

TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 4. RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

SUBCHAPTER O. OPEN EDUCATIONAL RESOURCES GRANT PROGRAM

19 TAC §§4.230 - 4.238

The Texas Higher Education Coordinating Board (Coordinating Board) proposes to add new §§4.230 - 4.238, Rules Applying to All Public Institutions of Higher Education in Texas, concerning Open Educational Resources Grant Program. The intent of the new sections is to implement Senate Bill 810, passed by the 85th Texas Legislature, Regular Session, which requires the board to establish and administer a new grant program to encourage faculty at institutions of higher education to adopt, modify, redesign, or develop courses that use only Open Educational Resources (OER). The new rules proposed for these sections were reviewed and approved by the Negotiated Rulemaking Committee on Open Educational Resources Grant Program on November 1, 2017.

Dr. Rex C. Peebles, Assistant Commissioner for Academic Quality and Workforce, has determined estimated cost for the state or local governments is \$100,000 in fiscal year 2018 and \$100,000 in fiscal year 2019 and subsequent years as a result of amending the rules listed above to implement SB 810 requirements. The costs include estimated grant awards paid to selected Texas higher education institutions, through a competitive grant process, and time and effort of Texas Higher Education Coordinating Board staff. Appropriation of General Revenue funds was approved to implement the provisions of the bill.

Dr. Peebles has also determined that the public benefits anticipated as a result of administering the sections will include professional development of faculty who participate in the transition of existing traditional courses to OER courses and cost savings to students who enroll in OER courses. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no impact on local employment.

Finally, in accordance with Texas Administrative Code, §34.11.1, Dr. Peebles has determined that for the first five years the proposed rule would be in effect:

1. The proposed rule does *not* create or eliminate a government program;
2. Implementation of the proposed rule does *not* require the creation of new employee positions or the elimination of existing employee positions;
3. Implementation of the proposed rule does *not* require an increase or decrease in future legislative appropriations to the Texas Higher Education Coordinating Board;
4. The proposed rule does *not* require an increase or decrease in fees paid to the agency;
5. The proposed rule does *not* create a new regulation;
6. The proposed rule *does* expand, limit, or repeal an existing regulation, as specified in Senate Bill 810, 85th Texas Legislature, Regular Session;
7. The proposed rule does *not* increase or decrease the number of individuals subject to the rule's applicability; and
8. The proposed rule *positively affects* this state's economy.

Comments on the proposed new sections may be submitted by mail to Rex C. Peebles, Assistant Commissioner, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711 or via

email at AQWComments@THECB.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new rules are proposed under the Texas Education Code, §61.0668 (I) and §61.062, which provides the Coordinating Board with the authority.

The proposed new sections affect the implementation of Texas Education Code, §61.0668.

§4.230.Purpose.

The purpose of this subchapter is to implement rules to establish the Open Educational Resources (OER) Grant Program, under which the Board awards grant payments to eligible institutional faculty employed by a Texas higher education institution, as defined in Texas Education Code 61.003(8), to adopt, modify, redesign, or develop one or more courses using only open educational resources.

§4.231.Authority.

The authority for this subchapter is found in Texas Education Code, Chapter 61, Subchapter 61.0668, which provides the board with the authority to adopt rules to administer this grant program.

§4.232.Definitions.

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

(1) Board or THECB--The Texas Higher Education Coordinating Board.

(2) Commissioner--The Commissioner of Higher Education.

(3) Eligible Applicant--A faculty member as defined in Texas Education Code 51.917 or group of faculty currently employed at an institution of higher education, as defined in Texas Education Code 61.003(8).

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

(5) Open Educational Resources (OER)--A teaching, learning, or research resource that is in the public domain or has been released under an intellectual property license that permits the free use, adaptation, and redistribution of the resource by any person. The term may include full course curricula, course materials, modules, textbooks, media, assessments, software, and any other tools, materials, or techniques, whether digital or otherwise, used to support access to knowledge.

(6) Request for Applications (RFA)--A type of solicitation notice in which the THECB announces available grant funding, sets forth the guidelines governing the program, provides evaluation criteria for submitted applications, and provides instructions for eligible entities to submit applications for such funding. The guidelines governing the program may include a Letter of Intent, eligibility requirements, performance expectations, budget guidelines, reporting requirements, and other standards of accountability for this program.

§4.233.Eligibility.

Faculty employed by a Texas public institution of higher education are eligible to apply for a grant under this program

§4.234.Grant Application Procedures.

To qualify for funding consideration, each eligible applicant must submit an application to Board staff. Each application must:

- (1) Be submitted electronically in a format specified in the RFA; and
- (2) Adhere to the grant program requirements contained in the RFA; and
- (3) Be submitted with proper authorization on or before the day and time specified by the RFA.

§4.235.Award Amounts.

- (a) The maximum amount of funding available to the program is dependent on the legislative appropriation for each biennium. Award levels and the maximum number of awards will be specified in the RFA.
- (b) The Board shall delegate to the Commissioner general authority to award all OER grant program grants after receiving recommendations from qualified reviewers.
- (c) Award criteria may be adjusted by Board staff to best fulfill the purpose of a single request for applications if those adjusted award criteria are included in the request for applications.

§4.236.Review Criteria.

Applicants shall be selected for funding based on requirements and award criteria provided in the RFA. Award criteria will include, but may not be limited to, consideration of the following factors:

- (1) The number of students projected to annually enroll in the course;
- (2) The projected amount of money saved by a student due to the use of OER in the course; and
- (3) The evaluation of the application by three selected qualified reviewers of the curriculum of the course, as determined by Board staff.

§4.237.Reporting Criteria.

Grantees must file reports with Board staff as required by the RFA for each applicable course for each of the four semesters immediately following OER implementation. Grantees will provide information that includes, but is not limited to, the following:

- (1) The number of students who have completed the course;
- (2) An estimate of the amount of money saved by a student due to the use of open educational resources in the course;
- (3) A description of the open educational resources used in the course;
- (4) The number of other faculty members, if any, who adopted the curriculum of the course associated with the grant; and
- (5) Any other information required by the RFA.

§4.238.General Information.

- (a) Cancellation or Suspension of Grant Solicitations. The Board has the right to reject all applications and cancel a grant solicitation at any point.
- (b) Notice of Grant Award (NOGA). Before release of funds, the successful applicants must sign a NOGA issued by Board staff.

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 November 6, 2017.

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Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: December 17, 2017

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