.

The rule provides that 15% of Research Performance Funds shall be allocated in each fiscal year proportional to an institution's share of the most recent three-year average of research doctoral degrees awarded. The Coordinating Board shall annually publish a list of eligible research doctoral degrees that qualify for purposes of calculation; these degrees include an academic degree beyond the level of a master's degree that typically represents the highest level of formal study or research in a given field and that requires completion of original research. This list shall be updated by Coordinating Board staff to reflect all degree titles included in the most recently published National Science Foundation Survey of Earned Doctorates and any additional degree titles identified by the Commissioner of Higher Education.

Rule 15.27 provides for the calculation of the legislative appropriations required to be appropriated for a new institution to become TUF-eligible or for a Level 2 Base Funding institution to receive Level 1 Base Funding. The calculation maintains existing TUF-eligible institutions or Level 1 Base Funding recipients' share of the Permanent Endowment for Education and Research.

Rule 15.28 defines the percentage share of the market value of the TUF that may be reported by TUF-eligible institutions for financial reporting purposes. The percentage share is based on an institution's receipt of Level 1 or Level 2 Base Funding from the PEER and the market value as of August 31 of the reported fiscal year, as determined by the Comptroller of Public Accounts.

Rule 15.29 requires the Coordinating Board to annually publish the metrics pertaining to the TUF for all general academic institutions each fiscal year.

Rule 15.30 provides that the Coordinating Board shall annually calculate and publish an increased threshold of research expenditures as part of the eligibility requirements for the NRSF based on the increase in the Consumer Price Index for All Urban Consumers as published by the United States Department of Labor, in accordance with TEC 62.132, as amended by HB 1595.

Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

Date Published in the *Texas Register*: October 27, 2023

The 30-day comment period with the *Texas Register* ended on: November 25, 2023.

Summary of comments received: No comments were received regarding this rule.

CHAPTER 15 Research Funds [~~NATIONAL RESEARCH UNIVERSITIES~~]SUBCHAPTER B Texas University FundCHAPTER 15. RESEARCH FUNDS [~~NATIONAL RESEARCH UNIVERSITIES~~].SUBCHAPTER B. TEXAS UNIVERSITY FUND.§15.20. Authority and Purpose.

(a) This subchapter establishes rules for eligible institutions to receive funds through the Texas University Fund and the allocation of funds distributed from the Texas University Fund each state fiscal year. The Texas University Fund is established to support general academic teaching institutions to achieve national prominence as major research universities and drive the state economy.

(b) The Board adopts subchapter B pursuant to Texas Education Code, §62.152, requiring the Board to adopt rules to implement Texas Education Code, Chapter 62, subchapter G, Texas University Fund. Texas Education Code, §62.132, provides that the Board specify the eligibility threshold of research expenditures for receipt of the National Research Support Fund.

§15.21. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Available University Fund (AUF)--A fund established in Article 7, §18, of the Texas Constitution to receive all interest and earnings of the Permanent University Fund (PUF) and used to pay the debt service on PUF-backed bonds.

(2) Board--The governing body of the Texas Higher Education Coordinating Board.

(3) Commissioner--The Texas Commissioner of Higher Education.

(4) Coordinating Board--The agency known as the Texas Higher Education Coordinating Board, including agency staff.

(5) Coordinating Board Staff or Board Staff--Agency staff acting under the direction of the Board and the Commissioner.

(6) Federal Expenditures--Expenditures of funds reported as Federal Expenditures, as defined in §13.302 of this title (relating to Definitions). Amounts exclude R&D expenditures that do not meet the narrow definition of R&D expenditures used in the Coordinating Board's Research Expenditure Survey.

(7) General Academic Teaching Institution--Any college, university, or institution so classified in Texas Education Code, §61.003(3).

(8) Medical and Dental Unit--Any public health related institution as defined in Texas Education Code, §61.003(5).

(9) Other Agency of Higher Education--Any agency of higher education as defined in Texas Education Code, §61.003(6).

(10) Private Expenditures--Expenditures of funds reported as Business Expenditures, Non-profit Organization Expenditures, and All Other Expenditures as defined in §13.302 of this title. Amounts exclude R&D expenditures that do not meet the narrow definition of R&D expenditures used in the Coordinating Board's Research Expenditure Survey.

(11) Research Expenditure Survey--Instrument administered by the Coordinating Board that establishes total R&D expenditures for each institution by research field and areas of special interest, both accounted by funding source, as defined in §13.302 of this title.

(12) Texas University Fund (TUF)-Eligible Institution--An institution listed in Texas Education Code, §62.145(a), or an institution that becomes eligible by meeting the requirements listed in Texas Education Code, §62.145(b).

#### §15.22. Eligible Institutions.

(a) The following general academic teaching institutions are eligible to receive distributions from the Texas University Fund in a state fiscal year:

(1) Texas State University;

(2) Texas Tech University;

(3) University of Houston; and

(4) University of North Texas.

(b) A general academic teaching institution not listed above may become a TUF-eligible institution in a state fiscal year if it meets the statutory requirements.

§15.23. Eligibility to Receive a Distribution from the Texas University Fund.

(a) General academic teaching institutions may become a TUF-eligible institution in a state fiscal year if, based on most recently available data, the institution:

(1) Is not entitled to participate in funding through the Available University Fund;

(2) Expends an average of \$20.0 million in combined Federal Expenditures and Private Expenditures during the prior three fiscal years, adjusted in accordance with subsection (b);

(3) Awards an average of at least 45 research doctoral degrees, as determined by §15.26 of this subchapter (relating to Research Performance Funding), per academic year during the prior three fiscal years; and

(4) The legislature provides an appropriation to the Texas University Fund, as defined in §15.27 of this subchapter (relating to Percentage Share for Legislative Appropriation).

(b) For the purpose of calculating the combined Federal Expenditures and Private Expenditures threshold amount in subsection (a)(2), beginning in state fiscal year 2025, and in each subsequent fiscal year, the Coordinating Board shall adjust the research expenditure threshold by any increase in the Consumer Price Index for All Urban Consumers (CPI-U) published by the United States Department of Labor during the preceding state fiscal year.

(c) The Coordinating Board staff shall annually publish the threshold of combined Federal Expenditures and Private Expenditures for TUF eligibility.

(d) Once an institution meets the criteria in subsection (a), an institution remains eligible to receive a distribution in each subsequent fiscal year.

§15.24. Allocation of Distributions.

In a state fiscal year, the allocation of funds distributed from the Texas University Fund shall be as follows:

(1) Seventy-five (75) percent to the Permanent Endowment for Education and Research Base Funding; and

(2) Twenty-five (25) percent to Research Performance Funding.

§15.25. Permanent Endowment for Education and Research Base Funding.

(a) In a state fiscal year, the Coordinating Board shall confer with the Legislative Budget Board to determine Permanent Endowment for Education and Research Base Funding for TUF-eligible institutions based on the following categories:

(1) Level 1 Base Funding for TUF-eligible institutions that are eligible to receive the maximum allocation of base funding as calculated in subsection (b); and

(2) Level 2 Base Funding for TUF-eligible institutions that are not eligible to receive the maximum allocation of base funding.

(b) A TUF-eligible institution shall receive Level 1 Base funding if it meets the following criteria:

(1) The institution expended at least \$45.0 million in combined Federal Expenditures and Private Expenditures in fiscal years 2021 and 2022; or

(2) The institution expends at least \$45.0 million in combined Federal Expenditures and Private Expenditures, adjusted in accordance with subsection (c), per state fiscal year during the prior two fiscal years and the legislature provides an appropriation to the Texas University Fund, as defined in §15.27 of this subchapter (relating to Percentage Share for Legislative Appropriation).

(c) For the purpose of calculating the threshold of research funding under subsection (b), beginning in state fiscal year 2025, and in each subsequent fiscal year, the qualifying amount of combined Federal Expenditures and Private Expenditures will be adjusted by any increase in the Consumer Price Index for All Urban Consumers (CPI-U) published by the United States Department of Labor during the preceding state fiscal year.

(d) Coordinating Board staff shall annually publish the threshold of combined Federal Expenditures and Private Expenditures required for an allocation of funding under subsection (b)(2).

(e) Once an institution meets the criteria in subsection (b), an institution remains eligible to receive Level 1 Base Funding in each subsequent state fiscal year. All other TUF eligible institutions shall receive Level 2 Base Funding in each state fiscal year.

(f) TUF-eligible institutions that are eligible for Level 1 Base funding shall receive the following share of the Permanent Endowment for Education and Research Base Funding. Two divided by the sum of:

(1) the number of TUF-eligible institutions eligible for Level 1 funding multiplied by two; and

(2) the number of TUF-eligible institutions that are not eligible to receive Level 1 funding.

(g) Level 2 Base Funding shall be half the share of Level 1 Base Funding.

(h) The percentage share for Level 1 and Level 2 Base Funding is then multiplied by the total amount distributed for the Permanent Endowment for Education and Research to determine each individual institution's funding amount.

#### §15.26. Research Performance Funding.

(a) In a state fiscal year, the Coordinating Board shall confer with the Legislative Budget Board to determine Research Performance Funding allocations for each TUF-eligible institution based on the following:

(1) Eighty-five percent (85%) of the Research Performance Funds shall be allocated based on the most recent three-year average of combined Federal Expenditures and Private Expenditures. The allocation shall be proportional based on the institutions' share of total combined Federal Expenditures and Private Expenditures.

(A) Federal Expenditures and Private Expenditures are as reported in each state fiscal year on the Research Expenditure Survey as required by §13.303 of this title (relating to Standards and Accounting Methods for Determining Total Research Expenditures). Private research expenditures include business expenditures, nonprofit organization expenditures, and all other expenditures.

(B) For purposes of the allocation of the Research Performance funds, Federal Expenditures and Private Expenditures shall exclude unrecovered indirect costs and pass through funds to other general academic teaching institutions, medical and dental units, and other agencies of higher education.

(2) Fifteen percent (15%) of the Research Performance Funds shall be allocated based on the most recent three-year average of research doctoral degrees awarded. The allocation shall be proportional based on the institutions' share of the total research doctoral degrees awarded.

(A) Research doctoral degrees that qualify for purposes of calculation are those that are reflected on a list of research doctoral degrees published annually by Coordinating Board staff on March 1 of each fiscal year. Research doctoral degrees include an academic degree beyond the level of a master's degree that typically represents the highest level of formal study or research in a given field and that requires completion of original research.

(B) The list of research doctoral degrees shall be annually updated by Coordinating Board staff to reflect all degree titles included in the most recently published National



Science Foundation Survey of Earned Doctorates and any additional degree titles identified by the Commissioner.

§15.27. Percentage Share for Legislative Appropriation.

(a) For the purposes of calculating the legislative appropriation required for an individual institution to become TUF-eligible or to receive Level 1 Base Funding, the legislature must appropriate an amount to the Texas University Fund not less than the difference between:

(1) the quotient of:

(A) the market value of the Texas University Fund on September 1 of the state fiscal year; and

(B) one minus an incoming institution's percentage share of the Texas University Fund; and

(2) the market value of the Texas University Fund on September 1 of the state fiscal year.

(b) For purposes of calculating the legislative appropriation to become a TUF-eligible institution, an institution's percentage share of the Texas University Fund for a state fiscal year shall equal the following calculation:

(1) If the institution meets the research expenditure criteria to receive Level 1 Base Funding upon entry, as defined in §15.25 of this subchapter (relating to Permanent Endowment for Education and Research Base Funding), the percentage share shall equal the share of Level 1 Base funding an institution would have received in Permanent Endowment for Education and Research Base Funding, as calculated in §15.25 of this subchapter, had an additional institution been included in the allocation as a recipient of Level 1 Base Funding.

(2) If the institution does not meet the research expenditure criteria to receive Level 1 Base Funding upon entry, as defined in §15.25 of this subchapter, the percentage share shall equal the share of Level 2 Base funding an institution would have received in Permanent Endowment for Education and Research Base Funding, as calculated in §15.25 of this subchapter, had an additional institution been included in the allocation as a recipient of Level 2 Base Funding.

(c) For purposes of calculating the legislative appropriation for a currently TUF-eligible institution to receive Level 1 Base Funding, an institution's percentage share of the Texas University Fund for a state fiscal year shall equal the difference between the share of Level 1 Base Funding and Level 2 Base Funding an institution would have received in Permanent Endowment for Education and Research Base Funding, as

calculated in §15.25 of this subchapter, had an additional institution been included in the allocation as a recipient of Level 1 Base Funding, instead of a recipient of Level 2 Base Funding.

#### §15.28. Endowment Calculation.

(a) A TUF-eligible institution may report a percentage share of the market value of the Texas University Fund as a true endowment for financial reporting purposes.

(b) An institution shall calculate its percentage share as seventy-five percent of the market value of the Texas University Fund multiplied by the institution's share of the Permanent Endowment for Education and Research base funding, as calculated in §15.25 of this subchapter (relating to Permanent Endowment for Education and Research Base Funding).

(c) The market value of the Texas University Fund shall be as of August 31 of the reported fiscal year as determined by the Comptroller of Public Accounts.

#### §15.29. Reporting.

Coordinating Board staff shall annually publish the most recent three state fiscal years of combined Federal Expenditures and Private Expenditures and research doctorates awarded, as defined under this subchapter, for general academic teaching institutions.

#### §15.30. National Research Support Fund.

Coordinating Board staff shall annually publish the adjusted threshold of combined Federal Expenditures and Private Expenditures needed to establish eligibility to receive a distribution from the National Research Support Fund. The amount shall align with the threshold established and published for §15.23(a)(2) of this subchapter (relating to Eligibility to Receive a Distribution from the Texas University Fund).

# Committee on Innovation, Data, and Educational Analytics

## AGENDA ITEM V-D (14)

Consideration and possible action to adopt the repeal of Board Rules, Chapter 15, Subchapter C, Sections 15.40-15.44, concerning the National Research University Fund

RECOMMENDATION: Approval

### Background Information:

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 15, Subchapter C, Sections 15.40-15.44, concerning the National Research University Fund (NRUF). Specifically, the Coordinating Board plans to repeal this subchapter in accordance with changes made by House Bill (HB) 1595, 88th Legislature, Regular Session. Voters approved Proposition 5, relating to research funds at general academic institutions, on November 7, 2023, which allowed the provisions of HB 1595 to take effect on January 1, 2024. The Coordinating Board convened a negotiated rulemaking committee comprised of higher education institutional representatives in accordance with Texas Education Code, Section 61.0331, on August 3, 2023, to develop the proposed rules.

Rules 15.40-15.42 establish the purpose, authority, and definitions related to the NRUF. Rule 15.43 establishes the precise criteria for eligibility to receive a distribution from the NRUF, and Rule 15.44 provides for the process by which institutions report data on the criteria to the Coordinating Board and the Coordinating Board certifies eligibility of an institution to receive an NRUF distribution to the Comptroller of Public Accounts and State Auditor's Office.

As part of the changes enacted by HB 1595, statute eliminates the NRUF and recreates it as the Texas University Fund (TUF). The Coordinating Board therefore repeals the NRUF rules and replaces them with a new section outlining the eligibility, distribution methodology, and reporting requirements for the TUF.

Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

Date Published in the *Texas Register*: October 13, 2023

The 30-day comment period with the *Texas Register* ended on: November 11, 2023.

Summary of comments received: No comments were received regarding this rule.

## CHAPTER 15 NATIONAL RESEARCH UNIVERSITIES

## SUBCHAPTER C NATIONAL RESEARCH UNIVERSITIES FUND

~~[Section 15.40 Purpose]~~

~~[This subchapter establishes rules for eligible institutions to receive funds under the National Research University Fund, which is established to support emerging research universities to achieve national prominence as major research universities.]~~

~~[Section 15.41 Authority]~~

~~[Authority for this subchapter is provided by Texas Education Code, §§62.145—62.146, which directs the Coordinating Board to adopt standards for the purposes of determining an institution's eligibility for funding from the National Research University Fund (NRUF) and authorizes the Board to adopt rules for the standard methods of accounting and standard methods of reporting information for the purpose of determining eligibility of institutions to receive funds under the NRUF.]~~

~~[Section 15.42 Definitions]~~

~~[The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:~~

- ~~—(1) Coordinating Board or Board—The Texas Higher Education Coordinating Board.~~
- ~~—(2) Doctoral degree—An academic degree beyond the level of a master's degree that typically represents the highest level of formal study or research in a given field, e.g., a Doctor of Philosophy, Doctor of Education, Doctor of Musical Arts, Doctor of Engineering, Doctor of Public Health, Doctor of Nursing Practice.~~
- ~~—(3) Eligible institution—A general academic teaching institution that is eligible and meets the Coordinating Board's standards to receive distributions of money under the NRUF.~~
- ~~—(4) Emerging research university—A public institution of higher education designated as an emerging research university under the Board's accountability system.~~
- ~~—(5) Endowment funds—Funds treated as total endowment funds under the Board's accountability system.~~
- ~~—(6) Fund—The National Research University Fund (NRUF).~~
- ~~—(7) General academic teaching institution—As defined in Texas Education Code, §61.003.~~
- ~~—(8) Graduate-level program—Degree programs leading to master's, professional, and/or doctoral degree.~~
- ~~—(9) Master's degree—An academic degree that requires the successful completion of a program of study of at least 30 semester credit hours or the equivalent at the post-baccalaureate, graduate, or professional level.~~

~~—(10) Master's Graduation Rate—The Master's Graduation Rate is the percent of students in an entering fall and spring cohort for a specific degree program who graduate within five years.~~

~~—(11) Doctoral Graduation Rate—The Doctoral Graduation Rate is the percent of students in an entering fall cohort for a specific degree program who graduate within 10 years. Doctoral graduation rates do not include students who received a master's degree.~~

~~—(12) Restricted funds (restricted awards)—As defined in §13.122 of this title (relating to Definitions).~~

~~—(13) Restricted research expenditures—As defined in §13.122 of this title and further developed in §§13.123–13.127 of this title (relating to Research Development Fund).]~~

~~[Section 15.43 Eligibility]~~

~~[(a) The eligibility criteria for a general academic teaching institution to receive distributions from the Fund include: having an entering freshman class of high academic achievement; receiving recognition of research capabilities and scholarly attainment of the institution; having a high-quality faculty; and demonstrating commitment to high-quality graduate education.~~

~~(b) A general academic teaching institution is eligible to receive an initial distribution from the Fund appropriated for each state fiscal year if:~~

~~—(1) the institution is designated as an emerging research university under the coordinating board's accountability system;~~

~~—(2) in each of the two state fiscal years preceding the state fiscal year for which the appropriation is made, the institution expended at least \$45 million in restricted research funds; and~~

~~—(3) the institution satisfies at least four of the following six criteria:~~

~~—(A) the value of the institution's endowment funds is at least \$400 million in each of the two state fiscal years preceding the state fiscal year for which the appropriation is made;~~

~~—(B) the institution awarded at least 200 doctor of philosophy degrees during each of the two academic years preceding the state fiscal year for which the appropriation is made;~~

~~—(C) in each of the two academic years preceding the state fiscal year for which the appropriation is made, the entering freshman class of the institution demonstrated high academic achievement as reflected in the following criteria:~~

~~—(i) At least 50 percent of the first-time entering freshman class students at the institution are in the top 25 percent of their high school class; or~~

~~—(ii) The average SAT score of first-time entering freshman class students at or above the 75th percentile of SAT scores was equal to or greater than 1210 prior to fall 2017, consisting of the Critical Reading (CR) and Mathematics (M) Components, or equal to or greater than 1280 starting with fall 2017, consisting of the Evidence-Based Reading and Writing (ERW) and Mathematics (M) Components, or the average ACT score of first-time entering freshman class students at or above the 75th percentile of ACT scores was equal to or greater than 26; and~~

- ~~—(iii) The composition of the institution's first-time entering freshman class demonstrates progress toward reflecting the population of the state or the institution's region with respect to underrepresented students and shows a commitment to improving the academic performance of underrepresented students. One way in which this could be accomplished is by active participation in one of the Federal TRIO Programs, such as having one or more McNair Scholars in a particular cohort.~~
- ~~—(D) the institution is designated as a member of the Association of Research Libraries; has a Phi Beta Kappa chapter, or is a member of Phi Kappa Phi;~~
- ~~—(E) in each of the two academic years preceding the state fiscal year for which the appropriation is made, the faculty of the institution was of high quality as reflected in the following:~~
  - ~~—(i) There must be five or more recognitions of national or international distinction of tenured/tenure-track faculty through membership in one of the National Academies (including National Academy of Sciences, National Academy of Engineering, and National Academy of Medicine), the American Academy of Arts and Sciences, or through receiving a Nobel Prize; or~~
  - ~~—(ii) The annual number of awards of national and international distinction received by tenured/tenure-track faculty during a given academic year in any of the following categories is equal to or greater than 7 for each year:~~
    - ~~—(I) American Academy of Nursing Fellows~~
    - ~~—(II) American Council of Learned Societies Fellows~~
    - ~~—(III) American Law Institute Members~~
    - ~~—(IV) Beckman Young Investigators~~
    - ~~—(V) Burroughs Wellcome Fund Career Award Winners~~
    - ~~—(VI) Cottrell Scholars~~
    - ~~—(VII) Getty Scholars in Residence~~
    - ~~—(VIII) Guggenheim Fellows~~
    - ~~—(IX) Howard Hughes Medical Institute Investigators~~
    - ~~—(X) Lasker Medical Research Award Winners~~
    - ~~—(XI) MacArthur Foundation Fellows~~
    - ~~—(XII) Andrew W. Mellon Foundation Distinguished Achievement Award Winners~~
    - ~~—(XIII) National Endowment for the Humanities Fellows~~
    - ~~—(XIV) National Humanities Center Fellows~~
    - ~~—(XV) National Institutes of Health MERIT (R37) Winners~~
    - ~~—(XVI) National Medal of Science Winners~~
    - ~~—(XVII) National Medal of Technology and Innovation Winners~~
    - ~~—(XVIII) National Science Foundation CAREER Award Winners (excluding those who are also PECASE-winners)~~
    - ~~—(XIX) Newberry Library Long-term Fellows~~
    - ~~—(XX) Pew Scholars in Biomedicine~~
    - ~~—(XXI) Pulitzer Prize Winners~~
    - ~~—(XXII) Presidential Early Career Awards for Scientists and Engineers (PECASE) Winners~~
    - ~~—(XXIII) Robert Wood Johnson Health Policy Fellows~~
    - ~~—(XXIV) Searle Scholars~~
    - ~~—(XXV) Sloan Research Fellows~~

~~— (XXVI) Fellows of the Woodrow Wilson Center~~

~~— (iii) In lieu of meeting either clause (i) or (ii) of this subparagraph, an institution may request that a comprehensive review of the faculty in five of the institution's Doctoral degree programs be conducted by external consultants selected by Coordinating Board staff in consultation with the institution and said review must demonstrate that the faculty are comparable to and competitive with faculty in similar programs at public institutions in the Association of American Universities. Costs for the review shall be borne by the institution. This review is only available if the institution has already met or, as determined by Coordinating Board staff, is on track to meet three of the other eligibility criteria listed in subparagraphs (A) — (D) of this paragraph;~~

~~— (F) in each of the two academic years preceding the state fiscal year for which the appropriation is made, the institution has demonstrated a commitment to high quality graduate education as reflected in the following:~~

~~— (i) The number of Graduate level programs at the institution is equal to or greater than 50;~~

~~— (ii) The Master's Graduation Rate at the institution is 56 percent or higher and the Doctoral Graduation Rate is 58 percent or higher; and~~

~~— (iii) The institution must demonstrate that the overall commitment to five Doctoral degree programs, including the financial support for Doctoral degree students, is competitive with that of comparable high quality programs at public institutions in the Association of American Universities. The five Doctoral degree programs selected for this review must be those selected in subparagraph (E)(iii) of this paragraph or, if subparagraph (E)(iii) of this paragraph is not chosen by the institution, then any five Doctoral degree programs at the institution. Costs for the review shall be borne by the institution.}]~~

#### ~~[Section 15.44 Accounting and Reporting]~~

~~{(a) Emerging research universities shall report data pertaining to this subchapter according to the procedures outlined in the Coordinating Board's reporting manuals.~~

~~(b) As soon as practicable in each state fiscal year, the Coordinating Board shall certify to the comptroller and the legislature verified information relating to the criteria established by Texas Education Code §62.145, which are addressed in this subchapter, to be used to determine which institutions are eligible for distributions of money from the Fund.~~

~~(c) Information submitted by institutions for the purpose of establishing eligibility is subject to a mandatory audit by the state auditor in accordance with Government Code, Chapter 321. The Coordinating Board reserves the right to request additional audits by the state auditor as deem necessary and appropriate at any time after an eligible institution begins receiving distributions.}]~~

# **Committee on Innovation, Data, and Educational Analytics**

## **AGENDA ITEM V-D (15)**

Consideration and possible action to adopt new Board Rules, Chapter 22, Subchapter K, Sections 22.200-22.210, concerning the Texas Transfer Grant Program

RECOMMENDATION: Approval

### Background Information:

These new sections will outline the authority and purpose, definitions, institutional eligibility requirements, student eligibility requirements, satisfactory academic progress requirements, discontinuation of eligibility, hardship provisions, priorities in making grants, grant amounts, allocation of funds, and disbursement of funds, which are necessary to administer the Texas Transfer Grant Program.

Rule 22.200 indicates the specific sections of the Texas Government Code that provide the agency with authority to issue these rules, as well as the purpose of the Texas Transfer Grant Program.

Rule 22.201 provides definitions for words and terms within the Texas Transfer Grant Program rules. The definitions provide clarity for words and terms that are integral to the understanding and administration of the rules. The republished rule also captures changes to the text regarding the correction of a reference to the phrase “Coordinating Board” to align with amendments being adopted in Rule 22.1.

Rule 22.202 outlines the eligibility requirements that institutions must fulfill to participate in the program. The requirements are adopted to align with the Toward EXcellence, Access, and Success (TEXAS) Grant Program, as both programs serve students in the same institutional sector.

Rule 22.203 outlines the eligibility requirements that a student must meet to allow an institution to provide the students with a grant through the program. The requirements include expectations that exist within the TEXAS Grant program, such as the requirement to be a Texas resident, to show financial need, to be enrolled in a baccalaureate degree program, to make satisfactory academic progress, and to comply with applicable Selective Service registration expectations. The requirements also include expectations that are specifically targeted toward achieving the public benefit of the program, such as full-time enrollment, having completed an associate degree with at least a 2.5 grade point average at a public two-year institution to include completion of the core curriculum or an abbreviated core curriculum related to a



specific approved field of study curriculum, and enrolling in a baccalaureate degree program at an eligible institution within one year of ceasing to be enrolled in a two-year public institution.

Rule 22.204 outlines the satisfactory academic progress that students must achieve to receive a grant through the program. The requirement allows the participating institution to use satisfactory academic progress guidelines already in place for determining eligibility for federal financial aid programs.

Rule 22.205 outlines the situations in which a student is not eligible to receive a grant through the program. To acknowledge the goal of assisting students in completing degrees, a student may not receive a grant after completion of a baccalaureate degree. To acknowledge the limited state resources available for financial aid programs, a student may not simultaneously receive a grant through this program and the TEXAS Grant program. To encourage timely completion of a baccalaureate degree, a student may not receive a grant after having been enrolled in the baccalaureate program for two years (three years if the degree program is more than four years), nor may the student receive the grant after attempting 135 semester credit hours.

Rule 22.206 outlines provisions that permit an institution to develop a policy that allows an otherwise ineligible student to receive a grant through the program when unique hardships justify an exception. The provisions are adopted to align with similar provisions in the TEXAS Grant program. When justified and documented, these provisions may be used in relation to a student enrolling less than full time, failing to meet satisfactory academic progress requirements, maintaining enrollment for more than two years (three years if the degree program is more than four years), attempting more than 135 semester credit hours, or failing to enroll in a baccalaureate program within one year of ceasing to be enrolled in a two-year public institution.

Rule 22.207 outlines priorities that institutions will use in determining how to select grant recipients when funding does not allow for all eligible recipients to receive grants through the program. Similar justifications exist in the TEXAS Grant program. Priority would first go toward prior recipients. For first-time recipients, priority would go to those who have demonstrated an Expected Family Contribution that does not exceed the Expected Family Contribution used for similar purposes in the TEXAS Grant program, with highest priority given to eligible students with the highest levels of academic achievement before transfer as determined by the participating institution.

Rule 22.208 outlines the maximum grant amount that a participating institution may provide to an eligible student. The maximum grant amount will be aligned with the maximum grant amounts calculated for the TEXAS Grant program under Section 22.234 of this chapter.

Rule 22.209 provides the allocation formula that will be used to determine the amount of funding that each participating institution will be provided for the program. The allocation formula is modeled after the criteria utilized in the allocation methodology for first-time recipients of the TEXAS Grant program.

Rule 22.210 outlines the way the Texas Higher Education Coordinating Board (Coordinating Board) will disburse funding to participating institutions. This rule aligns with the way the Coordinating Board disburses funding for other state financial aid grant programs.

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

Date Published in the *Texas Register*: October 13, 2023.

The 30-day comment period with the *Texas Register* ended on: November 12, 2023.

The following comments were received regarding this rule.

Comment: An institution indicated that the eligibility requirements in Rule 22.203 are unclear on how an institution would handle a situation where the student received an associate degree through the reverse transfer process after they enrolled at the institution.

Response: The Coordinating Board acknowledges the lack of clarity. As such, Rule 22.203(a)(7)(C) has been added to provide clarity that the associate degree coursework must have been completed prior to enrollment in a baccalaureate degree program at the institution offering a Texas Transfer Grant.

Comment: An institution indicated that confirmation of the associate degree may not be received until after the student enrolls and/or begins classes. As a result, the determination required for Rule 22.203(a)(7) may not occur in time for the student to be notified about grant eligibility before enrollment in the baccalaureate degree program.

Response: The Coordinating Board acknowledges the concern raised and notes that institutions face a similar challenge regarding associate degrees in the Toward EXcellence, Access, and Success (TEXAS) Grant Program. As such, Rule 22.203(b) has been added to provide guidance on situations where the institution offers the grant based on the expectation that the student will meet the requirements in Rule 22.203(a)(7).

Comment: An institution indicated that the language of Rule 22.208(b)(2) does not align with the comparable language in Rule 22.234 for the TEXAS Grant Program.

Response: The Coordinating Board acknowledges that the preamble indicates that Rule 22.208 is meant to align with the TEXAS Grant Program. As such, Rule 22.208(b)(2) has been revised to align with the TEXAS Grant Program.

CHAPTER 22 STUDENT FINANCIAL AID PROGRAMS  
SUBCHAPTER K TEXAS TRANSFER GRANT PROGRAM

§22.200. Authority and Purpose.

(a) Unless otherwise noted in a section, the authority for these provisions is provided by Texas Administrative Procedure Act, Texas Government Code §2001.003(6).

(b) This subchapter establishes rules relating to the administration of the Texas Transfer Grant Program. The program provides need-based grants to enable eligible students to transfer from two-year institutions of higher education to four-year institutions of higher education in this state.

§22.201. 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. In the event of conflict, the definitions in this subchapter shall control.

(1) Encumbered Funds--Funds ready for disbursal to the institution, based on the institution having submitted to the Coordinating Board the required documentation to request funds.

(2) Grant--A Texas Transfer Grant provided through the Texas Transfer Grant Program.

(3) Program--The Texas Transfer Grant Program.

§22.202. Eligible Institutions.

(a) Eligibility.

(1) Institutions eligible to make grants through the program are medical or dental units, as the term is defined in Texas Education Code, §61.003(5), and general academic teaching institutions, other than public state colleges, as the term is defined in Texas Education Code, §61.003(16).

(2) No participating institution may, on the grounds of race, color, national origin, gender, religion, age, or disability exclude an individual from participation in, or deny the benefits of the program described in this subchapter.

(3) Each participating institution must follow the Civil Rights Act of 1964, Title VI (Public Law 88-353) in avoiding discrimination in admissions or employment.

(b) Approval.

(1) Agreement. Each eligible institution must enter into an agreement with the Coordinating Board, the terms of which shall be prescribed by the Commissioner, prior to being approved to participate in the program.

(2) Approval Deadline.

(A) An institution must indicate an intent to participate in the program by June 1 and enter into an agreement with the Coordinating Board by August 31 for qualified students enrolled in that institution to be eligible to receive grants in the following biennium.

(B) Notwithstanding subsection (A), for the 2023-2024 academic year, an institution may indicate intent to participate in the program by the administrative deadline established by the Commissioner.

(c) Responsibilities. A participating institution is required to abide by the General Provisions outlined in subchapter A of this chapter.

§22.203. Eligible Students.(a) To qualify for a grant through the Program, a student must:

(1) have Texas resident status, as determined by chapter 21, subchapter B of this title (relating to Determination of Resident Status);

(2) show financial need in the semester(s) in which a grant is offered;

(3) have applied for any available financial aid assistance;

(4) be enrolled in a baccalaureate degree program at an eligible institution;

(5) be enrolled full-time in the semester(s) in which a grant is offered unless granted a hardship waiver of this requirement under §22.206 of this subchapter (relating to Hardship Provisions);

(6) make satisfactory academic progress toward the baccalaureate degree at the eligible institution, as defined in §22.204 of this subchapter (relating to Satisfactory Academic Progress) unless the student is granted a hardship extension in accordance with §22.206 of this subchapter (relating to Hardship Provisions);

(7) have been awarded an associate degree by a public junior college as defined in Texas Education Code, §61.003(2); public technical institute as defined in Texas Education Code, §61.003(7); or public state college as defined in Texas Education Code, §61.003(16), and credit hours earned toward completion of the associate degree must:

(A) include completion of the core curriculum or an abbreviated core curriculum related to a specific approved field of study curriculum transferable to one or more general academic teaching institutions; and

(B) have been completed with at least a 2.5 grade point average; and

(C) have been completed prior to enrolling in a baccalaureate degree program at the institution offering a grant through this Program.

(8) unless granted a hardship postponement in accordance with §22.206 of this subchapter (relating to Hardship Provisions), have enrolled in the baccalaureate degree program at the eligible institution on a full-time basis not later than the end of the 12th month after the calendar month in which the student ceased being enrolled in a public junior college as defined in Texas Education Code, §61.003(2); public technical institute as defined in Texas Education Code, §61.003(7); or public state college as defined in Texas Education Code, §61.003(16); and

(9) meet applicable standards outlined in §22.3 of this chapter (relating to Student Compliance with Selective Service Registration).

(b) If a student's eligibility was based on the expectation that the student would meet the requirements in subsection (a)(7), and the student failed to do so, then the student is no longer eligible for a grant through this Program.

(1) If the institution offers the grant based on the expectation that the student would meet the requirements in subsection (a)(7) and does not become aware that the student failed to meet these requirements until after the first disbursement of the grant has been made to the student, then the institution reserves the right to require the student to repay the amount that was previously received.

(2) In no case may a student receive a subsequent disbursement of a grant through the Program after the institution has become aware that the student failed to meet the requirements in subsection (a)(7).

#### §22.204. Satisfactory Academic Progress.

To qualify for a grant, each recipient of the grant shall meet the satisfactory academic progress requirements as utilized by the financial aid office of the eligible institution to determine eligibility for federal financial aid programs.

#### §22.205. Discontinuation of Eligibility or Non-Eligibility.

(a) A student may not receive a grant after having already being granted a baccalaureate degree by any institution.

(b) A student may not receive a grant while simultaneously receiving a Toward EXcellence, Access, and Success (TEXAS) Grant.

(c) Unless granted a hardship postponement in accordance with §22.206 of this subchapter (relating to Hardship Provisions), a student's eligibility for a grant ends:

(1) two years from the start of the semester in which the student enrolls in the baccalaureate degree program at the eligible institution on a full-time basis, if the student is enrolled in a degree program of four years or less; or

(2) three years from the start of the semester in which the student enrolls in the baccalaureate degree program at the eligible institution on a full-time basis if the student is enrolled in a degree program of more than four years.

(d) A student's eligibility for a grant ends once he or she has attempted 135 semester credit hours or the equivalent unless the student is granted a hardship extension in accordance with §22.206 of this subchapter (relating to Hardship Provisions).

(e) Other than as described in §22.206 of this subchapter (relating to Hardship Provisions), if a student fails to meet any of the requirements for receiving a continuation grant as outlined in §22.203 of this subchapter (relating to Eligible Students) after completion of any semester, the student may not receive a grant until he or she completes a semester while not receiving a grant and meets all the requirements as outlined in §22.203 of this subchapter (relating to Eligible Students) as of the end of that semester.

#### §22.206. Hardship Provisions.

(a) In the event of a hardship, the Program Officer at an eligible institution may allow an otherwise eligible student to receive a grant under the following conditions:

(1) while enrolled in fewer semester credit hours than required in §22.203(5) of this subchapter (relating to Eligible Students);

(2) if the student fails to meet the satisfactory academic progress requirements of §22.203(6) of this subchapter (relating to Eligible Students);

(3) if the student requires an extension of the limits found in §22.205(c) of this subchapter (relating to Discontinuation of Eligibility or Non-Eligibility) to complete his or her degree; or

(4) if the student has attempted more hours than allowed under §22.205(d) of this subchapter (relating to Discontinuation of Eligibility or Non-Eligibility). However, the total number of hours paid for, at least in part, with grant funds may not exceed 150 semester credit hours or the equivalent.

(b) Hardships are not limited to, but include:

(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 twelve hours to complete one's degree plan.

(c) The Program Officer may allow a student to receive a grant after the time limits described in Section 22.203(8) (relating to Eligible Students) if the student and/or the student's family has suffered a hardship that would now make the student rank as one of the institution's neediest.

(d) Documentation justifying the eligibility granted through the hardship provisions outlined in this rule must be kept in the student's file. Each institution must identify to the Coordinating Board those students granted eligibility through hardship provisions so that the Coordinating Board may appropriately monitor each student's period of eligibility.

(e) Each participating 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.

§22.207. Priorities in Grants to Students.

(a) If state appropriations for the program are insufficient to allow grants to all eligible students, each institution shall give priority to eligible students who have previously received a grant through the program.

(b) In determining first-time recipients of grants through the program, an institution shall give priority to those students who have an expected family contribution that does not exceed 60 percent of the average statewide amount of tuition and fees for general academic teaching institutions, other than public state colleges, as the term is defined in Texas Education Code, §61.003(16), for the relevant academic year. The Coordinating Board shall determine and announce this value for a given state fiscal year by January 31 of the prior fiscal year.

(c) In determining first-time recipients of grants through the program, an institution shall give highest priority to eligible students meeting criteria specified under subsection §22.207(b) (relating to Priorities in Grants to Students) who have also demonstrated the highest levels of academic achievement prior to transfer as determined by the participating institution.

§22.208. Grant Amounts.

(a) Funding. The Coordinating Board may not award through this program an amount that exceeds the amount of state appropriations and other funds that are available for this use.

(b) Grant Amounts.

(1) The Commissioner shall determine and announce the maximum grant amounts in a given state fiscal year by January 31 of the prior fiscal year. The calculation of the maximum amount will be consistent with the maximum grant forward for TEXAS Grant for the semester as set out in subchapter L of this chapter (relating to Toward Excellence, Access, and Success (TEXAS) Grant Program).

(2) The amount of a Grant offered through an eligible public institution 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 aid other than loans received equals or exceeds the student's financial need.

(c) The Commissioner shall make grant calculations in accordance with §22.11 of this chapter (relating to Provisions specific to the TEXAS Grant, TEOG, TEG, and Texas Work-Study Programs).

§22.209. Allocation of Funds.

(a) The Commissioner shall determine allocations 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 enrolled as undergraduate students and had not yet received a Bachelor's degree;

(B) were classified as having resident status, as determined by chapter 21, subchapter B of this title (relating to Determination of Resident Status);

(C) were enrolled full-time in either the fall or spring semester; and

(D) have a nine-month Expected Family Contribution, less than or equal to the amount established in §22.207(b) of this subchapter (relating to Priorities in Grants to Students) for the year reported in the Financial Aid Database submission.

(2) Each institution's percentage of the available funds will equal its percentage of the state-wide number of students who meet the criteria in paragraph (1) of this subsection.

(3) The Commissioner will complete allocations for both years of the biennium at the same time. The Coordinating Board will use the three most recent certified Financial Aid Database submissions to forecast the data utilized in the calculation of the allocation for the second year of the biennium. The Coordinating Board will provide each



institution with notification of their allocations for both years of the biennium at the same time.

(b) Verification of Data. The Coordinating Board will share allocation calculations with each participating institution for comment and verification prior to final posting. Each institution will have ten business days, beginning the day of the notice's distribution, and excluding State holidays, to confirm that the allocation report accurately reflects the data the institution submitted or to advise the Coordinating Board of any inaccuracies.

(c) Reductions in Funding.

(1) If annual funding for the program is reduced after the start of a fiscal year, the Commissioner may use any method necessary to distribute the impact of reduced funding across all participating institutions by an across-the-board percentage decrease in each institution's allocation.

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

§22.210. Disbursement of Funds.

Upon request by an institution 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. Each institution shall 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, an institution may lose 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 are deemed returned to the Coordinating Board.

## **Committee on Innovation, Data, and Educational Analytics**

### **AGENDA ITEM V-D (16)**

Consideration and possible action to adopt amendments to Board Rules, Chapter 22, Subchapter L, Section 22.226, concerning the Texas EXcellence, Access, and Success (TEXAS) Grant

RECOMMENDATION: Approval

#### Background Information:

This amendment makes nonsubstantive conforming changes based on the consensus reached by the negotiated rulemaking committee on Texas Educational Opportunity Grant Program (August 2, 2023). Rule 22.226, Definitions, is amended to add the definition of "entering undergraduate." This definition is being removed from Chapter 22, Subchapter A, General Provisions, and added to Chapter 22, Subchapter L, TEXAS Grant Program, verbatim to maintain consistency in the TEXAS Grant Program.

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

Date Published in the *Texas Register*: October 13, 2023.

The 30-day comment period with the *Texas Register* ended on: November 12, 2023.

No comments were received regarding this rule.

## CHAPTER 22 STUDENT FINANCIAL AID PROGRAMS

## SUBCHAPTER L TOWARD EXCELLENCE, ACCESS, AND SUCCESS (TEXAS) GRANT

## §22.226. Definitions.

In addition to the words and terms defined in §22.1 of this chapter (relating to Definitions) ~~[Chapter]~~, the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

- (1) Continuation grant--A TEXAS Grant offered to a person who has previously received an initial year grant.
- (2) Degree program of four years or less--A baccalaureate degree program, other than a program determined by the Board to require more than four years to complete.
- (3) Degree program of more than four years--A baccalaureate degree program determined by the Board to require more than four years to complete.
- (4) Encumbered Funds--Funds ready for disbursement to the institution, based on the institution having submitted to the Board the required documentation to request funds.
- (5) Entering undergraduate--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.
- (6) [(5)] General Academic Teaching Institution--As the term is defined in Texas Education Code, §61.003(3).
- (7) [(6)] Initial year grant--The TEXAS Grant offered in the student's first year in the TEXAS Grant Program, typically made up of a fall and spring disbursement.
- (8) [(7)] Medical or dental unit--As the term is defined in Texas Education Code, §61.003(5).
- (9) [(8)] Public Institution--As the term, institution of higher education, is defined in Texas Education Code, §61.003(8).
- (10) [(9)] Prior-prior year--For allocation purposes, the state fiscal year that began two years earlier than the fiscal year for which the allocation is being calculated.
- (11) [(10)] Private Institution--As the term, private or independent institution of higher education, is defined in Texas Education Code, §61.003(15).
- (12) [(11)] Program--The Toward EXcellence, Access and Success (TEXAS) Grant program.
- (13) [(12)] Public state college--As the term is defined in Texas Education Code, §61.003(16).
- (14) [(13)] Required fees--A mandatory fee (required by statute) or discretionary fee (authorized by statute, imposed by the governing board of a public institution) and that a public institution charges to a student as a condition of enrollment at the public institution or in a specific course.
- (15) [(14)] Target grant amount--An amount set by the Coordinating Board, in consultation with public institutions participating in the TEXAS Grant Program, and used as the recommended average grant amount for the TEXAS Grant Program for a biennium and in establishing renewal year allocations to participating public institutions as described in §22.236(a)(1) of this title (relating to Allocation and Reallocation of Funds).
- (16) [(15)] Tuition--Statutory tuition, designated and/or Board-authorized tuition.

# Committee on Innovation, Data, and Educational Analytics

## AGENDA ITEM V-D (17)

Consideration and possible action to adopt amendments to Board Rules Chapter 22, Subchapter A, Section 22.1, concerning the General Provisions for Student Financial Aid Programs

RECOMMENDATION: Approval

### Background Information:

This amendment will modify the definitions based on the consensus reached by the negotiated rulemaking committee on the Texas Educational Opportunity Grant (August 2, 2023). The amended rule removes the definition of "entering undergraduate." The definition has been moved to the individual subchapters that are affected by the definition. The amendment also adds the definition for "equivalent of a semester credit hour." The definition is added to bring clarity to the multiple references to this equivalency in Subchapter M.

The definitions of "Board", "Commissioner", and "Coordinating Board" are also amended to provide greater clarity to these terms. The definition of "equivalent of a semester credit hour" is revised from what was published in the *Texas Register* and definitions for "credit" and "semester credit hour" are added. These changes are made to provide greater clarity to the process for converting continuing education enrollment to semester credit hours. The definition of "expected family contribution" is corrected from what was published in the *Texas Register* to reflect the definition as it was amended to be effective May 18, 2023.

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

Date Published in the *Texas Register*: October 13, 2023.

The 30-day comment period with the *Texas Register* ended on: November 12, 2023.

No comments were received regarding this rule.

## CHAPTER 22 STUDENT FINANCIAL AID PROGRAMS

## SUBCHAPTER A GENERAL PROVISIONS

## §22.1. Definitions.

The following words and terms, when used in Chapter 22, shall have the following meanings, unless otherwise defined in a particular subchapter:

(1) Academic Year--The combination of semesters defined by a public or private institution of higher education to fulfill the federal "academic year" requirement as defined by 34 CFR 668.3.

(2) Attempted Semester Credit Hours--Every course in every semester for which a student has been registered as of the official Census Date, including but not limited to, repeated courses and courses the student drops and from which the student withdraws. For transfer students, transfer hours and hours for optional internship and cooperative education courses are included if they are accepted by the receiving institution towards the student's current program of study.

(3) Awarded--Offered to a student.

(4) Board ~~[or Coordinating Board]~~--The governing body of the agency known as the Texas Higher Education Coordinating Board ~~[The Texas Higher Education Coordinating Board]~~.

~~[(5) Board Staff--The staff of the Texas Higher Education Coordinating Board.]~~

(5) [(6)] Categorical Aid--Gift aid that the institution does not award to the student, but that the student brings to the school from a non-governmental third party.

(6) [(7)] Commissioner--~~[The]~~ Commissioner of Higher Education ~~[, the Chief Executive Officer of the Board]~~.

(7) Coordinating Board--The agency known as the Texas Higher Education Coordinating Board and its staff.

(8) Cost of Attendance/Total Cost of Attendance--An institution's estimate of the expenses incurred by a typical financial aid recipient in attending a particular institution of higher education. It includes direct educational costs (tuition and fees) as well as indirect costs (room and board, books and supplies, transportation, personal expenses, and other allowable costs for financial aid purposes).

(9) Credit--College credit earned through the successful completion of a college career and technical education or academic course that fulfills specific requirements necessary to obtain an industry-recognized credential, certificate, associate degree, or other academic degree.

(10) [(9)] Degree or certificate program of four years or less--A baccalaureate degree, associate degree, or certificate program other than a program determined by the Board to require four years or more ~~[less]~~ to complete.

(11) [(10)] Degree or certificate program of more than four years--A baccalaureate degree or certificate program determined by the Board to require more than four years to complete.

(12) [(11)] Encumber--Program funds that have been officially requested by an institution through procedures developed by the Coordinating Board.

(13) Equivalent of a semester credit hour-- A unit of measurement for a continuing education course, determined as a ratio of one continuing education unit to 10 contact

hours of instruction, which may be expressed as a decimal. 1.6 continuing education units of instruction equals one semester credit hour of instruction. In a continuing education course, not fewer than 16 contact hours are equivalent to one semester credit hour.

~~[(12) Entering undergraduate--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.]~~

(14) ~~[(13)]~~ Expected Family Contribution (EFC)-- A measure utilized to calculate a student's financial need as regulated and defined by the methodology used for federal student financial aid.

(15) ~~[(14)]~~ Financial Need--The Cost of Attendance at a particular public or private institution of higher education less the Expected Family Contribution. The Cost of Attendance and Expected Family Contribution are to be determined in accordance with Board guidelines.

(16) ~~[(15)]~~ Full-Time--For undergraduate students, enrollment or expected enrollment for the equivalent of twelve or more semester credit hours per semester. For graduate students, enrollment or expected enrollment for the normal full-time course load of the student's program of study as defined by the institution.

(17) ~~[(16)]~~ Gift Aid--Grants, scholarships, exemptions, waivers, and other financial aid provided to a student without a requirement to repay the funding or earn the funding through work.

(18) ~~[(17)]~~ Graduate student--A student who has been awarded a baccalaureate degree and is enrolled in coursework leading to a graduate or professional degree.

(19) ~~[(18)]~~ Half-Time--For undergraduates, enrollment or expected enrollment for the equivalent of at least six but fewer than nine semester credit hours per regular semester. For graduate students, enrollment or expected enrollment for the equivalent of 50 percent of the normal full-time course load of the student's program of study as defined by the institution.

(20) ~~[(19)]~~ Period of enrollment--The semester or semesters within the current state fiscal year (September 1 - August 31) for which the student was enrolled in an approved institution and met all eligibility requirements for an award through this program.

(21) ~~[(20)]~~ Program Officer--The individual named by each participating institution's chief executive officer to serve as agent for the Board. The Program Officer has primary responsibility for all ministerial acts required by the program, including the determination of student eligibility, selection of recipients, maintenance of all records, and preparation and submission of reports reflecting program transactions. Unless otherwise indicated by the institution's chief executive officer, the director of student financial aid shall serve as Program Officer.

(22) ~~[(21)]~~ Residency Core Questions--A set of questions developed by the Coordinating Board to be used to determine a student's eligibility for classification as a resident of Texas, available for downloading from the Coordinating Board's website, and incorporated into the ApplyTexas application for admission.

(23) ~~[(22)]~~ Resident of Texas--A resident of the State of Texas as determined in accordance with Chapter 21, Subchapter B of this title (relating to Determination of Resident Status). Nonresident students who are eligible to pay resident tuition rates are not residents of Texas.

(24) [~~(11)~~~~(23)~~] Semester--A payment period, as defined by 34 CFR 668.4(a) or 34 CFR 668.4(b)(1).

(25) Semester Credit Hour--A unit of measure of instruction, represented in intended learning outcomes and verified by evidence of student achievement, that reasonably approximates one hour of classroom instruction or direct faculty instruction and a minimum of two hours out of class student work for each week over a 15-week period in a semester system or the equivalent amount of work over a different amount of time. An institution is responsible for determining the appropriate number of semester credit hours awarded for its programs in accordance with Federal definitions, requirements of the institution's accreditor, and commonly accepted practices in higher education.

(26) [~~(24)~~] Three-Quarter-Time--For undergraduate students, enrollment or expected enrollment for the equivalent of at least nine but fewer than 12 semester credit hours per semester. For graduate students, enrollment or expected enrollment for the equivalent of 75 percent of the normal full-time course load of the student's program of study as defined by the institution.

(27) [~~(25)~~] Timely Distribution of Funds--Activities completed by institutions of higher education related to the receipt and distribution of state financial aid funding from the Board and subsequent distribution to recipients or return to the Board.

(28) [~~(26)~~] Undergraduate student--An individual who has not yet received a baccalaureate degree.

# Committee on Innovation, Data, and Educational Analytics

## AGENDA ITEM V-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 high school 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.

# **Committee on Innovation, Data, and Educational Analytics**

## **AGENDA ITEM V-D (19)**

Consideration and possible action to adopt amendments to Board Rules, Chapter 23, Subchapter D, Sections 23.93-23.101, concerning Loan Repayment Program for Mental Health Professionals

RECOMMENDATION: Approval

### Background Information:

These amendments align the eligible specialties, selection of recipients, eligibility for the program, and amount of repayment assistance in the Mental Health Professionals Loan Repayment Program with statutory changes enacted by House Bill (HB) 1211, HB 2100, and Senate Bill (SB) 532, 88th Texas Legislature, Regular Session. The amendments also delineate between applicants who first establish eligibility for the program before September 1, 2023, and applicants who first establish eligibility for the program on or after September 1, 2023, as required. The amendments also include nonsubstantive changes to align text.

Rule 23.93 amends the description of the purpose of the program to align with the program's expansion.

Rule 23.94 amends definitions for words and terms within the Mental Health Professionals Loan Repayment Program rules. Specifically, definitions for community-based mental health services, local mental health authority, state hospitals, and Title I schools are added, and the definition of full-time service is amended, as these changes are necessary for the understanding and administration of additional eligibility.

Rule 23.95 amends the list of eligible practice specialties, adding licensed specialist in school psychology.

Rule 23.96 amends the requirements for conditional approval into the program. The amendment adds the requirements for mental health professionals who provide mental health services to patients in state hospitals, individuals receiving community-based mental health services from a local mental health authority, or students enrolled in an eligible district or school.

Rule 23.97 amends the selection process within each practice specialty to account for applications from mental health professionals who provide mental health services to patients in state hospitals that may not be located in Mental Health Professional Shortage Areas.

Rule 23.98 amends the requirements to receive disbursements of loan repayment assistance. The amendment delineates between the requirements for licensed specialists in school psychology and the requirements for other providers.

Rule 23.100 amends the amount of repayment assistance a participant may receive through the program. The rule also amends the percentage of the maximum funding that a participant may receive for each year of participation in the program.

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

Date Published in the *Texas Register*: October 27, 2023

The 30-day comment period with the *Texas Register* ended on: November 26, 2023.

The following comments were received regarding this rule:

Comment: An association indicated that the proposed amendments fail to address the limitations on providing funding to licensed marriage and family therapists, as dictated by Texas Education Code, Section 61.604(d)-(e).

Response: The Coordinating Board acknowledges that the rules lack clarity regarding the limitation of funding for licensed marriage and family therapists. As such, Rule 23.97(d) and 23.97(e) have been updated to reflect that they apply to eligible practice subspecialties other than licensed marriage and family therapists, and Rule 23.97(f) has been added regarding situations when available funding allows for licensed marriage and family therapists to receive funding through the program.

Comment: An association noted that the published text in Rules 23.98(a)(1) and 23.98(b)(1) did not match the current text in the Texas Education Code, nor did it indicate that the text was changing.

Response: The Coordinating Board acknowledges the error in the published text. No change was intended for these two subsections, and the adopted rule corrects this error to reflect the current text in the Education Code for the two subsections indicated.

## CHAPTER 23 EDUCATION LOAN REPAYMENT PROGRAMS

## SUBCHAPTER D LOAN REPAYMENT PROGRAM FOR MENTAL HEALTH PROFESSIONALS

## §23.93. Authority and Purpose.

(a) Authority. Authority for this subchapter is provided in the Texas Education Code, Chapter 61, Subchapter K, Repayment of Certain Mental Health Professional Education Loans. These rules establish procedures to administer the subchapter as prescribed in the Texas Education Code, §§61.601 - 61.609.

(b) Purpose. The ~~[primary]~~ purpose of the Loan Repayment Program for Mental Health Professionals is to encourage qualified mental health professionals to provide services to designated recipients [practice] in a mental health professional shortage area or state hospital, through a mental health authority, or to students in eligible schools [designated by the U. S. Department of Health and Human Services, and provide mental health care services to recipients under the medical assistance program authorized by the Texas Human Resources Code, Chapter 32, and to enrollees under the child health plan program authorized by the Texas Health and Safety Code, Chapter 62].

## §23.94. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Board Staff --The staff of the Texas Higher Education Coordinating Board.

(2) CHIP--The Children's Health Insurance Program, authorized by the Texas Health and Safety Code, Chapter 62.

(3) Community-Based Mental Health Services--The services found under Subchapter B, Chapter 534, Health and Safety Code.

(4) [(3)] Full-time Service--Employed or contracted full-time (at least 32 hours per week for providers participating only in the state-funded program, or at least 40 hours per week for providers participating in both the state funded program and the SLRP [providers]) by an agency or facility [in a mental health professional shortage area] for the primary purpose of providing direct mental health services to:

(A) in a mental health professional shortage area ~~[Medicaid recipients]:~~

(i) Medicaid recipients:

(ii) CHIP enrollees:

(iii) persons in facilities operated by or under contract with the Texas Juvenile Justice Department; and/or

(iv) persons in facilities operated by or under contract with the Texas Department of Criminal Justice; or

(B) patients in state hospitals; [CHIP-enrollees;]

(C) individuals receiving community-based mental health services from a local mental health authority; and/or [~~persons in facilities operated by or under contract with the Texas Juvenile Justice Department; and/or~~]

(D) students enrolled in an eligible district or school. [~~persons in facilities operated by or under contract with the Texas Department of Criminal Justice;~~]

(5) Local Mental Health Authority--as defined in Texas Health and Safety Code, §531.002.

(6) [(5)] Medicaid--The medical assistance program authorized by Chapter 32, Human Resources Code.

(7) [(4)] MHPSAs--Mental Health Professional Shortage Areas (MHPSAs) are designated by the U.S. Department of Health and Human Services (HHS) as having shortages of mental health providers and may be geographic (a county or service area), demographic (low income population), or institutional (comprehensive health center, federally qualified health center, or other public facility). Designations meet the requirements of Sec. 332 of the Public Health Service Act, 90 Stat. 2270-2272 (42 U.S.C. 254e). Texas MHPSAs are recommended for designation by HHS based on analysis of data by the Department of State Health Services.

(8) [(7)] Psychiatrist--A licensed physician who is a graduate of an accredited psychiatric residency training program.

(9) [(6)] Service Period--A period of 12 consecutive months qualifying a mental health professional for loan repayment.

(10) SLRP--A grant provided by the Health Resources and Services Administration to assist states in operating their own State Loan Repayment Program (SLRP) for primary care providers working in Health Professional Shortage Areas (HPSA).

(11) State Hospital--Facilities found under §552.0011, Health and Safety Code.

(12) Title I School--Texas public schools that receive federal funding under Title I, Elementary and Secondary Education Act of 1965 (20 U.S.C. §6301 et seq.).

### §23.95. Eligible Practice Specialties.

For purposes of this subchapter, the following mental health providers may apply for enrollment in the program:

- (1) a psychiatrist;
- (2) a psychologist, as defined by §501.002, Occupations Code;
- (3) a licensed professional counselor, as defined by §503.002, Occupations Code;
- (4) an advanced practice registered nurse, as defined by §301.152, Occupations Code, who holds a nationally recognized board certification in psychiatric or mental health nursing;
- (5) a licensed clinical social worker, as defined by §505.002, Occupations Code;
- (6) a licensed specialist in school psychology, as defined by §501.002, Occupations Code;
- (7) ~~[(6)]~~ a licensed chemical dependency counselor, as defined by §504.001, Occupations Code; and
- (8) ~~[(7)]~~ a licensed marriage and family therapist, as defined by §502.002, Occupations Code.

### §23.96. Eligibility for Conditional Approval of Applications.

(a) To be eligible for the Board staff to reserve loan repayment funds, a mental health professional must:

- (1) ensure that the Board staff has received the completed application by the established deadline, which will be posted on the program web page;
- (2) be a U.S. citizen or a Legal Permanent Resident and have no license restrictions;
- (3) not be currently fulfilling another obligation to provide mental health services as part of a scholarship agreement, a student loan agreement, or another student loan repayment agreement. ~~[;]~~
- ~~[(4) agree to provide five consecutive years of eligible service in a Mental Health Professional Shortage Area, with the understanding that the professional will be released from the agreement if funding for continued loan repayment is not appropriated; and]~~



~~[(5) agree to provide mental health services to:]~~

~~[(A) Individuals enrolled in Medicaid or CHIP or both; or]~~

~~[(B) persons committed to a secure correctional facility operated by or under contract with the Texas Juvenile Justice Department or persons confined in a secure correctional facility operated by or under contract with any division of the Texas Department of Criminal Justice.]~~

(b) For applicants who first establish eligibility for the program before September 1, 2023, a mental health professional must:

(1) agree to provide five consecutive years of eligible service in a Mental Health Professional Shortage Area, with the understanding that the professional will be released from the agreement if funding for continued loan repayment is not appropriated; and

(2) agree to provide mental health services to:

(A) Individuals enrolled in Medicaid or CHIP or both; or

(B) persons committed to a secure correctional facility operated by or under contract with the Texas Juvenile Justice Department or persons confined in a secure correctional facility operated by or under contract with any division of the Texas Department of Criminal Justice.

(c) For applicants who first establish eligibility for the program on or after September 1, 2023, a mental health professional must:

(1) agree to provide three consecutive years of eligible service in a Mental Health Professional Shortage Area, with the understanding that the professional will be released from the agreement if funding for continued loan repayment is not appropriated; and

(2) agree to provide mental health services to:

(A) Individuals enrolled in Medicaid or CHIP or both; or

(B) persons committed to a secure correctional facility operated by or under contract with the Texas Juvenile Justice Department or persons confined in a secure correctional facility operated by or under contract with any division of the Texas Department of Criminal Justice.

(d) Notwithstanding subsection (c), for applicants who first establish eligibility for the program on or after September 1, 2023, who provide mental health services to patients in state hospitals, individuals receiving community-based mental health services from a local mental

health authority, or students enrolled in an eligible district or school, a mental health professional must agree to provide three consecutive years of eligible service as outlined in §23.98 of this subchapter (relating to Eligibility for Disbursement of Loan Repayment Assistance).

§23.97. Selection of Eligible Applicants and Limitations.

(a) Each fiscal year an application deadline will be posted on the program web page.

(b) Not more than 10 percent of the number of repayment assistance grants paid under this subchapter each year may be awarded to mental health professionals providing mental health services to persons committed to a secure correctional facility operated by or under contract with the Texas Juvenile Justice Department or persons confined in a secure correctional facility operated by or under contract with any division of the Texas Department of Criminal Justice. Applications from these professionals will be selected on a first-come-first-served basis.

(c) Not more than 30 percent of the number of repayment assistance grants paid under this subchapter each fiscal year may be awarded to mental health professionals in any one of the eligible practice specialties, unless excess funds remain available after the 30 percent maximum has been met.

(d) For ~~[each practice specialty]~~ practice specialties outlined in subsections 23.95(1)-(7), applications will be ranked in order of the following priorities:

(1) providers who benefitted from awards the previous year;

(2) providers who sign SLRP ~~[SLFP]~~ contracts;

(3) providers whose employers are located in areas having MHPSA scores that reflect the highest degrees of shortage. If a provider works for an agency located in an MHPSA that has satellite clinics and the provider works in more than one of the clinics, the highest MHPSA score where the provider works shall apply. If a provider travels to make home visits, the provider's agency base location and its MHPSA score shall apply. If a provider works for different employers in multiple MHPSAs having different degrees of shortage, the location having the highest MHPSA score shall apply;

(4) providers in state hospitals;

(5) ~~[(4)]~~ providers whose employers are located in rural areas, if, in the case of providers serving at multiple sites, at least 75% of their work hours are spent serving in those areas; and

(6) ~~[(5)]~~ providers whose applications were received on the earliest dates.

(e) If funds remain available after loan repayment awards have been reserved for applicants selected according to the criteria stated in subsection (d) of this section, applications for practice specialties outlined in subsections 23.95(1)-(7) will be ranked in order of the following priorities, regardless of the applicant's practice specialty:

(1) providers whose employers are located in areas having MHPSA scores that reflect the highest degrees of shortage. If a provider works for an agency located in an MHPSA that has satellite clinics and the provider works in more than one of the clinics, the highest MHPSA score where the provider works shall apply. If a provider travels to make home visits, the provider's agency base location and its MHPSA score shall apply. If a provider works for different employers in multiple MHPSAs having different degrees of shortage, the location having the highest MHPSA score shall apply;

(2) providers whose employers are located in rural areas, if, in the case of providers serving at multiple sites, at least 75% of their work hours are spent serving in those areas; and

(3) providers whose applications were received on the earliest dates.

(f) If funds remain available after loan repayment awards have been reserved for applicants selected according to the criteria stated in subsection (e) of this section, applications for practice specialties outlined in subsection 23.95(8), will be ranked in order of the providers whose applications were received on the earliest dates.

(g) ~~[(f)]~~ If state funds are not sufficient to allow for maximum award amounts stated in ~~§23.100 [§23.100(2) and (3)]~~ of this ~~subchapter [title]~~ (relating to Amount of Repayment Assistance) for all eligible applicants, the Board ~~staff~~ may adjust in an equitable manner the state-funded distribution amounts for a fiscal year, in accordance with TEC 61.607(d).

#### §23.98. Eligibility for Disbursement of Loan Repayment Assistance.

(a) To be eligible to receive loan repayment assistance as a mental health professional who first established eligibility for the program before September 1, 2023, a mental health provider must:

(1) have completed one, two, three, four, or five consecutive years of practice in an MHPSA providing direct patient care to Medicaid enrollees and/or CHIP enrollees, if the practice serves children, or to persons committed to a secure correctional facility operated by or under contract with the Texas Juvenile Justice Department or its successor or in a secure correctional facility operated by or under contract with any division of the Texas Department of Criminal Justice or its successor; and

(2) after an award is disbursed for a third consecutive year of service, a psychiatrist must have earned certification from the American Board of Psychiatry and Neurology

or the American Osteopathic Board of Psychiatry and Neurology to qualify for continued loan repayment assistance.

(b) To be eligible to receive loan repayment assistance as a mental health professional who first established eligibility for the program on or after September 1, 2023, a mental health provider must have completed one, two, or three consecutive years of practice:

(1) in an MHPSA providing direct patient care to Medicaid enrollees and/or CHIP enrollees, if the practice serves children, or to persons committed to a secure correctional facility operated by or under contract with the Texas Juvenile Justice Department or its successor or in a secure correctional facility operated by or under contract with any division of the Texas Department of Criminal Justice or its successor;

(2) providing mental health services to patients in a state hospital; or

(3) to individuals receiving community-based mental health services from a local mental health authority.

(c) Notwithstanding subsection (b), to be eligible to receive loan repayment assistance as a specialist in school psychology as outlined under §23.95(6) of this subchapter (relating to Eligible Practice Specialties), the mental health professional must:

(1) have completed one, two, or three consecutive years of employment in:

(A) a school district which is located partially or completely in a MHPSA;

(B) an open-enrollment charter school located in a MHPSA; or

(C) a Title I school; and

(2) have provided mental health services to students enrolled in that district or school during that time of employment.

#### §23.99. Eligible Lender and Eligible Education Loan.

(a) The Board staff shall retain the right to determine the eligibility of lenders and holders of education loans to which payments may be made. An eligible lender or holder shall, in general, make or hold education loans made to individuals for purposes of undergraduate, graduate, and professional education of the mental health professional and shall not be any private individual. An eligible lender or holder may be, but is not limited to, a bank, savings and loan association, credit union, institution of higher education, secondary market, governmental agency, or private foundation. A credit card debt is not considered an educational loan eligible for repayment.

(b) To be eligible for repayment, an education loan must:

- (1) be evidenced by a promissory note for loans to pay for the cost of attendance for the undergraduate, graduate, or professional education of the individual applying for repayment assistance;
- (2) not have been made during residency or to cover costs incurred after completion of graduate or professional education;
- (3) not be in default at the time of the professional's application;
- (4) not have an existing obligation to provide service for loan forgiveness through another program;
- (5) not be subject to repayment through another student loan repayment or loan forgiveness program or as a condition of employment; and
- (6) if the loan was consolidated with other loans, the applicant must provide documentation of the portion of the consolidated debt that was originated to pay for the cost of attendance for his or her undergraduate, graduate, or medical education.

#### §23.100. Amount of Repayment Assistance.

(a) Loan repayment awards will be disbursed directly to lenders on behalf of eligible mental health professionals. ~~[and:]~~

~~[(1) Repayment assistance for each year of full-time service will be in an amount determined by applying the following applicable percentage to the maximum total amount of assistance allowed for the professional:]~~

~~[(A) for the first year, 10 percent;]~~

~~[(B) for the second year, 15 percent;]~~

~~[(C) for the third year, 20 percent]~~

~~[(D) for the fourth year, 25 percent; and]~~

~~[(E) for the fifth year, 30 percent.]~~

~~[(2) The total amount of state appropriated repayment assistance received by a mental health professional under this subchapter may not exceed:]~~

~~[(A) \$160,000, for a psychiatrist;]~~

~~[(B) \$80,000, for:]~~

~~[(i) a psychologist;]~~

~~[(ii) a licensed clinical social worker, if the social worker has received a doctoral degree related to social work; or]~~

~~[(iii) a licensed professional counselor, if the counselor has received a doctoral degree related to counseling; or]~~

~~[(iv) a licensed marriage and family therapist, if the marriage and family therapist had received a doctoral degree related to marriage and family therapy;]~~

~~[(C) \$60,000, for an advanced practice registered nurse;]~~

~~[(D) \$40,000, for a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional counselor who has not received a doctoral degree related to social work or counseling; and]~~

~~[(E) \$10,000, for assistance received by a licensed chemical dependency counselor, if the chemical dependency counselor has received an associate degree related to chemical dependency counseling or behavioral science.]~~

~~[(3) If a mental health provider's total student loan indebtedness is less than the total amount of repayment assistance allowed for the provider's practice specialty, the annual loan repayment award amounts based on full-time service will be the following percentages of the student loan debt owed at the time of application for enrollment in the program:]~~

~~[(4) An eligible professional may receive prorated loan repayment assistance based on the percentage of full-time service provided for each service period, for a minimum of 20 hours per week if employed or contracted by an agency or facility in a mental health professional shortage area for the primary purpose of providing direct mental health services to:]~~

~~[(A) Medicaid recipients;]~~

~~[(B) CHIP enrollees;]~~

~~[(C) persons in facilities operated by or under contract with the Texas Juvenile Justice Department; and/or,]~~

~~[(D) persons in facilities operated by or under contract with the Texas Department of Criminal Justice.]~~

~~[(5) Failure to meet the program requirements will result in non-payment for the applicable service period(s) and, except under circumstances determined by the Board to constitute good cause, removal from the program.]~~

(b) Repayment assistance for each year of full-time service for mental health professionals who first established eligibility for the program before September 1, 2023, will be in an amount determined by applying the following applicable percentage to the maximum total amount of assistance allowed for the professional:

(1) for the first year, 10 percent;

(2) for the second year, 15 percent;

(3) for the third year, 20 percent;

(4) for the fourth year, 25 percent; and

(5) for the fifth year, 30 percent.

(c) Repayment assistance for each year of full-time service for mental health professionals who first established eligibility for the program on or after September 1, 2023, will be in an amount determined by applying the following applicable percentage to the maximum total amount of assistance allowed for the professional:

(1) for the first year, 33.33 percent;

(2) for the second year, 33.33 percent; and

(3) for the third year, 33.34 percent.

(d) The total amount of state appropriated repayment assistance received by a mental health professional under this subchapter may not exceed:

(1) \$160,000, for a psychiatrist;

(2) \$80,000, for:

(A) a psychologist;

(B) a licensed clinical social worker, if the social worker has received a doctoral degree related to social work;

(C) a licensed professional counselor, if the counselor has received a doctoral degree related to counseling; or

(D) a licensed marriage and family therapist, if the marriage and family therapist had received a doctoral degree related to marriage and family therapy;

(3) \$60,000, for an advanced practice registered nurse;

(4) \$40,000, for a licensed specialist in school psychology, a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional counselor who has not received a doctoral degree related to social work or counseling; and

(5) \$10,000, for assistance received by a licensed chemical dependency counselor, if the chemical dependency counselor has received an associate degree related to chemical dependency counseling or behavioral science.

(e) If a mental health provider's total student loan indebtedness is less than the total amount of repayment assistance allowed for the provider's practice specialty, the annual loan repayment award amounts based on full-time service will be the following percentages of the student loan debt owed at the time of application for enrollment in the program:

(1) For mental health professionals who first established eligibility for the program before September 1, 2023, amounts are 10% for year one, 15% for year two, 20% for year three, 25% for year four, and 30% for year five.

(2) For mental health professionals who first established eligibility for the program on or after September 1, 2023, amounts are 33.33% for year one, 33.33% for year two, and 33.34% for year three.

(f) An eligible professional may receive prorated loan repayment assistance based on the percentage of full-time service provided for each service period, for a minimum of 20 hours per week.

(g) Failure to meet the program requirements will result in non-payment for the applicable service period(s) and, except under circumstances determined by the Board staff to constitute good cause, removal from the program.

#### §23.101. Dissemination of Information.

The Board staff shall disseminate information about the Mental Health Professional Education Loan Repayment program to each institution of higher education or private or independent institution of higher education and to any appropriate state agency and professional association.