

## AGENDA ITEM VII-C

Consideration of adopting the Negotiated Rulemaking Committee's recommendation to the Board relating to the amendments to Chapter 9, Subchapter F, Sections 9.111 – 9.117 and new Section 9.118 of Board rules concerning the Public Community Colleges regarding enrollment of certain students in continuing education courses

RECOMMENDATION:           Approval

### Background Information:

The intent of the amendments and new section is to create rules to align with HB 2994, 85th Texas Legislature, Regular Session, regarding the enrollment of certain high school students in non-credit continuing education courses. The revised Chapter 9, Subchapter F establishes rules for public community colleges concerning the enrollment of certain students under the age of 18 in non-credit courses, waiving tuition and fees for courses where a significant portion of the cost is borne by another party, and courses offered in federal prisons. The new rules will affect students enrolling in higher education during the 2018 spring semester. The rule amendments proposed for this section were reviewed and approved by the Negotiated Rulemaking Committee on Workforce Continuing Education on October 30, 2017.

Dr. Rex C. Peebles, Assistant Commissioner for Academic Quality and Workforce, will present this item and be available to answer questions.

Date approved by the Commissioner for Publication in the *Texas Register*: November 6, 2017.

Date published in the *Texas Register*: November 17, 2017.

The 30-day comment period with the Texas Register ended on: December 17, 2017.

One comment was received.

**COMMENT:** The comment below was received from Tarrant County College.

In §9.116. Waiver of Tuition and Fees, an "and" at the end of part (1) (C) which implies tuition may only be waived for high school students (meeting the criteria enumerated therein). However, the legislation does not contain such language related to waiver of tuition and fees. HB 2994 Subchapter L Section 130.302 Formula Funding refers to CE workforce course contact hour appropriations and states inclusion regardless of whether the college waives all or part of the tuition or fees for the course under Section 130.304. Section 130.304 Waiver of Tuition and Fees states that a college may waive all or part of the tuition and fees charged to a student for a continuing education workforce course. There is no stipulation as to the type of student; "a student" would be any eligible student. I believe the entire part (1) of 9.116 pertaining to the student should be removed; only the rules pertaining to the institution are applicable to this section.

**STAFF RESPONSE:** Staff agrees with the comment, Section 9.116 (1) (C) was revised to remove the "and" and add "or." If the proposed rule is adopted as written the "and" at the end of 1(C) establishes a requirement where a student must meet either 1(A), 1(B), or 1(C) and then either 2(A) or 2(B). As an example, if the proposed rule was adopted as written, tuition and fees could only be waived for persons incarcerated in federal correctional facilities if they were between the age of 16 and 18. This is not the intent of the legislation.

Comments and staff response were sent to the Negotiated Rule Making Committee. The Committee agreed with the staff assessment and response. Section 9.116 (1) (C) was revised. Revisions are in bold and italicized.

Legal Review:

Approved by the Office of General Counsel



Date: 1/5/18

Chapter 9, Program Development in Public Two Year Colleges  
Subchapter F, ~~[Career Technical/]~~ Workforce Continuing Education Courses

9.111 Purpose

9.112 Authority

9.113 Definitions ~~[General Provisions]~~

9.114 ~~General Provisions~~ ~~[Application and Approval Procedures for Career Technical/Workforce Continuing Education Courses]~~

9.115 Application and Approval Procedures for Workforce Continuing Education Courses  
~~[Funding]~~

9.116 Waiver of Tuition and Fees ~~[Reporting to the Board]~~

9.117 Funding ~~[Disapproval of Courses; Noncompliance]~~

9.118 Reporting to the Board

Rule 9.111 Purpose

This subchapter provides rules and procedures for the review and approval of workforce continuing education courses as taught by public two-year colleges.

Rule 9.112 Authority

The Texas Education Code, §§54.051(n), 54.545, ~~[61.051(j), 61.053]~~, 61.054, 61.060, 61.061, 61.062, 130.001(b)(3) - (4), 130.003(e)(4), 130.005, and 130.006 authorize the Coordinating Board to adopt policies, enact regulations, and establish rules for public two-year colleges for the coordination of ~~[career technical/]~~workforce continuing education courses eligible for state appropriations.

Rule 9.113 Definitions ~~[General Provisions]~~

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

(1) Adult--(1) a person who has completed the person's sophomore year of high school, or (2) is 17 years of age and has been awarded a high school diploma or its equivalent, or (3) is 18 years of age or older, regardless of the person's previous educational experience.

(2) Avocational course--a course of study in a subject or activity that is usually engaged in by a person in addition to the person's regular work or profession for recreation or in relation to a hobby. The term includes a community interest course.

(3) Basic employability course--a course that covers topics such as conducting a job search, developing a resume, completing an application for employment, and interviewing skills.

(4) Basic learning skills course--a non-college-level course that covers learning strategies such as note-taking, and test preparation.

(5) Coordinating board-- the Texas Higher Education Coordinating Board.

(6) Disabilities of minority--as defined in Texas Family Code, Chapter 31, Removal of the Disabilities of Minority. Applies to students over the age of 16 and not over the age of 18.

(7) Learning framework course--a college-level course that is solely or primarily focused on skill acquisition related to the learning process and is not a workforce education course.

(8) Workforce continuing education—non-credit instruction that is designed primarily for adults and is intended, on completion by a participant, to prepare the participant to qualify to apply for and accept an employment offer or a job upgrade within a specific occupational category or to bring the participant's knowledge or skills up to date on new developments in a particular occupation or profession.

(9) Workforce continuing education course--a course of non-credit instruction in workforce continuing education that is approved by the coordinating board. The term does not include an avocational course.

~~[(a) Tuition and fees for state-funded career technical/workforce continuing education courses shall be assessed according to policies established by the Board. The governing board of the institution shall establish tuition and fees for career technical/workforce continuing education courses not eligible for state appropriations.~~

~~(b) Any career technical/workforce continuing education program meeting or exceeding 360 contact hours shall be subject to all of the requirements for career technical/workforce education programs for state appropriations as outlined in Chapter 9, Subchapter E of this title (relating to Certificate and Associate Degree Programs).~~

~~(c) Any career technical/workforce continuing education program meeting or exceeding 780 contact hours in length must result in the award of semester or quarter credit hours and be applicable to a certificate and an applied associate degree program. An exception shall be made for Emergency Medical/Paramedic continuing education programs, which may reach 800 contact hours.]~~

~~9.114 General Provisions [Application and Approval Procedures for Career Technical/Workforce Continuing Education Courses]~~

(a) Any workforce continuing education program meeting or exceeding 360 contact hours shall be subject to all of the requirements for workforce education programs for state appropriations as outlined in Chapter 9, Subchapter E of this title (relating to Certificate and Associate Degree Programs).

(b) Any workforce continuing education program meeting or exceeding 780 contact hours in length must result in the award of semester or quarter credit hours and be applicable to a certificate and an applied associate degree program. An exception shall be made for Emergency Medical/Paramedic continuing education programs, which may reach 800 contact hours.

(c) A public junior college may offer, or may enter into an agreement with a school district, organization, or other person that operates a high school to offer, workforce continuing education courses other than learning framework courses, basic employability courses, and basic learning skills courses to a person who is (1) enrolled in high school after the completion of the person's

sophomore year; or (2) is enrolled in a school that is not formally organized as a high school and is at least 16 years of age; or (3) is attending high school while incarcerated, is at least 16 years of age, and is not eligible for release from incarceration before the person's 18th birthday.

~~[(a) Any career technical/workforce continuing education course listed in the Workforce Education Course Manual (WECM) may be offered by any public two-year college without prior approval by the Board. Courses in the current WECM are valid until revised or deleted by subsequent updates of the WECM.]~~

~~[(b) All career technical/workforce continuing education courses shall meet the guidelines outlined in the Guidelines for Instructional Programs in Workforce Education as approved by the Board and the Workforce Education Course Manual.]~~

#### 9.115 Application and Approval Procedures for Workforce Continuing Education Courses [Funding]

(a) Any workforce continuing education course listed in the Workforce Education Course Manual (WECM) may be offered by any public two-year college without prior approval by the Board. Courses in the current WECM are valid until revised or deleted by subsequent updates of the WECM.

(b) All workforce continuing education courses shall be in compliance with the guidelines outlined in the Guidelines for Instructional Programs in Workforce Education as approved by the Board, the Workforce Education Course Manual, and state law.

~~[(a) Contact hours reported for career technical/workforce education courses, which result in continuing education units (CEUs) shall be eligible for state appropriations.]~~

~~[(b) Career technical/workforce continuing education courses with fewer than seven (7) contact hours of instruction will not receive state funding unless the specific type and length of instruction are required by local, state, or national licensing, certifying, regulatory, or accrediting agencies.]~~

~~[(c) Community interest courses shall not be eligible for state appropriations.]~~

~~[(d) Workforce Education Course Manual continuing education special topics courses that are not designed to prepare adult students for employment shall not be eligible for state appropriations.]~~

#### 9.116 Waiver of Tuition and Fees [Reporting to the Board]

(a) A public junior college may waive all or part of the tuition or fees charged to a student for a workforce continuing education course only if:

(1) the student:

(A) is enrolled in high school or in a school that is not formally organized as a high school, or;

(B) is 16 years of age or older, who has had the disabilities of minority removed, and is not enrolled in secondary education, or;

(C) is under the age of 18 and is incarcerated; **or[and]**

(2) the institution:

(A) determines all or a significant portion of the college's costs for facilities, instructor salaries, equipment, and other expenses for the course are covered by business, industry, or other local public or private entities; or

(B) offers the course in a federal correctional facility and the facilities, equipment, supplies, and other expenses for the course are funded by the federal government.

~~[Contact hours for career technical/workforce continuing education courses from public two-year colleges must be determined and reported in compliance with Board policy as outlined in the Guidelines for Instructional Programs in Workforce Education as approved by the Board, the Workforce Education Course Manual, and state law.]~~

#### 9.117 Funding [Disapproval of Courses; Noncompliance]

(a) Contact hours attributable to the enrollment of a student in a workforce continuing education course offered by a public junior college shall be included in the contact hours used to determine the college's proportionate share of state money appropriated and distributed to public junior colleges under Texas Education Code Sections 130.003 and 130.0031, regardless of whether the college waives all or part of the tuition or fees for the course under Section 130.304

(b) Workforce continuing education courses with fewer than seven (7) contact hours of instruction will not receive state funding unless the specific type and length of instruction are required by local, state, or national licensing, certifying, regulatory, or accrediting agencies.

(c) No funds appropriated to any public two-year college may be expended for any workforce continuing education course which has not been approved by the Board staff.

(d) Avocational courses shall not be eligible for state appropriations. This includes community interest courses. A community college can offer community interest courses using local funds.

(e) Workforce Education Course Manual continuing education special topics courses that are not designed to prepare adult students for employment shall not be eligible for state appropriations. This includes basic employability courses, basic learning skills courses and learning framework courses.

~~[No funds appropriated to any public two-year college may be expended for any career technical/workforce continuing education course which has not been approved by the Board staff.]~~

#### 9.118 Reporting to the Board

Contact hours for workforce continuing education courses from public two-year colleges must be determined and reported in compliance with Board policy as outlined in the Guidelines for Instructional Programs in Workforce Education as approved by the Board, the Workforce Education Course Manual, and state law.