

# SUPPLEMENTAL MATERIALS

Committee on Academic and Workforce Success

## AGENDA ITEM V-V (1)

Consideration of adopting the Commissioner's recommendation to the Committee relating to the proposed amendments to Chapter 5, Subchapter B, Sections 5.21 - 5.25 of Board rules concerning Preliminary Planning Notifications

RECOMMENDATION:            Approval

### Background Information:

The intent of the amendments is to clarify and streamline rules to reflect current statute, rule references, policies, and practices regarding the submission of changes to the role and mission statements and submission of planning notifications from public institutions of higher education to the Texas Higher Education Coordinating Board.

Dr. Rex Peebles, Assistant Commissioner for Academic Quality and Workforce, is available to answer questions.

Date approved by the Commissioner for publication in the *Texas Register*: August 1, 2016

Date Published in the *Texas Register*: August 12, 2016

The 30-day comment period with the *Texas Register* ends on: September 12, 2016

Comments were received regarding these proposed rules. Coordinating Board staff responses to the comments will be provided as supplemental materials prior to the meeting.

Comment: Texas A&M University System expressed concern that the proposed notification process would hinder the ability of institutions to respond to market needs, student demand, and opportunity, and noted that private/for-profit institutions do not have the same limitations. Texas A&M University System estimated that the proposed planning notification would delay responsiveness to need/opportunity by at least three months (time from one THECB meeting to another), and would require considerably longer preparation times and approval delays. The University of North Texas System submitted a similar comment.

Staff Response: The program approval process for Texas public institutions of higher education is not required for private institutions of higher education, as they do not submit their proposed programs for approval by the Board. The approval process for new programs at public higher education institutions includes many factors prescribed by statute and administrative code, including input from the Board. This revised planning notification process will improve the Board's ability to carry out its statutory mission to provide leadership and coordination for the Texas higher education system. No change was made in the rules as a result of these comments.

Comment: Texas A&M University System noted that the proposed language is logistically problematic, saying the proposed language requires institutions to submit materials at the point where they "intend to engage in planning." Elsewhere the proposed language notes institutions must submit planning notification if they "intend to engage in any action that leads to the preparation of a proposal for a new program including but not limited to...." It is not possible to submit anticipated costs and revenues without first planning. The University of North Texas System (UNTS), The University of Texas System, and the Texas Tech University System submitted similar comments.

Staff Response: Staff agrees with the institutional comments, and made the revisions to sections 5.23 (1) and (6) of the proposed rules by deleting references to the terms "intent to plan" and "intends to engage in." The amended rules now require institutions to submit planning notification in order to notify the Board that planning for a new degree program has begun.

Comment: Texas A&M University System commented that the information to be submitted in the planning notification is significant: "Anticipated costs and revenues during the first five years, and identify the existing or new administrative unit." To provide this information requires planning and is more appropriate for the proposal stage of review. The Texas Tech University System submitted a similar comment.

Staff Response: Staff agrees with this comment, and made the corresponding corrections to section 5.24 (a) of the proposed rules by removing the requirement to submit "anticipated costs and revenues during the first five years" and "identify the existing or new administrative unit in which the proposed program would be offered."

Comment: Texas A&M University System commented that the proposed planning notification requirement would be redundant with the program approval process, requiring some of the same elements, and therefore will render the program submission process less efficient.

Staff Response: This revised planning notification process will improve the Board's ability to carry out its statutory mission to provide leadership and coordination for the Texas higher education system. No change was made in the proposed rules as a result of this comment.

Comment: The University of North Texas System expressed their concern that the proposed changes to rules exceed the statutory authority provided under Texas Education Code 61.0512 by requiring an institution to notify the Board before any planning work has begun. The University of Texas System submitted a similar comment.

Staff Response: The proposed rules have been amended in section 5.23 (1) to clarify that planning notification is "Formal notification from an institution that planning has begun for a proposal for a new degree program," rather than notification before planning begins. Once recognition from the Board is obtained, an institution would complete its planning and then submit its proposal.

Comment: The University of North Texas System expressed their objection to provisions in the proposed rules that define "planning" in an unduly broad manner, based upon intent to commit certain actions rather than the actions themselves. The definition also prescribes certain actions, along with the phrase "including but not limited to", which suggests that almost any action could be prohibited.

Staff Response: Staff agrees with the institution's comments, and deleted references to "intent to plan" and "including but not limited to" in sections 5.23 (1) and (6) of the proposed rules.

Chapter 5. Rules Applying to Public Universities, Health-Related Institutions, And/Or Selected Public Colleges of Higher Education in Texas

Subchapter B. Role and Mission, Planning Notification [~~Tables of Programs~~], Course Inventories

- 5.21 Purpose
- 5.22 Authority
- 5.23 Definitions
- 5.24 Submission of Mission Statements and Planning Notification [~~Table of Programs~~]
- 5.25 Course Approvals at Public Universities

5.21 Purpose

The purpose of this subchapter is to implement rules regarding the role and mission for each public institution of higher education in Texas and for submission of the role and mission statements, [~~and~~] submission of planning notification [~~the table of programs~~], and periodic review of all degree and certificate programs offered by a public institution of higher education. Section 5.24(a) of this title (relating to Submission of Mission Statements and Planning Notification [~~Tables of Programs~~]) applies to selected Public Colleges.

5.22 Authority

The authority for this subchapter is found in Texas Education Code, Sections 61.002(a) and (b), 61.027, 61.051(a-5), 61.0512, and 130.0012

5.23 Definitions

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

(1) Planning Notification—***Formal notification from an institution that planning has begun for a proposal for a new degree program. [Recognition*** [~~Preliminary Authority Authorization~~] from the State of Texas ***for an institution to continue [intend to engage in] planning in order*** to propose a new degree program[s] in a given disciplinary area at a given level of instruction.] [~~***The Board may request an institution and/or its system office provide an overview of the degree program they [intend to engage in] are planning to propose at a regularly scheduled Board meeting, prior to the institution or system office submitting a proposal to offer a new degree program.***~~] [The Table of Programs, defined in paragraph (8) of this section, prescribes the academic areas and levels that are recognized by the Board as being appropriate for an institution's existing role and mission.]

(2) Board--The Texas Higher Education Coordinating Board.

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

(4) Mission Statement--A narrative description of the general mission of each institution prepared by the institution and approved by its Board of Regents. The statement should address the fundamental purpose of the institution with respect to its teaching, research, and public service responsibilities. The institution's special concerns for quality and access, liberal arts, admissions, career-oriented programming, extension and articulation with community colleges and public schools, traditional and nontraditional education, and similar issues also may be described. The mission statement must be consistent with the ~~Table of Programs~~ and any statutory mission description.

(5) Organized classes--Classes whose primary mode of instruction is lecture, laboratory, or seminar.

~~(6) Planning—An institution is considered by the Board to be planning for a new degree program if it **takes [intends to engage in]** any action that leads to the preparation of a proposal for a new program, including **[but not limited to]** hiring personnel, including consultants and planning deans, leasing and/or purchasing real estate, building facilities, and/or developing curriculum.~~

~~(7) [(6)]~~ Program Inventory--The official list of all degree and certificate programs approved for a public community college, university or health-related institution.

~~(8) [(7)]~~ Role and Mission or Role and Scope--Equivalent phrases used to refer to the overall purpose of an institution, including its role within the overall system of Texas higher education. The role and mission ~~[documents]~~ for a university or health-related institution are described in its Mission Statement ~~[and Table of Programs]~~.

~~[(8) Table of Programs—A list of the university and health-related institution degree and certificate programs currently authorized using the Texas Classification of Instructional Programs (CIP) system. For each category and degree program level, authorization shall be designated by a code. The codes shall indicate whether or not degree programs in a particular subject matter category have been authorized for the institution and whether or not they fall within its approved mission.]~~

(9) Texas Classification of Instructional Programs (CIP) Coding System--The Texas adaptation of the federal Classification of Instructional Programs taxonomy developed by the National Center for Education Statistics and used nationally to classify instructional programs and report educational data.

(10) Selected Public Colleges--Those public colleges authorized to offer baccalaureate degrees in Texas.

(11) Statutory mission description--A statement of an institution's mission or purpose that is established directly in statute.

#### 5.24 Submission of Mission Statements and Planning Notification ~~[Table of Programs]~~

(a) When submitting a Planning Notification ~~[notification of its [intent to] plan]~~ to add a degree program (baccalaureate, master's, and doctoral) to the institution's program

inventory [Table of Programs], an institution of higher education ***may be requested to*** ~~[shall first be available to]~~ address the Board, ~~upon request,~~ at a regularly scheduled meeting ***to describe how the institution believes the potential program contributes to the efficient and effective diffusion of education throughout the state while avoiding costly duplication in program offerings, faculties, and physical plants. and An institution shall submit written information to the Board including the title of the potential proposed program, level, [and] Classification of Instructional Program (CIP) Code, [and] anticipated date of proposal submission, and provide a brief description of the proposed program [anticipated costs and revenues during the first five years, and identify the existing or new administrative unit in which the proposed program would be offered].*** Planning Notification must occur prior to an institution ***beginning planning for or*** submitting a proposal for a new degree program that requires Board approval.

(b) Review Process.

(1) As provided by Texas Education Code, §61.051(a-5) and §61.052, the Board shall regularly review the role and mission statements, [the table of programs,] and all similar degree and certificate programs offered by each public senior university or health related institution. [The review shall include the participation of the institution's board of regents.]

(2) The Boards [Board] of Regents shall approve or re-approve institutional mission statements. Each [The] Board of Regents shall provide the Coordinating Board with a [copy of] its current institutional mission statements after any change has been approved [by the Board of Regents].

(3) ***Planning Notification Notification of planning, which may require an institution to address the Board prior to submitting a proposal for a new degree program, must be submitted at least one year prior to submission of a proposal to offer the degree if the proposed program would be a program leading to the award of a "professional degree," as defined by Texas Education Code 61.306, including Doctor of Medicine (M.D.), Doctor of Osteopathy (D.O.), Doctor of Dental Surgery (D.D.S.), Doctor of Veterinary Medicine (D.V.M.), Juris Doctor (J.D.), and Bachelor of Laws (LL.B.). [is not] required if [a degree program meets any [all] of the following conditions:]***

***[(A) The proposed program would cost more than \$2 million during its first five years of operation [has institutional and Board of Regents approval].***

***[(B) The proposed program is a [non] doctoral program.]***

***[(C) The proposed program is an engineering [a non-engineering] program (i.e., not classified under CIP code 14)].***

***[(D) The program would be a baccalaureate program offered by a community college [university or health-related institution].***

***[(E) the [The] proposed program would be a program leading to the award of a "professional degree," as defined by Texas Education Code 61.306, including Doctor of Medicine (M.D.), Doctor of Osteopathy (D.O.), Doctor of Dental Surgery (D.D.S.), Doctor of Veterinary Medicine (D.V.M.), Juris Doctor (J.D.), and Bachelor of Laws (LL.B.). Institutions of higher education that***

~~**seek to offer such degrees must submit Planning Notification at least one year prior to submission of a proposal to offer the degree.**~~

5.25 Course Inventories [Approvals] at Public Universities

(a) Each institution shall report its course offerings and changes to its course offerings following procedures established by the Commissioner. The report must specifically identify any course included in the common course numbering system approved by the Board that has been added to or removed from the institution's list of courses, beginning with course lists submitted for the 2014-2015 academic year.

(b) Institutions may not offer courses at levels or in programs not approved by the Board.