



## TACRAO Legislative Issues Committee 2018-2019 Committee Report

The TACRAO Legislative Issues Committee Members:

Debbie Gilchrist, Chair – The University of Texas Rio Grande Valley

Chris Reed, Chair-Elect – Texas A&M University

Dr. Bobbye Fry – University of the Incarnate Word

Sheila Gray – Texas Tech University

Jodie Rexroat - Dallas County Community College District

Madelyne Tolliver – Victoria College

The 2018-2019 TACRAO Legislative Committee's first meeting was held on November 5, 2018 at the annual conference in Fort Worth, Texas. Throughout the 140-day session the Committee monitored several news sources and the Texas Legislative Online (TLO) website and provided updates to the TACRAO membership. In addition to monitoring Texas Legislation Online (TLO), we partnered with AACRAO to track this sessions proposed bills at <https://www.aacrao.org/advocacy/advocacy-action-center>. AACRAO's bill tracking tool was easier to read and provided updates via email anytime a change was made to a bill.

The 86<sup>th</sup> Legislature wrapped up its session on May 27 after considering more than 7,300 pieces of legislation of which 1,373 were passed and signed by the Governor. Legislators worked on significant fixes to public school finance and property tax relief. At the beginning of the session, the Texas Comptroller released a revenue estimate of \$119.1 billion dollars which was \$9 billion more than the 2017 session. The 2020-21 state budget plan included spending approximately \$250 billion on public school funding, teacher salaries and early childhood intervention programs as well as transportation, healthcare, public safety, prisons and more. The budget remained within the constitutional limits and leaves a healthy \$9 billion dollars in the rainy-day fund. After 140 plus days of bill tracking, the Legislative Issues Committee compiled a list of bills and provided the list to the TACRAO membership.

Below are some of the more significant bills affecting higher education that passed the 2019 Regular Session.

### **Free Speech**

SB18 by Huffman/ Effective 1 SEPTEMBER 2019

Imposing new policies related to “free speech” on colleges campuses...The bill designates the common outdoor areas of public institutions of higher education (IHEs) as traditional public

forums open to all persons for the purpose of engaging in “expressive activity.” The bill also requires that all institutions adopt a free speech policy by August 1, 2020. Other provisions of the bill include:

- Defines expressive activities as speech or conduct protected by the First Amendment to include assemblies, protests, speeches, distribution of written material, carrying of signs and circulation of petitions (but does not include commercial speech). Expressive activities may not materially and substantially disrupt the functioning of the institution, and certain expressive activities in outdoor areas are subject to reasonable time, place and manner restrictions.
- Requires campus free speech policies to detail students’ rights and responsibilities that allow for any person, subject to reasonable restrictions, to engage in expressive activities but that does not prohibit faculty from maintaining order in classrooms, allow for student organizations and faculty to invite speakers to speak on campus, establishes disciplinary sanctions for students, student organizations, or faculty who unduly interfere with the expressive activities of others, includes a grievance procedure for addressing complaints of violations, is included in the student and personnel handbooks, is provided to students during freshman and transfer student orientations, and is posted on the institution’s website.
- Stipulates that in approving a speaker or calculating fees for the use of facilities for expressive activities an institution may consider only content-neutral criteria such as proposed venue and expected size of audience, need for campus security, necessary accommodations, and relevant history of compliance of the requesting student organization or faculty member. An institution may not consider any anticipated controversy related to the event.
- Prohibits institutions from taking any action against a student organization based on a political, religious, philosophical, ideological, or academic viewpoint expressed by the organization or any expressive activities of the organization.
- Requires institutions to develop materials, programs and procedures to train employees responsible for educating or disciplining students to ensure they understand the new law and any policies adopted there under.
- Not later than December 1, 2020, prepare a report on the institution’s implementation of the requirements of the new law, post it on its website, and submit it to the Governor and the Legislature.

### **Improving College Transfer**

SB 25 by West/ Effective 14 JUNE 2019

Improves the process to transfer to or from, the academic progress, and timely graduation at IHEs. The bill imposes the following requirements:

- IHEs to report nontransferable credit (this provision is also found in SB502 by Seliger);
- Creation of an option for students to be considered for admissions into degree programs at other IHEs if they are not admitted to a degree program at their preferred institution;

- That students file a degree plan at 30 hours and those enrolled in dual credit to file at 15 hours;
- Negotiated rulemaking related to administration and compliance;
- That IHEs develop course sequences for degree programs and certificates and report them to the THECB for posting;
- Opportunity for articulation agreements and what's included in them;
- Clarification of "core curriculum" with general core and discipline core designations;
- The inclusion of "fields of study" and meta-majors;
- Options for release of student academic information; and
- A study on transfer admission guarantee.

SB 1324 by Taylor / Effective 4 JUNE 2019

Filing of degree plans...

Requires a student who is enrolled in a course for joint high school and junior college credit at a public junior college to file a degree plan with the college within a specified time period after the student earns a cumulative total of 15 or more semester credit hours if the student is not subject to certain degree plan requirements for a student enrolled in an associate or bachelor's degree program. The bill revises degree plan requirements for a multidisciplinary study associate degree program to conform to requirements for other associate degree programs.

### **Sexual Assault/Title IX**

SB 212 by Huffman/ Effective 1 SEPTEMBER 2019 (Provisions related to the Training Advisory Committee take effect 14 JUNE 2019 and provisions related to the offense of failure to report or making a false report take effect 1 JAN 2020)

New law aimed at reducing dating violence, sexual assault and harassment, and stalking at IHEs...

The bill requires an employee of a postsecondary education institution who, in the course and scope of employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the institution at the time of the incident must report the incident to the institution's Title IX or deputy Title IX coordinator. Under provisions of the bill, the institution must designate an employee with whom students may speak confidentially without violating a student's expectation of privacy. The bill requires that not less than once every three months the Title IX coordinator must submit a written report on the reports received to the institution's chief executive officer; a report shall be submitted immediately if the safety of the person is in imminent danger as a result of the incident. At least once during the fall or spring semester the chief executive officer shall submit to the institution's governing body and post on the institution website a report concerning the reports received unless the postsecondary educational institution has enrolled fewer than 1,500 students in that semester. If a postsecondary educational institution has enrolled fewer than 1,500 students, the chief executive officer shall submit and post a report

only if more than five reports were received during that semester. The bill includes provisions regarding the termination of employees, who were required to report incidents and failed to do so, and for employees that made false reports regarding incidents. Failure to make a report or intentionally making a false report would be a Class B misdemeanor. Such an offense would be a Class A misdemeanor if it was shown at trial that the employee knowingly intended to conceal the incident. THECB would be authorized to assess an administrative penalty against the institution in the amount not to exceed \$2 million. The institution may not pay the penalty assessed using state or federal money and would be credited to the sexual assault program under Government Code, Section 420.008. The bill requires the Commissioner of Higher Education to establish an advisory committee of nine members to develop training for the person required to report certain incidents, including the institution's Title IX and deputy Title IX coordinators. The Higher Education Coordinating Board would be required to engage in negotiated rulemaking with institutions of higher education regarding policies related to the reporting of certain incidents of sexual harassment, sexual assault, dating violence or stalking.

HB 1735 by Howard/ Effective 1 SEPTEMBER 2019

New law aimed at reducing dating violence, sexual assault and harassment, and stalking at IHEs...

The bill requires public and private postsecondary educational institutions to adopt a policy on campus sexual harassment, sexual assault, dating violence and stalking. The policy must include definitions of prohibited behavior; sanctions for policy violations; the protocol for reporting and responding to reports of sexual harassment, sexual assault, dating violence, and stalking; interim measures to protect victims of sexual harassment [et al], during the pendency of the institution's disciplinary process, including protection from retaliation, and any other accommodations available to those victims at the institution; and a statement regarding the importance of going to the hospital for treatment and preservation of evidence, the right to report the incident to the institution and to receive a prompt and equitable resolution of the report, and the right to choose whether to report to law enforcement, to be assisted by the institution in reporting a crime to law enforcement, or to decline to report the crime to law enforcement. The policy must be approved by the institution's governing board before final adoption by the institution. The institution will be required to make the policy available to students, faculty, and staff members. Part of the protocol for responding to sexual harassment [et al] must: Notwithstanding any other law, allow an alleged victim or alleged perpetrator to drop a course in which both parties are enrolled without any academic penalty. In addition, each biennium, institutions must review the policy, and, with the approval of the institution's governing board, revise the policy as necessary. Further, under provisions of the bill, each peace officer employed by a postsecondary educational institution must complete training on trauma-informed investigation into allegations of sexual harassment, sexual assault, dating violence, and stalking. The bill requires each postsecondary educational institution to designate a Title IX Coordinator (responsible employee) and designate confidential employees. In addition, each postsecondary educational institution may designate student advocates, at the discretion of the institution (though not required). Under provisions of the bill, as part of the protocol for responding to reports of sexual harassment, sexual assault, dating violence, and stalking, each institution shall, to the greatest extent practicable based on the number of counselors employed by the institution, offer counseling provided by a counselor who does not provide counseling to any other person involved in the incident. The bill authorizes the

Coordinating Board to assess an administrative penalty of up to \$2.0 million against an institution that failed to substantially comply with provisions of the bill. The bill would require the commissioner of higher education to establish an advisory committee.

SB 38 by Zaffirini / Effective 1 SEPTEMBER 2019

Revises the definition of hazing ...

The bill revises the definition of hazing to include an act involving coercing a student to consume an alcoholic beverage, liquor, or drug, by applying the Penal Code definition of "coercion." The bill would remove from the definition's list activities that included: intimidating or threatening the student with ostracism; subjecting the student to extreme mental stress, shame, or humiliation; adversely affecting the mental health or dignity of the student or discouraging the student from entering or remaining registered in an educational institution; or activities that would be reasonably expected to cause a student to leave the organization or institution rather than submit to such acts. The bill also provides criteria for immunity from prosecution or civil liability for hazing in certain circumstances, allows for alternative venues for the prosecution of hazing offenses, and requires post-secondary educational institutions to report to student's information on hazing.

### **Educator Preparation Programs**

HB 3217 by Ashby/ Effective 24 MAY 2019

Eligibility requirements for issuance of a teaching certificate...

The bill requires a person who applies for a teaching certificate for which State Board for Educator Certification (SBEC) rules require a bachelor's degree to possess a bachelor's degree received with an academic major or interdisciplinary academic major, including reading, that is related to the curriculum as prescribed under Subchapter A (Essential Knowledge and Skills; Curriculum), Chapter 28, rather than requiring a person who applies for a teaching certificate for which SBEC rules require a bachelor's degree to possess a bachelor's degree received with an academic major or interdisciplinary academic major, including reading, other than education, that is related to the curriculum as prescribed under Subchapter A, Chapter 28. The bill also deletes existing text prohibiting SBEC from requiring more than 18 semester credit hours of education courses at the baccalaureate level for the granting of a teaching certificate. Requires SBEC to provide for a minimum number of semester credit hours of field-based experience or internship to be included in the credit hours needed for certification, rather than requiring SBEC to provide for a minimum number of semester credit hours of internship to be included in the hours needed for certification. The bill is effective upon passage or September 1, 2019.

HB 2424 by Ashby/ Effective 14 JUNE 2019

Creating a micro-credential certification program for public school educator continuing education...

SB 504by Seliger/ Effective 14 JUNE 2019

Relating to the inclusion of certain information in postsecondary education and career counseling academies developed for certain school counselors and other postsecondary advisors employed by a school district...

The bill allows the Texas On Course Academy the ability to add content modules that include social-emotional counseling tools in an effort to allow participating advisors and counselors to be better prepared to identify and address potential mental health issues that may arise at the schools they serve.

### **Transcript Notation/Policy Publication**

HB 449by Turner/ Effective 10 JUNE 2019

Requiring public and private IHEs to include a notation on a student's transcript of disciplinary dismissal...

In an effort to eliminate the enrollment of students at an institution after being expelled from an IHE for certain disciplinary reasons from another IHE, IHEs are required to add a notation on the transcript of a student who is ineligible to reenroll at the institution for a reason other than an academic or financial reason. H.B. 449 also requires institutions to complete the investigatory process if a student withdraws from the institution pending disciplinary charges that may result in the student becoming ineligible to reenroll for reasons other than academic and financial reasons. The bill also creates a mechanism to remove the notation if the student becomes eligible to reenroll or the institution determines that good cause exists to remove it.

HB 476 by Howard / Effective 1 SEPTEMBER 2019

For campuses that have policies on epinephrine auto-injectors...

Requires IHEs that have policies on epinephrine auto-injectors to include the policy in the institution's student handbook or a similar publication and to publish the policy on the institution's website. Institutions that adopted such policies will have to submit to the Department of State Health Services (DSHS) a copy of their policies and any amendments the institution adopts. DSHS will be required to maintain a record, available to the public on request, of the most recent policies each institution has submitted.

### **Developmental Disabilities Issues**

SB1017 by Powell / Effective 10 JUNE 2019

Requires the Texas Higher Education Coordinating Board to establish an advisory council on postsecondary education.

The bill requires the establishment of the Advisory Council for Persons with Intellectual and Developmental Disabilities. The Council is tasked with developing educational outreach materials to raise awareness in Texas of postsecondary education opportunities for distributing them to all Texas public schools. It will also study the accessibility of higher education for individuals with IDD and create recommendations on how to remove existing barriers, which will be published in an annual report.

HB 1386 by Thompson/ Effective 1 SEPTEMBER 2019

Amends current law relating to training and development activities for persons who may interact with an individual with autism or other pervasive developmental disorder...

Requires the Health and Human Services Commission (HHSC) to provide training related to interacting with individuals with autism or another pervasive developmental disorder to Department of Family and Protective Services personnel, as well as certain school, medical, and law enforcement personnel.

### **Admissions**

HB 539 by Leman/Effective 10 JUNE 2019

Allows for the automatic admission to general academic teaching institutions and eligibility for certain scholarships of a student who is the valedictorian of the student's high school graduating class...

This bill requires public IHEs to admit any applicant for undergraduate admission who had graduated from high school as a class valedictorian within the past two years, provided that the student met all other statutory requirements for automatic admission. The bill also makes valedictorians eligible for an existing state scholarship intended for outstanding high school students who ranked in the top 10 percent of their graduating class, subject to available funding.

### **Financial Aid/Tuition Exemptions**

SB 1504 by Zaffirini /Effective 10 JUNE 2019

Abolishing the B-On-Time Student Loan Account...

Postpones from September 1, 2020, to September 1, 2024, the date on which the Texas B-On-Time student loan account is abolished. The bill limits the purposes for which an eligible IHE that receives an appropriation from the account after it is abolished to use that money for the purpose of supporting 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 bill defines "at-risk student" as an undergraduate student of an institution of higher education who has previously received a federal Pell Grant or met the expected family contribution criterion.

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A complete summary of Higher Education Legislation passed during the 86<sup>th</sup> legislative session compiled by the Texas Higher Education Coordinating Board can be found at

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On July 16th, 2018 at the TACRAO University Issues Summer Meeting in Austin, Texas TACRAO President, Sofia Montes provided an update prepared by the Legislative Issues Committee on State legislation.

Interim charges usually come out in the fall or winter but may be delayed this year in the House due to the status of Speaker Bonnen.

Respectively submitted by:

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