



# TEXAS HIGHER EDUCATION COORDINATING BOARD

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July 7, 2016

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South Texas College  
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Dr. Raymund A. Paredes  
Commissioner of Higher Education  
1200 E. Anderson Lane  
Austin, TX 78752

RE: An Audit of Formula Funding at South Texas College

Dear Dr. Reed and Dr. Paredes,

I am attaching the final report of *An Audit of Formula Funding at South Texas College*, Report No. THECB-CM-FF-16-014. This Compliance Monitoring audit report will be presented to the THECB Committee on Agency Operations, a standing committee of the THECB Board, on July 20, 2016.

The cooperation of your staff during this audit is greatly appreciated. If you have any questions or comments, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Mark A. Poehl".

Mark A. Poehl, CPA, CIA, CISA, CFE  
Director, Internal Audit and Compliance

## EXECUTIVE SUMMARY

South Texas College did not fully comply with relevant statutes and Coordinating Board (THECB) rules for enrollment data used for formula funding, in the area of continuing education contact hour reporting. Attachments A and B provide the institution's decision-making rationale regarding the reporting of continuing education contact hours.

### Summary

Formula funding reporting to THECB should ensure continuing education contact hours are reported for formula funding only for adults seeking immediate employment and for students that have timely paid tuition. Approximately 56% of continuing education contact hours were over-reported and did not meet statutory requirements, resulting in over-awarding for the current biennium of approximately \$2.3 million.

South Texas College sought Coordinating Board guidance regarding proper reporting for contact hours generated by continuing education courses. The institution received erroneous guidance provided by the Coordinating Board through email, Frequently Asked Questions (FAQ), and the Guidelines for Instructional Programs in Workforce Education Manual (GIPWE). Substantial correction of THECB guidance regarding tuition requirements for continuing education courses occurred in July 2015. South Texas College reporting practices regarding tuition requirements thereafter remained unchanged. See timeline in Attachment 2.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and recommendations based on our audit objectives. We believe the evidence obtained provides a reasonable basis for the findings and recommendations based on the audit objectives.

### **Comments from South Texas College**

*South Texas College looks forward to clarification in guidance promulgated by the Coordinating Board related to career technical/workforce continuing education programs. Moreover, we look forward to working with the Coordinating Board staff and will continue to rely on their expertise on this matter.*

*Additionally, South Texas College urges the consideration of establishing a Taskforce to review the role and mission of CE Workforce training. This Taskforce could address, within the current context, the training needs of the State so that changes to statutes and rules may be considered that support the mission and role of CE Workforce training, as well as the goals of 60x30TX to provide marketable skills to Texans. The findings and recommendations of the CE Taskforce could help establish more relevant, responsive, and appropriate guidelines so that Continuing Education may be responsive to the needs of Texas.*

## Scope, Objective, and Methodology

Our audit included tests of relevant enrollment data reported and certified by South Texas College for the CBM00C/00A during quarter 3 2014, quarter 4 2014, quarter 1 2014, quarter 2 2015, and others as applicable, for accuracy and completeness. Our work included procedures to verify:

- Contact hours/enrollment met reporting requirements;
- Contact hours were eligible for formula funding;
- Student payment was received per requirements; and
- The control system provides reasonable assurance that the data reported by South Texas College to the THECB is accurate and complete.

The methodology employed during this audit included objectively reviewing and analyzing various forms of documentation, conducting interviews and observations, and other tests necessary to achieve the objectives of the audit.

## Background

Fifty Public community college districts receive state appropriations based on their student enrollment data. These institutions are governed by locally elected boards that have the authority to levy property taxes in their districts. The state appropriations the colleges receive are used to fund administrative and instructional (education and general) services for post-secondary academic and vocational/technical education.

State financing of higher education programs for public community colleges is provided from the State's General Revenue Fund. The THECB and the Comptroller of Public Accounts distribute these appropriations to colleges based on allocations and performance measures. Each college submits enrollment reports (CBM Reports) to the THECB to document the number of contact hours taught by the college in each semester. The formula for state funding involves multiplying the base period contact hours submitted by colleges by the applicable funding rates.

The THECB is authorized to review the accuracy of the contact hour data reported to the Coordinating Board by community college districts. In the event of data reporting errors, the Coordinating Board is authorized to adjust the fiscal year's formula appropriations as necessary to reflect the corrected data elements. (General Appropriations Act FY 2014-15 biennium, page III-203 and General Appropriations Act FY 2016-17 biennium, page III-204)

THECB Compliance Monitoring previously reviewed South Texas College base period formula funding for Summer 2012, Fall 2012, and Spring 2013, in a report dated December 23, 2013. The conclusion from that report was that "South Texas College (STC) complied with relevant Coordinating Board (THECB) rules and regulations for enrollment data used for

formula funding, with Texas Administrative Code Section 13, and with Rider 8 of the General Appropriations Act, 82<sup>nd</sup> Legislature, Regular session (Rider 8).”

South Texas College submitted certified enrollment data for Summer 2014, Fall 2014, and Spring 2015 and for quarter 3 2014, quarter 4 2014, quarter 1 2014, and quarter 2 2015.

## Detailed Observations, Recommendations and Management's Response

### 1) South Texas College over reported 438,107 hours in continuing education formula funding for the 2014 base period.

South Texas College over reported 438,107 hours in continuing education formula funding for the 2014 base period. Applying an average rate of \$2.59 per hour, results in an over-reporting of \$1,135,103 for the base year and \$2,270,206 for the 16-17 biennium. South Texas College reported a total of \$33,587,363 in formula funding for the 2014 base period with continuing education contact hours accounting for \$1,999,499 of the total formula funding. Overall, South Texas College over reported by 3.4% (\$1,135,103/ \$33,587,363) for the 2014 base period. Attachment 1 provides a snapshot of formula funding at South Texas College for the 2014 base year.

South Texas College over reported contact hours for both students under 18, and for students 18 and over. For the group of students under 18, South Texas College over reported 347,096 contact hours, primarily due to the age (lack of immediate employability) of the student. In addition, almost all (93%) of the students under 18 did not pay tuition. On a contact hour basis, 45% of the hours reported for continuing education funding for South Texas College for the 2014 base period were for students under the age of 18. High School courses (all unpaid tuition) were almost all (92%) of the contact hours for students under 18.

#### Summary of South Texas College Formula Funding Non-compliance

- South Texas College did not meet the "immediate employment" aspects of TAC § 9.1(5) for continuing education contact hours reported for students 17 and under
- South Texas College did not meet the requirements of TEC § 130.003 and TAC § 21.4 to charge and collect tuition for continuing education contact hours reported for formula funding

For the group of students 18 and over, South Texas College over reported 91,011 contact hours, which is 21% of the total 18 and over contact hours. The over reporting was due to non-payment of tuition. Some (34%) of these contact hours were for high school courses with unpaid tuition. The remaining over reported hours were primarily criminal justice courses (Police Academy) with unpaid tuition, accounting for 64% of the over reported contact hours for students 18 and over.

Continuing education funding is designed for continuing the education of adults and to provide job training for immediate employment. TEC § 130.003(e)(4) refers to continuing education programs as "continuing **adult** education programs for occupational or cultural upgrading" (emphasis added). Workforce education, as a part of continuing education, is designed to train adults after graduating from high school for immediate employment. TAC § 9.1(31) defines a workforce continuing education course as a course "... with an occupationally specific objective ...." TAC § 9.1(5) defines a career technical/workforce

program as "... intended to prepare students for **immediate employment** or a job upgrade in a specific occupation." (emphasis added)

Importantly, in order to qualify for formula funding, tuition must be collected. South Texas generally does not charge or collect tuition and fees from high school students enrolled in continuing education or dual credit. Although tuition is allowed to be waived for dual credit, there is no corresponding allowance for waiver for high school students taking continuing education courses outside of the dual credit pathway. TEC § 130.003 states that in order for contact hours to be eligible for formula funding, the college must "collect, from each full-time and part-time student enrolled, matriculation and other session fees ..." In addition, TEC § 54.051(b) provides that each institution "shall cause to be collected from students registering at the institution tuition or registration fees at the rates prescribed ..." with minimum rates prescribed in TEC § 54.051 (n), "... tuition may not be less than \$8 for each semester credit hour and may not total less than \$25 for a semester." Also see TEC § 130.003(b)(4), TAC § 9.113(a), and TAC § 21.4 (Excerpts included in Attachment 4).

With regard to waiver, TEC § 130.008(b) provides that "The junior college may waive all or part of the tuition and fees for a high school student enrolled in a course for which the student may receive joint credit under this section." Courses offered through continuing education do not provide for "joint credit" and therefore, are not eligible for tuition waiver from required collection of fees.

As also noted in the next observation, South Texas College sought Coordinating Board staff guidance regarding proper reporting for contact hours generated by continuing education courses. Specifically, the institution relied on erroneous guidance provided by the Coordinating Board staff through email, FAQ, and the 2010 GIPWE. Following the guidance in the FAQ and 2010 GIPWE, South Texas College obtained approval from their board to charge variable tuition with the intent for course costs to be borne by a third party. This was comparable to the sufficiency exception discussed in the FAQ and the 2010 GIPWE.

Substantial correction and update of THECB guidance regarding tuition requirements for continuing education courses occurred with the 2015 revision of the GIPWE in July 2015. However, South Texas College reporting practices regarding tuition requirements thereafter remained unchanged. At a minimum, reporting of zero tuition contact hours should have ceased in July 2015, when the GIPWE was updated, but no later than the fall 2015 effective date. See timeline in Attachment 2.

### **Recommendation:**

Comply with statutory and rule limitations regarding immediate employability and paid tuition for continuing education contact hours reported for formula funding. Consider alternatives, such as providing courses as credit courses instead of continuing education courses, particularly level 1 certificate programs, to support public secondary school districts.

## **Management Response:**

*South Texas College exercises the highest standard of care in complying with rules and regulations set forth by the State of Texas and the Texas Higher Education Coordinating Board. South Texas College respectfully disagrees with the auditor's finding that 438,107 hours in continuing education formula funding were over reported for the 2014 base period. It is South Texas College's understanding that the cited rules and statues are either not applicable to CE Workforce offerings, or do not preclude the activities reported for funding. Additionally, South Texas College relied on the advice provided by Coordinating Board staff, responses to Frequently Asked Questions (FAQ), 2010 and 2015 GIPWE, and the 2013 audit report. It is the College's interpretation that the Texas Education Code and Texas Administrative Code allow for the activities reported for funding that are the subject of this audit report, based upon the justifications provided in Attachment A of the report.*

*It is also the position of South Texas College that the guidance provided by the Texas Higher Education Coordinating Board staff supported our interpretation of the applicable rules and statutes and that changes in the GIPWE 2015 did not represent a "substantial correction" or indicate any significant change in interpretation. South Texas College completed a thorough review of the revisions to GIPWE 2015, at the time it was released. The revised guidelines are, at best, insufficient to clarify the issues at hand. Our analysis of the GIPWE 2015 guidance is provided in Attachment B of the report.*

## 2) Coordinating Board staff guidance regarding reporting of continuing education contact hours did not align with applicable statutes and rules.

Coordinating Board staff guidance regarding reporting of continuing education contact hours did not align with applicable statutes and rules. Specifically, the Coordinating Board staff provided inaccurate guidance through email, FAQ, and the GIPWE manual.

South Texas College specifically sought and received, via email, Coordinating Board staff guidance regarding proper reporting for contact hours generated by continuing education courses. South Texas College, asked via email, for the permissibility of reporting continuing education contact hours for formula funding under specified conditions and was erroneously advised that they could report the hours the same as dual credit formula funding reporting. This advice does not align with immediate employment” aspects of TAC § 9.1(5) for continuing education contact hours reported for students 17 and under nor with requirements of TEC § 130.003 and TAC § 21.4 to charge and collect tuition.

In addition, the Coordinating Board staff provided an FAQ, updated January 2012, via the THECB website, that was not aligned with statute and rules. See Attachment 3 for relevant excerpts of the FAQ. The THECB website references the FAQ and the link to the document was disconnected in October 2014. However, the document was still accessible through an internet search until late May 2016.

First, the FAQ advised that, “There is no minimum age restriction written into statute or rules at this time.” This guidance does not align with TEC § 130.003(e)(4) referring to continuing education programs as “continuing **adult** education programs for occupational or cultural upgrading” (emphasis added). Nor does the guidance readily align with the “immediate employment” aspects of TAC § 9.1(5) for continuing education contact hours reported for students 17 and under.

Second, the FAQ, implies, through the lack of clarification, that in specific cases where colleges are permitted to charge zero tuition, that such courses could be reported for

### Summary of June 2013 email between THECB and South Texas College

- QUESTION FROM STC: I have a question regarding WECM CE. If we work in partnership with an ISD to integrate the content for a WECM CE course into the high school course curriculum, can we register the students for the CE course and receive funding? In this scenario, of course, we would ensure the HS teacher follows the curriculum and syllabus of the WECM course, covers the material for the appropriate contact hours, meets the WECM end of course outcomes, etc.
- RESPONSE FROM THECB STAFF: As long as the course is a college-level workforce-related course and the students are taking it to prepare them for a specific workforce occupation, you may report them in the same manner as dual credit students.

formula funding. Generally colleges must charge tuition for courses in order to generate formula funding, as previously noted regarding the requirements of TEC § 130.003 and TAC § 21.4 to charge and collect tuition. However, the guidance states that colleges can charge zero tuition in certain cases (see Attachment 3), but does not state if such special cases are still eligible for formula funding. The lack of clarity can be implied to allow formula funding under the specific exceptions to charge tuition.

In addition, the Coordinating Board staff provided in the June 2010 GIPWE, via the THECB website, essentially the same guidance as the FAQ regarding zero tuition for specific courses. However, the 2010 GIPWE was updated in July 2015 to remove the sections noted, leaving the reference to TEC § 54.051, requiring minimum tuition. See Attachment 3 for relevant excerpts of the 2010 GIPWE. Like the FAQ, the unclear guidance in the 2010 GIPWE can also be interpreted differently than the requirements of TEC § 130.003 and TAC § 21.4, as previously noted, to charge and collect tuition in order to generate formula funding. Any reliance on the 2010 GIPWE, the FAQ which refers to it, or any related misplaced guidance should have ceased no later than July 2015 with the revised GIPWE.

#### **Recommendation to THECB:**

Clarify and strengthen guidance, regarding limitations on formula funding for continuing education contact hours, both formal and informal regarding:

- a. Limitations regarding age,
- b. Limitations regarding immediate employability, and
- c. Limitations on zero tuition courses.

#### **Management Response (THECB):**

*THECB management has reviewed the draft report An Audit of Formula Funding at South Texas College, Report No. THECB-CM-FF-16-014. In response to audit recommendation number 2 Coordinating Board staff has initiated a complete review of all rules, guidelines, and policy documents related to formula funding, enrollment of students under the age of 18 in continuing education courses, immediate employment requirements, and minimum tuition amounts related to community and technical college students.*

*THECB management understands its critical role and responsibilities in providing accurate and timely interpretation of statute, rules, and guidelines to the Texas colleges and universities we serve. As such, in response to audit finding number 1, South Texas College (STC) stated they relied on an email from THECB staff as approval to enroll high school students in continuing education (CE) courses. However, the question STC asked by email did not specify their intent to enroll minors under the age of 16 in CE courses. The reply from THECB staff stated that high school students taking CE courses could be reported "in the same manner as dual credit students". At the time of this email exchange between STC and THECB staff, TAC § 4.85 limited enrollment in dual credit courses to high school juniors and seniors and students who had demonstrated college readiness on a Board approved assessment instrument. It is important to note that only 4 community college districts (out*

*of 50) represented 96% of the total enrollment of students 15 and under enrolled in CE courses reported for formula funding. Unfortunately, STC and THECB staff both miscommunicated in this email exchange. Accordingly, THECB staff has developed a plan to prevent miscommunication relating to the accurate and timely interpretation of statute, rules and guidelines from occurring in the future.*

*As discussed in the report, the Guidelines for Instructional Programs in Workforce Education (GIPWE) was revised in July 2015. Coordinating Board staff will commence further review of GIPWE to see if additional edits are warranted. Also, the Frequently Asked Questions (FAQ) document was removed from the THECB website in 2014 and the ability to search for and access the document via an internet search engine was eliminated in May 2016.*

*Coordinating Board staff has begun a comprehensive review of Board rules related to workforce program development in two-year colleges. Discussed edits include specific definitions of adult continuing education, adult education, and immediate employment. Once the rules are finalized substantive changes will be incorporated into GIPWE.*

*After the review process is completed communication summarizing all changes will be sent to the presidents, vice-presidents, and community and technical college liaisons. Coordinating Board staff will also provide briefings at community and technical college association meetings.*

**PERFORMED BY:**

Mr. Paul Maeyaert, JD, MBA, CIA, Compliance Specialist

CC:

**THECB  
Board Members**

**Commissioner's Office**

Dr. Raymund A. Paredes, Commissioner of Higher Education

Ms. Linda Battles, Deputy Commissioner for Agency Operations and  
Communication/COO

Dr. David Gardner, Deputy Commissioner for Academic Planning and Policy

Mr. William Franz, General Counsel

**Strategic Planning and Funding**

Dr. Julie Eklund, Assistant Commissioner Strategic Planning and Funding

**Academic Quality and Workforce**

Dr. Rex Peebles, Assistant Commissioner Academic Quality and Workforce

Dr. Garry Tomerlin, Deputy Assistant Commissioner, Workforce

**South Texas College**

Mr. Roy de Leon, Chair, South Texas College Board of Trustees

Mr. Juan C. Aguirre, Dean of Continuing, Professional and Workforce Education

**Texas Association of Community Colleges**

Mr. Jacob Fraire, President and CEO

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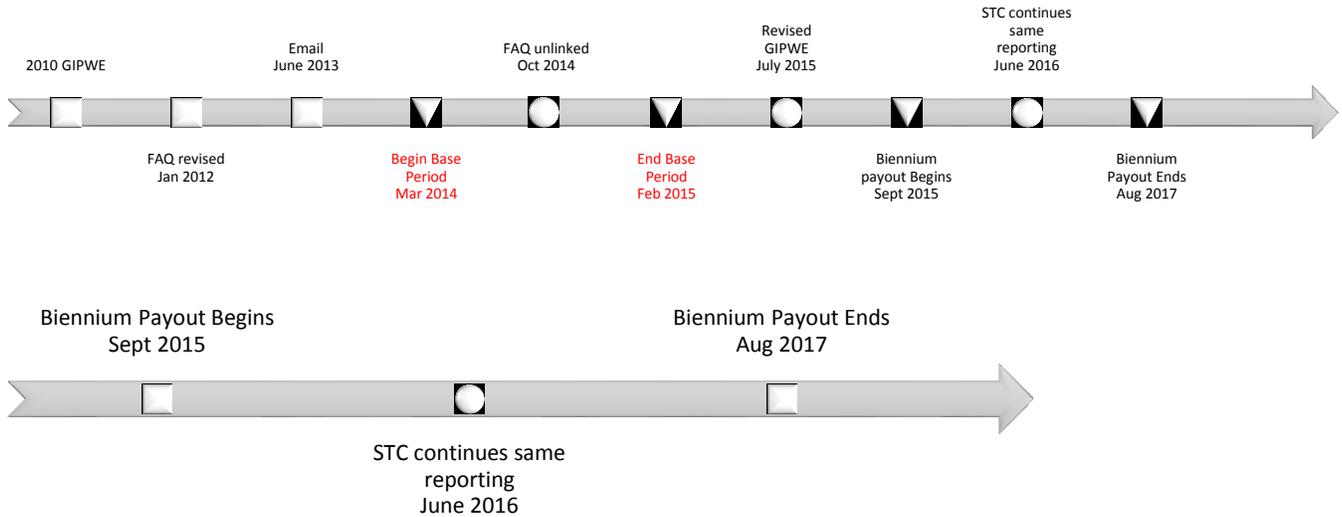
Mr. Ken Levine, Director

**Attachment 1  
Snapshot of Formula Funding  
South Texas College  
Continuing Education  
Base Year 2014**

Quarter	Total Hours	Under 18 - Contact Hours						Under 16 - Contact Hours					
		Total		HS Course		Tuition NOT Pd		Total		HS Course		Tuition NOT Pd	
		Total Hours	%	Hours	%	Hours	%	Total Hours	Hours	%	Hours	%	
Qtr 3 2014 (SUM1)	156,490	25,682	16%	20,608	80%	20,608	80%	6,810	6,800	100%	6,800	100%	
Qtr 4 2014 (SUM2)	89,829	3,622	4%	120	3%	-	0%	476	-	0%	-	0%	
Qtr 1 2014 (FALL)	388,630	274,488	71%	261,128	95%	261,448	95%	144,656	144,576	100%	144,576	100%	
Qtr 2 2015 (SPR)	136,782	43,304	32%	39,188	90%	39,188	90%	13,211	12,906	98%	12,906	98%	
<b>Total</b>	<b>771,731</b>	<b>347,096</b>	<b>45%</b>	<b>321,044</b>	<b>92%</b>	<b>321,244</b>	<b>93%</b>	<b>165,153</b>	<b>164,282</b>	<b>99%</b>	<b>164,282</b>	<b>99%</b>	
FF dollars	\$ 1,999,499	\$ 899,300		\$ 831,802		\$ 832,320		\$ 427,899	\$ 425,643		\$ 425,643		

Quarter	Total Hours	18 and Over	18 and Over - Contact Hours - Tuition NOT paid							
		Total	Total		HS Course - NOT Pd		CJLE - NOT Pd		Other- NOT Pd	
		Total Hours	Not Pd	%	Hours	%	Hours	%	Hours	%
Qtr 3 2014 (SUM1)	156,490	130,808	22,594	17%	4,412	20%	17,268	76%	914	4%
Qtr 4 2014 (SUM2)	89,829	86,207	7,542	9%	-	0%	6,601	88%	941	12%
Qtr 1 2014 (FALL)	388,630	114,142	35,545	31%	18,304	51%	16,803	47%	438	1%
Qtr 2 2015 (SPR)	136,782	93,478	25,330	27%	7,892	31%	17,438	69%	-	0%
<b>Total</b>	<b>771,731</b>	<b>424,635</b>	<b>91,011</b>	<b>21%</b>	<b>30,608</b>	<b>34%</b>	<b>58,110</b>	<b>64%</b>	<b>2,293</b>	<b>3%</b>
FF dollars	\$ 1,999,499	\$ 1,100,199	\$ 235,803		\$ 79,303		\$ 150,559		\$ 5,941	

## Attachment 2 Timeline of Significant Events South Texas College Continuing Education



Formula Funding Contact Hours Reported after July 2015 GIPWE Update					
2014 Base year			Biennium Formula Funding	Percent time with unchanged reporting (assumes reporting changes 8/31/2016)	Net Amount
Age	Contact hours	Formula Funding			
Under 16	164,282	\$ 425,643	\$ 851,286	50%	\$ 425,643
16 and 17	182,814	\$ 473,657	\$ 947,314	50%	\$ 473,657
18 and over	91,011	\$ 235,803	\$ 471,606	50%	\$ 235,803
<b>Total</b>	<b>438,107</b>	<b>\$ 1,135,103</b>	<b>\$ 2,270,206</b>		<b>\$ 1,135,103</b>

**Attachment 3  
Excerpts from THECB Guidance  
FAQ and GIPWE**

**Portions of Continuing Education FAQ - Updated January 2012**

Q: What is the minimum age restriction for CE students enrolled in courses reported for formula funding?

A: There is no minimum age restriction written into statute or rules at this time. Each college should have its own written policy on this. Many colleges establish 16 or 17 as a minimum age but allow exceptions in special cases. Colleges are urged to use common sense about this. The legislature devotes a certain amount of money to higher education, and would not be pleased to hear that this money has been used to fund courses for the under -16 set when K-12 has been funded for that age group.

Q: May a college charge \$0 tuition in some cases for CE courses?

A: Yes, but only in one of two special circumstances as referenced in the *Guidelines for Instructional Programs for Workforce Education (GIPWE)*, Chapter Three, B.8.(3):

- (c) If all or a significant portion of the institution's costs for facilities, instructor salaries, equipment, and/or other expenses are covered by business, industry, or other local public or private clients, individual students may be exempt from tuition. These in-kind contributions must satisfy a definition of sufficiency as determined by the local governing board.
- (d) If the workforce continuing education course is taught in federal prisons and facilities, equipment, and supplies and/or expenses are borne by the federal government.

**GIPWE (June 2010)  
Chapter Three B.10.a.(5)(c)**

In general, colleges must charge for courses that award CEU in order to generate state formula funding. However, governing boards may choose to charge zero tuition in one of two special circumstances as follows:

- (a) If all or a significant portion of the institution's costs for facilities, instructor salaries, equipment, and/or other expenses are covered by business, industry, or other local public or private clients, individual students may be exempt from tuition. These in-kind contributions must satisfy a definition of sufficiency as determined by the local governing board; or
- (b) If the workforce continuing education course is taught in federal prisons and facilities, equipment, and supplies and/or expenses are borne by the federal government.

**Attachment 4**  
**Excerpts of Rules and Statutes regarding tuition and fee collection**

1. Per TEC 54.051(b), "The governing board of each institution of higher education and of the Texas State Technical College System shall cause to be collected from students registering at the institution tuition or registration fees at the rate prescribed in this section."
2. Per TEC 54.051(n), Tuition for a resident student registered in a public junior college is determined by the governing board of each institution, but the tuition may not be less than \$8 for each semester credit hour and may not total less than \$25 for a semester."
3. Per TEC 130.003(b)(4), In order for a public junior college to receive state appropriations it must, "collect from each full time and part-time student enrolled, matriculation and other session fees in the amounts required by law ..."
4. Per General Appropriations Act 16-17 page III-204, 3. b., "On or before the dates for reporting official enrollments each semester to the Texas Higher education Board, each college will collect in full from each student that is to be counted for state aid purposes the amounts set as tuition by the respective governing boards."
5. Per TAC 9.113(a), Tuition and fees for state funded career technical/workforce continuing education courses shall be assessed according to policies established by the board. The governing board of the institution shall establish fees for career technical/workforce continuing education courses not eligible for appropriations."
6. Per TAC 21.4(a)(1), except for pending financial aid, "On or before the dates for reporting official enrollments to the Texas Higher Education Coordinating Board each enrollment period, each community college shall collect in full from each student that is to be counted for formula funding purposes the amounts set as tuition by the respective governing boards."
7. Per TAC 21.4(a)(3), "Valid contracts with the United States government for instruction of eligible military personnel, approved financial assistance, and valid contracts with private business and public-service type organizations or institutions such as hospitals, may be considered as collected tuition and fees; the amount of collected tuition and fees may be adjusted pursuant to terms of the contract once actual collections are made."
8. Per TAC 21.4(a)(6), "Institutions must retain records of individual student tuition or tuition and fee payment and returned checks for verification by the State Auditor."



## ATTACHMENT A

### **SOUTH TEXAS COLLEGE'S INTERPRETATION OF APPLICABLE RULES AND STATUTES REFERENCED IN THE PRELIMINARY REPORT**

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**OBSERVATION 1-South Texas College over reported 438,107 hours in continuing education formula funding for the 2014 base period.**

*South Texas College over reported contact hours for both students under 18, and for students 18 and over. For the group of student under 18, South Texas College over reported 347,096 contact hours primarily due to the age (lack of immediate employability) of the student.*

1. The report indicates that South Texas College was not in compliance with TEC 130.003 (e)(4) which refers to continuing education programs as “continuing **adult** education programs for occupational or cultural upgrading” (emphasis added).

***STC Response:** South Texas College proposes TEC 130.003(e)(4) is not the applicable section of the code for the activities in question offered to students less than 18 years of age. The section of this code that is applicable to the courses in question offered to students less than 18 is TEC 130.003 (e)(7): “work force development programs **designed to meet local and statewide needs.**”*

2. The report identifies that TAC 9.1 (31) and TAC 9.1 (5) should be employed to identify eligibility of CE Workforce offerings for funding.
  - a. TAC 9.1 (31) defines a workforce continuing education course as a course “...with an occupational specific objective...”

***STC Response:** The courses in question offered to students under the age of 18 were courses from the Workforce Education Course Manual. **All courses in the Workforce Education Course Manual have an occupationally specific course description as well as occupational specific end of course objectives.***

- b. TAC 9.1 (5) defines a career technical/workforce program as “An applied associate degree program or a certificate program for which semester credit hours, quarter credit hours, or continuing education units are awarded and which is intended to prepare students for **immediate employment** or job upgrade in a specific occupation.” (emphasis added)

***STC Response:*** *As the minimum age for employment in the state of Texas is less than the age of 18, there is no reasonable indication that this Code specifically limits the funding eligibility to students 18 or older. The CE courses in question prepared students for immediate employment in one of several entry-level occupations in the service and management industries for which students younger than 18 can enter by addressing employability skills including customer service, phone etiquette, interview skills, work ethics and responsibility, and problem solving/conflict resolution.*

***For the group of students 18 and over, South Texas College over reported 91,011 contact hours, which is 21% of the total 18 and over contact hours. The over reporting was due to non-payment of tuition. Some (34%) of these contact hours were for high school courses with unpaid tuition. The remaining over reported hours were primarily criminal justice courses (Police Academy) (Texas Commission on Law Enforcement) with unpaid tuition, accounting for 64% of the over reported contact hours for students 18 and over.***

1. The report indicates that tuition must be collected to qualify for formula funding.
  - a. The report cites TEC 130.003 (b)(4) which states the college must “collect, from each full-time and part-time student enrolled, matriculation and other session fees...”

***STC Response:*** *TEC 130.003 (b) sets forth 6 criteria necessary for community/technical colleges, in general, to be eligible for collection of state appropriations. It does not state a specific requirement for collection of tuition from continuing education students. Rather, 130.003 references “collect from each full-time and part-time student” which are definitions specifically assigned to students enrolled in semester credit hour programs based upon the number of semester credit hours in which the student is enrolled, not students enrolled in CE offerings, therefore this statute is not applicable. South Texas meets all of the criteria outlined in TEC 130.003 (b) 1-6 necessary to be eligible to receive a proportionate share of the appropriation, as per this statute.*

2. The report also identifies TEC 54.051 (b) as an applicable rule requiring the collection of tuition.
  - a. TEC 54.051(b) provides that each institution “shall cause to be collected from students registering at the institution tuition or registration fees at the rates prescribed. “with minimum rates proscribed in TEC 54.051 (n)”...tuition may not be less than \$8 for each **semester credit hour and may not total less than \$25 for a semester.**” (emphasis added).

***STC Response:*** TEC 54.051 established that institutions must charge tuition for semester credit hour offerings only. None of the defined offerings specified in the rule apply to CE offerings. TEC 54.051 (c) is an exception to the rule covering all offerings not specified in the rule, however this item states “\$50 per semester credit” for those offerings not defined, and is therefore not applicable, as CE students do not earn semester credit hours. Further, item TEC 54.051 (n) ... “tuition may not be less than \$8 for each semester credit hour and may not total less than \$25 for a semester” is also not applicable as it refers to semester credit hour tuition charges.

3. The report also references TAC 9.113(a) and TAC 21.4 as applicable rules and statutes requiring tuition to be collected to qualify for formula funding.
  - a. TAC 9.113(a) states “**Tuition and fees for state-funded career technical/workforce continuing education courses shall be assessed according to policies established by the Board**” (emphasis added).

***STC Response:*** For the contact hours in question, the tuition amount approved by the governing board of South Texas College was \$0, therefore South Texas College is in compliance with 9.113(a).

- b. TAC 21.4 states, “On or before the dates for reporting official enrollments to the Texas Higher Education Coordinating Board each enrollment period, each community college shall collect in full from each student that is to be counted for formula funding **purposes the amounts set as tuition by the respective governing boards**” (emphasis added)

***STC Response:*** The STC Board approved Variable Tuition and Recovery of Costs allowing CE to set minimum tuition, which includes zero if there are no direct instructional costs to the College. South Texas College is in compliance with 21.4 (a) 1. In addition, TAC 21.4 (a)2 stipulates tuition charges based upon the “20<sup>th</sup> class day of each regular semester and the 15<sup>th</sup> day for each summer session....” The 20<sup>th</sup> and 15 class days of the regular and summer semesters are references to reporting required for semester credit hour offerings only and not applicable to CE offerings.

TAC 21.4 (a) 3 also allows for “valid contracts.....may be considered as collected tuition and fees”. STC had valid contracts in place for the contact hours in question for which zero tuition was charged. No amount was collected because it was determined that there were no direct instructional costs to the College.



A listing of the guidance provided in GIPWE, 2015 along with a summary of the analysis that led to the decision of South Texas College to continue reporting as in previous reporting periods is provided below. (South Texas College's analysis/interpretation is in bold font).

GIPWE 2015, chapter 3, section G.3:

1. To be approved for state funding, workforce continuing education courses must be consistent with the role and mission of the institution and must be designed to respond effectively to identified workforce needs by providing the following:

- a. Preparatory education in occupations addressed in credit workforce education programs:

***STC Response: The CE courses in question prepare students for occupations addressed in credit workforce education programs (“Professional Workforce Preparation” applies to all programs, “Customer Service” applies to Marketing, “Basic Supervision” and “Introduction to Supervision” apply to Management).***

- b. Occupations that require less than an associate's degree for which there is a documented demand within the Texas economy:

***STC Response: The CE courses in question lead to occupations that require less than an associate's degree (General Employment, Customer Service Representatives, Supervisors); additionally, there is documented demand through Workforce Solutions' list of demand occupations.***

- c. Or education to enhance or extend the skills of employees already working in a particular field:

***STC Response: Many of the high school students taking our CE courses are employed; the CE courses help them enhance or extend their skills.***

ATTACHMENT B

2. Tuition and fees for workforce CE courses offered for CEU must be established by the institution's governing board and must be uniformly and consistently assessed. The institution's board must at least annually ratify or approve any changes in tuition and fees; however, the board may delegate interim authority for establishment of tuition and fees:

***STC Response: The Board has approved both Variable Tuition and Recovery of Cost, which means that we may vary tuition as long as costs are covered – meaning that tuition may be set at zero if there are no direct instructional costs to the college.***

3. Further information about approval and funding of workforce continuing education courses taught by Texas public colleges is available in
  - a. TEC 54.051 TUTION RATES. (b) The governing board of each institution of higher education and of the Texas State Technical College System shall cause to be collected from students registering at the institution tuition or registration fees at the rates prescribed in this section.

***STC Response: Entire section refers to “semester credit hour” and “semester” and thus not applicable to CE. Subsection (n) states that tuition for a resident student registered in a public junior college is determined by the governing board of each institution, but the tuition may not be less than \$8 for each semester credit hour and may not total less than \$25 for a semester. This minimum applies only to semester credit hours -no minimum tuition for CE is stated; however, STC Board-approved Variable Tuition and Recovery of Cost allow CE to set minimum tuition, which includes zero if there are no direct instructional costs to the college.***

- b. Coordinating Board Rules Chapter 9, Subchapter A in the Texas Administrative Code: **Definitions Only**
- c. Coordinating Board Rules Chapter 9, Subchapter E in the Texas Administrative Code: **Limited to Certificate and Associate degree programs and does not address CE.**

***STC Response: Applies to certificate and associate degree programs.***

- d. Coordinating Board Rules Chapter 9, Subchapter F: Career Technical/Workforce Continuing Education Courses
  - i. Rule 9.115: Funding, (a): Contact hours reported for career technical/workforce education courses, which result in continuing education units (CEUs) shall be eligible for state appropriations:

***STC Response: CE courses offered resulted in CEUs awarded by South Texas College.***

- e. Coordinating Board Rules Chapter 9, Subchapter G: Contractual Agreements
  - i. Rule 9.123 General Provisions, (a): General enrollment or contract training courses that are non-credit and do not result in the award of CEUs are not eligible for any state apportionment funding.

***STC Response: This is not applicable as CEU's are awarded by South Texas College.***

- ii. Rule 9.125 Contractual Agreements for Instruction with Public Secondary Schools, (a) (3): Instruction provided under a contractual agreement under this section may include only coursework necessary for students to complete high school. It does not apply to early admission programs for high school students entering college.

***STC Response: The CE course is embedded in the high school course that students need to graduate.***



## ATTACHMENT C

### **RESPONSES TO THE PRELIMINARY AUDIT REPORT NOT ADDRESSED IN FINAL AUDIT REPORT NO. THECB-CM-FF-16-014**

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Thank you for the opportunity to respond to the preliminary report on the Audit of Formula Funding at South Texas College. The College exercises the highest standard of care in complying with the rules and regulations set forth by the State of Texas and the Texas Higher Education Coordinating Board. South Texas College's practice is to seek advice from the appropriate source to ensure accurate interpretation of provisions and to ensure all processes and procedures are in compliance with relevant laws, rules, and regulations.

#### **RESPONSE TO THE EXECUTIVE SUMMARY**

- ***South Texas College requests that the introductory paragraph of the executive summary be revised, specifically the final sentence describing the “decision-making rationale” of the College.*** The primary rationale for the decision to structure, implement, and report the activities that are the subject of this audit report was based upon South Texas College's interpretation of the applicable rules and statutes related to the charging of tuition for CE Workforce offerings and the minimum age of participants eligible for funding. The guidance sought and received from the THECB, as well as published guidance, supported our interpretation of the rules and statutes; however, this was not the primary rationale on which we based the decisions to report the activities in question for funding. The following items supported our interpretation of the rules and statutes:
  - 2013 audit report No. THECB CM-FF-14-001;
  - 2010 & 2015 GIPWE;
  - Continuing Education (CE)/Workforce Training FAQ;
  - Guidance sought and received from THECB staff (e.g. e-mail correspondence confirming compliance with our interpretation of rules and statutes).

A detailed analysis of our interpretation of the applicable rules and statutes is provided in Attachment A: South Texas College's Interpretation of Applicable Rules and Statutes Referenced in the Preliminary Report and Attachment B: South Texas College's Analysis and Interpretation of GIPWE 2015.

- ***South Texas College requests that this analysis reflecting our interpretation of the applicable rules and statutes be included in the final report to demonstrate our thorough consideration of compliance in our reporting decisions.***

All of the reporting practices in question for the current audit were in place during the 2013 audit, which included tests of relevant enrollment data reported and certified by South Texas College for CBM00C quarter 3, 2012, quarter 4, 2012, quarter 1, 2013, and quarter 2, 2013.



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South Texas College further believed procedures and policies related to reporting of contact hours for CE courses were in compliance based upon the Texas Higher Education Coordinating Board enrollment audit conducted in 2013. The audit was performed by Mr. Daniel Mahoney, Compliance Specialist under the direction of Mr. Mark A. Poehl as Director of Internal Audit and Compliance and the final report was distributed December 23, 2013. The scope of the 2013 audit included both credit and continuing education hours. It also included continuing education courses taught at district high schools to high school students.

All of the reporting practices in question for the current audit were in place during the 2013 audit, which included an audit of CE enrollment data from quarter 3, 2012, quarter 4, 2012, quarter 1, 2013, and quarter 2, 2013. According to that report, procedures were utilized to verify that contact hours were eligible for funding.

The 2013 audit report states the following “South Texas College (STC) complied with relevant Coordinating Board (THECB) rules and regulations for enrollment data used for formula funding.” The report also found that Contact Hours Were Eligible for Formula Funding: No reportable findings were noted. As a result, South Texas College continued offering the courses/programs as per THECB guidelines and audit response as there were no identified issues.

- ***South Texas College requests that the findings of this 2013 audit be added to the report and reflected in the timeline, as this audit provided assurance to South Texas College that our interpretation of compliance with applicable rules and statutes was correct.***

All of the reporting practices in question for the current audit were in place during the 2013 audit, which included tests of relevant enrollment data reported and certified by South Texas College for CBM00C quarter 3, 2012, quarter 4, 2012, quarter 1, 2013, and quarter 2, 2013.

- ***South Texas College requests that the statements located on page 2 (paragraph 3) and page 5 (the entire final paragraph) related to the “substantial correction and update of THECB guidance ... with the 2015 revision of GIPWE” and the unchanged reporting practices of South Texas College, along with the table labeled “Formula Funding Contact Hours Reported after July 2015 GIPWE Update” be removed from the report.***

This statement implies that South Texas College willfully neglected to analyze and interpret the new GIPWE guidance, which is an inaccurate characterization of events.



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It is South Texas College's position that while changes were made to GIPWE in 2015, our reporting practices remained in compliance with the new GIPWE. Other guidance from the THECB was still available that supported our reporting practices.

South Texas College does not agree that the correction in guidance from the THECB in Summer of 2015 was a "substantial correction." The FAQ document referenced in the preliminary draft audit report as a source of the erroneous guidance was not removed from the THECB website until the Spring of 2016. While the link functionality was disabled in October of 2014, there was no additional information provided to indicate that the link was disabled because the document was no longer valid. The link remained and was accessible through a web search, indicating that the FAQ document itself was still a valid source of information.

In addition, South Texas College did complete a thorough review of the revisions to the 2015 GIPWE in Spring of 2015, after attending a session from THECB staff at the Spring 2015 TACTE Conference regarding revisions to GIPWE 2015. The revised guidelines in GIPWE are, at best, insufficient to clarify the issues at hand and based on the analysis of those revisions, South Texas College believed it could continue with the CE offerings in question and report for formula funding. A listing of the guidance provided in GIPWE, 2015 along with a summary of the analysis that led to the decision to continue reporting is provided in Attachment B: Analysis and Interpretation of GIPWE 2015.

#### **RESPONSE TO THE DETAILED OBSERVATIONS AND RECOMMENDATIONS AND MANAGEMENT RESPONSES**

##### **OBSERVATION 1: South Texas College over reported 438,107 hours in continuing education formula funding for the 2014 base period.**

- South Texas College disagrees with Observation 1. The cited rules and statutes are either not applicable to CE Workforce offerings, or do not preclude the activities reported for funding. A detailed response to Observation I, based upon interpretation of applicable rules and statutes, is provided in Attachment A and Attachment B provides the College's analysis and interpretation of GIPWE 2015.

##### **AUDIT RECOMMENDATION:**

- While South Texas College is committed to complying with all statutes and Coordinating Board rules, we respectfully disagree with the recommendations regarding limitations related to immediate employability, and paid tuition for continuing education contact hours reported for formula funding.



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- The content of the CE Workforce Training Courses does not directly align with Level 1 Certificate content and contact hours. It would be necessary to determine the feasibility of developing and offering the non-credit courses as Level 1 Certificates.
- South Texas College's interpretation of applicable statutes and Coordinating Board rules is simply not in agreement with the auditors' interpretation of the same statutes and CB rules. While South Texas College is committed to being in compliance, it is difficult to plan appropriate action when there is such significant differences in interpretation of the statutes and rules.

#### **OBSERVATION 2: Coordinating Board staff guidance regarding reporting of continuing education contact hours did not align with applicable statutes and rules.**

- South Texas College appreciates the acknowledgement that guidance (both published guidance, and individual staff guidance) played a role in the decisions of South Texas College. South Texas College supports the guidance received from THECB staff and believes this guidance DOES align with applicable statutes and rules.
- South Texas College agrees that additional guidance and clarification is needed regarding the applicable rules and statutes; however, we do not agree with the specific recommendations regarding limitations related to age, immediate employability, and zero tuition courses, as these recommendations are not in keeping with the College's interpretation of current statutes and rules. Restrictive interpretations of the statutes and rules do not support the role and mission of Texas community colleges to provide access to CE Workforce training to meet the needs of our communities.
- Continuing Education has evolved beyond "cake decorating" courses, and basic workforce and literacy training for adults. Noncredit workforce training is a viable option for high school students who are below TSI readiness levels or may not be prepared for, or have the available high school elective timeslots/opportunities in their high school degree plan to complete Level 1 Certificate credit programs. Customized Continuing Education workforce training provides opportunities to prepare students who may not be able to take advantage of traditional dual credit workforce offerings, for immediate employment while in high school and beyond graduation.
- South Texas College recommends that a Taskforce be established by the Texas Higher Education Coordinating Board. This Taskforce could be responsible for reviewing the role and mission of CE Workforce training within the current context of the State so that changes to statutes and rules may be considered that support the mission and role of CE



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Workforce training needs of the State, as well as the goals of 60x30TX to provide marketable skills to Texas. The findings and recommendations of the CE Taskforce could help in the process of establishing more relevant, responsive and appropriate guidelines for the role of Continuing Education in Texas.

1. Tuition and fees for workforce CE courses offered for CEU must be established by the institution's governing board and must be uniformly and consistently assessed. The institution's board must at least annually ratify or approve any changes in tuition and fees; however, the board may delegate interim authority for establishment of tuition and fees:

***STC Response: The Board has approved both Variable Tuition and Recovery of Cost, which means that we may vary tuition as long as costs are covered – meaning that tuition may be set at zero if there are no direct instructional costs to the college.***

2. Further information about approval and funding of workforce continuing education courses taught by Texas public colleges is available in
  - a. TEC 54.051 TUITION RATES. (b) The governing board of each institution of higher education and of the Texas State Technical College System shall cause to be collected from students registering at the institution tuition or registration fees at the rates prescribed in this section.

***STC Response: Entire section refers to “semester credit hour” and “semester” and thus not applicable to CE. Subsection (n) states that tuition for a resident student registered in a public junior college is determined by the governing board of each institution, but the tuition may not be less than \$8 for each semester credit hour and may not total less than \$25 for a semester. This minimum applies only to semester credit hours -no minimum tuition for CE is stated; however, STC Board-approved Variable Tuition and Recovery of Cost allow CE to set minimum tuition, which includes zero if there are no direct instructional costs to the college.***

- b. Coordinating Board Rules Chapter 9, Subchapter A in the Texas Administrative Code: **Provides Definitions Only**



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- c. Coordinating Board Rules Chapter 9, Subchapter E in the Texas Administrative Code: **Limited to Certificate and Associate degree programs and does not address CE.**

***STC Response: Applies to certificate and associate degree programs and not continuing education workforce programs.***

- d. Coordinating Board Rules Chapter 9, Subchapter F: Career Technical/Workforce Continuing Education Courses

- i. Rule 9.115: Funding, (a): Contact hours reported for career technical/workforce education courses, which result in continuing education units (CEUs) shall be eligible for state appropriations:

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***STC Response: The CE course is embedded in the high school course that students need to graduate.***