PROPOSED RULES PREAMBLE

Brief explanation of proposed rule

The Texas Higher Education Coordinating Board proposes amendments to Section 4.53 concerning Definitions, Section 4.54 concerning Exemptions/Exceptions, Section 4.55 concerning Assessment, Section 4.58 concerning Advisement and Plan for Academic Success, Section 4.59 concerning Determination of Readiness to Perform Freshman-Level Academic Coursework, and Section 4.60 concerning Evaluation and Reporting.

Specifically, these amendments will add new definitions and required components of developmental education programs for Texas public institutions of higher education.

Fiscal note and estimated cost to state and local government (or estimated reduction in costs to state and local government, and/or estimated loss of increase in revenue to state and local government)

Dr. Judith Loredo, Assistant Commissioner, P-16 Initiatives, has determined that for each year of the first five years the sections are in effect, there will not be any fiscal implications to state or local government as a result of enforcing or administering the rules.

Public Benefit and local employment impact

Dr. Loredo has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the section will be the improvement of persistence and success of entering college freshmen determined not to be college ready. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Request for comments

Comments on the proposal may be submitted to Suzanne Morales-Vale, Director of Developmental and Adult Basic Education, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, TX 78711, or suzanne.morales-vale@thecb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

Statutory basis for amendment (or new rule)

The amendments are proposed under the Texas Education Code, Section 51.307, which provides the Coordinating Board with the authority to adopt rules to implement the provisions of Texas Education Code, Section 51.3062, concerning the Texas Success Initiative.

Statutes, articles, codes affected by the proposed action

The amendments affect Texas Education Code, Section 51.3062.

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

SUBCHAPTER C. TEXAS SUCCESS INITIATIVE

Section

4.51. Purpose
4.52. Authority
4.53. Definitions
4.54. Exemptions/Exceptions
4.55. Assessment
4.56. Assessment Instruments
4.57. Minimum Passing Standards
4.58. Advisement and Plan for Academic Success
4.59. Determination of Readiness to Perform Freshman-level Academic Coursework
4.60. Evaluation and Reporting
4.61. Limited Waiver of Rules
4.62 Required Components of Developmental Education Program

4.53 Definitions

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

(1) Acceleration--the reorganization of instruction and curricula in ways that expedite the completion of coursework or credentials based on an assessment of students' strengths and needs. It involves a departure from the traditional multi-course sequence in favor of a more streamlined structure. Some examples include, but are not limited to emporium models and modular models, co-requisites, course-pairing, and computer-assisted instruction.

(2) Advising--the ongoing and intentional process by which faculty and/or staff members assist students to navigate their choice of courses or majors, access campus and community services, develop career goals and short/long-term plans.

(3) [~~(1)~~] Assessment--the use of a Board-approved instrument to determine the academic skills of each entering undergraduate student and the student's readiness to enroll in freshman-level academic coursework.

(4) [~~(2)~~] Board--the Texas Higher Education Coordinating Board.

(5) Course Pairing--an instructional strategy whereby students are enrolled or reenrolled simultaneously in a developmental education course and/or intervention and the gateway course of the same subject matter within the same semester. The developmental component provides support that advances the students' success in the gateway course.

(6) [~~(3)~~] Developmental Coursework and/or Intervention--non-degree-credit coursework and/or activity designed to address a student's strengths and needs [~~deficiencies~~] in the areas of reading, writing, mathematics and student success.

(7) [~~(4)~~] Developmental Education--developmental courses, tutorials, laboratories, and other means of assistance that are included in a plan to ensure the success of a student in performing freshman-level academic coursework.

(8) Differentiated Instruction--the different instructional processes used to work within a student's varied skill levels, motivational attitudes and learning preferences.

(9) Differentiated Placement--advising and placement of students based on individual strengths and needs.

(10) [~~(5)~~] Institution of higher education or institution--any public technical institute, public junior college, public senior college or university, medical or dental unit, or other agency of higher education as defined in Texas Education Code, §61.003(8).

(11) Measureable Learning Outcomes--knowledge, skills, and abilities, and/or attitudes that students should be able to demonstrate upon completion of a course and/or intervention.

(12) [~~(6)~~] Minimum Passing Standards--The minimum scores which must be attained by a student in reading, writing, and mathematics that indicates the student's readiness to enroll in freshman-level academic coursework.

(13) Non-Course-Based Developmental Education Interventions (also known as Non-Semester-Length Interventions)--Interventions that use learning approaches designed to address a student's identified weaknesses and effectively and efficiently prepare the student for college-level work. These interventions must be overseen by an instructor of record, must not fit traditional course frameworks, and cannot include advising or learning support activities already connected to a traditional course; interventions may include, but are not limited to, tutoring, supplemental instruction, or labs.

(14) [~~(7)~~] Non-Degree Credit Course--A course which may not be counted toward a degree or certificate. The term includes developmental, pre-collegiate and continuing education courses.

(15) Professional Development--the provision of ongoing and systematic learning opportunities for developmental educators and support staff that focus on research-based strategies, methodologies, and best practices resulting in effective and efficient coursework and/or interventions advancing the cognitive and non-cognitive skills of underprepared students seeking post-secondary enrichment, certificates, and degrees.

(16) Program Evaluation--a systematic method of collecting, analyzing, and using information to answer questions about developmental education courses, interventions, and policies, particularly about their effectiveness and cost-efficiency.

(17) Technology--the use of instructional aids, methods and/or other computer-based tools that enhance student learning.

4.54. Exemptions/Exceptions

(a) The following students shall be exempt from the requirements of this title:

(1) For a period of five (5) years from the date of testing, a student who is tested and performs at or above the following standards:

(A) ACT: composite score of 23 with a minimum of 19 on the English test and/or the mathematics test shall be exempt for those corresponding sections;

(B) Scholastic Assessment Test (SAT): a combined verbal and mathematics score of 1070 with a minimum of 500 on the verbal test and/or the mathematics test shall be exempt for those corresponding sections; or

(2) For a period of three (3) years from the date of testing, a student who is tested and performs on the Texas Assessment of Academic Skills (TAAS) with a minimum scale score of 1770 on the writing test, a Texas Learning Index (TLI) of 86 on the mathematics test and 89 on the reading test.

(3) For a period of three (3) years from the date of testing, a student who is tested and performs on the Eleventh grade exit-level Texas Assessment of Knowledge and Skills (TAKS) with a minimum scale score of 2200 on the math section and/or a minimum scale score of 2200 on the English Language Arts section with a writing subsection score of at least 3, shall be exempt from the assessment required under this title for those corresponding sections.

(4) A student who has graduated with an associate or baccalaureate degree from an institution of higher education.

(5) A student who transfers to an institution from a private or independent institution of higher education or an accredited out-of-state institution of higher education and who has satisfactorily completed college-level coursework as determined by the receiving institution.

(6) A student who has previously attended any institution and has been determined to have met readiness standards by that institution.

(7) A student who is enrolled in a certificate program of one year or less (Level-One certificates, 42 or fewer semester credit hours or the equivalent) at a public junior college, a public technical institute, or a public state college.

(8) A student who is serving on active duty as a member of the armed forces of the United States, the Texas National Guard, or as a member of a reserve component of the armed forces of the United States and has been serving for at least three years preceding enrollment.

(9) A student who on or after August 1, 1990, was honorably discharged, retired, or released from active duty as a member of the armed forces of the United States or the Texas National Guard or service as a member of a reserve component of the armed forces of the United States.

(b) An institution may exempt a non-degree-seeking or non-certificate-seeking student.

(c) Any student who has been determined to be exempt in mathematics, reading, and/or writing under subsections (a) or (b) of this section shall not be required to enroll in developmental coursework and/or interventions in the corresponding area of exemption.

4.55 Assessment

(a) An institution shall assess, by an instrument approved in §4.56 of this title (relating to Assessment Instruments), the academic skills of each entering, non-exempt undergraduate student prior to enrollment of the student. Under exceptional circumstances, an institution may permit a student to enroll in freshman-level academic coursework without assessment but shall require the student to be assessed not later than the end of the first semester of enrollment in freshman-level academic coursework.

(b) Prior to the administration of an approved instrument in §4.56, an institution shall provide to the student a pre-assessment activity(ies) that addresses at a minimum the following components in an effective and efficient manner, such as through workshops, orientations, and/or online modules:

(1) Importance of assessment in students' academic career;

(2) Assessment process and components, including practice with feedback of sample test questions in all disciplinary areas;

(3) Developmental education options including course-pairing, non-course-based, modular, and other non-conventional interventions;

(4) Institutional and/or community student resources (e.g. tutoring, transportation, childcare, financial aid);

(c) [~~(b)~~] An institution offering collegiate-level credit to students via a Multi-Institution Teaching Center (MITC) or a university system center, or to in-state students by distance learning delivery systems shall ensure that students are assessed as required by this section.

(d) [~~(c)~~] An institution may not use the assessment or the results of the assessment as a condition of admission to the institution or as a condition of admission to a specific program offered by the institution.

4.58 Advisement and Plan for Academic Success

(a) For each student who fails to meet the minimum passing standards described in §4.57 of this title (relating to Minimum Passing Standards), an institution shall:

(1) Establish a program to advise the student regarding developmental education necessary to ensure the readiness of that student in performing freshman-level academic coursework.

(2) Determine a plan, working with the student, for academic success, which shall include developmental education and may include provisions for enrollment in appropriate non-developmental coursework.

(b) Each plan for academic success shall:

(1) Be designed on an individual basis to provide the best opportunity for each student to succeed in obtaining his or her career and/or academic goals. At a minimum, the individual plan shall address: [~~performing freshman-level academic coursework.~~]

(A) Career advising;

(B) Course-based and/or non-course-based developmental education options;

(C) Campus and/or community student support services/resources;

(D) Degree plan or plan of study;

(E) Regular interactions between student and designated point of contact (e.g., advisor, faculty member, peer and/or community mentor, etc.);

(F) Registration for next semester/next steps; and

(G) Differentiated placement.

(2) Provide to the student a description of the appropriate developmental education considered necessary to ensure the readiness of that student to perform freshman-level academic coursework.

(3) Provide to the student an appropriate measure for determining readiness to perform freshman-level academic coursework, as described in §4.59 of this title (relating to Determination of Readiness to Perform Freshman-level Academic Coursework).

(c) Institutions shall consider all federal laws pertaining to individuals with disabilities when assessing and advising such students.

4.59 Determination of Readiness to Perform Freshman-level Academic Coursework

(a) An institution shall determine when a student is ready to perform freshman-level academic coursework using: [~~on an individual basis according to the needs of the student.~~]

(1) Developmental education coursework and/or intervention learning outcomes developed by the Board based on the Texas College and Career Readiness Standards and

(2) Student performance on one or more appropriate assessments.

(b) As indicators of readiness, institutions shall consider, as appropriate:

(1) Performance in developmental education.

(2) Performance in appropriate non-developmental coursework.

[~~(3) Performance on an assessment instrument described in § 4.56 of this title (relating to Assessment Instruments) or performance on an institutionally selected assessment.~~]

[~~(4) Performance on an assessment retake for those students who perform at or below the following scores:~~]

[~~(A) ASSET: Reading Skills - 35; Elementary Algebra - 30; and Writing Skills (objective) - 35.~~]

~~[(B) COMPASS: Reading Skills - 64; Algebra - 23; Writing Skills (objective) - 44.]~~

~~[(C) ACCUPLACER: Reading Comprehension - 61; Elementary Algebra - 42; Sentence Skills - 62.]~~

~~[(D) THEA: Reading - 201; Mathematics - 206; Writing - 205.]~~

~~[(E) An essay with a score of 5 will meet these criteria if the student meets the objective writing test standard.]~~

~~[(5) Other indicators of readiness, as determined by the institution~~.]

(c) A student may retake an assessment instrument at any time, subject to availability, to determine the student's readiness to perform freshman-level academic coursework.

(d) An institution shall, as soon as practicable and feasible, indicate a student's readiness in reading, mathematics, and writing on the transcript of each student.

4.60 Evaluation and Reporting

(a) The Board shall evaluate the effectiveness of Texas Success Initiative on a statewide basis and with respect to each institution. To inform this evaluation, institutions shall analyze and report to the Board, on a schedule to be determined by the Commissioner of Higher Education, the fiscal and/or instructional impacts of the following on student outcomes:

(1) Technological delivery of developmental education courses that allows students to complete course work;

(2) Diagnostic assessments to determine a student's specific educational needs to allow for appropriate developmental instruction;

(3) Modular developmental education course materials;

(4) Use of tutors and instructional aides to supplement developmental education course instruction as needed for particular students;

(5) Internal monitoring mechanisms used to identify a student's area(s) of academic difficulty;

(6) Periodic updates of developmental education course materials; and

(7) Assessments after completion of a developmental education intervention to determine a student's readiness for entry-level academic course work.

(b) – (c) (No change).