

AGENDA ITEM VII-F

Consideration of adopting the Negotiated Rulemaking Committee's recommendation to the Board relating to Chapter 22, Subchapter L, Section 22.226 and Section 22.236 of Board rules regarding the reallocation and disbursement of funds concerning the Toward EXcellence, Access, and Success (TEXAS) Grant Program

RECOMMENDTION: Adopt

Background Information:

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code Sections 22.226 and 22.236 (Allocation and Reallocation of Funds) concerning the Toward EXcellence, Access, and Success (TEXAS) Grant Program. To provide institutions greater flexibility in administering their state financial aid funds, the Coordinating Board proposes modifying the TEXAS Grant Program allocation methodology by eliminating reallocations. Changes to this section are made in accordance with Senate Bill 215, passed by the 83rd Texas Legislature, Regular Session, which called for the Coordinating Board to engage institutions of higher education in a negotiated rulemaking process as described by Chapter 2008, Government Code. The intent of the amendments is to incorporate into existing rule the changes and provisions developed by the Negotiated Rule-Making Committee.

Specifically, Section 22.226 concerning definitions has been amended to add the definition of the term Encumbered Funds.

Section 22.236 is amended and renamed "Allocation and Disbursement of Funds." The term "Reallocation" has been stricken from the title.

Subsection 22.236(a) concerning allocations for Fiscal Year 2016 is no longer relevant and has been stricken from the rule.

Subsection 22.236(b) has been renumbered as 22.236(a) and amends language for the allocation of grant-funding. New subsection 22.236(a)(1), formerly 22.236(b)(1), is amended to clarify the data source and criteria to be used in calculating the allocation base. The former Subsection 22.236(b)(2), concerning FY2017 and FY2018 allocations and reallocations, has been stricken from the rule as it is no longer relevant. New subsection 22.236(a)(2), formerly 22.236(b)(3) is amended, and now indicates August 1 as the new deadline for certain institutions to submit requests for reimbursement of TEXAS Grant awards for eligible students. All subsequent sections have been renumbered accordingly.

New subsection 22.236(b), formerly 22.236(d), describes the procedures for disbursing funds to the institutions now that reallocations have been eliminated. All subsequent sections have been renumbered accordingly.

New subsection 22.236(c) adds guidelines for how the Coordinating Board will handle the reduction of funds after or before the start of a fiscal year, and strikes language concerning reallocations as it is no longer relevant.

Subsection 22.236(e) concerning release of funds to students is unrelated to allocations and is stricken from the rule, and will be relocated to Section 22.234, concerning Award Amounts and Adjustments.

Dr. Charles W. Puls, Deputy Assistant Commissioner for Student Financial Aid Programs, will be available to answer questions.

Date approved by the Commissioner for publication in the *Texas Register*: May 7, 2018.

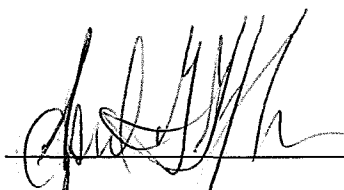
Date published in the *Texas Register*: May 18, 2018

The 30-day comment period with the *Texas Register* ended June 18, 2018.

No comments were received.

Legal Review:

Approval by the Office of General Counsel

 Date 6/28/18

The amendments have been prepared in the following format:

- New language is in lowercase, underlined, and shaded.
- Deleted language is bracketed and struck through.
- When new language replaces deleted language, the new language precedes the deleted language.

CHAPTER 22 STUDENT FINANCIAL AID PROGRAMS
SUBCHAPTER L TOWARD EXCELLENCE, ACCESS, AND SUCCESS (TEXAS) GRANT
PROGRAM

Rules

- 22.225 Authority and Purpose
- 22.226 Definitions
- 22.227 Institutions
- 22.228 Eligible Students
- 22.229 Satisfactory Academic Progress
- 22.230 Discontinuation of Eligibility or Non-Eligibility
- 22.231 Hardship Provisions
- 22.232 Priorities in Funding
- 22.233 Priority in Awards to Students
- 22.234 Award Amounts and Adjustments
- 22.235 Late Disbursements
- 22.236 Allocation and Disbursement [~~Reallocation~~] of Funds
- 22.237 Funds Provided from Student Deposit Fees
- 22.238 Funds Provided through Gifts and Donations
- 22.239 Authority to Transfer Funds
- 22.240 Dissemination of Information and Rules
- 22.241 Tolling of Eligibility for Initial Award
- 22.242 Reports to the TEXAS Grant Oversight Committee

22.225. No Changes.

22.226. Definitions.

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

(1) – (9) No Changes.

(10) Encumbered Funds – Funds ready for disbursal to the institution, based on the institution having submitted to the Board the required documentation to request funds.

(11)[(10)] Enrolled on at least a three-quarter basis--Enrolled for the equivalent of nine undergraduate semester credit hours in a regular semester.

(12)[(11)] 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.

(13)[(12)] Expected family contribution--The amount of discretionary income that should be available to a student from his or her resources and that of his or her family, as determined following the federal methodology.

~~(14)~~~~(13)~~ Financial Aid Advisory Committee--An advisory committee for the Board, authorized in Texas Education Code, §61.0776 and charged with providing the Board advice and recommendations regarding the development, implementation and evaluation of state financial aid programs for college students.

~~(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 family contribution are to be determined in accordance with Board guidelines. Federal and state veterans' educational and special combat pay benefits are not to be considered in determining a student's financial need.

~~(16)~~~~(15)~~ Foundation high school program--The curriculum specified in the Texas Education Code, §28.025, as it exists after the passage of House Bill 5 by the 83rd Legislature, Regular Session, and the rules promulgated thereunder by the State Board of Education.

~~(17)~~~~(16)~~ General Academic Teaching Institution--As the term is defined in Texas Education Code, §61.003.

~~(18)~~~~(17)~~ Honorably discharged--Released from active duty military service with an Honorable Discharge, General Discharge under Honorable Conditions, or Honorable Separation or Release from Active Duty, as documented by the Certificate of Release or Discharge from Active Duty (DD214) issued by the Department of Defense.

~~(19)~~~~(18)~~ Initial year award--The grant award made in the student's first year in the TEXAS Grant program, typically made up of a fall and spring disbursement.

~~(20)~~~~(19)~~ Institution of Higher Education or Institution--Any public technical institute, public junior college, public senior college or university, medical or dental unit or other agency of higher education as defined in Texas Education Code, §61.003(8).

~~(21)~~~~(20)~~ Medical or dental unit--As the term is defined in Texas Education Code, §61.003.

~~(22)~~~~(21)~~ Period of enrollment--The term or terms within the current state fiscal year (September 1-August 31) for which the student was enrolled in an eligible institution and met all the eligibility requirements for an award through this program.

~~(23)~~~~(22)~~ 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.

~~(24)~~~~(23)~~ Priority Model--The additional academic requirements for priority consideration for an initial year TEXAS grant award for persons who graduate from high school on or after May 1, 2013 and enroll in a general academic teaching institution in the 2013-2014 academic year or enroll in a medical or dental unit or general academic teaching institution other than a state college in fall 2014 or later, as described in §22.228 of this title (relating to Eligible Students).

~~(25)~~~~(24)~~ 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 maintenance of all records and preparation and submission of reports reflecting program transactions. Unless otherwise indicated by the administration, the director of student financial aid shall serve as Program Officer.

~~(26)~~~~(25)~~ Public state college--As the term is defined in Texas Education Code, §61.003.

~~(27)~~~~(26)~~ Recommended or advanced high school programs--The curriculum specified in the Texas Education Code, §28.025 as it existed as of January 1, 2013, and the rules promulgated thereunder by the State Board of Education.

~~(28)~~~~(27)~~ Required fees--A mandatory fee (required by statute) or discretionary fee (authorized by statute, imposed by the governing board of an institution) and that an institution charges to a student as a condition of enrollment at the institution or in a specific course.

~~(29)~~~~(28)~~ 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.

~~(30)~~~~(29)~~ Target award amount--An award amount set by the Coordinating Board, in consultation with institutions participating in the TEXAS Grant Program, and used as the recommended average award amount for the TEXAS Grant Program for a biennium and in establishing renewal year allocations to institutions as described in §22.236(a)(1) of this title (relating to Allocation and Reallocation of Funds).

~~(31)~~~~(30)~~ Tuition--Statutory tuition, designated and/or Board-authorized tuition

22.227-22.235. No Changes.

22.236. Allocation and ~~Disbursement~~ [Reallocation] of Funds.

~~(a)~~~~(b)~~ Allocations for Fiscal Year 2017 and Later.

(1) The share of funds for each institution eligible to make both initial and continuation awards will equal:

(A) The number of Initial Award TEXAS Grant recipients at the institution in the Prior-Prior Year multiplied by the percentage of Initial Award TEXAS Grant recipients in the year prior to the Prior-Prior Year who received a Renewal Award in the Prior-Prior Year; plus the number of Renewal Award TEXAS Grant recipients at the institution in the Prior-Prior Year multiplied by the percentage of Renewal Award TEXAS Grant recipients in the year prior to the Prior-Prior Year who received a Renewal Award in the Prior-Prior Year, multiplied by the institution's average TEXAS Grant award in the Prior-Prior Year, up to the amount of the Target Award for the fiscal year for which allocations are occurring, plus

(B) The institution's proportions of the remaining appropriation is based on the sum of the number of students who were reported as a first time enrolling freshman; or an entering undergraduate transfer student who completed an associate's degree within the prior 12 months to enrolling; or an entering undergraduate transfer student who received an Initial TEOG award for the Fall 2014 semester or later, has completed at least 24 semester credit hours, and has earned an overall GPA of at least 2.5 on a four-point scale on all course work previously attempted; and

(i) were enrolled as undergraduate students and had not yet received a Bachelor's degree;

(ii) were identified as Texas residents;

(iii) were enrolled at least 3/4-time;

~~[(iv) filed a FAFSA or TASFA; and]~~

~~[(v) had a 9-month Expected Family Contribution, calculated using federal methodology, that was less than or equal to the cap established for TEXAS Grant in the Prior-Prior Year.]~~

~~[(2)]~~ ~~[(3)]~~ Institutions who are only eligible to make continuation awards will not receive a specific allocation. Those schools will have until August 1 ~~[February 20]~~, or the first working day thereafter if it falls on a weekend or holiday, to submit for reimbursement any award for a student who is identified as eligible and is awarded a TEXAS Grant. Those awards will be funded through any unencumbered program funds.

~~[(2)]~~—No institution's annual allocations will be reduced by more than 7.5 percent of the prior year's annual allocation not including any reallocations that occurred in that prior year. This provision will apply to FY2017 and FY2018 allocations after which it will expire. Provisions of this subsection do not apply to allocation reductions resulting from reductions in state appropriations.]

~~(3)~~~~(4)~~ The TEXAS Grant allocation spreadsheet will be provided to the institutions for review 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 spreadsheet accurately reflects the data they submitted or to advise Board staff of any inaccuracies.

~~(a)~~—~~Allocations for Fiscal Year 2016.~~ Each institution's share of funds will equal the sum of:

~~(1)~~—~~Renewal Allocation:~~ the institution's number of Initial Year (IY) TEXAS Grant recipients in the prior-prior year, multiplied by the most recent 3-year rolling average of its Renewal Year (RY) recipients as a percent of its previous year IY recipients, multiplied by the target award amount; plus

~~(2)~~—~~Initial Allocation:~~ the annual appropriation less the sum of all institutions' funds calculated in accordance with paragraph (1) of this subsection, multiplied by each institution's percentage share of:

~~(A)~~—~~entering students in the prior academic year who met the following criteria:~~

~~(i)~~—~~were identified as Texas residents; and~~

~~(ii)~~—~~enrolled at least 3/4 time; and~~

~~(iii)~~—~~have 9-month Expected Family Contributions that are less than or equal to the cap established for the academic year for which the funds will be awarded; plus~~

~~(B)~~ ~~first-time grant recipients in the prior year who received IY TEXAS Grant awards based on:~~

~~(i)~~ ~~enrollment in an upper-level institution within 12 months of the receipt of an associate's degree; or~~

~~(ii)~~ ~~enrollment in an upper-level institution after receiving an Initial Year award through the Texas Educational Opportunity Grant (TEOG) Program in fall 2014 or later.~~

~~(3)~~ The TEXAS Grant allocation spreadsheet will be provided to the institutions for review 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 spreadsheet accurately reflects the data they submitted or to advise Board staff of any inaccuracies.

~~(b)~~~~(d)~~ 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 [annual allocations] of funds for timely disbursement to students [immediate release to students or immediate application to student accounts at the institution]. 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.

(c) Reductions in Funding.

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

~~(c) — Reallocations. Institutions will have until February 20 or the first working day thereafter if it falls on a weekend or holiday to encumber the program funds that have been allocated to them. On that date, institutions lose claim to any funds not yet drawn down from the Board for immediate disbursement to students, and the funds released in this manner are available to the Board for reallocation to other institutions. Reallocated funds will be distributed among institutions requesting funds using the same basis as was used for the allocation of funds, but no institution will receive more funds than it requested. If necessary for ensuring the full use of funds, subsequent reallocations may be scheduled until all funds are awarded and disbursed.~~

~~(e) Release of Funds to Students. The institution may release all or part of the proceeds of a TEXAS Grant to an eligible person only if the tuition and required fees incurred by the person at the institution have been paid.~~

22.237. – 22.242. No Change.