

SUBCHAPTER M. TEXAS EDUCATIONAL OPPORTUNITY GRANT PROGRAM

19 TAC §22.254, §22.262

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to §22.254 and §22.262 (Allocation and Disbursement of Funds - Community Colleges), concerning the Texas Educational Opportunity Grant (TEOG) Program. To provide institutions greater flexibility in administering their state financial aid funds, the Coordinating Board proposes modifying the TEOG allocation methodology by eliminating reallocations and implementing a biennial approach to the annual allocation process. Changes to these sections 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, §22.254 concerning definitions has been amended to add the definitions of the terms Encumbered Funds and Forecast.

Specifically, §22.262 is amended and renamed "Allocation and Disbursement of Funds - Public Junior Colleges." The term "Reallocation" has been stricken from the title. Section 22.262(a) specifies the data source and criteria to be used in calculating the allocation base for each institution.

New §22.262(a)(3) adds language allowing allocations to be calculated for both years of the biennium simultaneously (rather than annually) and will allow Board staff to forecast data for use in allocating funds for the second year of the biennium. §22.262(b) and §22.262(d) have been stricken from the rule and all subsequent sections have been renumbered accordingly.

New §22.262(b) (formerly §22.262(e)), describes the procedures for disbursing funds to the institutions under the new methodology.

Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, has determined that for each year of the first five years the section is in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rules. There will be no impact on small businesses or rural communities, as described in Texas Government Code, Chapter 2006, and therefore an Economic Impact analysis is not required.

Dr. Puls has also determined that for each year of the first five years the amendments are in effect, the public benefits anticipated as a result of administering the section will be institutions improved ability to meet the needs of their student populations. There is no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section. There is no impact on local employment.

Dr. Puls has also determined that for each year of the first five years the sections are in effect, the proposed rules:

- 1) Neither creates nor eliminates a government program;
- 2) Does not require the creation of new employee positions nor eliminates existing positions;
- 3) Neither increases nor decreases future legislative appropriations to the agency;
- 4) Neither increases nor decreases fees paid to the agency;

- 5) Does not create a new regulation as this regulation is merely being moved from one chapter to another chapter;
- 6) Does not expand, limit, or repeal an existing regulation;
- 7) Neither increases nor decreases the number of individuals subject to the rule's applicability; and
- 8) Neither positively nor adversely affects this state's economy.

Comments on the proposal may be submitted to Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711, or via e-mail Charles.Puls@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under Texas Education Code Section, §56.403, which authorizes the Coordinating Board to adopt rules for the administration of the Texas Educational Opportunity Grant Program.

The amendments relate to Texas Administrative Code, Chapter 22, Subchapter M.

§22.254. Definitions.

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

(1) - (11) (No change.)

(12) Forecast - The FORECAST function in Microsoft Excel.

(13) [(12)] Initial year award--The grant award made in the student's first year in the Texas Educational Opportunity Grant Program, typically made up of a fall and spring disbursement.

(14) [(13)] Institution--A public junior college as defined in Texas Education Code, §61.003(2); a public technical institute as defined in Texas Education Code, §61.003(7); and a public state college as defined in Texas Education Code, §61.003(16).

(15) [(14)] 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 approved institution and met all the eligibility requirements for an award through this program.

(16) [(15)] Program--The Texas Educational Opportunity Grant Program.

(17) [(16)] 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.

(18) [(17)] 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.

(19) [(18)] State-wide total cost of attendance--For allocation purposes, the aggregate sum of costs of attendance reported by participating eligible institutions in the most recent Financial Aid Database Report for each first-time-in-college student who meets the eligibility requirements listed in §22.262(b)(1) of this title.

§22.262.Allocation and Disbursement [Reallocation] 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 [Report] who met the following criteria:

(A) were classified as Texas residents,

(B) were enrolled as undergraduates half-time, three-quarter time or full-time, and

~~[(C) completed either the FAFSA or the TASFA, and~~

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

(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) 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.

~~[(b) 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 Financial Aid Database Report who met the following criteria:]~~

~~[(A) were classified as Texas residents,]~~

~~[(B) were enrolled as undergraduates half-time, three-quarter time or full-time,]~~

~~[(C) completed either the FAFSA or the TASFA, and]~~

~~[(D) have a 9-month Expected Family Contribution less than or equal to the Federal Pell Grant eligibility cap for the year reported in the Financial Aid Database Report.]~~

~~[(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 (b)(1) of this section.]~~

~~(4) [(e) Verification of Data for Fiscal Year 2016 and Later.] 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 Board staff of any inaccuracies.~~

~~[(d) Reallocations. Institutions will have until the close of business on February 20 or the first working day thereafter if it falls on a weekend or a holiday to encumber the program funds that have been allocated to them. On that date, institutions lose claim to any unencumbered funds, and the unencumbered funds are available to the Board for reallocation to other institutions. For the institutions that request additional funds, reallocations for amounts up to the amount requested per institution will be calculated on the same basis as was used for the allocation for the relevant fiscal year. If necessary for ensuring the full use of funds, subsequent reallocations may be scheduled until all funds are awarded and disbursed.]~~

~~(b) [(e)] Disbursement of Funds to Institutions. As requested by institutions throughout the academic year [fall and spring terms], the Board shall forward to each participating institution a portion of its allocation of funds for timely disbursement [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.

~~[(f) Authority to Transfer Funds. Institutions participating in a combination of the Texas Educational Opportunity Grant and Texas College Work Study Programs, in accordance with instructions from the Board, may transfer in a given fiscal year up to the lesser of 10 percent or \$20,000 between these programs. This threshold is applied to the program from which the funds are being transferred.]~~

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 7, 2018.

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Bill Franz

General Counsel

Texas Higher Education Coordinating Board

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For further information, please call: (512) 427-6104