

TEXAS HIGHER EDUCATION
COORDINATING BOARD

**RESPONSE TO
TEXAS
SUNSET ADVISORY
COMMISSION
STAFF REPORT**

MARCH 22, 2012



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INTRODUCTION

This document provides the Texas Higher Education Coordinating Board's (THECB) response to the Texas Sunset Advisory Commission Staff Report. The THECB agrees with the majority of the issues and recommendations in the staff report. A detailed explanation is provided where there is disagreement, conditional agreement, or a new issue is raised.

The THECB views the Sunset process as an opportunity to improve the effectiveness and efficiency of the agency, and appreciates Sunset staff members' diligence in their review of the agency and its activities.

ISSUE 1

The Governing Board's Limited Stakeholder Input and Experience Hinder its Ability to Coordinate Texas' Higher Education Community.

THECB Response: **Agree.**

Sunset Staff Recommendations

Change in Statute

1.1: Require one-third of the members of the Board to have experience in the field of higher education.

THECB Response: **Agree, on the condition that the definition of "higher education experience" includes governance, administration, and leadership throughout the P-16 education pipeline.**

Limiting higher education experience to individuals who have been employed by an institution or have served on a governing board will narrow the talent pool of future appointees who have served in other P-16 education leadership roles.

1.2: Require the Coordinating Board to provide opportunities for public comment at each board meeting.

THECB Response: **Agree.**

The THECB is currently developing policies and procedures for allowing public testimony at public meetings of the full Board and Board committees. The THECB

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plans to implement a formal process for public testimony at the April 2012 Board meeting.

The THECB also requests that the Sunset Commission recommend to the Texas Legislature a change in the Government Code to authorize state agencies to hold public meetings through videoconferencing, or any other electronic means, without violating the intent of the Open Meetings Act. Current statutes restrict videoconferencing to instances where there is a physical quorum in one location. Allowing the full Board to participate in videoconferencing, without the need for a quorum in one location, would save the THECB not insignificant travel costs for Board members to meet in Austin at least eight times a year. This could have a significant aggregated savings for the state if all state agencies and institutions of higher education could hold meetings through electronic means with fewer restrictions.

The THECB also requests that the Sunset Commission recommend to the Texas Legislature a change in the Government Code to authorize state agencies to hold public meetings through telephonic means without the requirements that the meeting be a special called meeting where immediate action is required and where a quorum is difficult or impossible to achieve. The THECB's intent of these recommendations is to improve cost-efficiencies and allow the Board and other agencies to meet more regularly as may be desired. Statutory provisions relating to such meetings being open to the public would, of course, be retained.

1.3: Require the Coordinating Board to adopt rules for its use of advisory committees, ensuring the committees meet standard structure and operating criteria, and report recommendations directly to the Board.

THECB Response: **Agree.**

1.4: Require the Coordinating Board to strengthen its internal controls for allocating financial aid funding and ensure stakeholder input by adopting allocation methodologies in rule.

THECB Response: **Agree.**

Management Action

1.5: Direct the Coordinating Board to restructure and reduce its number of advisory committees.

THECB Response: **Disagree.**

The THECB recognizes that our advisory committees can be streamlined; however we disagree that significantly reducing our current advisory committee structure into a small number of broad-jurisdiction committees would be a net benefit. In fact, this change could have the opposite effect of the outcome desired by Sunset staff – increased focus and quality of stakeholder input – by shutting out of the advisory process those institutional representatives best qualified to provide input on particular topics. Because advisory committee membership totals are capped by statute, fewer committees would severely reduce the diversity of experience and perspective that the THECB

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draws upon to inform important policy and administrative issues. Higher education presents a particularly diverse set of issues and challenges, and having a greater number of specialized advisory committees allows the THECB to benefit from individuals with expertise unique to the matter at hand.

Additionally, on the rare occasions that Board members serve on advisory committees (e.g., Planning Committee that developed *Closing the Gaps*; Advisory Committee on Higher Education Cost Efficiencies; and Council on Continuous Improvement and Innovation), this has proven to be very helpful in increasing Board members' knowledge of the issues, leading to more informed decision-making. It is also important to note that the membership of the committees on which Board members serve generally include high-profile individuals who are no longer associated with an institution of higher education or who represent the business community. With this type of membership, having Board members participate does not "undermine the independence and objectivity of a committee by influencing or inhibiting the committee's actions, discussions, or recommendations" as asserted in the Sunset staff report.

ISSUE 2

Outdated and Unnecessary Statutory Provisions Divert the Agency's Focus from its Core Functions as a Higher Education Coordinating Entity.

THECB Response: **Agree.**

Sunset Staff Recommendations

Change in Statute

2.1: Redefine the Coordinating Board's powers and duties in statute to reflect the major functions of a modern higher education coordinating entity.

THECB Response: **Agree, on the condition that the THECB retain its authority to approve role and mission statements.**

The THECB agrees with the Sunset staff recommendation to streamline the agency's processes for reviewing the role and mission statements of public universities. However, the THECB believes the agency must retain explicit authority to approve significant changes to role and mission statements in order to prevent "mission creep." The National Center for Public Policy and Higher Education defines mission creep as "the tendency for less selective institutions to attempt to move up the ladder, so to speak, to compete with institutions at a higher rung. An example might be a strong undergraduate

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teaching school that attempts to transform itself into a research institution, often raising costs while becoming only a mediocre, rather than top-notch, research institution.”¹

2.2: Redefine the Coordinating Board’s powers and duties in statute to reflect the major functions of a modern higher education coordinating entity.

THECB Response: **Agree.**

2.3: Redefine long-range planning for higher education in statute.

THECB Response: **Agree.**

2.3: Update the Coordinating Board’s statute to clearly define its academic program approval authority in one section of law.

THECB Response: **Agree.**

2.4: Eliminate 20 unfunded and unnecessary programs from statute.

THECB Response: **Agree.**

2.5: Eliminate four unnecessary reporting requirements, but continue 18 that still serve a purpose.

THECB Response: **Agree.**

2.6: Require the Coordinating Board to periodically re-evaluate the ongoing need for all existing data requests it imposes on higher education institutions through rule or policy.

THECB Response: **Agree.**

2.7: Provide for the Coordinating Board to administer pilot projects to identify best practices only in circumstances where other entities cannot or will not administer the programs.

THECB Response: **Agree.**

ISSUE 3

The Coordinating Board’s Overarching Focus on Closing the Gaps Impedes the Agency’s Strategic Management of its Own Operations.

THECB Response: **Disagree.**

¹ Immerwahr, John, et. al, *The Iron Triangle: College Presidents Talk about Costs, Access, and Quality*, The National Center for Public Policy and Higher Education and Public Agenda (October 2008) accessed March 13, 2012, http://www.publicagenda.org/files/pdf/iron_triangle.pdf.

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After 2000 when the THECB adopted the statewide higher education strategic plan, *Closing the Gaps by 2015*, the Board directed staff to align the agency's strategic plan to the goals, targets, objectives, and strategies of *Closing the Gaps*. While the goals of *Closing the Gaps* are primarily dependent on the actions of higher education institutions, the agency has embedded these goals into its core functions – degree program approval, facilities approval, dissemination of data, and administration of financial aid and other programs – which has directly and indirectly resulted in institutions making significant strides in implementing the strategies in, and achieving the targets of, *Closing the Gaps*. Without this statewide vision, the THECB would fail to achieve its mission:

“The Texas Higher Education Coordinating Board's mission is to work with the Legislature, Governor, governing boards, higher education institutions and other entities to help Texas meet the goals of the state's higher education plan, *Closing the Gaps by 2015*, and thereby provide the people of Texas the widest access to higher education of the highest quality in the most efficient manner.”

Although the THECB disagrees with this overarching issue, we agree that the agency strategic plan should strike a better balance of strategic direction for the agency and strategic direction for Texas higher education (see response to 3.1).

Sunset Staff Recommendations

Management Action

3.1: Direct the Coordinating Board to revamp its statutorily required strategic plan to be specific to the agency's goals and functions.

THECB Response: **Agree.**

The THECB is modifying the current strategic plan to incorporate some of the agency elements as recommended by Sunset staff. Given the short turnaround for completely revamping this year's plan, the THECB plans to fully implement this recommendation when preparing the 2014 strategic plan.

3.2: Direct the Commissioner of Higher Education to ensure that a single high-level executive manages and coordinates the agency's day-to-day operations.

THECB Response: **Disagree.**

In January 2009, the Commissioner designated the Deputy Commissioner for Finance and Administration/Chief Operating Officer as Acting Commissioner in the Commissioner's absence from the agency. The Acting Commissioner performs the legally authorized duties, roles, and responsibilities of the Commissioner until the Commissioner's unavailability ceases or an Acting Commissioner of Higher Education is appointed by the Board. If both the Commissioner and the Deputy Commissioner for FA/COO are unavailable, the Deputy Commissioner for Academic Planning and

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Policy/Chief Academic Officer serves as Acting Commissioner. If all three are unavailable, the Associate Commissioner/Chief of Staff serves as Acting Commissioner.

The THECB believes that a team management approach with senior functional leaders as cultivated by the Commissioner is significantly more effective than having a single manager in charge of an agency as complex and unique as the THECB. The result of this team management approach is a group of individuals who have an intimate knowledge of the workings of the entire agency. The THECB also strongly disagrees with Sunset staff's assertion that the agency "clearly prioritizes its top-level administrators having academic experience, with less focus on management experience and skills." The combined management experience of the two deputy commissioners is over 60 years.

Finally, the THECB disagrees with the problems that Sunset staff has identified as resulting from the lack of a single manager. The THECB can certainly improve in areas such as prioritizing information technology needs and coordinating external communications – and the agency is instituting changes to do so. However, we believe these are perennial challenges faced by several state agencies of various management structures, and the team management structure of the agency brings a wealth of managerial experience and different perspectives to solving these and other management issues.

Rec. 3.3: Direct the Coordinating Board to work toward revamping its budget pattern and performance measures to better reflect the agency's functions.

Response: **Agree.**

Rec. 3.4: Direct the Coordinating Board to redesign its websites to better meet the needs of its stakeholders and ensure centralized control over the sites' content and organization.

Response: **Agree, contingent on legislative appropriations or the receipt of private funding for this purpose.**

The majority of the THECB's appropriated funds – 96 percent (or \$724.6 million) – are passed through to institutions for grants and student financial aid. The remaining 4 percent (or \$32 million) of appropriated funds support the agency's operations. The 2012-2013 appropriation for Information Resources was reduced by 26 percent (or \$2.5 million). In order to implement this recommendation, the agency cannot rely on internal resources because these resources are already strained. Therefore, the agency would need to hire an external consultant for this purpose at an estimated cost range of \$75,000 to \$100,000.

Rec. 3.5: Direct the Coordinating Board to develop a time management system for its staff.

Response: **Agree.**

Currently, 72 percent of THECB employees (178 out of 247) complete a Time Distribution Report (TDR) or a timesheet. These employees are either funded by federal dollars and are required to capture time spent on federally-funded projects, are non-

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exempt employees who work overtime and are required to submit timesheets under the Fair Labor Standards Act (FLSA), or have volunteered to submit time sheets because of the number of projects they work on. In addition, three of the divisions that work the most on projects have work plans that deploy the workload by individual staff member(s), including goals and timelines for completion.

The THECB believes that those employees who are most closely tied to projects are already on a time management system, but agrees that management could more effectively examine these time sheets to evaluate the use of staff resources.

ISSUE 4

Texas' B-on-Time Loan Program is Not Working as Intended, Leaving Millions of Financial Aid Dollars Unspent or at Risk from Default.

THECB Response: **Agree.**

The THECB agrees that the B-on-Time loan program is not working as intended and recommends that the program be completely restructured. While many of the Sunset staff recommendations attempt to improve the program to increase participation and effectiveness, they do not go far enough. The THECB proposes the following alternative recommendation:

Repurpose the B-on-Time loan program to a funded Undergraduate Tuition Rebate Program – Campus-based under the undergraduate tuition rebate statute with current B-on-Time forgiveness requirements and funded with current B-on-Time tuition set-asides.

- Tuition set-asides collected by the institution would be retained by the institution for the benefit of their own students. No funds would be swept by the state to be used at other campuses.
- Every undergraduate student that funds the program would have an opportunity to benefit from the tuition set-asides paid. Incentives to finish “on time” would be realized by every enrolling freshmen student.
- Students meeting the rebate criteria would be guaranteed to get back at least the amount of set-asides contributed (i.e. if 100 percent of students graduate on time with a B average, each student would get back exactly what they contributed).
- Award amounts would be limited to the maximum of tuition and fees paid by a student during their four years. If a campus has so few students that qualified for the rebate, the most they could receive would be actual tuition and fees charged.
- There would be a high incentive for a student to graduate under the program at a campus that has a low graduation rate.
- Recipients of state grant aid (e.g., TEXAS Grant, Texas Educational Opportunity Grant) would be ineligible for the B-on-Time rebate (their tuition and fees have already been covered by the state).

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- If any excess funds should remain at a campus due to a shortfall of eligible graduates, the institution could use the funds in the following academic year to issue need-based grants to resident undergraduate students enrolled at the institution.
- Institutions would follow current undergraduate tuition rebate procedures established in Texas Education Code 54.0065 and THECB rules.
- If students had outstanding student loan debt, the rebates would first pay down these loans.
- Possible tax consequences would still remain for students who took deductions/credits for previous tuition paid.

Sunset Staff Recommendations

Change in Statute

4.1: Lengthen the yearly and credit hour graduation requirements for B-On-Time loan forgiveness.

THECB Response: **Disagree.**

The purpose of the Texas B-On-Time Loan program is to provide incentives to eligible undergraduate students to graduate in four years, or within 6 hours of their degree program, with a GPA of a 3.0 (B) or better. This recommendation not only goes against the very purpose of the program by extending the yearly and credit hour graduation requirements for loan forgiveness, it also goes contrary to the THECB's policy recommendations to reduce time-to-degree. Since some students claim that they cannot graduate in a timely fashion because the courses they need to complete their degree are at capacity or unavailable, the THECB will look into this issue.

4.2: Require the Coordinating Board to set minimum credit requirements to obtain a loan through the B-On-Time program.

THECB Response: **Disagree.**

This recommendation will reduce overall access to the program for many low-income students.

4.3: Remove all two-year institutions from participation in the B-On-Time loan program and transfer the funding for public two-year institutions to a program better suited to those institutions' needs.

THECB Response: **Agree.**

Change in Appropriations

4.4: The Sunset Commission should recommend that the Legislature transfer B-On-Time funding for public two-year institutions to the Texas Educational Opportunity Grant program.

THECB Response: **Agree.**

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Management Action

4.5: Require the Coordinating Board to include information about the B-On-Time program's progress in its annual financial aid report.

THECB Response: **Agree.**

4.6: Direct the Coordinating Board to work with institutions to promote B-On-Time as a loan program, instead of a grant, and emphasize opportunities for loan forgiveness.

THECB Response: **Agree.**

The THECB believes promoting the B-On-Time program as a loan program with the opportunity for loan forgiveness may resonate more effectively with parents who presumably have more knowledge and experience with taking out loans than their children.

4.7: Direct the Coordinating Board to seek a revision to federal regulations for alternative loans to exclude restrictions on state-sponsored loan programs.

THECB Response: **Agree.**

ISSUE 5

The Coordinating Board's Limited Monitoring of Funding and Data Fails to Ensure Their Appropriate Use and Accuracy.

THECB Response: **Agree.**

To improve the accuracy of data provided to the THECB by institutions of higher education, the THECB recommends that the agency be granted authority to assess costs incurred as a result of institutions that submit inaccurate or late data. The THECB has numerous examples of institutions that have submitted inaccurate data despite the agency's requirements that the president certify the data are correct. Likewise, there are several occasions when institutions submit data beyond the agency's deadlines, causing the THECB to not publish the data in a timely manner. When these events occur, they cause a ripple effect that negatively impacts a number of institutions.

Relating to the chart on p. 61 – *Coordinating Board Enrollment Data Audits Finding Noncompliance, FYs 2008-2010*, the THECB requests a correction be made to the column labeled “Misused Funds.” In none of the instances listed on this chart did institutions misuse funds. Rather, there were institutional reporting errors in the enrollment data submitted to the agency, which led to the funds being allocated in error. The THECB recommends the column be relabeled “Funds Allocated Based on Incorrect Data.”

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Sunset Staff Recommendations

Change in Statute

5.1: Require the Coordinating Board to establish a risk-based, agency-wide compliance monitoring function to help ensure the proper use of its funding and the accuracy of its data.

THECB Response: **Agree.**

Change in Appropriations

5.2: The Sunset Commission should recommend that the Legislature use existing state funds and increase the Coordinating Board's full-time equivalent cap for the new compliance monitoring function.

THECB Response: **Disagree.**

The THECB strongly disagrees with taking funds away from institutions through the formulas and from students through financial aid dollars. Instead, the THECB recommends that new funds be appropriated to the agency's operating budget to implement these recommendations.

Management Action

5.3: The Coordinating Board's Office of Internal Auditor should prioritize its core functions over other duties that divert its focus or impair its ability to independently evaluate the agency's operations.

THECB Response: **Agree.**

ISSUE 6

Texas Has a Continuing Need for the Texas Higher Education Coordinating Board.

THECB Response: **Agree.**

Relating to the chart on the *Status of Closing the Gaps* (p. 71), by far, the two most important goals of *Closing the Gaps* are participation and success. The excellence goal was not well defined and is difficult to measure. Although Texas has seen no appreciable progress on the measure included in the *Closing the Gaps* plan (e.g., national rankings), higher education in Texas has improved markedly. A few examples of excellence over the last 12 years include:

- ✓ In 2001, Texas A&M University was designated an AAU (Association of American Universities) institution. This is a prestigious organization consisting of only 59 leading research universities in the United States devoted to maintaining strong academic research and graduate/undergraduate education.

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- ✓ In 2004, the Galveston National Laboratory at The University of Texas Medical Branch was the first full-size Biosafety Level 4 lab located on a university campus in the United States.
- ✓ In 2006, Richland College was the first community college in the United States to receive the Malcolm Baldrige National Quality Award.
- ✓ In 2008, South Texas College was one of two community colleges in the United States that received the MetLife Foundation Community College Excellence Award, which is administered by Jobs for the Future. The award is given in even-numbered years to colleges that are “especially effective in helping students from underserved populations to succeed in postsecondary learning.”

Regarding the research goal, although Texas higher education is somewhat below target in achieving 6.5 percent of obligations to higher education institutions across the nation, Texas has improved in terms of research obligations, increasing from 5.65 percent to 5.9 percent. Texas is now tied for third with Pennsylvania and Massachusetts among the states trailing only New York (at 7.8 percent) and California (at 13.9 percent). It is also important to note that the latest year available is 2008’s Federal obligation information. Given this four-year lag in data, the THECB also regularly measures how the state is doing with regard to research expenditures, which takes into account research support from both federal and state government, private industry, and other sources. Based on this measure, the state is significantly well ahead of target exceeding the 2010 target of \$1.45 billion by nearly 145 percent with actual research expenditures of \$3.55 billion!

Sunset Staff Recommendation

Change in Statute

6.1: Continue the Texas Higher Education Coordinating Board for 12 years.

THECB Response: **Agree.**

The THECB strongly agrees with this recommendation and appreciates Sunset staff for their thoroughness, diligence, and energy in reviewing the agency’s functions and activities.