

# PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

**Symbols in proposed rule text.** Proposed new language is indicated by underlined text. ~~Square brackets and strikethrough~~ indicate existing rule text that is proposed for deletion. “(No change)” indicates that existing rule text at this level will not be amended.

## TITLE 1. ADMINISTRATION

### PART 3. OFFICE OF THE ATTORNEY GENERAL

#### CHAPTER 55. CHILD SUPPORT ENFORCEMENT

##### SUBCHAPTER D. FORMS FOR CHILD SUPPORT ENFORCEMENT

###### 1 TAC §55.119

The Office of the Attorney General (OAG) Child Support Division proposes an amendment to 1 TAC §55.119(a) regarding the OMB form number for a Notice of Lien.

###### EXPLANATION OF AND JUSTIFICATION FOR THE RULES

This proposed amendment updates the OMB form number for the federal Notice of Lien form from Form OMB 0970-0153 to Form OMB 0970-152.

###### SECTION SUMMARY

The OAG proposes to amend §55.119(a) to change the OMB form number referenced in the code from Form OMB 0970-0153 to Form OMB 0970-0152.

###### FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Ruth Anne Thornton, Director of Child Support (IV-D Director), has determined that for the first five-year period the proposed amendment is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

###### PUBLIC BENEFIT AND COST

Ms. Thornton has also determined that for each year of the first five years the proposed amendment is in effect, the public will benefit by having the correct form cited in the code. This code references the external-facing OAG website which provides a link to the Notice of Lien OMB# 0970-0152 and reference to 1 TAC §55.119(a). In addition, for each year of the first five-year period the proposed rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules.

###### FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

Ms. Thornton has determined that the proposed amendment will not effect small businesses, micro-businesses, and rural communities required to comply with the amendment as proposed. Therefore, no regulatory flexibility analysis is required under Texas Government Code §2006.002.

###### LOCAL EMPLOYMENT OR ECONOMY IMPACT

Ms. Thornton has determined that the proposed amendment does not have an impact on local employment or economies. Therefore, no local employment or economy impact statement is required under Texas Government Code §2001.022.

###### GOVERNMENT GROWTH IMPACT STATEMENT

In compliance with Government Code §2001.0221, the OAG has prepared the following government growth impact statement. During the first five years the proposed amendment would be in effect, the proposed rule:

- will not create or eliminate a government program.
- will not require the creation of new employee positions or the elimination of existing employee positions.
- will not require an increase or decrease in future legislative appropriations to the agency.
- will not require an increase or decrease in fees paid to the agency.
- will not create new regulations.
- will not expand, limit, or repeal an existing regulation.
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect this state's economy.

###### TAKINGS IMPACT ASSESSMENT

The OAG has determined that no private real property interests are affected by the proposed amendment, and the proposed amendment does not restrict, limit, or impose a burden on an owner's rights to his or her private real property which would otherwise exist in the absence of government action. As a result, the proposed amendment does not constitute a taking or require a takings impact assessment under Texas Government Code §2007.043.

###### PUBLIC COMMENT

The Office of Attorney General, Child Support Division, invites comments on the proposed amended rule from any interested persons, including any member of the public. Written comments on this proposed amendment should be submitted to Joel Rogers, Associate Deputy Attorney General for Child Support Legal Services, Child Support Division, Office of the Attorney General, P.O. Box 12017, Mail Code 044, Austin, Texas 78711-2017 or CSD-Tex-Admin-Code@oag.texas.gov. Comments will be accepted for 30 days following publication in the *Texas Register*. Comments must be received within 30 days after the publication of this proposed amendment to be considered.

## STATUTORY AUTHORITY

The OAG proposes amendment to 1 TAC §55.119(a) under the authority of Texas Family Code §§231.001, 231.003. Section 231.001 designates the OAG as the state's Title IV-D agency. Section 231.003 authorizes the Title IV-D agency by rule to promulgate forms and procedures for the implementation of Title IV-D services. Texas Family Code §157.313 provides the contents of child lien, except as provided by subsection (e) which states a notice of lien may be in the form authorized by federal law or regulation. This amendment correctly identifies the authorized federal form for a notice of lien.

## CROSS-REFERENCE TO STATUTE

Amendment to 1 TAC §55.119(a) conforms to statutory requirements and supplements Texas Family Code §157.313(e) as authorized by Texas Family Code §§231.001, 231.003.

§55.119. *Forms for Notice of Lien, for Release of Child Support Lien, and for Partial Release of Child Support Lien.*

(a) The following form is to be filed with the county clerk of a county in which real or personal property of the obligor is believed to be located in accordance with the Texas Family Code, Chapter 157, Subchapter G. Notice of the lien may be given to any person known to be in possession of real or personal property of the obligor, and if such notice is given the property may not be paid over, released, sold, transferred, encumbered, or conveyed without incurring the penalties provided by the Texas Family Code, §157.324. The prescribed form for Notice of Lien (Form OMB 0970-0152) [~~Form OMB 0970-0153~~] can be obtained from the Texas Attorney General's Child Support Division webpage [www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov) under Child Support, Forms.

(b) The following form is to be used when the payment in full of all child support, costs, and attorney fees has been made. The prescribed form for Release of Child Support Lien (Form 1854B) can be obtained from the Texas Attorney General's Child Support Division webpage [www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov) under Child Support, Forms.

(c) The following form is to be used when not all child support, costs and attorney fees have been paid but the claimant agrees to release the lien on specific property. The prescribed form for Partial Release of Child Support Lien (Form 1854C) can be obtained from the Texas Attorney General's Child Support Division webpage [www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov) under Child Support, Forms.

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 July 15, 2024.

TRD-202403106

Justin Gordon

General Counsel

Office of the Attorney General

Earliest possible date of adoption: August 25, 2024

For further information, please call: (800) 252-8014



## TITLE 16. ECONOMIC REGULATION

### PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

## CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

### SUBCHAPTER S. WHOLESALE MARKETS

#### 16 TAC §25.510

The Public Utility Commission of Texas (commission) proposes an amendment to 16 Texas Administrative Code (TAC) §25.510 relating to the Texas Energy Fund In-ERCOT Generation Loan Program. The new rule was initially adopted by the commission on March 21, 2024, and published in the *Texas Register* on April 19, 2024, with an effective date of April 23, 2024.

This rule implements Public Utility Regulatory Act (PURA) §34.0104 as enacted by Senate Bill (SB) 2627 during the Texas 88th Regular Legislative Session. The rule establishes procedures for applying for a loan for construction of dispatchable electric generation facilities within the ERCOT region, evaluation criteria, and terms for repayment and also specifies a performance standard that an electric generating facility must achieve to obtain a loan. The proposed amendment to the rule is to correct an inadvertent omission by the Texas Register in the definitions for the formulas in subsection (b)(4) and (5). No other amendments have been made to the rule.

#### Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rule, as required by Texas Government Code §2001.0221. The agency has determined that, for each year of the first five years that the proposed rule is in effect, the following statements will apply:

- (1) the proposed rule will not create a government program and will not eliminate a government program;
- (2) implementation of the proposed rule will not require the creation or elimination of new employee positions;
- (3) implementation of the proposed rule will not require an increase in legislative appropriations;
- (4) implementation of the proposed rule will not require a decrease in future legislative appropriations to the agency;
- (5) the proposed rule will not require an increase and will not require a decrease in fees paid to the agency;
- (6) the proposed rule will create a new regulation;
- (7) the proposed rule will not expand, limit, or repeal an existing regulation;
- (8) the proposed rule will not change the number of individuals subject to the rule's applicability; and
- (9) the proposed rule will not affect this state's economy.

#### Fiscal Impact on Small and Micro-Businesses and Rural Communities

There is no adverse economic effect anticipated for small businesses, micro-businesses, or rural communities as a result of implementing the proposed rule. Accordingly, no economic impact statement or regulatory flexibility analysis is required under Texas Government Code §2006.002(c).

#### Takings Impact Analysis

The commission has determined that the proposed rule will not be a taking of private property as defined in Texas Government Code chapter 2007.

#### Fiscal Impact on State and Local Government

Adriana Gonzales, Legal Assistant, Rules and Projects Division, has determined that for the first five-year period the proposed rule is in effect, there will be no fiscal implications for the state or for units of local government under Texas Government Code §2001.024(a)(4) as a result of enforcing or administering the section.

#### Public Benefits

Ms. Gonzales has determined that for each year of the first five years the proposed rule is in effect, the public benefit anticipated as a result of enforcing the section will be aligning the posted rule in the Texas Administrative Code with the order previously adopted by the commission in this project. There will be no probable economic cost to persons required to comply with the rule under Texas Government Code §2001.024(a)(5).

#### Local Employment Impact Statement

For each year of the first five years the proposed section is in effect, there should be no effect on a local economy; therefore, no local employment impact statement is required under Texas Government Code §2001.022.

#### Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under §2001.0045(c)(7).

#### Public Hearing

The commission staff will conduct a public hearing on this rulemaking if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by August 9, 2024. If a request for public hearing is received, commission staff will file in this project a notice of hearing.

#### Public Comments

Interested persons may file comments electronically through the interchange on the commission's website or by submitting a paper copy to Central Records, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326. Austin, Texas 78711-3326. Comments must be filed by August 9, 2024. Comments should be organized in a manner consistent with the organization of the proposed rule. All comments should refer to Project Number 55826.

#### Statutory Authority

The rule is proposed under Public Utility Regulatory Act (PURA) §14.001, which grants the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; §14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §34.0104, which authorizes the commission to use money in the Texas Energy Fund to provide loans to finance upgrades to or new construction of electric generating facilities in the ERCOT region; §34.0106(c), which requires the commission to adopt performance standards that electric generating facilities must meet to obtain a loan; and §34.0110, which authorizes the commission to establish procedures

for the application and award of a grant or loan under PURA chapter 34, subchapter A.

Cross Reference to Statute: Public Utility Regulatory Act §§14.001, 14.002, 34.0104; 34.0106(c), and 34.0110.

*§25.510. Texas Energy Fund In-ERCOT Generation Loan Program.*

(a) (No change.)

(b) Definitions. The following words and terms, when used in this section, have the following meanings unless the context indicates otherwise.

(1) - (3) (No change.)

(4) 12-Month performance availability factor (PAF)--A metric calculated with ERCOT availability and real time (RT) telemetered data for each generation resource in an electric generating facility financed by a loan under this section. The PAF is computed as the average ratio of each generation resource's RT high sustainable limit (HSL) and its obligated capacity over a 12-month measurement period, expressed as a percentage. Intervals that occurred during an approved planned outage of a generation resource are excluded. The PAF is calculated as follows:

Figure: 16 TAC §25.510(b)(4)

[Figure: 16 TAC §25.510(b)(4)]

(5) 12-Month planned outage factor (POF)--A metric calculated with ERCOT data for each generation resource in an electric generating facility financed by a loan under this section. The POF is computed as the percentage of time each generation resource spent in planned outages over a 12-month measurement period. The POF is calculated as follows:

Figure: 16 TAC §25.510(b)(5)

[Figure: 16 TAC §25.510(b)(5)]

(c) - (k) (No change.)

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 July 11, 2024.

TRD-202403064

Adriana Gonzales

Rules Coordinator

Public Utility Commission of Texas

Earliest possible date of adoption: August 25, 2024

For further information, please call: (512) 936-7322



## TITLE 19. EDUCATION

### PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

#### CHAPTER 13. FINANCIAL PLANNING SUBCHAPTER G. TUITION AND FEES

##### 19 TAC §13.122

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter G, §13.122, concerning Tuition and Fees. Specifically, this new section will outline the manner in which nonresident tuition rates are established, includ-

ing an alternate nonresident tuition rate that general academic teaching institutions may request to use.

The Coordinating Board is authorized to adopt rules as necessary for the administration of nonresident tuition rates by Texas Education Code (TEC), Section 54.075. The Coordinating Board used negotiated rulemaking to develop these proposed rules. The Coordinating Board will make reports of negotiated rulemaking committees available upon request.

Rule 13.122(a) indicates the authorizing statute for the creation of this new rule.

Rule 13.122(b) indicates the definitions necessary for the administration of this new rule. To promote consistency in the Coordinating Board's rules, the proposed rule cross-references new definitions in Chapter 2, Subchapter P, which were published in the *Texas Register* on May 31, 2024, and will be considered for adoption at the Coordinating Board's July 2024 Board meeting. (Subchapter P will establish procedures relating to off-campus educational sites, courses, certificates, and degree programs, and it includes detailed definitions for these various types of locations.)

Rule 13.122(c) indicates that nonresident tuition rates provided by the applicable provisions of Texas Education Code, Chapters 51 and 54, including those outlined throughout rule 13.122, apply to any student who does not demonstrate residency, regardless of citizenship, as dictated by Texas Education Code, §54.051(m).

Rule 13.122(d) indicates the timing of when the Coordinating Board will publish the annual nonresident tuition rate and summarizes the students to whom the nonresident rate applies. This subsection replaces rule 21.2(a), which is proposed for repeal.

Rule 13.122(e) indicates the manner by which the Coordinating Board will calculate the nonresident tuition rate, as dictated by Texas Education Code, §54.051(d). This subsection replaces rule 21.2(b), which is proposed for repeal.

Rule 13.122(f) indicates the manner in which the Coordinating Board administers Texas Education Code, §54.0601. The Coordinating Board used negotiated rulemaking to develop this subsection of the new rule.

Paragraph (1) indicates the conditions under which a general academic teaching institution may request to use the alternate nonresident tuition rate at its parent institution (defined in rule 2.383). Eligibility to request to use the alternate nonresident tuition rate at the parent institution is based on the parent institution's 100-mile proximity to the border of Texas and another U.S. state. It is not based on the geographic location of an off-campus educational site. If approved, the alternate nonresident tuition rate applies only to the general academic teaching institution's on-campus students (defined in rule 2.383). If a student qualifies for the alternate nonresident rate, then the rate may be applied to any of the student's coursework at the general academic teaching institution. This level of detail is provided to help ensure consistent administration of the rule across the multiple general academic teaching institutions eligible to participate.

Paragraph (2) indicates the conditions under which a general academic teaching institution may request to use the nonresident tuition rate at its off-campus educational site(s) (defined in rule 2.383). The Board included a separate subsection for off-campus educational sites to provide clarity that the request and approval process, along with the applicability of the alternate tuition rate, is unique to the specific site. Eligibility to request to

use the alternate nonresident tuition rate at an off-campus educational site is based on that site's location within 100-miles of a border between Texas and another U.S. state and is requested separately from the parent institution. An off-campus educational site is eligible for consideration if the site offers at least one off-campus degree program (defined in rule 2.383). If approved, the alternate nonresident tuition rate applies only to the general academic teaching institution's eligible off-campus students (defined in rule 2.383) whose off-campus degree program is offered through the off-campus educational site. If a student qualifies for the alternate nonresident rate, then the rate may be applied to any of the student's coursework at the general academic teaching institution. This level of detail is provided to help ensure consistent administration of the rule across the multiple general academic teaching institutions eligible to participate.

Paragraph (3) indicates that the alternate nonresident tuition rate applies only to those nonresident students for whom the Coordinating Board is responsible for calculating a nonresident tuition rate, as determined by Texas Education Code, §54.051.

Paragraph (4) indicates the impact that using an alternate nonresident tuition rate will have on the calculation of formula funding, as dictated by Texas Education Code, §61.059.

Paragraph (5) indicates the process by which institutions may request to use the alternate nonresident tuition rate. Such a request can be understood as having three main components: methodology, scope, and rationale. First, institutions will provide a methodology by which they will calculate the alternate nonresident tuition rate. This methodology can be for a full biennium (i.e. a calculable relationship between the alternate nonresident rate and other tuition rates), or institutions may submit annual requests with discrete alternate nonresident tuition rates. Second, the institution also must define the scope of its use of the alternate nonresident tuition rate. This includes the specific educational site for which the request is being made (institutions with multiple eligible education sites must submit separate requests for each) and state(s) from which nonresident students would receive the requested alternate rate. The alternate nonresident tuition rate is limited to students who reside in a U.S. state of which any portion is within a 135-mile radius of the educational site for which the request is being submitted. This operationalizes guidance previously provided by the Coordinating Board after the statute was originally created. The Coordinating Board views this restriction as a reasonable measure to prevent unreasonable harm to other institutions of higher education. Finally, institutions also must provide their justification for requesting the alternate rate by providing explanations of why offering the rate is in the best interest of the institution and why it would not cause unreasonable harm to another institution, which are required by statute. This information will be used in the Coordinating Board's review and approval process.

Paragraph (6) indicates the Coordinating Board's review and approval process for requests. The Coordinating Board may deny or approve the request, in whole or in part, within 30 calendar days of receiving the request. Institutions may not offer or publish the alternate rate until after they have received approval from the Coordinating Board.

Paragraph (7) indicates the minimum allowable nonresident tuition rate, which is consistent with the minimum rate established in rule 21.2264(d), which is proposed for repeal.

Paragraph (8) indicates that institutions will continue to report the use of the alternate nonresident tuition rate as a waiver to min-

imize any potential impact on long-standing reporting requirements.

Paragraphs (9) through (11) allow students who were previously granted the alternate tuition rate to continue to receive the rate under subsection (f) if they may no longer qualify following adoption of the proposed rule. These subsections provide a "grandfathering" period through the 2029-2030 academic year, while institutions realign their practices with the new rule. The grandfathering period is established to minimize the financial impact of the rule change on current students, and it requires that the student stay continuously enrolled and that the institution continues to be approved for the alternate nonresident tuition rate.

Dr. Charles Contero-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles Contero-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the increased clarity regarding the establishment of nonresident tuition rates to support greater consistency in the administration of these rates by institutions of higher education. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles Contero-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under Texas Education Code, Section 54.075, which provides the Coordinating Board with the authority to adopt rules to carry out the purposes of Texas Education Code, Chapter 54, Subchapter B.

The proposed new section affects Texas Education Code, Sections 54.051 and 54.0601.

#### §13.122. Determination of Tuition Rate for Nonresident Students.

(a) Authorizing Statute. The Coordinating Board's responsibilities regarding tuition rates for nonresident students are authorized through Texas Education Code, §54.051, "Tuition Rates," and §54.0601, "Nonresident Tuition Rates at Certain Institutions," and the Coordinating Board is authorized to adopt rules by §54.075.

(b) The following words and terms, when used in this section, shall have meanings as defined in §2.383 of this title (relating to Definitions):

- (1) off-campus degree program;
- (2) off-campus educational site;
- (3) off-campus student;
- (4) on-campus student; and
- (5) parent institution.

(c) In accordance with Texas Education Code, §54.051(m), the tuition rates for nonresident students that are provided by the applicable provisions of Texas Education Code, chapters 51 and 54, will be applied to any student who does not demonstrate residency per chapter 21, subchapter B of this title (relating to Determination of Resident Status), regardless of the student's citizenship.

(d) Prior to January 1 of each calendar year in which the academic year begins, or as soon thereafter as is practicable, the Coordinating Board shall determine the minimum nonresident tuition rate per subsection (e) of this section, and report the rate to the appropriate institutions, pursuant to Texas Education Code, §51.051(d). This minimum rate generally applies to nonresident students enrolled in general academic teaching and health-related institutions, unless Texas law provides for a different rate to be applied to a particular program or student.

(e) The minimum nonresident tuition rate set per semester credit hour per subsection (d) of this section, is calculated as dictated by Texas Education Code, §54.051.

(f) Alternate Nonresident Tuition Rate. General academic teaching institutions, as defined by Texas Education Code, §61.003, "Definitions," are eligible to request an alternate nonresident tuition rate that is lower than otherwise calculated by subsection (d) of this section.

(1) A general academic teaching institution may request an alternate nonresident tuition rate if the primary physical address of the parent institution is located within a 100-mile radius of the boundary of Texas with another U.S. state. If approved, this nonresident tuition rate applies only to the institution's on-campus students but includes students taking courses at both the parent institution and its off-campus educational sites.

(2) A general academic teaching institution may request an alternate nonresident tuition rate if the primary physical address of an off-campus educational site offering at least one off-campus degree program is located within a 100-mile radius of the boundary of Texas with another U.S. state. If approved, this nonresident tuition rate applies only to the institution's off-campus students enrolled in an off-campus degree program offered at the approved off-campus educational site but includes students taking courses at both the parent institution and its off-campus educational sites.

(3) The nonresident tuition rate under this subsection may be applied only to nonresident students who would otherwise be

charged the minimum nonresident tuition rate or a multiplier of such rate. This includes undergraduate, graduate, law school, nursing and allied health profession, optometry, and undergraduate and graduate pharmacy students. It does not include M.D., D.O., D.D.S., or D.V.M. students.

(4) For an institution that charges a nonresident tuition rate under this subsection, the Coordinating Board may not include in a formula under Texas Education Code, §61.059, "Appropriations," funding based on the number of nonresident undergraduate students enrolled at the institution in excess of 10 percent of the total number of undergraduate students enrolled at the institution.

(5) In order to utilize a nonresident tuition rate under subsection (e) of this section, the governing board of the institution, or designee if permitted by law, must submit a written request to the Coordinating Board that includes:

(A) the proposed methodology for determining the nonresident tuition rate that the institution will use under this subsection;

(B) the academic year(s) within a legislative biennium for which the general academic teaching institution is requesting approval to use the non-resident tuition rate under this subsection;

(C) the primary physical address of the parent institution or off-campus educational site offering at least one off-campus degree program that is located within a 100-mile radius of the boundary of Texas with another state and at which the general academic teaching institution proposes to use the nonresident tuition rate under this subsection;

(D) the U.S. state or states, of which any portion is within a 135-mile radius of the parent institution or off-campus educational site provided under subparagraph (C) of this paragraph, to whose residents the institution proposes to apply the nonresident tuition rate under this subsection;

(E) an explanation of why offering a nonresident tuition rate under this subsection is in the best interest of the institution; and

(F) an explanation of why offering a nonresident tuition rate under this subsection will not cause unreasonable harm to any other institution of higher education, as defined by Texas Education Code, §61.003, "Definitions."

(6) The Commissioner shall review the requested tuition rate and determine if it is in the best interest of the institution and whether it would cause harm to any other institution. The Commissioner may deny or approve, in whole or in part, an institution's request, and will communicate his or her decision in writing to the requesting institution within thirty (30) calendar days of the Coordinating Board's receipt of the institution's request. To the extent approved by the Commissioner, the institution shall utilize the nonresident tuition rate under this subsection for residents of the eligible state or states included in the Commissioner's approval during the academic year(s) stated in the approval. Requests must be approved by the Commissioner prior to offering or publishing an alternate nonresident tuition rate to eligible students by the institution.

(7) The nonresident tuition rate approved for a general academic teaching institution by the Coordinating Board under this subsection may not be less than \$30 more than the resident tuition rate outlined in Texas Education Code, 54.051(c).

(8) The difference between the nonresident tuition rate set annually by the Coordinating Board, under subsection (c) of this section, and an alternate nonresident tuition rate approved under this subsection shall be reported by the institution as a waiver on relevant Coordinating Board data submissions.

(9) General academic teaching institutions who received Commissioner approval to offer a nonresident tuition rate under former §21.2264 of this title (relating to General Academic Teaching Institutions Located within 100 Miles of the Texas Border) for the 2024 - 2025 academic year prior to August 31, 2024, may continue to offer the approved nonresident tuition rate in the 2024 - 2025 academic year to individuals who qualified and established eligibility pursuant to §21.2264 as it existed prior to repeal.

(10) If an individual received a nonresident tuition rate under former §21.2264 prior to the 2025 - 2026 academic year that was approved by the Commissioner, and is no longer eligible to receive the nonresident tuition rate based on this subsection, then the institution may continue to offer the nonresident tuition rate based on this subsection to that individual if that individual remains continuously enrolled and the institution has Commissioner approval to offer the nonresident tuition rate under this subsection for the applicable academic year.

(11) Paragraph (10) of this subsection expires at the end of 2029 - 2030 academic year.

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 July 12, 2024.

TRD-202403084

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: August 25, 2024

For further information, please call: (512) 427-6365



## CHAPTER 21. STUDENT SERVICES SUBCHAPTER A. GENERAL PROVISIONS

### 19 TAC §21.2

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 21, Subchapter A, §21.2, concerning General Provisions. Specifically, this repeal will eliminate a duplicative rule.

Rule 21.2, Determination of Tuition Rate for Nonresident and Foreign Students, is repealed. The provisions of this rule have been incorporated into §13.122 (relating to Determination of Tuition Rate for Nonresident Students) in the new Chapter 13, Subchapter G, Tuition and Fees. Accordingly, this section is duplicative and can be eliminated without affecting Coordinating Board operations.

Dr. Charles Contero-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles Contero-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the elimination of a duplicative rule. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles Contero-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code, Section 54.075, which provides the Coordinating Board with the authority to adopt rules to carry out the purposes of Texas Education Code, Chapter 54, Subchapter B.

The proposed repeal affects Texas Education Code, Section 54.051.

#### *§21.2. Determination of Tuition Rate for Nonresident and Foreign Students.*

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

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Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

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For further information, please call: (512) 427-6365



## SUBCHAPTER SS. WAIVER PROGRAMS FOR CERTAIN NONRESIDENT PERSONS

### 19 TAC §21.2264

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 21, Subchapter SS, §21.2264, concerning Waiver Programs for Certain Nonresident Persons. Specifically, this repeal will eliminate a duplicative rule.

Rule 21.2264, General Academic Teaching Institutions Located within 100 Miles of the Texas Border, is repealed. The provisions of this rule have been incorporated into §13.122 (relating to Determination of Tuition Rate for Nonresident Students) in the new Chapter 13, Subchapter G, Tuition and Fees. Accordingly, this section is duplicative and can be eliminated without affecting Coordinating Board operations.

Dr. Charles Contero-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles Contero-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the elimination of a duplicative rule. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles Contero-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code, Section 54.075, which provides the Coordinating Board with the authority to adopt rules to carry out the purposes of Texas Education Code, Chapter 54, Subchapter B.

The proposed repeal affects Texas Education Code, Section 54.0601.

#### *§21.2264. General Academic Teaching Institutions Located within 100 Miles of the Texas Border.*

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

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## CHAPTER 22. STUDENT FINANCIAL AID PROGRAMS

### SUBCHAPTER H. PROVISIONS FOR THE LICENSE PLATE INSIGNIA SCHOLARSHIP PROGRAM

#### 19 TAC §§22.141, 22.143 - 22.147

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter H, §22.141 and §§22.143 - 22.147, concerning Provisions for the License Plate Insignia Scholarship Program. Specifically, this repeal will eliminate unnecessary rules and institutional reporting requirements.

Texas Transportation Code, §504.615, establishes the License Plate Insignia Scholarship Program, which allows for the transfer of funds collected by the Texas Department of Motor Vehicles from the purchase of institution-specific specialty license plates to Texas institutions of higher education to provide financial aid to students with need. Texas Administrative Code, Chapter 22, Subchapter H, includes rules related to institutional responsibilities, student eligibility for associated aid, and allocation and disbursement procedures. Upon review, the Coordinating Board has concluded that the necessary provisions for the agency or participating institutions to meet statutory obligations related to the program already exist in statute or elsewhere in the Coordinating Board's rules. Accordingly, repealing the rules in this subchapter will not affect Coordinating Board operations while advancing its interest in eliminating unnecessary institutional reporting requirements.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the elimination of unnecessary rules and institutional reporting requirements. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Transportation Code, Section 504.615, which establishes the License Plate Insignia Scholarship Program.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 22.

§22.141. *Authority and Purpose.*

§22.143. *Institutions.*

§22.144. *Eligible Students.*

§22.145. *Award Amounts and Uses.*

§22.146. *Allocations and Reallocations.*

§22.147. *Disbursements.*

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

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Nichole Bunker-Henderson

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Texas Higher Education Coordinating Board

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For further information, please call: (512) 427-6365



## SUBCHAPTER Q. TEXAS B-ON-TIME LOAN PROGRAM

#### 19 TAC §22.342

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter Q, §22.342, concerning the Texas B-On-Time Loan Program. Specifically, this new section will govern the allocation and use of remaining funds in the Texas B-On-Time Student Loan Account after its abolition. The Coordinating Board is authorized to establish rules as necessary to administer the B-On-Time Student Loan Program under Texas Education Code (TEC), Section 56.0092.



Section 22.342, Appropriation of Funds from Former B-On-Time Student Loan Account, is proposed to establish the allocation methodology and approved uses of funds remaining in the B-On-Time Student Loan Account after its abolition on September 1, 2024, pursuant to Section 4.07 of Senate Bill 30, 88th Legislative Session. The methodology (which was originally agreed upon in a negotiated rulemaking proceeding following the creation of TEC, Section 56.0092, by House Bill 700, 84th Legislative Session but never adopted into rule) would allocate funds among institutions that participated in the B-On-Time Program during Fiscal Years 2007 and 2015 proportionately based on each institution's unused tuition set-asides (i.e., total program disbursements less total program set-asides) for the period. Institutions that disbursed more funds than were set aside during the period will not receive an allocation. Allocated funds must be used to increase the number of at-risk students who graduate from the institutions or the rate at which at-risk students graduate from the institution.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the allocation of funds in an expiring state account to support the success of at-risk students. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under Texas Education Code, Section 56.0092, which provides the Coordinating Board with the authority to establish rules as necessary to administer the B-On-Time Loan Program.

The proposed new section affects Texas Administrative Code, Title 19, Part 1, Chapter 22.

#### §22.342. Appropriation of Funds from Former B-On-Time Student Loan Account.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings:

(1) At-Risk Student--An undergraduate student who has previously received a grant under the federal Pell Grant program, met the Expected Family Contribution (EFC) criterion for a grant under that program, or whose total score on the SAT or the ACT, excluding the optional essay test, is less than the national mean of students' scores on the applicable test.

(2) Eligible Institution--A general academic teaching institution described by Texas Education Code, §56.451(2)(A), or a medical and dental unit described by Texas Education Code §56.451(2)(B), as those paragraphs existed immediately before September 1, 2015.

(3) Total Disbursements--The total amount of tuition set-aside funds disbursed by an eligible institution to students for the B-On-Time Loan Program during Fiscal Years 2007 through 2015.

(4) Total Set-Asides--The total amount of tuition funds set aside by an eligible institution for the B-On-Time Loan Program during Fiscal Years 2007 through 2015.

(5) Unused Set-Asides--The amount of funds remaining after subtracting an eligible institution's total disbursements from its total set-asides. If an eligible institution's total disbursements are greater than its total set-asides, the institution's unused set-asides are considered to be zero.

(b) Allocation. After the abolition of the Texas B-On-Time Student Loan Account, the Coordinating Board may allocate any remaining money in the account to eligible institutions. Each eligible institution's proportion of the allocation shall be its unused set-asides divided by the sum of all eligible institutions' unused set-asides.

(c) Verification of Data. Allocation calculations will be shared with all eligible institutions for comment and verification prior to final posting, and the institutions will be given ten (10) working days, beginning the day of the notice's distribution and excluding State holidays, to confirm that the allocation report accurately reflects the B-On-Time disbursements for Fiscal Years 2007 through 2015 or to notify the Coordinating Board in writing of any inaccuracies.

(d) An eligible institution that receives an appropriation of money under this section may use the money only to support efforts to increase the number of at-risk students who graduate from the institution or the rate at which at-risk students graduate from the institution.

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

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## SUBCHAPTER V. TEXAS SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS CHALLENGE SCHOLARSHIP PROGRAM

### 19 TAC §§22.570 - 22.577

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter V, §§22.570 - 22.577, concerning the Texas Science, Technology, Engineering, and Mathematics Challenge Scholarship Program. Specifically, this repeal will eliminate the entire subchapter, which is no longer necessary as the program is inoperative.

Texas Education Code, Section 61.9792, provides the Coordinating Board with the authority to adopt rules for the administration of the Texas Science, Technology, Engineering, and Mathematics Challenge Scholarship Program. The program has not been funded and thus has been inoperative for several biennia. Given the number of programs managed by the Coordinating Board and the agency's interest in informing the public accurately about its programmatic offerings, elimination of these rules will provide greater clarity to the public regarding the availability of student financial assistance.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be greater clarity regarding Coordinating Board operations by eliminating rules for an inoperative program. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at [SFAPPolicy@highered.texas.gov](mailto:SFAPPolicy@highered.texas.gov). Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code, Section 61.9792, which provides the Coordinating Board with the authority to administer the program.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 22.

§22.570. *Authority, Scope, and Purpose.*

§22.571. *Definitions.*

§22.572. *Institutions.*

§22.573. *Eligible Students.*

§22.574. *Request for Application by Eligible Institutions.*

§22.575. *Scholarship Application Process.*

§22.576. *Award Amounts.*

§22.577. *Reports.*

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

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Nichole Bunker-Henderson

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Texas Higher Education Coordinating Board

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## SUBCHAPTER BB. NURSING SHORTAGE REDUCTION PROGRAM RIDER 28 STUDY WORK GROUP

### 19 TAC §§22.751 - 22.757

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 22, Subchapter BB, §§22.751 - 22.757, concerning the Nursing Shortage Reduction Program Rider 28 Study Work Group. Specifically, this repeal will eliminate the entire subchapter, which is no longer necessary as the study work group completed its function and is now inoperative.

The General Appropriations Act, HB 1, Article III-56, Section 28, Subsection g, 86th Texas Legislature, directed the Coordinating Board to establish the work group and provided authority to

adopt rules to govern its operations. The 24-member work group appointed by the Coordinating Board met six times in 2019 and 2020 and issued its final report in October 2020. Pursuant to rule §22.754 and in accordance with Texas Government Code, Chapter 2110, the work group was abolished thereafter. Accordingly, repeal of these rules will not affect agency operations while advancing the agency's interest in informing the public accurately regarding its programmatic offerings and activities.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the elimination of rules for a work group that has completed its function and is now inoperative. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code, Section 61.026, which provides the Coordinating Board with the authority to establish and adopt rules relating to advisory committees.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 22.

§22.751. *Authority and Specific Purpose of the Nursing Shortage Reduction Program Rider 28 Study Work Group.*

§22.752. *Definitions.*

§22.753. *Work Group Membership.*

§22.754. *Duration.*

§22.755. *Meetings.*

§22.756. *Tasks Assigned to the Work Group.*

§22.757. *Report to the Board; Evaluation of Work Group Costs and Effectiveness.*

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 July 12, 2024.

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Nichole Bunker-Henderson

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Texas Higher Education Coordinating Board

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For further information, please call: (512) 427-6365



## CHAPTER 23. EDUCATION LOAN REPAYMENT PROGRAMS

### SUBCHAPTER B. TEACH FOR TEXAS LOAN REPAYMENT ASSISTANCE PROGRAM

#### 19 TAC §§23.31 - 23.36

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments and new section in Texas Administrative Code, Title 19, Part 1, Chapter 23, Subchapter B, §§23.31 - 23.36, concerning the Teach for Texas Loan Repayment Assistance Program. Specifically, the amendments and new section will align the subchapter with others in Chapter 23 regarding structure, form, and language; eliminate duplicative provisions; and clarify potential ambiguities in existing rules. The Coordinating Board is authorized to establish rules as necessary to administer the Teach for Texas Loan Repayment Assistance Program under Texas Education Code (TEC), Section 56.3575.

Rule 23.31 is amended to make conforming edits to the Authority subsection and include the full range of TEC sections related to the program. These changes will align language with similar provisions in other subchapters in Chapter 23.

Rule 23.32 is amended to add a clarifying definition for "public school" and to eliminate unnecessary definitions. The definition for "public school" is already the operational definition for the term and is included to further clarify that otherwise eligible teachers at both traditional public and public charter schools may participate in the program. The definition of "Board" is removed after being made duplicative by the inclusion of a definition for "Coordinating Board" in §23.1 (relating to Definitions) in the general provisions of this chapter. Provisions relating to the education loans of program applicants and participants similarly have been consolidated in §23.2 (relating to Eligible Lender and Eligible Education Loan) in the general provisions of this chapter, making the definition of "default" in this subchapter unnecessary.

Rule 23.33 is amended to make non-substantive edits to improve clarity and readability. The section is retitled to conform to a consistent rule structure and naming convention throughout Chapter 23. Reference to "individual" is changed to "applicant" to conform with usage in other subchapters in the chapter. Eligibility criteria are re-ordered for greater clarity, and the amended

rule clarifies that an applicant must have taught full-time for one service period in the last academic year. None of these amendments deviate from current Coordinating Board practice.

Rule 23.34 is amended to clarify the prioritization of eligible applicants when funds are insufficient to offer loan repayment assistance to all eligible applicants. The section is retitled to conform to a consistent rule structure and naming convention throughout Chapter 23. The new subsection (b) does not change current prioritization policy but reflects a few clarifying edits to explain potential ambiguities in the current rule language.

Rule 23.35 is created to establish provisions related to the amount of loan repayment assistance available under the program. The new provisions codify the Coordinating Board's current practice of setting the maximum amount of loan repayment assistance annually based on available funding and the number of eligible applicants.

Rule 23.36 is amended to eliminate rule language related to disbursement of loan repayment assistance funds, which now are unnecessary following the creation of §23.3 (relating to Method of Disbursement) in the general provisions of the Chapter 23. The section is retitled to more accurately reflect the section's purpose and to conform with the consistent rule structure and naming convention throughout the chapter. Paragraph (2) codifies the Coordinating Board's practice that the amount of loan repayment assistance may not exceed unpaid principal and interest on an eligible education loan(s). This language is being added to the rules for all Coordinating Board loan repayment assistance programs.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the establishment of rules that more clearly articulate Coordinating Board policy and better align with rules governing the Coordinating Board's other loan repayment assistance programs. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments and new section are proposed under Texas Education Code, Section 56.3575, which provides the Coordinating Board with the authority to adopt rules necessary for the administration of the Teach for Texas Loan Repayment Assistance Program.

The proposed amendments and new section affect Texas Administrative Code, Title 19, Part 1, Chapter 23.

#### §23.31. Authority and Purpose.

(a) Authority. Authority for this subchapter is provided in [the Chapter 56 of] the Texas Education Code, Chapter 56, Subchapter O, Teach for Texas Loan Repayment Assistance Program. These rules establish procedures to administer the subchapter as prescribed in the Texas Education Code, §§56.351 - 56.359 [§56.352].

(b) Purpose. The purpose of the Teach for Texas Loan Repayment Assistance Program is to recruit and retain classroom teachers in communities and subjects for which there is an acute shortage of teachers in Texas.

#### §23.32. Definitions.

In addition to the words and terms defined in §23.1 of this chapter (relating to Definitions), the [The] following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

~~[(1) Board--The Texas Higher Education Coordinating Board.]~~

(1) [(2)] Certified Educator--A person who has completed all requirements for a standard teaching certificate in the State of Texas. A person holding a probationary certificate, temporary classroom assignment permit, emergency permit, or a nonrenewable permit is not considered a certified educator. The term does not include a teacher's aide or a full-time administrator.

(2) Public School--A school in a Texas school district or a public charter school authorized to operate under Texas Education Code, Chapter 12.

~~[(3) Default--For purposes of this subchapter, a loan is considered in default if it is reduced to judgment.]~~

(3) [(4)] Service Period--A period of service of at least 9 months of a 12-month academic year.

(4) [(5)] Shortage Communities--Texas public schools identified annually by the Texas Commissioner of Education, or his/her designee, whose percentage of economically disadvantaged students is higher than the statewide average percentage of students receiving free or reduced cost lunches.

(5) [(6)] Shortage Teaching Fields--Subjects identified annually by the Texas Commissioner of Education, or his/her designee, as having a critical shortage of teachers.

(6) [(7)] Teaching full-time--Teaching at least four hours each day performing instructional duties as a full-time employee of a Texas public school district.

§23.33. Applicant Eligibility [Eligible Teacher].

To be eligible for loan repayment assistance, an applicant [individual] must:

[(1) be certified in a shortage teaching field; be currently teaching full time in that field at the time of application, and have taught in that field full time for at least one year at the preschool, primary, or secondary level in a Texas public school; or]

[(2) be a certified educator currently teaching in a shortage community full time at the time of application at the preschool, primary, or secondary level and have taught in that community full time for at least one year; and]

(1) [(3)] submit a completed application to the Coordinating Board by the stated deadline; and[.]

(2) be one of the following:

(A) a certified educator in a shortage teaching field, currently teaching full-time in that field at the time of the application, and have taught in that field full-time for one service period in the last academic year at the preschool, primary, or secondary level in a Texas public school; or

(B) a certified educator currently teaching full-time at the preschool, primary, or secondary level in a shortage community, and have taught in that community full-time for one service period in the last academic year.

§23.34. Applicant Ranking Priorities [Priorities of Application Acceptance and Ranking of Applications].

(a) [Renewal applications shall be given priority over first-time applications unless a break in service periods has occurred. Acceptance of initial applications will depend upon the availability of funds.] An application deadline will be established each year and published on the Coordinating Board's website. [Applications will be ranked according to the following criteria, in order of priority:]

[(1) Teaching in a shortage field while also teaching in a shortage community that has the most severe teacher shortages.]

[(2) Teaching any subject in a shortage community that has the most severe teacher shortages.]

[(3) Teaching in a shortage field while also teaching in a shortage community.]

[(4) Financial need based on the applicant's adjusted gross income as reported on the most recently filed federal income tax return.]

(b) If there are not sufficient funds to offer loan repayment assistance to all eligible applicants, applications shall be ranked by the following criteria, in order of priority:

(1) Renewal applications, unless a break in service periods has occurred;

(2) Teaching in a shortage teaching field while also teaching in a shortage community, prioritizing the communities based on the highest degree of shortage;

(3) Teaching any subject in a shortage community, prioritizing the communities based on the highest degree of shortage;

(4) Teaching in a shortage teaching field in a non-shortage community; and

(5) Financial need based on the applicant's adjusted gross income as reported on the most recently filed federal income tax return.

§23.35. Amount of Loan Repayment Assistance.

Taking into consideration the amount of available funding and the number of eligible applicants, the Commissioner shall determine annually the maximum loan repayment assistance amount offered under this subchapter.

§23.36. Limitations [Repayment of Education Loans].

In addition to the limitations associated with eligible education loans established in §23.2 of this chapter (relating to Eligible Lender and Eligible Education Loan), the following limitations apply to the Teach for Texas Loan Repayment Assistance Program. [Eligible education loans shall be repaid under the following conditions:]

[(1) the annual repayment(s) shall be in one disbursement made payable to the holder(s) of the loan(s) or co-payable to the teacher and the holder(s) of the loan(s);]

[(2) the Commissioner of Higher Education or his or her designee shall determine the maximum annual repayment amount in each fiscal year, taking into consideration the amount of available funding and the number of eligible applicants; and]

(1) [(3)] A [the] teacher shall not receive loan repayment assistance for more than five service periods [years].

(2) A teacher's loan repayment assistance amount may not exceed the unpaid principal and interest owed on one or more eligible education loans, as described in §23.2 of this chapter (relating to Eligible Lender and Eligible Education Loan).

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 July 12, 2024.

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Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: August 25, 2024

For further information, please call: (512) 427-6365



## SUBCHAPTER B. TEACH FOR TEXAS LOAN REPAYMENT ASSISTANCE PROGRAM

### 19 TAC §23.35

The Texas Higher Education Coordinating Board (Coordinating Board) proposes repeal of Texas Administrative Code, Title 19, Part 1, Chapter 23, Subchapter B, §23.35, concerning the Teach for Texas Loan Repayment Assistance Program. Specifically, this repeal will eliminate a duplicative provision. The Coordinating Board is authorized to adopt rules as necessary to administer the program by Texas Education Code (TEC) §56.3575.

Rule 23.35 is repealed. The provisions of this rule have been incorporated into rule §23.2 (relating to Eligible Lender and Eligible Education Loan) in the general provisions of this chapter. Accordingly, this section is duplicative and can be eliminated without affecting Coordinating Board operations.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the

first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the improved rule clarity by eliminating a duplicative provision. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email [SFAPPolicy@highered.texas.gov](mailto:SFAPPolicy@highered.texas.gov). Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code, Section 56.3575, which provides the Coordinating Board with the authority to adopt rules as necessary to administer the Teach for Texas Loan Repayment Assistance Program.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 23.

#### §23.35. *Eligible Lender and Eligible Education Loan.*

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 July 12, 2024.

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Nichole Bunker-Henderson

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Texas Higher Education Coordinating Board

Earliest possible date of adoption: August 25, 2024

For further information, please call: (512) 427-6365



## SUBCHAPTER C. [THE] PHYSICIAN EDUCATION LOAN REPAYMENT ASSISTANCE PROGRAM

### 19 TAC §§23.62, 23.65 - 23.68, 23.70, 23.71

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 23, Subchapter C, §§23.62, 23.65 - 23.68, 23.70, and 23.71, concerning the Physician Education Loan Repayment Assistance Program. Specifically, this amendment will align the subchapter with others in Chapter 23 regarding structure, form, and language; eliminate duplicative provisions; and clarify potential ambiguities in existing rules.

The Coordinating Board is authorized to establish rules as necessary to administer The Physician Education Loan Repayment Program under Texas Education Code (TEC), Section 61.537.

The subchapter is retitled to conform with the titles of the other subchapters in Chapter 23. Conforming changes to the program title are made throughout the subchapter, specifically in rules 23.62 and 23.71.

Rule 23.62 is amended to make nonsubstantive changes. The appropriate TEC chapter is added to the Authority section to conform with the structure of similar provisions in other subchapters.

Rule 23.65 is amended to eliminate unnecessary definitions and make nonsubstantive, clarifying changes to others. After the creation of a definition for "Coordinating Board" in §23.1 (relating to Definitions) in the general provisions for this chapter, the definition of "Board" in §23.65 is redundant, with all references to "Board" throughout the subchapter changed to "Coordinating Board." Definitions for "CHIP" and "Federally Qualified Health Center" are eliminated due to being used only once throughout the subchapter, and so have been incorporated contextually when they appear. No proposed changes to this rule will affect administration of the program.

Rule 23.66 is amended to simplify program eligibility rules so they more clearly reflect Coordinating Board practice. The rule is retitled to conform to a consistent rule structure and naming convention throughout Chapter 23. Historically, eligibility for this program has been a two-step process, with applicants establishing initial eligibility for the program - prompting the Coordinating Board to encumber funds - and then, after completing a service period, becoming eligible for disbursement of those funds. These processes have since been combined, with applicants establishing eligibility after their first service period. Accordingly, the existing subsections (a) and (b), which related to these separate stages, have been combined. Further edits are made to clarify certain eligibility criteria, but the proposed rule changes will not change existing program requirements.

Rule 23.67 is amended to clarify how the Coordinating Board prioritizes disbursement in the event that available funds are insufficient to offer loan repayment assistance to all eligible applicants. The rule is retitled to conform to a consistent rule structure and naming convention throughout Chapter 23. The proposed changes are not intended to reflect a change in Coordinating Board policy; rather, they are proposed to improve the readability and clarity of the rule. Proposed changes clarify that previously used "highest degree of shortage" language associated with health professional shortage areas (HPSA) is established via the HPSA score of 1 to 25, with higher scores reflecting greater shortage. Subparagraph (3)(B) is clarified to estab-

lish that a "rural county" is a county with a population of less than 50,000 persons, which aligns with the Coordinating Board's operational definitions for rural HPSA in this program and "rural county" in other loan repayment programs.

Rule 23.68 is amended to make nonsubstantive edits to provisions related to physicians who establish eligibility for the program based on services to Medicaid or Texas Women's Health Program enrollees. Language in subsection (a) related to a written statement of intent to provide services is eliminated to align with the consolidation of the two-step eligibility process in §23.66. Changes to subsection (b) add detail to current practice related to the Coordinating Board's receipt of Medicaid HMO encounter data from the Health and Human Services Commission.

Rule 23.70 is amended to eliminate outdated provisions related to maximum loan repayment assistance amounts. Existing subsection (a) is eliminated; these provisions related only to individuals who established eligibility for the program before September 1, 2019. Because program eligibility is contingent on consecutive service periods, these provisions are no longer operative and can be eliminated. Conforming changes are made throughout the rule.

Rule 23.71 is amended to eliminate unnecessary provisions or potential ambiguities in the program's limitations. Former subsection (b), as with the provisions in §23.70, is outdated and can be eliminated without effect. Former subsection (d) simply restates the placement of physicians who qualify for the program via service to Medicaid or Texas Women's Health Program enrollees in the prioritization established in §23.67 and is therefore redundant. Existing subsection (e) is restated as paragraph (3) and clarifies current practice: Good cause for failing to meet program requirements can prevent removal from the program but not non-payment for the service period(s) in question. Subsection (f) was made redundant by the creation of §23.2 (relating to Eligible Lender and Eligible Education Loan) in the general provisions of Chapter 23, and so can be eliminated without effect.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the establishment of rules that more clearly articulate Coordinating Board policy and better align with rules governing the Coordinating Board's other loan repayment assistance programs. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Section 61.537, which provides the Coordinating Board with the authority to adopt rules as necessary to administer the Physician Education Loan Repayment Assistance Program.

The proposed amendment affects Texas Administrative Code, Title 19, Part 1, Chapter 23.

#### §23.62. Authority And Purpose.

(a) Authority. Authority for this subchapter is provided in the Texas Education Code, Chapter 61, Subchapter J, Repayment of Certain Physician Education Loans. These rules establish procedures to administer the subchapter as prescribed in the Texas Education Code, §§61.531 - 61.540.

(b) Purpose. The primary purpose of the Physician Education Loan Repayment Assistance Program is to encourage qualified physicians to practice medicine in a health professional shortage area designated by the U. S. Department of Health and Human Services, and provide health care services to recipients under the medical assistance program authorized by the Texas Human Resources Code, Chapter 32, and to enrollees under the child health plan program authorized by the Texas Health and Safety Code, Chapter 62.

#### §23.65. Definitions.

In addition to the words and terms defined in §23.1 of this chapter (relating to Definitions), the [The] following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

~~[(1) Board--The Texas Higher Education Coordinating Board.]~~

~~[(2) CHIP--The Children's Health Insurance Program; authorized by the Texas Health and Safety Code, Chapter 62.]~~

~~[(3) DSHS--The Texas Department of State Health Services.]~~

~~[(4) Federally Qualified Health Center--Any entity in Texas defined under 42 USC §1396d (1)(2)(B).]~~

~~[(5) Full-time Service--An average of at least thirty-two [32] hours of direct patient care per week during the service period at the practice site.~~

~~[(6) HPSAs--Health Professional Shortage Areas (HP-SAs) are designated by the U. S. Department of Health and Human~~

Services (HHS) as having shortages of primary medical care, dental or mental health providers and may be geographic (a county or service area), demographic (low income population) or institutional (comprehensive health center, federally qualified health center, as defined under 42 USC §1396d (l)(2)(B), or other public facility). Designations meet the requirements of Sec. 332 of the Public Health Service Act, 90 Stat. 2270-2272 (42 U.S.C. 254e). [Texas HPSAs are recommended for designation by HHS based on analysis of data by DSHS.]

(3) [(7)] Medicaid--The medical assistance program authorized by Chapter 32, Human Resources Code.

(4) [(8)] NPI--National Provider Identifier; the Health Insurance Portability and Accountability Act (HIPAA) Administrative Simplification Standard unique identification number for covered health care providers. Covered health care providers and all health plans and health care clearinghouses must use the NPIs in the administrative and financial transactions adopted under HIPAA.

(5) [(9)] Primary Care Physician--Physicians practicing family medicine, family practice, general practice, obstetrics/gynecology, general internal medicine, general pediatrics, combined internal medicine and pediatrics (medicine-pediatrics) in an outpatient setting, psychiatry, or geriatrics. With the exception of psychiatrists and geriatricians, physicians must provide services in an outpatient setting to be considered primary care.

(6) [(10)] Program--The Physician Education Loan Repayment Assistance Program.

(7) [(11)] Rural HPSA--A HPSA-designated whole county with a [whose] population of [is] less than 50,000 persons or a HPSA-designated facility or population group located in a county with a [whose] population of [is] less than 50,000 persons.

(8) [(12)] Service Period--A period of twelve [12] consecutive months qualifying a physician for loan repayment.

(9) [(13)] Texas Women's Health Program--The program authorized by Health and Safety Code, §31.002(a)(4)(C) and (H), §31.003, and §31.004, which provides primary health care services, including family planning services and health screenings, at no cost to eligible low-income women; administered by the Texas Health and Human Services Commission.

(10) [(14)] TMHP--Texas Medicaid and Healthcare Partnership; the entity that administers Texas Medicaid and other state health-care programs on behalf of the Texas Health and Human Services Commission.

(11) [(15)] TPI--Texas Provider Identifier; the number Managed Care Medicaid Providers must use when filing claims with the Texas Medicaid and Healthcare Partnership (TMHP), for payment of services rendered.

#### §23.66. *Applicant Eligibility.*

[(a)] To be eligible for loan repayment assistance, [the Board to reserve loan repayment funds,] an applicant [a physician] must:

(1) submit a [ensure that the Board or its designee has received the] completed application to the Coordinating Board by the established deadline, which will be posted on the program web page;

(2) be a U.S. citizen or a Legal Permanent Resident; [and, at the time of application, hold a Full Physician License from the Texas Medical Board, with no restriction;]

(3) at the time of application, hold a Full Physician License from the Texas Medical Board, with no restrictions;

(4) [(3)] not be in postgraduate training, including fellowship;

[(4) not be currently fulfilling another obligation to provide medical services as part of a scholarship agreement, a student loan agreement, or another student loan repayment agreement;]

[(5) at the time of the initial application, if the physician has not earned and maintained board certification, be eligible to take the exam for board certification from:]

[(A) an American Specialty Board that is a member of the American Board of Medical Specialties or the Bureau of Osteopathic Specialists in a primary care specialty; or]

[(B) an American Specialty Board that is a member of the American Board of Medical Specialties or the Bureau of Osteopathic Specialists.];

[(6) in the case of physicians qualifying on the basis of practice in a HPSA, agree to provide four consecutive service periods in a HPSA.];

[(b)] [To be eligible to receive loan repayment assistance, a physician must:]

(5) [(4)] have completed one, two, three, or four consecutive service periods in a:

(A) HPSA, serving persons who are:

(i) enrolled in Medicaid or the Children's Health Insurance Program [CHIP] or both;

(ii) uninsured; and

(iii) enrolled in Medicare, except in the case of pediatricians.

(B) secure correctional facility operated by or under contract with the Texas Juvenile Justice Department or its successor or in a secure correctional facility operated by or under contract with any division of the Texas Department of Criminal Justice or its successor, or

(C) location other than a HPSA, if the physician practices primary (outpatient) care and during the service period has provided health care services to a designated number of Medicaid or Texas Women's Health Program enrollees, established in the Board's Memorandum of Understanding with the Texas Health and Human Services Commission and posted on the program web page; [-]

(6) for loan repayment assistance based on the first service period, if the applicant has not earned and maintained board certification, be eligible to take the exam for board certification from an American Specialty Board that is a member of the American Board of Medical Specialties or the Bureau of Osteopathic Specialists; and

(7) [(2)] for loan repayment based on the fourth service period, have earned certification from an American Specialty Board that is a member of the American Board of Medical Specialties or the Bureau of Osteopathic Specialists [in a primary care specialty, or in a specialty other than primary care if the practice is located in a HPSA].

#### §23.67. *Applicant [Application] Ranking Priorities [Criteria].*

(a) Application deadlines will be established throughout the fiscal year and will be posted on the program web page. [Primary care physicians practicing in HPSAs whose initial applications have been approved are considered to be enrolled in the program. Applications from all other physicians are considered annually. If there are not sufficient funds to offer loan repayment assistance for all eligible physicians



whose applications are received by the stated deadline, applications shall be ranked according to the following criteria, in priority order: ]

(b) If there are not sufficient funds to offer loan repayment assistance for all eligible physicians whose applications are received by the stated deadline, applications shall be ranked according to the following criteria, in priority order:

(1) the first ten applications received each year from eligible physicians serving persons committed to a secure correctional facility operated by or under contract with the Texas Juvenile Justice Department or its successor or persons confined to a secure correctional facility operated by or under contract with any division of the Texas Department of Criminal Justice or its successor;

(2) [(4)] applications from physicians practicing in HPSAs, in the following priority order:

(A) renewal applications from primary care physicians practicing in HPSAs;

(B) applications from primary care physicians practicing in rural HPSAs, prioritizing higher HPSA scores;

(C) applications from primary care physicians practicing in non-rural HPSAs, prioritizing higher HPSA scores [areas whose HPSA scores reflect the highest degrees of shortage];

(D) [(2)] renewal applications from non-primary care physicians practicing in HPSAs;

(E) [(3)] [initial] applications from non-primary care physicians practicing in rural HPSAs, prioritizing higher HPSA scores;

(F) applications from non-primary care physicians practicing in non-rural HPSAs, prioritizing higher HPSA scores;

[(b)] [the first ten applications received each year from eligible physicians serving persons committed to a secure correctional facility operated by or under contract with the Texas Juvenile Justice Department or its successor or persons confined to a secure correctional facility operated by or under contract with any division of the Texas Department of Criminal Justice or its successor;]

(3) [(e)] applications from primary care physicians who have provided outpatient health care services to a designated number of Medicaid or Texas Women's Health Program enrollees, as established annually by methods outlined in the Coordinating Board's Memorandum of Understanding with the Texas Health and Human Services Commission, in the following order of priority:

(A) [(1)] renewal applications;

(B) [(2)] applications from physicians practicing in a ~~rural~~ county with a population of less than 50,000 persons;

(C) [(3)] applications from geriatricians;

(D) [(4)] applications from physicians having the greatest amount of student loan debt.

§23.68. *Applications Based on Services to Medicaid or Texas Women's Health Program Enrollees.*

(a) The Coordinating Board [board] may hold an application for consideration until the end of the fiscal year if funds are available [; upon receipt of a physician's written statement of intent to provide the required Medicaid or Texas Women's Health Program service levels during the anticipated year of service].

(b) The source of data to be used in determining required service levels will be Medicaid HMO encounter data provided by the Health and Human Services Commission.

(c) The method for determining required service levels will be stated in the Coordinating Board's [board's] Memorandum of Understanding with the Texas Health and Human Services Commission. Required service levels will be based on the Medicaid Managed Care client counts statewide for each eligible primary care specialty, including obstetrics/gynecology and geriatrics, over a period of one year, thus taking into account variations among these specialties in the number of unduplicated clients.

(d) Any physician applying for loan repayment assistance on the basis of services to Medicaid or Texas Women's Health Program enrollees must use his/her own TPI or NPI and must be the rendering physician for claims/encounters submitted to Texas Medicaid Health Partner (TMHP).

(e) If the administrative data provided by TMHP for the physician's TPI or NPI do not confirm that the physician met the required service levels during the year of service following the application date, the physician must submit a Claims Affidavit and specified data from the clinic's internal billing system, in the format requested by the Coordinating Board [board] for review by the HHSC, to receive further consideration for loan repayment assistance.

§23.70. *Amount of Repayment Assistance.*

[(a)] A physician who first established eligibility for the program based on an application submitted before September 1, 2019, and whose total student loan indebtedness is at least \$160,000 may receive repayment assistance based on full-time service for the following amounts: ]

[(1)] for the first service period, \$25,000;]

[(2)] for the second service period, \$35,000;]

[(3)] for the third service period, \$45,000;]

[(4)] for the fourth service period, \$55,000.]

[(b)] If a physician first established eligibility for the program based on an application submitted before September 1, 2019, with total student loan indebtedness less than \$160,000, the annual loan repayment amounts based on full-time service will be the amounts required to repay the indebtedness over a period of four years, with annual increases that are proportional to the annual increases for physicians whose student loan indebtedness is at least \$160,000.]

(a) [(e)] A physician [who first established eligibility for the program based on an application submitted on or after September 1, 2019, and] whose total student-loan indebtedness is at least \$180,000 when the physician first establishes eligibility for the program [;] may receive loan repayment assistance based on full-time service for the following amounts:

(1) for the first service period, \$30,000;

(2) for the second service period, \$40,000;

(3) for the third service period, \$50,000;

(4) for the fourth service period, \$60,000.

(b) [(d)] A [If a] physician whose [first established eligibility for the program based on an application submitted on or after September 1, 2019, with] total student-loan indebtedness is less than \$180,000 when the physician first establishes eligibility for the program may receive loan repayment assistance [; the annual loan repayment amounts] based on full-time service for [will be] the amounts required to repay the indebtedness over a period of four years, with annual increases that are proportional to the annual increases for physicians whose student loan indebtedness is at least \$180,000.

(c) [(e)] A physician may receive prorated loan repayment assistance based on the percentage of full-time service provided for each service period, if providing direct patient care for a minimum of 20 hours per week for each service period.

§23.71. *Limitations.*

In addition to the limitations associated with eligible education loans established in §23.2 of this chapter (relating to Eligible Lender and Eligible Education Loan), the following limitations apply to the Physician Education Loan Repayment Assistance Program:

(1) [(a)] Repayment assistance to a physician is limited to four service periods [of service].

[(b)] The total amounts of repayment assistance to a physician who first established eligibility for the program based on an application submitted before September 1, 2019, is limited to \$160,000.]

(2) [(e)] The total amount of repayment assistance to a physician [who first established eligibility for the program based on an application submitted on or after September 1, 2019,] is limited to \$180,000 and may not exceed the unpaid principal and interest owed on one or more eligible education loans, as described in rule §23.2 of this chapter.

(3) Failure to meet the program requirements will result in non-payment for the applicable service period(s) and, except under circumstances determined by the Coordinating Board to constitute good cause, removal from the program.

[(d)] Applications from physicians who establish eligibility under §21.255(b)(1)(C) of this title (relating to Eligibility) will be considered only if funds are available after financial commitments for the fiscal year have been made to physicians practicing in HPSAs and secure correctional facilities.]

[(e)] Except under circumstances determined by the Board and DSHS to constitute good cause, failure to meet the program requirements will result in non-payment for that service period and removal from the program. Additionally, providers who do not meet the requirements will be ineligible to apply for other loan repayment programs in Texas. Physicians practicing in HPSAs will be released from the agreement to provide four years of eligible service for any year for which loan repayment funds are not available.]

[(f)] A physician may not receive loan repayment assistance under both Texas Education Code, §61.531 and any other loan repayment program, including Texas Government Code, §510.156 relating to funds appropriated for purposes of correctional managed health care, or repayment assistance provided by the physician's employer while the physician is participating in the program.]

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 July 12, 2024.

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For further information, please call: (512) 427-6365



SUBCHAPTER C. THE PHYSICIAN  
EDUCATION LOAN REPAYMENT PROGRAM

**19 TAC §§23.63, 23.64, 23.69, 23.72, 23.73**

The Texas Higher Education Coordinating Board (Coordinating Board) proposes repeal of Texas Administrative Code, Title 19, Part 1, Chapter 23, Subchapter C, §§23.63, 23.64, 23.69, 23.72, and 23.73, concerning The Physician Education Loan Repayment Program. Specifically, this repeal will eliminate rules that have been determined to be unnecessary to the Coordinating Board's operations or duplicative with the General Provisions adopted in Chapter 23, Subchapter A, in July 2024.

The Coordinating Board is authorized to adopt rules as necessary for the administration of the program by Texas Education Code (TEC), Section 61.537.

Rule 23.63 is repealed. The rule's primary purpose is to authorize the Coordinating Board to enter into a memorandum of understanding with the Department of State Health Services. This provision is unnecessary to the administration of the program, and its elimination will not affect Coordinating Board operations.

Rule 23.64 is repealed. The rule directs the Coordinating Board to disseminate information about the program to interested parties, including health-related institutions of higher education, appropriate state agencies, interested professional associations and the public. Outreach to relevant stakeholders is crucial for the success of this and similar programs, but the inclusion of this rule is unnecessary to the administration of the program. Its elimination will not affect Coordinating Board operations.

Rule 23.69 is repealed. The provisions of this rule have been incorporated into rule §23.2 (relating to Eligible Lender and Eligible Education Loan) in the general provisions of this chapter. Accordingly, this section is duplicative and can be eliminated without affecting Coordinating Board operations.

Rule 23.72 is repealed. The provisions of this rule have been incorporated into rule §23.3 (relating to Method of Disbursement) in the general provisions of this chapter. Accordingly, this section is duplicative and can be eliminated without affecting Coordinating Board operations.

Rule 23.73 is repealed. The reporting and data collection requirements contained within the rule relate to the Coordinating Board's compliance with an appropriations rider related to the program, most recently Rider 51 (page III-67) within the Coordinating Board's section of the General Appropriations Act (H.B. 1), 88th Texas Legislature, Regular Session. The Coordinating Board has determined that it can continue to meet the requirements of this rider without the rule, which is otherwise unnecessary to the administration of the program. Its elimination will not affect Coordinating Board operations.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each

year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the improved clarity and consistency by eliminating unnecessary or duplicative provisions. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at [SFAPPolicy@highered.texas.gov](mailto:SFAPPolicy@highered.texas.gov). Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code, Section 61.537, which provides the Coordinating Board with the authority to adopt rules as necessary for the administration of The Physician Education Loan Repayment Program.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 23.

§23.63. *Administration.*

§23.64. *Dissemination of Information.*

§23.69. *Eligible Lender and Eligible Education Loan.*

§23.72. *Disbursement of Loan Repayment Assistance.*

§23.73. *Reporting and Data Collection.*

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

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Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

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For further information, please call: (512) 427-6365



## SUBCHAPTER D. LOAN REPAYMENT PROGRAM FOR MENTAL HEALTH PROFESSIONALS

19 TAC §§23.95, 23.98, 23.99, 23.101

The Texas Higher Education Coordinating Board (Coordinating Board) proposes repeal of Texas Administrative Code, Title 19, Part 1, Chapter 23, Subchapter D, §§23.95, 23.98, 23.99, and 23.101, concerning the Loan Repayment Program for Mental Health Professionals. Specifically, this repeal will consolidate provisions into other rules to better reflect Coordinating Board practices or eliminate rules that are duplicative with the General Provisions adopted in Chapter 23, Subchapter A, in July 2024.

The Coordinating Board is authorized to adopt rules as necessary for the administration of the program by Texas Education Code (TEC), Section 61.608.

Rule 23.95 is repealed. The eligible practice specialties delineated in this section will be incorporated into rule §23.96 (relating to Applicant Eligibility).

Rule 23.98 is repealed. Historically, eligibility for this program has been a two-step process, with applicants establishing initial eligibility for the program and then, after completing a service period, becoming eligible for disbursement of funds. These processes have since been combined, with applicants establishing eligibility after their first service period. Accordingly, the relevant provisions of this rule will be incorporated into rule §23.96 (related to Applicant Eligibility), and this section can be repealed without effect.

Rule 23.99 is repealed. The provisions of this rule have been incorporated into rule §23.2 (relating to Eligible Lender and Eligible Education Loan) in the general provisions of this chapter. Accordingly, this section is duplicative and can be eliminated without affecting Coordinating Board operations.

Rule 23.101 is repealed. The rule directs the Coordinating Board to disseminate information about the program to interested parties, including institutions of higher education, appropriate state agencies, and interested professional associations. Outreach to relevant stakeholders is crucial for the success of this and similar programs, but the Coordinating Board has determined that it can continue to accomplish this task without the rule, which is otherwise unnecessary for the administration of the program. Its elimination will not affect Coordinating Board operations.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be improved rule clarity and consistency and eliminating unnecessary or duplicative provisions. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;

- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code, Section 61.608, which provides the Coordinating Board with the authority to adopt rules as necessary to administer the Loan Repayment Program for Mental Health Professionals.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 23.

§23.95. *Eligible Practice Specialties.*

§23.98. *Eligibility for Disbursement of Loan Repayment Assistance.*

§23.99. *Eligible Lender and Eligible Education Loan.*

§23.101. *Dissemination of Information.*

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

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## SUBCHAPTER H. PEACE OFFICER LOAN REPAYMENT ASSISTANCE PROGRAM

### 19 TAC §§23.209 - 23.212, 23.215, 23.216

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments and new rules in Texas Administrative Code, Title 19, Part 1, Chapter 23, Subchapter H, §§23.209 - 23.212, 23.215, and 23.216, concerning the Peace Officer Loan Repayment Assistance Program. Specifically, this amendment will align the subchapter with others in Chapter 23 regarding structure, form, and language; eliminate duplicative provisions; and clarify potential ambiguities in existing rules. The new section will consolidate program limitations into a single rule.

The Coordinating Board is authorized to establish rules as necessary to administer the Peace Officer Loan Repayment Program under Texas Education Code (TEC), Section 61.9959.

Rule 23.209 is amended to make nonsubstantive changes to the program's purpose statement. Because eligibility for the program is established after the first service period, the statement is rephrased to "maintain" - rather than "agree to continued" - employment, and the phrase "for a specified period" is removed because program eligibility is not tied to a specific number of consecutive periods of service.

Rule 23.210 is amended to eliminate two unnecessary definitions and make one clarifying edit to an existing definition. After the creation of a definition for "Coordinating Board" in §23.1 (relating to Definitions) in the general provisions for this chapter, the definition of "Board" in §23.210 is redundant, with all references to "Board" throughout the subchapter changed to "Coordinating Board." The term "full-time" is used only once in the substantive portions of the subchapter, and so the definition has been incorporated contextually when it appears. The definition for "eligible institution" is clarified to use the full term, "institution of higher education" in reference to both public and private institutions to more closely reflect the statutory definition referenced in rule. The substance of the definition is unchanged.

Rule 23.211 is amended to clarify program eligibility rules so they more clearly reflect Coordinating Board practice. To align with other subchapters in Chapter 23, participants in the program are referred to as "applicants" before establishing eligibility and by their profession thereafter - in this case, "peace officers." Employer verification, currently included as an element of the submitted application in subparagraph (2)(A), is moved to paragraph (3), reflecting that it is a distinct part of the eligibility process and not part of the application itself. The new subparagraph (2)(B) consolidates renewal applications - previously located in repealed §23.213(b) (relating to Eligibility for Disbursement of Loan Repayment Assistance) into the overall eligibility section. The required statements in existing subparagraphs (2)(E) and (F) reflect an outdated version of the application submitted to the Coordinating Board for this program and are eliminated to reflect current practice and better align to the statutory requirements for eligibility.

Rule 23.212 is amended to clarify how the Coordinating Board prioritizes disbursement in the event that available funds are insufficient to offer loan repayment assistance to all eligible applicants. Existing subsections (b) and (c) are consolidated and rewritten for clarity; the substance of these provisions is unchanged.

Rule 23.215 is amended to relocate provisions to the new §23.216 (relating to provisions) and make nonsubstantive edits.

Rule 23.216 is created to consolidate program limitations previously included in §23.215 (related to Amount of Repayment Assistance). Paragraph (2) is the reconstituted §23.215(b) but is modified slightly by codifying the Coordinating Board's current practice that loan repayment assistance amounts may never exceed unpaid principal and interest owed on eligible education loans.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be establishing rules that more clearly articulate Coordinating Board policy and better align with rules governing the Coordinating Board's other loan repayment assistance programs. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments and new section are proposed under Texas Education Code, Section 61.9959, which provides the Coordinating Board with the authority to adopt rules as necessary to administer the Peace Officer Loan Repayment Assistance Program.

The proposed amendments and new section affect Texas Administrative Code, Title 19, Part 1, Chapter 23.

#### §23.209. Authority and Purpose.

(a) Authority. Authority for this subchapter is provided in the Texas Education Code, chapter [Chapter] 61, subchapter [Subchapter] NN, Peace Officer Loan Repayment Assistance Program. These rules establish procedures to administer the subchapter as prescribed in Texas Education Code, §§61.9951 - 61.9959.

(b) Purpose. The primary purpose of the Peace Officer Loan Repayment Assistance Program is to provide assistance with the repayment of eligible student loans for qualifying peace officers who maintain [agree to continued] full-time employment in Texas as peace officers [for a specified period].

#### §23.210. Definitions.

In addition to the words and terms defined in §23.1 of this chapter (relating to Definitions), the [The] following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

~~(1) Board--The Texas Higher Education Coordinating Board.~~

~~(1) [(2)] Eligible Institution--A Texas public institution of higher education or private or independent institution of higher education, as defined in the Texas Education Code, §61.003.~~

~~[(3) Full-time--Employed full-time (at least 40 hours per week for a minimum of 45 weeks per year) as an eligible peace officer.]~~

~~(2) [(4)] Peace Officer--The meaning assigned by Article 2.12, Texas Code of Criminal Procedure.~~

~~(3) [(5)] Program--Peace Officer Loan Repayment Assistance Program.~~

~~(4) [(6)] Service Period--A period of twelve [12] consecutive months qualifying a peace officer for loan repayment assistance.~~

#### §23.211. Applicant [Initial] Eligibility.

To be eligible to receive [for the Board to approve an initial application for enrollment in the program and for] loan repayment assistance funds, an applicant [a peace officer] must:

(1) have been initially appointed as a peace officer on or after September 1, 2019;

(2) submit to the Coordinating Board by the published deadline:

~~[(2)] [submit to the Board by the published deadline an initial application for enrollment in the program that requires:]~~

~~(A) an initial application for enrollment in the program that requires:~~

~~[(A)] [employer verification of the person's employment as a full-time peace officer in Texas for at least one year and the person's current full-time employment in Texas as of the date of the application;]~~

~~(i) [(B)] documentation of the applicant's [peace officer's] unrestricted license as a peace officer;~~

~~(ii) [(C)] a transcript of the applicant's [person's] postsecondary course work demonstrating at least 60 semester credit hours, or the equivalent, earned at an eligible institution before the person's initial appointment as a peace officer; and~~

~~(iii) [(D)] a statement of the total amount of principal, accrued interest, fees, and other charges due on unpaid eligible education loans, as defined by §23.2 of this chapter (relating to Eligible Lender and Eligible Education Loan), obtained for attendance at an eligible institution for a semester or other term that ended in the five years immediately preceding the applicant's [person's] initial appointment as a peace officer; or~~

~~(B) for applicants who have received loan repayment assistance for at least one service period, a completed end-of-service period application for payment; and~~

~~(3) be verified by the applicant's employer as having been employed for at least one service period, and as currently employed, as a full-time (at least forty hours per week for a minimum of forty-five weeks per year) peace officer in Texas as of the date of the application.~~

~~[(E) a statement that the peace officer will submit to the Board an application for payment immediately upon completion of each year of service for which the peace officer is applying for repayment assistance; and]~~

~~[(F) a statement that the individual agrees to continuous full-time employment as a peace officer in this state for four additional consecutive years after the date of the initial application.]~~

§23.212. Applicant Ranking Priorities [Selection of Eligible Applicants].

(a) Each fiscal year an application deadline will be posted on the program web page.

(b) If there are not sufficient funds to offer loan repayment assistance to all eligible applicants, applications shall be ranked by the following criteria, in order of priority:

(1) renewal applications, unless a break in service period has occurred; and

(2) all other applications, based on the date of submission.

~~[(b) In the initial year of the program, applications will be selected on a first-come-first-served basis until funds are no longer available.]~~

~~[(c) After the initial program year, priority will be given to prior year recipients, and initial applications will be selected on a first-come-first-served basis until funds are no longer available.]~~

§23.215. Amount of Repayment Assistance.

~~[(a) Loan repayment awards will be disbursed directly to lenders on behalf of eligible peace officers.]~~

~~[(b) The maximum amount of loan repayment assistance that a peace officer may receive over a period of five consecutive years is \$20,000.]~~

~~[(c) [(e)] The annual amount of loan repayment assistance that a peace officer may receive for each service period is the lesser of \$4,000 or 20 percent of the total unpaid eligible education loan balance verified at the time of the initial application, unless the payoff period for the peace officer's [person's] total unpaid eligible loan balance is fewer than five years.~~

~~[(d) If the payoff period for the peace officer's [person's] total unpaid eligible loan balance is fewer than five years, the loan repayment assistance [award] amount will be the total amount of the scheduled payments due to the holder(s) of the eligible loans for the applicable year.~~

~~[(e) Loan repayment assistance grants [awards] are contingent on available funding. If in any year the amount of money available for loan repayment assistance is insufficient to offer [award] the maximum annual loan repayment assistance [award] amount to all eligible applicants, the Coordinating Board may reduce award amounts to assist a greater number of peace officers.~~

§23.216. Limitations.

In addition to the limitations associated with eligible education loans established in §23.2 of this chapter (relating to Eligible Lender and Eligible Education Loan), the following limitations apply to the Peace Officer Loan Repayment Assistance Program.

(1) A peace officer may not receive loan repayment assistance through the program for more than five service periods.

(2) The maximum amount of loan repayment assistance that a peace officer may receive through this program is \$20,000 and may not exceed the unpaid principal and interest owed on one or more eligible education loans, as defined in §23.2 of this chapter.

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

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**19 TAC §§23.213, 23.214, 23.216**

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 23, Subchapter H, §§23.213, 23.214, and 23.216, concerning the Peace Officer Loan Repayment Assistance Program. Specifically, this repeal will eliminate rules that have been determined to be unnecessary to the Coordinating Board's operations or duplicative of the General Provisions adopted in Chapter 23, Subchapter A, in July 2024.

The Coordinating Board is authorized to adopt rules as necessary for the administration of the program by Texas Education Code (TEC), §61.9959.

Rule 23.213 is repealed. The provisions contained within this section will be consolidated into other rules to allow the structure of this subchapter to align with others in Chapter 23. Specifically, subsection (a) will be moved to new rule §23.216 (relating to Limitations), and subsection (b) will be moved to rule §23.211 (relating to Applicant Eligibility).

Rule 23.214 is repealed. The provisions of this rule have been incorporated into rule §23.2 (relating to Eligible Lender and Eligible Education Loan) in the general provisions of this chapter. Accordingly, this section is duplicative and can be eliminated without affecting Coordinating Board operations.

Rule 23.216 is repealed. The section's only provision is a requirement for the Coordinating Board to post a link to adopted rules for this program and other program materials on its website. This requirement is duplicative of TEC, §61.9959(b), and, although public outreach and education regarding the Coordinating Board's programmatic offerings are key to the success of this and similar programs, the rule itself is unnecessary to the administration of the program. Its elimination will not affect Coordinating Board operations.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the improved clarity and consistency by eliminating unnecessary or duplicative provisions. There are no anticipated economic costs

to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code, Section 61.9959, which provides the Coordinating Board with the authority to adopt rules necessary for the administration of the Peace Officer Loan Repayment Assistance Program.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 23.

§23.213. *Eligibility for Disbursement of Loan Repayment Assistance.*

§23.214. *Eligible Lender and Eligible Education Loan.*

§23.216. *Rules.*

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

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## SUBCHAPTER J. MATH AND SCIENCE SCHOLARS LOAN REPAYMENT ASSISTANCE PROGRAM

### 19 TAC §§23.286 - 23.289, 23.293 - 23.295

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments and new section in Texas Administrative Code, Title 19, Part 1, Chapter 23, Subchapter J, §§23.286 - 23.289 and 23.293 - 23.295, concerning the Math and Science Scholars Loan Repayment Assistance Program. Specifically, the amendments and new section will align the subchapter with others in Chapter 23 regarding structure, form, and

language; eliminate duplicative provisions; and clarify potential ambiguities in existing rules, and the new section will consolidate provisions specific to persons who established eligibility for the program prior to September 1, 2023.

The Coordinating Board is authorized to establish rules as necessary to administer the Math & Science Scholars Loan Repayment Program under Texas Education Code (TEC), Section 61.9840.

The subchapter is retitled to conform with the titles of the other subchapters in Chapter 23. Conforming changes to the program title are made throughout the subchapter.

Rule 23.286 is amended to align the subchapter's authority statement with that of other subchapters in Chapter 23. The purpose statement is revised to avoid any potential confusion related to the required length of service, which is included in the rules related to eligibility.

Rule 23.287 is amended to eliminate two unnecessary definitions and codify the Coordinating Board's existing operational definition for "public school" for this program. The terms "Commissioner" and "Coordinating Board" are defined in §23.1 (related to Definitions) in the general provisions of this chapter and are therefore duplicative in this rule. The term "employment service period" is changed to "service period" to align with usage in this subchapter and with other subchapters in Chapter 23. The definition for "public school" in paragraph (2) already is the operational definition for the term and is included to further clarify that otherwise eligible teachers employed at either traditional public or public charter schools may participate in the program.

Rule 23.288 is amended to simplify program eligibility rules so they more clearly reflect Coordinating Board practice. The rule is retitled to conform to a consistent rule structure and naming convention throughout Chapter 23. Historically, eligibility for this program has been a two-step process, with applicants establishing initial eligibility for the program and then, after completing a service period, becoming eligible for disbursement of funds. These processes have since been combined, with applicants establishing eligibility after their first service period. Accordingly, the former subsection (b) and repealed §23.291 are combined into the new eligibility criteria, with conforming changes made throughout the rule to make the consolidation fit logically. The existing subsection (a) is relocated to the new §23.295 (relating to Provisions Specific to Teachers Who Established Eligibility for the Program Based on an Application Submitted Prior to September 1, 2023). New paragraph (3) now includes clarifying language that the Coordinating Board will specify the eligible majors biennially that constitute "an undergraduate or graduate program in mathematics or science" to alleviate confusion for potential applicants. Overall, eligibility criteria for the program remain unchanged.

Rule 23.289 is amended to clarify the means by which the Coordinating Board will rank applications in the event that funds available are insufficient to offer loan repayment to all eligible applicants. The rule is retitled to conform to a consistent rule structure and naming convention throughout Chapter 23. Subsections (a) and (b) are combined, along with a number of non-substantive edits for clarity. The prioritization process remains unchanged.

Rule 23.293 is amended to eliminate or relocate provisions to better align with other subchapters in Chapter 23. The rule is retitled to reflect its remaining provision: setting the annual amount

of repayment assistance offered to eligible applicants. Subsection (a) is duplicative with §23.3 (relating to Method of Disbursement) and is eliminated. Subsection (c) is relocated to §23.295 (relating to Provisions Specific to Teachers Who Established Eligibility for the Program Based on an Application Submitted Prior to September 1, 2023). Subsection (d) is relocated to §23.294 (relating to Limitations).

Rule 23.294 is amended to consolidate various program limitations that were previously dispersed throughout the subchapter in a single rule. Paragraph (a)(3) is the reconstituted §23.293(d). Paragraph (a)(4) codifies the existing Coordinating Board practice of not offering an amount of loan repayment assistance that exceeds the unpaid principal and interest on an eligible education loan. Subsection (b) is the reconstituted §23.290(b).

Rule 23.295 is created to consolidate provisions affecting persons who established eligibility for the program prior to September 1, 2023. Subsection (a) is the reconstituted and combined §23.288(a) and §23.291(a), and subsection (b) is the reconstituted §23.290(a).

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the establishment of rules that more clearly articulate Coordinating Board policy and better align with rules governing the Coordinating Board's other loan repayment assistance programs. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will

be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments and new section are proposed under Texas Education Code, Section 61.9840, which provides the Coordinating Board with the authority to adopt rules as necessary to administer the Math & Science Scholars Loan Repayment Program.

The proposed amendments and new section affect Texas Administrative Code, Title 19, Part 1, Chapter 23.

#### §23.286. Authority and Purpose.

(a) Authority. Authority for this subchapter is provided in the Texas Education Code, chapter 61, subchapter KK, Math and Science Scholars Loan Repayment Program. These rules establish procedures to administer the subchapter as prescribed in the Texas Education Code, §§61.9831 - 61.9841.

(b) Purpose. The purpose of the Math and Science Scholars Loan Repayment Assistance Program is to encourage teachers, who demonstrated high academic achievement as math or science majors, to teach math or science in Texas public schools [for eight years, the first four of which are required].

#### §23.287. Definitions.

In addition to the words and terms defined in §23.1 of this chapter (relating to Definitions), the [The] following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

{(1) Commissioner--The Commissioner of Higher Education.}

{(2) Coordinating Board--The agency known as the Texas Higher Education Coordinating Board and its staff.}

{(3) Employment Service Period--A period of at least 9 months of a 12-month academic year.}

(1) [(4)] Program--The Math and Science Scholars Loan Repayment Assistance Program.

(2) Public School--A school in a Texas school district or a public charter school authorized to operate under Texas Education Code, chapter 12.

(3) Service Period--A period of at least nine months of a twelve-month academic year.

(4) [(5)] Title I School [school]--Texas public schools that receive federal funding under Title I, Elementary and Secondary Education Act of 1965 (20 U.S.C. §6301 et seq.).

#### §23.288. Applicant Eligibility [for Enrollment in the Program].

{(a) To be eligible for the Coordinating Board to conditionally approve an application and encumber loan repayment funds, a teacher who first applies for the Program prior to September 1, 2023, must:}

{(1) ensure that the Coordinating Board has received the completed enrollment application and transcripts of the applicant's postsecondary coursework, and any other requested documents, by the established deadline posted on the Program web page;}

{(2) be a U.S. citizen;}

{(3) have completed an undergraduate or graduate program in mathematics or science;}

{(4) have earned a cumulative GPA of at least 3.0 on a four-point scale, or the equivalent, at the institution from which the teacher graduated;}



{(5) be certified under the Texas Education Code, Subchapter B, Chapter 21, or under a probationary teaching certificate, to teach mathematics or science in a Texas public school;}

{(6) have secured an employment contract as a full-time classroom teacher to teach mathematics or science in a Title I school at the time of application for enrollment in the Program;}

{(7) not receive any other state or federal loan repayment assistance, including a Teacher Education Assistance for College and Higher Education (TEACH) Grant or teacher loan forgiveness for the loan(s) that the applicant is seeking to be repaid;}

{(8) not be in default on any education loan; and}

{(9) enter into an agreement with the Coordinating Board that includes the provisions stated in subsection (b) of this section.}

{(b) The agreement with the Coordinating Board made prior to September 1, 2023, must include the following provisions:}

{(1) the applicant will accept an offer of continued employment to teach mathematics or science, as applicable based on the teacher's certification, for an average of at least four hours each school day in a Title I school, for four consecutive years, beginning with the school year that has recently begun or the upcoming school year at the time of the application for enrollment in the Program;}

{(2) the applicant may complete up to four additional consecutive school years teaching mathematics or science, as applicable based on the teacher's certification, for an average of at least four hours each school day in any Texas public school, beginning with the school year immediately following the last of the four consecutive school years described by paragraph (1) of this subsection; and}

{(3) the applicant understands that loan repayment awards are contingent on available funding received, the Coordinating Board may make a financial commitment only based on funds that have been appropriated for each two-year state budget period, and the teacher will be released from the teaching obligation for any year of employment for which funds are not available.}

{(e) To be eligible to receive [for the Coordinating Board to conditionally approve an application and enumber] loan repayment assistance funds, an applicant [a teacher who first applies for the Program on or after September 1, 2023,] must:

(1) submit a [ensure that the Coordinating Board has received the] completed [enrollment] application, including [and] transcripts of the applicant's postsecondary coursework[;] and any other requested documents, to the Coordinating Board by the established deadline posted on the Program web page;

(2) be a U.S. citizen;

(3) have completed an undergraduate or graduate program in mathematics or science (a list of eligible majors will be posted on the Coordinating Board's website and reviewed at least once per biennium);

(4) have earned a cumulative GPA of at least 3.0 on a four-point scale, or the equivalent, at the institution from which the teacher graduated;

(5) be certified under the Texas Education Code, chapter 21, subchapter B, [or under a probationary teaching certificate,] to teach mathematics or science in a Texas public school;

(6) have been employed as a full-time classroom teacher teaching mathematics or science in a public school for one to eight consecutive service periods, unless a break in service periods has occurred as a result of the circumstances described in §23.294(b) of this

subchapter (relating to Limitations); and [secured an employment contract as a full-time classroom teacher to teach mathematics or science in a public school at the time of application for enrollment in the Program;}

{(7) not receive any other state or federal loan repayment assistance, including a Teacher Education Assistance for College and Higher Education (TEACH) Grant or teacher loan forgiveness for the loan(s) that the applicant is seeking to be repaid;}

{(8) not be in default on any education loan; and}

(7) [(9)] enter into an agreement or have an agreement on file with the Coordinating Board that includes the following provisions: [stated in subsection (d) of this section.}

(A) [(1)] the applicant has accepted [will accept] an offer of continued employment to teach mathematics or science, as applicable based on the teacher's certification, for an average of at least four hours each school day in a [any] public school, for four consecutive years, beginning with the previous school year [that has recently begun or the upcoming school year at the time of the application for enrollment in the Program];

(B) [(2)] the applicant may complete up to four additional consecutive school years teaching mathematics or science, as applicable based on the teacher's certification, for an average of at least four hours each school day in a [any Texas] public school, beginning with the school year immediately following the last of the four consecutive school years described by subparagraph (A) [paragraph (1)] of this paragraph [subsection]; and

(C) [(3)] the applicant understands that loan repayment assistance grants [awards] are contingent on available funding received, that the Coordinating Board may make a financial commitment only based on funds that have been appropriated for each two-year state budget period, and that the applicant [teacher] will be released from the teaching obligation for any year of employment for which funds are not available.

{(d) The agreement with the Coordinating Board made on or after September 1, 2023, must include the following provisions:}

§23.289. *Applicant [Application] Ranking Priorities.*

{(a) Renewal applicants shall be given priority over first-time applicants unless a break in Employment Service Periods has occurred as a result of the circumstances described in §21.2025 of this title (relating to Exceptions to Consecutive Years of Employment Requirement).}

{(b) If there are not sufficient funds to offer loan repayment assistance to [enumber awards for] all eligible applicants [for enrollment in the Program], applications shall be ranked [according to a cumulative ranking system developed] by the following criteria, in order of priority [Coordinating Board based on]:

(1) Renewal applications, unless a break in service periods has occurred, except as provided by §23.294(b) of this subchapter (relating to Limitations);

(2) [(1)] applications from teachers with the greatest number of mathematics and science courses completed [by the applicants];

(3) [(2)] applications from teachers with the highest grades [grade] received in mathematics and science [by each applicant for each of those] courses; and

(4) [(3)] applications from teachers employed [employment] at schools with [having] the highest percentages of students who are eligible for free or reduced cost lunches.

§23.293. *[Disbursement of Repayment Assistance and Award] Amount of Repayment Assistance.*

[(a) The annual repayment(s) shall be in one disbursement made payable to the servicer(s) or holder(s) of the loan upon the teacher's completion of each year of qualifying employment.]

[(b)] The Commissioner [~~or his or her designee~~] shall determine the maximum annual loan repayment assistance amount in each state fiscal year, taking into consideration the amount of available funding and the number of eligible applicants.

[(c) A teacher who transfers to a Texas public school that is not a Title I school after completing four consecutive years of employment at a Title I school may qualify for no more than 75% of the annual award amount established for the fiscal year. This award limitation is applicable only to a teacher who applies for the Program prior to September 1, 2023.]

[(d) A teacher who applies for the Program on or after September 1, 2023, may continue to receive the same amount of loan repayment assistance provided during the first four years of teaching service in subsequent years, not to exceed eight years in the Program.]

§23.294. *Limitations.*

(a) Limitations. In addition to the limitations associated with eligible education loans established in §23.2 of this chapter (relating to Eligible Lender and Eligible Education Loan), the following limitations apply to the Math and Science Scholars Loan Repayment Assistance Program.

(1) [(a)] No more than 4,000 eligible teachers shall receive loan repayment assistance in any school year.

(2) [(b)] Failure to meet Program requirements will result in non-payment for the applicable year of employment and, except as provided by subsection (b) of this section, removal from the Program.

(3) An individual may receive loan repayment assistance under this program for no more than eight service periods.

(4) An individual's loan repayment assistance amount may not exceed the unpaid principal and interest owed on one or more eligible education loans, as defined in §23.2 of this chapter.

(b) Good Cause for Breaks in Service Period. A teacher enrolled in the Program shall not lose Program eligibility due to failure to meet the consecutive years of qualifying employment requirement if the break in employment service is a result of the teacher's:

(1) full-time enrollment in a course of study related to the field of teaching that is approved by the State Board for Educator Certification and provided by a Texas institution of higher education, as defined in Texas Education Code, §61.003;

(2) service on active duty as a member of the armed forces of the United States, including as a member of a reserve or National Guard unit called for active duty;

(3) temporary total disability for a period of not more than thirty-six months as established by the affidavit of a qualified physician;

(4) inability to secure employment for a period not to exceed twelve months, because of care required by a disabled spouse or child; or

(5) inability, despite reasonable efforts, to secure, for a single period not to exceed twelve months, employment in a public school.

§23.295. *Provisions Specific to Teachers Who Established Eligibility for the Program Based on an Application Submitted Prior to September 1, 2023.*

(a) Applicant Eligibility. Notwithstanding §23.288(a) of this subchapter (relating to Applicant Eligibility), to be eligible to receive loan repayment assistance funds, a teacher who first established eligibility for the Program based on an application submitted prior to September 1, 2023, must:

(1) submit a completed application, including any requested documents, to the Coordinating Board by the established deadline posted on the Program web page;

(2) be a U.S. citizen;

(3) have completed an undergraduate or graduate program in mathematics or science;

(4) have earned a cumulative GPA of at least 3.0 on a four-point scale, or the equivalent, at the institution from which the teacher graduated;

(5) be certified under the Texas Education Code, chapter 21, subchapter B, to teach mathematics or science in a Texas public school;

(6) have been employed as either:

(A) a full-time classroom teacher teaching mathematics or science in a Title I school for one to eight consecutive service periods, unless a break in service periods has occurred as a result of the circumstances described in subsection (b) of this section; or

(B) a full-time classroom teacher teaching math or science in a public school for one to four consecutive service periods following, with no break in service periods, four or more consecutive service periods of employment as a full-time classroom teacher teaching mathematics or science in a Title I school, unless a break in service periods has occurred as a result of the circumstances described in subsection (b) of this section; and

(7) enter into an agreement or have an agreement on file with the Coordinating Board that includes the following provisions:

(A) the applicant will accept an offer of continued employment to teach mathematics or science, as applicable based on the teacher's certification, for an average of at least four hours each school day in a Title I school, for four consecutive years, beginning with the previous school year at the time of the application for enrollment in the Program;

(B) the applicant may complete up to four additional consecutive school years teaching mathematics or science, as applicable based on the teacher's certification, for an average of at least four hours each school day in any Texas public school, beginning with the school year immediately following the last of the four consecutive school years described by paragraph (6)(A) of this subsection; and

(C) the applicant understands that loan repayment assistance grants are contingent on available funding received, the Coordinating Board may make a financial commitment only based on funds that have been appropriated for each two-year state budget period, and the teacher will be released from the teaching obligation for any year of employment for which funds are not available.

(b) Although funding limitations may require the Coordinating Board to exercise the ranking priorities established in §23.289 of this title (relating to Applicant Ranking Priorities) a teacher who established eligibility for the Program based on an application submitted prior to September 1, 2023, shall not lose Program eligibility due to failure to meet the consecutive years of qualifying employment requirement if the break in employment service is a result of the person's:

(1) full-time enrollment in a course of study related to the field of teaching that is approved by the State Board for Educator Certification and provided by a Texas institution of higher education, as defined in Texas Education Code, §61.003;

(2) service on active duty as a member of the armed forces of the United States, including as a member of a reserve or National Guard unit called for active duty;

(3) temporary total disability for a period of not more than thirty-six months as established by the affidavit of a qualified physician;

(4) inability to secure employment as required in a Title I school for a period not to exceed twelve months, because of care required by a disabled spouse or child; or

(5) inability, despite reasonable efforts, to secure, for a single period not to exceed twelve months, employment in a Title I school.

(c) Limitation. A teacher who first established eligibility for the Program based on an application submitted prior to September 1, 2023, who transfers to a Texas public school that is not a Title I school after completing four consecutive years of employment at a Title I school may qualify for no more than 75 percent of the annual award amount established for the fiscal year.

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 July 12, 2024.

TRD-202403099

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: August 25, 2024

For further information, please call: (512) 427-6365



### 19 TAC §§23.290 - 23.292

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 23, Subchapter J, §§23.290 - 23.292, concerning the Math and Science Scholars Loan Repayment Program. Specifically, this repeal will consolidate provisions into other rules to better reflect Coordinating Board practices or eliminate rules that are duplicative with the General Provisions in Chapter 23, Subchapter A, being considered for adoption by the Board in July 2024.

The Coordinating Board is authorized to adopt rules as necessary for the administration of the program by Texas Education Code (TEC), Section 61.9840.

Rule 23.290 is repealed. To better align the structure of the subchapter to others in Chapter 23, the provisions within this section are relocated elsewhere in the subchapter. Subsection (a) is relocated to new rule §23.295(b) (relating to Provisions Specific to Teachers Who Established Eligibility for the Program Based on an Application Submitted Prior to September 1, 2023) and subsection (b) is relocated to rule §23.294(b) (relating to Limitations).

Rule 23.291 is repealed. Historically, eligibility for this program has been a two-step process, with applicants establishing initial eligibility for the program and then, after completing a service

period, becoming eligible for disbursement of funds. These processes have since been combined, with applicants establishing eligibility after their first service period. Accordingly, subsection (a) is incorporated into eligibility criteria established in new rule §23.295(a) (relating to Provisions Specific to Teachers Who Established Eligibility for the Program Based on an Application Submitted Prior to September 1, 2023) and subsection (b) is similarly incorporated into rule §23.288 (relating to Applicant Eligibility).

Rule 23.292 is repealed. The provisions of this rule have been incorporated into rule §23.2 (relating to Eligible Lender and Eligible Education Loan) in the general provisions of this chapter. Accordingly, this section is duplicative and can be eliminated without affected Coordinating Board operations.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be improved rule clarity and consistency and eliminating unnecessary or duplicative provisions. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at SFAPPolicy@highered.texas.gov. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code, Section 61.9840, which provides the Coordinating Board with the authority to adopt rules as necessary to administer the Math & Science Scholars Loan Repayment Program.

The proposed repeal affects Texas Administrative Code, Title 19, Part 1, Chapter 23.

§23.290. *Exceptions to Consecutive Years of Employment Requirement.*

§23.291. *Eligibility for Disbursement of Award.*

§23.292. *Eligible Lender and Eligible Education Loan.*

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 July 12, 2024.

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For further information, please call: (512) 427-6565



## PART 2. TEXAS EDUCATION AGENCY

### CHAPTER 89. ADAPTATIONS FOR SPECIAL POPULATIONS

#### SUBCHAPTER AA. COMMISSIONER'S RULES CONCERNING SPECIAL EDUCATION SERVICES

#### DIVISION 7. DISPUTE RESOLUTION

#### 19 TAC §89.1196, §89.1197

The Texas Education Agency (TEA) proposes amendments to §89.1196 and §89.1197, concerning special education services dispute resolution. The proposed amendments would clarify procedures for individualized education program (IEP) facilitation and add language allowing TEA to delegate certain duties and responsibilities.

**BACKGROUND INFORMATION AND JUSTIFICATION:** Section 89.1196 addresses the requirement in Texas Education Code, §29.019, to develop rules associated with IEP facilitation that public education agencies may choose to use as an alternative dispute resolution method. The proposed amendment to subsection (a) would describe the purpose of IEP facilitation and would change the term "trained" to "qualified" in the description of facilitators who assist admission, review, and dismissal (ARD) committees.

Section 89.1197 addresses procedures for state IEP facilitation when the ARD committee is in dispute with a parent of a student with a disability. Proposed new subsection (b) would clarify that TEA may delegate duties and responsibilities to an education service center to maximize efficiency. Subsections would be re-lettered throughout the rule as a result of this addition. Deletion of subsection (e)(6), re-lettered as subsection (f)(6), would remove language prohibiting the use of IEP facilitation if the issue in dispute is part of a special education complaint, as the agency has determined that facilitation may actually be helpful in resolving these situations.

**FISCAL IMPACT:** Justin Porter, associate commissioner and chief program officer for special populations programs, reporting, and student support, has determined that for the first

five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

**LOCAL EMPLOYMENT IMPACT:** The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

**SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT:** The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

**COST INCREASE TO REGULATED PERSONS:** The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

**TAKINGS IMPACT ASSESSMENT:** The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

**GOVERNMENT GROWTH IMPACT TEA** staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand existing regulations to clarify procedures for IEP facilitation and add into rule the delegation of duties and responsibilities.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Mr. Porter has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to describe the use of IEP facilitation as a way to avoid a potential dispute between a public education agency and a parent of a student with a disability, as well as address procedures for state IEP facilitation when the ARD committee is in dispute with a parent of a student with a disability.

**DATA AND REPORTING IMPACT:** The proposal would have no data and reporting impact.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

**PUBLIC COMMENTS:** The public comment period on the proposal begins July 26, 2024, and ends August 26, 2024. Public hearings will be conducted to solicit testimony and input on the proposed amendments at 9:30 a.m. on August 21 and 22, 2024. The public may participate in either hearing virtually by linking to the hearing at <https://zoom.us/j/95563232072>. Anyone wishing to testify must be present at 9:30 a.m. and indicate to TEA staff their intent to comment and are encouraged to also send written testimony to [sped@tea.texas.gov](mailto:sped@tea.texas.gov). The hearings will conclude once all who have signed in have

been given the opportunity to comment. Questions about the hearings should be directed to Derek Hollingsworth, Special Populations Policy, Integration and Technical Assistance, [Derek.Hollingsworth@tea.texas.gov](mailto:Derek.Hollingsworth@tea.texas.gov). A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/Commissioner\\_Rules\\_\(TAC\)/Proposed\\_Commissioner\\_of\\_Education\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

**STATUTORY AUTHORITY.** The amendments are proposed under Texas Education Code (TEC), §29.001, which requires the agency to develop and modify as necessary a statewide plan for the delivery of services to children with disabilities that ensures the availability of a free appropriate public education to children between the ages of 3-21; TEC, §29.019, which establishes IEP facilitation as an alternative dispute resolution method that districts may choose to use; and TEC, §29.020, which establishes the state's IEP facilitation project.

**CROSS REFERENCE TO STATUTE.** The amendments implement Texas Education Code, §§29.001, 29.019, and 29.020.

*§89.1196. Individualized Education Program Facilitation.*

(a) For the purpose of this section and Texas Education Code, §29.019, individualized education program (IEP) facilitation refers to a method of alternative dispute resolution that may be used to avoid a potential dispute between a public education agency and a parent of a student with a disability. IEP facilitation involves the use of a qualified [trained] facilitator to assist an admission, review, and dismissal (ARD) committee in developing an IEP for a student with a disability. The facilitator uses facilitation techniques to help the committee members communicate and collaborate effectively. While public education agencies are not required to offer IEP facilitation as an alternative dispute resolution method, the Texas Education Agency (TEA) encourages the use of IEP facilitation as described in this section.

(b) A public education agency is not prohibited from incorporating elements of IEP facilitation into ARD committee meetings that are conducted without the assistance of a facilitator as described in this section. For example, a public education agency may provide training on communication skills, conflict management, or meeting effectiveness to individuals who participate in ARD committee meetings to enhance collaboration and efficiency in those meetings.

(c) A public education agency that chooses to offer IEP facilitation under this section may determine whether to use independent contractors, employees, or other qualified individuals as facilitators. At a minimum, an individual who serves as a facilitator must:

- (1) have demonstrated knowledge of federal and state requirements relating to the provision of special education and related services to students with disabilities;
- (2) have demonstrated knowledge of and experience with the ARD committee meeting process;
- (3) have completed 18 hours of training in IEP facilitation, consensus building, and/or conflict resolution; and
- (4) complete continuing education as determined by the public education agency.

(d) A public education agency that chooses to offer IEP facilitation under this section must ensure that:

- (1) participation is voluntary on the part of the parties;
- (2) the facilitation is provided at no cost to parents; and
- (3) the process is not used to deny or delay the right to pursue a special education complaint, mediation, or a due process hearing

in accordance with Part B of the Individuals with Disabilities Education Act (IDEA) and this division.

(e) A public education agency that chooses to offer IEP facilitation under this section must develop written policies and procedures that include:

- (1) the procedures for requesting facilitation;
  - (2) facilitator qualifications, including whether facilitators are independent contractors, employees, or other qualified individuals;
  - (3) the process for assigning a facilitator;
  - (4) the continuing education requirements for facilitators;
- and
- (5) a method for evaluating the effectiveness of the facilitation services and the individual facilitators.

(f) A public education agency that chooses to offer IEP facilitation under this section must provide parents with information about the process, including a description of the procedures for requesting IEP facilitation and information related to facilitator qualifications. This information must be included when a copy of the procedural safeguards notice under 34 Code of Federal Regulations (CFR), §300.504 is provided to parents, although this information may be provided as a separate document and may be provided in a written or electronic format.

(g) A facilitator under this section must not be a member of the student's ARD committee, must not have any decision-making authority over the committee, and must remain impartial to the topics under discussion. The facilitator must assist with the overall organization and conduct of the ARD committee meeting by:

- (1) assisting the committee in establishing an agenda and setting the time allotted for the meeting;
- (2) assisting the committee in establishing a set of guidelines for the meeting;
- (3) guiding the discussion and keeping the focus on developing a mutually agreed upon IEP for the student;
- (4) ensuring that each committee member has an opportunity to participate;
- (5) helping to resolve disagreements that arise; and
- (6) helping to keep the ARD committee on task so that the meeting purposes can be accomplished within the time allotted for the meeting.

(h) Promptly after being assigned to facilitate an ARD committee meeting, or within a timeline established under the public education agency's procedures, the facilitator must contact the parents and public education agency representative to clarify the issues, gather necessary information, and explain the IEP facilitation process.

(i) A public education agency that chooses to offer IEP facilitation under this section must ensure that facilitators protect the confidentiality of personally identifiable information about the student and comply with the requirements in the Family Educational Rights and Privacy Act regulations, 34 CFR, Part 99, relating to the disclosure and redisclosure of personally identifiable information from a student's education record.

(j) [The] TEA will develop information regarding IEP facilitation as an alternative dispute resolution method, and such information will be available upon request from [the] TEA and on the TEA website.

*§89.1197. State Individualized Education Program Facilitation.*

(a) In accordance with [the] Texas Education Code, §29.020, the Texas Education Agency (TEA) will establish a program that provides independent individualized education program (IEP) facilitators [beginning with the 2014-2015 school year].

(b) For purposes of this section, where TEA is referenced in subsections (c)-(p) of this section and where not otherwise prohibited by law, TEA may delegate duties and responsibilities to an education service center (ESC) when it is determined to be the most efficient way to implement the program.

(c) [(b)] For the purpose of this section, IEP facilitation has the same general meaning as described in §89.1196(a) of this title (relating to Individualized Education Program Facilitation), except that state IEP facilitation is used when the admission, review, and dismissal (ARD) committee is in dispute about decisions relating to the provision of a free and appropriate public education to a student with a disability and the facilitator is an independent facilitator provided by [the] TEA.

(d) [(e)] A request for IEP facilitation under this section must be filed by completing a form developed by [the] TEA that is available upon request from [the] TEA and on the TEA website. The form must be filed with [the] TEA by one of the parties by electronic mail, mail, hand-delivery, or facsimile.

(e) [(d)] IEP facilitation under this section must be voluntary on the part of the parties and provided at no cost to the parties.

(f) [(e)] In order for [the] TEA to provide an independent facilitator, the following conditions must be met.

(1) The required form must be completed and signed by both parties.

(2) The dispute must relate to an ARD committee meeting in which mutual agreement about one or more of the required elements of the IEP was not reached and the parties have agreed to recess and reconvene the meeting in accordance with §89.1055(o) [§89.1050(g)] of this title (relating to Individualized Education Program [The Admission, Review, and Dismissal Committee]).

(3) The request for IEP facilitation must have been filed within 10 calendar days of the ARD committee meeting that ended in disagreement, and a facilitator must be available on the date set for reconvening the meeting.

(4) The dispute must not relate to a manifestation determination or determination of interim alternative educational setting under 34 Code of Federal Regulations (CFR), §300.530 or §300.531.

(5) The same parties must not be concurrently involved in special education mediation under §89.1193 of this title (relating to Special Education Mediation).

[(6) The issues in dispute must not be the subject of a special education complaint under §89.1195 of this title (relating to Special Education Complaint Resolution) or a special education due process hearing under §89.1151 of this title (relating to Special Education Due Process Hearings) and §89.1165 of this title (relating to Request for Special Education Due Process Hearing).]

(6) [(7)] The same parties must not have participated in IEP facilitation concerning the same student under this section within the same school year of the filing of the current request for IEP facilitation.

(g) [(f)] Within five business days of receipt of a request for an IEP facilitation under this section, [the] TEA will determine whether the conditions in subsections (d)-(f) [(e)-(e)] of this section have been met and will notify the parties of its determination and the assignment of the independent facilitator, if applicable.

(h) [(g)] Notwithstanding subsections (c)-(f) [(b)-(e)] of this section, if a special education due process hearing or complaint decision requires a public education agency to provide an independent facilitator to assist with an ARD committee meeting, the public education agency may request that [the] TEA assign an independent facilitator. Within five business days of receipt of a written request for IEP facilitation under this subsection, [the] TEA will notify the parties of its decision to assign or not assign an independent facilitator. If TEA declines the request to assign an independent facilitator, the public education agency must provide an independent facilitator at its own expense.

(i) [(h)] [The] TEA's decision not to provide an independent facilitator is final and not subject to review or appeal.

(j) [(i)] The independent facilitator assignment may be made based on a combination of factors, including, but not limited to, geographic location and availability. Once assigned, the independent facilitator must promptly contact the parties to clarify the issues, gather necessary information, and explain the IEP facilitation process.

(k) [(j)] [The] TEA will use a competitive solicitation method to seek independent facilitation services, and the contracts with independent facilitators will be developed and managed in accordance with [the] TEA's contracting practices and procedures.

(l) [(k)] At a minimum, an individual who serves as an independent facilitator under this section:

(1) must have demonstrated knowledge of federal and state requirements relating to the provision of special education and related services to students with disabilities;

(2) must have demonstrated knowledge of and experience with the ARD committee meeting process;

(3) must have completed 18 hours or more of training in IEP facilitation, consensus building, and/or conflict resolution as specified in [the] TEA's competitive solicitation;

(4) must complete continuing education as determined by [the] TEA;

(5) may not be an employee of [the] TEA or the public education agency that the student attends; and

(6) may not have a personal or professional interest that conflicts with his or her impartiality.

(m) [(h)] An individual is not an employee of [the] TEA solely because the individual is paid by [the] TEA to serve as an independent facilitator.

(n) [(m)] An independent facilitator must not be a member of the student's ARD committee, must not have any decision-making authority, and must remain impartial to the topics under discussion. The independent facilitator must assist with the overall organization and conduct of the ARD committee meeting by:

(1) assisting the committee in establishing an agenda and setting the time allotted for the meeting;

(2) assisting the committee in establishing a set of guidelines for the meeting;

(3) guiding the discussion and keeping the focus on developing a mutually agreed upon IEP for the student;

(4) ensuring that each committee member has an opportunity to participate;

(5) helping to resolve disagreements that arise; and

(6) helping to keep the ARD committee on task so that the meeting purposes can be accomplished within the time allotted for the meeting.

(o) [(n)] An independent facilitator must protect the confidentiality of personally identifiable information about the student and comply with the requirements in the Family Educational Rights and Privacy Act regulations, 34 CFR, Part 99, relating to the disclosure and redisclosure of personally identifiable information from a student's education record.

(p) [(o)] [The] TEA will develop surveys to evaluate the IEP facilitation program and the independent facilitators and will request that parties who participate in the program complete the surveys.

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 July 15, 2024.

TRD-202403104

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: August 25, 2024

For further information, please call: (512) 475-1497



## TITLE 22. EXAMINING BOARDS

### PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

#### CHAPTER 511. ELIGIBILITY

#### SUBCHAPTER H. CERTIFICATION

#### 22 TAC §511.161

The Texas State Board of Public Accountancy (Board) proposes an amendment to §511.161 concerning Qualifications for Issuance of a Certificate.

#### Background, Justification and Summary

An existing Board rule, §511.163, requires an applicant to complete a four-hour CPE ethics course before taking the Uniform Certified Public Accountancy Exam. That rule provision is being transferred to the section of the Board's rules that address Continuing Professional Education.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed rule amendment will make it clear that Continuing Professional Education is not required until after an applicant becomes a Certified Public Accountant.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 26, 2024.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§511.161. *Qualifications for Issuance of a Certificate.*

The certificate of a CPA shall be granted by the board to an applicant who qualifies under the current Act and has met the following qualifications:

- (1) successfully completed the UCPAE;
- (2) met the education requirements in §511.164 of this chapter (relating to Definition of 150 Semester Hours to Qualify for Issuance of a Certificate);
- (3) successfully completed a 3-semester hour board-approved ethics course as defined by §511.164 of this chapter;
- (4) submitted an application prescribed by the board;
- (5) submitted the requisite fee, set by the board, for issuance of the certificate;
- (6) provided evidence of a lack of a history of dishonest or felonious acts or any criminal activity that might be relevant to the applicant's qualifications;
- (7) completed the fingerprint process that accesses the Federal Bureau of Investigation (FBI) and the Texas Department of Public Safety - Crime records division files;
- (8) submitted, on a form prescribed by the board, evidence of completion of the work experience requirements commensurate with the education requirements;
- (9) executed an oath of office stating support of the Constitution of the United States and of this state and the laws thereof, and compliance with the board's Rules of Professional Conduct;

~~[(10) an applicant who has completed a board-approved ethics course more than two years prior to the date of submitting an application for issuance of a CPA certificate must complete a board-approved four-hour ethics course of comprehensive study on the board's Rules of Professional Conduct;]~~

~~(10)~~ [(11)] successfully completed the examination on the board's Rules of Professional Conduct; and

~~(11)~~ [(12)] provided any other information requested by the board.

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 July 11, 2024.

TRD-202403052

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: August 25, 2024

For further information, please call: (512) 305-7842



## CHAPTER 520. PROVISIONS FOR THE ACCOUNTING STUDENTS SCHOLARSHIP PROGRAM

### 22 TAC §520.1

The Texas State Board of Public Accountancy (Board) proposes an amendment to §520.1 concerning Authority and Purpose.

#### Background, Justification and Summary

Establishes the Examination Fee Financial Aid program to assist applicants who can demonstrate the need for assistance in paying the cost of taking the Uniform Certified Public Accountancy Exam.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed rule amendment will help applicants in need of financial assistance in taking the Uniform Certified Public Accountancy Exam and provide the public with more qualified accountants to serve the public.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505



E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 26, 2024.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §520.1. Authority and Purpose.

(a) Authority for this chapter is provided in Subchapter N [D, §901.155] of the Act, which is titled Scholarships [Scholarship Trust Fund] for Accounting Students. This chapter establishes procedures to administer the accounting students scholarship programs [program].

(b) The purpose of the accounting students scholarship programs [program] is to provide financial assistance to students intending to take the UCPAE and to assist accounting students by establishing the Examination Fee Financial Aid (EFFA) program [conducted] for the purpose of obtaining a CPA certificate and thus increase the number of highly trained and educated CPAs available to serve the residents of this state.

(c) The purpose of the EFFA program is to provide financial assistance, as long as funding is available as determined by the board, by utilizing operating funds for the reimbursement of exam fees to applicants applying for certification as a CPA as described in §901.653 of the Act (relating to Scholarships).

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 July 11, 2024.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: August 25, 2024

For further information, please call: (512) 305-7842



## 22 TAC §520.2

The Texas State Board of Public Accountancy (Board) proposes an amendment to §520.2 concerning Definitions.

Background, Justification and Summary

Defines the terms used in the creation of the Examination Fee Financial Aid program to assist applicants in need of financial assistance in the costs to take the Uniform Certified Public Accountancy Exam.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed definitions section of the rules amendment will add clarity to who is eligible for the financial aid.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 26, 2024.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have

an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §520.2. Definitions.

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

(1) Cost of attendance--An estimate of the expenses incurred by a typical financial aid student in attending a particular college or university. It includes direct educational costs (tuition, fees, books, and supplies) as well as indirect costs (room and board, transportation, and personal expenses - to include the UCPAE fee paid to NASBA).

(2) 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 by the US Department of Education Definition of Expected Family Contribution.

(3) 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.

(4) Gift Aid--Educational funds from state, federal, and other sources, such as grants, that do not require repayment from present or future earnings. Assistantships and work-study programs are not considered to be gift aid.

(5) Half-time student--For undergraduates, not in their final semester, who are enrolled or are expected to be enrolled for the equivalent of at least six but not more than nine semester credit hours. For graduate students, not in their final semester, who are enrolled or are expected to be enrolled for the equivalent of 4.5 but not more than six semester credit hours.

(6) Institution--Public and private or independent institutions of higher education as defined in Texas Education Code, §61.003.

(7) NASBA--The National Association of State Boards of Accountancy.

(8) [~~7~~] 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 the program described in this chapter.

(9) [~~8~~] 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.

(10) [~~9~~] Resident of Texas--A resident of the State of Texas as determined in accordance with 19 TAC Part 1, Chapter 21, Subchapter B (relating to Determination of Resident Status). Nonresident students who are eligible to pay resident tuition rates are not residents of Texas.

(11) UCPAE fee--The exam cost paid by the applicant to NASBA to take a section of the UCPAE.

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 July 11, 2024.

TRD-202403054

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: August 25, 2024

For further information, please call: (512) 305-7842



### 22 TAC §520.3

The Texas State Board of Public Accountancy (Board) proposes an amendment to §520.3 concerning Institutions.

#### Background, Justification and Summary

Adds descriptive language to the title of the rule for the reader to understand that the rule applies only to the accounting students scholarship program.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed rule revision helps to provide clarity to the applicability of the rule.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

## Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

## Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

## Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 26, 2024.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

## Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§520.3. *Institutions for the Accounting Students Scholarship Program.*

### (a) Eligibility.

(1) Any college or university defined as a public, private or independent institution of higher education by Texas Education Code, §61.003 that offers the courses required by §§511.57, 511.58 and 511.60 of this title (relating to Qualified Accounting Courses to take the UCPAE, Definitions of Related Business Subjects to take the UCPAE and Qualified Accounting Courses Prior to January 1, 2024 to take the UCPAE), is eligible to participate in the accounting students scholarship program.

(2) No institution may, on the grounds of race, color, national origin, gender, religion, age or disability exclude a student from participation in or deny the benefits of the program described in this chapter.

(3) Each participating institution must follow the Civil Rights Act of 1964, Title VI (Public Law 88-353) in avoiding discrimination in admissions.

### (b) Approval.

(1) Each approved institution must enter into an agreement with the board, the terms of which shall be prescribed by the executive director.

(2) An institution must be approved by April 1 in order for qualified students enrolled in that institution to be eligible to receive scholarships in the following fiscal year beginning September 1st.

### (c) Responsibilities.

(1) Probation Notice. If the institution is placed on public probation by its accrediting agency, it must immediately advise scholarship recipients of this condition and maintain evidence in each student's file to demonstrate that the student was so informed.

### (2) Disbursements to Students.

(A) The institution must maintain records to prove the disbursement of program funds to the student or the crediting of such funds to the student's school account.

(B) If the executive director has reason to believe that an institution has disbursed funds for unauthorized purposes, the institution will be notified and offered an opportunity for a hearing pursuant to the applicable procedures outlined in Chapter 519 of this title (relating to Practice and Procedure) and the rules of procedure of SOAH. Thereafter, if the board determines that funds have been improperly disbursed, the institution shall become responsible for restoring the funds to the board. No further disbursements of scholarship funds shall be permitted to students at that institution until the funds have been repaid.

### (d) Reporting.

(1) All institutions must meet board reporting requirements. Such reporting requirements shall include reports specific to allocation of scholarship funds as well as progress and year-end reports.

### (2) Penalties for Late Reports.

(A) The executive director may penalize an institution by reducing its allocation of funds in the following year by up to 10 percent for each progress report that is postmarked or submitted electronically more than a week (seven (7) calendar days) late.

(B) The executive director may assess more severe penalties against an institution if any report is received by the board more than ~~one-month~~ ~~[one month]~~ (thirty (30) calendar days) after its due date. The maximum penalty for a single year is 30 percent of the school's allocation. If penalties are invoked two consecutive years, the institution may be penalized an additional 20 percent.

(3) If the executive director determines that a penalty is appropriate, the institution will be notified by certified mail, addressed to the program officer. Within 21 days from the date that the program officer receives the written notice, the institution must submit a written response appealing the board's decision, or the penalty shall become final and no longer subject to an appeal. An appeal under this section

will be conducted in accordance with the rules provided in the applicable sections of Chapter 519 of this title and the procedural rules of SOAH.

(e) Program Reviews. If selected for such by the board, participating institutions must submit to program reviews of activities related to the accounting students scholarship program.

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 July 11, 2024.

TRD-202403055

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: August 25, 2024

For further information, please call: (512) 305-7842



## 22 TAC §520.4

The Texas State Board of Public Accountancy (Board) proposes an amendment to §520.4 concerning Eligible Students.

### Background, Justification and Summary

Adds descriptive language to the title of the rule for the reader to understand that the rule applies only to the accounting students scholarship program.

### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

### Public Benefit

The adoption of the proposed rule revision helps to provide clarity to the applicability of the rule.

### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does

not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 26, 2024.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

### Statutory Authority

The amendment is proposed under the Public Accountancy Act (Act), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

### §520.4. *Eligible Students for the Accounting Students Scholarship Program.*

#### (a) To receive funds:

(1) an undergraduate student majoring in accounting must be enrolled at least half-time at an approved institution in Texas that is participating in the scholarship program, and attending consecutive semesters or in the final semester of the degree; or

(2) a graduate student majoring in accounting must be enrolled at least half-time or in the final semester of the degree at an approved institution in Texas that is participating in the scholarship program.

#### (b) To receive funds, a student must:

(1) maintain satisfactory academic progress in the program of study as defined by the institution;

(2) have completed at least 15 semester hours of upper-level accounting coursework;

(3) sign a written statement confirming the intent to take the examination conducted by or pursuant to the authority of the board for the purpose of obtaining a certificate of certified public accountant in Texas;

(4) agree to pay on demand all scholarship funds received if the student does not take at least one part of the exam within three years of submitting the application of intent, unless the executive director grants an extension of the three-year requirement upon a showing of good cause;

(5) agree that failure to comply with paragraph (4) of this subsection may cause the board to take measures necessary to enforce the repayment of the scholarship including bringing a civil suit in state district court;

(6) confirm that the applicant submitted an Application of Intent and has not met the educational requirements for certification in Texas;

(7) maintain a cumulative grade point average, as determined by the institution, that is equal to or greater than the grade point average required by the institution for graduation;

(8) be a resident of Texas; and

(9) have a statement on file with the institution of higher education indicating the student is registered with the Selective Service System as required by federal law or is exempt from Selective Service registration under federal law.

(c) In selecting recipients, the Program Officer shall consider at a minimum the following factors relating to each applicant:

(1) the applicant's financial need, which may be based on but not limited to the cost of the applicant attending school less family contribution and any gift aid (an award may not exceed the applicant's need nor be less than the amount calculated in accordance with the formula provided institutions in the application instructions);

(2) scholastic ability and performance as measured by the student's cumulative college grade point average as determined by the institution in which the student is enrolled; and

(3) ethnic or racial minority status.

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 July 11, 2024.

TRD-202403056

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: August 25, 2024

For further information, please call: (512) 305-7842



## 22 TAC §520.5

The Texas State Board of Public Accountancy (Board) proposes an amendment to §520.5 concerning Award Amount and Uses.

Background, Justification and Summary

Adds descriptive language to the title of the rule for the reader to understand that the rule applies only to the accounting students scholarship program.

### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

### Public Benefit

The adoption of the proposed rule revision helps to provide clarity to the applicability of the rule.

### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 26, 2024.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the pro-

posed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §520.5. Award Amount and Uses for the Accounting Students Scholarship Program.

(a) Funds awarded through this program may include any gifts, grants and donations of real or personal property from any entity, subject to limitations or conditions set by law, for the purposes of this chapter.

##### (b) Award Amount and Disbursements.

(1) The minimum and maximum annual award for a student through this program shall be an amount established by the board and announced to institutions in the allocation announcement sent out for the relevant year.

(2) An individual student's scholarship shall be paid out in the form of at least one disbursement per semester.

(c) No scholarship disbursed to a student shall be used for any purpose other than for meeting the cost of attending an approved institution.

(d) The duration of the scholarship shall be a maximum of three years awarded by semester or term.

(e) At the time an award is made to a student, it shall not exceed the student's need.

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

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



## 22 TAC §520.6

The Texas State Board of Public Accountancy (Board) proposes an amendment to §520.6 concerning Allocations.

### Background, Justification and Summary

Adds descriptive language to the title of the rule for the reader to understand that the rule applies only to the accounting students scholarship program.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed rule revision helps to provide clarity to the applicability of the rule.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 26, 2024.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the pro-

posed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §520.6. *Allocations for the Accounting Students Scholarship Program.*

(a) The board develops a formula for allocating funds to participating institutions in a way that fulfills the purpose of the program.

(b) Unless otherwise indicated, institutions shall have until a date specified by the board through a policy memo addressed to the program officer at the institution to encumber all funds allocated to them. If unencumbered by that specific date, the unencumbered funds will be allocated by the executive director to other institutions based upon need and a history of utilization.

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

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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#### **22 TAC §520.7**

The Texas State Board of Public Accountancy (Board) proposes an amendment to §520.7 concerning Disbursements to Institutions.

#### Background, Justification and Summary

Adds descriptive language to the title of the rule for the reader to understand that the rule applies only to the accounting students scholarship program.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed rule revision helps to provide clarity to the applicability of the rule.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 26, 2024.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§520.7. Disbursements to Institutions for the Accounting Students Scholarship Program.

Requests for program funds for eligible students shall be made by the program officer. Program funds, up to the maximum allocation for the institution, shall be disbursed to the institution for immediate release to the students or immediate application to the students' accounts at the institution. Requests for program funds may be made at any time during the academic year prior to the reallocation deadline.

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

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J. Randel (Jerry) Hill  
General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



## 22 TAC §520.8

The Texas State Board of Public Accountancy (Board) proposes an amendment to §520.8 concerning Retroactive Disbursements.

### Background, Justification and Summary

Adds descriptive language to the title of the rule for the reader to understand that the rule applies only to the accounting students scholarship program.

### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

### Public Benefit

The adoption of the proposed rule revision helps to provide clarity to the applicability of the rule.

### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on

small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 26, 2024.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§520.8. Retroactive Disbursements for the Accounting Students Scholarship Program.

(a) A student may receive a disbursement after the end of his or her period of enrollment if the student:

(1) owes funds to the institution for the period of enrollment for which the award is being made; or



(2) received a student loan that is still outstanding for the period of enrollment for which the award is being made.

(b) Funds that are disbursed retroactively shall either be used to pay the student's outstanding balance, including interest, from his or her period of enrollment at the institution or to make a payment against an outstanding loan received during that period of enrollment. Under no circumstances shall funds be released to the student.

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 July 11, 2024.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



## 22 TAC §520.11

The Texas State Board of Public Accountancy (Board) proposes new rule §520.11 concerning Eligible Applicants for Examination Fee Financial Aid (EFFA) Program.

### Background, Justification and Summary

The proposed rule will establish criteria for eligibility for the financial aid.

### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed new rule is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the new rule.

### Public Benefit

The adoption of the proposed rule will make it clear that as to how you may qualify for financial aid.

### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the new rule and a Local Employment Impact Statement is not required because the proposed new rule will not affect a local economy.

### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed new rule will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the new rule does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the new rule is in effect, the proposed rule:

does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed new rule.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 26, 2024.

The Board specifically invites comments from the public on the issues of whether or not the proposed new rule will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

### Statutory Authority

The new rule is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed new rule.

### §520.11. Eligible Applicants for Examination Fee Financial Aid (EFFA) Program.

(a) To receive Examination Fee Financial Aid funds a Texas applicant, having submitted a board approved application to take the UCPAE must:

(1) have not taken a section of the UCPAE prior to the effective date of this rule;

(2) have not passed a section of the UCPAE prior to the effective date of this rule;

(3) take the first section of the UCPAE after the effective date of this rule;

(4) receive their first passing score, as determined by board rule on a section of the UCPAE after the effective date of this rule; and

(5) submit an application to the board for reimbursement of the UCPAE fee within 90 days of receiving the first passing score.

(b) Examination Fee Financial Aid funds are only available to Texas applicants whose purpose is to obtain a certificate of "Certified Public Accountant" in Texas.

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 July 11, 2024.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



## 22 TAC §520.12

The Texas State Board of Public Accountancy (Board) proposes new rule §520.12 concerning Award Amounts and Uses Through the Examination Fee Financial Aid (EFFA) Program.

### Background, Justification and Summary

The proposed rule makes it clear that the amount reimbursed is based upon the CPA examination fee and once the applicant has paid for the exam fee and passed the exam the reimbursed amount may be used for other legal purposes.

### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed new rule is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the new rule.

### Public Benefit

The adoption of the proposed rule will clarify that it is a reimbursement, to be used only by the applicant, in one disbursement amount and is a one-time award.

### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the new rule and a Local Employment Impact Statement is not required because the proposed new rule will not affect a local economy.

### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed new rule will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the new rule does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the new rule is in effect, the proposed rule:

does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed new rule.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 26, 2024.

The Board specifically invites comments from the public on the issues of whether or not the proposed new rule will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

### Statutory Authority

The new rule is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed new rule.

§520.12. Award Amounts and Uses Through the Examination Fee Financial Aid (EFFA) Program.

(a) Funds awarded through this program will be in the form of a reimbursement to the applicant for the examination costs paid by the applicant to NASBA for the first section of the UCPAE that was passed.

(b) Award Amounts and Disbursements.

(1) The minimum and maximum reimbursement to an applicant through this program shall be an amount paid by the applicant to NASBA for the first section of the UCPAE that was passed.

(2) The applicant may use board reimbursed funds to take subsequent UCPAE sections or for other purposes and needs of the applicant.

(3) The reimbursement shall be paid by the board in the form of a single disbursement.

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

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



## 22 TAC §520.13

The Texas State Board of Public Accountancy (Board) proposes new rule §520.13 concerning Documentation for the Examination Fee Financial Aid (EFFA) Program.

### Background, Justification and Summary

The applicant is required to apply to the board for the award and provide evidence of financial need.

### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed new rule is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the new rule.

### Public Benefit

The adoption of the proposed rule will clarify that the application is submitted to the board and must contain evidence of financial need.

### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the new rule and a Local Employment Impact Statement is not required because the proposed new rule will not affect a local economy.

### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed new rule will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the new rule does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the new rule is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a

new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed new rule.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on August 26, 2024.

The Board specifically invites comments from the public on the issues of whether or not the proposed new rule will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

### Statutory Authority

The new rule is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed new rule.

§520.13. Documentation for the Examination Fee Financial Aid (EFFA) Program.

The applicant shall provide evidence of financial need by completing and submitting the board application form for the EFFA program.

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

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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